

1 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
2 FOR THE COUNTY OF LOS ANGELES  
3 DEPARTMENT NO. 308 HON. CHARLES W. MC COY, JR., JUDGE  
4  
5

6 RICHARD BOEKEN, )  
7 )  
8 ) PLAINTIFF, )  
9 )  
10 ) VS. ) CASE NO.  
11 ) ) BC226593  
12 ) PHILIP MORRIS, )  
13 ) )  
14 ) DEFENDANT. )  
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11 REPORTER'S TRANSCRIPT OF PROCEEDINGS  
12 WEDNESDAY, APRIL 25, 2001  
13 (AFTERNOON SESSION)  
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22 VOLUME 23 B  
23 PAGES 3697 THROUGH 3761.  
24  
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26 LISA RIDLEY, CSR NO. 5886  
27 CARMEN J. GARROD, CSR NO. 4009, RPR  
28 OFFICIAL COURT REPORTERS

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**APPEARANCES:**

**FOR THE PLAINTIFF:**

**LAW OFFICES OF MICHAEL J. PIUZE  
BY: MICHAEL J. PIUZE,  
ATTORNEY AT LAW  
11755 WILSHIRE BOULEVARD  
SUITE 1170  
LOS ANGELES, CALIFORNIA 90025  
(310) 312-1102**

**FOR THE DEFENDANT:**

**ARNOLD & PORTER  
BY: MAURICE LEITER,  
JOHN CARLTON,  
AND ADAM LE BERTHON,  
ATTORNEYS AT LAW  
777 SOUTH FIGUEROA STREET  
FORTY-FOURTH FLOOR  
LOS ANGELES, CALIFORNIA 90017  
(213) 243-4110**

**ALSO PRESENT:**

**MR. GOLDSTEIN**

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**CHRONOLOGICAL INDEX**

**FOR THE DATE OF APRIL 25, 2001**

**VOLUME 23 B**

**PLAINTIFF' S WITNESSES**

**PAGE/VOLUME**

**BIBLE, GEOFFREY** **3703**  
**(READING OF DEPOSITION TRANSCRIPT RESUMED)**

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EXHIBITS  
FOR THE DATE OF APRIL 25, 2001  
VOLUME 23 B

EXHIBITS MARKED FOR IDENTIFICATION PAGE/VOLUME

(NO EXHIBITS WERE OFFERED.)

1 CASE NUMBER: BC226593  
2 CASE NAME: BOEKEN VS. PHILIP MORRIS  
3 LOS ANGELES, CALIFORNIA WEDNESDAY, APRIL 25, 2001  
4 DEPARTMENT NO. 308 HON. CHARLES W MC COY, JR., JUDGE  
5 REPORTER: CARMEN J. GARROD, CSR NO. 4009  
6 TIME: 1:46 P.M

7 (APPEARANCES AS HERETOFORE NOTED.)  
8 (THE FOLLOWING PROCEEDINGS WERE HELD  
9 IN OPEN COURT OUTSIDE THE PRESENCE  
10 OF THE JURY:)

11 THE COURT: WE'RE ON THE RECORD OUTSIDE THE  
12 PRESENCE.

13 MR. PIUZE: I HAVE SHOWN PHILIP MORRIS COUNSEL  
14 DOCUMENTS THAT I INTEND TO DISPLAY THIS AFTERNOON. WE  
15 AGREED TO EVERYTHING.

16 I HAVE WITHDRAWN SOME, PURSUANT TO THEIR  
17 OBJECTION. THEY NEED RESOLUTION.

18 THE FIRST IS PLAINTIFF'S EXHIBIT 1143.00, THE  
19 WEB SITE, MARCH 19, 1979 DOCUMENT WHICH IS A STATEMENT  
20 AGAINST INTEREST AND ONE OF THEIR DOCUMENTS.

21 THE COURT: WHAT IS THE STATEMENT THAT YOU'VE GOT  
22 THERE IN YELLOW, AND WHAT'S THE RELEVANCE OF IT?

23 MR. PIUZE: (READING:)

24 "MARLBORO DOMINATES IN THE 17  
25 AND YOUNGER AGE CATEGORY CAPTURING  
26 OVER 50 PERCENT OF THIS MARKET. IN  
27 THE 18 TO 24 AGE GROUP MARLBORO  
28 DOMINATES WITH A 30.7 PERCENT

1 SHARE. MARLBORO RED IS SMOKED BY  
2 THE YOUNGER GROUP, LIGHTS BY THE  
3 OLDER GROUP. "

4 THE RELEVANCE IS THAT THIS SHOWS WAY BACK WHEN  
5 THEY WERE ALREADY TARGETING --

6 THE COURT: THE DATE OF THE DOCUMENT?

7 MR. PIUZE: 1979.

8 MR. CARLTON: THE OBJECTION IS NOT AS TO  
9 AUTHENTICITY. WE'RE NOT OBJECTING ON THAT BASIS. IT IS AN  
10 OBJECTION ON HEARSAY GROUNDS.

11 THERE IS NO EVIDENCE AS TO WHO WROTE THIS  
12 DOCUMENT OR TO WHOM IT WENT. IT WAS A DOCUMENT IN OUR  
13 FILES, BUT UNLESS IT WAS WRITTEN BY SOMEBODY AT A LEVEL  
14 SUFFICIENT TO BIND THE COMPANY IT CAN'T BE AN ADMISSION BY  
15 THE COMPANY, EITHER WRITTEN BY THE AUTHOR OR BY ITS  
16 ACCEPTANCE BY SOMEBODY ELSE. WE DON'T KNOW WE KNOW  
17 NOTHING ABOUT IT OTHER THAN WHAT IT SAYS ON THE FACE OF THE  
18 DOCUMENT.

19 THE COURT: DO YOU HAVE ANYTHING MORE ON THIS  
20 DOCUMENT OTHER THAN JUST THIS ONE PAGE?

21 MR. PIUZE: IT ACTUALLY IS MORE THAN A ONE-PAGE  
22 DOCUMENT.

23 THIS PARTICULAR DOCUMENT IS THREE PAGES.  
24 ANOTHER HIGHLIGHTED IN YELLOW, THAT I'M NOT GOING TO READ,  
25 TALKS ABOUT WHERE THEY ARE GOING TO SELL IT, MARKET IT, WHO  
26 THEY ARE GOING TO TARGET IT TO.

27 THE ANSWER TO THE COURT'S QUESTION IS YES,  
28 THERE IS SOMETHING CALLED A VET SHEET, I GUESS, DOWNSTAIRS

1 THAT COULD TELL EXACTLY WHERE IN PHILIP MORRIS IT CAME  
2 FROM BUT IF -- THE OBJECTION ON ADMISSIONS IS WELL TAKEN  
3 AND IT'S NOT NECESSARILY BECAUSE THERE IS ALL KINDS OF  
4 DIFFERENT TYPES OF ADMISSIONS AGAINST INTEREST THAT WOULD  
5 REQUIRE DIFFERENT LEVELS OF AUTHORITY. IT'S STILL A  
6 STATEMENT AGAINST INTEREST, AND EVEN IF IT'S NOT A  
7 STATEMENT AGAINST INTEREST IT'S STILL AN ADMISSIBLE  
8 DOCUMENT BECAUSE THEY JUST AGREED TO THE FOUNDATION AND NOW  
9 THE ONLY QUESTION IS RELEVANCE.

10 THE COURT: YES, BUT THEY ARE MAKING AN EVIDENTIARY  
11 OBJECTION ON THE GROUNDS OF HEARSAY.

12 MR. CARLTON: YES, YOUR HONOR.

13 THE COURT: AND THEY ARE SAYING THAT IT'S NOT AN  
14 AUTHORIZED ADMISSION, OF THERE IS JUST NO EVIDENCE OF IT  
15 BEING AN AUTHORIZED ADMISSION?

16 MR. PIUZE: I'M SAYING IF IT'S -- IT ISN'T AN  
17 AUTHORIZED ADMISSION, IT BECOMES A STATEMENT AGAINST  
18 INTEREST, AND THEN I DON'T THINK WE HAVE TO GO THROUGH  
19 THOSE HOOPS.

20 THE COURT: WELL, YOU MAY NOT HAVE TO, BUT I'LL HAVE  
21 TO BE SHOWN THE LEGAL AUTHORITY.

22 MR. PIUZE: I GUESS I'D CITE JEFFERSON, PAGE --

23 THE COURT: GOOD LUCK.

24 MR. PIUZE: I ACTUALLY HAVE MY EVIDENCE CODE  
25 DOWNSTAIRS.

26 THE COURT: I THINK YOU'D RUN INTO TROUBLE THERE  
27 BECAUSE A STATEMENT AGAINST INTEREST, IT'S GOT TO BE MADE  
28 AGAINST THE PARTY. YOU'RE GOING TO RUN UP AGAINST THAT

1 EACH TIME. THERE HAS GOT TO BE SOME CONNECTION TO SOME  
2 LEVEL OF AUTHORITY.

3 AS IT STANDS RIGHT NOW, IT LOOKS TO ME SORT OF  
4 LIKE A WHITE PAPER.

5 MR. PIUZE: WHAT DOES THAT MEAN, "A WHITE PAPER"?

6 THE COURT: A WHITE PAPER IS AN UNSIGNED PAPER. IT'S  
7 NOT A MEMORANDUM TO OR FROM ANYBODY. IT'S SOME SORT OF  
8 ANALYSIS.

9 MR. PIUZE: CAN I CONFER HERE FOR LESS THAN 15  
10 SECONDS?

11 (COUNSEL CONFERRED SOTTO VOCE.)

12 MR. PIUZE: OKAY. SO FOR NOW THEN --

13 THE COURT: FOUNDATION, IT'S NEEDS FOUNDATION.

14 MR. PIUZE: THE NEXT IS DOCUMENT IS --

15 MR. GOLDSTEIN: 2031.

16 THE COURT: DATE?

17 MR. PIUZE: THE DATE IS OCTOBER 18, 1986. EXCUSE ME,  
18 1968.

19 AND CAN YOU TELL ME THE OBJECTION ON THIS SO I  
20 CAN ADDRESS THE OBJECTION?

21 MR. LEITER: WELL, TWO PROBLEMS. THE FIRST IS  
22 FOUNDATION.

23 THIS IS A DOCUMENT WE WERE JUST HANDED 10  
24 MINUTES AGO FOR THE FIRST TIME. IT'S A ONE, TWO, THREE,  
25 FOUR-PAGE SINGLE-SPACED DOCUMENT. WE HAVEN'T EVEN HAD A  
26 CHANCE TO READ IT YET. IT IS WRITTEN TO SOMEONE AT HILL &  
27 KNOWLTON.

28 SO THE FIRST OBJECTION IS TO FOUNDATION.

1 THERE IS ATTACHED TO THE DOCUMENT SOME PORTION OF A  
2 DEPOSITION TRANSCRIPT WHICH WE DON'T THINK ESTABLISHES  
3 FOUNDATION. BEYOND FOUNDATION, WE SIMPLY HAVEN'T HAD A  
4 CHANCE TO READ IT TO FIND OUT WHATEVER OBJECTIONS WE MIGHT  
5 HAVE. THIS WAS JUST HANDED TO US. WE DON'T THINK IT'S  
6 APPROPRIATE.

7 THE COURT: LET'S TAKE THIS DOCUMENT UP LATER -- NOT  
8 MUCH LATER. WE'LL DO IT BY THE END OF THE DAY TODAY.

9 MR. PIUZE: THAT'S FINE. THANK YOU.

10 JUST IN MY SELF-DEFENSE, THIS IS A MARKED  
11 DOCUMENT THEY HAVE HAD POSSESSION OF FOR MONTHS.

12 MR. LEITER: IT'S ONE OF THE THOUSANDS THAT WERE IN  
13 THE BOXES.

14 THE COURT: OUT OF COURTESY TO COUNSEL, MORE THAN  
15 ANYTHING ELSE.

16 MR. PIUZE: OKAY.

17 LAST. ALSO BEING DISPLAYED IS PLAINTIFF'S  
18 EXHIBIT 613.00, WHICH IS A NOVEMBER 3, 1978 LETTER. AND  
19 THE FOUNDATION FOR THIS -- EXCUSE ME, PERHAPS I SHOULD  
20 INVITE THE OBJECTION.

21 MR. LEITER: IT IS A FOUNDATION OBJECTION. EXCUSE ME  
22 FOR ONE SECOND.

23 THIS IS ON THE LETTERHEAD OF LENOX HILL  
24 HOSPITAL. IT IS A LETTER TO DR. GARDENER FROM  
25 DR. SOMMERS. WE HAVE AN AUTHENTICITY OBJECTION.

26 THERE IS ATTACHED TO THIS DOCUMENT -- WE WERE  
27 JUST PROVIDED PORTIONS OF A DEPOSITION OF JAMES GLENN WHO  
28 IS NEITHER THE AUTHOR NOR THE RECIPIENT, WHO SAYS THAT HE

1 HAS SEEN THIS DOCUMENT BEFORE.

2 "QUESTION: WOULD THAT BE, IN  
3 YOUR REVIEW OF THE HISTORY OF  
4 C. T. R. ?

5 "YES. "

6 SO WE DON'T THINK THEY HAVE GOT AUTHENTICITY  
7 OF THIS DOCUMENT.

8 THE COURT: THIS IS TRULY FROM THE BLUE WITH ME. I  
9 DON'T EVEN KNOW HOW THIS EVEN FITS INTO ANYTHING.

10 MR. LEITER: DR. SOMMERS WAS A MEMBER OF THE  
11 SCIENTIFIC ADVISORY BOARD OF C. T. R. THIS IS A LETTER  
12 APPARENTLY WRITTEN BY HIM TO SOMEBODY ELSE TALKING ABOUT  
13 C. T. R. , BUT WE HAVE NO AUTHENTICITY OF IT.

14 MR. PIUZE: FOR EASE, SPEED, I'M PULLING IT OFF THE  
15 ELMD FOR NOW

16 THE COURT: OKAY. SO WE'RE DOWN TO TWO.

17 MR. PIUZE: WE'RE DOWN TO TWO. THE COURT WILL DECIDE  
18 ON THOSE LATER.

19 THIS ONE, (INDICATING), 143, IS THE SUBJECT OF  
20 A PART OF MR. BIBLE'S TESTIMONY, AND AS MR. LE BERTHON SO  
21 APTLY PUT IT, THAT TESTIMONY WOULD PRETTY WELL RISE OR FALL  
22 ON THIS DOCUMENT.

23 SO WE'LL -- IT'S A FIVE-MINUTE CLIP OF  
24 TESTIMONY. WE CAN PUT THAT ASIDE ALSO, I GUESS.

25 THE COURT: ALL RIGHT.

26 MR. PIUZE: IT'S THE BEST I CAN SAY.

27 EITHER THAT, OR I CAN JUST READ THAT  
28 TESTIMONY. MAYBE THAT WOULD SATISFY THE COURT.

1 MR. LE BERTHON: IT'S 10 MINUTES OF TESTIMONY.

2 THE COURT: SET IT ASIDE. LET'S GET THE JURY GOING.  
3 THEY HAVE BEEN SITTING OUT THERE ON THOSE HARD BENCHES.  
4 BRING THEM IN.

5

6 (THE FOLLOWING PROCEEDINGS WERE HELD  
7 IN OPEN COURT WITHIN THE PRESENCE  
8 OF THE JURY:)

9

10 THE COURT: OUR JURY PANEL IS WITH US. COUNSEL ARE  
11 PRESENT AS WELL. THE WITNESS IS SURROGATE AND ON THE  
12 STAND.

13 WE HAVE A VERY BRAVE JURY BECAUSE SOME OF YOU  
14 ARE SUFFERING THROUGH SOME COLDS AND OTHER THINGS. I WOULD  
15 JUST SAY THIS TO YOU, IF AT ANY TIME WHILE YOU'RE SITTING  
16 THERE YOU JUST ABSOLUTELY HAVE TO TAKE A BREAK, YOU RAISE  
17 YOUR HAND AND YOU'LL BE EXCUSED IMMEDIATELY AND WE'LL JUST  
18 TAKE A BREAK. AND IF YOUR ILLNESS IS SUCH THAT, YOU KNOW,  
19 WE HAVE TO MAKE FURTHER ACCOMMODATION, THE COURT WOULD WANT  
20 TO TALK TO YOU AND IS MORE THAN WILLING TO DO THAT.

21 THAT HAVING BEEN SAID, MR. PIUZE, YOU MAY  
22 CONTINUE.

23 MR. PIUZE: THANK YOU.

24 (WHEREUPON READING RESUMED OF THE  
25 DEPOSITION OF GEOFFREY BIBLE:)

26 MR. PIUZE: (READING:)

27 "QUESTION: IN THE VERY FIRST  
28 PARAGRAPH OF THIS DEFENDING YOUR

1 COMPANY YOU SAY YOU' RE GOING TO  
2 PROTECT THE INVESTMENT, OUR BUSINESS  
3 AND EMPLOYEES, AND THE RIGHTS OF  
4 CONSUMERS TO ENJOY OUR PRODUCTS ARE  
5 ALL TOP PRIORITIES FOR THIS  
6 MANAGEMENT TEAM, CORRECT?

7 "ANSWER: YES.

8 "QUESTION: AND BY THIS  
9 MANAGEMENT TEAM YOU ARE TALKING  
10 ABOUT YOUR MANAGEMENT TEAM, CORRECT?

11 "ANSWER: YES, THE MANAGEMENT  
12 TEAM OF PHILIP MORRIS. YES.

13 "QUESTION: NOW, IN 1994 WHEN  
14 YOU TOOK OVER DID YOU GO TO THE  
15 C. T. R. AND SAY, I WANT TO MEET WITH  
16 ALL OF THE EMINENT SCIENTISTS OF THE  
17 SCIENTIFIC ADVISORY BOARD TO SEE IF  
18 THEY BELIEVE SMOKING CAUSES  
19 DISEASE? DID YOU DO THAT?

20 "ANSWER: NO, I DID NOT DO  
21 THAT. THE RESPONSIBILITY OF THE  
22 C. T. R. WAS THE RESPONSIBILITY OF  
23 PHILIP MORRIS U. S. A. THE CHIEF  
24 EXECUTIVE OFFICER OF PHILIP MORRIS  
25 U. S. A. I THINK IS ON THE BOARD OF  
26 THE C. T. R. AND THAT WAS ONE OF HIS  
27 DUTIES, AND I RELIED UPON HIM FOR  
28 THAT.

1 "QUESTION: YOU JUST RELIED ON  
2 HIM

3 "ANSWER: I DID, YES.

4 "QUESTION: DID YOU ASK HIM  
5 THIS MAN YOU RELIED ON, 'HAVE YOU  
6 ASKED ALL OF THE SCIENTISTS THAT ARE  
7 ON THE SCIENTIFIC ADVISORY BOARD OF  
8 THE C. T. R. WHETHER SMOKING CAUSES  
9 DISEASE' ?

10 "ANSWER: NO, I HAVE NOT ASKED  
11 HIM THAT, NO.

12 "QUESTION: YOU'VE NOT ASKED  
13 HIM THAT TO THIS DAY, HAVE YOU?

14 "ANSWER: NO, I HAVE NOT.

15 "QUESTION: DID YOU ASK THE  
16 PRESIDENT OF PHILIP MORRIS U. S. A. ,  
17 'CAN YOU FIND OUT WHAT ALL OF THE  
18 GRANTEES WHO HAVE RECEIVED MONEY  
19 FROM THE C. T. R. THINK ON THE ISSUE  
20 OF WHETHER SMOKING CAUSES DISEASE' ?  
21 DID YOU ASK HIM THAT?

22 "ANSWER: NO, I'VE NOT ASKED  
23 HIM THAT, BUT I'VE ASKED MY CHIEF  
24 SCIENTIST THAT QUESTION.

25 "QUESTION: YOU'VE ASKED YOUR  
26 CHIEF SCIENTIST TO ASK THE C. T. R. TO  
27 SURVEY ALL OF THEIR SCIENTISTS TO  
28 SEE WHAT THEY THINK?

1 "ANSWER: OH, NO, I'VE NOT  
2 ASKED HER THAT. I'VE ASKED HER HER  
3 POINT OF VIEW ON CIGARETTE SMOKING  
4 AND DISEASE.

5 "QUESTION: IS THAT CATHY  
6 ELLIS?

7 "ANSWER: YES, THAT'S DR.  
8 CATHY ELLIS.

9 "QUESTION: DR. CATHY ELLIS.  
10 WELL, WE'LL GET TO HER A LITTLE BIT  
11 LATER, SIR.

12 "I NOW WANT TO KNOW WHAT YOU  
13 DID WHEN YOU TOOK OVER THIS COMPANY  
14 WHEN YOU SAID YOU WANTED TO LOOK  
15 FORWARD AND NOT BACKWARD.

16 "DID YOU SAY TO THE HEAD OF  
17 PHILIP MORRIS U. S. A. , 'LET'S  
18 COMMISSION A BLUE RIBBON PANEL OF  
19 SCIENTISTS IN THE UNITED STATES AND  
20 LET THEM TELL US WHETHER SMOKING  
21 CAUSES DISEASE'; DID YOU DO THAT?

22 "ANSWER: NO, I DID NOT DO  
23 THAT.

24 "QUESTION: DID --

25 "ANSWER: AH --

26 "QUESTION: DID YOU GO TO YOUR  
27 FELLOW C. E. O. AND SAY, 'LET US JOIN  
28 TOGETHER AND GET A BLUE RIBBON PANEL

1 OF SCIENTISTS TO TELL US DOES  
2 SMOKING CAUSE DISEASE' ; DID YOU DO  
3 THAT?

4 "ANSWER: NO, I DID NOT DO  
5 THAT. BESIDES I REALLY FELT THAT  
6 EVERYBODY IN THE WORLD BELIEVES  
7 SMOKING CAUSES DISEASE.

8 "QUESTION: YOU DON'T; DO YOU,  
9 SIR?

10 "ANSWER: I DON'T KNOW

11 "QUESTION: YEAH. BUT YOU  
12 JUST SAID EVERYBODY IN THE WORLD  
13 BELIEVES IT. EVERYBODY BUT  
14 MR. BIBLE; IS THAT RIGHT?

15 "ANSWER: WELL, I DON'T KNOW  
16 THERE MAY BE OTHERS WHO AGREE WITH  
17 ME.

18 "QUESTION: WELL, HOW ABOUT  
19 DR. GLENN, THE HEAD OF THE C. T. R. ,  
20 DO YOU KNOW IF HE AGREES WITH YOU OR  
21 NOT?

22 "ANSWER: NO, I'VE NOT SPOKEN  
23 TO DR. GLENN.

24 "QUESTION: HOW ABOUT  
25 MR. MERRYMAN, DO YOU KNOW IF HE  
26 AGREES WITH YOU OR NOT?

27 "ANSWER: I'VE NOT SPOKEN TO  
28 MR. MERRYMAN.

1 "QUESTION: HAVE YOU READ  
2 MR. MERRYMAN'S TESTIMONY IN THIS  
3 CASE?

4 "ANSWER: NO, I'VE NOT.

5 "QUESTION: HAVE YOU READ  
6 DR. GLENN'S TESTIMONY IN THIS CASE?

7 "ANSWER: NO, I'VE NOT.

8 "QUESTION: DO YOU KNOW HOW  
9 MANY CHILDREN HAVE STARTED TO SMOKE  
10 OVER THE LAST 50 YEARS IN THIS  
11 COUNTRY?

12 "ANSWER: NO, I HAVE NO IDEA.

13 "QUESTION: DO YOU KNOW HOW  
14 MANY HAVE DIED AS A RESULT OF  
15 SMOKING?

16 "ANSWER: HOW MANY PEOPLE HAVE  
17 DIED?

18 "QUESTION: DIED.

19 "ANSWER: I DON'T KNOW IF  
20 ANYBODY HAS DIED. I JUST DON'T  
21 KNOW NO.

22 "QUESTION: AND YOU HAVEN'T  
23 ASKED YOUR HEAD OF PHILIP MORRIS  
24 U. S. A. , 'LET'S GO TO THE C. T. R. AND  
25 GET THE TOP SCIENTISTS AND FIND  
26 OUT'; YOU HAVEN'T, HAVE YOU, SIR?

27 "ANSWER: BUT I THINK THE  
28 C. T. R. WAS ALREADY CONDUCTING

1 RESEARCH OF THAT NATURE. I THOUGHT  
2 IT WAS -- C. T. R. 'S JOB WAS TO USE  
3 FUNDS TO DIRECT MONEYS TOWARDS  
4 SMOKING AND HEALTH RESEARCH.

5 "QUESTION: HAVE YOU EVER  
6 LOOKED AT WHAT THEY DID?

7 "ANSWER: NO. I TOLD YOU,  
8 I'VE BEEN AT MY JOB A SHORT TIME AND  
9 I WAS VERY NEW TO THE SITUATION, AND  
10 I CONCLUDED I HAD ONE OF TWO COURSES  
11 TO FOLLOW ONE WAS TO LOOK  
12 BACKWARDS. I COULD HAVE SPENT THE  
13 REST OF MY LIFE LOOKING BACKWARDS.  
14 THE OTHER WAS TO LOOK FORWARD, AND I  
15 HAVE SPENT THE LAST THREE OR FOUR  
16 YEARS DOING MY UTMOST TO TRY TO FIND  
17 A RESOLUTION TO THE ISSUE  
18 SURROUNDING THIS INDUSTRY,  
19 PARTICULARLY YOUTH SMOKING.

20 "QUESTION: SIR, IN THE FOUR  
21 YEARS THAT YOU'VE BEEN C. E. O. AND  
22 YOU'VE WANTED TO LOOK FORWARD, HAVE  
23 YOU HAD A CONCERN WHETHER OR NOT  
24 PEOPLE ARE DYING FROM YOUR PRODUCT,  
25 'YES' OR 'NO'?

26 "ANSWER: WELL, OF COURSE I'VE  
27 BEEN CONCERNED ABOUT IT.

28 "QUESTION: ALL RIGHT.

1 "NOW, IN LIGHT OF THAT CONCERN  
2 HAVE YOU SAID TO ANYBODY WHO HAS THE  
3 AUTHORITY WITHIN YOUR COMPANY OR THE  
4 INDUSTRY, 'LET'S GET A BLUE RIBBON  
5 COMMITTEE OF RENOWNED SCIENTISTS IN  
6 THE UNITED STATES OR THE WORLD AND  
7 LET THEM TELL US WHETHER SMOKING  
8 CAUSES DISEASE'? HAVE YOU DONE  
9 THAT?

10 "ANSWER: NO, I'VE NOT DONE  
11 THAT, BUT I BELIEVE IT'S BEING DONE  
12 BY THE FEDERAL GOVERNMENT. AND I  
13 BELIEVE OTHER COUNTRIES AROUND THE  
14 WORLD HAVE DONE THE SAME THING. AND  
15 I BELIEVE THE RESULTS OF THAT  
16 RESEARCH IS VERY WELL KNOWN.

17 "QUESTION: BUT YOU DON'T  
18 ACCEPT IT? YOU STILL SAY IT DOESN'T  
19 CAUSE IT? YOUR COMPANY SAYS SMOKING  
20 DOESN'T CAUSE DISEASE, DON'T YOU?

21 "ANSWER: I SAY I DON'T KNOW  
22 I JUST DON'T KNOW IT MAY. BUT I  
23 DON'T KNOW

24 "QUESTION: HAS YOUR COMPANY  
25 SAID PUBLICLY SMOKING CAUSES  
26 DISEASE?

27 "ANSWER: OUR COMPANY HAS SAID  
28 THAT CIGARETTE SMOKING MAY CAUSE

1 DISEASE --

2 "QUESTION: NO --

3 "ANSWER: -- BUT WE DON' T

4 KNOW

5 "QUESTION: -- THAT' S NOT WHAT

6 I ASKED YOU.

7 "HAS YOUR COMPANY SAID SMOKING

8 CAUSES DISEASE?

9 "ANSWER: NOT TO MY KNOWLEDGE,

10 NO.

11 "QUESTION: DO YOU KNOW THAT

12 THE WORLD HEALTH ORGANIZATION SAYS

13 THAT SMOKING CAUSES DISEASE?

14 "ANSWER: YES.

15 "QUESTION: DO YOU KNOW THAT

16 THE A. M A. SAYS THAT SMOKING CAUSES

17 DISEASE?

18 "ANSWER: YES.

19 "QUESTION: DO YOU KNOW THAT

20 THE AMERICAN CANCER SOCIETY SAYS

21 THAT SMOKING CAUSES DISEASE?

22 "ANSWER: EXCUSE ME? YES, I

23 DO.

24 "QUESTION: DO YOU KNOW THAT

25 THE AMERICAN LUNG ASSOCIATION SAYS

26 THAT SMOKING CAUSES DISEASE?

27 "ANSWER: YES, I DO.

28 "QUESTION: DO YOU KNOW THAT

1 THE SURGEON GENERAL SINCE 1964 HAS  
2 SAID THAT SMOKING CAUSES A VARIETY  
3 OF DISEASES?

4 "ANSWER: YES. YES. I'M  
5 AWARE OF THAT.

6 "QUESTION: ARE YOU AWARE OF  
7 ANY REPUTABLE SCIENTIFIC  
8 ORGANIZATION ANYWHERE IN THE WORLD  
9 THAT SAYS THAT SMOKING DOESN'T CAUSE  
10 DISEASE?

11 "ANSWER: NO, I'M NOT.

12 "QUESTION: NOT A ONE?

13 "ANSWER: NOT A ONE.

14 "QUESTION: IS THAT RIGHT?

15 "ANSWER: NO, SIR, I'M NOT.

16 "QUESTION: SIR, IN THIS  
17 FOUR-PART LETTER TO THE SHAREHOLDERS  
18 WHERE IS YOUR COMMITMENT TO THE  
19 PUBLIC HEALTH? WHERE DO YOU STATE  
20 WE ARE COMMITTED TO THE PUBLIC  
21 HEALTH?

22 "ANSWER: WELL, I'VE NOT READ  
23 THIS. I WOULD NEED TO READ IT. BUT  
24 MY SENSE IS THAT IT'S PROBABLY NOT  
25 INCLUDED HERE. IT'S A LETTER TO  
26 STOCKHOLDERS GENERALLY INFORMING  
27 THEM OF THE PERFORMANCE OF THE  
28 COMPANY THROUGHOUT THE COURSE OF THE

1 YEAR.

2 "QUESTION: DON'T YOU THINK  
3 THE SHAREHOLDERS MIGHT WANT TO KNOW  
4 WHETHER OR NOT YOUR COMPANY WAS  
5 COMMITTED TO PUBLIC HEALTH?

6 "ANSWER: THEY MAY DO. I  
7 THINK THEY FEEL THAT WE'RE COMMITTED  
8 TO THE PUBLIC HEALTH.

9 "QUESTION: NOT A WORD ABOUT  
10 THE PUBLIC HEALTH IN YOUR LETTER TO  
11 THE SHAREHOLDERS WHEN YOU TOOK OVER  
12 THIS COMPANY, IS THERE, SIR?

13 "ANSWER: WELL, THERE IS NOT,  
14 AND THERE IS NOT A WORD ABOUT MANY  
15 THINGS, ACTUALLY.

16 "QUESTION: WHERE IN THIS  
17 LETTER DO YOU SAY THAT YOU'RE GOING  
18 TO COOPERATE WITH PUBLIC HEALTH  
19 AUTHORITIES?

20 "ANSWER: WELL, I DON'T THINK  
21 IT'S THERE WITHOUT READING IT."

22 MR. PIUZE: SO I THEN TURN THIS OVER TO THE DIRECT  
23 EXAMINATION OF MR. LEITER.

24 MR. GOLDSTEIN: VERY WELL.

25 MR. LEITER: I BELIEVE THIS IS EXAMINATION FROM  
26 PHILIP MORRIS COUNSEL ON THAT PRIOR CASE. WE'RE ON PAGE  
27 6260. OKAY.

28 (READING:)

1                   "QUESTION: OKAY. NOW, LET  
2 ME ASK YOU THIS: WHEN YOU BECAME  
3 THE C. E. O. OF PHILIP MORRIS  
4 COMPANIES IN 1994, WHAT DID YOU SEE  
5 AS THE BIGGEST MAJOR CHALLENGES  
6 BEFORE YOU?

7                   "ANSWER: IN JUNE 1994, WELL,  
8 WE JUST COME OFF THE BACK OF WHAT  
9 WAS CALLED MARLBORO FRIDAY. THAT  
10 WAS APRIL 1993, WHEN I HAD BEEN MADE  
11 HEAD OF WORLDWIDE TOBACCO. SO THE  
12 DOMESTIC TOBACCO BUSINESS WAS IN A  
13 STATE OF RECOVERY. THAT HAD BEEN A  
14 VERY IMPORTANT EVENT TO THE COMPANY,  
15 SO I WAS KEEPING MY EYE ON THAT.

16                   "QUESTION: LET ME -- LET ME  
17 STOP YOU RIGHT THERE --

18                   "ANSWER: UMM

19                   "QUESTION: -- BECAUSE THERE  
20 HAVE BEEN SOME QUESTIONS  
21 ABOUT MARLBORO FRIDAY DURING THIS  
22 TRIAL. WHAT EXACTLY WAS MARLBORO  
23 FRIDAY?

24                   "ANSWER: MARLBORO FRIDAY WAS  
25 A FRIDAY IN 1993. IN FACT, I THINK  
26 IT WAS APRIL 1ST -- I COULD BE  
27 WRONG, BUT I THINK IT WAS  
28 APRIL 1, 1993. AND IT WAS A DAY ON

1 WHICH PHILIP MORRIS U. S. A. , THE  
2 CIGARETTE COMPANY, ANNOUNCED THIS  
3 REDUCTION IN THE PRICE, THE RETAIL  
4 SELLING PRICE OF MARLBORO BY  
5 APPROXIMATELY 40 CENTS A PACK. THE  
6 REASON FOR THAT WAS THAT THERE HAD  
7 BEEN A VERY INTENSE PRICE WAR GOING  
8 ON BETWEEN THE TOBACCO COMPANIES  
9 HERE IN THE UNITED STATES, AND  
10 MARLBORO HAD BEEN LOSING MARKET  
11 SHARES, AND WE SAW THAT CIGARETTE  
12 COMPANIES WERE BEING -- WERE PLACING  
13 LOWER AND LOWER PRICED CIGARETTES ON  
14 THE MARKET, AND OUR CIGARETTES WERE  
15 BEING OUTPRICED. SO WE FELT THE  
16 ONLY CORRECTIVE ACTION WE COULD TAKE  
17 TO PREVENT THE EROSION OF OUR MARKET  
18 SHARE WAS TO REDUCE PRICES.

19 "SO THAT HAPPENED IN APRIL,  
20 1993. IT WAS A MOMENTOUS EVENT. IT  
21 HIT THE STOCK PRICE OF THE COMPANY  
22 VERY HARD, AND THERE WAS A LOT OF  
23 CONTROVERSY OVER WHETHER THAT WAS  
24 THE RIGHT THING TO DO OR NOT TO DO  
25 BY MANY PEOPLE IN THE INVESTMENT  
26 WORLD AND PUBLIC ANALYSTS,  
27 GENERALLY.

28 "SO THAT WAS APRIL '93. I

1 WAS APPOINTED IN JUNE, 1994 AS  
2 C. E. O. SO AS I SAID, I WAS KEEPING  
3 MY EYE ON THAT MATTER.

4 "IN FEBRUARY, I THINK" --

5 MR. LEITER: I THINK WE SKIPPED DOWN TO LINE 25.

6 MR. GOLDSTEIN: THANK YOU.

7 (READING:)

8 "ANSWER: THERE WAS MUCH MORE  
9 MEDIA COVERAGE AROUND THE TOBACCO  
10 COMPANIES THEN THERE HAD BEEN IN THE  
11 FEW YEARS I'D BEEN BACK IN THE  
12 UNITED STATES, AND A LOT OF THAT WAS  
13 CONCERN ABOUT YOUTH SMOKING, WHICH  
14 HAD BECOME SORT OF A TOUCHSTONE OR A  
15 LIGHTNING ROD, AND MY GENERAL SENSE  
16 WAS THAT THERE WAS GROWING PUBLIC  
17 CONCERN ABOUT THE TOBACCO COMPANIES.

18 "QUESTION: WHAT DO YOU MEAN,  
19 'GROWING PUBLIC CONCERN ABOUT THE  
20 TOBACCO COMPANIES'?

21 "ANSWER: WELL, I THINK A LOT  
22 OF ALLEGATIONS HAD BEEN MADE ABOUT  
23 THE TOBACCO COMPANIES. IN FACT, I  
24 HAD THOUGHT THAT PEOPLE WERE  
25 CONSIDERING US TO BE A ROGUE  
26 INDUSTRY, THAT WE WERE NOT  
27 REGULATED, THAT WE WERE MARKETING  
28 CIGARETTES TO YOUTH, THAT WE WERE

1 NOT ACTING RESPONSIBLY. AND I WAS  
2 CONCERNED ABOUT THAT. AND SO WHEN I  
3 GOT MY JOB I FOUND MYSELF SURROUNDED  
4 BY A VARIETY OF ISSUES.

5 "QUESTION: NOW, WHY WERE YOU  
6 CONCERNED ABOUT THESE THINGS?

7 "ANSWER: WHY WAS I  
8 CONCERNED? WELL, I FELT THAT MANY  
9 OF THESE THINGS COULD HARM OUR  
10 COMPANY AND OUR INVESTORS  
11 SIGNIFICANTLY, NOT TO MENTION OUR  
12 EMPLOYEES AND OUR SUPPLIERS.

13 "I THINK THERE ARE MAYBE  
14 2 MILLION JOBS IN THE UNITED STATES  
15 DEPENDENT UPON THE TOBACCO INDUSTRY,  
16 AND I THINK THAT HAS A VERY  
17 IMPORTANT ECONOMIC IMPACT.

18 "QUESTION: NOW, YOU MENTIONED  
19 YOUTH SMOKING. WHAT DID YOU  
20 UNDERSTAND THE ISSUES SURROUNDING  
21 YOUTH SMOKING TO BE WHEN YOU ASSUMED  
22 YOUR DUTIES?

23 "ANSWER: WELL, I WAS ABLE TO  
24 OBSERVE A GROWING SENSE THAT  
25 CIGARETTE COMPANIES WERE MARKETING  
26 CIGARETTES TO YOUTH AND TO YOUNG  
27 PEOPLE, AND THAT SOCIETY WAS VERY  
28 CONCERNED ABOUT THIS. THE MEDIA WAS

1 WRITING A LOT ABOUT IT, AND THAT  
2 REALLY TROUBLED ME VERY MUCH INDEED.

3 "QUESTION: WHY DID THAT  
4 TROUBLE YOU?

5 "ANSWER: WELL, I WAS VERY  
6 MUCH OF THE VIEW THAT WE SHOULD NOT  
7 BE MARKETING CIGARETTES TO CHILDREN.  
8 I WAS OF THE VIEW WE DID NOT MARKET  
9 CIGARETTES TO CHILDREN, YET HERE WE  
10 WERE ACCUSED OF MARKETING CIGARETTES  
11 TO CHILDREN.

12 "I THINK THE GENERAL BELIEF  
13 WAS THAT WE DID MARKET CIGARETTES TO  
14 CHILDREN. I FELT THAT WAS UNFAIR. "

15 MR. LEITER: I BELIEVE WE SKIPPED TO 6266.

16 (READING:)

17 "QUESTION: NOW, YOU WERE  
18 SHOWN AN ANNUAL REPORT, A 1994  
19 ANNUAL REPORT, I BELIEVE IT IS, BY  
20 MR. CIRESI, IN WHICH YOU TALKED  
21 ABOUT FIGHTING THE LAWSUITS THAT  
22 WERE BEFORE YOU?

23 "ANSWER: YES.

24 "QUESTION: AND DID THAT HAVE  
25 ANYTHING TO DO WITH YOUR CONCERNS  
26 ABOUT -- ABOUT THE FUTURE AND WHAT  
27 THE MAJOR CHALLENGES WERE TO YOU?

28 "ANSWER: WHEN I WROTE THE

1 SHAREHOLDER LETTER, THAT REPORT?

2 "QUESTION: YES.

3 "ANSWER: YES, I WAS CONCERNED  
4 AT THE TIME ABOUT THAT. YES.

5 "QUESTION: AND AS MR. CIRESI  
6 POINTED OUT IN HIS QUESTIONING, YOU  
7 SAID YOU WERE GOING TO FIGHT THOSE  
8 SUITS?

9 "ANSWER: YES, I DID.

10 "QUESTION: AND DID YOU  
11 CONSULT WITH YOUR EXECUTIVES AND  
12 YOUR COLLEAGUES AT PHILIP MORRIS  
13 ABOUT THESE CHALLENGES, WHAT YOU SAW  
14 TO BE CHALLENGES OF THE COMPANY?

15 "ANSWER: YES. YES, I DID.  
16 CERTAINLY.

17 "QUESTION: AND WHAT, IF  
18 ANYTHING, DID YOU DECIDE AS C. E. O.  
19 OF PHILIP MORRIS CORPORATIONS TO TRY  
20 TO DO?

21 "ANSWER: WELL, THAT WAS VERY  
22 COMPLICATED, AND I FOUND IT A VERY  
23 INTENSE AND DIFFICULT PERIOD. I HAD  
24 A NEW JOB. IT WAS A LARGE JOB AND  
25 WITH A LOT OF RESPONSIBILITY AND A  
26 LOT OF PEOPLE'S LIVELIHOODS  
27 INVOLVED. AND I THOUGHT TO  
28 MYSELF -- AND I TALKED TO

1 EXECUTIVES, AND I WONDERED WHAT I  
2 COULD DO TO TRY TO IMPROVE THE  
3 SITUATION THAT I MET WHEN I GOT MY  
4 JOB, WHICH I'VE JUST DESCRIBED TO  
5 YOU.

6 "I THINK AS I DEFINED THE  
7 SITUATION, WE HAD A LOT OF GROWING  
8 LITIGATION. WE HAD A LARGE BUSINESS  
9 TO KEEP RUNNING BECAUSE WE HAD A LOT  
10 OF STOCKHOLDERS AND INVESTORS AND  
11 EMPLOYEES AND OTHER PEOPLE DEPENDENT  
12 UPON THE COMPANY. I WAS TRYING TO  
13 FIGURE OUT, WELL, I'VE BEEN WITH  
14 THIS COMPANY SOMETHING LIKE 20 ODD  
15 YEARS. THE LAST 10 YEARS OR SO I'VE  
16 BEEN LIVING IN THE UNITED STATES.  
17 AND ALTHOUGH I WAS NOT PART OF THE  
18 UNITED STATES TOBACCO COMPANY, I  
19 SAW, ON OCCASIONS, THE GROWING  
20 CONCERN ABOUT CIGARETTE SMOKING AND  
21 YOUTH SMOKING.

22 "I WAS AWARE THAT THERE WAS  
23 LITIGATION. PRETTY WELL EVERY YEAR  
24 THERE WOULD BE A CASE OR TWO. AND I  
25 CONCLUDED WITH MY EXECUTIVES -- I  
26 CONCLUDED THAT THERE HAS TO BE A  
27 BETTER WAY THAN WHAT THE PAST WAS  
28 AND WHAT THE CURRENT FUTURE HELD,

1 GIVEN THE EXPLOSION, I WOULD  
2 DESCRIBE, OF THINGS THAT WERE  
3 HAPPENING AROUND THE INDUSTRY AND  
4 OUR COMPANY.

5 "SO I WONDERED WHETHER THERE  
6 WAS A BETTER ROUTE AND WAS THERE  
7 SOME WAY THAT WE COULD TRY AND  
8 SATISFY ALL OF THE CONSTITUENCIES  
9 THAT WE WERE CONCERNED ABOUT THE  
10 COMPANY.

11 "THERE WAS CONCERN IN  
12 CONGRESS ABOUT THE ISSUE. THE  
13 TOBACCO GROWERS ARE VERY CONCERNED  
14 ABOUT THE FUTURE FOR TOBACCO  
15 GROWING. THERE ARE OVER 100,000  
16 FAMILIES, I THINK, DEPENDENT UPON  
17 THAT.

18 "SO ALL OF THOSE CONCERNS  
19 FORMED ME -- FORMED MY CONCLUSION  
20 THAT THERE HAS TO BE A BETTER WAY OF  
21 TRYING TO RESOLVE THESE ISSUES. BUT  
22 AT THE SAME TIME I HAD TO FIGHT  
23 THESE LAWSUITS THAT WERE STILL  
24 COMING AT US. SO I FELT THAT WHAT I  
25 SHOULD DO IS TRY AND RUN A PARALLEL  
26 TRACK.

27 "FIRSTLY, TO DEFEND OURSELVES  
28 AS ROBUSTLY AS WE CAN IN THE

1 LAWSUITS; AND SECONDLY, FIND A  
2 BETTER WAY TO RESOLVE THE ISSUES  
3 THAT WERE GROWING.

4 "QUESTION: WHAT, IF ANYTHING,  
5 DID YOU DECIDE TO TRY TO DO TO  
6 RESOLVE THE SITUATION?

7 "ANSWER: WELL, WHAT I DID, I  
8 CONSULTED WITH MY GENERAL COUNSEL  
9 AND IN-HOUSE COUNSEL AND OUTSIDE  
10 COUNSEL TO GET A BETTER  
11 UNDERSTANDING OF THE ISSUES.

12 "EXCUSE ME. I'M NOT A LAWYER  
13 AND I'M NOT THAT WELL VERSED IN THE  
14 LAW. I THEN MET WITH MY BOARD OF  
15 DIRECTORS TO SEEK THEIR GUIDANCE AND  
16 COUNSEL ON THE MATTER, AND I DECIDED  
17 THAT IT WOULD MAKE A LOT OF SENSE IF  
18 WE COULD MAKE TOUCH, FIRST OF ALL,  
19 WITH THE PEOPLE WHO WERE SUING US.  
20 AND IN PARALLEL, I WORKED WITH  
21 PHILIP MORRIS U. S. A. TO SEE WHAT  
22 THEY COULD DO TO ADDRESS THE CONCERN  
23 OF YOUTH MARKETING AND YOUTH  
24 SMOKING.

25 "SO WHAT WE DID THERE IN THAT  
26 RESPECT WAS TO COME OUT WITH WHAT WE  
27 CALL A TRIPLE 'A' PROGRAM THAT WAS  
28 ACTION AGAINST ACCESS, WHERE PHILIP

1 MRRIS, OF ITS OWN ACCORD, TOOK  
2 INITIATIVE TO ATTEMPT TO PREVENT  
3 YOUNG PEOPLE HAVING ACCESS TO  
4 CIGARETTES. OUR VIEW WAS IF KIDS  
5 COULDN'T GET CIGARETTES, KIDS  
6 COULDN'T SMOKE CIGARETTES.

7 "SO WE INTRODUCED A PROGRAM  
8 CALLED ACCESS, ACTION  
9 AGAINST ACCESS, AND WE UNDERTOOK A  
10 NUMBER OF OTHER STEPS VOLUNTARILY,  
11 SUCH AS WE CEASED SAMPLING. WE  
12 CEASED DISTRIBUTING CIGARETTES  
13 THROUGH THE MAIL, AND OTHER ACTIONS  
14 THAT WE TOOK.

15 "SO WE UNDERTOOK THAT PROGRAM  
16 THE FOLLOWING YEAR, THAT WAS '95.  
17 IN '96 WE UNDERTOOK ANOTHER PROGRAM  
18 TOGETHER WITH U. S. TOBACCO COMPANY  
19 WHICH MAKES SMOKELESS TOBACCO. AND  
20 THAT WAS A PROGRAM WHICH WENT EVEN  
21 FURTHER THAN THE ACCESS PROGRAM I  
22 JUST DESCRIBED TO YOU, AND WAS  
23 PROMTING LEGISLATION TO COVER A  
24 GREAT NUMBER OF OTHER THINGS THAT  
25 COULD BE DONE TO ATTEMPT TO CONTAIN  
26 THE YOUTH SMOKING ISSUE. SO WE WERE  
27 DOING THOSE, AND IN PARALLEL I WAS  
28 MEETING WITH MY COUNSEL --

1 "QUESTION: LET ME STOP YOU  
2 THERE, IF I CAN --

3 "ANSWER: THANK YOU.

4 "QUESTION: -- BECAUSE I WANT  
5 TO ASK YOU A QUESTION OR TWO ABOUT  
6 THESE PROGRAMS.

7 "THE FIRST OF THESE -- WELL,  
8 I CAN'T REMEMBER WHICH CAME FIRST.

9 "ANSWER: YOU SAID 'ACTION  
10 AGAINST ACCESS.' THAT WAS MAY '95,  
11 I THINK.

12 "QUESTION: NOW, IS THAT A  
13 PROGRAM THAT PHILIP MORRIS ADOPTED  
14 ON ITS OWN WITHOUT -- I MEAN, THIS  
15 WASN'T PART OF ANY KIND OF  
16 SETTLEMENT OR ANYTHING?

17 "ANSWER: NO, IT WAS A TOTALLY  
18 VOLUNTARY PROGRAM WHICH WE FELT WAS  
19 APPROPRIATE. AS I SAID, WE -- WE  
20 THOUGHT THAT IF KIDS COULD NOT BUY  
21 CIGARETTES, THEN THEY COULDN'T SMOKE  
22 CIGARETTES. THAT WAS THE THRUST  
23 BEHIND THE PROGRAM

24 "QUESTION: AND WHAT ARE THE  
25 ESSENTIAL ELEMENTS OF THE ACTION  
26 AGAINST ACCESS PROGRAM?

27 "ANSWER: WELL, THE MOST  
28 IMPORTANT ELEMENT IS THAT WE WENT

1 THROUGH AN EDUCATION PROGRAM WITH  
2 RETAILERS ENCOURAGING THEM NOT TO  
3 SELL CIGARETTES TO YOUNG PEOPLE.  
4 AND WE ADVISED THEM THAT IF THEY  
5 WERE CONVICTED OF SUCH, THAT WE  
6 WOULD WITHDRAW OUR MERCHANDISING  
7 ALLOWANCES TO THEM, AFTER GIVING  
8 THEM A FIRST WARNING. THAT WAS THE  
9 MOST IMPORTANT.

10 "THE SECOND ONE WAS WE CEASED  
11 SAMPLING CIGARETTES, WHICH HAD BEEN  
12 A PRACTICE.

13 "QUESTION: WHAT IS 'SAMPLING  
14 CIGARETTES' ?

15 "ANSWER: IT'S WHERE YOU WOULD  
16 OFFER SMOKERS ONE OF YOUR BRANDS, IF  
17 THEY WERE SMOKING ANOTHER BRAND, FOR  
18 EXAMPLE, TO GET THEM TO TRY YOUR  
19 BRAND, AND SEE IF YOU COULD SWITCH  
20 THEM FROM THE BRAND THAT THEY ARE  
21 SMOKING TO YOUR -- YOUR COMPETITOR'S  
22 BRAND TO YOUR BRAND; OR SAMPLING,  
23 PERHAPS, A NEW PRODUCT TO A SMOKER  
24 THAT THEY HAVE NOT TRIED BEFORE AND  
25 YOU WERE TRYING TO LAUNCH INTO THE  
26 MARKETPLACE. SO WE CEASED THAT  
27 ACTIVITY.

28 "QUESTION: WHY DID YOU CEASE

1 THAT ACTIVITY?

2 "ANSWER: BECAUSE THERE WAS --  
3 THERE WAS CONCERN THAT IT WAS  
4 DIFFICULT TO DISTINGUISH BETWEEN  
5 YOUNG PEOPLE AND YOUNG ADULTS,  
6 TEENAGERS AND YOUNG ADULTS; AND  
7 THERE WAS A CONCERN THAT MAY BE A  
8 MEANS BY WHICH TEENAGERS COULD GET  
9 CIGARETTES, AND WE WANTED TO  
10 ELIMINATE THAT CONCERN AS MUCH AS WE  
11 COULD.

12 "QUESTION: AND --

13 "ANSWER: AND SO WE JUST  
14 EVOLVED IT.

15 "QUESTION: YOU DID THAT  
16 VOLUNTARILY?

17 "ANSWER: VOLUNTARILY.

18 "QUESTION: NO CONDITIONS?

19 "ANSWER: NO, NO CONDITIONS.

20 "QUESTION: THEN YOU SAID  
21 SOMETHING ABOUT MAIL --

22 "ANSWER: YES.

23 "QUESTION: -- SENDING  
24 CIGARETTES THROUGH THE MAIL?

25 "ANSWER: WE CEASED SENDING  
26 CIGARETTES THROUGH THE MAIL.

27 "OFTEN WE SENT PRODUCTS TO  
28 CONSUMERS ON OUR MAILING LISTS

1 THROUGH THE MAIL ON CERTAIN  
2 PROMOTIONAL PROGRAMS, AND WE CEASED  
3 DOING THAT.

4 "QUESTION: AND WHY DID YOU  
5 STOP DOING THAT?

6 "ANSWER: WELL, IT WAS A  
7 LITTLE UNCLEAR THAT YOU COULD GET  
8 ABSOLUTE CERTAINTY ABOUT THE AGE  
9 CLAIMS BEING MADE BY THE INDIVIDUALS  
10 TO WHOM THE CIGARETTES WERE BEING  
11 SENT. WE DON'T LIKE TO ASK FOR  
12 VERIFICATION IF RECIPIENTS WERE 21  
13 YEARS AND OLDER. AND WE WANTED TO  
14 ELIMINATE CONCERN THAT THEY COULD  
15 JUST GO TO UNDERAGE PEOPLE.

16 "QUESTION: THIS DECISION TO  
17 STOP SENDING CIGARETTES THROUGH THE  
18 MAIL WAS A VOLUNTARY DECISION BY  
19 PHILIP MORRIS?

20 "ANSWER: YES, TOTALLY  
21 VOLUNTARY DECISION.

22 "QUESTION: AND YOU MENTIONED  
23 SOME LEGISLATION THAT YOU SPONSORED  
24 JOINTLY WITH -- WAS IT U. S. TOBACCO?

25 "ANSWER: U. S. TOBACCO.

26 "QUESTION: WHO IS U. S.  
27 TOBACCO?

28 "ANSWER: U. S. TOBACCO IS, I

1 THINK, THE LARGEST MANUFACTURER OF  
2 SMOKELESS TOBACCO, CHEWING TOBACCO  
3 IN THE UNITED STATES.

4 "QUESTION: LIKE SNUFF AND --

5 "ANSWER: YES.

6 "QUESTION: -- RED MAN?

7 "ANSWER: I THINK THAT'S THE  
8 BRAND, YES.

9 "QUESTION: OKAY.

10 "ANSWER: AND SO WE JOINED  
11 WITH THEM IN AN EFFORT TO TRY AND  
12 DEVELOP EVEN STRONGER PROGRAMS WHICH  
13 WE ALONE COULD NOT DO, WHICH WOULD  
14 REQUIRE LEGISLATION, SUCH AS  
15 LICENSING RETAILERS TO SELL  
16 CIGARETTES, CONTROLS AT VENDING  
17 MACHINES, FOR EXAMPLE; THINGS THAT  
18 WOULD REQUIRE LEGISLATION.

19 "SO WE PUT FORWARD THE  
20 PROGRAM, BUT WE WERE UNABLE TO GET  
21 ENOUGH SUPPORT IN THE LEGISLATURE TO  
22 GET IT CONVERTED INTO LEGISLATION.

23 "QUESTION: YOU MEAN IN THE  
24 STATE LEGISLATURES AROUND THE  
25 COUNTRY?

26 "ANSWER: STATE AND FEDERAL. "

27 MR. LEITER: THAT'S THE END OF THE DESIGNATION, YOUR  
28 HONOR.

1 THE COURT: THANK YOU, COUNSEL.

2 MR. PIUZE: YOUR HONOR, JUST FOR OUR PURPOSES, THAT'S  
3 THE END OF THE READING OF MR. BIBLE WITH THE EXCEPTION.

4 THE COURT: I FRANKLY WOULD RATHER GO AHEAD AND DEAL  
5 WITH THAT, THEN, NOW

6 MR. PIUZE: NOW OR WHATEVER YOU'D LIKE.

7 THE COURT: I'D RATHER DO THAT, JUST SO IT'S IN  
8 CONTEXT.

9 MR. PIUZE: IF IT'S GOING TO REQUIRE THE DOCUMENT,  
10 TALKING ABOUT THAT DOCUMENT, I THINK OUR TIME MIGHT BE  
11 SPENT BETTER IF WE FLOW THROUGH TO SOMETHING ELSE.

12 THE COURT: FAIR ENOUGH. ALL RIGHT.

13 THERE IS -- LET ME SAY THIS TO YOU: THERE IS  
14 AN ADDITIONAL PORTION THAT I MAY OR MAY NOT ALLOW IT  
15 DEPENDS. REMEMBER, I HAVE TO MAKE THOSE RULINGS ON  
16 EVIDENCE MATTERS, SO.

17 ALL RIGHT. YES, COUNSEL.

18 MR. PIUZE: IF I CAN GET MR. GOLDSTEIN TO COME BACK  
19 AND BE MY ASSISTANT FOR A WHILE, PLEASE.

20 SO WITH THE CONSENT OF DEFENSE COUNSEL, I'M  
21 GOING TO SHOW TWO COMMERCIALS THAT WERE SHOWN DURING THE  
22 OPENING STATEMENT THAT DIDN'T GET SHOWN DURING THE TRIAL.

23 (A VIDEOTAPE WAS PLAYED AND NOT  
24 REPORTED PER PRIOR STIPULATION OF COUNSEL.)

25 MR. PIUZE: THE THREE COMMERCIALS THAT HAVE NOW BEEN  
26 SHOWN DURING THE TRIAL ARE NUMBERS 8073, 8084, AND 8120.

27 THE COURT: DID YOU GET THOSE?

28 THE CLERK: 8084, 8173 --

1 MR. PIUZE: 8073, 8084, 8120.

2 AND THERE IS A PINK TAG ON THIS VIDEO.

3 AND THEN THE NEXT THING I'D LIKE TO DO, WITH  
4 THE DEFENSE CONSENT, HAVING GONE THROUGH THIS IN ADVANCE,  
5 IS TO SHOW A COUPLE OF -- MORE THAN A COUPLE -- SOME  
6 EXHIBITS THAT HAVEN'T YET BEEN SHOWN.

7 THIS IS EXHIBIT 9347.00.

8 THIS IS DECEMBER 14, 1953. AND THIS IS AN  
9 INTERNAL DOCUMENT AT PHILIP MORRIS.

10 (READING:)

11 "AS YOU KNOW, SOME HIGHLY  
12 CONTROVERSIAL STATEMENTS HAD BEEN  
13 MADE BY ONE OR TWO DOCTORS  
14 CONCERNING THE RELATIONSHIP OF  
15 CIGARETTE SMOKING AND LUNG CANCER  
16 AND ARE HAVING VERY UNDESIRABLE  
17 PUBLIC RELATIONS EFFECT ON THE  
18 INDUSTRY. WE DO NOT WISH TO ENGAGE  
19 IN ANY CONTROVERSY ON THIS TOPIC,  
20 AND WHILE IT IS AGAINST OUR POLICY  
21 TO INITIATE ANY DISCUSSION ON THIS  
22 TOPIC, THE ISSUE IS BEING FORCED  
23 TODAY IN MANY QUARTERS. "

24 PAGE 2: (READING:) "I HARDLY  
25 NEED TO SAY THAT NO PERSON IN PHILIP  
26 MORRIS OR ANY OTHER CIGARETTE  
27 COMPANY WOULD ENGAGE IN THE  
28 MANUFACTURE OR SALE OF CIGARETTES IF

1 WE BELIEVED THERE WAS A SOUND BASIS  
2 TO THE STATEMENTS BEING CURRENTLY  
3 PUBLICIZED. "

4 THE NEXT DOCUMENT IS EXHIBIT 17.00. IT'S  
5 DATED FEBRUARY 17, 1957.

6 (READING:)

7 "THE BASIC OBJECTIVES OF  
8 PHILIP MORRIS ARE CONTINUALLY TO  
9 SEEK TO INCREASE PROFITS AND IMPROVE  
10 LONG-RANGE RETURN ON INVESTED  
11 FUNDS. THESE OBJECTIVES CAN BE  
12 ACHIEVED PRIMARILY THROUGH REDUCED  
13 OPERATING COSTS, INCREASED VOLUME,  
14 INCREASED PROFIT PER UNIT SALE OR A  
15 COMBINATION OF THE THREE ELEMENTS. "

16 THE NEXT DOCUMENT IS EXHIBIT 21.00, APRIL 23,  
17 1958.

18 (READING:)

19 "BENZOPYRENE MUST GO. THIS  
20 COMPOUND MUST BE REMOVED FROM  
21 MARLBORO AND PARLIAMENT OR SHARPLY  
22 REDUCED. WE MUST DO THIS NOT  
23 BECAUSE WE THINK IT IS HARMFUL BUT  
24 SIMPLY BECAUSE THOSE WHO ARE IN A  
25 BETTER POSITION TO KNOW THAN  
26 OURSELVES SUSPECT IT MAY BE  
27 HARMFUL. OTHER INGREDIENTS THAT  
28 MIGHT BE HARMFUL MUST ALSO GO. BUT

1 BENZOPYRENE SHOULD GO FIRST BECAUSE  
2 IT IS THE ONE THAT SEEMS TO BE UNDER  
3 THE MOST SUSPICION AT THE MOMENT.

4 "SOME OF OUR PEOPLE WHO ARE  
5 NOT LAWYERS HAVE TOLD ME THAT SUCH A  
6 STEP WOULD IMPAIR OUR LEGAL  
7 POSITION, AND I WOULD LIKE TO  
8 PROTEST MOST STRONGLY AGAINST THIS  
9 ARGUMENT. WHATEVER OUR LEGAL  
10 POSITION MAY BE AT THE MOMENT, IT  
11 CANNOT POSSIBLY BE MADE ANY WORSE BY  
12 REMOVING THIS INGREDIENT.

13 "A MAN CAN CONFESS TO AN  
14 ACTION ONLY IF HE IS COMPETENT TO  
15 KNOW WHETHER HE DID IT OR NOT. AND  
16 WE ARE CERTAINLY NOT COMPETENT TO  
17 TESTIFY AS TO WHAT DOES OR DOES NOT  
18 CAUSE LUNG CANCER.

19 "THE CAMPAIGN. MIKE HELFGOTT  
20 SUGGESTED A CAMPAIGN WHICH ALSO  
21 GROWS OUT OF THE ANALYSIS OF THE  
22 COMPLEXES. I THINK IT IS VERY  
23 INTERESTING, ALTHOUGH, OF COURSE, IT  
24 IS NOT MUCH OF A LIFE AND DEATH  
25 MATTER AS THE COMPOUND. MIKE STARTS  
26 OUT AS FOLLOWS, QUOTE, 'DID YOU KNOW  
27 THAT PARLIAMENT, (MARLBORO), HAD  
28 CHANGED ITS BLEND OF FILTER EIGHT

1 TIMES IN THE LAST SIX MONTHS?' , " END  
2 OF QUOTE.

3 "WE WOULD GO ON TO DESCRIBE  
4 MORE OR LESS TRUTHFULLY THE DRAMATIC  
5 STORY OF OUR EFFORTS TO CATCH UP AND  
6 STAY CAUGHT UP IN THE HIGH  
7 FILTRATION FIELD. WE WOULD TALK  
8 ABOUT THE HOURS SPENT, THE SAMPLES  
9 MADE, THE LABORATORY TESTS RUN, ET  
10 CETERA, ALWAYS EMPHASIZING THE  
11 TERRIFIC EFFORT WE WERE PUTTING INTO  
12 THIS PROJECT.

13 "WE WOULD CLOSE BY PLEDGING TO  
14 PARLIAMENT OR MARLBORO SMOKERS THAT  
15 FROM NOW ON THEY COULD BE ASSURED  
16 THAT PARLIAMENT OR MARLBORO WOULD  
17 IMMEDIATELY BRING THEM ANY TAR AND  
18 NICOTINE REDUCING INNOVATIONS THAT  
19 WERE CONSISTENT WITH GOOD SMOKING  
20 AND THAT WE WOULD DO THIS NO MATTER  
21 HOW MUCH EFFORT AND EXPENSE WERE  
22 REQUIRED.

23 "THE RATIONALE FOR THIS  
24 CAMPAIGN IS A MATTER OF TRYING TO  
25 GET ON THE SMOKER'S SIDE OF THE  
26 HEALTH QUESTION AND TO COMBAT THE  
27 SMOKER'S BITTER RESENTMENT OF OUR  
28 FORMER COMPLACENCY BY PERSUADING HIM

1 THAT FROM NOW ON WE WOULD  
2 IMMEDIATELY GIVE HIM EVERYTHING THAT  
3 MIGHT POSSIBLY PUT HIM IN A BETTER  
4 POSITION WITH REGARD TO HIS HEALTH.

5 "SPECIFIC IMPROVEMENTS COULD  
6 STILL BE ANNOUNCED. BEYOND THAT THE  
7 ATTEMPT WOULD BE MADE TO BUILD AN  
8 IMAGE OF THE BRAND AS A BRAND THAT  
9 WAS MADE AND SOLD BY PEOPLE WHO ARE  
10 GENERALLY CONCERNED ABOUT THE HEALTH  
11 OF THEIR CUSTOMERS AND DID NOT  
12 BELIEVE IN TAKING CHANCES WITH THE  
13 HEALTH OF THEIR CUSTOMERS. "

14 THE NEXT DOCUMENT IS EXHIBIT 226.00. IT'S  
15 DATED AUGUST 26, 1959, ENTITLED "PSYCHOLOGICAL RESEARCH. "  
16 (READING:)

17 "IT WOULD APPEAR TO ME THAT  
18 THE OBJECTIVES OF A PSYCHOLOGICAL  
19 RESEARCH PROGRAM WOULD BE TO  
20 ESTABLISH USE REQUIREMENTS FOR NEW  
21 PRODUCTS FOR SMOKING. "

22 ROMAN NUMERAL "I. WHY DO  
23 PEOPLE SMOKE?

24 "PSYCHOSOCIOLOGIC REASONS:  
25 SENSUALISM THE GRATIFICATION OF  
26 SENSES OF TOUCH, TASTE, SMELL,  
27 SIGHT, SUCH AS ORAL SATISFACTION,  
28 DIGITAL SATISFACTION, ET CETERA.

1                   "2. STIMULATION OR  
2 RELAXATION.  
3                   "3. ADDICTION."  
4                   ROMAN NUMERAL "II. WHY DON'T  
5 PEOPLE SMOKE?  
6                   "A, PHYSIOLOGICAL REASONS.  
7 ADVERSE PHYSICAL REACTION. COUGH,  
8 NICOTINE DRUG REACTION, NAUSEA, ET  
9 CETERA, CARCINOGENESIS.  
10                  "2. PHYSICAL DISLIKE.  
11 TASTE. ODOR, TOUCH, STAIN ON HANDS  
12 AND TEETH."  
13 THAT'S THE END OF THAT.  
14 THE NEXT ONE IS EXHIBIT 236.00, DATED  
15 SEPTEMBER 25, 1963.  
16 STARTING ON PAGE 2.  
17 (READING:)  
18                   "NITROSAMINES ARE THE MOST  
19 POTENT CARCINOGENS KNOWN. BY ORAL  
20 SUBCUTANEOUS OR INTRAVENOUS  
21 APPLICATION, TUMORS ARE OBTAINED AT  
22 VARIOUS SPOTS, USUALLY FAR FROM THE  
23 SITE OF APPLICATION."  
24 THIS IS PAGE 6:  
25 (READING:)  
26                   "CONCLUSION: AS A WHOLE ONE  
27 CAN SAY THAT NITROSAMINES ARE VERY  
28 POTENT CARCINOGENS. POTENT" LIFE

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LINES --

THE COURT: MUTAGENS.

MR. PIUZE: THANK YOU.

(READING:)

-- "MUTAGENS THAT THEY HAVE A VERY  
GOOD DOSE RESPONSE RELATIONSHIP AND  
ASTONISHING RELATION BEEN STRUCTURE  
AND ORGANOTROPIC ACTION, AND THEIR  
AFFECT ON THE CHEMICAL STRUCTURE OF  
THE ATTACKED ORGANISM IS BETTER  
KNOWN THAN FOR MOST OTHER  
CARCINOGENS. "

AND THAT'S IN A LETTER ADDRESSED TO HORACE  
WAKEHAM VICE PRESIDENT IN CHARGE OF RESEARCH.

THE NEXT ONE IS EXHIBIT 286. AND THIS IS  
DATED MARCH 11, 1964 FROM THE C. T. R. , FORMERLY TOBACCO  
INDUSTRY RESEARCH COUNCIL, FOR RELEASE.

THIS SIMPLY STATES, (READING:)

"THE COMMITTEE HAS BEEN  
OFFICIALLY RENAMED THE COUNCIL FOR  
TOBACCO RESEARCH U. S. A. "

AND ON THE THIRD PAGE IT STATES THAT THE  
MEMBERSHIP OF THE COUNCIL INCLUDES THE FOLLOWING, AND  
PHILIP MORRIS, INCORPORATED IS THERE.

THE NEXT DOCUMENT IS EXHIBIT 65.00. MARCH 7,  
1968.

(READING:)

"WHEN THE SMOKING AND HEALTH

1 QUESTION BECAME CRITICAL IN THE  
2 ' 50S, THE TOBACCO INDUSTRY TOOK TWO  
3 STEPS TO MEET THE SITUATION. FIRST,  
4 IT ADOPTED THE VIGOROUS DENIAL  
5 APPROACH. THE STATISTICAL EVIDENCE  
6 IS BIASED. NOTHING IS PROVEN. THE  
7 ANIMAL EXPERIMENTS DON'T TELL US  
8 WHAT HAPPENS IN HUMANS.

9 "AT THE SAME TIME THE  
10 INDUSTRY SET UP THE TOBACCO INDUSTRY  
11 RESEARCH COMMITTEE TO SPONSOR  
12 MEDICAL RESEARCH ON CANCER. THE  
13 INDUSTRY HOPED IN THIS WAY TO  
14 DEMONSTRATE ITS CONCERN FOR THE  
15 CANCER PROBLEM AND TO DISCOVER, BY  
16 RESEARCH, IF POSSIBLE, THE TRUTH  
17 ABOUT SMOKING AND HEALTH.

18 "NO EFFORTS WERE SPARED TO  
19 MAKE T. I. R. C. A COMPLETELY OBJECTIVE  
20 INDEPENDENT AGENCY WHOSE RESULTS  
21 WOULD BE BELIEVED BY THE PUBLIC AND  
22 THE SCIENTIFIC COMMUNITY TO BE FREE  
23 FROM BIAS.

24 "MEANWHILE, THE INDUSTRY,  
25 CONTINUING ITS POLICY OF VIGOROUS  
26 DENIAL, FINDS ITSELF IN THE ROLE OF  
27 ' BAD BOY ' IN OPPOSITION TO THE  
28 FORCES OSTENSIBLY DEDICATED TO THE

1 WELFARE OF THE PEOPLE.  
2 "FEDERAL AGENCIES SUCH AS THE  
3 F. T. C. AND N. I. H. , P. H. S. , AND"  
4 U. S. D. A. ' S -- I ' M SORRY -- "U. S. D. A.  
5 CANCER RESEARCH INSTITUTES LIKE  
6 SLOAN KETTERING AND ROSWELL PARK,  
7 PUBLIC SUPPORTED HEALTH  
8 ORGANIZATIONS LIKE THE AMERICAN  
9 CANCER SOCIETY, AMERICAN HEART  
10 ASSOCIATION, ET CETERA. THIS IMAGE  
11 ENCOURAGES THE ANTI-CIGARETTE  
12 ZEALOTS AND PUBLICITY SEEKERS,  
13 POLITICIANS, ET CETERA, TO USE THE  
14 CIGARETTE INDUSTRY AS A CONVENIENT  
15 WHIPPING BOY WHICH ONLY MAKES THE  
16 IMAGE, IF ANYTHING, WORSE IN THE  
17 MIND OF THE PUBLIC.  
18 "TO THIS THE INDUSTRY HAS  
19 ESSENTIALLY REPLIED MERELY BY  
20 REPEATING THE VIGOROUS DENIALS.  
21 EXPERIMENTAL PROOF IS STILL LACKING.  
22 THE STATISTICS ARE POORLY OBTAINED,  
23 AND IN ANY EVENT, NOT TO BE  
24 TRUSTED. NO ONE KNOWS THE CAUSE OF  
25 CANCER, SO HOW CAN IT BE  
26 CIGARETTES?  
27 "THE CLAIMS AGAINST  
28 CIGARETTE SMOKING ARE GROSSLY

1 EXAGGERATED. AND ANYWAY, WHY PICK  
2 ON US WHEN THERE IS SO MANY OTHER  
3 MORE FREQUENT CAUSES OF DEATH THAN  
4 LUNG CANCER. OF THIS THE PUBLIC CAN  
5 ONLY SAY, LIKE HAMLET'S QUEEN  
6 MOTHER, THE LADY DOTH PROTEST TOO  
7 MUCH.

8 "THE LOUD CRIES OF THE  
9 ANTI-CIGARETTE ZEALOTS HAVE NOW  
10 CONVINCED SO MANY OF THE UNINFORMED  
11 MASSES THAT CIGARETTES ARE HARMFUL,  
12 THAT THE VOICE OF THE MODERATES IS  
13 STILLED THROUGHOUT THE LAND. THE  
14 SITUATION HAS GOTTEN TO THE POINT  
15 THAT THE MODERATES, MOST PHYSICIANS  
16 AND OTHER SCIENTIFIC PROFESSIONALS,  
17 WILL NOT SPEAK OUT ON THE SUBJECT  
18 EVEN ON BEHALF OF SCIENTIFIC TRUTH  
19 BECAUSE THEY ARE FEARFUL OF PUBLIC  
20 CRITICISM AND PROFESSIONAL  
21 CRITICISM OSTRACISM

22 "THEY HAVE IT ON GOOD  
23 AUTHORITY, FOR EXAMPLE, THAT MANY  
24 SCIENTISTS AND PHYSICIANS BELIEVE  
25 THAT DR. CARL C. SELZER COMMITTED  
26 PROFESSIONAL SUICIDE IN HIS  
27 COURAGEOUS ATTACK IN J. A. M. A. ON THE  
28 ANTI-CIGARETTE ESTABLISHMENT AND ITS

1 ALLEGATIONS THAT SMOKING CAUSES  
2 CORONARY HEART DISEASE.

3 "DR. JOSEPH BERNTSON AND  
4 PROFESSOR K. ALEXANDER BROWNLEE AND  
5 OTHERS WHO FORMERLY SPOKE UP ON  
6 SCIENTIFIC OBJECTIVITY HAVE BEEN  
7 STRANGELY SILENT DURING THE PAST FEW  
8 YEARS.

9 "FORTUNATELY, DESPITE THE  
10 LOSS OF CREDIBILITY ON THE PART OF  
11 THE INDUSTRY, SMOKING GOES ON  
12 ESSENTIALLY UNABATED, ALTHOUGH THE  
13 INCREASING POPULARITY OF FILTERS AND  
14 ACCEPTABILITY OF LOW DELIVERY BRANDS  
15 INDICATES PEOPLE ARE WORRIED ABOUT  
16 THE PROBLEM THE POPULAR AND STOCK  
17 MARKET REACTION TO STRICKMAN CLEARLY  
18 DEMONSTRATES PUBLIC CONCERN, AND ONE  
19 MAY EXPECT PER CAPITA PARTICIPATION  
20 IN SMOKING TO DECREASE AS THE  
21 CURRENT ANTI-SMOKING PROPAGANDA  
22 CAMPAIGN BEGINS TO TAKE EFFECT.

23 "WHAT STEPS HAS THE INDUSTRY  
24 TAKEN TO COMBAT THIS DETERIORATION  
25 OF ITS IMAGE OVER THE PAST 15 YEARS?  
26 IT ESTABLISHED THE TOBACCO INDUSTRY  
27 RESEARCH COMMITTEE, NOW COUNCIL FOR  
28 TOBACCO RESEARCH U. S. A. , WHICH,

1           ALTHOUGH IT MAY INITIALLY HAVE HAD A  
2           PUBLIC RELATIONS BENEFIT, HAS, IN  
3           THIS WRITER'S OPINION, GIVEN LITTLE  
4           POSITIVE SUPPORT TO THE VIGOROUS  
5           DENIAL APPROACH, NOR HAS IT GIVEN  
6           RESPECTABILITY TO THE INDUSTRY'S  
7           POSTURE OF OBJECTIVITY.

8                         "IT HAS PRODUCED FEW, IF ANY,  
9           OBJECTIVE AND NEWSWORTHY FINDINGS TO  
10          CONTROVERT THE ALLEGATIONS OF THE  
11          ANTI-CIGARETTE ZEALOTS. THE SAME  
12          NEGATIVE CONCLUSION MIGHT BE MADE OF  
13          THE A. M. A. TOBACCO AND HEALTH  
14          RESEARCH PROGRAM, ALTHOUGH IT'S TOO  
15          EARLY TO EVALUATE ITS RESULTS IN ANY  
16          DEPTH.

17                        "SOMEWHERE BETWEEN THE  
18          VIGOROUS DENIAL AND THE OPEN  
19          ADMISSION OF ALLEGATIONS MUST LIE AN  
20          AREA IN WHICH THE INDUSTRY CAN FIND  
21          AN IMAGE OF CREDIBILITY IN  
22          OBJECTIVITY IN THE MINDS OF KNOWING  
23          PEOPLE. SOMEWHERE BETWEEN NO  
24          RESEARCH AND A MASSIVE EFFORT TO  
25          FIND THE CAUSE OF CANCER THERE MUST  
26          BE AN AREA OF SCIENTIFIC ENDEAVOR  
27          WHICH WOULD GIVE THE INDUSTRY A  
28          SOLID BASIS ON WHICH TO STAND.

1                   SOMEHOW OR OTHER, IT MUST BE  
2                   POSSIBLE TO ESTABLISH A GROUP OF  
3                   INDUSTRY SUPPORTED SCIENTISTS  
4                   RESPECTED BY THEIR PEERS, EVEN IN  
5                   THE ANTI-CIGARETTE SCIENTIFIC  
6                   COMMUNITY, WHO CAN RAISE A VOICE IN  
7                   FAVOR OF SCIENTIFIC TRUTH THAT WILL  
8                   BE HEARD. "

9                   I' M SKIPPING OVER PAGE 5.

10                  (READING:)

11                                 "A MOST DIFFICULT ASPECT OF  
12                   THE INSTITUTE WOULD BE THE CONTROL  
13                   OF INFORMATION GENERATED BY THE  
14                   INSTITUTE. ONE APPROACH MIGHT BE  
15                   THAT ALL OF THE INFORMATION OBTAINED  
16                   BY IT SHOULD BE RESTRICTED TO THE  
17                   RESEARCH DEPARTMENTS OF THE MEMBER  
18                   COMPANIES ON WHOM WOULD THEN BE  
19                   PLACED THE RESPONSIBILITY FOR THE  
20                   PROPER USE OF THE INFORMATION.

21                                 "SINCE THE COMPANY RESEARCH  
22                   GROUPS WERE GENERALLY UNDER COMPANY  
23                   MANAGEMENT, THEY WOULD BE EXPECTED  
24                   TO BE SUFFICIENTLY SENSITIVE TO THE  
25                   PROPRIETY OF RELEASING INFORMATION  
26                   WHICH WOULD UNDERMINE AND POSSIBLY  
27                   DESTROY THE BENEFITS OF THE  
28                   CIGARETTE RESEARCH INSTITUTE TO THE

1 INDUSTRY AS A WHOLE. "

2 THAT'S THE END OF THE READING OF THAT  
3 DOCUMENT.

4 THE NEXT ONE IS EXHIBIT 2031. AND IT'S  
5 DATED --

6 MR. LEITER: THAT'S ONE OF THE ONES THAT WE ARE  
7 HOLDING OFF ON.

8 MR. PIUZE: EXCUSE ME. I APOLOGIZE.

9 WHICH MAKES THE NEXT DOCUMENT 207.00.

10 AND THIS IS FEBRUARY 19, 1969. THIS IS AN  
11 INTERNAL PHILIP MORRIS DOCUMENT.

12 (READING:)

13 "I WOULD BE MORE CAUTIOUS IN  
14 USING THE PHARMIC-MEDICAL MODEL. DO  
15 WE REALLY WANT TO TOUT CIGARETTE  
16 SMOKE AS A DRUG? IT IS, OF COURSE,  
17 BUT THERE ARE DANGEROUS F. D. A.  
18 IMPLICATIONS TO HAVING SUCH  
19 CONCEPTUALIZATION GO BEYOND THESE  
20 WALLS. "

21 THE NEXT DOCUMENT IS 73.00, AND THIS IS  
22 MAY 21, 1969.

23 (READING:)

24 "THE MEETING ADJOURNED FOR  
25 LUNCH AND IN THE AFTERNOON OTHER  
26 DISCUSSIONS OF THE A. S. B. " --  
27 SCIENTIFIC ADVISORY BOARD -- "WERE  
28 HELD. GRIFFITH SUBMITTED A SECOND

1 GRANT APPLICATION FOR THE MONITOR  
2 CIGARETTE. DISCUSSIONS WHICH WERE  
3 QUITE HEATED DEVELOPED BETWEEN  
4 LOOSLI AND THE C. T. R. STAFF. LOOSLI  
5 RESIGNED AS CHAIRMAN OF THE  
6 SCIENTIFIC ADVISORY BOARD PLANNING  
7 SUBCOMMITTEE.

8 "FURST HAS BEEN APPOINTED TO  
9 THE SCIENTIFIC ADVISORY TO THE  
10 C. T. R. IN NEW YORK FOR ' 69, ' 70, AND  
11 TOGETHER WITH SOMMERS -- NOW  
12 APPARENTLY RESEARCH DIRECTOR OF  
13 C. T. R. -- APPEARS TO BE BEING  
14 GROOMED FOR JOINT REPLACEMENTS FOR  
15 DR. C. C. LITTLE.

16 "C. T. R. STAFF IS DEMORALIZED  
17 AND UNSURE OF THE FUTURE DIRECTION  
18 OF THE ORGANIZATION. THERE ALSO  
19 APPEARS TO BE CONFLICT BETWEEN THE  
20 SCIENTIFIC ADVISORY BOARD AND THE  
21 LAWYERS. THE MEETING CONTINUED.

22 "RECOMMENDATION: AFTER OUR  
23 INBIFO MACHINES ARRIVED AND HAD BEEN  
24 CHECKED OUT, INCLUDING MONITORING  
25 SYSTEMS, ONE SHOULD BE MADE  
26 AVAILABLE TO EITHER LOOSLI OR  
27 HUEBNER UNDER C. T. R. SPONSORSHIP.

28 "WE SHOULD ALSO CONSIDER THAT

1 IF FURTHER DEVELOPMENTS ARE REQUIRED  
2 ON OUR MACHINE WE SHOULD OBTAIN  
3 C. T. R. FUNDS. "

4 THE NEXT DOCUMENT IS EXHIBIT 219.00, OCTOBER  
5 14, 1969. THIS IS AN INTERNAL DOCUMENT.

6 (READING:)

7 "UNFORTUNATELY, TOO, THE  
8 SCIENTIFIC EXPERTISE OF THE  
9 INDUSTRY, BECAUSE OF THE LIABILITY  
10 SUIT SITUATION, HAS NOT BEEN  
11 PERMITTED TO MAKE A CONTRIBUTION TO  
12 THE PROBLEM, A CONTRIBUTION WHICH I  
13 BELIEVE IS VITAL, BECAUSE THE  
14 INDUSTRY SCIENTISTS ARE WILLING TO  
15 CONSIDER THE SCIENTIFIC PROBLEM FROM  
16 THE POINT OF VIEW OF THE INDUSTRY,  
17 RATHER THAN FROM THE POSITION OF THE  
18 PUBLIC HEALTH AGENCIES.

19 "THE GERMANS AND THE ENGLISH  
20 HAVE ACCEPTED THIS POINT, AND AS A  
21 CONSEQUENCE ARE NOW WAY AHEAD OF US  
22 IN UNDERSTANDING THE SCIENTIFIC  
23 ASPECTS OF THE PROBLEM

24 "I WOULD AGREE WITH  
25 DR. ZELDMAN THAT THE EFFORTS OF THE  
26 TOBACCO INDUSTRY, THROUGH C. T. R. AND  
27 THE AMERICAN MEDICAL ASSOCIATION,  
28 HAVE FAILED TO INVOLVE THE BEST

1 INVESTIGATORS. AT THE BEGINNING OF  
2 OUR SUPPORT OF SMOKING AND HEALTH  
3 RESEARCH, THIS FAILURE MAY HAVE BEEN  
4 CONNECTED WITH OUR CONSISTENT DENIAL  
5 OF THE STATISTICS IN OUR CONTINUED  
6 ASSERTION THAT THERE IS NOTHING TO  
7 THE CIGARETTE CAUSATION HYPOTHESIS.  
8 MORE RECENTLY I BELIEVE THAT VERY  
9 FEW INVESTIGATORS WANT TO INCUR THE  
10 CRITICISM AND OSTRACISM OF THEIR  
11 FELLOW SCIENTISTS TO UNDERTAKE  
12 RESEARCH THAT ESPOUSES AN UNPOPULAR  
13 SUBJECT.

14 "AGAIN, AN ATTEMPT BY THE  
15 INDUSTRY TO SOLICIT THESE  
16 INVESTIGATORS AT THIS STAGE OF THE  
17 GAME MAY BE TOO LITTLE AND TOO  
18 LATE. IT MAY BE THAT SUPPORTING  
19 BASIC RESEARCH AT PRESENT WOULD  
20 ULTIMATELY LEAD TO THE KIND OF  
21 RESULTS THAT DR. ZELDMAN ENVISIONED  
22 IN ENVISAGES, BUT I AM NOT SANGUINE  
23 THAT PRESENT ATTEMPTS IN THIS  
24 DIRECTION WOULD BE SUCCESSFUL IN THE  
25 NEAR FUTURE. "

26 AND THE NEXT DOCUMENT IS EXHIBIT 199.00,  
27 DECEMBER 15, 1969.

28 THE CLERK: '68?

1 MR. PIUZE: '69.

2 THE CLERK: THANK YOU.

3 MR. PIUZE: (READING:)

4 "I MET WITH DR. PRICE FROM  
5 R. J. REYNOLDS AT THE C. T. R. U. S. A.  
6 MEETING AT DECEMBER 11 AND 12, '69.  
7 HE MENTIONED DOING CHRONIC CIGARETTE  
8 SMOKE EXPOSURE STUDIES WITH RATS.  
9 THE ANIMALS RECEIVED UP TO 500  
10 CIGARETTES AND EMPHYSEMA WAS  
11 PRODUCED. THEY WERE ALSO LOOKING  
12 FOR OTHER CHANGES, BUT APPARENTLY  
13 WERE NOT SUCCESSFUL. "  
14 EXHIBIT 82.00 IS THE NEXT ONE. FEBRUARY 24,  
15 1970.

16 (READING:)

17 "THE POSSIBILITY OF GETTING  
18 ANSWERS TO CERTAIN PROBLEMS ON A  
19 CONTRACTUAL BASIS IN EUROPE APPEALS  
20 TO ME, AND I FEEL PRESENTS AN  
21 OPPORTUNITY THAT IS RELATIVELY  
22 LACKING IN RISK AND UNATTRACTIVE  
23 REPERCUSSIONS IN THIS COUNTRY. "  
24 THE NEXT DOCUMENT IS EXHIBIT 91, DECEMBER 8,  
25 1970.

26 (READING:)

27 "IT HAS BEEN STATED THAT  
28 C. T. R. IS A PROGRAM TO FIND OUT, "

1 QUOTE, 'THE TRUTH ABOUT SMOKING AND  
2 HEALTH', " CLOSE QUOTE.

3 "WHAT IS TRUTH TO ONE IS  
4 FALSE TO ANOTHER. C. T. R. AND THE  
5 INDUSTRY HAVE PUBLICLY AND  
6 FREQUENTLY DENIED WHAT OTHERS FIND  
7 AS TRUTH. LET'S FACE IT. WE ARE  
8 INTERESTED IN EVIDENCE WHICH WE  
9 BELIEVE DENIES THE ALLEGATIONS THAT  
10 CIGARETTE SMOKING CAUSES DISEASE.  
11 IF THE C. T. R. PROGRAM IS AIMED IN  
12 THIS DIRECTION IT IS, IN EFFECT,  
13 TRYING TO PROVE THE NEGATIVE, THAT  
14 CIGARETTE SMOKING DOES NOT CAUSE  
15 DISEASE. BOTH LAWYERS AND  
16 SCIENTISTS WILL AGREE THAT THIS TASK  
17 IS EXTREMELY DIFFICULT, IF NOT  
18 IMPOSSIBLE. "  
19 AND THE NEXT DOCUMENT IS EXHIBIT 132.00,  
20 NOVEMBER 29, 1977.

21 (READING:)

22 "IT IS MY STRONG FEELING  
23 THAT WITH THE PROGRESS THAT HAS BEEN  
24 CLAIMED WE ARE IN THE PROCESS OF  
25 DIGGING OUR OWN GRAVE. I BELIEVE  
26 THAT THE PROGRAM AS SET UP, HAS THE  
27 POTENTIAL OF GREAT DAMAGE TO THE  
28 INDUSTRY, AND I STRONGLY URGE THAT

1 THE WHOLE RELATIONSHIP OF OUR  
2 COMPANY TO C. T. R. BE" STRONGLY --  
3 "BE CAREFULLY REVIEWED.

4 "I AM VERY MUCH AFRAID THAT  
5 THE DIRECTION OF WORK BEING TAKEN BY  
6 C. T. R. IS TOTALLY DETRIMENTAL TO OUR  
7 POSITION AND UNDERMINES THE PUBLIC  
8 POSTURE WE HAVE TAKEN TO OUTSIDERS. "  
9 THE NEXT DOCUMENT IS EXHIBIT 136.00,  
10 FEBRUARY 16, 1978.

11 (READING:)

12 "AN ADMISSION BY THE  
13 INDUSTRY THAT EXCESSIVE CIGARETTE  
14 SMOKING IS BAD FOR YOU IS TANTAMOUNT  
15 TO AN ADMISSION OF GUILT WITH REGARD  
16 TO THE LUNG CANCER PROBLEM THIS  
17 COULD OPEN THE DOOR TO LEGAL SUITS  
18 IN WHICH THE INDUSTRY WOULD HAVE NO  
19 DEFENSE. "

20 THE NEXT DOCUMENT IS EXHIBIT 9078.00,  
21 DECEMBER 6, 1978. AND I'M OVER TO PAGE 6.

22 "QUESTION NUMBER 4: TAR  
23 DELIVERY BEING THE SAME, WHAT ARE  
24 THE BEHAVIORAL CONSEQUENCES OF  
25 SMOKING LOW NICOTINE RATHER THAN  
26 HIGH NICOTINE CIGARETTES? THIS  
27 QUESTION WILL BE ANSWERED BY  
28 CONDUCTING A SERIES OF SHIFT STUDIES

1 USING CIGARETTES OF SIMILAR LOW TAR  
2 BUT DIFFERENTIAL NICOTINE  
3 DELIVERIES. THE LOW NICOTINE  
4 DELIVERY WILL ENSURE THAT TOTAL  
5 NICOTINE IN THE SYSTEM REMAINS AT OR  
6 NEAR THE NICOTINE NEED THRESHOLD,  
7 THUS MAXIMIZING THE PROPORTION OF  
8 THE DAY'S CIGARETTE CONSUMPTION  
9 WHICH IS SMOKED OUT OF NEED AND  
10 MINIMIZING THE NICOTINE AUGMENTATION  
11 FROM THOSE CIGARETTES WHICH ARE  
12 SMOKED OUT OF HABIT. "  
13 THE NEXT ONE IS 423.00. THE DATE IS MARCH 21,  
14 1980.

15 (READING:)

16 "IN RESPONDING TO YOUR QUERY,  
17 I'M GOING TO FIRST ADDRESS THE MORE  
18 CONCLUSIVE TOPIC OF THE  
19 PSYCHOPHARMACOLOGY OF NICOTINE.  
20 ABOOD'S NICOTINE RECEPTOR PROGRAM IS  
21 INCLUDED, AS IS THE INTERNAL  
22 NICOTINE ANALOG PROGRAM, AND THE  
23 INTERNAL ANIMAL BEHAVIORAL PROGRAM  
24 ALL THREE OF THESE EFFORTS ARE AIMED  
25 AT UNDERSTANDING THE SPECIFIC ACTION  
26 OF NICOTINE WHICH CAUSES THE SMOKER  
27 TO REPEATEDLY INTRODUCE NICOTINE  
28 INTO HIS BODY.

1                   "THE PSYCHOPHARMACOLOGY OF  
2                   NICOTINE IS A HIGHLY VEXATIOUS  
3                   TOPIC. IT IS WHERE THE ACTION IS  
4                   FOR THOSE DOING FUNDAMENTAL RESEARCH  
5                   ON SMOKING AND FROM WHERE MOST  
6                   LIKELY WILL COME SIGNIFICANT  
7                   SCIENTIFIC DEVELOPMENTS PROFOUNDLY  
8                   INFLUENCING THE INDUSTRY, YET IT IS  
9                   WHERE OUR ATTORNEYS LEAST WANT US TO  
10                  BE FOR TWO REASONS. IT IS IMPORTANT  
11                  TO HAVE THESE TWO REASONS EXPRESSED  
12                  AND DISTINGUISHED FROM ONE  
13                  ANOTHER.

14                  "THE FIRST REASON IS THE  
15                  OLDEST AND IS IMPLICIT IN THE LEGAL  
16                  STRATEGY EMPLOYED OVER THE YEARS IN  
17                  DEFENDING CORPORATIONS WITHIN THE  
18                  INDUSTRY FROM THE CLAIMS OF HEIRS  
19                  AND ESTATES OF DECEASED SMOKERS. "

20                  WE, IN THE INDUSTRY -- EXCUSE  
21                  ME.

22                  "WE, WITHIN THE INDUSTRY ARE  
23                  IGNORANT OF ANY RELATIONSHIP BETWEEN  
24                  SMOKING AND DISEASE. WITHIN OUR  
25                  LABORATORIES NO WORK IS BEING  
26                  CONDUCTED ON BIOLOGICAL SYSTEMS.  
27                  THAT POSTURE HAS MODERATED  
28                  CONSIDERABLY AS OUR ATTORNEYS HAVE

1 COME TO ACKNOWLEDGE THAT THE  
2 ORIGINAL CARTE BLANCHE AVOIDANCE OF  
3 ALL BIOLOGICAL RESEARCH IS NOT  
4 REQUIRED IN ORDER TO PLEAD IGNORANCE  
5 ABOUT ANY PATHOLOGICAL RELATIONSHIP  
6 BETWEEN SMOKE AND SMOKING.

7 "THERE IS AN IMPORTANT  
8 DISTINCTION THAT HAS BEEN MADE HERE  
9 WHICH IT IS WELL TO ARTICULATE. THE  
10 ACUTE TRANSIENT SHORT-LIVED EFFECTS  
11 OF NICOTINE UPON A PHYSIOLOGICAL  
12 SYSTEM, AMONG WHICH ARE THOSE  
13 EFFECTS, OR THAT EFFECT SOUGHT BY  
14 THE SMOKER, ARE WHOLLY INDEPENDENT  
15 OF THOSE ALLEGED CUMULATIVE  
16 LONG-TERM CONTRIBUTIONS OF SMOKE  
17 COMPOUNDS TO THE DISEASE PROCESS.

18 "WE ARE NOW BEING ALLOWED TO  
19 CONDUCT RESEARCH ON THE IMMEDIATE  
20 EFFECTS OF NICOTINE BECAUSE OF THIS  
21 DISTINCTION. WE CAN WORK WITH  
22 BIOLOGICAL SYSTEMS. WE CAN INJECT  
23 NICOTINE IN RATS, AND WE CAN PERFORM  
24 THE SURGERY REQUIRED FOR IMPLANTING  
25 CANNULAE. BUT IN DOING SO WE ARE  
26 ENGAGING IN RESEARCH ON THE  
27 PHARMACOLOGICAL ACTION OF NICOTINE,  
28 WHICH BRINGS US TO THE SECOND

1 CONCERN OF OUR ATTORNEYS. THIS IS A  
2 MORE RECENT CONCERN ARISING FROM  
3 INCREASINGLY FAVORABLE PROSPECTS FOR  
4 THE SUCCESS OF A LEGISLATIVE EFFORT  
5 TO TRANSFER AUTHORITY FOR THE  
6 REGULATION OF TOBACCO MANUFACTURING  
7 TO A FEDERAL AGENCY, THE F. D. A. ,  
8 KNOWN TO HAVE INTERESTS AND POWERS  
9 ANTITHETICAL TO THE INTERESTS OF THE  
10 INDUSTRY.

11 "ANY ACTION ON OUR PART, SUCH  
12 AS RESEARCH ON THE  
13 PSYCHOPHARMACOLOGY OF NICOTINE WHICH  
14 IMPLICITLY OR EXPLICITLY TREATS  
15 NICOTINE AS A DRUG COULD WELL BE  
16 VIEWED AS A TACIT ACKNOWLEDGEMENT  
17 THAT NICOTINE IS A DRUG. SUCH  
18 ACKNOWLEDGEMENT, CONTENDS OUR  
19 ATTORNEYS, WOULD BE UNTIMELY.

20 "THEREFORE, ALTHOUGH  
21 PERMITTED TO CONTINUE THE  
22 DEVELOPMENT OF A THREE-PRONGED  
23 PROGRAM TO STUDY THE DRUG NICOTINE,  
24 WE MUST NOT BE VISIBLE ABOUT IT. I  
25 HAVE MADE THESE OBSERVATIONS, NOT TO  
26 RIDICULE, BUT RATHER TO EMPHASIZE  
27 THE VEXATIOUSNESS OF THE TOPIC.  
28 EVERYBODY IS VEXED. THE DON HOELS

1 AND THE ED JACOBS AND OUR CORPORATE  
2 ATTORNEYS SEE THEIR MISSION TO BE,  
3 SAVE THE INDUSTRY, NOT ONLY FROM  
4 LITIGATIVE DEMISE, BUT ALSO NOW FROM  
5 REGULATORY HARASSMENT. THE LEO  
6 ABOODS AND GARY BERNTSONS AND THE  
7 CORPORATE RESEARCH SCIENTISTS SEE  
8 THEIR MISSION TO BE TO HOLD PHILIP  
9 MORRIS POISED TO RESPOND TO THE FAST  
10 BREAKING OPPORTUNITIES OR DANGERS ON  
11 THIS VERY YEASTY FRONT.

12 "ALTHOUGH OUR COUNSELORS HAVE  
13 PERHAPS NOT BEEN FULLY APPRISED OF A  
14 RELEVANCE TO THE INDUSTRY OF THE NEW  
15 DEVELOPMENTS IN THE NEUROSCIENCES, I  
16 AM CONFIDENT THAT WERE THEY SO, THEY  
17 WOULD CONCUR WITH US ON THE NEED TO  
18 STAY ABREAST OF THE DEVELOPMENTS.  
19 AND STAYING ABREAST REQUIRES A HEAVY  
20 COMMITMENT, A COMMITMENT BEST  
21 MAINTAINED BY AN ACTIVE RESEARCH  
22 PROGRAM

23 "OUR ATTORNEYS, HOWEVER, WILL  
24 LIKELY CONTINUE TO INSIST UPON A  
25 CLANDESTINED EFFORT IN ORDER TO KEEP  
26 NICOTINE, THE DRUG, IN LOW  
27 PROFILE.

28 "NOW, I'M IN A POSITION TO

1                   RESPOND DIRECTLY TO YOUR INQUIRY  
2                   ABOUT THE ABOOD PROGRAM   SO LONG AS  
3                   WE MUST BE OFFICIALLY HEEDLESS OF  
4                   THE DRUG PROPERTIES OF NICOTINE AND  
5                   CANNOT OPENLY COMMUNICATE WITH OUR  
6                   COUNTERPARTS IN OTHER LABORATORIES,  
7                   YOU CANNOT AGGRESSIVELY INSTITUTE A  
8                   LARGE-SCALE NEUROSCIENTIST PROGRAM  
9                   ON SITE, THEN WE MUST HAVE A WINDOW  
10                  TO THE OUTSIDE WORLD.

11                   "ABOOD'S LABORATORY IS THAT  
12                  WINDOW   BEING HIMSELF ON THE  
13                  FOREFRONT AND KNOWLEDGEABLE OF  
14                  DEVELOPMENTS AS THEY ARE OCCURRING  
15                  IN OTHER LABORATORIES, HE IS OUR  
16                  INFORMANT.   WE NEED HIM FOR THAT,  
17                  AND IT IS AS SIMPLE AS THAT.  
18                  WHATEVER ELSE FAILS OUT OF THE  
19                  ARRANGEMENT, A DISCOVERY IN HIS LAB  
20                  WILL BE A FRINGE BENEFIT. "

21                  AND THIS IS THE LAST ONE THAT I'M GOING TO  
22                  READ, YOUR HONOR.   THIS IS EXHIBIT 422.00, MARCH 31, '80.

23                  THE COURT:   MARCH 31ST, '80, DID YOU SAY?

24                  MR. PIUZE:   YES.   1980.

25                  (READING:)

26                  "MR. J. C. BOWLING OF OUR  
27                  NEW YORK OFFICE ASKED THAT I SEND  
28                  YOU OUR RECOMMENDATIONS FOR INDUSTRY

1 RESEARCH WHICH WE PREPARED LAST  
2 YEAR. TO THAT END, YOU WILL FIND  
3 ATTACHED A LIST ENTITLED, POTENTIAL  
4 LONG-TERM SCIENTIFIC STUDIES WHICH  
5 DR. OSDENE AND I GENERATED EARLY  
6 LAST YEAR.

7 "ADDITIONALLY, I HAVE ADDED A  
8 LIST OF THREE SUBJECTS WHICH I FEEL  
9 SHOULD BE AVOIDED. "

10 IT'S A TWO-PAGE MEMO. I'LL JUMP INTO THE  
11 SECOND PAGE.

12 (READING:)

13 "SUBJECTS TO BE AVOIDED.

14 "1. DEVELOPING NEW TESTS FOR  
15 CARCINOGENICITY.

16 "2. ATTEMPT TO RELATE HUMAN  
17 DISEASE TO SMOKING.

18 "3. CONDUCT EXPERIMENTS  
19 WHICH REQUIRE LARGE DOSES OF  
20 CARCINOGEN TO SHOW ADDITIVE EFFECT  
21 OF SMOKING. "

22 AND, YOUR HONOR, THANK YOU FOR ALLOWING ME TO  
23 GO AS LONG AS I DID.

24 THE COURT: VERY WELL. THANK YOU, MR. PIUZE.

25 LADIES AND GENTLEMEN, WE'LL TAKE A BREAK UNTIL  
26 3:20. DON'T DISCUSS THE CASE WITH ANYONE.

27 (RECESS.)

28 THE COURT: OUR JURY PANEL IS PRESENT. COUNSEL ARE

1 PRESENT AS WELL.

2 MR. PIUZE: THANK YOU.

3 I'D LIKE TO DISPLAY ONE LAST DOCUMENT. I'M  
4 RELIABLY INFORMED THIS IS 2340. MARCH 1954, AN INTERNAL  
5 DOCUMENT AT PHILIP MORRIS. AND THE PART THAT I WANTED TO  
6 READ IS:

7 "IF WE HAD ANY THOUGHT OR  
8 KNOWLEDGE THAT IN ANY WAY WE WERE  
9 SELLING A PRODUCT HARMFUL TO  
10 CONSUMERS, WE WOULD STOP BUSINESS  
11 TOMORROW "

12 YOUR HONOR, THAT CONCLUDES SHOWING THESE  
13 PARTICULAR DOCUMENTS. AND NOW I'M GOING TO SHOW A COUPLE  
14 OF VIDEOTAPES, AND I'LL BE DONE.

15 AND THE FIRST, WITH THE CONSENT OF THE  
16 DEFENSE, IS THE 1994 -- THERE IS TWO CLIPPINGS FROM THE  
17 1994 CONGRESSIONAL HEARINGS.

18 THE COURT: CAN WE HAVE THE LIGHTS, PLEASE?

19 (A VIDEOTAPE WAS PLAYED AND NOT REPORTED  
20 PER STIPULATION OF COUNSEL.)

21 MR. PIUZE: THEN I WANT TO PLAY TWO TAPES OF TWO  
22 PHILIP MORRIS OFFICIALS. AND I BELIEVE WE CAN AGREE THIS  
23 COMES FROM 1976.

24 THE FIRST IS JAMES BOWLING, B-O-W-L-I-N-G,  
25 1976.

26 (A VIDEOTAPE WAS PLAYED AND NOT REPORTED  
27 PER STIPULATION OF COUNSEL.)

28 MR. PIUZE: NOW, THE NEXT ONE, ALSO FROM '76, IS

1 FROM HELMUT WAKEHAM OF PHILIP MORRIS.

2 (A VIDEOTAPE WAS PLAYED AND NOT REPORTED  
3 PER STIPULATION OF COUNSEL.)

4 MR. PIUZE: SO, YOUR HONOR, WITH THE EXCEPTION OF  
5 THE REMAINDER OF THAT TRANSCRIPT AND SOME DOCUMENTS, THE  
6 PLAINTIFF RESTS.

7 THE COURT: VERY WELL.

8 LADIES AND GENTLEMEN, THE PLAINTIFF'S CASE HAS  
9 RESTED WITH THE EXCEPTION OF SOME MATERIAL I HAVE TO LOOK  
10 AT. I'M GOING TO USE THE REST OF THE AFTERNOON TO MAKE A  
11 DECISION WHETHER OR NOT THAT WILL COME INTO EVIDENCE.

12 ONCE WE'VE DONE THAT, WE'LL HAVE YOU BACK  
13 TOMORROW MORNING, OF COURSE, AT 8:45.

14 AND WE SHOULD BE ABLE TO COMPLETE MOTION  
15 PRACTICE THIS AFTERNOON?

16 MR. LEITER: WE'LL TRY.

17 THE COURT: FINE. AND THEN WE SHOULD ANTICIPATE THAT  
18 THE DEFENSE WILL OFFER THEIR FIRST WITNESS TOMORROW

19 THANK YOU, LADIES AND GENTLEMEN. WE'LL SEE  
20 YOU TOMORROW AT 8:45 A.M.

21 (THE FOLLOWING PROCEEDINGS WERE HELD  
22 IN OPEN COURT OUTSIDE THE PRESENCE  
23 OF THE JURY:)

24 THE COURT: LET'S CONTINUE.

25 IF I COULD BE GIVEN THE DOCUMENT, I COULD TAKE  
26 A LOOK AT IT.

27 MR. PIUZE: YOUR HONOR, AS TO THE THREE INDIVIDUAL  
28 DOCUMENTS THAT WE DISCUSSED A LITTLE BIT EARLIER, THE

1 INTERNET CONNECTION FOR US IN THE BUILDING HAS BEEN  
2 EFFECTIVELY SEVERED TODAY, SO I'M AT A SLIGHT  
3 DISADVANTAGE -- WELL, IT HAS TO DO WITH THE ABSENCE OF THE  
4 PRINCIPAL OF THE LOCATION WHERE I'M HOUSED. AND IN ORDER  
5 TO EFFECTIVELY GIVE THE COURT WHAT IT NEEDS, I'VE GOT TO  
6 GET ACCESS TO THE INTERNET. SO IF I COULD, I'D SUGGEST  
7 THAT OUR TIME -- AND FORGIVE ME FOR BEING FORWARD HERE -- I  
8 THINK THE TIME MIGHT BE BETTER SPENT ON HEARING THE MOTIONS  
9 BECAUSE THERE ARE A VARIETY OF OTHER EXHIBITS THAT WE'LL BE  
10 DISCUSSING, TOO. MOST WILL BE WITHOUT OBJECTION.

11 MR. LEITER: IF I MAY RAISE TWO ISSUES. THE ONE OF  
12 OBVIOUSLY PUTTING OFF THE DISCUSSION OF THIS PARTICULAR  
13 DOCUMENT IS FINE.

14 YESTERDAY AFTERNOON PLAINTIFF'S COUNSEL  
15 REPRESENTED THAT HE WAS GOING TO HAVE 3 DOZEN, 4 DOZEN  
16 DOCUMENTS THAT WERE GOING TO BE OFFERED, AND WE WERE GOING  
17 TO DISCUSS THEM I THOUGHT WE WERE GOING TO GET THOSE THIS  
18 MORNING.

19 WE HAVEN'T GOTTEN THEM WE'D LIKE THIS TO  
20 HAPPEN PROMPTLY. WE OBVIOUSLY DON'T WANT ISSUES FROM  
21 PLAINTIFF'S DOCUMENTS FROM THEIR CASE HANGING OUT THERE  
22 WHILE WE'RE TRYING TO PUT ON OUR CASE.

23 THE COURT: YOU WANT TO CLOSE THEIR CASE OUT. I  
24 UNDERSTAND THAT.

25 MR. LEITER: SO IF WE COULD HAVE SOME DEADLINE BY  
26 WHICH WE GET THESE DOCUMENTS SO WE KNOW WHAT THE UNIVERSE  
27 IS THAT WE'RE GOING TO DISCUSS. HOPEFULLY TOMORROW  
28 MORNING, IF WE COULD.

1 MR. PIUZE: YES.

2 THE COURT: AM I GOING TO HAVE TIME TO LOOK THESE  
3 THINGS OVER?

4 MR. LEITER: WE DON'T NECESSARILY HAVE TO RESOLVE ALL  
5 THE ISSUES BEFORE WE START OUR CASE. WE JUST WANTED TO  
6 HAVE THE UNIVERSE OF DOCUMENTS THAT WE KNEW ARE AT ISSUE.  
7 AND IT WILL TAKE US A LITTLE TIME TO GO THROUGH THEM AND  
8 SEE WHERE WE OBJECT OR WHERE WE DON'T.

9 AS TO MOTIONS FOLLOWING THE PLAINTIFF'S  
10 CASE -- AND IT MIGHT BE THAT I MISUNDERSTOOD, BUT I THOUGHT  
11 FROM OUR DISCUSSION YESTERDAY WE THOUGHT PLAINTIFF WAS  
12 GOING TO REST THIS MORNING AND YOU SUGGESTED THAT YOU WOULD  
13 PREFER THAT WE HAVE A WITNESS READY TO GO AT 1:30.

14 THE COURT: THAT'S TRUE.

15 MR. LEITER: SO WE DID NOT PLAN TO ARGUE OUR MOTIONS  
16 TODAY. I THOUGHT -- IT WAS OUR UNDERSTANDING WE WERE GOING  
17 TO PUT THAT OFF AND PUT A WITNESS ON THE STAND.

18 THE COURT: YOU'RE ABSOLUTELY RIGHT, THAT WAS OUR  
19 UNDERSTANDING AND I JUMPED THE GUN. THERE IS SOMETHING IN  
20 ME AS A JUDGE THAT JUST KEEPS WANTING TO MOVE THINGS ALONG.

21 MR. LEITER: AND WE WERE READY WITH A WITNESS BUT WE  
22 HAD ANTICIPATED THE PLAINTIFF'S CASE WOULD GO UNTIL QUARTER  
23 TO 4:00.

24 THE COURT: IF YOU DO HAVE SERIOUS MOTIONS AND  
25 SERIOUS MOTIONS THAT THE COURT HAS TO PAY CLOSE ATTENTION  
26 TO, DON'T LET VERY MUCH WATER GET UNDER THIS BRIDGE SO THAT  
27 I CAN GET GIVE IT THE ATTENTION THAT IT DESERVES.

28 MR. LEITER: ONE POSSIBLE SUGGESTION -- WHICH WILL

1 MAKE THE STAFF UNHAPPY WITH ME -- WE HAD THE QUESTION OF  
2 FRIDAY AFTERNOON OPEN. ONE POSSIBILITY -- I'M TOSSING OUT  
3 A SUGGESTION THAT ON FRIDAY AFTERNOON WE COULD GIVE THE  
4 JURY THE DAY OFF AND DEAL WITH THE DOCUMENT ISSUES AND THE  
5 MOTIONS.

6 THE COURT: I'D BE MORE THAN HAPPY TO DO THAT.

7 MR. PIUZE: SOUNDS LIKE A PLAN TO ME.

8 THE COURT: THAT IS A PLAN.

9 MR. PIUZE: FOR THE STAFF'S PURPOSES, IT WASN'T MY  
10 PLAN.

11 THE COURT: I UNDERSTAND. I TAKE RESPONSIBILITY FOR  
12 THAT. IT'S MY PLAN. THEY KNOW IT.

13 MR. LEITER: I TAKE FULL RESPONSIBILITY THAT IT WAS  
14 MY SUGGESTION.

15 THE COURT: RIGHT. ALL RIGHT. SO THEN WE'RE PRETTY  
16 MUCH DONE EVERYTHING WE CAN DO TODAY.

17 MR. LEITER: I THINK THAT'S RIGHT.

18 THE COURT: WE'LL SEE YOU TOMORROW MORNING, THEN.

19 MR. LEITER: THANK YOU, YOUR HONOR.

20 MR. PIUZE: THANK YOU, YOUR HONOR.

21

22 (AT 3:47 P.M AN EVENING ADJOURNMENT WAS TAKEN  
23 UNTIL THURSDAY, APRIL 26, 2001 AT 8:45 A.M )

24

25

26

27

28

1 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
2 FOR THE COUNTY OF LOS ANGELES  
3 DEPARTMENT NO. 308 HON. CHARLES W. MC COY, JR., JUDGE  
4  
5

6 RICHARD BOEKEN, )  
7 )  
8 ) PLAINTIFF, )  
9 )  
10 ) VS. ) CASE NO.  
11 ) ) BC226593  
12 ) PHILIP MORRIS, )  
13 )  
14 ) DEFENDANT. )  
15 )  
16 \_\_\_\_\_ )

17 REPORTER'S CERTIFICATE

18 STATE OF CALIFORNIA )  
19 ) SS.  
20 COUNTY OF LOS ANGELES )

21 I, CARMEN J. GARROD, CSR NO. 4009, OFFICIAL COURT  
22 REPORTER OF THE SUPERIOR COURT OF THE STATE OF CALIFORNIA,  
23 FOR THE COUNTY OF LOS ANGELES, DO HEREBY CERTIFY THAT THE  
24 FOREGOING PAGES COMPRISE A FULL, TRUE AND CORRECT  
25 TRANSCRIPTION OF THE PROCEEDINGS HELD IN THE ABOVE-ENTITLED  
26 MATTER ON APRIL 25, 2001.

27 DATED THIS 25TH DAY OF APRIL, 2001.

28 \_\_\_\_\_ CSR NO. 4009  
OFFICIAL COURT REPORTER