



*The voice of professional  
roofing contractors.*

August, 1995

Dear Member:

The enclosed *Special Report* on the purchase of Supradur Manufacturing Corporation by a subsidiary of GAF Materials Corporation was prepared by our legal counsel and technical staff in response to a number of inquiries we've received over the last several months.

Contractors should note especially that Supradur's bankruptcy counsel has asked the court to establish a September 29, 1995 deadline for filing claims against the Supradur estate; this means that anyone with a claim should prepare to file it immediately to avoid the possibility of being barred by the time requirement.

As always, we encourage you to call us with your questions. Specific information on filing proofs of claim is also available from the National Roofing Legal Resource Center at 708/299-9092.

Sincerely,

William A. Good, CAE  
Executive Vice President



# **SPECIAL** Report



NATIONAL ROOFING CONTRACTORS ASSOCIATION

August, 1995

## **SUPRADUR SELLS ASSETS TO GAF FOLLOWING BANKRUPTCY FILING**

A subsidiary of GAF Materials Corporation, GAF Premium Products, Inc., has acquired the assets of Supradur Manufacturing Corporation, effective July 20, 1995. Supradur, a manufacturer of fiber-reinforced cement roof shingles, some of which were marketed as slate substitutes, had filed for protection under Chapter 11 of the federal bankruptcy code on March 30, 1995. As a result of the sale to GAF, Supradur no longer owns its manufacturing operations and cannot honor any warranties applicable to products sold by Supradur. GAF will warrant products sold after July 20, 1995.

In May, prior to announcement of the sale to GAF, Alfred E. Netter, Supradur's CEO, had told NRCA that Supradur was seeking to emerge from the bankruptcy process as "a far stronger company with first-class products." One of the reasons cited by Mr. Netter for Supradur's filing for bankruptcy protection was the financial outlay to respond to product liability and warranty claims. Supradur, which had been manufacturing asbestos-containing cement siding and roofing shingles since 1947, began to switch to a new, asbestos-free technology in 1989. By February of 1992, Supradur had completely converted to asbestos-free production.

While insisting that all products sold by Supradur exceeded the ASTM Standard Specification for Non-Asbestos Fiber-Cement Roofing Shingles, Shakes and Slates, ASTM C 1225-95, Mr. Netter acknowledged that the asbestos-free products did not exhibit the same levels of strength and flexibility as the previously manufactured asbestos-containing products. Cracking failures of these shingles, relatively soon after application, have been reported in different parts of the country, even though the products reportedly met the current ASTM criteria. According to a Supradur representative attending a recent ASTM meeting, Supradur had assumed that if it manufactured a product that complied with the ASTM standard, the product would perform satisfactorily in the field.

While acknowledging that there were problems with Supradur's asbestos-free products, Mr. Netter also said that Supradur believed that in some instances methods of installation and foot traffic had contributed to the problem of shingle cracking because contractors assumed that the new products had the same strength and flexibility as the asbestos-containing products. Mr. Netter said that Supradur had dramatically improved product strength in recent years.

Mr. Netter acknowledged that Supradur had received a total of 160 claims and in 1994 had spent almost \$500,000 in handling these claims. NRCA has received approximately 30 reports from members concerning problems with Supradur products. Supradur has acknowledged responsibility in three of these instances. Contractors using Supradur's products have reported a substantially higher rate of problems with the fiber-cement roofing tiles subsequent to the introduction of Supradur's asbestos-free product line.

Supradur had originally filed a petition under Chapter 11 of the Bankruptcy Code which is designed to allow companies to survive their economic difficulties by providing them with protection from creditors during a period of "reorganization." Now that Supradur has sold substantially all its assets to GAF, Supradur intends to file a liquidating plan of reorganization.

Because Supradur's asset sale to GAF results in Supradur's ceasing to do business as an operating entity, Supradur's creditors and those having claims of product failure against the company will have no recourse other than through distribution of the existing assets in the bankruptcy process. Supradur's bankruptcy counsel, Janet F. Brunell, has advised NRCA that approximately \$700,000 currently remains in escrow from the proceeds of the sale to GAF after satisfaction of the secured claim of the Bank of New York, Supradur's senior secured lender.

Ms. Brunell estimates that approximately \$500,000 will be available to satisfy all claims against Supradur, which include priority claims as well as warranty claims estimated at \$3,000,000. While the Creditors Committee is apparently committed to making some distribution to unsecured creditors, the amount of money that will be available to general unsecured creditors is unknown. Although the percentage distribution to product liability claimants will undoubtedly be low, Ms. Brunell said that there would be some distribution on account of unsecured claims in Supradur's liquidating plan.

According to Mr. Netter, Supradur maintained no insurance coverage for damage to Supradur's products themselves resulting from product failure, but there may be coverage for consequential damage to property. Information about insurance coverage maintained by Supradur should be available through Ms. Brunell.

The sale of Supradur's assets to GAF should clarify warranty liability arising out of the sale of products, formerly marketed by Supradur, after July 20, 1995. As a purchaser of Supradur's assets, GAF did not assume legal responsibility for pre-existing liabilities. By structuring the transaction as an asset sale, the purchasing company is not required to assume the debts and liabilities of the business. GAF has said that products sold after July 20, 1995 will be warranted by GAF Materials Corporation. When contacted by NRCA, GAF declined to state whether the fiber-reinforced cement roof shingles manufactured after the July 20th sale to GAF had the same composition as the Supradur-manufactured shingles.

As a result of its filing a bankruptcy petition, Supradur is not subject to new lawsuits and lawsuits that had already been initiated can no longer be prosecuted. All claims against Supradur must be brought and resolved in the Bankruptcy Court. Technically, this "automatic stay" of suits against Supradur, which took effect upon its bankruptcy filing, applies only to products sold prior to the March 30, 1995, filing date.

The procedure for persons with claims against Supradur is to file in duplicate a "proof of claim" form with the Bankruptcy Court in New York. The Supradur case is pending before Judge Adalai F. Hardin, Jr., in the United States Bankruptcy Court for the Southern District of New York, Case No. 95B-20593, 300 Quarropas Street, 2nd Floor, White Plains, New York 10601. Claimants might also file a third copy with a self-addressed, stamped envelope and request that the Clerk forward that copy back to the claimant so that the claimant will have proof that the claim was filed. The U.S. Bankruptcy Court for the Southern District of New York has an automated information system that can be reached at (212) 668-2772. Bankruptcy petitions also were filed simultaneously by the related companies of Supradur Companies, Inc. (Case No. 95-20592) and Appaloosa Express, Ltd. (Case No. 95-20594), which is trucking company formed in 1991 to deliver Supradur's products.

Supradur's bankruptcy counsel, Janet F. Brunell, may be reached at (516) 746-8000. Although no bar date for the filing of proofs of claim has yet been set, Ms. Brunell has requested the Bankruptcy Court to establish September 29, 1995 as the legal deadline to file claims against the Supradur estate. Claimants should submit their proofs of claim as soon as possible to avoid the possibility that their claims will be time barred. Contractors desiring further information may also want to contact the National Roofing Legal Resource Center at (708) 299-9092.

Given the problems with Supradur's products and Supradur's insistence that its products satisfied the ASTM standard, the question arises as to whether the current ASTM standard, C 1225, is adequate. In response to this concern, NRCA has requested that the appropriate ASTM task group assess the adequacy of the current standard. At the June 1995 meeting of the ASTM subcommittee which has jurisdiction of ASTM C 1225, a task group was appointed to reevaluate the standard.