

February 10, 2025

VIA ELECTRONIC FILING

The Honorable Patricia A. Howard
Clerk of the South Carolina Supreme Court

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S.C. SUPREME COURT

Re: Tibbs v. Asbestos Corporation Limited et al.

Appellate Case Nos. 2024-000916, 2024-001423, 2024-002114,
2024-002117, 2025-000052

Dear Madam Clerk,

I represent the court-appointed Receiver for Cape PLC, individually and as successor in interest to Cape Asbestos Company Limited, n/k/a Cape Intermediate Holdings Ltd. (the “Receiver”), and I write on behalf of my client, the Receiver, in response to the February 5, 2025 correspondence sent by counsel for Charter Consolidated Ltd., ESAB Corporation, and Central Mining & Investment Corporation Ltd. (“Charter Third-Party Defendants”) and Mohed Altrad and Altrad Investment Authority S.A.S. (“Altrad Third-Party Defendants”) (together, “Charter and Altrad Third-Party Defendants”) in the above-referenced appeals.

The Charter and Altrad Third-Party Defendants’ letters identify several purported issues distinguishing the Cape Receivership from the ACL/Atlas Receivership. The Receiver disagrees with and objects to the presentation of these issues to the Court in this manner that amounts to an end run around the proper process for petitions for writ of certiorari.

The purported issues raised in the Charter and Altrad Third-Party Defendants’ letters concern the validity and merits of the appointment, scope, and authority of the Receiver in the Cape Receivership.

First, these issues are improperly framed, and the Receiver objects to their misleading characterization.

Second, these issues constitute improper substantive arguments related to the Charter and Altrad Third-Party Defendants’ pending Petitions for Certiorari in Appellate Case Nos. 2024-001423 and 2024-001499 (the “September 2024 Petitions”).

The September 2024 Petitions seek this Court’s certiorari review of the Court of Appeals’ well-justified decision to dismiss the Charter and Altrad Third-Party Defendants’ appeals of a

circuit court order entered on December 6, 2023, titled “Order Denying Certain Third-Party Defendants’ Motions to Dissolve Receivership and Third-Party Defendants’ Motions to Dismiss for Lack of Personal Jurisdiction” (the “December 6 Interlocutory Order”). The December 6 Interlocutory Order rejected the Charter and Altrad Third-Party Defendants’ personal jurisdiction arguments for dismissal and their requests to dissolve the Cape Receivership.

The issues raised in the Charter and Altrad Third-Party Defendants’ February 5, 2025 letters were not resolved by the Court of Appeals because it dismissed these Third-Party Defendants’ appeals as premature, interlocutory appeals. Thus, these issues are not appropriate for this Court’s review with respect to the September 2024 Petitions.

In light of the foregoing, the Receiver respectfully submits that the Charter and Altrad Third-Party Defendants’ February 5, 2025 letters should not be considered by the Court and should be disregarded.

With kind regards, I am

Sincerely,

GALLIVAN, WHITE & BOYD, P.A.



John T. Lay, Jr.