CONTRIBUTIONS ASSESSMENT

DUST DISEASES TRIBUNAL

MATTER NO: 86 of 2010

Geoffrey William Carr

Plaintiff

British India Steam Navigation Company Limited

First Defendant

Union Steam Ship Company of New Zealand

Second Defendant

Australian River Company Limited

Third Defendant

Comcare

Fourth Defendant

Adsteam Towage Services Pty Limited

Fifth Defendant

Amaca Pty Ltd

Sixth Defendant

Caltex Petroleum Pty Limited

Seventh Defendant

DETERMINATION

INTRODUCTION

By letter dated 1 September 2010 bearing the signature of the Registrar of the Dust Diseases Tribunal I am appointed Contributions Assessor in these proceedings.

I have been provided with the file of the Dust Diseases Tribunal that contains the following material upon which I rely in making this determination:

1. Plaintiff's Statement of Particulars ("Particulars")
2. First, Second, Third, Fifth and Seventh Defendant's joint Reply and joint Amended Reply
3. Fourth Defendant's Reply
4. Sixth Defendant's Reply

In addition to the material described at 1-4 above I rely on the Standard Presumptions set out in Dust Diseases Tribunal (Standard Presumptions – Apportionment) Order 2007.

I assume that each defendant sued by the Plaintiff, who is a 69 year old male who has allegedly contracted asbestos related pleural disease and asbestosis, is liable to the Plaintiff.

The Category into which each Defendant falls is not in dispute. Each Defendant except Amaca is a Category 2 Defendant.

PLAINTIFF'S ALLEGATIONS OF EXPOSURE

Where I refer to "exposure" or its derivation this is to be taken to mean exposure to and inhalation into the plaintiff's respiratory system of asbestos dust and fibre.

The Plaintiff alleges several periods of exposure some of which can be regarded as immaterial. He provides his own assessment of his respective exposures as a percentage of the total exposure. I consider it appropriate to adopt that assessment in the large part. The assessment is:

- British India – 8%
- Union Steam NZ – 5%
- ANL – 20%
- Comcare – 5%
- Adsteam – 10%
- Amaca – 5%
- Caltex – 43%

CONTRIBUTION ASSESSMENT

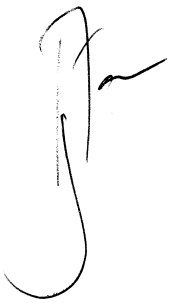
Amaca and Comcare submit that their liability should be lower than the assessment put on them by the Plaintiff. I do not agree. I consider that the liability of Caltex should be increased given the lateness of the exposure. The Plaintiff says that his exposure at Caltex continued until his last day of employment in March 1991. It is

grossly negligent for an employer to have exposed its employee to asbestos as late as 1991.

I increase the contribution of Caltex by 25% and reduce the other defendant's contribution correspondingly.

I determine contribution to be:

- British India – 6%
- Union Steam NZ –3.75%
- ANL – 15%
- Comcare – 3.75%
- Adsteam – 7.5%
- Amaca – 4%
- Caltex – 60%



Toby Tancred

Date: 10 September 2010