

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE COUNTY OF LOS ANGELES  
DEPARTMENT 308 HON. CHARLES W. MC COY, JUDGE

RICHARD BOEKEN, )  
)  
PLAINTIFF, )  
)  
VS. ) SUPERIOR COURT  
) CASE NO. BC 226593  
PHILIP MORRIS, INCORPORATED, )  
A CORPORATION; INTERNATIONAL HOUSE )  
OF PANCAKES, INCORPORATED, A )  
CORPORATION, )  
)  
DEFENDANTS. )  
)

REPORTER'S DAILY TRANSCRIPT OF PROCEEDINGS  
WEDNESDAY, MAY 2, 2001  
P. M. SESSION  
VOLUME 26B  
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**APPEARANCES:**

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OFFICIAL REPORTER

I N D E X

WEDNESDAY, APRIL 5, 2001..... 2: 1: 3  
1: 38 P. M ..... 2: 1: 7

WITNESS

ELLEN MERLO

DIRECT EXAMINATION BY MR. LEITER..... 2: 2: 9

EXHIBITS

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1 CASE NUMBER: BC 226593  
2 CASE NAME: BOEKEN V. PHILIP MORRIS  
3 LOS ANGELES, CALIFORNIA WEDNESDAY, APRIL 5, 2001  
4 DEPARTMENT 308 HON. CHARLES W MC COY, JUDGE  
5 APPEARANCES: (AS NOTED ON TITLE PAGE.)  
6 REPORTER: LINDA STALEY, CSR NO. 3359, RMR, CRR  
7 TIME: 1:38 P.M.

8

9

- - 0 - -

10

11

THE COURT: ALL RIGHT.

12

OUR JURY PANEL IS WITH US; COUNSEL IS PRESENT

13

AS WELL.

14

GOOD AFTERNOON.

15

16

(CHORUS OF GOOD AFTERNOON' S.)

17

18

THE COURT: GOOD TO SEE YOU.

19

AND WE HAVE A WITNESS ON THE WITNESS STAND.

20

MA' AM, WOULD YOU PLEASE JUST RISE.

21

THE WITNESS: YES.

22

THE COURT: FACE MY CLERK RIGHT THERE, AND RAISE YOUR  
23 RIGHT HAND AND BE SWORN AS A WITNESS IN THIS MATTER.

24

25

ELLEN MERLO,

26

CALLED AS A WITNESS BY THE DEFENDANTS, HAVING BEEN FIRST DULY  
27 SWORN, TESTIFIED AS FOLLOWS:

28

THE CLERK: HAVE A SEAT.

1                   AND FOR OUR RECORD, IF YOU COULD STATE YOUR  
2 FIRST AND LAST NAME AND SPELL YOUR LAST NAME, PLEASE.

3                   THE WITNESS: YES. MY NAME IS ELLEN, E-L-L-E-N,  
4 MERLO, M-E-R-L-O.

5                   THE CLERK: THANK YOU.

6                   MR. LEITER: THANK YOU, YOUR HONOR.

7                   THE COURT: YES, SIR.

8

9

DIRECT EXAMINATION

10 BY MR. LEITER:

11                   Q. GOOD AFTERNOON, MS. MERLO.

12                   A. GOOD AFTERNOON.

13                   Q. WHERE ARE YOU EMPLOYED?

14                   A. AT PHILIP MORRIS, INCORPORATED.

15                   Q. PHILIP MORRIS INCORPORATED IS THE DOMESTIC  
16 TOBACCO COMPANY?

17                   A. THAT'S CORRECT.

18                   Q. WHERE DO YOU WORK?

19                   A. IN NEW YORK.

20                   Q. AND WHAT IS YOUR CURRENT POSITION AND TITLE?

21                   A. I'M SENIOR VICE-PRESIDENT OF CORPORATE AFFAIRS  
22 FOR PHILIP MORRIS.

23                   Q. WHAT DO YOU DO AS SENIOR VICE-PRESIDENT OF  
24 CORPORATE AFFAIRS AT PHILIP MORRIS?

25                   A. WELL, I'M FIRST OF ALL, PART OF THE SENIOR  
26 MANAGEMENT TEAM OF PHILIP MORRIS, INCORPORATED, OR  
27 PHILIP MORRIS USA -- WE REFER TO IT AS BOTH -- AND IN MY  
28 FUNCTION, I'M RESPONSIBLE FOR BOTH INTERNAL AND EXTERNAL

1 COMMUNICATIONS, COMMUNITY RELATIONS, CHARITABLE  
2 CONTRIBUTIONS, PUBLIC AFFAIRS AND CORPORATE RESPONSIBILITY  
3 PROGRAMS AND PLANNING.

4 Q. TO WHOM DO YOU REPORT AT PHILIP MORRIS?

5 A. I REPORT TO MICHAEL SZYMANCZYK, WHO IS  
6 PRESIDENT AND CEO OF PHILIP MORRIS.

7 Q. AND THE SPELLING IS DIFFICULT, SO WE'LL DO IT  
8 FOR THE COURT REPORTER.

9 S-Z-Y-M-A-N-C-Z-Y-K. DID I GET THAT RIGHT?

10 A. YOU DID.

11 Q. MR. SZYMANCZYK IS THE CEO AND PRESIDENT OF  
12 PHILIP MORRIS?

13 A. THAT'S CORRECT.

14 Q. HAVE YOU BROUGHT WITH YOU PART OF THE  
15 ORGANIZATION CHART OF PHILIP MORRIS USA THAT SHOWS WHERE YOU  
16 ARE?

17 A. YES, I HAVE.

18 Q. COULD WE PUT UP DEMONSTRATIVE 24, WHICH I  
19 BELIEVE SHOULD BE MARKED AS, I BELIEVE, 11, 030.

20

21 (I. D. 11030 - DEMONSTRATIVE 24)

22

23 Q. BY MR. LEITER: ARE YOU FAMILIAR WITH THAT  
24 CHART, MS. MERLO?

25 A. YES, I AM

26 Q. NOW, THE AREA THAT IS IN YELLOW, SENIOR  
27 VICE-PRESIDENT, CORPORATE AFFAIRS, IS THAT YOU?

28 A. IT IS.

1 Q. AND I KNOW THERE ARE NINE BOXES AT THAT LEVEL.  
2 ARE YOU ONE OF THE NINE PEOPLE WHO REPORTS DIRECTLY TO  
3 MR. SZYMANCZYK, THE PRESIDENT AND CEO OF PHILIP MORRIS USA?

4 A. THAT'S CORRECT.

5 Q. BEFORE WE GET TO THE SUBSTANCE OF YOUR  
6 TESTIMONY, I'D LIKE TO TALK A LITTLE BIT ABOUT YOUR  
7 BACKGROUND.

8 COULD YOU TELL THE JURY ABOUT YOUR SCHOOLING,  
9 STARTING WITH HIGH SCHOOL?

10 A. YES. I GRADUATED FROM MEMORIAL HIGH SCHOOL IN  
11 WEST NEW YORK, NEW JERSEY IN 1958. THEN WENT ON TO  
12 KATHERINE GIBBS SECRETARIAL SCHOOL FOR TWO YEARS. WAS  
13 CERTIFIED FROM KATHRYN GIBBS IN EARLY 1960. AND THEN STARTED  
14 WORKING.

15 Q. WHERE DID YOU GO TO WORK AFTER YOU FINISHED AT  
16 KATHERINE GIBBS SECRETARIAL SCHOOL?

17 A. YOUNG & RUBICAM ADVERTISING AGENCY.

18 Q. IS IT FAIR TO SAY THAT OVER THE COURSE OF YOUR  
19 CAREER, YOU'VE WORKED YOUR WAY UP FROM A SECRETARY TO BE  
20 SENIOR VICE-PRESIDENT OF CORPORATE AFFAIRS AT  
21 PHILIP MORRIS USA?

22 A. YES, THAT'S CORRECT.

23 Q. OKAY. COULD YOU TELL THE JURY A LITTLE BIT  
24 ABOUT THE JOBS YOU HELD BEFORE YOU WENT TO PHILIP MORRIS?

25 A. WELL, AS I SAY, I STARTED AT YOUNG & RUBICAM  
26 I WORKED VERY BRIEFLY AFTER I WAS -- I WAS AT YOUNG & RUBICAM  
27 FOR A VERY SHORT TIME. WORKED FOR REVLON COSMETICS FOR A  
28 WHILE. AND THEN WENT TO WORK FOR ANOTHER ADVERTISING AGENCY

1 CALLED ROBERT OTTO INTAM I WAS THERE FOR ABOUT TWO YEARS.  
2 AND THEN WENT TO WORK FOR ZIFF-DAVIS PUBLISHING COMPANY WHERE  
3 I STARTED AS A SECRETARY AND THEN BECAME ASSISTANT TO THE  
4 DIRECTOR OF CREATIVE SERVICES.

5 AT THAT TIME, WHICH WAS IN 1966, I DECIDED TO  
6 MOVE TO CALIFORNIA. AND I CAME TO LOS ANGELES AND LIVED HERE  
7 FOR ABOUT THREE AND A HALF YEARS. AND WHILE HERE, I WORKED  
8 FOR PETERSEN PUBLISHING COMPANY; FIRST AS PRODUCTION EDITOR  
9 AND THEN MANAGING EDITOR OF "MOTOR TREND" MAGAZINE AND --

10 Q. AFTER THREE AND A HALF YEARS HERE IN  
11 LOS ANGELES, YOU MOVED BACK TO NEW YORK?

12 A. WELL, BY WAY OF MONTREAL, CANADA. BUT  
13 ULTIMATELY, BACK TO NEW YORK, YES.

14 Q. OKAY. WHEN DID YOU START AT PHILIP MORRIS?

15 A. IN 1969. NOVEMBER OF 1969.

16 Q. SO YOU'VE BEEN AT PHILIP MORRIS FROM  
17 NOVEMBER OF 1969 THROUGH TODAY?

18 A. THAT'S CORRECT.

19 Q. SO THAT'S ABOUT, WHAT, 32 YEARS?

20 A. CLOSE TO 32 YEARS.

21 Q. AND COULD YOU PLEASE OUTLINE FOR THE JURY WHAT  
22 JOBS YOU'VE HELD OVER YOUR 32 YEARS AT PHILIP MORRIS?

23 A. WELL, I STARTED IN MONTREAL FOR A SUBSIDIARY OF  
24 PHILIP MORRIS, WHICH WAS BENSON AND HEDGES, CANADA, LIMITED  
25 AS A MANAGER OF -- IT WAS KIND OF A COMMUNITY RELATIONS  
26 CORPORATE AFFAIRS KIND OF JOB.

27 AND I WAS IN CANADA FOR ALMOST A YEAR. AND  
28 THEN WAS TRANSFERRED BACK TO NEW YORK WHERE I DID A SIMILAR

1 KIND OF JOB FOR PHILIP MORRIS IN EVENT SPONSORSHIP AND DID  
2 THAT FOR ABOUT TWO YEARS. THEN I BECAME AN ASSISTANT BRAND  
3 MANAGER ON VIRGINIA SLIMS.

4 AND THEN I SUBSEQUENTLY WAS BRAND MANAGER OF  
5 SEVERAL OF OUR PRODUCTS. I WAS DIRECTOR OF MERCHANDISING IN  
6 1978 FOR A FEW YEARS. AND THEN I WAS DIRECTOR OF  
7 COMMUNICATIONS, GROUP BRAND MANAGER, AND THEN DIRECTOR OF  
8 MARKETING SERVICES, VICE-PRESIDENT OF MARKETING SERVICES, AND  
9 THEN VICE-PRESIDENT OF CORPORATE AFFAIRS, AND MOST RECENTLY,  
10 SENIOR VICE-PRESIDENT OF CORPORATE AFFAIRS.

11 Q. SO YOU'VE GOT A NUMBER OF JOBS OVER 32 YEARS.  
12 IS IT FAIR TO SAY THAT FOR THE FIRST CERTAIN  
13 NUMBER OF YEARS, YOU HAD JOBS INVOLVED IN MARKETING --

14 A. THAT'S CORRECT.

15 Q. -- AND ADVERTISING?

16 AND THEN ABOUT THE BEGINNING OF THE 1990'S, YOU  
17 MOVED OVER TO CORPORATE AFFAIRS?

18 A. THAT'S CORRECT.

19 Q. WE'LL TALK IN A LITTLE BIT MORE DETAIL AS WE  
20 MOVE ALONG ABOUT SOME OF THOSE JOBS.

21 IS IT FAIR TO SAY THAT OVER THE COURSE OF YOUR  
22 32 YEARS, YOU'VE BEEN FAMILIAR WITH MANY OF THE POLICIES AND  
23 PRACTICES OF PHILIP MORRIS?

24 A. YES, I THINK THAT'S FAIR.

25 Q. OKAY. NOW, YOU TALKED A LITTLE BIT ABOUT YOUR  
26 RESPONSIBILITIES TODAY AS SENIOR VICE-PRESIDENT OF CORPORATE  
27 AFFAIRS.

28 ARE YOU THE HIGHEST RANKING PERSON IN CORPORATE

1 AFFAIRS IN PHILIP MORRIS USA?

2 A. YES.

3 Q. OKAY. NOW, I SEE THAT THAT DEMONSTRATIVE  
4 11, 030 IS DESIGNATED PHILIP MORRIS USA SENIOR MANAGEMENT  
5 TEAM

6 WHAT IS THE SENIOR MANAGEMENT TEAM AT  
7 PHILIP MORRIS?

8 A. THE SENIOR MANAGEMENT TEAM IS A GROUP OF  
9 FUNCTIONAL VICE-PRESIDENTS -- SENIOR VICE-PRESIDENTS. BY  
10 THAT, I MEAN, EVERY AREA OF PHILIP MORRIS HAS A SENIOR  
11 VICE-PRESIDENT THAT RUNS THAT FUNCTION, AND ALL OF US REPORT  
12 TO MIKE SZYMANCZYK, WHO IS THE PRESIDENT AND CEO OF  
13 PHILIP MORRIS USA. AND WE NOT ONLY RUN OUR FUNCTIONS, BUT WE  
14 MEET TOGETHER AS A MANAGEMENT TEAM TO DEAL WITH ALL OF THE  
15 ISSUES AND THE BUSINESS OF PHILIP MORRIS USA.

16 Q. IS IT FAIR TO SAY THAT THE SENIOR MANAGEMENT  
17 TEAM HAS SOME RESPONSIBILITY FOR ALL THE PRACTICES AND  
18 POLICIES AT PHILIP MORRIS USA?

19 A. THAT'S CORRECT.

20 Q. FIRST SUBJECT THAT I'D LIKE TO ASK YOU ABOUT,  
21 MS. MERLO, IS CAUSATION AND ADDICTION.

22 DO YOU UNDERSTAND WHAT I MEAN BY CAUSATION AND  
23 ADDICTION?

24 A. I DO.

25 Q. CAUSATION REFERS TO WHAT?  
26 GENERALLY, THE SUBJECT --

27 A. THE SUBJECT. GOES TO CAUSE OF DISEASE OR WHAT  
28 SOMETHING MIGHT RESULT IN.

1 Q. AND ADDICTION REFERS TO THE ADDICTIVENESS OF  
2 CIGARETTES?

3 A. THE ADDICTIVENESS OF A PRODUCT.

4 Q. LET' S PUT UP DEMONSTRATIVE NO. 80.  
5 AND LET' S MARK IT AT 11, 031.

6

7 (I. D. 11030 - DEMONSTRATIVE 80)

8

9 Q. BY MR. LEITER: DO YOU RECOGNIZE THAT,  
10 MS. MERLO?

11 A. YES, I DO.

12 Q. WHAT IS IT?

13 A. THAT IS THE PHILIP MORRIS USA WEBSITE, AND  
14 SPECIFICALLY, THAT IS THE SECTION OF THE WEBSITE THAT HAS TO  
15 DO WITH CAUSATION.

16 Q. AND IF ANY OF US WERE TO GO ON THE WEB TONIGHT  
17 AND LOOK UP THE PHILIP MORRIS USA WEBSITE TO LOOK FOR THE  
18 STATEMENT ABOUT SMOKING AND HEALTH, THIS IS WHAT WE WOULD  
19 FIND?

20 A. YES.

21 THE COURT: OF COURSE, IF I MAY JUST INSERT FOR JUST  
22 ONE SECOND.

23 NONE OF THE JURY AND NOT THE JUDGE, EITHER,  
24 WOULD EVER DO THAT DURING THE COURSE OF THIS TRIAL, WOULD WE?

25 THANK YOU VERY MUCH.

26 MR. LEITER: THANK YOU, YOUR HONOR. I WASN' T  
27 SUGGESTING THAT.

28 THE COURT: NOT AT ALL. I NEEDED TO REMIND MYSELF,

1 AND I THOUGHT I WOULD REMIND THE JURY AT THE SAME TIME.

2 Q. BY MR. LEITER: IS THAT THE CURRENT POSITION  
3 THAT EXISTS TODAY?

4 A. THAT IS, YES.

5 Q. AND IT SAYS -- IT'S THE PART THAT HAS BEEN  
6 HIGHLIGHTED FOR THE JURY FROM THE WEBSITE PAGE IS (READING):

7

8 "WE AGREE WITH THE  
9 OVERWHELMING MEDICAL AND SCIENTIFIC CONSENSUS  
10 THAT CIGARETTE SMOKING CAUSES LUNG CANCER,  
11 HEART DISEASE, EMPHYSEMA AND OTHER SERIOUS  
12 DISEASES IN SMOKERS."

13

14 IS THAT YOUR UNDERSTANDING OF PHILIP MORRIS'  
15 POSITION ABOUT THE HEALTH RISKS OF SMOKING?

16 A. YES.

17 Q. AND IS IT YOUR UNDERSTANDING THAT  
18 PHILIP MORRIS' POSITION IS THE SAME POSITION AS THAT OF THE  
19 SURGEON GENERAL AND THE PUBLIC HEALTH AUTHORITIES?

20 A. YES.

21 Q. DOES THE WEBSITE PAGE THAT WE ARE LOOKING AT  
22 ALSO OFFER LINKS TO FURTHER INFORMATION ABOUT SMOKING AND  
23 HEALTH?

24 A. YES. THE ENTIRE WEBSITE BY VARIOUS SECTIONS  
25 HAS LINKS TO THE SURGEON GENERAL, TO THE AMERICAN CANCER  
26 SOCIETY, TO THE CENTER FOR DISEASE CONTROL. DEPENDING ON  
27 WHAT THE TOPIC IS, IF THERE'S LITERATURE ABOUT THAT TOPIC  
28 FROM A GOVERNMENT AGENCY OR A PUBLIC HEALTH AGENCY, WE HAVE A

1 LINK TO THEIR WEBSITE SO THAT PEOPLE WHO VISIT OUR WEBSITE  
2 CAN GET MORE INFORMATION.

3 Q. SO SOMEBODY WHO WANTS MORE INFORMATION ABOUT  
4 THE HEALTH RISKS COULD START AT PHILIP MORRIS' SITE AND LINK  
5 FROM THERE TO THE SURGEON GENERAL'S REPORTS OR TO  
6 PUBLIC HEALTH AUTHORITIES' REPORTS?

7 A. THAT'S CORRECT.

8 MR. LEITER: LET'S, PLEASE, PUT UP DEMONSTRATIVE 81,  
9 AND MARK IT AS 11, 032.

10

11 (I. D. 11032 - DEMONSTRATIVE 81)

12

13 Q. BY MR. LEITER: WHAT IS THAT, MS. MERLO?

14 A. THAT'S THE SECTION THAT HAS TO DO WITH SMOKING  
15 AND ADDICTION.

16 Q. AND THIS IS PHILIP MORRIS' WEBSITE?

17 A. IT IS.

18 Q. CURRENT WEBSITE AS IT EXISTS TODAY?

19 A. THAT'S CORRECT.

20 Q. AND AGAIN, THE PORTION OF THE WEBSITE THAT IS  
21 HIGHLIGHTED READS (READING):

22

23 "CIGARETTE SMOKING AND

24 ADDICTION:

25 "WE AGREE WITH THE  
26 OVERWHELMING MEDICAL AND SCIENTIFIC CONSENSUS  
27 THAT CIGARETTE SMOKING IS ADDICTIVE. IT CAN  
28 BE VERY DIFFICULT TO QUIT SMOKING, BUT THIS

1 SHOULD NOT DETER SMOKERS WHO WANT TO QUIT  
2 FROM TRYING TO DO SO. "

3  
4 AND AGAIN, IS IT YOUR UNDERSTANDING THAT THAT  
5 IS THE SAME POSITION AS HELD BY THE SURGEON GENERAL AND THE  
6 PUBLIC HEALTH AUTHORITIES?

7 A. YES, IT IS.

8 Q. AND DOES THE WEBSITE OFFER, AS IT DID FOR THE  
9 POSITION ON SMOKING AND HEALTH, LINKS TO PUBLIC HEALTH  
10 AUTHORITY INFORMATION ABOUT ADDICTION?

11 A. PUBLIC HEALTH AUTHORITY INFORMATION AS WELL AS  
12 LINKS TO SITES THAT WOULD TALK ABOUT HOW YOU MIGHT QUIT IF  
13 YOU SO DESIRED.

14 Q. SO THE WEBSITE ALSO OFFERS LINKS TO INFORMATION  
15 FOR PEOPLE WHO WANT TO QUIT SMOKING?

16 A. THAT'S CORRECT.

17 Q. HOW LONG HAS THIS WEBSITE BEEN IN OPERATION?

18 A. ALMDST TWO YEARS.

19 Q. AND IS THE PURPOSE OF THIS WEBSITE TO PROMOTE  
20 PHILIP MORRIS CIGARETTE BRANDS, SUCH AS MARLBORO OR ANY OTHER  
21 BRANDS?

22 A. NO. IN FACT, YOU WON'T FIND CIGARETTE BRAND  
23 NAMES ON THE WEBSITE, EXCEPT IN THE SECTION THAT LISTS  
24 INGREDIENTS BY BRAND, AND THEN WE IDENTIFY THE BRAND AND THE  
25 INGREDIENTS THAT ARE PART OF THAT BRAND. OTHER THAN THAT,  
26 THE WEBSITE IS STRICTLY TO TALK ABOUT PHILIP MORRIS'  
27 POSITIONS, POLICIES, PROGRAMS, BUT IT IS NOT A MARKETING SITE  
28 AT ALL.

1 Q. IT DOESN' T OFFER ADVERTISING?

2 A. NOT AT ALL.

3 Q. DOESN' T OFFER PROMOTIONS FOR CIGARETTES?

4 A. NO.

5 Q. OR DISCOUNTS FOR CIGARETTE BRANDS?

6 A. IT HAS NOTHING TO DO WITH THE MARKETING OF OUR  
7 PRODUCT. NONE OF THAT APPEARS.

8 Q. YOU REFERRED TO A PAGE ON THE WEBSITE WHICH  
9 TALKS ABOUT INGREDIENTS.

10 CAN YOU EXPLAIN WHAT YOU MEANT BY THAT?

11 A. WELL, AGAIN, WE LIST THE INGREDIENTS IN EACH  
12 ONE OF OUR PRODUCTS AS WELL AS THE TAR AND NICOTINE LEVELS IN  
13 ALL OF OUR PRODUCTS. SO WHEN YOU GO TO THE WEBSITE, YOU CAN  
14 FIND OUT JUST ABOUT EVERYTHING ABOUT THE PRODUCT UNDER  
15 DIFFERENT SECTIONS ON THE WEBSITE.

16 Q. NOW, YOU SAID THIS WEBSITE HAS BEEN IN  
17 OPERATION SINCE 1999 OR SO?

18 A. THAT' S CORRECT.

19 Q. OKAY. IN THE FIRST VERSION OF THE WEBSITE --  
20 AND I THINK THE JURY HAS SEEN A PAGE FROM A PRIOR VERSION OF  
21 THE WEBSITE -- DID PHILIP MORRIS SAY SOMETHING SLIGHTLY  
22 DIFFERENT ABOUT SMOKING AND HEALTH AND ADDICTION?

23 A. YES.

24 Q. AND WHAT DID IT SAY AT THAT TIME?

25 A. IT SAID THAT THERE IS OVERWHELMING MEDICAL AND  
26 SCIENTIFIC CONSENSUS -- IT WAS PRETTY MUCH THE SAME LANGUAGE  
27 THAT IS USED NOW, BUT THE WORDS "WE AGREE" WERE NOT -- DID  
28 NOT PREFACE THE STATEMENT.

1 Q. NOW, BEFORE LAUNCHING THAT WEBSITE IN 1999, DID  
2 PHILIP MORRIS TEST PEOPLE'S UNDERSTANDING OF ITS POSITION AT  
3 THE TIME ON CAUSATION AND ADDICTION?

4 A. YES. WE TESTED THE POSITIONS AS WELL AS THE  
5 EASE OF GETTING TO THE INFORMATION, WHETHER PEOPLE COULD  
6 NAVIGATE THE SITE, WHETHER IT WAS WHAT THEY EXPECTED TO FIND,  
7 ET CETERA, WHEN THEY NAVIGATED IT.

8 Q. NOW, THE PRIOR VERSION WAS DIFFERENT BECAUSE IT  
9 DIDN'T HAVE THE WORDS "WE AGREE" AT THE BEGINNING; IS THAT  
10 RIGHT?

11 A. THAT'S CORRECT.

12 Q. DID YOU DEVELOP AN UNDERSTANDING FROM THE TESTS  
13 OF WHAT PEOPLE UNDERSTOOD THE EARLIER WEBSITE TO MEAN?

14 A. THE TAKE-AWAY AND THE RESEARCH THAT WE  
15 CONDUCTED WAS THAT PEOPLE THOUGHT, BECAUSE IT WAS THE  
16 PHILIP MORRIS WEBSITE, THAT THAT WAS OUR POSITION ON THE  
17 ISSUES, THAT WHAT WAS ON THAT WEBSITE WAS PHILIP MORRIS'  
18 POSITION ON ISSUES.

19 Q. SO IT WAS YOUR UNDERSTANDING WHEN THE INITIAL  
20 WEBSITE WAS LAUNCHED THAT IT SET FORTH PHILIP MORRIS'  
21 POSITION?

22 A. THAT'S CORRECT.

23 Q. SO WHAT WAS THE PURPOSE OF CHANGING IT AT SOME  
24 LATER POINT THAT "WE AGREE"?

25 A. WELL, THERE WERE SOME WHO FELT -- ESPECIALLY  
26 PEOPLE IN THE HEALTH COMMUNITY AND OTHERS -- THAT NOT HAVING  
27 THE WORDS "WE AGREE" LEFT ROOM OR DOUBT AS TO WHAT OUR ACTUAL  
28 POSITION WAS. AND ALTHOUGH WE HAD, AS I SAY, RESEARCH THAT

1       SHOWED THAT PEOPLE DID TAKE AWAY THAT IT WAS OUR POSITION, WE  
2       THOUGHT THAT WAS A VALID POINT, AND THEREFORE, WE ADDED THE  
3       WORDS "WE AGREE" SO THAT THERE WOULD BE NO DOUBT WHATSOEVER.

4               Q.       HAD YOU INTENDED -- HAD PHILIP MORRIS INTENDED  
5       TO CREATE AMBIGUITY ABOUT ITS OWN POSITION WHEN IT FIRST  
6       LAUNCHED THE WEBSITE?

7               A.       NO, WE DIDN' T.

8               Q.       BUT THE FEEDBACK INDICATED THAT AT LEAST SOME  
9       CRITICS THOUGHT IT MIGHT BE AMBIGUOUS?

10              A.       THAT' S CORRECT.

11              Q.       SO AS A RESULT --

12              A.       WE MADE THE CHANGE.

13              Q.       -- PHILIP MORRIS WENT BACK AND MADE THE CHANGE?

14              A.       YES.

15              Q.       IS IT FAIR TO SAY THAT PHILIP MORRIS ADOPTED  
16       THE SURGEON GENERAL' S POSITIONS IN, WHAT, ABOUT 1999,  
17       EXPLICITLY?

18              A.       ACTUALLY, WE WERE ENCOURAGING PEOPLE TO RELY  
19       ON -- IN STATING THE SURGEON GENERAL' S POSITION PRIOR TO  
20       1999, PRIOR TO THE WEBSITE BEING LAUNCHED BACK TO THE MID  
21       ' 90' S, I WOULD SAY.

22              Q.       SO STARTING BACK IN THE MID 90' S, PHILIP MORRIS  
23       WAS ENCOURAGING PEOPLE TO PAY ATTENTION TO WHAT THE PUBLIC  
24       HEALTH AUTHORITIES WERE SAYING?

25              A.       AND TO ACCEPT THE INTERPRETATION AND THE  
26       CONCLUSIONS DRAWN BY THE PUBLIC HEALTH COMMUNITY.

27              Q.       AND DURING THAT PERIOD FROM THE MID 90' S ON,  
28       WAS PHILIP MORRIS -- UNTIL THE WEBSITE WAS LAUNCHED -- WAS

1 PHILIP MORRIS SAYING ANYTHING AFFIRMATIVELY ABOUT THE ISSUE?

2 A. NO, NOT AT ALL.

3 Q. AND BY LAUNCHING THE WEBSITE, PHILIP MORRIS  
4 ESSENTIALLY ARTICULATED THE PUBLIC HEALTH AUTHORITIES'  
5 POSITION, IS THAT FAIR?

6 A. THAT IS CORRECT, YES.

7 Q. WHEN PHILIP MORRIS ADOPTED THE PUBLIC HEALTH  
8 AUTHORITIES' POSITION, WAS IT A RESULT OF ANY PARTICULAR  
9 CHANGE IN ANY SCIENTIFIC KNOWLEDGE?

10 A. NO, IT WASN' T.

11 Q. WHY DID PHILIP MORRIS ADOPT THE POSITION?

12 A. BECAUSE WE THOUGHT IT WAS THE APPROPRIATE  
13 POSITION TO ADOPT. THAT THERE WAS A CONSENSUS WITHIN THE  
14 SCIENTIFIC COMMUNITY. AND WE FELT THAT FROM THE STANDPOINT  
15 OF THE PUBLIC HEALTH AND SOCIETY, THAT THAT WAS THE  
16 APPROPRIATE INTERPRETATION, AND THAT THAT'S WHAT PEOPLE  
17 SHOULD RELY ON IN MAKING THEIR DECISION AS TO WHETHER OR NOT  
18 TO SMOKE.

19 Q. AND WE'RE GOING TO GO BACK AND TALK ABOUT PRIOR  
20 POSITIONS AND ISSUES AROUND THAT. BUT LET ME ASK YOU THIS UP  
21 FRONT.

22 LOOKING BACK, SHOULD PHILIP MORRIS HAVE ADOPTED  
23 THE PUBLIC HEALTH AUTHORITIES' POSITION ON CAUSATION AND  
24 ADDICTION SOONER THAN IT DID?

25 A. YES, I BELIEVE WE SHOULD HAVE.

26 Q. WHY?

27 A. BECAUSE WHILE I BELIEVE THAT OUR POSITION IN  
28 THE PAST WAS REASONABLE AND ACCURATE AND SCIENTIFICALLY

1 CORRECT, WE TENDED TO -- OR WE TALKED ABOUT WHAT WE DIDN' T  
2 KNOW, WHICH WAS THE CONSTITUENTS IN CIGARETTES THAT MIGHT  
3 CAUSE DISEASE AND THE MECHANISM IN CIGARETTES THAT MIGHT  
4 CAUSE DISEASE.

5 AND THERE WAS NO REAL PROOF AS TO WHAT THAT  
6 WAS. THERE WAS NO EVIDENCE AS TO WHAT ACTUALLY CAUSED THE  
7 DISEASE. AND SO WHILE I THINK OUR POSITION WAS ACCURATE, I  
8 THINK FROM A PUBLIC HEALTH STANDPOINT, IT WAS NOT COMPLETE  
9 AND, THEREFORE, I THINK WE SHOULD HAVE SOONER EMBRACED THE  
10 PUBLIC HEALTH COMMUNITY' S POSITION.

11 Q. AND AGAIN, WE' LL TALK ABOUT THIS A LITTLE MORE  
12 AS WE MOVE ALONG. BUT WE TALKED ABOUT FROM THE PUBLIC HEALTH  
13 STANDPOINT IT WOULD HAVE BEEN A GOOD IDEA TO ADOPT IT SOONER.

14 IN ADDITION TO THAT, WHAT EFFECT DID NOT  
15 ADOPTING THE SURGEON GENERAL' S POSITION EARLIER HAVE ON  
16 PHILIP MORRIS?

17 A. WELL, I THINK THAT IT CERTAINLY ERODED OUR  
18 CREDIBILITY WITH SOCIETY. IT, I THINK, MADE US LOOK LIKE WE  
19 WERE OUT OF TOUCH. IT, I BELIEVE, CREATED A BIT OF A BUNKER  
20 MENTALITY WITHIN PHILIP MORRIS, AND I THINK IT PRESENTED SOME  
21 LOST OPPORTUNITY FOR US IN NOT ADOPTING THAT POSITION SOONER.

22 Q. AS WE SIT HERE TODAY, DO YOU BELIEVE  
23 PHILIP MORRIS IS AMONG THE MORE RESPECTED CORPORATIONS IN  
24 AMERICA?

25 A. UNFORTUNATELY, WE ARE NOT.

26 Q. CAN YOU EXPLAIN WHY YOU THINK THAT?

27 A. WELL, BECAUSE I THINK THAT WE DEFINITELY FELL  
28 OUT OF ALIGNMENT WITH SOCIETY' S EXPECTATION OF US. AND AS A

1 RESULT, THERE HAVE BEEN ARTICLES WRITTEN OVER THE LAST MANY  
2 YEARS; ONE, MOST SIGNIFICANTLY, BY "BUSINESS WEEK" CALLING US  
3 ONE OF THE MOST REVILED COMPANIES IN AMERICA.

4 AND, YOU KNOW, THAT, OBVIOUSLY, HAS HAD AN  
5 IMPACT ON THE COMPANY, ON ITS EMPLOYEES, ET CETERA. SO I  
6 THINK THAT WE -- DEFINITELY, THERE WAS A BIG GAP IN OUR  
7 CREDIBILITY AS FAR AS THE PUBLIC WAS CONCERNED AND THE  
8 POSITIONS WE WERE TAKING.

9 Q. I WANT TO GO BACK IN TIME AND TALK ABOUT SOME  
10 OF THE ISSUES THAT WE'VE JUST BEEN ALLUDING TO.

11 FIRST, LET'S BE CLEAR ON WHAT PHILIP MORRIS'  
12 POSITION ON SMOKING AND HEALTH WAS AND WASN'T OVER THE YEARS.

13 WE'VE TALKED ABOUT ADOPTING THE SURGEON  
14 GENERAL'S POSITION FROM ABOUT THE MID 90'S ON, IS THAT FAIR?

15 A. THAT'S CORRECT.

16 Q. AND ULTIMATELY, RESULTING IN THE WEBSITE BEING  
17 LAUNCHED IN 1999, CORRECT?

18 A. THAT'S CORRECT.

19 Q. WORKING BACK FROM 1995, WHAT WAS PHILIP MORRIS'  
20 POSITION AT THAT TIME ON THE ISSUE OF WHETHER SMOKING CAUSES  
21 DISEASE?

22 A. OUR PUBLIC POSITION WAS THAT SMOKING WAS A RISK  
23 FACTOR IN DISEASE.

24 Q. WHAT DO YOU MEAN BY A RISK FACTOR?

25 WHAT DID PHILIP MORRIS MEAN BY A RISK FACTOR?

26 A. WHAT WE MEANT BY A RISK FACTOR IS THAT SMOKING  
27 CERTAINLY PRESENTED A RISK TO THOSE WHO CHOSE TO SMOKE, AND  
28 THAT THEIR CHANCES OF GETTING DISEASE WAS PROBABLY HIGHER

1 THAN SOMEONE WHO DIDN' T SMOKE.

2 Q. AND WHEN PHILIP MORRIS REFERRED TO SMOKING  
3 PUBLICLY AS A RISK FACTOR, DID THAT -- WAS THAT INTENDED TO  
4 SUGGEST THAT SMOKING WAS SAFE?

5 A. NO.

6 Q. WAS IT INTENDED TO SUGGEST THAT SMOKING WAS NOT  
7 RISKY?

8 A. NO. RISK FACTOR MEANS THAT THERE IS RISK  
9 ASSOCIATED WITH SMOKING.

10 Q. AND FOR HOW LONG -- LET ME START THAT OVER  
11 AGAIN.

12 TO YOUR KNOWLEDGE, WHEN DID PHILIP MORRIS START  
13 TO REFER TO SMOKING AS A RISK FACTOR?

14 A. WELL, I WROTE -- IN THE '80'S, WE STARTED TO  
15 REFER TO IT THAT WAY. AND IN AN ANNUAL REPORT IN THE  
16 MID '80'S, THE THEN CHAIRMAN IN HIS LETTER TO SHAREHOLDERS  
17 DESCRIBED SMOKING AS A RISK FACTOR.

18 Q. LET'S GO BACK A LITTLE FURTHER IN TIME.

19 YOU STARTED WITH THE COMPANY, YOU SAID, IN  
20 NOVEMBER OF 1969?

21 A. THAT'S CORRECT.

22 Q. BETWEEN, LET'S SAY, THAT TIME AND THE MID '80'S  
23 AS WE WERE TALKING ABOUT WHEN PHILIP MORRIS STARTED TO REFER  
24 TO THE HEALTH RISKS OF SMOKING AS A RISK FACTOR, WHAT WAS  
25 PHILIP MORRIS' POSITION IN THOSE EARLIER YEARS?

26 A. OUR POSITION WAS THAT CAUSATION HAD NOT BEEN  
27 FIRMLY ESTABLISHED. THAT MECHANISM AND CONSTITUENTS WERE  
28 UNKNOWN AND, THEREFORE, THERE IS NOT A DIRECT LINK

1 ESTABLISHED BETWEEN SMOKING AND DISEASE.

2 Q. NOW, I KNOW YOU'RE NOT A SCIENTIST, FAIR  
3 ENOUGH?

4 A. YES.

5 Q. AND SO I'M NOT GOING TO ASK YOU FOR SCIENTIFIC  
6 EXPLANATIONS.

7 BUT YOU WERE FAMILIAR WITH PHILIP MORRIS'  
8 POSITION AT THE TIME, CORRECT?

9 A. I WAS.

10 Q. WHAT WAS YOUR UNDERSTANDING OF WHAT WAS MEANT  
11 WHEN YOU SAID CONSTITUENTS AND MECHANISM WERE NOT POSITIVE?  
12 WHAT ARE CONSTITUENTS AND MECHANISM, AND WHAT  
13 IS THE BASIS FOR THE REASON THAT THEY HADN'T IMPROVED?

14 A. WELL, CONSTITUENTS ARE THOSE THINGS IN THE  
15 PRODUCT THAT MIGHT ACTUALLY CAUSE THE DISEASE; THE  
16 INGREDIENTS OR WHAT MIGHT BE CONTAINED IN THE TOBACCO, ET  
17 CETERA. AND MECHANISM IS HOW IS THE DISEASE ACTUALLY  
18 TRIGGERED IN SOMEONE. AND THAT HAD NOT BEEN PROVEN.

19 I'M NOT SURE THAT WE KNOW TODAY. I DON'T THINK  
20 WE KNOW TODAY -- AGAIN, I'M NOT A SCIENTIST -- EXACTLY WHAT  
21 THE MECHANISM IS THAT CREATES THE DISEASE. AND SO THAT WAS  
22 OUR POSITION, THAT IT HAD NOT BEEN PROVEN.

23 Q. AND WAS IT YOUR UNDERSTANDING THAT THAT'S WHAT  
24 SCIENTISTS WERE SAYING AT THE TIME?

25 A. SCIENTISTS WERE SAYING THAT AT THE TIME, THAT'S  
26 CORRECT.

27 Q. AND EVEN TODAY, AS YOU JUST MENTIONED, WE DON'T  
28 KNOW EVERYTHING ABOUT CONSTITUENT AND MECHANISM -- YOU HAVE

1 TO ANSWER YES OR NO -- IS THAT CORRECT?

2 A. WE DO NOT.

3 Q. OKAY. NOW, WHY WOULD MECHANISM AND  
4 CONSTITUENTS -- WHY WOULD KNOWING HOW CANCER BEGINS OR  
5 PRECISELY WHAT IT IS IN CIGARETTE SMOKE THAT CAUSES CANCER,  
6 WHY WOULD THAT BE IMPORTANT TO PHILIP MORRIS?

7 A. WELL, IF YOUR GOAL IS TO TRY AND PRODUCE LESS  
8 HARMFUL CIGARETTES, IMPROVE THE QUALITY OF YOUR PRODUCT, TAKE  
9 SOME OF THE HARMFUL INGREDIENTS OUT OF THE PRODUCT, YOU NEED  
10 TO KNOW THOSE THINGS. SO FROM A SCIENTIFIC STANDPOINT,  
11 IDENTIFYING CONSTITUENTS AND MECHANISM WAS VERY IMPORTANT  
12 FROM A PRODUCT DEVELOPMENT STANDPOINT.

13 Q. NOW, WHEN PHILIP MORRIS WAS ARTICULATING THAT  
14 POSITION THAT CAUSATION HAD NOT BEEN PROVED BECAUSE WE DIDN'T  
15 KNOW CONSTITUENTS AND MECHANISM, WAS PHILIP MORRIS SAYING  
16 THAT SMOKING DOES NOT CAUSE CANCER OR OTHER DISEASES?

17 A. NO, WE WERE NOT.

18 Q. WAS PHILIP MORRIS SAYING THAT SMOKING WAS NOT  
19 HARMFUL?

20 A. WE WERE NOT.

21 Q. BUT PHILIP MORRIS WAS FOCUSING ON WHAT WAS NOT  
22 KNOWN INSTEAD OF WHAT WAS KNOWN, IS THAT FAIR?

23 A. THAT IS CORRECT, YES.

24 Q. AND AS YOU MENTIONED A FEW MINUTES AGO, YOU  
25 BELIEVE THAT THAT POSITION WAS ACCURATE BUT INCOMPLETE?

26 A. THAT'S CORRECT.

27 Q. AND AS YOU LOOK BACK TODAY, DO YOU THINK  
28 PHILIP MORRIS SHOULD HAVE MAINTAINED THAT POSITION FOR AS

1 LONG AS IT DID?

2 A. NO, I DON' T.

3 Q. I WANT TO GO BACK A LITTLE BIT IN A LITTLE BIT  
4 MORE DETAIL ABOUT THE 1970' S AND THE 1980' S BEFORE WE GO BACK  
5 UP TO THE PRESENT.

6 YOU JOINED PHILIP MORRIS, YOU MENTIONED, IN  
7 1969.

8 COULD YOU GENERALLY DESCRIBE FOR THE JURY WHAT  
9 THE COMPANY WAS LIKE BACK THEN?

10 A. WELL, IT WAS A VERY -- IT WAS A VERY SMALL  
11 COMPANY. IT WAS VERY DIFFERENT THAN IT IS TODAY.

12 PROBABLY WHEN I -- CERTAINLY, WHEN I CAME TO  
13 NEW YORK, THERE WERE ABOUT 300 PEOPLE IN THE BUILDING THAT I  
14 WORKED IN. EVERY ONE FROM THE SECRETARIES TO THE CHAIRMAN OF  
15 THE BOARD WERE ON A FIRST NAME BASIS BECAUSE WE WERE SUCH A  
16 SMALL COMPANY. SO WE WERE THE THIRD, AND A DISTANT THIRD,  
17 LARGEST COMPANY IN THE INDUSTRY AT THE TIME, AND IT WAS A  
18 FAIRLY SMALL COMPANY.

19 Q. AND AT THAT SMALLER COMPANY BACK IN THE EARLY  
20 1970' S, HAD MARLBORO YET REACHED THE POSITION WHERE IT WAS  
21 THE NUMBER ONE CIGARETTE BRAND IN THE UNITED STATES?

22 A. NO, IT HAD NOT.

23 Q. AND AS YOU MENTIONED, PHILIP MORRIS HAD NOT YET  
24 BECOME THE LARGEST CIGARETTE COMPANY IN THE UNITED STATES; IS  
25 THAT CORRECT?

26 A. NO, WE HAD NOT.

27 Q. WAS THE MARLBORO LOGO AS WIDESPREAD IN THOSE  
28 DAYS AS IT IS TODAY?

1 A. NO, IT WASN' T. NOT AT ALL.

2 Q. LET ME DIGRESS FOR JUST A SECOND. WHEN WE' RE  
3 TALKING ABOUT THE MARLBORO LOGO, GENERALLY, WHERE IS THE  
4 MARLBORO LOGO DISPLAYED?

5 A. GENERALLY, AT POINT OF SALE IN RETAIL STORES.

6 Q. WHEN YOU SAY "POINT OF SALE, " WHAT ARE YOU  
7 REFERRING?

8 A. TO THE DISPLAY UNITS THAT YOU MIGHT FIND IN A  
9 7-ELEVEN OR A CONVENIENCE STORE OR SUPERMARKET THAT YOU WOULD  
10 GO INTO.

11 Q. AND HOW DOES A MARLBORO LOGO OR ANOTHER LOGO OR  
12 COCA-COLA GET TO GO UP THERE?

13 DOES THE COMPANY JUST COME UP THERE AND START  
14 PLASTERING THINGS UP ON THE WALLS?

15 A. NO. LIKE MANY OTHER CONSUMERS' GROUPS THAT ARE  
16 SOLD IN THOSE KIND OF OUTLETS -- IN SOME INDUSTRIES, THEY' RE  
17 CALLED SLOTTING ALLOTMENTS. IN SOME INDUSTRIES, THEY' RE  
18 CALLED MERCHANDISING PAYMENTS. BUT YOU ACTUALLY PAY TO HAVE  
19 YOUR PRODUCT DISPLAYED AND TO HAVE SIGNAGE IN A STORE.

20 Q. AND IN THOSE DAYS WHEN MARLBORO WAS A SMALLER  
21 COMPANY -- PHILIP MORRIS -- EXCUSE ME -- WAS A SMALLER  
22 COMPANY AND MARLBORO WAS NOT YET THE NUMBER ONE BRAND, THERE  
23 WAS FAR LESS MARLBORO LOGO OUT THERE?

24 A. FAR LESS. IT WAS DIFFICULT FOR US TO -- WHEN I  
25 JOINED, IT WAS DIFFICULT FOR US TO GET OUR PRODUCT  
26 PROMINENTLY DISPLAYED IN THE STORE.

27 Q. WHY?

28 A. BECAUSE WE WERE MUCH SMALLER. R. J. REYNOLDS

1 WAS THE NUMBER ONE COMPANY AT THAT TIME, AND THEY HAD THE  
2 MORE DOMINANT POSITION AT RETAIL.

3 Q. NOW, DURING THIS PERIOD LATE 1969 AND THROUGH  
4 THE 1970'S, THE JURY HAS HEARD EVIDENCE ABOUT THE PUBLIC  
5 ATTENTION BEING GIVEN TO THE HEALTH RISKS OF SMOKING.

6 WAS PHILIP MORRIS' POSITION ON THE HEALTH RISKS  
7 OF SMOKING AT THAT TIME AN ISSUE, IN YOUR OPINION?

8 A. I DON'T BELIEVE IT WAS A MAJOR ISSUE.

9 Q. WHY DO YOU SAY THAT?

10 A. WELL, WE WERE ONCE IN A WHILE CALLED FOR  
11 COMMENT, BUT NOT THAT FREQUENTLY. THERE WAS A LOT OF  
12 INFORMATION FROM THE PUBLIC HEALTH COMMUNITY. I THINK FROM  
13 SOME ANTI-SMOKING ACTIVISTS. SO THERE WAS, I BELIEVE, A LOT  
14 OF PUBLICITY COVERAGE OF THE WHOLE ISSUE OF SMOKING.

15 BUT WE WERE OFTEN EITHER NOT CALLED OR WE WERE.  
16 MORE OFTEN THAN NOT, WE TOOK A POSITION OF NO COMMENT, AND WE  
17 DIDN'T REALLY DO A LOT OF INTERVIEWS AT THAT TIME.

18 Q. WHEN YOU SAY PHILIP MORRIS WASN'T CALLED, YOU  
19 MEAN BY REPORTERS --

20 A. MEDIA.

21 Q. -- OR MEDIA PEOPLE?

22 A. MEDIA PEOPLE.

23 Q. SO PHILIP MORRIS WASN'T THAT OFTEN SOLICITED  
24 FOR ITS VIEW DURING THAT TIME, IS THAT FAIR?

25 A. NO, WE WEREN'T SOLICITED ALL THAT OFTEN. AND  
26 EVEN WHEN WE WERE, AS I SAY, WE TENDED TO TAKE MORE OF A  
27 NO-COMMENT POSITION.

28 Q. AND THE JURY HAS SEEN SOME EVIDENCE ABOUT THE

1 DISPARITIES IN THE MEDIA COVERAGE BETWEEN THE HEALTH RISKS OF  
2 SMOKING AND PUBLICITY OF THE TOBACCO INDUSTRY'S POSITION.

3 WAS PHILIP MORRIS DOING ANYTHING TO ACTIVELY  
4 PUBLICIZE ITS POSITION ON CAUSATION IN THE 1970'S?

5 A. NO, WE WERE NOT.

6 Q. WAS THERE A CAMPAIGN TO LET PEOPLE KNOW WHAT  
7 PHILIP MORRIS' POSITION WAS?

8 A. NO.

9 Q. AND YOU MENTIONED THAT IT'S YOUR UNDERSTANDING  
10 THAT PHILIP MORRIS' POSITION DID NOT GET A GREAT DEAL OF  
11 MEDIA ATTENTION AT THE TIME, IS THAT FAIR?

12 A. IT DID NOT.

13 Q. YOU'RE FAMILIAR WITH WHAT THE TOBACCO INSTITUTE  
14 IS, ISN'T IT?

15 A. WAS --

16 Q. EXCUSE ME. LET ME START THAT OVER.

17 YOU'RE FAMILIAR WITH THE TOBACCO INSTITUTE?

18 A. YES.

19 Q. WHAT WAS THE TOBACCO INSTITUTE?

20 A. TOBACCO INSTITUTE WAS REALLY A TRADE  
21 ORGANIZATION OF THE TOBACCO INDUSTRY. IT REPRESENTED ALL OF  
22 THE COMPANIES AND SERVED AS SPOKESPERSON ON ISSUES CONCERNING  
23 THE INDUSTRY, REPRESENTED THE INDUSTRY.

24 Q. SO TO YOUR KNOWLEDGE, WAS THE TOBACCO INSTITUTE  
25 ON A REGULAR BASIS ACTIVELY TRYING TO GET THE WORD OUT ABOUT  
26 THE TOBACCO INDUSTRY'S POSITION?

27 A. I WOULD NOT SAY ON A REGULAR BASIS AND  
28 ACTIVELY, NO.

1 Q. HAPPENED OCCASIONALLY?

2 A. OCCASIONALLY, YES.

3 Q. BUT NOT ON A REGULAR BASIS?

4 A. NOT ON A REGULAR BASIS.

5 Q. DO YOU BELIEVE THAT PHILIP MORRIS WAS ACTIVELY  
6 TRYING TO PERSUADE PEOPLE THAT ITS POSITION ON SMOKING AND  
7 HEALTH WAS CORRECT?

8 A. NO, I DON'T BELIEVE SO.

9 Q. LET'S MOVE AHEAD TO THE 1980'S.

10 IN YOUR VIEW, DID SOCIETY'S ATTITUDES TOWARDS  
11 SMOKING AND SMOKERS AND TOBACCO COMPANIES CHANGE DURING THE  
12 1980'S?

13 A. YES. I BELIEVE IT DID START TO CHANGE IN THE  
14 1980'S.

15 Q. HOW?

16 A. WELL, WHILE I THINK THERE WAS A LOT OF  
17 PUBLICITY COVERAGE ABOUT SMOKING AND HOW HARMFUL SMOKING WAS,  
18 UP UNTIL THAT POINT, I BELIEVE THAT IN THE 50'S, 60'S, '70'S,  
19 THE ATTITUDE WAS MORE OF, THIS IS BAD FOR YOU, BUT IF YOU  
20 CHOOSE TO, THAT'S YOUR CHOICE.

21 I THINK IN THE '80'S, REALLY, THINGS STARTED TO  
22 CHANGE IN THAT SMOKERS WERE KIND OF MADE PARIAS. SMOKING  
23 BECAME SOCIALLY UNACCEPTABLE. MORE LAWS BANNING SMOKING  
24 STARTED TO BE PASSED. IN FACT, THE FIRST ONE WAS PASSED OUT  
25 HERE IN CALIFORNIA IN BEVERLY HILLS AT THAT TIME. AND MORE  
26 ACROSS THE COUNTRY STARTED TO BE PASSED. AND I REALLY THINK  
27 THAT SMOKERS STARTED TO BE LOOKED DOWN ON FOR CHOOSING TO  
28 SMOKE.

1 Q. SMOKERS STARTED TO BE TREATED AS PARIAHS AND  
2 SMOKING BECAME LESS ACCEPTABLE?

3 A. I BELIEVE SO. AND ALSO, I THINK TOBACCO  
4 COMPANIES ALSO STARTED TO BE TREATED THE SAME WAY OR LOOKED  
5 AT THE SAME WAY.

6 Q. THAT'S WHAT MY NEXT QUESTION WAS.  
7 THE VIEW OF TOBACCO COMPANIES CHANGED AS WELL,  
8 YOU BELIEVE?

9 A. I BELIEVE SO, YES.

10 Q. IN WHAT WAY?

11 A. WELL, AGAIN, I THINK THAT BECAUSE TOBACCO  
12 BECAME SOCIALLY UNACCEPTABLE, THOSE WHO MARKETED AND SOLD  
13 TOBACCO WERE SEEN AS ALSO BEING UNACCEPTABLE, AND I THINK WE  
14 WERE STARTED -- WE STARTED TO SEE VILIFICATION OF TOBACCO  
15 COMPANIES, DEMONIZATION OF TOBACCO EXECUTIVES. PRETTY MUCH.

16 Q. THE JURY HAS HEARD A LITTLE BIT OF EVIDENCE  
17 ABOUT JOSEPH CALIFANO.

18 DO YOU RECALL WHO HE WAS AND WHAT ROLE YOU  
19 BELIEVE HE PLAYED IN THIS?

20 A. WELL, YES. HE -- HE IS HE ATTORNEY -- HE WAS  
21 ATTORNEY GENERAL, WASN'T HE?

22 SURGEON GENERAL. SORRY. HE --

23 Q. HE WAS A HIGH OFFICIAL IN THE GOVERNMENT?

24 A. YES. HE DEFINITELY, UNTIL THIS DAY, IN FACT,  
25 HAS A STRONG BIAS AGAINST TOBACCO AND, I BELIEVE, WAS ONE OF  
26 THE FIRST PEOPLE WHO REALLY STARTED THE DIALOGUE THAT HELPED  
27 TO MAKE SMOKING QUITE SOCIALLY UNACCEPTABLE AS IT BECAME.  
28 STARTED TO DEMONIZE THE COMPANIES, AND I THINK HE REALLY KIND

1 OF RAISED THE LEVEL OF DEBATE TO A NEW LEVEL FOR SMOKERS AND  
2 SMOKING.

3 Q. SO IN THE 1980'S, SMOKERS STARTED TO BE TREATED  
4 LIKE PARIAHS.

5 WHAT DO YOU MEAN BY PARIAHS?

6 A. OUTCASTS. PEOPLE WHO WERE MAKING BAD DECISIONS  
7 THAT THEY SHOULDN'T BE ALLOWED TO MAKE. THEY WERE CERTAINLY  
8 NOT WELCOMED IN MANY PLACES. AS I SAID, THERE WERE SMOKING  
9 BANS BEING PASSED, ET CETERA.

10 Q. SMOKERS STARTED TO GET TREATED AS PARIAHS,  
11 SMOKING BECOMES UNACCEPTABLE, MORE SMOKING RESTRICTIONS,  
12 TOBACCO COMPANIES BEING VILIFIED, I THINK WAS THE WORD YOU  
13 USED.

14 HOW DID PHILIP MORRIS RESPOND TO ALL OF THESE  
15 CHANGES?

16 A. UNFORTUNATELY, I THINK WE KIND OF CIRCLED THE  
17 WAGONS AND STARTED TO LOOK INWARD AND GOT VERY DEFENSIVE  
18 ABOUT OUR POSITION AND ABOUT OUR CONSUMERS.

19 Q. WHAT DO YOU MEAN BY GOT DEFENSIVE ABOUT OUR  
20 POSITION AND ABOUT CONSUMERS?

21 A. WELL, I THINK THAT WE FELT THAT WE -- THE --  
22 WE, AS A COMPANY, THE INDUSTRY AND OUR CONSUMERS WERE UNDER  
23 ATTACK, AND WE BECAME DEFENSIVE ABOUT IT. AND I THINK -- I  
24 THINK OUR BIGGEST MISTAKE WAS WE JUST DIDN'T LISTEN. WE  
25 DIDN'T LISTEN AND UNDERSTAND WHAT -- HOW SOCIETY WAS CHANGING  
26 AND HOW THEIR FEELINGS ABOUT SMOKING, SMOKERS, US, ET CETERA,  
27 WHAT -- REALLY, WHAT POINTS THEY WERE TRYING TO MAKE, AND I  
28 THINK WE JUST GOT VERY DEFENSIVE.

1 Q. NOW, YOU MENTIONED THE COMPANY GOT DEFENSIVE,  
2 WASN'T LISTENING, WAS HUNKERED DOWN. I'D LIKE TO PROBE A  
3 LITTLE BIT MORE AS TO WHAT YOU MEAN BY THAT.

4 HOW DID THE COMPANY RESPOND TO MEDIA REPORTS  
5 DURING THIS PERIOD?

6 A. WELL, WE USUALLY AVOIDED MEDIA INTERVIEWS UP  
7 UNTIL THAT POINT. DURING THE '80'S, WE JUST ALWAYS MET ANY  
8 INQUIRY WITH A NO COMMENT. WE TENDED NOT TO RESPOND, NOT TO  
9 DO MEDIA INQUIRIES. WE DID NOT COOPERATE WITH THE MEDIA AT  
10 ALL.

11 Q. YOU MENTIONED EARLIER THAT IT WAS SOMEWHERE IN  
12 THIS PERIOD THAT PHILIP MORRIS STARTED TALKING ABOUT RISK  
13 FACTOR IN CONNECTION WITH SMOKING AND HEALTH.

14 DURING THIS PERIOD, THE 1980'S THAT WE'RE  
15 TALKING ABOUT, DID PHILIP MORRIS ACTIVELY PUBLICIZE ITS  
16 POSITION ON SMOKING AND HEALTH?

17 A. NO. I WOULDN'T SAY WE ACTIVELY PUBLICIZED IT.  
18 AS I SAY, THERE WAS SOMETHING IN THE ANNUAL REPORT, AND  
19 OBVIOUSLY, WHEN WE WERE CALLED UPON AND WE DID RESPOND TO  
20 INQUIRIES AND ASKED ABOUT THE PRODUCT, THAT WAS OUR RESPONSE.  
21 BUT WE DID NOT -- WE DID NOT SEEK OPPORTUNITIES TO TALK ABOUT  
22 IT.

23 Q. WAS THERE ANY KIND OF CAMPAIGN AT PHILIP MORRIS  
24 TO GET THE WORD OUT ABOUT ITS POSITION ON SMOKING AND HEALTH?

25 A. NO.

26 Q. WAS THERE ANY EFFORT AT PHILIP MORRIS TO  
27 PERSUADE PEOPLE THAT PHILIP MORRIS HAD IT RIGHT AND THE  
28 PUBLIC HEALTH COMMUNITY HAD IT WRONG?

1 A. NO.

2 Q. WHAT ABOUT THE TOBACCO INSTITUTE DURING THIS  
3 PERIOD?

4 A. THE TOBACCO INSTITUTE DID SPEAK ON BEHALF OF  
5 THE INDUSTRY, AS I SAID. THEY DID RESPOND TO INTERVIEWS FROM  
6 TIME TO TIME. AND THEY WERE MORE OUT THERE THAN CERTAINLY WE  
7 WERE AS A COMPANY.

8 Q. WERE YOU SATISFIED WITH THE WAY THE TOBACCO  
9 INSTITUTE WAS DOING ITS JOB?

10 A. I, PERSONALLY?

11 Q. YES.

12 A. NO.

13 Q. WHY NOT?

14 A. BECAUSE I THOUGHT THAT THEY WERE VERY  
15 COMBATIVE. I THOUGHT THAT THEY TENDED TO KIND OF HAVE A  
16 PREDICTABLE REACTION TO EVERYTHING WHICH WAS NEGATIVE. AND I  
17 FELT THAT THEY REALLY WERE NOT REPRESENTING THE INDUSTRY VERY  
18 WELL. I MEAN, IT STARTED TO BECOME CLEAR TO ME THAT SOCIETY  
19 WAS CHANGING AND THAT WE NEEDED TO BE MORE REASONABLE AND  
20 OPEN IN OUR APPROACH AS WELL.

21 Q. NOW, YOU MENTIONED THAT THE TOBACCO INSTITUTE  
22 DURING THIS PERIOD, IT WAS STILL, BY AND LARGE, REACTING TO  
23 AN EVENT; IS THAT FAIR TO SAY?

24 A. THAT'S CORRECT.

25 Q. AND BY AND LARGE WAS NOT OUT IN PUBLIC  
26 ADVERTISING THE TOBACCO INDUSTRY'S POSITION?

27 A. THAT'S CORRECT.

28 Q. BUT IN YOUR OPINION, WAS REACTING IN A FAR

1 TOO -- I DON'T WANT TO PUT WORDS IN YOUR MOUTH.

2 A. I THOUGHT HOSTILE. I THOUGHT DEFENSIVE.  
3 I THOUGHT SOMEWHAT PREDICTABLE WAY. THEY JUST -- AGAIN, NOT  
4 LISTENING. AND I GUESS DEFENSIVE IS THE BEST WORD I CAN USE  
5 IN NOT BEING OPEN TO ANY KIND OF A DIALOGUE.

6 Q. DURING THIS PERIOD OF TIME, DID PHILIP MORRIS'  
7 OR THE TOBACCO INDUSTRY'S POSITION ON SMOKING AND HEALTH  
8 BECAME MORE POPULAR?

9 A. ON THE CONTRARY.

10 Q. WHAT DO YOU MEAN?

11 A. WELL, I THINK THAT I'VE HEARD PEOPLE SAY THAT  
12 THEY THOUGHT WE BELONGED TO THE FLAT EARTH SOCIETY AT THIS  
13 TIME, BECAUSE WE DIDN'T HAVE A DIFFERENT POSITION, AND THAT  
14 EVERYONE -- SOMEONE ONCE SAID TO ME -- A MEDIA PERSON THAT  
15 CALLED SAID, YOUR COMPANY OR YOU MUST BE THE LAST PERSON IN  
16 AMERICA THAT BELIEVES WHAT YOU'RE SAYING. AND HE SAID, YOU  
17 KNOW, YOU'RE JUST OUT OF TOUCH.

18 Q. AND DURING THIS TIME, PHILIP MORRIS WAS STILL  
19 LOOKING AT WHAT WAS NOT PROVED INSTEAD OF WHAT WAS PROVED,  
20 FAIR TO SAY?

21 A. I WOULD SAY THAT WE WERE TALKING ABOUT RISK  
22 FACTOR AND WE WERE TALKING ABOUT MECHANISM, YES.

23 Q. BUT STILL NOT ADOPTING THE POSITION OF THE  
24 PUBLIC HEALTH AUTHORITY AT THAT TIME?

25 A. THAT'S CORRECT.

26 Q. I'M GOING TO MOVE NOW TO THE 1990'S.

27 YOU MENTIONED AT THE BEGINNING OF YOUR  
28 TESTIMONY THAT YOU MOVED TO CORPORATE AFFAIRS IN THE EARLY

1 1990'S, IS THAT ABOUT RIGHT?

2 A. THAT'S CORRECT.

3 Q. DID YOU ASK TO MAKE THAT MOVE?

4 A. I DID.

5 Q. WHY DID YOU WANT TO MAKE THAT MOVE?

6 A. WELL, GOING BACK TO THE LAST QUESTION.

7 I WAS IN MARKETING AT THE TIME, AND I WAS  
8 READING WHAT THE TOBACCO INSTITUTE WAS SAYING ON BEHALF OF  
9 THE INDUSTRY. I WAS READING ALL THE NEGATIVE COVERAGE THAT  
10 THE INDUSTRY WAS GETTING. AND I JUST THOUGHT WE COULD DO A  
11 BETTER JOB. AND I'D BEEN WITH THE COMPANY FOR A LONG TIME.  
12 AND I KNEW THE PEOPLE. AND I HAD A PASSION ABOUT THE COMPANY  
13 AND THE PEOPLE THAT WORKED THERE. AND I FELT THAT WE COULD  
14 BE BETTER REPRESENTED AND THAT WE NEEDED TO START THINKING  
15 ABOUT HOW WE COULD GET INVOLVED IN TRYING TO DEAL MORE  
16 PROACTIVELY AND CONSTRUCTIVELY WITH SOME OF THE ISSUES THAT  
17 WERE FACING THE INDUSTRY THAN KIND OF PULLING WITHIN AND JUST  
18 BEING DEFENSIVE ABOUT EVERYTHING.

19 AND SO I ASKED IF I COULD BE CONSIDERED FOR A  
20 JOB IN CORPORATE AFFAIRS. AND SOME TIME AFTER I MADE THE  
21 REQUEST AND A REORGANIZATION TOOK PLACE, I WAS OFFERED THE  
22 JOB AS VICE-PRESIDENT OF CORPORATE AFFAIRS.

23 Q. WHAT WERE THE KINDS OF THINGS YOU THOUGHT  
24 PHILIP MORRIS NEEDED TO DO?

25 A. WELL, I CERTAINLY THOUGHT WE NEEDED TO START  
26 THINKING ABOUT YOUTH SMOKING IN A MORE PROACTIVE WAY. IN ALL  
27 THE YEARS THAT I HAD BEEN WITH PHILIP MORRIS AND MY MARKETING  
28 CAREER, I KNEW THAT WE DIDN'T MARKET OUR PRODUCT TO KIDS, BUT

1 I THOUGHT THE TIME HAD COME FOR US TO NOT JUST NOT MARKET TO  
2 KIDS, BUT TO DO SOMETHING AFFIRMATIVELY TO PREVENT KIDS FROM  
3 SMOKING.

4 Q. AND WE'RE GOING TO TALK ABOUT THAT IN SOME MORE  
5 DETAIL.

6 I'M SORRY. PLEASE CONTINUE.

7 A. I ALSO THOUGHT THAT THE WHOLE ISSUE OF  
8 ENVIRONMENTAL TOBACCO SMOKE OR SECONDHAND SMOKE WAS BECOMING  
9 A BIG ISSUE. AND I THOUGHT THAT WE REALLY HAD TO START  
10 THINKING ABOUT NON-SMOKERS, NOT JUST SMOKERS. AND THAT WE  
11 SHOULD START THINKING ABOUT WAYS THAT WE COULD FIND TO HELP  
12 ACCOMMODATE EVERYBODY BY KEEPING THE PREFERENCES OF  
13 NON-SMOKERS IN MIND.

14 Q. WERE YOU THE ONLY PERSON AT PHILIP MORRIS THAT  
15 THOUGHT CHANGES NEEDED TO HAPPEN?

16 A. NO, I WASN'T.

17 Q. OTHERS AS WELL?

18 A. THERE WERE OTHERS AS WELL. I THINK THERE WAS  
19 STARTING TO BE MORE OF A GROWING CONSENSUS THAT WE NEEDED TO  
20 START CHANGING.

21 Q. YOU MENTIONED EARLIER THAT YOUR CURRENT BOSS IS  
22 MIKE SZYMANCZYK; IS THAT RIGHT?

23 A. THAT'S CORRECT.

24 Q. AND WHEN DID HE BECOME PRESIDENT AND CEO OF  
25 PHILIP MORRIS USA?

26 A. NOVEMBER OF '97, HE BECAME PRESIDENT AND CEO.

27 Q. DID HE ALSO RECOGNIZE THAT PHILIP MORRIS NEEDED  
28 TO CHANGE ITS APPROACH TO TOBACCO ISSUES?

1 A. VERY MUCH SO.

2 Q. NOW, IS IT FAIR TO SAY THAT ONE OF THE CHANGES,  
3 WHAT YOU SAW EARLIER, PHILIP MORRIS ADOPTING THE SURGEON  
4 GENERAL'S POSITION ON CAUSATION AND ADDICTION?

5 A. I THINK THAT'S ONE OF THE CHANGES. HAVING THE  
6 WEBSITE AND HAVING IT OUT THERE WAS ANOTHER ONE OF THE  
7 CHANGES.

8 Q. I WANT TO ASK YOU A LITTLE BIT MORE ABOUT  
9 HAVING IT OUT THERE.

10 YOU MENTIONED A FEW MOMENTS AGO THAT BACK IN  
11 THE '70'S AND THE '80'S, PHILIP MORRIS WAS NOT ACTIVELY  
12 TRYING TO LET PEOPLE KNOW WHAT ITS POSITION WAS.

13 HAS THAT CHANGED?

14 A. YES.

15 Q. SINCE ADOPTING THE SURGEON GENERAL'S POSITION,  
16 WHAT HAS PHILIP MORRIS DONE, OTHER THAN JUST PUTTING UP A  
17 WEBSITE, TO LET PEOPLE KNOW THAT SMOKERS OUGHT TO PAY  
18 ATTENTION TO THE PUBLIC HEALTH AUTHORITIES?

19 A. WELL, WHEN WE LAUNCHED THE WEBSITE, WE ALSO  
20 MAILED OUT 25 MILLION FLIERS, LETTERS TO SMOKERS LETTING THEM  
21 KNOW THAT THE WEBSITE WAS THERE AND THAT IT CONTAINED ALL OF  
22 OUR POLICIES.

23 AT THE SAME TIME, FOR THOSE PEOPLE THAT DIDN'T  
24 HAVE ACCESS TO THE WEB, WE REPRINTED THE INFORMATION THAT WAS  
25 ON THE WEBSITE AND TOLD THEM IF THEY CALLED THE 1-800 NUMBER,  
26 WE WOULD BE HAPPY TO SEND THEM THAT INFORMATION.

27 WE PUT THE WEB ADDRESS IN ALL OF OUR  
28 ADVERTISING. WE HAD "TAKE ONE'S" AT RETAIL OUTLETS,

1 7-ELEVEN'S AND SUPERMARKETS, ET CETERA, WHERE, AGAIN,  
2 INFORMATION ABOUT THE WEBSITE AND ABOUT THE 800 NUMBER SO  
3 THAT YOU COULD GET IN TOUCH WITH PHILIP MORRIS TO GET THAT  
4 INFORMATION.

5 WE'RE FAR MORE PROACTIVE IN DOING INTERVIEWS,  
6 TALKING TO THE MEDIA THAN WE EVER HAVE BEEN. AND SO WE'VE  
7 DEFINITELY CHANGED THE WAY WE RUN OUR BUSINESS.

8 Q. NOW, BY GETTING THE WORD OUT ABOUT  
9 PHILIP MORRIS' POSITION BEING THE SAME AS THE SURGEON  
10 GENERAL'S ON THESE PUBLIC HEALTH ISSUES, WAS IT  
11 PHILIP MORRIS' SENSE THAT THERE WERE PEOPLE WITH INFORMATION  
12 ABOUT THE HEALTH RISKS THAT THEY DIDN'T ALREADY KNOW?

13 A. NO, NOT AT ALL.

14 Q. AND WHAT WAS THE POINT OF GETTING ALL THAT  
15 INFORMATION OUT THERE?

16 A. IT WAS OUR EFFORT TO TRY AND ALIGN OURSELVES  
17 MORE WITH SOCIETY TO RESPOND IN A WAY THAT SOCIETY EXPECTED  
18 OF US TO EARN BACK -- TO TRY AND EARN BACK SOME OF THE  
19 CREDIBILITY THAT WE LOST OVER THE YEARS IN THE WAY WE DEAL  
20 WITH THE MEDIA, IN THE WAY WE PRESENT INFORMATION, TO BE MORE  
21 TRANSPARENT IN THE WAY WE RUN OUR BUSINESS.

22 Q. IS IT FAIR TO SAY THAT A FEW MOMENTS AGO, YOU  
23 WERE TALKING ABOUT THE '80'S, AND YOU MENTIONED THAT  
24 PHILIP MORRIS HAD ISOLATED ITSELF FROM THE GOVERNMENT AND  
25 FROM THE PUBLIC HEALTH AUTHORITIES ON SMOKING AND HEALTH  
26 ISSUES? I'M SORRY. IS THAT YES OR NO?

27 A. THAT'S A YES. I'M SORRY.

28 Q. OKAY. THAT IT DIDN'T RESPOND TO INTERVIEWS, IT

1 DIDN'T ENGAGE, IS THAT FAIR?

2 A. RIGHT.

3 Q. AND YOU MENTIONED A FEW MOMENTS AGO, THAT HAS  
4 CHANGED?

5 A. YES, IT HAS.

6 Q. COULD YOU GIVE THE JURY SOME EXAMPLES OF HOW  
7 THAT HAS CHANGED IN CONNECTION WITH REACHING OUT TO THE  
8 GOVERNMENT AND REACHING OUT TO PUBLIC HEALTH AUTHORITIES ON  
9 SMOKING AND HEALTH ISSUES?

10 A. YES, I CAN.

11 OUR RESEARCH AND DEVELOPMENT PEOPLE MEET  
12 FREQUENTLY WITH MEMBERS OF THE PUBLIC HEALTH COMMUNITY, OTHER  
13 SCIENTISTS, TO PRESENT FINDINGS, TO TALK TO THEM ABOUT OUR  
14 PRODUCT DEVELOPMENT ISSUES, WHAT WE KNOW, WHAT THEY KNOW.  
15 THEY'RE TRYING TO BUILD RELATIONSHIPS.

16 WHEN WE LAUNCHED OUR YOUTH SMOKING CAMPAIGN,  
17 BEFORE WE DID ANYTHING, CAROLYN LEVY, WHO WAS A SENIOR V. P.  
18 OF YOUTH SMOKING PREVENTION, WENT TO MEET WITH THE MEMBERS --  
19 WITH PEOPLE AT THE CENTERS FOR DISEASE CONTROL TO UNDERSTAND  
20 THEIR LEARNINGS AND THEIR OBSERVATIONS ABOUT WHAT WORKS AND  
21 WHAT DOESN'T WORK WITH YOUTH SMOKING PREVENTION.

22 BOTH CAROLYN AND I WENT UP TO SEE  
23 DR. GREG CONNELLY, WHO'S THE HEAD OF THE HEALTH DEPARTMENT IN  
24 MASSACHUSETTS -- BECAUSE MASSACHUSETTS HAD BEEN RUNNING SOME  
25 VERY EFFECTIVE YOUTH SMOKING PREVENTION ADVERTISING AND HAD  
26 SOME INSIGHTS INTO WHAT DID AND DIDN'T WORK -- AND WE MET  
27 WITH HIM

28 SO WE'VE BEEN REACHING OUT TO THE PUBLIC HEALTH

1 COMMUNITY, TO OUR CRITICS WHO WE NEVER USED TO TALK TO  
2 BEFORE. AND NOT JUST GOING IN AND TRYING TO ADVOCATE A POINT  
3 OF VIEW, BUT REALLY TRYING TO LISTEN AND LEARN AND START TO  
4 ESTABLISH A DIALOGUE.

5 Q. IN A MINUTE, WE'RE GOING TO TURN TO YOUTH  
6 SMOKING AND TALK ABOUT THAT IN SOME MORE DETAIL. BUT WHILE  
7 WE'RE STILL ON THE GENERAL SUBJECT OF REACHING OUT TO THE  
8 GOVERNMENT AND THE PUBLIC HEALTH COMMUNITY.

9 HAS PHILIP MORRIS ATTEMPTING TO REACH OUT  
10 ALWAYS BEEN MET WITH OPEN ARMS?

11 A. NO, NOT AT ALL.

12 Q. CAN YOU DESCRIBE A LITTLE FURTHER WHAT YOU  
13 MEAN?

14 A. WELL, LOOK. THERE ARE A LOT OF PEOPLE THAT ARE  
15 SKEPTICAL ABOUT DEALING WITH US, AND WE UNDERSTAND THAT. WE  
16 KNOW THAT THERE'S SKEPTICISM OUT THERE. AND WE THINK THAT  
17 THE ONLY WAY TO DEAL WITH THAT SKEPTICISM IS THROUGH  
18 COMMITMENT AND CONSISTENCY AND BY SHOWING PEOPLE THAT WE ARE  
19 COMMITTED AND SERIOUS. BUT WE HAVE A LOT OF CRITICS AND WE  
20 KNOW WE HAVE A LOT OF CRITICS, AND SO WE NEED TO WORK HARD TO  
21 OPEN THAT DIALOGUE AND TO LISTEN AND TO RESPOND IN A  
22 CONSTRUCTIVE WAY TO WHAT WE'RE HEARING.

23 MR. LEITER: YOUR HONOR, I'M PREPARED TO MOVE ON TO A  
24 NEW SUBJECT.

25 THE COURT: I THINK IT'S TIME TO TAKE A BREAK HERE.

26 AND LADIES AND GENTLEMEN, IF YOU START FEELING  
27 LIKE YOU'RE GETTING A LITTLE WOOZY, ESPECIALLY AFTER LUNCH,  
28 I'LL KEEP AN EYE ON YOU. SIT UP STRAIGHT. DO WHATEVER YOU

1 NEED TO DO. BUT IF YOU DEFINITELY JUST HAVE TO TAKE A BREAK  
2 YOURSELF BECAUSE, OTHERWISE, YOU'RE JUST GOING TO ROLL OVER  
3 AND START FALLING ASLEEP, AT THAT POINT, YOU NEED TO LET ME  
4 KNOW, BECAUSE YOU'VE GOT TO PAY ATTENTION ALL THROUGHOUT THIS  
5 TRIAL.

6 ALL RIGHT. THANK YOU. WE'LL SEE EVERYONE AT  
7 QUARTER TILL.

8

9 (RECESS.)

10

11 THE COURT: ALL RIGHT.

12 OUR JURY PANEL IS BACK WITH US.

13 GOOD AFTERNOON, LADIES AND GENTLEMEN.

14 OUR JURY IS WITH US; COUNSEL ARE PRESENT; AND  
15 THE WITNESS IS ON THE STAND.

16 MA'AM, YOU STILL UNDERSTAND YOU'RE STILL UNDER  
17 OATH?

18 THE WITNESS: YES, I DO.

19 THE COURT: OKAY. PLEASE BE SEATED.

20 MR. LEITER.

21 MR. LEITER: THANK YOU, YOUR HONOR.

22 THE COURT: YOU MAY PROCEED, SIR.

23 Q. BY MR. LEITER: MS. MERLO, I WANT TO TALK ABOUT  
24 YOUTH SMOKING --

25 A. OKAY.

26 Q. -- WHICH IS SOMETHING WE STARTED TO TALK ABOUT  
27 BEFORE THE BREAK.

28 THERE'S BEEN AN ACCUSATION IN THIS CASE THAT

1 EVEN AS WE SIT HERE TODAY, PHILIP MORRIS IS MARKETING ITS  
2 CIGARETTES TO UNDERAGE PEOPLE, TRUE?

3 A. ABSOLUTELY FALSE.

4 Q. YOU'VE BEEN WITH PHILIP MORRIS FOR 32 YEARS?

5 A. THAT'S CORRECT.

6 Q. SPENT A FAIR AMOUNT OF THAT TIME IN THE  
7 MARKETING DEPARTMENT?

8 A. YES, I DID.

9 Q. AND NOW YOU'VE BEEN IN CORPORATE AFFAIRS FOR  
10 TEN YEARS. IN YOUR EXPERIENCE -- OR A LITTLE LESS THAN TEN  
11 YEARS.

12 A. YES.

13 Q. IN YOUR EXPERIENCE, GOING BACK TO WHEN YOU  
14 STARTED WITH THE COMPANY, HAS PHILIP MORRIS MARKETED ITS  
15 CIGARETTES TO UNDERAGE PEOPLE?

16 A. NO, WE HAVE NOT.

17 Q. YOU SAY THAT UNEQUIVOCALLY?

18 A. I DO.

19 Q. WHY?

20 A. BECAUSE WE, FOR AS LONG AS I HAVE BEEN THERE,  
21 HAVE TRIED TO BE VERY CAREFUL IN THE WAY WE MARKET OUR  
22 PRODUCT, IN THE MEDIA THAT WE CHOSE TO ADVERTISE IN, IN THE  
23 WAY WE CONDUCTED OUR PROMOTIONS, IN THE WAY WE CONDUCTED OUR  
24 SAMPLING.

25 THERE CERTAINLY WERE RULES AND REGULATIONS THAT  
26 GUIDED US. BUT EVEN BEYOND THAT, OUR OWN INTERNAL POLICIES  
27 WERE TO BE VERY CAREFUL TO MAKE SURE THAT WE WERE MARKETING  
28 OUR PRODUCTS ONLY TO ADULTS AND ADULT SMOKERS.

1 Q. THE JURY IN THIS CASE HAS HEARD EVIDENCE THAT  
2 MOST PEOPLE WHO START TO SMOKE START TO SMOKE BEFORE THEY'RE  
3 18.

4 YOU'VE HEARD THAT ACCUSATION BEFORE?

5 A. I HAVE HEARD THAT.

6 Q. OKAY. AND THAT IF PEOPLE DON'T START TO SMOKE  
7 BY THE TIME THEY'RE WHATEVER THE AGE MAY BE, THEY'RE NOT  
8 LIKELY TO START; ISN'T THAT RIGHT?

9 A. I'VE CERTAINLY HEARD THAT, YES.

10 Q. SO WHY WOULDN'T PHILIP MORRIS WANT TO MARKET  
11 ITS PRODUCTS TO UNDERAGE SMOKERS?

12 WHY WOULDN'T PHILIP MORRIS WANT UNDERAGE PEOPLE  
13 TO START SMOKING?

14 A. WELL, ONE, IT'S AGAINST THE LAW TWO, WE DO  
15 MAKE A PRODUCT THAT IS ASSOCIATED WITH DISEASE AND RISK OF  
16 DISEASE, AND THEREFORE, IT'S NOT APPROPRIATE FOR KIDS TO  
17 SMOKE. AND WE DON'T THINK THAT KIDS SHOULD MAKE DECISIONS  
18 LIKE THAT, NOR SHOULD THEY MAKE DECISIONS ABOUT ANY RISKY  
19 PRODUCT, BUT CERTAINLY, IN OUR CASE, WE DON'T WANT THEM  
20 MAKING DECISIONS ABOUT TOBACCO.

21 AND SO FOR US, IT'S A BUSINESS OBJECTIVE, WHICH  
22 IS WHY THERE'S A SENIOR VICE-PRESIDENT THAT RUNS THAT  
23 DEPARTMENT WHO IS ANSWERABLE TO MIKE SZYMANCZYK TO DO OUR  
24 PART TO MAKE SURE THAT KIDS DON'T SMOKE.

25 Q. I'M GOING TO GET TO THAT DEPARTMENT IN JUST A  
26 MINUTE. BUT BEFORE I DO.

27 WHAT KIND OF BUSINESS PROBLEMS WOULD MARKETING  
28 TO UNDERAGE SMOKERS CREATE FOR PHILIP MORRIS, SEPARATE AND

1 APART FROM IT'S ILLEGAL AND KIDS SHOULDN'T SMOKE?

2 A. WELL, I MEAN, IT'S CREATED MANY PROBLEMS. THE  
3 PERCEPTION THAT WE WERE MARKETING TO KIDS, I BELIEVE, IS PART  
4 OF THE REASON THAT THE INDUSTRY HAD BECOME AS VILIFIED AS IT  
5 IS. EVEN THOUGH THAT IS AN INCORRECT ASSUMPTION, I DO  
6 BELIEVE THAT PEOPLE BELIEVE THAT THAT'S WHAT WE WERE DOING,  
7 BUT IT WASN'T TRUE, AND IT HAS CREATED PROBLEMS FOR US AS A  
8 COMPANY, AND WE DON'T WANT KIDS TO SMOKE.

9 Q. OVERALL, WOULD IT BE GOOD FOR PHILIP MORRIS'  
10 BUSINESS TO MARKET ITS CIGARETTES TO UNDERAGE PEOPLE?

11 A. I DON'T BELIEVE IT IS. I DON'T THINK IT'S GOOD  
12 FOR OUR EMPLOYEES. I DON'T THINK IT'S GOOD FOR OUR  
13 SHAREHOLDERS. IT'S CERTAINLY NOT GOOD FOR SOCIETY.

14 AND OUR POSITION IS, IF WHAT PEOPLE SAY IS  
15 TRUE, THAT IF YOUNG PEOPLE DON'T SMOKE, THAT ULTIMATELY, OUR  
16 BUSINESS COULD DECREASE SUBSTANTIALLY, OUR POSITION IS, SO BE  
17 IT. BUT WE DON'T WANT KIDS TO SMOKE.

18 Q. OKAY. AND I'M GOING TO TALK ABOUT SOME OF THE  
19 THINGS THAT PHILIP MORRIS IS DOING TODAY. BUT I WANT TO GO  
20 BACK A LITTLE BIT OVER THE YEARS.

21 HAS PHILIP MORRIS HAD VARIOUS PROGRAMS OR  
22 POLICIES TO PREVENT MARKETING OF ITS CIGARETTES TO UNDERAGE  
23 SMOKERS?

24 A. YEAH, WE HAVE.

25 Q. AND CAN YOU BRIEFLY DESCRIBE WHAT SOME OF THOSE  
26 PROGRAMS HAVE BEEN OVER TIME?

27 A. WELL, AS I SAY, IN OUR CHOICE OF THE MAGAZINES  
28 THAT WE USE, WE ALWAYS LOOKED AT READERSHIP NUMBERS TO MAKE

1 SURE THAT AT LEAST 85 PERCENT OF THE READERSHIP WAS OVER THE  
2 AGE OF 21.

3 WHEN IT CAME TO -- WHEN WE WERE STILL SAMPLING  
4 PRODUCT -- WHICH WE HAVEN'T DONE SINCE 1995, I BELIEVE, EVEN  
5 BEFORE THAT -- WE HAD VERY STRICT GUIDELINES THAT WE USED  
6 WITH ALL THE PEOPLE THAT SAMPLED THE PRODUCT THAT THEY HAD TO  
7 SAY TO SOMEONE, ARE YOU 21 YEARS OF AGE, ARE YOU A SMOKER.  
8 AND IF THE ANSWER TO BOTH OF THOSE QUESTIONS WAS NOT, I AM  
9 21, AND I AM A SMOKER, YOU DIDN'T GET A SAMPLE.

10 AND WE -- I, WHEN I WAS IN CHARGE OF THE EVENT  
11 GROUP, USED TO SEND PEOPLE OUT TO CHECK ON OUR SAMPLERS.  
12 KIND OF A MYSTERY SHOPPER, KIND OF TO MAKE SURE THAT PEOPLE  
13 WERE FOLLOWING THE RULES AND THAT THEY WEREN'T SAMPLING  
14 PEOPLE -- OR LEAVING THEIR SAMPLING BINS UNATTENDED SO PEOPLE  
15 COULD JUST WALK UP AND TAKE WHATEVER THEY WANTED. AND I  
16 PERSONALLY DISMISSED A FEW SAMPLERS BECAUSE I FELT THAT THEY  
17 WERE VIOLATING OUR RULES FOR THE WAY WE INTENDED TO SAMPLE  
18 OUR PRODUCT.

19 OUR PROMOTIONAL PROGRAMS WERE FOCUSED ON ADULT  
20 AND ADULT SMOKERS. SO WE TRIED VERY HARD TO MAKE SURE THAT  
21 KIDS WEREN'T SMOKING.

22 WE HELPED ADVOCATE MINIMUM AGE LAWS IN THE  
23 VARIOUS STATES. WE'RE SUPPORTERS OF MINIMUM AGE LAWS SO THAT  
24 THE KIDS COULD NOT GET ACCESS TO CIGARETTES.

25 Q. SO PHILIP MORRIS OVER TIME HAS ENCOURAGED  
26 LEGISLATION TO PREVENT KIDS FROM GETTING CIGARETTES?

27 A. WE ENCOURAGE MINIMUM AGE LAWS AND IN ENSUING  
28 YEARS, WE HAVE ENCOURAGED EVEN TOUGHER LEGISLATION TO MAKE

1 SURE THAT THOSE LAWS ARE ENFORCED AND THAT KIDS CAN'T GET  
2 ACCESS TO CIGARETTES, ASIDE FROM SOME OF THE OTHER ACTIONS  
3 AND INITIATIVES THAT WE'VE INTRODUCED OURSELVES.

4 Q. WHAT ABOUT MODELS IN CIGARETTE ADVERTISING?

5 A. WELL, GUIDELINES WERE THAT MODELS HAD TO BE AT  
6 LEAST 25 YEARS OF AGE AND LOOK 25 YEARS OF AGE. AND WE WERE  
7 VERY CAREFUL TO MAKE SURE THAT WE NEVER USED ANYONE IN ANY OF  
8 OUR ADS THAT WAS NOT 25 YEARS OF AGE OR OVER.

9 IN FACT, I REMEMBER AT ONE POINT WHEN I WAS  
10 WORKING ON VIRGINIA SLIMS, THERE WAS A NEW MODEL WHO WAS VERY  
11 POPULAR, AND SHE WAS 24-1/2, AND OUR AGENCY RECOMMENDED THAT  
12 WE SHOOT HER BECAUSE WE WOULDN'T RUN THE AD UNTIL SHE WAS 25,  
13 AND WE WOULD NOT USE HER FOR THAT SHOOT BECAUSE SHE WAS NOT  
14 25 YEARS OF AGE YET.

15 Q. OKAY. AND ARE THOSE RESTRICTIONS ON AGES FOR  
16 MODELS IN ADS, IS THAT SOMETHING OF JUST THE LAST COUPLE  
17 YEARS?

18 A. NO. THAT'S BEEN IN EXISTENCE AS LONG AS I CAN  
19 REMEMBER.

20 Q. WHAT ABOUT SPORTS SPONSORSHIP?

21 PHILIP MORRIS HAS SPONSORED VARIOUS SPORTING  
22 EVENTS OVER TIME?

23 A. THAT'S CORRECT.

24 Q. AREN'T THOSE DESIGNED TO GET KIDS WHO MIGHT  
25 LIKE TENNIS OR KIDS WHO MIGHT LIKE MOTOR RACING TO ASSOCIATE  
26 MARLBORO WITH SOMETHING THEY LIKE?

27 A. NO. IN FACT, OUR SPONSORSHIPS HAVE BEEN OF  
28 SPORTS THAT HAVE ATTRACTED MAINLY ADULT AUDIENCES AND ANY OF

1 THE PROMOTIONS THAT WE RAN ON SITE AT THOSE EVENTS WERE ONLY  
2 AVAILABLE TO ADULTS.

3 Q. OKAY. BEFORE THE BREAK, WE WERE TALKING ABOUT  
4 HOW WHEN YOU CAME TO CORPORATE AFFAIRS AND IN THE YEARS  
5 AFTER THAT, THERE'S BEEN A RECOGNITION THAT PHILIP MORRIS  
6 NEEDS TO APPROACH CERTAIN PROBLEMS DIFFERENTLY; IS THAT  
7 CORRECT?

8 A. THAT'S CORRECT.

9 Q. IS YOUTH SMOKING ONE OF THE PROBLEMS THAT  
10 PHILIP MORRIS NEEDS TO APPROACH DIFFERENTLY?

11 A. YES IT IS.

12 Q. CAN YOU DESCRIBE WHAT'S DIFFERENT THAT  
13 PHILIP MORRIS NEEDED TO DO?

14 A. WELL, AS I SAID EARLIER, IN THE PAST, WE DIDN'T  
15 MARKET OUR PRODUCTS TO KIDS, BUT WE WERE NOT DIRECTLY  
16 INVOLVED IN TRYING TO PREVENT KIDS FROM SMOKING, AND I THINK  
17 THE CHANGE IS THAT NOW WE ARE ACTIVELY DEVELOPING AND  
18 SUPPORTING PROGRAMS TO PREVENT KIDS FROM SMOKING.

19 Q. NOW YOU MENTIONED EARLIER THAT THERE'S A NEW  
20 DEPARTMENT AT PHILIP MORRIS WITH THAT AS ITS MISSION; IS THAT  
21 CORRECT?

22 A. THAT'S CORRECT.

23 Q. AND WHAT'S THE NAME OF THAT DEPARTMENT?

24 A. YOUTH SMOKING PREVENTION.

25 Q. AND WHEN WAS THAT DEPARTMENT LAUNCHED?

26 A. IN APRIL OF 1998.

27 Q. AND DID YOU PLAY A ROLE IN THE ESTABLISHMENT OF  
28 THAT DEPARTMENT?

1 A. YES, I DID.

2 Q. WHAT ROLE DID YOU PLAY?

3 A. WELL, UP UNTIL THAT TIME, OUR EFFORTS DEALING  
4 WITH YOUTH SMOKING CAME UNDER CORPORATE AFFAIRS, AND BOTH  
5 MIKE SZYMANCZYK AND I THOUGHT THAT IT WAS TIME FOR US TO  
6 THINK ABOUT WHAT WE COULD DO BEYOND SOME OF THE THINGS THAT  
7 WE WERE ALREADY DOING, WHICH WAS REALLY FOCUSED ON ACCESS  
8 PREVENTION, AND HE ASKED ME TO PUT TOGETHER A GROUP TO GO OUT  
9 AND THINK ABOUT THE ISSUE AND COME BACK TO HIM WITH A  
10 RECOMMENDATION.

11 AND MY RECOMMENDATION TO HIM WAS THAT WE FORM A  
12 FREESTANDING DEPARTMENT VERY MUCH BASED ON THE BRAND  
13 MANAGEMENT MODEL OF CREATING PROGRAMS TO SPECIFICALLY DEAL  
14 WITH THE ISSUE OF YOUTH SMOKING PREVENTION AND THAT IT HAVE  
15 SOMEBODY AT A VERY SENIOR LEVEL REPORTING TO HIM RESPONSIBLE  
16 FOR DOING THAT.

17 Q. OKAY. AND YOU WERE ONE OF THE PEOPLE WHO  
18 DEVELOPED THAT DEPARTMENT FROM THE OUTSET, CORRECT?

19 A. I -- I RECOMMENDED THE DEPARTMENT. I  
20 RECOMMENDED A STRUCTURE. AND THEN I WORKED WITH CAROLYN LEVY  
21 AS SHE TOOK OVER AS SENIOR V.P. TO HELP HER GET IT GOING,  
22 YES.

23 Q. AND THE GOAL OF THE DEPARTMENT IS NOT, AS IT  
24 HAPPENED IN THE PAST, TO SIMPLY HAVE PRECAUTIONS SO THAT  
25 PHILIP MORRIS WASN'T ADVERTISING TO YOUTH; THE GOAL OF THE  
26 DEPARTMENT WAS TO ACTIVELY CONVINCING PEOPLE, CONVINCING KIDS,  
27 NOT TO SMOKE?

28 A. IT WAS TO DEVELOP AND SUPPORT PROGRAMS THAT

1 WOULD PREVENT KIDS FROM SMOKING.

2 Q. OKAY. LET'S TAKE A LOOK AT NO. 24 AGAIN, WHICH  
3 IS DEMONSTRATIVE 11, 030.

4 THAT'S -- WE SAW THAT BEFORE. THAT'S THE  
5 ORGANIZATION; IS THAT RIGHT?

6 A. THAT'S CORRECT.

7 Q. IS THIS THE YOUTH SMOKING PREVENTION SENIOR  
8 VICE-PRESIDENT OF THE DEPARTMENT WE'VE BEEN TALKING ABOUT?

9 A. YES, IT IS.

10 Q. THE HEAD OF THAT DEPARTMENT IS ANOTHER OF THE  
11 PEOPLE WHO REPORTS DIRECTLY TO THE PRESIDENT AND CEO OF THE  
12 COMPANY --

13 A. YES.

14 Q. -- IS THAT RIGHT? OKAY.

15 LET'S LOOK AT DEMONSTRATIVE 38, WHICH WE'LL  
16 CALL 11, 033.

17

18 (I. D. 11030 - DEMONSTRATIVE 38)

19

20 Q. BY MR. LEITER: WHAT IS THAT?

21 A. THAT IS THE YOUTH SMOKING PREVENTION  
22 DEPARTMENT'S KIND OF FOUR-PRONGED APPROACH TO DEALING WITH  
23 THE ISSUE OF YOUTH SMOKING PREVENTION.

24 Q. THIS IS THE OVERALL PROGRAM THAT THE DEPARTMENT  
25 IMPLEMENTS; IT'S COMMUNICATION, EDUCATION/SCHOOLS, COMMUNITY  
26 INVOLVEMENT AND ACCESS PREVENTION?

27 A. THAT'S CORRECT.

28 Q. I'D LIKE TO SPEND A LITTLE MORE TIME TALKING

1 ABOUT EACH ONE.

2 THE FIRST ONE IS COMMUNICATION.

3 WHAT' S THAT?

4 A. WELL, COMMUNICATION CONTAINS ADVERTISING. BUT  
5 BEYOND ADVERTISING, IT IS OUR EFFORT TO RAISE AWARENESS OF  
6 THE ISSUE WITH THE VARIOUS AUDIENCES THAT NEED TO BE INVOLVED  
7 IN DEALING WITH THE ISSUE OF YOUTH SMOKING PREVENTION. KIDS  
8 THEMSELVES, THEIR PARENTS, YOU KNOW, COMMUNITY LEADERS, ET  
9 CETERA.

10 Q. SO COMMUNICATION IS GETTING THE MESSAGE OUT  
11 THAT KIDS SHOULD NOT SMOKE?

12 A. THAT' S CORRECT.

13 Q. BY THE WAY, HOW MUCH MONEY DOES PHILIP MORRIS  
14 SPEND ON THE YOUTH SMOKING PREVENTION DEPARTMENT EACH YEAR?

15 A. 100 MILLION PLUS A YEAR. ABOUT. WHEN THE  
16 DEPARTMENT STARTED, IT WAS 100 MILLION. I THINK THIS YEAR  
17 THEIR BUDGET IS 112- OR 115 MILLION.

18 Q. PER YEAR?

19 A. PER YEAR.

20 Q. COMMUNICATION, GETTING THE MESSAGE OUT THAT  
21 KIDS SHOULD NOT SMOKE.

22 WHAT' S THE MEDIUM THAT THE COMPANY CHOSE TO  
23 START THE PROJECT OF GETTING THAT MESSAGE OUT?

24 A. THE MAJOR MEDIUM IS TELEVISION.

25 Q. PHILIP MORRIS DECIDED TO RUN TELEVISION  
26 MESSAGES TELLING KIDS THEY SHOULDN' T SMOKE?

27 A. TELEVISION ADS, ACTUALLY, WERE CREATED WITH  
28 KIDS TALKING TO KIDS ABOUT THE FACT THAT THEY SHOULDN' T

1 SMOKE, THAT IT'S NOT COOL TO SMOKE, AND THEY DON'T NEED TO  
2 DEFINE THEMSELVES BY SMOKING.

3 YES. THAT'S HOW WE GOT STARTED.

4 Q. WHY TELEVISION?

5 A. WELL, BECAUSE IT'S A MASS MEDIUM IT HAS BROAD  
6 REACH. AND IT WAS THE MOST EFFECTIVE WAY OF REACHING WHAT WE  
7 THEN HAD IDENTIFIED AS THE TARGET AUDIENCE OF 9 TO 14 YEARS  
8 OLD, THE TWEENS, WHICH IS THE AGE THAT KIDS SEEM MOST  
9 VULNERABLE TO MAKING THE DECISION AS TO WHETHER OR NOT TO  
10 SMOKE.

11 Q. 9-TO-14-YEAR-OLDS?

12 A. THAT'S CORRECT.

13 Q. AND THAT WAS THE ORIGINAL TARGET AUDIENCE?

14 A. THAT WAS THE ORIGINAL STARTING POINT OF THE  
15 TARGET AUDIENCE, YES.

16 Q. AND HOW DID YOU SETTLE ON 9 TO 14?

17 A. WELL, AGAIN, IN DOING THE RESEARCH ON THIS  
18 WHOLE AREA OF WHEN KIDS START THINKING ABOUT SMOKING AND  
19 TALKING TO PEOPLE, AS I MENTIONED BEFORE, AT THE CENTER FOR  
20 DISEASE CONTROL, OTHERS WHO WERE EXPERTS ABOUT KIDS AND KIDS'  
21 BEHAVIOR, THAT SEEMED TO BE THE AGE WHEN WE THOUGHT WE COULD  
22 INFLUENCE KIDS NOT TO SMOKE, THAT THEY PROBABLY HAD NOT YET  
23 STARTED. AND, THEREFORE, GETTING THE MESSAGE OUT TO THEM AT  
24 THAT POINT AND PREVENTING THEM FROM STARTING TO SMOKE WAS A  
25 GOOD STARTING POINT.

26 Q. HOW DID YOU GO ABOUT -- HOW DID PHILIP MORRIS  
27 GO ABOUT DEVELOPING THE ADS AND FIGURE OUT THEY MIGHT BE  
28 EFFECTIVE?

1           A.       WELL, WE DID FOCUS GROUPS WITH KIDS 9 TO 14  
2 YEARS OF AGE AS WE STARTED TO DEVELOP IDEAS. AND ALSO DID  
3 THEM WITH THEIR PARENTS. NO CHILD WAS INTERVIEWED WHOSE  
4 PARENT DIDN'T KNOW ABOUT IT AND GIVE PERMISSION. AND WE  
5 ALSO, THEN, IN A SEPARATE GROUP, SPOKE TO THE PARENTS TO GET  
6 THE IDEAS DEVELOPED. AND THOSE WERE SMALLER GROUPS.

7                       AND THEN ONCE WE HAD ADS, WE WENT OUT AND WE  
8 QUANTITATIVELY TESTED THEM WITH ABOUT 7,000 KIDS ACROSS THE  
9 COUNTRY IN VARIOUS MALLS AND ALSO WITH PARENTS TO SEE IF THE  
10 MESSAGE WAS EFFECTIVE, UNDERSTANDABLE, IMPACTIBLE.

11           Q.       WHEN YOU SAY YOU QUANTITATIVELY TESTED THE  
12 MESSAGES, DOES THAT MEAN THAT YOU WENT OUT AND ASKED KIDS --

13           A.       THAT'S RIGHT.

14           Q.       -- WHAT THEY TOOK FROM THE ADS?

15           A.       THAT'S CORRECT.

16           Q.       AND WHAT DID YOU FIND?

17           A.       WELL, WE FOUND THAT WITH MOST OF THE ADS, THEY  
18 SCORED IN THE HIGH 90'S THAT THEY WERE TAKING AWAY THE  
19 MESSAGE THAT THEY SHOULDN'T SMOKE. AND THAT THERE WAS A HIGH  
20 LIKABILITY, ACCEPTABILITY OF THE ADS. AND ANY CREATIVE THAT  
21 DIDN'T REGISTER UP IN THE HIGH 90 PERCENTAGE RANGE, WE DID  
22 NOT RUN.

23           Q.       NOW, I'M GOING TO SHOW A COUPLE OF THESE ADS  
24 THAT YOU'VE BROUGHT IN A COUPLE OF MINUTES. BUT BEFORE I DO,  
25 I HAVE A COUPLE OF QUESTIONS I WANT TO ASK ABOUT THEM

26                       YOU MENTIONED THAT THESE ARE ADS OF KIDS  
27 TALKING TO KIDS. I NOTICE THAT PHILIP MORRIS DIDN'T DEVELOP  
28 ADS WITH DISEASED LUNGS AND OTHER EXPLICIT MESSAGES ABOUT

1 HEALTH RISKS.

2 ANYTHING WRONG WITH THOSE MESSAGES?

3 A. NO. NOT AT ALL. IN FACT, THE CENTER FOR  
4 DISEASE CONTROL SAYS THAT IT TAKES A MULTITUDE OF DIFFERENT  
5 KIND OF MESSAGES TO REACH DIFFERENT KIDS AND THAT ONE SINGLE  
6 MESSAGE ALONE IS NOT GOING TO BE EFFECTIVE WITH ALL KIDS.

7 WE FELT THAT THIS WAS AN AREA WHERE WE CAN  
8 CONTRIBUTE. AND SO WE CHOSE THIS PATH. BUT WE ENCOURAGE ALL  
9 OF THE ADS THAT DEAL WITH THE ISSUE OF SMOKING TO BE RUN.

10 Q. SO IT'S NOT PHILIP MORRIS' POSITION THAT ITS  
11 ADS ARE THE ONLY APPROPRIATE ADS FOR KIDS TO SEE?

12 A. NOT AT ALL. NOT AT ALL.

13 Q. OKAY. THAT ITS MESSAGES ARE PART OF THE MIX?

14 A. THAT'S CORRECT.

15 Q. OKAY. NOW, WHEN PHILIP MORRIS DECIDED THAT IT  
16 WANTED TO PUT ON TELEVISION MESSAGES TO KIDS TELLING THEM NOT  
17 TO SMOKE, ISN'T IT TRUE THAT CIGARETTE ADVERTISING HASN'T  
18 BEEN ALLOWED ON TELEVISION FOR 30 YEARS?

19 A. THAT'S RIGHT. AND THIS IS NOT CIGARETTE  
20 ADVERTISING.

21 Q. WHAT DO YOU MEAN BY IT'S NOT CIGARETTE  
22 ADVERTISING?

23 A. WELL, IT DOESN'T ADVERTISE CIGARETTES. IT  
24 REALLY ENCOURAGES KIDS NOT TO SMOKE. THERE'S NO BRAND NAME  
25 IN ANY OF THESE ADS. IN FACT, WE DON'T EVEN SHOW CIGARETTES  
26 IN THE AD. IT'S REALLY ABOUT NOT SMOKING AND BUILDING  
27 PROTECTIVE FACTORS AND POSITIVE YOUTH DEVELOPMENT.

28 Q. NOW, WHEN PHILIP MORRIS WENT TO THE TV

1 NETWORKS, NBC, CBS, ABC, FOX, WHOEVER ELSE, AND SAID, HEY, WE  
2 WANT TO PUT SOME MESSAGES ON TELEVISION ABOUT YOUTH SMOKING,  
3 WHAT KIND OF REACTION DID THE COMPANY GET?

4 A. WELL, A FEW CHANNELS ACCEPTED IT RIGHT AWAY.  
5 OTHERS HAD SOME CONCERN, BECAUSE THEY WERE NOT SPONSORED BY  
6 PHILIP MORRIS, AND YOU CANNOT PUT ADVERTISING ON THE AIR  
7 WITHOUT IDENTIFYING WHO IS PAYING FOR THAT ADVERTISING. SO  
8 OUR NAME HAD TO BE PART OF IT.

9 AND THEY REVIEWED THE ADS, AND THEY CAME BACK  
10 TO US AND SAID THAT EVEN THOUGH THESE WERE NOT CIGARETTE ADS,  
11 THEY WANTED US TO PUT A HEALTH WARNING IN THE AD IN ORDER TO  
12 ACCEPT THEM AND WE READILY AGREED TO DO THAT. AND THEN  
13 THEY REVIEWED THE ADS AGAIN, AND THEY THOUGHT THEY WERE  
14 APPROPRIATE AND THAT WE HAD TO SHARE ALL OF OUR RESEARCH WITH  
15 THE NETWORKS.

16 IN FACT, WE SUBMITTED A BOOK ABOUT THIS THICK  
17 WITH ALL THE WORK WE HAD DONE IN DEVELOPING THE ADS AND ALL  
18 OF THE RESPONSES THAT WE'D GOTTEN AND WHAT THE TAKE AWAY WAS,  
19 AND AFTER REVIEWING ALL OF THE INFORMATION, EVERY NETWORK AND  
20 EVERYONE THAT WE WENT TO ACCEPTED THE ADVERTISING.

21 Q. SO AT THE END, AFTER REVIEWING THE RESEARCH,  
22 ALL THE NETWORKS DECIDED THAT IT WOULD BE APPROPRIATE TO RUN  
23 THESE ADS, DID PHILIP MORRIS PAY THE NETWORKS TO RUN THESE  
24 MESSAGES?

25 A. YES.

26 Q. NOW, I'M GOING TO SHOW A COUPLE OF THEM NOW  
27 WHEN DID THESE MESSAGES FIRST START RUNNING ON  
28 TELEVISION?

1 A. DECEMBER OF 1998.

2 Q. HOW DO YOU REMEMBER THAT?

3 A. WELL, IT WAS A BIG DAY AT PHILIP MORRIS. WE  
4 WERE VERY PROUD WHEN WE PUT THESE ADS ON THE AIR, AND WE HAD  
5 A GATHERING OF ALL THE PEOPLE WHO HAD WORKED ON DEVELOPING  
6 THE YOUTH SMOKING PREVENTION DEPARTMENT AND THE ADS AND THE  
7 PROGRAMS. AND WE WATCHED A LIVE BROADCAST OF THE FIRST AD  
8 BEING RUN AT OUR CORPORATE HEADQUARTERS.

9 Q. AND OVER TIME, HAS PHILIP MORRIS DEVELOPED  
10 ADDITIONAL MESSAGES TO BE RUN ON TELEVISION?

11 A. CONTINUALLY, IT'S AN ONGOING PROCESS. WE  
12 CONTINUALLY DEVELOP NEW MESSAGES. WE LEARN -- WE CONTINUE TO  
13 RESEARCH. WE LEARN WHAT'S WORKING, WHAT'S MORE EFFECTIVE,  
14 WHAT'S LESS EFFECTIVE, AND WE DEVELOP NEW ADS AS A RESULT OF  
15 THAT.

16 Q. YOU'VE SELECTED THREE OF THE ADS THAT ARE  
17 TARGETED TO THE 9-TO-14-YEAR-OLD CROWD, AND I'D LIKE TO PLAY  
18 THEM NOW. THEY'LL BE ON A VIDEOTAPE FOR THE CLERK WHICH  
19 WE'LL DESIGNATE A NUMBER FOR.

20 LET'S PLAY 3.4.

21  
22 (VIDEOTAPE BEING PLAYED.)

23  
24 MR. LEITER: I'LL SHOW THE SECOND ONE, WHICH IS 3.2.

25  
26 (VIDEOTAPE BEING PLAYED.)

27  
28 MR. LEITER: AND THE THIRD ONE FOR THE

1 9-TO-14-YEAR-OLD IS 3.1.

2

3 (VIDEOTAPE BEING PLAYED.)

4

5 Q. BY MR. LEITER: NOW, MS. MERLO, THOSE ARE  
6 EXAMPLES OF THE ANTI-YOUTH SMOKING MESSAGES THAT  
7 PHILIP MORRIS HAS BEEN RUNNING --

8 A. CORRECT.

9 Q. -- SINCE DECEMBER 1998?

10 A. THAT'S CORRECT.

11 Q. OKAY. NOW, I NOTICED THAT THE THIRD ONE WAS IN  
12 SPANISH.

13 A. RIGHT.

14 Q. CAN YOU EXPLAIN A LITTLE BIT MORE ABOUT  
15 DIFFERENT LANGUAGES THAT PHILIP MORRIS HAS DEVELOPED THESE  
16 ADS IN AND DIFFERENT AREAS WHERE THEY'VE RUN?

17 A. I JUST WANT TO ADD, IT DOES NOT RUN WITH THE  
18 ENGLISH SUBTITLES. THAT WAS JUST FOR THE DEMO.

19 Q. THAT WAS JUST FOR OUR PURPOSES OF THE DEMO?

20 A. YEAH.

21 WE BELIEVE WE NEED TO REACH ALL YOUTH, AND SO  
22 WE HAVE DEVELOPED COMMERCIALS IN SPANISH. WE HAVE ASIAN  
23 LANGUAGE COMMERCIALS. WE'VE DEVELOPED SOME COMMERCIALS FOR  
24 NATIVE AMERICANS, FOR BLACK AMERICANS. I MEAN, WE HAVE A  
25 BROAD RANGE OF COMMERCIALS THAT WE RUN AGAINST ALL AUDIENCES  
26 BECAUSE WE THINK ALL KIDS SHOULDN'T SMOKE.

27 Q. NOW, WE'VE PREPARED DEMONSTRATIVE -- IT'S  
28 NO. 78.

1 IF WE CAN PUT THAT UP, PLEASE.  
2 AND LET' S MARK IT 11, 034.

3  
4 (I. D. 11030 - DEMONSTRATIVE 24)

5  
6 Q. BY MR. LEITER: AND "MY REASONS," "MIND AND  
7 BODY," AND "FOLLOW THE LEADER. "

8 THOSE ARE THE THREE MESSAGES WE JUST SAW?

9 A. THAT' S CORRECT.

10 Q. AND ARE THESE REPRESENTATIVE TELEVISION SHOWS  
11 THAT SOME OF THOSE HAVE RUN IN --

12 A. YES.

13 Q. -- ONE OR MORE OF THEM HAVE RUN ON?

14 A. YES.

15 "MY REASONS" PREMIERED ON SUPERBOWL 2000 AND  
16 THEN RAN ON MANY OTHER SHOWS AS THE ONES THAT YOU' RE SHOWING  
17 HERE.

18 AND "MIND AND BODY" PREMIERED ON SUPERBOWL.

19 AND THEN THE OTHERS RUN ON SHOWS THAT APPEAL TO  
20 9-TO-14-YEAR-OLDS ACROSS THE BOARD.

21 Q. WHO PICKS THE SHOWS?

22 A. WELL, WE WORK WITH OUR AGENCY, AND THEY' RE  
23 CHOSEN BASED ON THEIR VIEWERSHIP, THE DEMOGRAPHICS OF THEIR  
24 VIEWERSHIP. AND WE PICK THE SHOWS BASED ON WHERE WE' RE GOING  
25 TO REACH THE LARGEST NUMBER OF 9-TO-14-YEAR-OLDS.

26 Q. WHY THE SUPERBOWL FOR 2000 AND FOR THIS YEAR' S  
27 SUPERBOWL?

28 A. WELL, EVEN THEY -- THAT' S A VERY MIXED

1 AUDIENCE. IT STILL REACHES PROBABLY THE LARGEST NUMBER OF  
2 YOUNG PEOPLE IN ANY ONE SHOW OF THE SEASON.

3 THE OTHER REASON IS THAT WE FELT THAT IT WAS A  
4 GOOD OPPORTUNITY, BECAUSE IT'S A FAMILY VIEWING SHOW, TO SHOW  
5 THE COMMERCIALS WHEN KIDS ARE WATCHING IT WITH THEIR PARENTS,  
6 BECAUSE MAYBE IT WILL TRIGGER DISCUSSION.

7 Q. SPEAKING OF PARENTS, DID PHILIP MORRIS ALSO  
8 DEVELOP ANTI-YOUTH SMOKING MESSAGES TARGETED AT PARENTS?

9 A. YES.

10 Q. AND WHAT WAS THE POINT -- WHAT WAS THE PURPOSE  
11 OF DOING THAT?

12 A. THE POINT WAS TO REALLY ENCOURAGE PARENTS TO  
13 TALK TO THEIR KIDS ABOUT NOT SMOKING. THAT RESEARCH SAYS  
14 THAT KIDS TEND TO LOOK UP TO THEIR PARENTS AND THAT IF THEIR  
15 PARENTS GET INVOLVED AND GIVE THEM ADVISE ON SOMETHING,  
16 THEY'RE MORE APT TO LISTEN.

17 Q. OKAY. DID YOU BRING A COUPLE OF EXAMPLES OF  
18 THE MESSAGES TARGETED TO PARENTS?

19 A. YES.

20 Q. LET'S SHOW -- THERE ARE TWO OF THOSE. THE  
21 FIRST ONE IS 3.5. PLAY THAT, PLEASE.

22

23 (VIDEOTAPE BEING PLAYED.)

24

25 MR. LEITER: THE SECOND ONE IS 3.3.

26

27 (VIDEOTAPE BEING PLAYED)

28 /

1 Q. BY MR. LEITER: LET'S TAKE A LOOK AT  
2 DEMONSTRATIVE 79. AND LET'S CALL THAT 11, 035.

3  
4 (I. D. 11035 - DEMONSTRATIVE 79)

5  
6 Q. BY MR. LEITER: NOW, "10 O'CLOCK" AND "MM  
7 TALKS" ARE THE TWO MESSAGES WE JUST SAW?

8 A. THAT'S RIGHT.

9 Q. THIS IS A SMALLER LIST, BUT IT'S REPRESENTATIVE  
10 OF SOME OF THE SHOWS THAT THOSE MESSAGES HAVE RUN ON?

11 A. TYPES OF SHOWS, THAT'S CORRECT.

12 Q. AND THOSE ARE TYPES OF SHOWS THAT --

13 A. THAT ADULTS WITH YOUNGER CHILDREN, TEENAGE  
14 CHILDREN, MIGHT BE WATCHING.

15 Q. NOW, YOU MENTIONED THAT PHILIP MORRIS HAS  
16 DEVOTED ABOUT OVER \$100 MILLION A YEAR TO THE YOUTH SMOKING  
17 PREVENTION DEPARTMENT.

18 OVER THE FIRST COUPLE OF YEARS, HOW MUCH OF  
19 THAT MONEY WAS DEVOTED TO RUNNING THESE ANTI-SMOKING MESSAGES  
20 ON TELEVISION?

21 A. WELL, INITIALLY, MOST OF THE BUDGET WENT  
22 TOWARDS ADVERTISING. FIRST YEAR OF LAUNCH, I WOULD SAY,  
23 75 TO \$80 MILLION OF THE BUDGET WENT TO ADVERTISING.

24 AS WE'VE DEVELOPED THE PROGRAM, WE'VE CHANGED  
25 THAT RATIO A LITTLE BIT TO START FUNDING SOME OF THE OTHER  
26 INITIATIVES THAT ARE PART OF THE PROGRAM AND SO NOW, I  
27 WOULD SAY, WE'RE PROBABLY SPENDING ABOUT 55 OR \$60 MILLION ON  
28 ADVERTISING, AND I'D SAY, 45, \$50 MILLION ON SOME OF THE

1 OTHER PARTS OF THE PROGRAM

2 Q. OKAY. I'M GOING TO TURN TO OTHER PARTS. A  
3 COUPLE OF QUESTIONS FIRST.

4 PHILIP MORRIS IS A VERY PROFITABLE COMPANY,  
5 ISN'T IT?

6 A. YES.

7 Q. AND IT'S BECOME EVEN MORE PROFITABLE OVER THE  
8 LAST FEW YEARS, CORRECT?

9 A. YES, IT HAS.

10 Q. WHY JUST 100 MILLION?

11 WHY NOT 500 MILLION?

12 WHY NOT 10 BILLION?

13 20 BILLION?

14 50 BILLION?

15 100 BILLION?

16 A. WHEN WE DEVELOPED THE PROGRAM, WE LOOKED INTO  
17 WHAT OTHER COMPANIES THAT WERE TRYING TO REACH THIS SEGMENT  
18 OF THE MARKET WERE SPENDING, LIKE ATARI, DISNEY, SOME OF THE  
19 MOVIE COMPANIES THAT WERE TRYING TO MARKET TO KIDS,  
20 ET CETERA. AND WE ESTABLISHED A BUDGET THAT WAS COMPARABLE,  
21 IF NOT SOMEWHAT HIGHER, THAN WHAT THEY WERE SPENDING.

22 THERE COMES A POINT WHEN YOU JUST CAN'T BUY  
23 ANYMORE BECAUSE YOU'VE SATURATED THE MARKET IN ADVERTISING.  
24 AND WE FELT THAT THE LEVEL OF BUDGET THAT WE'D ESTABLISHED  
25 WAS THE APPROPRIATE LEVEL TO EFFECTIVELY REACH THE TARGET  
26 AUDIENCE THAT WE'RE GOING AFTER, ESPECIALLY BASED ON WHAT  
27 THESE OTHER COMPANIES WERE SPENDING.

28 Q. SO THAT WAS THE AMOUNT OF MONEY THAT IT WOULD

1 TAKE TO REACH THE AUDIENCE THAT YOU WERE TRYING TO REACH?

2 A. THAT -- YES.

3 Q. OKAY. NOW, YOU MENTIONED, ALSO, JUST A MINUTE  
4 AGO THAT MORE RECENTLY PHILIP MORRIS IS SPENDING A LITTLE  
5 LESS ON TELEVISION MESSAGES AND MORE ON OTHER PARTS OF THE  
6 PROGRAM

7 WHY IS THAT?

8 A. WELL, I DON'T THINK WE OR ANYONE ELSE BELIEVES  
9 THAT ADVERTISING ALONE IS GOING TO GET KIDS NOT TO SMOKE.  
10 WHAT THE ADVERTISING DOES IS RAISE AWARENESS OF THE ISSUE.  
11 HOPEFULLY, CREATES AN ENVIRONMENT WHERE THERE'S DISCUSSION  
12 ABOUT THE ISSUE WITH PARENTS, WITH KIDS, KIDS GET SOME  
13 REINFORCEMENT.

14 BUT UNLESS YOU DO SOME OF THE OTHER THINGS,  
15 LIKE SCHOOL-BASED PROGRAMS, LIKE COMMUNITY-ACTION PROGRAMS,  
16 ACCESS PREVENTION, AND REALLY BUILD A TOTAL KIND OF HOLISTIC  
17 PROGRAM THAT SURROUNDS THE KID WITH THE RIGHT MESSAGES, I  
18 DON'T BELIEVE, AND I KNOW THAT MANY OF THE EXPERTS IN THE  
19 AREA DON'T BELIEVE THAT YOU CAN HAVE AN IMPACT IN CHANGING  
20 BEHAVIOR.

21 Q. SO TO SUM UP, PHILIP MORRIS IS STILL DEVOTING  
22 CONSIDERABLE MONEY TO MESSAGES TO RUN ON TELEVISION, RIGHT?

23 A. YES.

24 Q. AND IT CONTINUES TO DEVELOP NEW COMMERCIALS,  
25 NEW MESSAGES?

26 A. THAT'S CORRECT.

27 Q. OKAY.

28 A. WE'RE STILL -- OUR ADVERTISING, BASED ON OUR

1 LIST MEASURES, IS STILL REACHING WELL OVER 90 PERCENT OF THE  
2 TARGET AUDIENCE.

3 Q. BUT THE MESSAGES ARE JUST PART OF AN  
4 ALL-ENCOMPASSING PROGRAM THAT THE YOUTH SMOKING DEPARTMENT  
5 HAS BEEN WORKING ON, CORRECT?

6 A. THAT'S CORRECT.

7 Q. OKAY. BEFORE WE LEAVE THE MESSAGES THAT WE'VE  
8 BEEN TALKING ABOUT, LET'S TAKE A LOOK AT DEMONSTRATIVE 54,  
9 AND LET'S MARK THAT AS 11,036, I BELIEVE.

10

11 (I. D. 11036 - DEMONSTRATIVE 54)

12

13 Q. BY MR. LEITER: "OTHER MEDIA OUTLETS FOR  
14 PHILIP MORRIS YOUTH SMOKING PREVENTION ADS."  
15 WHAT IS THIS ALL ABOUT?

16 A. WELL, WHILE TELEVISION IS A MASS MEDIA THAT  
17 EFFECTIVELY REACHES THE AUDIENCE, MANY OF THESE KIDS HAVE  
18 OTHER INTERESTS. THEY GO TO VIDEO STORES. THEY GO TO  
19 MOVIES. THE CHANNEL ONE IS AN IN-SCHOOL CHANNEL. THEM  
20 PARK, ET CETERA.

21 WE FELT THAT HAVING THE ADS RUN IN VENUES WHERE  
22 KIDS GO TO ENJOY THEMSELVES AND TO DELIVER THAT "DON'T SMOKE"  
23 MESSAGE WHEN THEY'RE WITH FRIENDS AND PEERS WOULD BE AN  
24 EFFECTIVE WAY OF GETTING THE MESSAGES ACROSS.

25 Q. SO THEY MIGHT BE DISPLAYED ON THE VIDEO SCREENS  
26 AT BLOCKBUSTER VIDEO, FOR EXAMPLE?

27 A. THAT'S RIGHT.

28 Q. NOW, WHEN WE GO TO THE MOVIES, WE SEE

1 COMMERCIAL MESSAGES SOMETIMES BEFORE THE MOVIE STARTS, AND  
2 ONE OF THE MESSAGES MIGHT BE ONE OF THE ADS THAT WE'VE JUST  
3 LOOKED AT?

4 A. AT APPROPRIATE FILMS THAT ATTRACT THAT  
5 AUDIENCE, YES, WE WOULD RUN THOSE ADS.

6 Q. OKAY. IF EVERYBODY COULD AGREE NOT TO RUN  
7 COMMERCIAL MESSAGES BEFORE MOVIES, WOULD PHILIP MORRIS AGREE,  
8 TOO?

9 A. I DON'T KNOW THAT WE WOULD, BECAUSE IT'S AN  
10 EFFECTIVE WAY TO GET THAT DON'T SMOKE MESSAGE OUT.

11 Q. I'M NOT A FAN OF THOSE MESSAGES -- NOT THE  
12 MESSAGES THAT RUN BEFORE A MOVIE.

13 OKAY. IN-STORE SPORTS NET, CHANNEL ONE, WHAT  
14 ARE THOSE?

15 A. AGAIN, THEY'RE -- IN-STORE SPORTS NET IS IN  
16 SOME OF THE SPORTING GOODS STORES AROUND THE COUNTRY WHERE  
17 THEY RUN VIDEOS, AND KIDS GO AND SPEND TIME, SO WE ALSO HAVE  
18 OUR COMMERCIALS AS PART OF THE MIX.

19 Q. OKAY. NOW, LET'S GO BACK TO DEMONSTRATIVE 38,  
20 WHICH IS 11, 033.

21 YOU MENTIONED THE COMMUNICATION WHICH IS WHAT  
22 WE'VE BEEN TALKING ABOUT AS PART OF THIS FOUR-PART PROGRAM TO  
23 ACTIVELY DISCOURAGE SMOKING AMONG YOUTH.

24 WHAT'S THE SECOND BULLET POINT,  
25 EDUCATION/SCHOOLS?

26 A. IN SCHOOL CURRICULA THAT DEALS WITH THE ISSUE  
27 OF SMOKING EDUCATION.

28 Q. AND TELL US A LITTLE BIT MORE ABOUT WHAT THAT

1 PROGRAM IS AND HOW IT WAS DEVELOPED AND WHAT IT IS DESIGNED  
2 TO ACCOMPLISH?

3 A. OKAY. IT'S CALLED LIFE SKILLS TRAINING. AND  
4 IT'S A PROGRAM THAT WAS DEVELOPED BY A PROFESSOR AT STANFORD  
5 UNIVERSITY AND HAS ACTUALLY BEEN IN EXISTENCE FOR QUITE SOME  
6 TIME.

7 AND IT WAS ONE OF TWO PROGRAMS THAT WAS  
8 EVALUATED BY THE CENTERS FOR DISEASE CONTROL AS BEING AN  
9 IN-SCHOOL CURRICULA THAT WAS EFFECTIVE IN PREVENTING KIDS  
10 NOT ONLY FROM SMOKING, BUT FROM TAKING DRUGS, FROM ALL RISKY  
11 BEHAVIORS.

12 IT'S A THREE-YEAR PROGRAM THAT GOES INTO THE  
13 SCHOOLS STARTING IN THE SIXTH GRADE, AND THEN IS IN THE  
14 CURRICULA FOR THREE YEARS. THE ISSUE FOR LIFE SKILLS  
15 TRAINING WAS THAT IT WAS NOT BROADLY FUNDED, AND SO WE  
16 IDENTIFIED IT AS AN AREA WHERE WE COULD PROVIDE FUNDS TO  
17 VARIOUS SCHOOLS SO THAT THEY COULD TRAIN TEACHERS AND BRING  
18 THE CURRICULA IN AND TEACH IT.

19 Q. SO LIFE SKILLS TRAINING IS A PROGRAM THAT HAD  
20 BEEN ALREADY DEVELOPED; NOT DEVELOPED BY PHILIP MORRIS?

21 A. WE HAD NOTHING TO DO WITH THE PROGRAM AT ALL  
22 EXCEPT TO PROVIDE FUNDING FOR IT TO BE IMPLEMENTED IN  
23 SCHOOLS.

24 Q. AND PHILIP MORRIS IS CURRENTLY PARTICIPATING IN  
25 FUNDING LIFE SKILLS TRAINING IN SCHOOLS IN CERTAIN STATES?

26 A. THAT'S CORRECT.

27 Q. AND DO YOU KNOW WHICH STATES IT IS RIGHT NOW?

28 A. IT'S QUITE A FEW DIFFERENT STATES.

1 WEST VIRGINIA IS ONE STATE WHERE EVERY SIXTH  
2 GRADER IN WEST VIRGINIA IS BEING PROVIDED WITH LIFE SKILLS.  
3 I THINK NOW IT'S ALSO SIXTH, SEVENTH GRADE, BECAUSE IT'S IN  
4 THE SECOND YEAR. BUT IT'S IN CITIES ACROSS THE COUNTRY IN  
5 MANY DIFFERENT STATES, BUT THAT'S THE ONLY STATE WHERE EVERY  
6 SCHOOL CHILD IS GETTING IT.

7 Q. AND ABOUT HOW MANY STUDENTS WILL GET A LIFE  
8 SKILLS TRAINING PROGRAM BECAUSE OF THE FUNDING PROVIDED BY  
9 PHILIP MORRIS?

10 A. IT'S SEVERAL HUNDRED THOUSAND. I DON'T KNOW  
11 THE EXACT NUMBER, BUT IT'S QUITE A FEW. I MEAN, WE'VE  
12 PROVIDED -- WE AND BROWN AND WILLIAMSON TOBACCO COMPANY HAVE  
13 COOPERATED ON FUNDING FOR THIS PROGRAM, AND WE KEEP ADDING  
14 SCHOOLS AND NUMBER OF KIDS ON AN ONGOING BASIS.

15 Q. OKAY.

16 A. BUT IT'S QUITE A LARGE, SIGNIFICANT NUMBER.

17 Q. ALL RIGHT. NOW, YOU MENTIONED THAT THE CDC HAD  
18 DONE AN EVALUATION OF LIFE SKILLS TRAINING; IS THAT CORRECT?

19 A. THAT'S CORRECT.

20 Q. WHAT IS THE CDC?

21 A. CENTERS FOR DISEASE CONTROL.

22 Q. AND THAT'S PART OF THE FEDERAL GOVERNMENT?

23 A. YES.

24 Q. OKAY. LET'S TAKE A LOOK AT DEMONSTRATIVE 57,  
25 WHICH WOULD BE 11, 036.

26 THE CLERK: -37.

27 MR. LEITER: I'M SORRY. -37.

28 /

1 (I. D. 11036 - DEMONSTRATIVE 37)

2

3 Q. BY MR. LEITER: WHAT IS THAT?

4 A. THAT IS THE CDC'S EVALUATION OF THE LIFE SKILLS  
5 TRAINING PROGRAM

6 Q. AND I THINK WE'VE GOT A SECOND SLIDE, WHICH IS  
7 NO. 58. LET'S CALL THAT 11,038.

8

9 (I. D. 11038 - DEMONSTRATIVE 58)

10

11 Q. BY MR. LEITER: WHICH HAS A HIGHLIGHTED SECTION  
12 WHICH READS (READING):

13

14 "TWELVE MAJOR EVALUATION  
15 STUDIES HAVE BEEN CONDUCTED WITH A VARIETY OF  
16 PROVIDERS AND POPULATIONS TO TEST THE  
17 EFFECTIVENESS OF LIFE SKILLS TRAINING.  
18 FINDINGS FROM THESE STUDIES INDICATE THAT LST  
19 CAN REDUCE SMOKED TOBACCO USE BY UP TO  
20 87 PERCENT AND USE OF ALCOHOL AND OTHER DRUGS  
21 BY UP TO 80 PERCENT. "

22

23 WAS THE CDC'S EVALUATION ONE OF THE REASONS  
24 THAT PHILIP MORRIS THROUGH THE YOUTH SMOKING PREVENTION  
25 DEPARTMENT DECIDED TO FUND THIS PROGRAM?

26 A. THAT'S CORRECT.

27 Q. DOES PHILIP MORRIS IN ANY WAY CONTROL THE  
28 CONTENT OF THE PROGRAM?

1           A.     NO, NOT AT ALL.

2           Q.     DO THE KIDS AND TEENAGERS WHO ARE RECEIVING THE  
3 PROGRAM AS A RESULT OF PHILIP MORRIS' AND  
4 BROWN AND WILLIAMSON'S FUNDING, DO THEY KNOW THEY'RE GETTING  
5 THE FUNDING BECAUSE THE TOBACCO COMPANIES HAVE FUNDED IT?

6           A.     NO, THEY DON'T.

7           Q.     LET'S GO BACK TO -- LET ME GET THE RIGHT  
8 NUMBER -- NO. 38, WHICH IS 11,033. AND I SEE THE THIRD  
9 BULLET POINT IS COMMUNITY INVOLVEMENT.

10                   WHAT IS THAT?

11           A.     COMMUNITY INVOLVEMENT IS -- LIFE SKILLS  
12 TRAINING IS IN SCHOOL. COMMUNITY INVOLVEMENT IS AFTER  
13 SCHOOL. HOW DO YOU BUILD PROTECTIVE FACTORS IN KIDS BY  
14 PROVIDING THEM WITH AN ENVIRONMENT THAT'S POSITIVE, CREATES  
15 POSITIVE YOUTH DEVELOPMENT, ET CETERA.

16                   SO WE HAVE, AGAIN, FUNDED ORGANIZATIONS THAT  
17 HAVE A PROVEN TRACK RECORD IN PROVIDING SERVICES, POSITIVE  
18 YOUTH DEVELOPMENT SERVICES TO KIDS IN A BROAD RANGE OF  
19 COMMUNITIES.

20           Q.     NOW, WHY WOULD COMMUNITY INVOLVEMENT BE PART OF  
21 A COMPREHENSIVE STRATEGY TO DISCOURAGE YOUTH SMOKING?

22           A.     WELL, AGAIN, IT'S KIND OF TRYING TO SURROUND  
23 THE CHILD WITH POSITIVE MESSAGES. ONE, COMMUNICATING FIRST  
24 ABOUT NOT SMOKING; TWO, HAVING CURRICULA IN SCHOOL THAT DEALS  
25 WITH IT WHEN THEY'RE GOING TO SCHOOL; AND THEN THREE, WHEN  
26 THEY COME OUT OF SCHOOL, HAVING PROGRAMS THAT, AGAIN, HELP  
27 BUILD THOSE POSITIVE YOUTH DEVELOPMENT FACTORS, THOSE  
28 PROTECTIVE FACTORS TO HELP KIDS MAKE GOOD DECISIONS.

1 Q. WHAT ARE SOME OF THE ORGANIZATIONS THAT HAVE  
2 BEEN PROVIDED WITH FUNDING AS A RESULT OF THIS PROJECT OF THE  
3 YSP PROGRAM?

4 A. THE 4-H BOYS AND GIRLS CLUBS, AND THEN A WIDE  
5 VARIETY OF LOCAL ORGANIZATIONS IN VARIOUS COMMUNITIES.

6 IN NEW YORK, FOR INSTANCE, WE'RE WORKING WITH  
7 CHESS IN THE SCHOOLS TO TEACH KIDS CHESS. AND IT'S GOTTEN A  
8 LOT OF PUBLICITY ABOUT HOW IT'S ESPECIALLY WORKED IN SOME OF  
9 THE INNER CITY AREAS TO BUILD PROTECTIVE FACTORS IN KIDS.

10 AND ORGANIZATIONS LIKE THAT ALL ACROSS THE  
11 COUNTRY THAT HAVE GOOD AFTER-SCHOOL PROGRAMS THAT HAVE A  
12 PROVEN TRACK RECORD, WE HAVE TRIED TO PROVIDE FUNDS TO.

13 Q. DO YOU RECALL ABOUT HOW MUCH MONEY  
14 PHILIP MORRIS IS PROVIDING TO, SAY, THE 4-H CLUB?

15 A. THE 4-H CLUB GOT AN INITIAL GRANT OF \$4.2  
16 MILLION, AND THEY DEVELOPED A PROGRAM CALLED HEALTH ROCKS  
17 BASED ON THAT FUNDING THAT THEY'RE IMPLEMENTING AROUND THE  
18 COUNTRY.

19 Q. AND WHAT IS THE 4-H CLUB, IN CASE ANYBODY  
20 DOESN'T KNOW?

21 A. 4-H CLUB IS AN ORGANIZATION THAT HAS BEEN IN  
22 EXISTENCE FOR MANY YEARS THAT STARTED, I BELIEVE, IN RURAL  
23 AMERICA THAT BUILT PROTECTIVE FACTORS IN KIDS THAT CAME OUT  
24 OF THE FARM BELT AND THOSE AREAS. BUT NOW, IT'S A BROAD  
25 NATIONAL ORGANIZATION THAT JUST DEVOTES ITSELF TO HELPING  
26 KIDS BECOME BETTER ADULTS, TO MAKE GOOD DECISIONS, ET CETERA.

27 Q. HOW MUCH MONEY HAS PHILIP MORRIS GRANTED TO THE  
28 BOYS AND GIRLS CLUBS?

1           A.       THE BOYS AND GIRLS CLUBS, I THINK NOW WE' RE  
2 ABOUT UP TO THE SAME NOW ABOUT \$4 MILLION. IT STARTED WITH  
3 A GRANT OF 2 POINT SOMETHING, BUT WE' VE MADE GRANTS TO MORE  
4 CHAPTERS OF BOYS AND GIRLS CLUBS ACROSS THE COUNTRY.  
5 SO . . .

6           Q.       NOW, IS IT FAIR TO SAY THAT -- YOU MENTIONED  
7 SOME OF THESE HAVE GOTTEN A FAIR AMOUNT OF PUBLICITY, YES?

8           A.       YES. THEY' VE GOTTEN SOME PUBLICITY.

9           Q.       OKAY. IS IT FAIR TO SAY THAT THERE ARE PEOPLE  
10 IN OUR SOCIETY WHO, AS SOON AS THEY HEAR THE WORDS  
11 PHILIP MORRIS AND KIDS PROGRAMS IN THE SAME SENTENCE ARE  
12 GOING TO REACT WITH SKEPTICISM, FEAR, HORROR?

13          A.       YES. AND I JUST WANT TO ADD, WE HAVE NOT  
14 SOUGHT PUBLICITY FROM ANY OF THESE PROGRAMS.

15          Q.       OKAY.

16          A.       BUT THEY HAVE GENERATED PUBLICITY --

17          Q.       OKAY.

18          A.       -- BECAUSE WE' VE MADE GRANTS TO THEM

19          Q.       AND THE QUESTION THAT I WAS JUST TURNING TO  
20 WAS: IS IT FAIR TO SAY THAT THERE ARE SOME PEOPLE IN SOCIETY  
21 WHO REACT -- PICK YOUR WORD -- NERVOUSLY, SKEPTICALLY,  
22 WHATEVER, WHEN THEY HEAR THE WORD PHILIP MORRIS TOBACCO  
23 COMPANY IS PROVIDING FUNDING TO KIDS ORGANIZATIONS?

24          A.       ALL OF THE ABOVE. YES.

25          Q.       CAN YOU DESCRIBE A LITTLE BIT ABOUT SOME OF THE  
26 CONTROVERSY OR SOME OF THE SKEPTICISM THAT YOU' VE HEARD ABOUT  
27 AND WHAT PHILIP MORRIS HAS TRIED TO DO ABOUT IT?

28          A.       WELL, THE 4-H CLUB IS A GOOD EXAMPLE. WHEN

1 WORD CAME OUT THAT WE WERE PROVIDING FUNDING FOR THEM TO  
2 CREATE A PROGRAM TO DEAL WITH YOUTH SMOKING PREVENTION,  
3 SEVERAL ORGANIZATIONS, MOST NOTABLY, CENTER FOR TOBACCO FREE  
4 KIDS, PUT A LOT OF PRESSURE ON THE DIRECTOR OF 4-H NOT TO  
5 ACCEPT THE GRANT AND FELT THAT THE GRANT WOULD HELP US  
6 ACHIEVE CREDIBILITY AND, THEREFORE, THEY SHOULDN'T TAKE MONEY  
7 FROM US.

8 THE HEAD OF THE 4-H AT THE TIME CAME TO  
9 PHILIP MORRIS AND MET WITH MIKE SZYMANCZYK AND MET WITH  
10 CAROLYN LEVY AND TALKED IT THROUGH, AND AFTER THAT MEETING,  
11 WAS CONVINCED OF OUR SINCERITY AND OUR COMMITMENT AND  
12 BELIEVED THAT WE WOULD ALLOW THEM TO GO OFF AND CREATE THE  
13 PROGRAM THAT THEY THOUGHT WAS APPROPRIATE TO DEAL WITH THIS  
14 ISSUE. AND HE RESISTED THAT PRESSURE AND ACCEPTED THE GRANT.

15 Q. NOW, I WANT TO MOVE -- SPEAKING OF CONTROVERSY,  
16 I WANT TO MOVE TO ACCESS PREVENTION IN JUST A MINUTE. BUT  
17 BEFORE I DO.

18 HAS PART OF THE YOUTH SMOKING PREVENTION  
19 PROGRAM BEEN RECENTLY INCLUDED THE BOOK COVERS?

20 A. YES.

21 Q. THE JURY HEARD A LITTLE BIT ABOUT THE BOOK  
22 COVERS THIS MORNING.

23 CAN YOU FIRST TELL US WHAT THE BOOK COVERS  
24 WERE, WHAT THEY WERE DESIGNED TO DO AND WHAT HAPPENED?

25 A. OKAY. THE BOOK COVERS WERE DESIGNED TO, AGAIN,  
26 COMMUNICATE THE THINK DON'T SMOKE MESSAGE TO SCHOOL KIDS.  
27 EVERY SCHOOL NOW -- OR MOST SCHOOLS, I SHOULD SAY -- REQUIRE  
28 THAT KIDS COVER THEIR BOOKS. AND A LOT OF PEOPLE -- SOME

1 THAT PROVIDE COMMERCIAL PRODUCTS -- PROVIDE KIDS WITH BOOK  
2 COVERS, AND WE THOUGHT IT WAS AN EFFECTIVE WAY FOR US TO GET  
3 THE THINK DON'T SMOKE MESSAGE INTO SCHOOLS. WE TESTED THE  
4 BOOK COVERS.

5 Q. WHAT DO YOU MEAN BY YOU TESTED THEM?

6 A. WELL, WE SHOWED THEM TO KIDS TO SEE WHETHER OR  
7 NOT, AGAIN, THE THINK DON'T SMOKE MESSAGE WAS BEING  
8 EFFECTIVELY COMMUNICATED, WHETHER THEY GOT IT, WHETHER THEY  
9 WOULD USE THE BOOK COVER, DID THEY THINK THE GRAPHICS WERE  
10 ATTENTION GETTING, NEAT, AND WOULD THEY CARRY SOMETHING  
11 AROUND THAT COMMUNICATED THIS MESSAGE. AND THE TESTING, LIKE  
12 WITH OUR ADS, WAS VERY POSITIVE.

13 Q. SO PHILIP MORRIS SENT THEM OUT?

14 A. WELL --

15 Q. I'M SORRY. I INTERRUPTED YOU. GO AHEAD.

16 A. YES, WE DID. WE ACTUALLY DIDN'T SEND THEM OUT  
17 DIRECTLY. WE HIRED A COMPANY CALLED COVER CONCEPTS.

18 Q. UH-HUH.

19 A. WHO ACTUALLY PROVIDES BOOK COVERS FOR MANY  
20 DIFFERENT COMPANIES TO SCHOOLS TO SEND OUR BOOK COVERS AS  
21 WELL.

22 Q. OKAY. NOW, BEFORE WE GET TO WHAT HAPPENED, LET  
23 ME STOP YOU THERE.

24 HOW MANY BOOK COVERS DID PHILIP MORRIS SEND  
25 OUT?

26 A. HUNDREDS OF THOUSANDS. A LOT. I DON'T KNOW  
27 THE EXACT NUMBER, BUT IT WAS QUITE A FEW ACROSS THE COUNTRY.

28 Q. WERE THEY INTENDED TO SEND A SUBLIMINAL MESSAGE

1 ENCOURAGING PEOPLE TO SMOKE?

2 A. ABSOLUTELY NOT. ABSOLUTELY NOT. THEY WERE  
3 INTENDED TO BE AN EXTENSION OF OUR YOUTH SMOKING PREVENTION  
4 CAMPAIGN. THEY WERE AN EFFORT FOR US TO COMMUNICATE DIRECTLY  
5 WITH KIDS THE DON'T SMOKE MESSAGE.

6 Q. WHEN WERE THEY SENT OUT?

7 A. SOMEWHAT OVER A YEAR AGO.

8 Q. IS IT FAIR TO SAY THAT OVER THE LAST COUPLE OF  
9 YEARS, PHILIP MORRIS HAS BEEN SOMEWHAT IN THE SPOTLIGHT --

10 A. YES.

11 Q. -- AND THAT ACCUSATIONS ABOUT PHILIP MORRIS  
12 HAVE BEEN SOMEWHAT IN THE SPOTLIGHT?

13 A. YES.

14 Q. AND THAT ONE OF THE ACCUSATIONS THAT'S BEEN IN  
15 THE SPOTLIGHT FOR SEVERAL YEARS HAS BEEN THE ACCUSATION THAT  
16 PHILIP MORRIS WAS TARGETING KIDS?

17 A. YES.

18 Q. ONE OF THE ACCUSATIONS THAT WAS OUT THERE?

19 A. THAT WAS ONE OF THE ACCUSATIONS, YES.

20 Q. WITH THE SPOTLIGHT ON IT, ON YOUTH SMOKING, WAS  
21 PHILIP MORRIS TRYING TO BE REAL CLEVER AND SEND OUT SUBTLE  
22 MESSAGES TO KIDS BY SENDING OUT HUNDREDS OF THOUSANDS OF BOOK  
23 COVERS SAYING, HEY, KIDS, LET'S GO SMOKE?

24 A. NO, ABSOLUTELY NOT.

25 Q. SO WHAT HAPPENED AFTER THEY WENT OUT?

26 A. WELL, TWO THINGS HAPPENED. SOME SCHOOLS  
27 OBJECTED TO IT AND SOME STATES' ATTORNEYS GENERAL OBJECTED TO  
28 IT.

1 Q. AND WHAT WAS THE OBJECTION?

2 A. THE OBJECTION WAS, I THINK, THAT THE FIRST --  
3 THE FIRST THAT WE HEARD WAS FROM THE STATE OF RHODE ISLAND,  
4 AND THE ATTORNEY GENERAL THERE FELT THAT THERE WAS A  
5 SUBLIMINAL MESSAGE IN THE BOOK COVERS. ONE WAS A GRAPHIC OF  
6 A GUY ON A SNOWBOARD, AND HE SAID THAT THE SNOWBOARD REALLY  
7 WAS A CIGARETTE AND THAT WE WERE SENDING THE MESSAGE  
8 SUBLIMINALLY THAT KIDS SHOULD SMOKE. AND THAT'S KIND OF  
9 WHERE THE CONTROVERSY STARTED.

10 WE IMMEDIATELY SHARED OUR INFORMATION WITH THAT  
11 ATTORNEY GENERAL ABOUT --

12 Q. WHAT DO YOU MEAN YOU SHARED THE INFORMATION?  
13 WHAT INFORMATION?

14 A. OUR RESEARCH, OUR FINDINGS, THE FEEDBACK THAT  
15 WE HAD GOTTEN. BUT AS A RESULT OF THE PROTEST, WE  
16 IMMEDIATELY WROTE A LETTER TO EVERY SCHOOL THAT HAD RECEIVED  
17 THE BOOK COVERS MAKING THEM AWARE OF THE CONTROVERSY AND  
18 TELLING THEM THAT IF THEY HAD ANY SECOND THOUGHTS ABOUT THE  
19 BOOK COVER, OR IF THE CONTROVERSY, IN FACT, WERE HAVING THE  
20 EFFECT OF BRINGING ATTENTION TO THE FACT THAT THESE WERE  
21 PHILIP MORRIS BOOK COVERS AND HAVING THE WRONG IMPACT ON THE  
22 KIDS, WE ENCOURAGED THEM TO DESTROY THE BOOK COVERS.

23 Q. AND DID A LOT OF THE BOOK COVERS GET DESTROYED?

24 A. I WOULD HAVE TO ASSUME THAT SOME OF THEM DID.  
25 ALTHOUGH, AT THE SAME TIME, WE RECEIVED LETTERS BACK FROM  
26 MANY SCHOOLS SAYING THAT THEY WERE USING THE BOOK COVERS.  
27 THAT THEY LOVED THE BOOK COVERS, AND THEY THANKED US FOR  
28 THEM SO IT WAS KIND OF A MIXED BAG. SOME PEOPLE RESENTED

1 THEM SOME PEOPLE LIKED THEM

2 Q. PHILIP MORRIS WAS TRYING TO DO SOMETHING  
3 POSITIVE?

4 A. WE WERE.

5 Q. AND SOME PEOPLE REACTED NEGATIVELY?

6 A. THEY DID. THEY DID.

7 Q. AND WHAT DOES THAT MEAN FOR THE YSP PROGRAM?

8 A. WELL, THE YSP PROGRAM WILL CONTINUE TO PURSUE  
9 ITS GOAL OF PLAYING A SIGNIFICANT ROLE IN REDUCING THE  
10 INCIDENCE OF YOUTH SMOKING.

11 BUT I THINK, AS I TOLD YOU, ONE OF THE THINGS  
12 THAT WE'RE REALLY TRYING TO DO THAT MAYBE WE DIDN'T DO IN THE  
13 PAST IS LISTEN. AND THE FACT IS THAT THESE BOOK COVERS DID  
14 CREATE CONTROVERSY, WHETHER THAT WAS OUR INTENTION OR NOT.  
15 AND BEFORE WE WOULD REPEAT THAT, WE CERTAINLY WOULD THINK  
16 LONG AND HARD, BECAUSE MAYBE PEOPLE ARE NOT YET READY FOR US  
17 TO SUPPLY SOMETHING LIKE A BOOK COVER.

18 BUT WE'RE GOING TO CONTINUE SUPPORTING LIFE  
19 SKILLS TRAINING. WE'RE GOING TO CONTINUE TO CREATE -- TO  
20 SUPPORT COMMUNITY-BASED PROGRAMS. AND WE'RE GOING TO  
21 CONTINUE TO RUN OUR ADVERTISING, BECAUSE WE BELIEVE THAT WE  
22 ARE HAVING SOME IMPACT.

23 Q. SO WHEN WE'RE TALKING ABOUT CHANGES THAT  
24 PHILIP MORRIS IS UNDERTAKING FROM THE WAY IT RAN ITS BUSINESS  
25 15, 20 YEARS AGO. SIMPLY HAVING THIS PROGRAM IS A CHANGE,  
26 RIGHT?

27 A. YES.

28 Q. AND SIMPLY HAVING AFFIRMATIVE PROGRAMS TO

1 DISCOURAGE YOUTH SMOKING IS A CHANGE, RIGHT?

2 A. YES, IT IS.

3 Q. AND HOW PHILIP MORRIS RESPONDED WHEN IT WAS  
4 CRITICIZED OVER THE BOOK COVERS IS DIFFERENT FROM THE WAY THE  
5 COMPANY MIGHT HAVE RESPONDED TO CONTROVERSY 20 YEARS AGO?

6 A. I BELIEVE IT IS, YES.

7 Q. I WANT TO TURN TO THE FOURTH BULLET POINT,  
8 WHICH IS ACCESS PREVENTION. AND I WANT TO SPEND A LITTLE BIT  
9 OF TIME ON IT.

10 THE FIRST QUESTION IS, WHAT IS ACCESS  
11 PREVENTION?

12 A. ACCESS PREVENTION IS TRYING TO INSURE THAT KIDS  
13 CAN'T GET CIGARETTES. THAT THEY CAN'T BUY THEM THAT THEY  
14 CAN'T GET THEM FROM OLDER SIBLINGS. THAT THEY CAN'T GET THEM  
15 INADVERTENTLY THROUGH THE MAIL. THAT THEY JUST CAN'T GET  
16 THEM BECAUSE OUR FEELING IS, IF YOU CAN'T GET THEM, YOU  
17 CAN'T SMOKE THEM

18 Q. NOW, ACCESS PREVENTION IS PART OF THE YOUTH  
19 SMOKING PREVENTION DEPARTMENT THAT WAS ESTABLISHED IN 1990 --

20 A. -8.

21 Q. OKAY. BUT PHILIP MORRIS' ACCESS PREVENTION --

22 A. PREDATE THAT.

23 Q. -- STARTED BEFORE THAT, RIGHT?

24 A. THAT'S CORRECT.

25 Q. WHAT I'D LIKE TO DO IS PUT UP DEMONSTRATIVE 67,  
26 AND WE CAN CALL THAT 11, 039.

27

28 (I. D. 11039 - DEMONSTRATIVE 67)

1 Q. BY MR. LEITER: A LOT OF WORDS ON THAT  
2 DEMONSTRATIVE.

3 ARE THESE BULLET POINTS REPRESENTATIVE OF SOME  
4 OF THE PROGRAMS OR EFFORTS THAT PHILIP MORRIS HAS MADE TO  
5 PREVENT UNDERAGE PEOPLE FROM GETTING ACCESS TO CIGARETTES?

6 A. YES.

7 Q. AND SOME OF THOSE PREDATE 1998; IS THAT RIGHT?

8 A. THEY DO.

9 Q. WHAT I'D LIKE YOU TO DO, IF YOU DON'T MIND, IS  
10 TO GO DOWN EACH BULLET POINT AND JUST SPEND A MINUTE OR TWO  
11 EXPLAINING TO THE JURY WHAT THAT IS, WHAT THE PROGRAM IS, AND  
12 HOW IT WORKS.

13 A. OKAY. WELL, PUNISHING RETAILERS OF OUR  
14 PRODUCTS WHO ARE FINED OR CONVICTED OF SELLING CIGARETTES TO  
15 MINORS.

16 AS I SAID EARLIER IN MY TESTIMONY, WE PAY  
17 RETAILERS TO DISPLAY, SELL OUR PRODUCTS.

18 Q. AND BY THE WAY -- I'M SORRY TO INTERRUPT --  
19 THAT'S NOT USUAL --

20 A. NO, NO.

21 Q. -- FOR A MANUFACTURER TO PAY A RETAILER FOR  
22 SHELF SPACE OR POSITION OR SOMETHING LIKE THAT?

23 A. JUST ABOUT EVERY CONSUMER PRODUCT COMPANY HAS A  
24 PROGRAM THAT DOES THAT.

25 AND FOR MANY OF THE RETAILERS, THAT'S A  
26 SIGNIFICANT AMOUNT OF MONEY. WE HAVE MADE IT CLEAR TO  
27 RETAILERS THAT IF THEY'RE FINED OR CONVICTED OF SELLING  
28 PRODUCT TO MINORS, IF THEY'RE NOT PART OF THE "VE CARD"

1 PROGRAM, THEY DON'T TRAIN THEIR CLERKS, WE WILL WITHHOLD  
2 BENEFITS.

3 WE'LL WITHHOLD ON THE FIRST OFFENSE A MONTH.  
4 SECOND OFFENSE, I THINK IT'S NOW UP TO FOUR MONTHS. AND  
5 THIRD OFFENSE, YOU'RE KIND OF OUT OF THE PROGRAM FOR AT LEAST  
6 A YEAR OR TWO YEARS, I THINK.

7 Q. BEFORE WE MOVE ON TO THAT.

8 THE AMOUNT OF MONEY THAT WE'RE TALKING ABOUT, I  
9 DON'T KNOW THAT ANYBODY HAS ANY REAL IDEA. ARE WE TALKING  
10 ABOUT A COUPLE OF BUCKS?

11 A. NO. WE'RE TALKING ABOUT -- FOR MANY OF THESE  
12 RETAILERS -- AND IT'S HARD FOR ME TO PUT A DOLLAR FIGURE ON  
13 IT, BECAUSE IT'S A CALCULATION THAT'S BASED ON HOW MUCH  
14 PRODUCT THEY SELL AND HOW MUCH VOLUME, ET CETERA.

15 BUT FOR MANY RETAILERS, IT'S THE DIFFERENCE  
16 BETWEEN PROFIT AND LOSS IN THIS CATEGORY. SO IT'S A  
17 SIGNIFICANT AMOUNT OF MONEY.

18 Q. JUST TO BACK UP.

19 A. I MEAN, IT'S THOUSANDS OF DOLLARS.

20 Q. JUST TO BACK UP FOR ONE SECOND SO WE ALL HAVE  
21 THE POINT IN TIME.

22 PHILIP MORRIS MANUFACTURES MARLBORO CIGARETTES  
23 AND OTHER BRANDS; IS THAT CORRECT?

24 A. THAT'S CORRECT.

25 Q. BUT PHILIP MORRIS DOESN'T SELL CIGARETTES  
26 DIRECTLY TO CONSUMERS, CORRECT?

27 A. WE DON'T SELL DIRECTLY TO CONSUMERS. IN MOST  
28 CASES, WE DON'T EVEN SELL DIRECTLY TO RETAILERS. WE SELL TO

1 WHOLESALERS WHO THEN SELL TO RETAILERS. SO NOW, WE'RE AT  
2 LEAST, USUALLY TWO STEPS REMOVED FROM THE CONSUMER.

3 Q. BY THE WAY, DOES PHILIP MORRIS SELL CIGARETTES  
4 THROUGH THE INTERNET?

5 A. ABSOLUTELY NOT. IN FACT, WE HAVE A POLICY  
6 THAT, AGAIN, IF ANY ONE OF OUR CUSTOMERS WHO ARE FOUND  
7 SELLING PRODUCT OVER THE INTERNET ARE IMMEDIATELY SUSPENDED.  
8 THERE IS NO WARNING. WE JUST WILL NOT DO BUSINESS WITH  
9 ANYBODY THAT SELLS PRODUCT OVER THE INTERNET.

10 Q. WHY NOT?

11 A. BECAUSE WE BELIEVE THAT PRODUCTS SHOULD ONLY BE  
12 SOLD WHERE THERE'S A FACE-TO-FACE TRANSACTION AND AGE CAN BE  
13 VERIFIED, AND THAT IS NOT SOMETHING THAT IS POSSIBLE ON THE  
14 INTERNET.

15 Q. DON'T SELL THROUGH THE INTERNET.  
16 SELL THROUGH MAIL ORDER?

17 A. ABSOLUTELY NOT.

18 Q. TELEPHONE?

19 A. NO.

20 Q. ONLY THROUGH RETAIL OUTLETS LIKE CONVENIENCE  
21 STORES, GROCERY STORES, ET CETERA?

22 A. THAT'S WHY WE STOPPED SAMPLING AS WELL.  
23 BECAUSE WE BELIEVE THAT PROOF OF AGE MUST BE PRESENTED WHEN  
24 CIGARETTES ARE BEING PURCHASED.

25 Q. SO PHILIP MORRIS SELLS ITS CIGARETTES TO  
26 WHOLESALERS, THE WHOLESALERS SELL THEM TO RETAILERS, AND  
27 PHILIP MORRIS PROVIDES INCENTIVE MONEY TO RESELLERS -- EXCUSE  
28 ME -- RETAILERS TO STOCK THE PRODUCT?

1 A. THAT' S CORRECT.

2 Q. OR TO STOCK IT IN PARTICULAR POSITIONS AS  
3 COMPARED TO OTHER CIGARETTE BRANDS?

4 A. THAT' S CORRECT.

5 Q. OKAY. AND THAT WOULD INCLUDE PAYMENTS FOR  
6 SIGNAGE FOR MARLBORO OR OTHER CIGARETTE BRANDS IN THE STORE?

7 A. THAT' S CORRECT.

8 Q. AND THE PUNISHMENT COULD BE SIGNIFICANT AMOUNTS  
9 OF MONEY TO A RETAILER?

10 A. YES, IT WOULD BE.

11 Q. OKAY?

12 A. THAT WOULD BE OVER AND ABOVE WHATEVER FINE THEY  
13 HAD TO PAY TO THEIR STATE FOR BEING FINED OR CONVICTED OF  
14 SELLING PRODUCT.

15 Q. NOW, THIS PROGRAM, HOW LONG HAS IT BEEN IN  
16 OPERATION?

17 A. SINCE 1995.

18 Q. AND DO YOU HAVE ANY ROUGH ESTIMATE OF HOW MANY  
19 RETAILERS HAVE BEEN PUNISHED?

20 A. OH, SEVERAL THOUSAND HAVE BEEN PUNISHED. BUT I  
21 HAVE TO TELL YOU, OUR GOAL WITH THIS PROGRAM IS NOT TO PUNISH  
22 RETAILERS. OUR GOAL WITH THIS PROGRAM IS TO GET RETAILERS  
23 NOT TO SELL CIGARETTES TO MINORS. SO OUR GOAL IS REALLY TO  
24 GET RETAILERS TO TRAIN THEIR CLERKS, TO SUBSCRIBE TO THE  
25 "WE CARD" PROGRAM AND TO NOT SELL TO MINORS.

26 Q. THE SECOND BULLET POINT REFERS TO THE "WE CARD"  
27 PROGRAM

28 WHAT IS THE "WE CARD" PROGRAM?

1           A.       "WE CARD" PROGRAM IS A SIGNAGE PROGRAM AND  
2 I'M SURE MANY PEOPLE HAVE SEEN THE SIGNS WHEN THEY'VE GONE  
3 INTO THEIR RETAIL OUTLET THAT SAYS, "WE CARD," AND IT MEANS  
4 THAT THAT IS A RETAILER WHO TAKES THEIR RESPONSIBILITY  
5 SERIOUSLY, WHO CARDS PEOPLE WHO APPEAR TO BE UNDER THE AGE OF  
6 27, TO MAKE SURE THAT THEY ARE SELLING ONLY TO ADULTS.

7           Q.       BY THE WAY, I WANT TO GO BACK TO RETAILERS AND  
8 SIGNAGE AND MARLBORO LOGOS IN RETAILER ESTABLISHMENTS FOR  
9 JUST ONE SECOND.

10                   THE JURY HEARD AN ACCUSATION THIS MORNING ABOUT  
11 THE PLACEMENT OF CIGARETTE PACKS OR LOGOS OR ADVERTISEMENTS  
12 AT EITHER EYE LEVEL FOR KIDS OR PLACING IT NEAR THE CANDY  
13 COUNTER OR SOMETHING LIKE THAT.

14                   ARE YOU FAMILIAR WITH THAT ACCUSATION?

15           A.       I'M FAMILIAR WITH THE ACCUSATIONS. IT'S  
16 HOWEVER, NOT OUR POLICY AT PHILIP MORRIS. IN FACT, WE HAVE  
17 BEEN ADVOCATING NOT SELF-SERVICE TO TOBACCO MERCHANDISING AND  
18 PAY OUR RETAILERS THE HIGHEST LEVEL OF MERCHANDISING BENEFITS  
19 IF THEY MERCHANDISE THE PRODUCT FROM BEHIND THE COUNTER.

20           Q.       SO NO SELF-SERVICE MEANS NOBODY, ADULTS OR  
21 KIDS, CAN WALK IN, PICK UP A CIGARETTE PACK AND TAKE IT TO  
22 THE COUNTER?

23           A.       THAT'S OUR PREFERENCE. THAT THE CATEGORY BE  
24 MERCHANDISED NON SELF-SERVICE. NOW, THAT DOESN'T MEAN THAT  
25 EVERY RETAILER AGREES, BUT IF THEY WANT THE HIGHEST LEVEL OF  
26 PAYMENT FROM PHILIP MORRIS, THEY HAVE TO MERCHANDISE THAT  
27 WAY.

28           Q.       YOU CAN'T MAKE A RETAILER DO IT?

1           A.       IT'S THEIR BUSINESS.  THEY GET TO DECIDE HOW  
2           THEY MERCHANDISE THEIR PRODUCT.  BUT IF THEY WANT MONEY FROM  
3           US, THERE ARE CERTAIN THINGS THEY HAVE TO DO WHICH IS  
4           SUBSCRIBE TO THE "WE CARD" PROGRAM OR A SIMILAR TYPE OF  
5           PROGRAM, TRAIN THEIR CLERKS, ET CETERA.  BUT WE CAN'T IMPOSE  
6           ON THEM HOW THEY CAN SELL THEIR PRODUCT.

7           Q.       BUT PHILIP MORRIS PROVIDES THE INCENTIVE THAT  
8           IF THEY DO HAVE NO SELF-SERVICE, THEY GET A HIGHER LEVEL OF  
9           PROMOTIONAL PAYMENTS FROM THE COMPANY?

10          A.       THAT'S RIGHT.

11          Q.       LET'S GO TO THE THIRD BULLET POINT.  UNDERAGE  
12          SALE PROHIBITED.

13                    WHAT'S THAT?

14          A.       WE, IN 1995, PRINTED THAT ON EVERY PACK OF  
15          CIGARETTES THAT WE MAKE.  EVERY BRAND AND EVERY PACK OF  
16          CIGARETTES.

17          Q.       1995 TO TODAY?

18          A.       YES.

19          Q.       FREE SAMPLES, I THINK WE'VE TALKED ABOUT.  AND  
20          I THINK WE'VE ALSO TALKED ABOUT NO SALE OF CIGARETTES OVER  
21          THE INTERNET.

22                    WHAT'S THAT NEXT TO LAST ONE, PREVENTS  
23          UNAUTHORIZED USE OF LOGOS AND TRADEMARKS?

24          A.       WELL, THAT'S -- FOR INSTANCE, IF SOMEONE WANTED  
25          TO USE THE MARLBORO OR OTHER LOGO ON A NON-CIGARETTE ITEM  
26          ONE, IF WE'RE MADE AWARE OF IT, WE TAKE LEGAL ACTION  
27          IMMEDIATELY TO GET PEOPLE TO CEASE AND DESIST, AND IF WE  
28          DON'T, THEN WE SUE THEM

1 Q. AND WHAT'S THE LAST BULLET POINT?

2 A. THAT IS, AGAIN -- WELL, IT MIGHT COME AS A  
3 SURPRISE TO A LOT OF PEOPLE. ONLY ABOUT 25 TO 30 PERCENT OF  
4 THE CIGARETTES THAT KIDS GAIN ACCESS TO DO THEY GET AT  
5 RETAIL. ABOUT 70 PERCENT OF THE CIGARETTES THAT KIDS GET,  
6 THEY GET EITHER FROM AN OLDER SIBLING, A FRIEND, THEY FIND IN  
7 THE HOME, ET CETERA.

8 AND SO WE UNDERTOOK A CAMPAIGN TO URGE PARENTS,  
9 FRIENDS, OLDER SIBLINGS, ET CETERA, TO BE MORE RESPONSIBLE IN  
10 WHERE THEY LEAVE THEIR TOBACCO, IN NOT GOING INTO A STORE AND  
11 PURCHASING ON BEHALF OF A KID, ON NOT GIVING A KID A  
12 CIGARETTE.

13 Q. YOU MENTIONED EARLIER IN YOUR TESTIMONY THAT  
14 PHILIP MORRIS IS NOT A VERY HIGHLY REGARDED COMPANY THESE  
15 DAYS?

16 A. THAT'S RIGHT.

17 Q. IS IT FAIR TO SAY THAT THERE ARE SKEPTICS ABOUT  
18 THE MOTIVES OF PHILIP MORRIS IN CONNECTION WITH ITS YOUTH  
19 SMOKING PREVENTION DEPARTMENT AND ITS PROGRAMS?

20 A. I KNOW THERE ARE.

21 Q. OKAY. WHAT'S YOUR RESPONSE TO THEM?

22 A. WELL, LOOK. THE ONLY WAY WE'RE GOING TO EARN  
23 CREDIBILITY BACK IS BY BEING CONSISTENT AND COMMITTED. AND,  
24 YOU KNOW, NO AMOUNT OF WORDS TALKING IS GOING TO CONVINCE  
25 PEOPLE. ONLY ACTIONS.

26 AND SO WHAT WE SAY IS, JUDGE US BY OUR ACTIONS.  
27 AND IF YOU SEE US ACTING INCONSISTENTLY, IF WE'RE NOT  
28 ADHERING TO WHAT WE SAY WE'RE DOING, THEN CALL US ON IT, BUT

1 WE ARE COMMITTED. WE MEAN IT, AND WE SINCERELY DON'T WANT  
2 KIDS TO SMOKE, AND WE'RE GOING TO CONTINUE TO PLAY A ROLE IN  
3 PREVENTING KIDS FROM SMOKING.

4 Q. ANY OUTSIDE DEADLINE FOR HOW LONG THE YOUTH  
5 SMOKING PREVENTION DEPARTMENT IS GOING TO BE IN EXISTENCE AT  
6 PHILIP MORRIS?

7 A. YEP. AS LONG AS ONE KID SMOKES, THERE WILL BE  
8 A YOUTH SMOKING PREVENTION DEPARTMENT.

9 Q. IS THIS A PUBLIC RELATIONS MANEUVER?

10 A. NO. ABSOLUTELY NOT. IT IS A BUSINESS  
11 OBJECTIVE. IT'S A SPECIFIC GOAL. CAROLYN LEVY IS JUDGED ON  
12 THE PROGRAMS THAT SHE DEVELOPS. AND THIS IS VERY SERIOUS  
13 BUSINESS. WE DEVOTE A LOT OF MONEY TO IT. IN FACT, IT'S THE  
14 ONE AREA WHEN WE HAVE TO LOOK AT OUR BUDGET AND CONSERVE THAT  
15 NEVER GETS CUT. YOUTH SMOKING PREVENTION IS A NUMBER ONE  
16 PRIORITY.

17 Q. AND CAROLYN LEVY IS THE HEAD OF THE YOUTH  
18 SMOKING PREVENTION DEPARTMENT?

19 A. YES, SHE IS.

20 Q. AND SHE GETS RATED ON HER SUCCESS THE SAME WAY  
21 EVERYBODY GETS RATED ON THEIR SUCCESS?

22 A. ON MEETING THEIR GOALS, THAT'S RIGHT.

23 Q. YOU MENTIONED THAT PHILIP MORRIS AND COMPANY  
24 THAT MANUFACTURERS AND SELLS CIGARETTES HAS AS A CORPORATE  
25 OBJECTIVE STOPPING UNDERAGE PEOPLE FROM BUYING AND USING ITS  
26 PRODUCT?

27 A. THAT'S RIGHT.

28 MR. LEITER: WE CAN TAKE THAT ONE DOWN. THANK YOU.

1 Q. NOW, I WANT TO TALK ABOUT PHILIP MORRIS'  
2 CORPORATE MISSION IN A SOMEWHAT LARGER CONTEXT.

3 HAS PHILIP MORRIS -- LET ME START IN A LITTLE  
4 DIFFERENT PLACE.

5 DO YOU UNDERSTAND WHAT I MEAN BY THE PHRASE  
6 "CORPORATE CULTURE"?

7 A. YES, I DO.

8 Q. WHAT IS "CORPORATE CULTURE"?

9 A. CORPORATE CULTURE IS KIND OF WHAT GUIDES  
10 PEOPLE, WHAT HOLDS THEM TOGETHER, HOW THEY ACT, HOW THEY  
11 PERFORM, WHAT THEIR VALUES ARE, WHAT THEIR MISSION IS, HOW  
12 THEY CONDUCT THEIR BUSINESS.

13 Q. WHY IS THE CULTURE, THE CORPORATE CULTURE OF A  
14 COMPANY, IMPORTANT?

15 A. BECAUSE I THINK THE CORPORATE CULTURE OF A  
16 COMPANY REALLY DETERMINES HOW YOU MAKE DECISIONS, HOW YOU  
17 DEAL WITH ISSUES, HOW YOU RESPOND TO PROBLEMS, HOW YOU SOLVE  
18 THEM, HOW YOU DEAL WITH EACH OTHER, HOW YOU DEAL WITH  
19 SOCIETY.

20 Q. WHAT HAS MR. SZYMANCZYK, YOUR BOSS, AND OTHERS  
21 ON THE SENIOR MANAGEMENT TEAM DONE TO DEFINE OR ARTICULATE  
22 WHAT THE CORPORATE CULTURE OF PHILIP MORRIS USA OUGHT TO BE?

23 A. WELL, WHEN HE TOOK OVER AS PRESIDENT AND CEO,  
24 HE EVALUATED THE SITUATION. HE REALIZED THAT WE WERE  
25 SERIOUSLY OUT OF ALIGNMENT WITH SOCIETY IN THE WAY WE WERE  
26 RUNNING THE BUSINESS, AND HE FELT THAT THE BEST WAY TO GET  
27 EVERYBODY FOCUSED ON THE WAY WE NEEDED TO CONDUCT OURSELVES  
28 TO BECOME RESPONSIBLE AND TO EARN BACK SOME CREDIBILITY WAS

1 TO CREATE A MISSION AND DEVELOP A SET OF CORE VALUES THAT  
2 WOULD GUIDE THE COMPANY AND THEN TO SET SOME VERY SPECIFIC  
3 GOALS FOR US AS WE MOVED FORWARD.

4 Q. TOMORROW MORNING, WE'LL TALK IN A LITTLE MORE  
5 DETAIL ABOUT THE CORE VALUES AND THE MISSION STATEMENT.

6 BUT IN THE COUPLE OF MINUTES WE HAVE LEFT THIS  
7 AFTERNOON, CAN YOU DESCRIBE FOR THE JURY GENERALLY HOW  
8 DEVELOPING A CORE VALUES AND A MISSION STATEMENT HAVE  
9 EFFECTED THE WAY PHILIP MORRIS DOES ITS BUSINESS?

10 A. IT'S REALLY CHANGED THE CORPORATE CULTURE. I  
11 THINK IT'S OPENED US UP. IT'S GOTTEN US TO LISTEN MORE TO  
12 WHAT'S GOING ON IN SOCIETY. IT'S MADE US MORE SENSITIVE TO  
13 WHAT PEOPLE ARE SAYING. IT'S CREATED MORE DIALOGUE. AND IT  
14 SET A VERY SPECIFIC EXPECTATION FOR EVERY EMPLOYEE.

15 I MEAN, I THINK EVERYONE IN THE COMPANY  
16 UNDERSTANDS THE MISSION, UNDERSTANDS THE VALUES AND  
17 UNDERSTANDS THAT THEY'RE GOING TO BE JUDGED AND EVALUATED BY  
18 HOW THEY ADHERE TO THE MISSION AND HOW THEY SUPPORT IT AND  
19 HOW THEY CONDUCT THEMSELVES IN THE COURSE OF DOING BUSINESS  
20 ON BEHALF OF PHILIP MORRIS.

21 Q. NOW, THE MISSION VALUE AND THE CORE STATEMENTS  
22 ARE CLEARLY SET OUT GOALS FOR THE COMPANY?

23 A. THEY ARE. MEASURABLE GOALS.

24 Q. AND HOW DOES PHILIP MORRIS INSURE THAT THEY'RE  
25 NOT JUST WORDS ON A PAPER?

26 A. WELL, AS I SAID, EVERY EMPLOYEE UNDERSTANDS THE  
27 EXPECTATION. IT IS PART OF THEIR PERFORMANCE APPRAISAL. IN  
28 OTHER WORDS, WE USE THE MISSION, THE VALUES AND THE GOALS TO

1 SET OUR GOALS FOR THE YEAR, AND THEN WE'RE EVALUATED ON IT.  
2 AND THAT'S HOW WE GET RAISES OR NOT. THAT'S HOW WE GET  
3 PROMOTIONS OR NOT. THAT'S HOW WE ADVANCE WITHIN THE COMPANY  
4 BASED ON WHETHER OR NOT WE ARE COMMITTED TO THE MISSION AND  
5 THE VALUES AND THE GOALS.

6 MR. LEITER: THANK YOU, YOUR HONOR. THIS MIGHT BE A  
7 GOOD PLACE TO STOP FOR THE DAY.

8 THE COURT: THANK YOU, MR. LEITER.

9 ALL RIGHT. LADIES AND GENTLEMEN, WE'LL SEE ALL  
10 OF YOU AT 8:45 TOMORROW MORNING.

11 DON'T DISCUSS THE CASE WITH ANYONE.

12 YOU MAY STEP DOWN.

13 THE WITNESS: THANK YOU.

14 THE COURT: YES, MA'AM

15 MR. CARLTON: YOUR HONOR, MAY WE HAVE JUST A MOMENT?

16

17 (THE FOLLOWING PROCEEDINGS WERE HELD  
18 IN OPEN COURT OUT OF THE PRESENCE  
19 OF THE JURY:)

20

21 THE COURT: WE ARE OUTSIDE THE PRESENCE.

22 COUNSEL.

23 MR. CARLTON: YOUR HONOR, WE'VE SPOKEN WITH MR. PIUZE,  
24 AND NOW, WE'D LIKE TO SPEAK WITH YOU ABOUT WHETHER THERE  
25 MIGHT BE A POSSIBILITY OF HAVING THE COURT MONDAY MORNING TO  
26 MAYBE MAKE UP FOR A LITTLE LOST TIME?

27 THE COURT: YOU HAVE MY SUPPORT. I'D BE MORE THAN  
28 HAPPY TO DO THAT.

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DO WE HAVE ANYTHING ON CALENDAR?

(THE COURT AND THE CLERK CONFER.)

THE COURT: WE'LL JUST BRING MY MORNING FOLKS IN AT  
4 O'CLOCK IN THE AFTERNOON AFTER WE FINISH OUR DAY'S WORK.

REMEMBER ME TOMORROW MORNING SO I CAN INFORM THE  
JURY THAT WE NEED TO CATCH UP A LITTLE BIT. I THINK THEY'LL  
SUPPORT IT AS WELL.

(CHORUS OF THANK YOU'S.)

(AT 4:05 P.M., AN ADJOURNMENT WAS TAKEN  
UNTIL THURSDAY, MAY 3, 2001 AT 9:00 A.M.)