

RESPONSE OF THE OFFICE OF
~~INVESTMENT COMPANY REGULATION~~
DIVISION OF INVESTMENT MANAGEMENT

Our Ref. No. 93-3-ICR
Keene Corporation
File No. 812-7763

On September 9, 1992, Keene Corporation ("Keene") received an order of the Commission (the "Order") under sections 6(c) and 6(e) of the Investment Company Act of 1940 (the "Act"). 1/ The Order exempted Keene from all of the provisions of the Act except sections 9(a), 17(a), 17(d), 17(e), 17(f) and 36-53 until the earlier of September 9, 1993 or such time as Keene would no longer be considered an investment company.

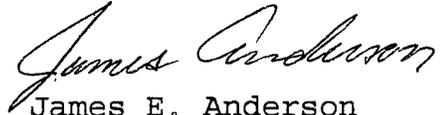
Keene represented in its application for the Order that during the period from 1968 through 1974, it acquired and operated a small manufacturer of acoustic ceilings, ventilation systems, and thermal insulation products. Some of the thermal insulation products contained asbestos. As a result, Keene is currently one of multiple defendants in thousands of asbestos-related cases. Keene maintains a substantial part of if its assets in highly liquid investments to cover its potential liability arising out of the asbestos litigation (including the collateralization of appeal bonds). Keene's contingent liabilities constitute a significant impediment to Keene's ability to divest itself of its investment securities in an amount sufficient to exclude Keene from the definition of investment company. Moreover, the resolution of those liabilities is, to a large extent, beyond Keene's control.

In your letter of April 27, 1993, you request assurance that the Division of Investment Management will not recommend that the Commission rescind or modify the Order or take enforcement action if Keene continues to rely on the Order notwithstanding certain changes in the representations contained in the application for the Order. Most significantly, you state that Keene has decided to distribute rights to purchase all of the capital stock of its only operating subsidiary, Reinhold Industries, Inc. ("Reinhold"). Following the proposed sale of Reinhold, Keene will not be engaged in any operating businesses. Moreover, all of Keene's assets, exclusive of government securities and cash items, will consist of investment securities. You state that Keene decided to sell Reinhold, among other reasons, to allow Keene's management to focus on the asbestos-related litigation, to provide additional funds for Keene's use in attempting to resolve the litigation, and to prevent the possibility that Keene would have to sell Reinhold at distress values later should it not resolve the asbestos-related claims successfully.

Based upon the representations in your letter, the Division will not recommend that the Commission rescind or modify the Order or take enforcement action under the Act if Keene proceeds

1/ Investment Company Act Release Nos. 18893 (Aug. 12, 1992) (notice) and 18934 (Sept. 9, 1992) (order).

with the sale of Reinhold and fails to register as an investment company ~~under the Act in reliance on the Order~~. The Division notes that Keene remains subject to various provisions of the Act. Moreover, the Order will expire no later than September 3, 1993, and if Keene applies for an extension of the Order the appropriateness of any extension will be considered at that time. This response expresses the Division's position on an enforcement action and rescission and modification of the Order only, and does not purport to express any legal conclusions on the questions presented.



James E. Anderson
Staff Attorney
Office of Investment
Company Regulation

June 2, 1993

ACT ICA of 1940
SECTION 6(c)
RULE _____
PUBLIC
AVAILABILITY 6-2-93

KEENE

C O R P O R A T I O N
200 Park Avenue, New York, NY 10166
212/557-1900 FAX 212/972-3959

April 27, 1993

Securities and Exchange Commission
Division of Investment Management
450 Fifth Street, N.W.
Washington, D.C. 20549

Attention: Elaine M. Boggs
Staff Attorney

RE: KEENE CORPORATION
FILE NO. 812-7763
PROPOSED DISTRIBUTION OF RIGHTS TO PURCHASE ALL THE CAPITAL
STOCK OF REINHOLD INDUSTRIES, INC.

Dear Sirs:

As discussed in telephone conversations between the undersigned and Elaine M. Boggs, Esq. of the staff, Keene Corporation ("Keene") is proposing to distribute rights to purchase all the capital stock of its wholly owned subsidiary, Reinhold Industries, Inc. (the "Rights Offering").

In connection with the Rights Offering, we respectfully request that the Division of Investment Management (the "Division"):

- (1) confirm that it will not recommend to the Securities and Exchange Commission (the "Commission") that the conditional order under sections 6(c) and 6(e) of The Investment Company Act of 1940 (the "Act") granting Keene an exemption from all provisions of the Act except sections 9(a), 17(a), 17(d), 17(e), 17(f) and 36-53 as if it were a registered investment company issued on September 9, 1992 (Release No. IC-18934) be rescinded or modified; and
- (2) confirm that it will not recommend that enforcement action be taken by the Commission as a result of the change in circumstances and plans upon which the representations contained in Keene's application for the exemptive order were based.

Background

The application for the exemptive order was filed on July 29, 1991 and amended on January 21, 1992 and June 15, 1992. Based upon the information and representations made in the application, on September 9, 1992 the Commission issued a conditional order under sections 6(c) and 6(e) of the Act granting Keene an exemption from all provisions of the Act except sections 9(a), 17(a), 17(d), 17(e), 17(f) and 36-53 as if it were a registered investment company (Release No IC-18934).

Current Circumstances

During the intervening period of time between the filing of the application and March 31, 1993, certain circumstances related to Keene's position have changed. Following is a summary of relevant information included in the original application updated through March 31, 1993, the most recent date for which the information is available:

1. At March 31, 1993, up to \$49 million of the original \$190 million remained available in Keene's asbestos compensation/defense program ("Asbestos Compensation Program") and approximately 98,000 cases were pending against Keene.

2. As of March 31, 1993, 218 plaintiff verdicts were outstanding against Keene as defendant. Keene's share of these verdicts totalled approximately \$65 million. Depending on the court's treatment of the shares of the other defendants who have settled or are bankrupt or insolvent, Keene's share may increase or decrease.

3. As of March 31, 1993, Keene held approximately \$89 million in cash, cash equivalents, and marketable securities. Of that amount, approximately \$66 million is subject to collateralization or escrow arrangements to secure appeal bonds.

4. Keene still maintains a substantial part of its assets in highly liquid investments to cover its potential contingent liabilities arising out of the asbestos litigation (including the collateralization of appeal bonds).

5. As of March 31, 1993, Keene had total assets of \$118.5 million which includes the estimated net realizable value of assets attributable to Reinhold Industries, Inc., a wholly-owned subsidiary. Of this amount, investment securities accounted for \$10.5 million or only 26.3% of Keene's total assets exclusive of \$78.5 million in government securities and cash items. For the last four fiscal quarters ended March 31, 1993 Keene incurred a net (loss) of \$(78.6) million primarily as a result of recording asbestos-related expenses as described below and received \$1.1 million of income from securities other than government securities. However, due to potential future fluctuations in the percentage of Keene's assets consisting of investment securities and the proportionate income produced by such securities (relative to Keene's operating income), from time to time, Keene could be deemed an investment company pursuant to section 3(a)(3). At

March 31, 1993, the percentage of Keene's assets consisting of securities other than government securities was 26.3%.

6. At March 31, 1993, approximately \$28 million of insurance coverage remains; however, Keene has recorded a receivable of \$17 million due from insurers which, when paid, will reduce the insurance coverage available to Keene to \$11 million.

7. The portion of Keene's portfolio that is collateralized or in escrow still cannot be used by Keene for other purposes, hence Keene believes it should not be viewed as highly liquid investments. Keene's bonding capacity to prevent the execution of potential future judgments against Keene's assets is limited to those assets not currently pledged to collateralize appeals. Given the volume of cases pending against Keene and Keene's related need to collateralize appeals, Keene does not believe that its pool of liquid investments is excessively high.

8. In December 1992, the Board of Directors of Keene decided to sell its one operating subsidiary, Reinhold Industries, Inc., a custom manufacturer of heat-absorbing composite components, sheet molding compounds and structural composite components for a variety of defense, aerospace and commercial applications, to Keene's existing stockholders and the investing public for fair value. Consequently, Keene recorded a charge to earnings of \$8 million relating to the write-down of Keene's investment in Reinhold to estimated net realizable value.

9. During 1992, it became apparent that Keene would exhaust substantially all of its asbestos-related Bodily Injury products liability insurance coverage. The accounting rules require that Keene attempt to quantify a liability for Bodily Injury Cases currently pending and to be received in the future. There are many opportunities for significant error in such an exercise. Keene must make assumptions concerning many variables and uncertainties including the disease mix of pending Bodily Injury Cases and projections of the number and disease mix of potential future Bodily Injury Cases as well as the rate and cost of future defense legal fees and disposition costs of currently pending and future potential Bodily Injury Cases, all of which may not prove correct. Because of the dynamic nature of this litigation, it is not reasonably possible to estimate how many Bodily Injury Cases will be received in the future nor the costs of disposing of those future Bodily Injury Cases.

Notwithstanding the inherent risk of significant error in such an exercise, at December 31, 1992 the amount to defend and dispose of Bodily Injury Cases currently pending and potential future cases could range from \$65 million to an unquantifiable amount in excess of Keene's net worth. No amounts for defending and disposing of Property Cases are included since management and its counsel believe that the Property Cases have no merit.

During the fourth quarter, Keene recorded a liability of \$76 million for unreimbursed costs of resolving Bodily Injury Cases currently pending and to be received in the future to satisfy the requirements of Financial Accounting Standards Board Statement of Financial Accounting Standards No. 5 "Accounting for Contingencies." Approximately \$11 million of asbestos-related

expenses were charged against this liability during the fourth quarter. Management believes that the number of future potential Bodily Injury Cases and the rate and cost of future dispositions of currently pending and future potential Bodily Injury Cases cannot be accurately predicted. As a result, management cannot determine the ultimate effect of the asbestos-related liability upon Keene's financial position.

Change in Circumstances

Although a large number of plaintiffs' lawyers have accepted Keene's Asbestos Compensation Program, some have not. The number of new Bodily Injury Cases filed against Keene has continued unabated and these cases continue to go to trial. Certain verdicts adverse to Keene have been higher than expected and several appeals courts have refused to review verdicts management and counsel believed had meritorious appeals issues. As a result, Keene continues to incur substantial settlement and defense costs and the requirement to maintain substantial amounts of liquid investments as collateral for appeal bonds has increased. Keene has exhausted all its remaining insurance coverage and must now use amounts in the investment portfolio to finance the asbestos litigation. In addition, Reinhold has begun to receive inquiries from its customers concerned about the impact of the asbestos litigation on Reinhold and Reinhold's ability to continue supplying product.

The combination of these factors led to the decision to sell Reinhold in order to:

1. Allow Keene stockholders and any standby investors to participate directly in any growth opportunities resulting from Reinhold's operations in defense, aerospace and commercial markets;
2. Allow Reinhold's management to focus exclusively on the management and development of its composites business, through internal growth and acquisitions, without the specter of Keene's asbestos-related litigation. This will also allow Keene's management to focus on resolving the asbestos-related litigation; and
3. Provide Keene with additional funds for its use in attempting to resolve its asbestos-related litigation. By receiving fair value for the sale of Reinhold's shares now, Keene will avoid the possibility that it would have to sell these assets at distress values later should the solutions its supports be unattainable.

Conclusion

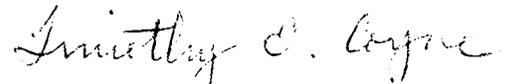
As discussed above, we do not believe that Keene should be deemed to be engaged in the business of investing in securities because approximately 75% of its cash, cash equivalents, and marketable securities currently must be maintained as collateral for appeal bonds. In addition, Keene still has substantial unresolved contingent liabilities. Accordingly, we believe that,

notwithstanding the Rights Offering, the exemption granted by the Commission on September 9, 1992 (Release No. IC-18934) should remain in full force and effect. Should you have any questions regarding this matter, please contact the undersigned at 212-557-1900.

Seven additional copies of this letter are enclosed for your use.

Please acknowledge receipt of this letter by stamping the additional enclosed copy of this letter and returning it to the undersigned in the enclosed self-addressed, stamped envelope.

Very truly yours,



Timothy E. Coyne
Vice President – Finance and
Administration

TEC:gm

Enclosure