

V

**THE DEFENDANTS CAUSED THE CHARGED MAILINGS
AND WIRE TRANSMISSIONS IN FURTHERANCE OF
THE SCHEME TO DEFRAUD**

A. The Charged Defendants Caused the Mailings and Wire Transmissions

1. The Court finds that, consistent with the allegations set forth in the descriptions of the Racketeering Acts below (see Section V.B), the charged Defendants performed or caused the mailings or wire transmissions described in each of those respective Racketeering Acts to be sent, delivered, or received by the requisite means of transmission consistent with 18 U.S.C. §§ 1341 and 1343.

2. Brown & Williamson has stipulated that the requirements of 18 U.S.C. § 1341 or § 1343 have been met for the following Racketeering Acts: 8, 17, 31, 32, 38, 44, 45, 50, 51, 52, 54, 57, 60, 63, 66, 67, 77, 88, 98, 103, 106, 115, 116, 118, 124, 125, 127, 129, 144.

3. BATCo has stipulated that the requirements of 18 U.S.C. § 1341 or § 1343 have been met for the following Racketeering Acts: 11, 30, 50, 51, 53, 54, 57, 60, 63, 103, and 108.

4. In their responses to Requests for Admission, various Defendants have admitted that certain of the Racketeering Acts were transmitted by the requisite means of transmission (mail or wire), including the following Racketeering Acts: 11, 26, 30, 32, 38, 44-46, 50-55, 57, 60, 63, 66-67, 70, 73, 77, 79, 81, 82, 86, 88-90, 94, 96, 98-99, 103-106, 108-110, 114, and 116.

5. For purposes of the mail fraud violations covered by 18 U.S.C. § 1341, a "mailing" means: (1) for mailings prior to September 13, 1994, delivery by the United States mails, that is, by the United States Postal Service (previously Postal Department or Post Office

Department); and (2) for mailings on or after September 13, 1994, mailings by either the United States mails or by a private or commercial interstate carrier. For Racketeering Acts charging violation of the mail fraud statute, those mailings dated prior to September 13, 1994 involve transmission by use of the United States Postal Service (previously Postal Department or Post Office Department). For those mailings occurring after September 13, 1994, such mailings involve transmission by use of the United States Postal Service or by a private or commercial interstate carrier.

6. Prior to 1974, private carrier mailing was permissible only by "opinion letter" permission of the Postal Department. In 1974, the Postal Service (previously Postal Department) set forth most of 39 C.F.R. Part 310, which dealt with enforcement of the Private Express statutes (39 U.S.C. § 601 et seq.). Section 310.3 of 39 C.F.R., promulgated September 14, 1974, set forth certain exceptions, but the largest exception occurred in 1979, which listed various suspensions of the Private Express statute. That included, on October 24, 1979, the "extremely urgent letter" suspension (39 C.F.R. § 320.6), under which most courier services now operate.

7. No Defendant has indicated in written or documentary discovery, or otherwise indicated to the Court, that it possessed such "opinion letter" permission. Therefore, because of the virtual "Postal monopoly" that existed prior to October 1979, Racketeering Acts 1 through 43 were almost certainly sent by the United States mails.

8. The Court finds the following carrier services to be "private or commercial interstate carriers": Fedex (formerly Federal Express); DHL; United Parcel Service; and Airborne Express.

9. Most of the Defendants claim that they have not retained logs or other data which record the method of transmission or receipt of a document. Similarly, Defendants claim that they have not retained items, such as postmarks, envelopes, airbills, or routing slips that might evince the means of delivery.

10. Certain documents, on their face, indicate that they have been transmitted by the United States mails. For instance, in Racketeering Act 74, Philip Morris Companies' in-house counsel sent a letter to Paul Mele, stating that he had violated his confidentiality agreement with Philip Morris and stated that "The Company cannot tolerate this kind of conduct. . . . Any further breach of your agreement will result in action being taken." Racketeering Act 75 is an identical letter to Dr. Victor DeNoble from Taussig. Across the top of the letter is the legend "CERTIFIED MAIL RETURN RECEIPT REQUESTED," indicating Post Office delivery.

11. Similarly, where a letter or other mailing has been sent to a post office box, such indication provides sufficient evidence that the mailing was sent by United States mails, as private courier services cannot deliver to post office boxes. See, e.g., Racketeering Acts 11, 30, 41, 50, 51, 55, 57, 60, and 63.

12. For purposes of the wire fraud violations, the requisite means of transmission is a transmittal of writings, signs, signals, pictures, or sounds by wire, radio, or television communication in interstate or foreign commerce.

13. Certain Racketeering Acts, on their face, have been transmitted by wires and radio and television signals. For instance, various statements from Defendants' internet websites are or were published on the worldwide web, a global network of computers which employ telephone,

fiberoptic, and other wire and wireless infrastructures. Similarly, telephone communications, telexes, cable letters, telegrams, e-mails, facsimile transmissions, and television and radio involve the use of wire and radio/television signals in interstate and/or foreign commerce. Therefore, Racketeering Acts 103-116, 130, 134, 137, and 143-147 were transmitted by use of the wires, radio, and television signals in interstate and/or foreign commerce.

14. Furthermore, various Defendants' routine business practices demonstrate sufficient use of the mails and/or wires. For instance, the Tobacco Institute's corporate representative testified in this case that 90% of its incoming mail delivery was by United States mail, and also that 90% of its press releases were also sent by United States mail. That same corporate representative also testified that certain Tobacco Institute representatives appeared on television that was nationally broadcast. CTR's corporate representative deponent testified that it distributed its annual reports by the United States mail, and "more often than not," its award letters were also sent through the United States mail. Lorillard's corporate representative estimated that 75% of its correspondence from 1994 to present was delivered by the United States Postal Service. Where 75% of a Defendant's outgoing mail uses the United States Postal Service, it is reasonable to conclude, by a preponderance of the evidence, that a given mailing from that Defendant was indeed carried by the United States mails. Similarly, in certain circumstances, the only reasonable method of transmission would be by United States mails; the Court is therefore justified in making such an inference.

15. Certain of the mail fraud Racketeering Acts involve mailings sent by Defendants themselves. For those Racketeering Acts that were not directly sent by Defendants or their

employees, the Court finds that those Defendants nevertheless "caused" the transmissions. See, e.g., Racketeering Acts 2, 5, 6, 7, 10, 13, 14, 15, 31, 38, 44, 47, 48, 66, 67, 70, 73, 77, 88, 98, 117, 118, 120. It was reasonably foreseeable that such transmissions would occur by the requisite means of transmission. For instance, where Hill & Knowlton, a public relations firm working for and on behalf of the Defendants, issued a press release, and that press release was then sent via the mails, the charged Defendants "caused" that mailing.

16. As described above in Sections I.B and I.C, certain Defendants created, controlled, and funded Defendants CTR and the Tobacco Institute, in large part for the purpose of having those entities disseminate false and fraudulent information. Accordingly, when the Tobacco Institute and CTR perform a mailing or wire communication, the other charged Defendants, along with the Tobacco Institute and CTR, have "caused" the transmissions by mail or wire. See, e.g., Racketeering Acts 3, 5, 6, 7, 10, 12, 18, 21, 23, 24, 27, 29, 33, 34, 35, 42, 43, 46, 49, 56, 79, 81, 87, 91, 93, 117, 118, 130, 132, 133.

17. Similarly, where a Defendant issues a public statement, and that public statement is then carried by a news agency, wire service, newspaper, television broadcast or other method of dissemination, such transmission by mail or wire is "caused" by the charged Defendant or Defendants. See, e.g., Racketeering Acts 1-3, 5-8, 10, 12, 18, 21, 23-24, 27, 29, 33-37, 39, 42, 43, 46-49, 56, 61, 64, 70, 76, 79, 81, 83, 84, 87, 93, 97, 100-102, 105, 109-113, 117-118, 120, 130, 132, 133, 135-142, 147, 148. For example, when the Tobacco Institute issued a press release, it was reasonably foreseeable (and probably intended) that such press release was disseminated by news outlets and other media. Therefore, the Tobacco Institute (and the other

Defendants charged in said acts) have "caused" such dissemination.

18. For instance, Racketeering Act 1, Defendants' "A Frank Statement to Smokers", was carried by various newspapers and other journals throughout the United States, including the Washington Post and the New York Times. Those publications were and are carried not only by newspaper delivery services (for home delivery), periodical outlets, and newspaper machines, but also to subscribers by means of the United States mail. Similarly, where a press release or other public statement was carried by Time magazine, Newsweek, or another such publication, as the periodicals themselves indicate, those periodicals were also sent to subscribers by the United States mails. As with mailings sent by third parties, as described in this Section, such mailings are "caused" by Defendants, as charged.

19. On April 19, 2001, this Court issued Order #54, Order Regarding Envelopes and Packaging Materials, which sets forth that, subject to certain narrow exceptions inapplicable here, "[a]ll documents addressed to or otherwise indicating receipt by and within the possession, custody, or control of a defendant and created or dated after October 19, 1999, are hereby deemed to have been sent or delivered via the United States Postal Service or by a private or commercial interstate carrier."

B. The 148 Alleged Racketeering Acts Were Undertaken for the Purpose of Executing the Scheme to Defraud

The Court finds that all of the mailings and wire transmissions alleged in the charged 148 racketeering acts were undertaken for the purpose of executing the scheme to defraud found by the Court.

In Section IV above, the Court determined that the Defendants devised a scheme to

defraud that was executed through seven principal means involving the mailing and/or wire transmission of numerous material false, deceptive, misleading, or otherwise fraudulent statements, representations, or promises, half-truths, and omissions of material facts, as well as other statements which, although not false or misleading (such as internal communications which admitted that smoking causes cancer) were nonetheless in furtherance of Defendants' scheme to defraud. The Court finds that all of the alleged 148 Racketeering Acts were undertaken for the purpose of executing the scheme to defraud because they furthered Defendants' continuing efforts to deceive consumers and potential consumers into starting and continuing to smoke cigarettes by attempting to misrepresent and conceal the adverse health effects caused by smoking cigarettes and exposure to cigarette smoke and other related matters, and by maintaining that there was an "open question" as to whether smoking cigarettes, or exposure to cigarette smoke, causes disease and other adverse effects. Such false statements, misrepresentations, and concealments had a natural tendency to influence the decisions of consumers and potential consumers to initiate, continue, or quit smoking, and to influence the decisions of others to initiate, forgo, or otherwise affect efforts to address smoking and health issues, including youth smoking.

Moreover, each Racketeering Act¹ was undertaken to execute the scheme to defraud on additional grounds, including, but not limited to, the grounds set forth below:

1. **Racketeering Act No. 1:** On or about January 4, 1954, defendants PHILIP MORRIS, REYNOLDS, BROWN & WILLIAMSON, LORILLARD, AMERICAN, and co-conspirators caused to be placed in numerous newspapers nationwide, including The Washington Post, a daily newspaper, an advertisement

¹ Racketeering Acts 8, 13, 14, 15, 44, 73, 98, 100, 134, and 140 have been modified to conform to the evidence.

entitled "A Frank Statement To Smokers," which newspaper was then sent and delivered by the United States mails to subscribers and others. In this advertisement, defendants promised to safeguard the health of smokers, support disinterested research into smoking and health, and reveal to the public the results of research into the effects of smoking on smokers' health.

This communication contained false promises and misrepresentations regarding: safeguarding the health of smokers; fraudulent promises regarding Defendants' support of independent, disinterested research into smoking and health; and fraudulent promises to reveal to the public the results of research into the effects of smoking on smokers' health. This communication was for the purpose of executing the scheme to defraud because its false statements and misrepresentations constitute principal gravamen of the scheme to defraud.

2. **Racketeering Act No. 2:** On or about July 15, 1957, defendants PHILIP MORRIS, REYNOLDS, BROWN & WILLIAMSON, LORILLARD, and AMERICAN, through the TOBACCO INDUSTRY RESEARCH COMMITTEE (predecessor to defendant COUNCIL FOR TOBACCO RESEARCH), did knowingly cause a press release entitled "Scientist Comments on Benzopyrene Report" to be sent and delivered by the United States mails to newspapers and news outlets. This press release disputed the United States Surgeon General's report that Benzopyrene had been identified in cigarette smoke, and stated that scientists had "generally concluded" that Benzopyrene in cigarette smoke cannot be a cause of cancer in smokers.

This communication contained the misrepresentation that scientists had generally concluded that Benzopyrene in cigarette smoke could not cause cancer. Moreover, this communication sought to discredit the Surgeon General's Report with false and misleading statements. This communication was for the purpose of executing the scheme to defraud because its false statements and misrepresentations constitute principal gravamen of the scheme to defraud.

3. **Racketeering Act No. 3:** On or about November 27, 1959, defendants PHILIP

MORRIS, REYNOLDS, BROWN & WILLIAMSON, LORILLARD, and AMERICAN, through defendant TOBACCO INSTITUTE, did knowingly cause a press release to be sent and delivered by the United States mails to newspapers and news outlets. This press release contained statements attacking an article written by then-United States Surgeon General Leroy Burney about the hazards of smoking.

This communication misrepresented and concealed the link between smoking and disease. Moreover, this communication sought to discredit the Surgeon General's Report with false and misleading statements. This communication was for the purpose of executing the scheme to defraud because its false statements and misrepresentations constitute principal gravamen of the scheme to defraud.

4. **Racketeering Act No. 4:** On or about December 9, 1959, defendant REYNOLDS did knowingly receive from the mails a letter addressed to W.A. Sugg, R.J. Reynolds Tobacco Company, Winston-Salem, North Carolina, from George McGovern of William Esty Company, 100 East 42nd Street, New York, New York. The letter included a marketing study of the smoking habits of high school and college students.

This communication was for the purpose of executing the scheme to defraud because it transmitted information relevant to Defendants' efforts to target the youth market, which they publicly denied.

5. **Racketeering Act No. 5:** On or about July 6, 1961, defendants PHILIP MORRIS, REYNOLDS, BROWN & WILLIAMSON, LORILLARD, and AMERICAN, through defendant TOBACCO INSTITUTE, did knowingly cause a press release to be sent and delivered by the United States mails to newspapers and news outlets. This press release was titled "Allen Gives Tobacco Institute Position on 'Health Scares'" and stated that "[t]he tobacco industry itself is more interested than anyone else in finding out and making public the true facts about tobacco and health" and that "research in recent years has produced findings that weaken rather than support the claim that smoking is a major contributor to lung cancer."

This communication falsely promised and misrepresented that Defendants wanted to and

would conduct independent, disinterested research regarding smoking and disease and make the results of such research public, and misrepresented and concealed the link between smoking and disease. This communication was for the purpose of executing the scheme to defraud because its false statements and misrepresentations constitute principal gravamen of the scheme to defraud.

6. **Racketeering Act No. 6:** On or about July 9, 1963, defendants PHILIP MORRIS, REYNOLDS, BROWN & WILLIAMSON, LORILLARD, and AMERICAN, through defendant TOBACCO INSTITUTE, did knowingly cause a press release to be sent and delivered by the United States mails to newspapers and news outlets. This press release stated "the tobacco industry's position that smoking is a custom for adults and that it is not the intent of the industry to promote or encourage smoking among youth" and "[t]he industry wants to make it demonstrably clear that it does not wish to promote or encourage smoking among youth."

This communication falsely stated and misrepresented that Defendants did not promote or encourage smoking among youth when, in fact, they did. This communication was for the purpose of executing the scheme to defraud because its false statements and misrepresentations constitute principal gravamen of the scheme to defraud.

7. **Racketeering Act No. 7:** On or about November 3, 1963, defendants PHILIP MORRIS, REYNOLDS, BROWN & WILLIAMSON, LORILLARD, and AMERICAN, through defendant TOBACCO INSTITUTE, did knowingly cause a press release to be sent and delivered by the United States mails to newspapers and news outlets. Through this press release, defendants stated that they were on a "crusade" to find answers to the "questions about smoking and health," and that it "should be a crusade neither for nor against tobacco. It is a crusade for research" Defendants asserted the position that the question of causation was still unresolved.

This communication falsely promised and misrepresented that Defendants wanted to and would conduct independent, disinterested research regarding smoking and disease and would make the results of such research public, and misrepresented and concealed the link between

smoking and disease. This communication was for the purpose of executing the scheme to defraud because its false statements and misrepresentations constitute principal gravamen of the scheme to defraud.

8. **Racketeering Act No. 8:** On or about March 6, 1964, defendants PHILIP MORRIS, REYNOLDS, BROWN & WILLIAMSON, LORILLARD, and AMERICAN, through defendant COUNCIL FOR TOBACCO RESEARCH, did knowingly cause a press release to be sent and delivered by the United States mails to newspapers and news outlets. This press release announced the reorganization of the Tobacco Industry Research Committee into the Council for Tobacco Research and represented that CTR's research policy would be set by doctors and scientists independent of the tobacco industry.

This communication falsely misrepresented that CTR's research would be independent and disinterested, and concealed that CTR's research policy would be controlled by Defendants. This communication was for the purpose of executing the scheme to defraud because its false statements and misrepresentations constitute principal gravamen of the scheme to defraud.

9. **Racketeering Act No. 9:** On or about November 23, 1965, defendant COUNCIL FOR TOBACCO RESEARCH did knowingly receive from the mails a letter addressed to Edwin J. Jacob, Esq., Cabell Medinger Forsyth & Decker, 51 West 51st Street, Rockefeller Center, New York, New York, counsel to CTR, from Alvan R. Feinstein, Associate Professor of Medicine, Yale School of Medicine, New Haven, Connecticut, requesting funding for research on data indicating that the clinical effects of cancers were no worse in smokers than in nonsmokers.

This communication was for the purpose of executing the scheme to defraud because it transmitted information relevant to Defendants' fraudulent efforts regarding self-interested research and their fraudulent denials regarding smoking and health issues, including the issue of whether the link between smoking and disease was an open question.

10. **Racketeering Act No. 10:** On or about December 29, 1965, defendants PHILIP MORRIS, REYNOLDS, BROWN & WILLIAMSON, LORILLARD, and AMERICAN, through defendant TOBACCO INSTITUTE, did knowingly cause a

press release to be sent and delivered by the United States mails to newspapers and news outlets. Through this press release, defendants stated that research had not established whether smoking causes disease and this was still an "open question." "If there is something in tobacco that is causally related to cancer or any other disease, the tobacco industry wants to find out what it is, and the sooner the better."

This communication misrepresented that smoking was not causally related to cancer or any other disease; concealed that these Defendants' own research suggested that smoking was causally related to cancer and other diseases; and misrepresented that Defendants wanted to and would conduct independent, disinterested research regarding the link between smoking and disease. This communication was for the purpose of executing the scheme to defraud because its false statements and misrepresentations constitute principal gravamen of the scheme to defraud.

11. **Racketeering Act No. 11:** On or about February 28, 1966, defendants BROWN & WILLIAMSON did knowingly cause to be sent and delivered by the United States mails, and BRITISH-AMERICAN TOBACCO COMPANY (predecessor to BAT INVESTMENTS) thereafter received, a letter addressed to A. D. McCormick, Esq., BAT Co., P.O. Box 482, 7 Millbank, London, SW1, England, from Addison Yeaman, Esq., General Counsel of Brown & Williamson, promoting cooperation among defendants in resisting regulation by Congress and by the Federal Trade Commission by attacking existing scientific studies linking smoking to disease, by making representations to governmental regulators that defendants were engaged in accelerated research, and by suppressing information unfavorable to defendants.

This communication was for the purpose of executing the scheme to defraud because it transmitted information relevant to Defendants' fraudulent efforts to deny that there was a link between smoking and disease, including the issue of whether the link between smoking and disease was an open question, and Defendants' fraudulent promise to conduct independent, disinterested research.

12. **Racketeering Act No. 12:** On or about October 21, 1966, defendants PHILIP

MORRIS, REYNOLDS, BROWN & WILLIAMSON, LORILLARD, and AMERICAN, through defendant TOBACCO INSTITUTE, did knowingly cause a press release to be sent and delivered by the United States mails to newspapers and news outlets. Through this press release, defendants stated that they knew "of no valid scientific evidence demonstrating that either 'tar' or nicotine is responsible for any human illness."

This communication misrepresented that there was no valid scientific evidence demonstrating that tar or nicotine was responsible for human illnesses, concealed that Defendants knew of valid scientific evidence demonstrating that tar or nicotine was responsible for human illnesses. This communication was for the purpose of executing the scheme to defraud because its false statements and misrepresentations constitute principal gravamen of the scheme to defraud.

13. **Racketeering Act No. 13:** On or about January 12, 1967, defendants PHILIP MORRIS, REYNOLDS, BROWN & WILLIAMSON, LORILLARD, LIGGETT, AMERICAN, and COUNCIL FOR TOBACCO RESEARCH, did knowingly cause to be sent and delivered by the United States mails letters addressed separately to each member of Ad Hoc Committee: Miss Janet Brown, Esq., Chadbourne Park, Whiteside & Wolff, 25 Broadway, New York, New York 10004, counsel to American; Kevin L. Carroll, Esq., Donald J. Cohn, Esq., and Francis K. Decker, Esq., Webster Sheffield Fleischmann Hitchcock & Chrystie, 1 Rockefeller Plaza, New York, New York 10020, counsel to Liggett; Edward J. Cooke, Jr., Esq., Davis, Polk, Wardwell, Sunderland, & Kiendl, 1 Chase Manhattan Plaza, New York, New York 10005, counsel to Reynolds; Alexander Holtzman, Esq., Conboy, Hewitt, O'Brien & Boardman, 20 Exchange Place, New York, New York 10005, counsel to Philip Morris; Edwin J. Jacob, Esq., Cabell Medinger Forsyth & Decker, 51 W. 51st Street, New York, NY 10019, counsel to CTR; William W. Shinn, Esq., Shook, Hardy, Ottman, Mitchell & Bacon, 915 Grand Avenue, Kansas City, MS 64106; and Edward DeHart, Hill & Knowlton, 1735 K Street, NW, Washington, DC 20006, each of which was from David R. Hardy, Esq., counsel to Ad Hoc Committee, requesting the recipients to recommend persons who could act as witnesses before Congressional hearings to perpetuate defendants' "open question" position, and assigning the members of the Ad Hoc Committee oversight of CTR "special projects" designed to be of "practical use" for defendants during congressional

hearings.

This communication was for the purpose of executing the scheme to defraud because it transmitted information relevant to Defendants' fraudulent efforts to deny that there was a link between smoking and disease, including the issue of whether the link between smoking and disease was an open question, and Defendants' fraudulent promise to conduct independent, disinterested research.

14. **Racketeering Act No. 14:** On or about February 2, 1967, defendants PHILIP MORRIS, REYNOLDS, BROWN & WILLIAMSON, LORILLARD, LIGGETT, and AMERICAN did knowingly cause to be sent and delivered by the United States mails a letter addressed to David R. Hardy, Esq., counsel to Ad Hoc Committee, from William W. Shinn, Esq., Shook, Hardy, Ottman, Mitchell & Bacon, 915 Grand Avenue, Kansas City, Missouri 64106, a member of Ad Hoc Committee, and copied the Ad Hoc Committee and Ed DeHart of Hill & Knowlton. The letter responded to Hardy's request for recommendations of persons who could act as witnesses before congressional hearings to perpetuate defendants' "open question" position.

This communication was for the purpose of executing the scheme to defraud because it transmitted information relevant to Defendants' fraudulent efforts to deny that there was a link between smoking and disease, including the issue of whether the link between smoking and disease was an open question, and Defendants' fraudulent promise to conduct independent, disinterested research.

15. **Racketeering Act No. 15:** On or about May 19, 1967, defendants PHILIP MORRIS, REYNOLDS, BROWN & WILLIAMSON, LORILLARD, LIGGETT, and AMERICAN did knowingly cause to be sent and delivered by the United States mails a letter addressed to Alexander Holtzman, Esq., Conboy, Hewitt, O'Brien & Boardman, 20 Exchange Place, New York, New York 10005, counsel to Philip Morris, from William W. Shinn, Esq., regarding CTR Special Projects, outlining a proposal to support and publicize research advancing the theory of smoking as beneficial to health as a stress reducer, even for "coronary prone" persons; representing that stress (rather than nicotine addiction), explains why

smoking clinics fail; and proposing to publicize the "image of smoking as 'right' for many people . . . as a scientifically approved 'diversion' to avoid disease causing stress."

This communication was for the purpose of executing the scheme to defraud because it transmitted information relevant to Defendants' fraudulent efforts to deny that there was a link between smoking and disease, including the issue of whether the link between smoking and disease was an open question, and to deny the addictiveness of nicotine, and Defendants' fraudulent promise to conduct independent, disinterested research.

16. **Racketeering Act No. 16:** On or about October 3, 1968, defendant PHILIP MORRIS did knowingly cause to be sent and delivered by the United States mails a letter addressed to David R. Hardy, Esq., Shook, Hardy, Ottman, Mitchell, and Bacon, 915 Grand Avenue, Kansas City, Missouri from Philip Morris Assistant General Counsel Alexander Holtzman, proposing "Special Project" funding for a scientist whose application to CTR for funding was previously turned down but who was likely to produce data useful to defendants.

This communication was for the purpose of executing the scheme to defraud because it transmitted information relevant to and in furtherance of Defendants' fraudulent efforts to deny that there was a link between smoking and disease, including the issue of whether the link between smoking and disease was an open question, and Defendants' fraudulent promise to conduct independent, disinterested research.

17. **Racketeering Act No. 17:** On or about October 21, 1968, defendants PHILIP MORRIS, REYNOLDS, BROWN & WILLIAMSON, LORILLARD, LIGGETT, and AMERICAN, through defendant COUNCIL FOR TOBACCO RESEARCH, did knowingly cause to be sent and delivered by the United States mails letters separately addressed to Liggett General Counsel Frederick P. Haas, Esq.; American General Counsel Cyril Hetsko, Esq.; Reynolds General Counsel H. Henry Ramm, Esq.; Philip Morris General Counsel Paul D. Smith, Esq.; and Brown & Williamson General Counsel Addison Yeaman, Esq., from David R. Hardy, Esq., Shook, Hardy & Bacon, 915 Grand Avenue, Kansas City, Missouri, counsel to CTR's Committee of Counsel. The letter proposed "Special Project"

funding for a scientist whose application to CTR for funding was previously turned down but who was likely to produce data useful to defendants.

This communication was for the purpose of executing the scheme to defraud because it transmitted information relevant to and in furtherance of Defendants' fraudulent efforts to deny that there was a link between smoking and disease, including the issue of whether the link between smoking and disease was an open question, and Defendants' fraudulent promise to conduct independent, disinterested research.

18. **Racketeering Act No. 18:** In or about 1968, the exact date being unknown, defendants PHILIP MORRIS, REYNOLDS, BROWN & WILLIAMSON, LORILLARD, AMERICAN, and co-conspirators, through defendant TOBACCO INSTITUTE, did knowingly distribute reprints of an article written by Stanley Frank and originally published in True magazine, and caused copies of said document to be sent and delivered by the United States mails, addressed to various physicians and civic leaders. This article disputed the link between smoking and disease, and was distributed anonymously.

This communication misrepresented and concealed the link between smoking and disease; concealed the relationship between the author of the article and Defendants; and concealed that Defendants caused the article to be reprinted and distributed. This communication was for the purpose of executing the scheme to defraud because its false statements and misrepresentations constitute principal gravamen of the scheme to defraud.

19. **Racketeering Act No. 19:** On or about May 27, 1969, defendant PHILIP MORRIS did knowingly cause to be sent by the United States mails a letter from Philip Morris Vice President for Corporate Research and Development, Helmut Wakeham, to defendant Dr. M. Hausermann, Director of Research and Quality Control, Fabriques de Tabacs, Reunies S.A., Neuchatel-Serrieres, Switzerland. The letter communicated the approval of Paul Smith, Philip Morris' General Counsel, for the publication by Dr. Hausermann of a paper describing the Smoke Exposure Machine developed at Philip Morris' Cologne, Germany, Institute for Biological Research, known as INBIFO. The letter clarified the scope of the article, and stated that "[t]he paper should not include any statements with regard

to the effect of smoke on the rats in terms of initiation of disease, etc."

This communication was for the purpose of executing the scheme to defraud because it transmitted information relevant to and in furtherance of Defendants' fraudulent efforts to deny that there was a link between smoking and disease, including the issue of whether the link between smoking and disease was an open question, Defendants' fraudulent promise to conduct independent, disinterested research, and to their concealment and suppression of material information relating to the link between smoking and disease.

20. **Racketeering Act No. 20:** On or about September 10, 1969, defendant PHILIP MORRIS did receive from the United States mails a letter from M. Hausermann, Fabriques de Tabacs, Reunies S.A., Neuchatel Switzerland, addressed to Philip Morris Vice President for Corporate Research and Development, Dr. Helmut Wakeham, in which Dr. Hausermann reported that he had, following consultation with Alex Holtzman, Esq., in-house counsel at Philip Morris, decided not to submit for presentation a paper entitled "Cigarette Consumption Related to Cigarette 'Strength.'" Dr. Hausermann reported that Mr. Holtzman felt "that this paper should not be presented, because it might be used as an argument for tar-and-nicotine delivery indication on the pack and in ads."

This communication was for the purpose of executing the scheme to defraud because it transmitted information relevant to and in furtherance of Defendants' fraudulent efforts to deny that there was a link between smoking and disease, including the issue of whether the link between smoking and disease was an open question, Defendants' manipulation of nicotine and nicotine delivery, Defendants' fraudulent promise to conduct independent, disinterested research, and their concealment and suppression of material information relating to the link between smoking and disease.

21. **Racketeering Act No. 21:** On or about April 30, 1970, defendants PHILIP MORRIS, REYNOLDS, BROWN & WILLIAMSON, LORILLARD, and AMERICAN, through defendant TOBACCO INSTITUTE, did knowingly cause a

press release to be sent and delivered by the United States mails to newspapers and news outlets. This press release falsely stated that the American Cancer Society had refused to release experimental data underlying the Auerbach/Hammond "smoking beagles" study.

This communication contained the false statement that the American Cancer Society had refused to release experimental data underlying the Auerbach/ Hammond "smoking beagles" study, when in fact, the American Cancer Society had offered to release it. This communication was in furtherance of Defendants' fraudulent efforts to deny that there was a link between smoking and disease, including the issue of whether the link between smoking and health was an open question, and attempted to discredit the American Cancer Society. This communication was for the purpose of executing the scheme to defraud because its false statements and misrepresentations constitute principal gravamen of the scheme to defraud.

22. **Racketeering Act No. 22:** On or about July 22, 1970, defendants REYNOLDS, PHILIP MORRIS, BROWN & WILLIAMSON, AMERICAN, LIGGETT, and LORILLARD did knowingly cause to be sent and delivered by the United States mails, and defendant COUNCIL FOR TOBACCO RESEARCH thereafter received, a letter from H.H. Ramm, Esq., General Counsel for Reynolds, addressed to Dr. Robert C. Hockett, Associate Scientific Director, CTR, 110 E. 59th Street, New York, New York. The letter states that "counsel representing Philip Morris, Brown & Williamson, American Brands, Liggett & Myers and Lorillard which companies together with Reynolds participate in Special Projects have advised that if the Scientific Advisory Board does not approve this project the same can be treated as an approved Special Project."

This communication was for the purpose of executing the scheme to defraud because it transmitted information relevant to and in furtherance of Defendants' fraudulent efforts to deny that there was a link between smoking and disease, including the issue of whether the link between smoking and disease was an open question, and Defendants' fraudulent promise to conduct independent, disinterested research.

23. **Racketeering Act No. 23:** On or about December 1, 1970, defendants PHILIP MORRIS, REYNOLDS, BROWN & WILLIAMSON, LORILLARD, and AMERICAN, through defendant TOBACCO INSTITUTE, did knowingly cause to be placed in The Washington Post, a daily newspaper, an advertisement entitled "The question about smoking and health is still a question," which newspaper was then sent and delivered by the United States mails to subscribers and others. In this advertisement, the Tobacco Institute discredited the causal link between smoking and disease, stated that "in the interest of absolute objectivity" defendants "ha[ve] supported totally independent research efforts with completely non-restrictive funding," and deliberately created the false impression that all research results have been freely published.

This communication misrepresented that the link between smoking and health was still an open question; misrepresented that there was no evidence supporting a causal link between smoking and disease; misrepresented that Defendants had supported independent, disinterested research efforts with non-restrictive funding; and misrepresented that all research results had been freely published. This communication was for the purpose of executing the scheme to defraud because its false statements and misrepresentations constitute principal gravamen of the scheme to defraud.

24. **Racketeering Act No. 24:** On or about May 25, 1971, defendants PHILIP MORRIS, REYNOLDS, BROWN & WILLIAMSON, LORILLARD, and AMERICAN, through defendant TOBACCO INSTITUTE, did knowingly cause a press release to be sent and delivered by the United States mails to newspapers and news outlets. This press release contained statements indicating that "many eminent scientists" believe that "the question of smoking and health is still very much a question."

This communication concealed that many of the scientists who believed that the question of smoking and health was still a question were conducting research that was funded, controlled, and managed by the Defendants; misrepresented the link between smoking and disease; and furthered Defendants' fraudulent position that the link between smoking and disease was an open

question. This communication was for the purpose of executing the scheme to defraud because its false statements and misrepresentations constitute principal gravamen of the scheme to defraud.

25. **Racketeering Act No. 25:** On or about July 1, 1971, defendant COUNCIL FOR TOBACCO RESEARCH did knowingly caused to be sent and delivered by the United States mails a letter from CTR Associate Scientific Director Robert C. Hockett, to Reynolds Vice President and General Counsel Henry H. Ramm, Esq., in which Hockett endorsed and passed along to Ramm a suggestion from two employees of Philip Morris that CTR sponsor a scientific conference on the "benefits" of smoking, in the wake of a private conference on the effects of nicotine and smoking on the central nervous system. Dr. Hockett also requested that the Committee of General Counsel guarantee the financing of the conference.

This communication was for the purpose of executing the scheme to defraud because it transmitted information relevant to and in furtherance of Defendants' fraudulent efforts to deny that there was a link between smoking and disease, including the issue of whether the link between smoking and disease was an open question, Defendants' false claim that nicotine was not addictive, and Defendants' fraudulent promise to conduct independent, disinterested research.

26. **Racketeering Act No. 26:** On or about August 20, 1971, defendant REYNOLDS did knowingly cause to be sent and delivered by the United States mails, and defendant PHILIP MORRIS did receive, a letter addressed to Joseph F. Cullman, III, Chairman of the Board, Philip Morris Inc., 100 Park Avenue, New York, New York 10017, from Alexander H. Galloway, Chairman, R.J. Reynolds Industries, Inc., Winston-Salem, North Carolina, discussing defendants' joint position with respect to smoking and health research.

This communication was for the purpose of executing the scheme to defraud because it transmitted information relevant to and in furtherance of Defendants' fraudulent efforts to deny that there was a link between smoking and disease, including the issue of whether the link between smoking and disease was an open question, and Defendants' fraudulent promise to

conduct independent, disinterested research.

27. **Racketeering Act No. 27:** On or about November 15, 1971, defendants PHILIP MORRIS, REYNOLDS, BROWN & WILLIAMSON, LORILLARD, and AMERICAN, through defendant TOBACCO INSTITUTE, did knowingly cause a press release to be sent and delivered by the United States mails to newspapers and news outlets. This press release contained statements suggesting that smoking is not harmful to pregnant women or their babies and indicating that many doctors and scientists believe that "the question of smoking and health is an open one."

This communication falsely stated that smoking was not harmful to pregnant women or their babies, and concealed that many of the doctors and scientists who believed that the question of smoking and health was still an open question were conducting research that was funded, controlled, and managed by Defendants; and furthered Defendants' fraudulent position that the link between smoking and disease was an open question.. This communication was for the purpose of executing the scheme to defraud because its false statements and misrepresentations constitute principal gravamen of the scheme to defraud.

28. **Racketeering Act No. 28:** On or about December 22, 1971, defendant PHILIP MORRIS did knowingly cause to be sent and delivered by the United States mails, and defendants LIGGETT, LORILLARD, REYNOLDS, and BROWN & WILLIAMSON did thereafter receive, copies of a memorandum separately addressed to Liggett employee Dr. W.W. Bates, Reynolds employee Dr. Murray Senkus, Lorillard employee Dr. Alexander W. Spears, and Brown & Williamson employee Dr. Iver W. Hughes, from Philip Morris employee Dr. Helmut Wakeham, describing a research proposal of Drs. Auerbach and Hammond concerning the effects of smoking on health, indicating that the National Cancer Institute's likely funding of the research "is a matter of considerable concern to the tobacco industry," and discussing defendants' plan to have lawyers and scientists meet with [the National Cancer Institute ("NCI")] to discourage NCI from funding the research.

This communication was for the purpose of executing the scheme to defraud because it transmitted information relevant to and in furtherance of Defendants' fraudulent efforts to deny

that there was a link between smoking and disease, including the issue of whether the link between smoking and disease was an open question, Defendants' fraudulent promise to conduct independent, disinterested research, and to their concealment and suppression of material information relating to the link between smoking and disease.

29. **Racketeering Act No. 29:** On or about February 1, 1972, defendants PHILIP MORRIS, REYNOLDS, BROWN & WILLIAMSON, LORILLARD, and AMERICAN, through defendant TOBACCO INSTITUTE, did knowingly cause a press release to be sent and delivered by the United States mails to newspapers and news outlets. This press release contained the statement that "[t]he cigarette industry is as vitally concerned or more so than any other group in determining whether cigarette smoking causes human disease, whether there is some ingredient as found in cigarette smoke that can be shown to be responsible, and if so, what it is," and that "despite this effort the answers to the critical questions about smoking and health are still unknown."

This communication misrepresented and concealed the link between smoking and disease; misrepresented that Defendants were vitally concerned or more so than any other group about determining whether cigarette smoking caused human disease; misrepresented that Defendants supported independent, disinterested research efforts with non-restrictive funding. This communication also furthered Defendants' fraudulent efforts to exploit smokers' desire for less hazardous cigarettes. This communication was for the purpose of executing the scheme to defraud because its false statements and misrepresentations constitute principal gravamen of the scheme to defraud.

30. **Racketeering Act No. 30:** On or about May 19, 1972, defendant BROWN & WILLIAMSON did knowingly cause to be sent by the United States mails, and defendant BRITISH-AMERICAN TOBACCO COMPANY (predecessor to BAT INVESTMENTS) thereafter received, a letter addressed to A.D. McCormick, Esq., BAT Co., P.O. Box 482, 7 Millbank, London SW1P 3JE, England, from Addison Yeaman, Esq., General Counsel, Brown & Williamson, in which Yeaman provided comments on a statement BAT Co. proposed to make in

response to a statement anticipated from a British government minister. Yeaman referred to a cablegram sent to him by McCormick on May 17, 1972, and to a telephone conversation in which McCormick and Yeaman had participated on May 18, 1972. Yeaman commented that BAT Co.'s proposed statement concerning the causal relationship between cigarette smoking and disease "is somewhat less affirmative in tone than would be welcome on this side." He gave his approval to alternative versions that described the controversy on this issue. Finally, Yeaman stated in a postscript, "In the penultimate sentence of the B.A.T. draft statement would you object to changing the word 'habit' to 'practice?'"

This communication was for the purpose of executing the scheme to defraud because it transmitted information relevant to and in furtherance of Defendants' fraudulent efforts to deny that there was a link between smoking and disease, including the issue of whether the link between smoking and disease was an open question, and Defendants' fraudulent promise to conduct independent, disinterested research.

31. **Racketeering Act No. 31:** On or about November 7, 1973, defendants PHILIP MORRIS, REYNOLDS, BROWN & WILLIAMSON, LORILLARD, LIGGETT, and AMERICAN, through defendant COUNCIL FOR TOBACCO RESEARCH, did knowingly cause to be sent and delivered by the United States mails letters separately addressed to Thomas F. Ahrensfield, Esq., Philip Morris; DeBaun Bryant, Esq., Brown & Williamson; Frederick P. Haas, Esq., Liggett; Cyril F. Hetsko, Esq., American; Henry C. Roemer, Esq., Reynolds, and Arthur J. Stevens, Esq., Lorillard, from Donald K. Hoel, Esq., Shook, Hardy & Bacon, 915 Grand Avenue, Kansas City, Missouri. The letter recommends approval to fund research by Dr. Richard J. Hickey as a CTR Special Project for two years, beginning September 1973, and cites Hickey's efforts to show that air pollution is primarily responsible for many chronic diseases attributed to smoking.

This communication was for the purpose of executing the scheme to defraud because it transmitted information relevant to and in furtherance of Defendants' fraudulent efforts to deny that there was a link between smoking and disease, including the issue of whether the link between smoking and disease was an open question, and Defendants' fraudulent promise to conduct independent, disinterested research.

32. **Racketeering Act No. 32:** On or about November 26, 1973, defendant BROWN & WILLIAMSON did knowingly cause to be sent and delivered by the United States mails a letter from DeBaun Bryant, Esq., counsel to Brown & Williamson, addressed to Donald K. Hoel, Esq., Shook, Hardy & Bacon, 915 Grand Avenue, Kansas City, Missouri. The letter conveys Brown & Williamson's approval to fund research by Dr. Richard J. Hickey as a CTR Special Project, beginning September 1973, while noting that "[a]s is usual our support is contingent upon the participation in this project by the other companies."

This communication was for the purpose of executing the scheme to defraud because it transmitted information relevant to and in furtherance of Defendants' fraudulent efforts to deny that there was a link between smoking and disease, including the issue of whether the link between smoking and disease was an open question, and Defendants' fraudulent promise to conduct independent, disinterested research.

33. **Racketeering Act No. 33:** On or about January 11, 1974, defendants PHILIP MORRIS, REYNOLDS, BROWN & WILLIAMSON, LORILLARD, and AMERICAN, through defendant TOBACCO INSTITUTE, did knowingly cause a press release to be sent and delivered by the United States mails to newspapers and news outlets. This press release attacked the 1964 U. S. Surgeon General's Report on smoking and health and dismissed scientific research linking smoking to lung cancer, emphysema, and low birth weight in babies born to women who smoked during pregnancy.

This communication misrepresented and concealed the link between smoking and disease. Moreover, this communication sought to discredit the Surgeon General's Report with false and misleading statements. This communication was for the purpose of executing the scheme to defraud because its false statements and misrepresentations constitute principal gravamen of the scheme to defraud.

34. **Racketeering Act No. 34:** On or about January 14, 1975, defendants PHILIP MORRIS, REYNOLDS, BROWN & WILLIAMSON, LORILLARD, and AMERICAN, through defendant TOBACCO INSTITUTE, did knowingly cause a press release to be sent and delivered by the United States mails to newspapers

and news outlets. This press release contained the statement that "domestic tobacco companies . . . have committed some \$50 million to help support researchers who are seeking the truth."

This communication misrepresented and concealed the link between smoking and disease; concealed the fact that Defendants were funding, controlling, and managing research that they maintained was independent and disinterested; and furthered Defendants' fraudulent position that the link between smoking and disease was an open question. This communication was for the purpose of executing the scheme to defraud because its false statements and misrepresentations constitute principal gravamen of the scheme to defraud.

35. **Racketeering Act No. 35:** In or about September 1975, defendants PHILIP MORRIS, REYNOLDS, BROWN & WILLIAMSON, LORILLARD, and AMERICAN, through defendant TOBACCO INSTITUTE, did knowingly cause a press release to be sent and delivered by the United States mails to newspapers and news outlets. This press release contained statements noting that, as early as 1963, the Tobacco Institute had issued statements denying that the Cigarette Companies targeted youth smokers. The press release also noted that in July 1969, the Chairman of the Tobacco Institute, Joseph F. Cullman, III, testified before a Senate Commerce subcommittee that the Cigarette Companies intended to avoid advertising representing cigarette smoking as essential to social prominence, success, or sexual attraction or depicting smokers engaged in sports or other activities requiring exceptional stamina or conditioning.

This communication contained false statements and misrepresentations denying that Defendants targeted youth, and false promises and misrepresentations that Defendants avoided advertising representing cigarette smoking as essential to social prominence, success, or sexual attraction. This communication was for the purpose of executing the scheme to defraud because its false statements and misrepresentations constitute principal gravamen of the scheme to defraud.

36. **Racketeering Act No. 36:** During 1975, the exact dates being unknown,

defendant REYNOLDS caused to be placed in various print media, including Newsweek, a weekly magazine, an advertisement for Vantage cigarettes, which magazine was then sent and delivered by the United States mails to subscribers and others. This text included the language, "If you're like a lot of smokers these days, it probably isn't smoking that you want to give up. It's some of that 'tar' and nicotine you've been hearing about."

This communication concealed the Defendants' knowledge that smokers compensate by changing how they smoke to obtain sufficient delivery of nicotine and that "low tar/low nicotine" cigarettes such as Vantage were designed so that smokers could obtain variable levels of tar and nicotine; and falsely implied that "low tar/low nicotine" cigarettes such as Vantage were less hazardous. This communication was for the purpose of executing the scheme to defraud because its false statements and misrepresentations constitute principal gravamen of the scheme to defraud.

37. **Racketeering Act No. 37:** During 1975, the exact dates being unknown, defendant LORILLARD caused to be placed in various print media, including Family Circle magazine, an advertisement for True cigarettes, which magazine was then sent and delivered by the United States mails to subscribers and others. This advertisement depicted a young woman and contained text stating, "I thought about all I'd read and said to myself, either quit or smoke True. I smoke True."

This communication was for the purpose of executing the scheme to defraud because it transmitted information relevant to and in furtherance of Defendants' fraudulent efforts to deny that there was a link between smoking and disease, and Defendants' false claims that nicotine was not addictive. This communication also furthered Defendants' fraudulent efforts to exploit smokers' desire for less hazardous cigarettes.

38. **Racketeering Act No. 38:** On or about January 4, 1976, defendants PHILIP MORRIS, REYNOLDS, BROWN & WILLIAMSON, LORILLARD, LIGGETT, and AMERICAN, through defendant COUNCIL FOR TOBACCO RESEARCH, did knowingly cause to be sent and delivered by the United States mails letters

separately addressed to Thomas F. Ahrensfeld, Esq., Philip Morris, Joseph Greer, Esq., Liggett, Cyril F. Hetsko, Esq., American, Ernest Pepples, Esq., Brown & Williamson, Henry C. Roemer, Esq., Reynolds, and Arthur J. Stevens, Esq., Lorillard, from Donald K. Hoel, Esq., Shook, Hardy & Bacon, Mercantile Bank Tower, 1101 Walnut, Kansas City, Missouri. The letter recommends funding Dr. Richard J. Hickey as a CTR Special Project during 1977, noting a report of Dr. Hickey that states, "Our findings for lung cancer appear to raise doubt concerning claims . . . that cigarette smoking is the primary cause of lung cancer, particularly in males."

This communication was for the purpose of executing the scheme to defraud because it transmitted information relevant to and in furtherance of Defendants' fraudulent efforts to deny that there was a link between smoking and disease, including the issue of whether the link between smoking and disease was an open question, and Defendants' fraudulent promise to conduct independent, disinterested research.

39. **Racketeering Act No. 39:** During 1976, the exact dates being unknown, defendant REYNOLDS caused to be placed in various print media an advertisement for Vantage cigarettes, which newspapers and magazines were then sent and delivered by the United States mails to subscribers and others. The advertisement included text stating, "Vantage cuts down substantially on the 'tar' and nicotine you may have become concerned about."

This communication concealed the Defendants' knowledge that smokers compensate by changing how they smoke to obtain sufficient delivery of nicotine and that "low tar/low nicotine" cigarettes like Vantage were designed so that smokers could obtain variable levels of tar and nicotine, and falsely implied that "low tar/low nicotine" cigarettes like Vantage were less hazardous. This communication was for the purpose of executing the scheme to defraud because its false statements and misrepresentations constitute principal gravamen of the scheme to defraud.

40. **Racketeering Act No. 40:** On or about January 13, 1977, defendant PHILIP

MORRIS did knowingly cause to be sent and delivered by the United States mails a letter from Alexander Holtzman, Esq., counsel to Philip Morris addressed to Donald K. Hoel, Esq., Shook, Hardy & Bacon, Mercantile Bank Tower, 1101 Walnut, Kansas City, Missouri, approving Philip Morris' participation in a grant to fund Dr. Richard J. Hickey's CTR Special Project during 1977.

This communication was for the purpose of executing the scheme to defraud because it transmitted information relevant to and in furtherance of Defendants' fraudulent efforts to deny that there was a link between smoking and disease, including the issue of whether the link between smoking and disease was an open question, and Defendants' fraudulent promise to conduct independent, disinterested research.

41. **Racketeering Act No. 41:** On or about March 31, 1977, defendant PHILIP MORRIS did knowingly cause to be sent and delivered by the United States mails a letter addressed to: Dr. Max Hausermann, Philip Morris Europe S.A., P.O. Box 11, 2003 Neuchatel, Switzerland, from Robert B. Seligman, Vice President for Research and Development, suggesting that the recipient comply with company policy of avoiding direct mail contact with Philip Morris' Cologne, Germany research facility by sending materials to a "dummy" mail address.

This communication was for the purpose of executing the scheme to defraud because it transmitted information relevant to and in furtherance of Defendants' fraudulent efforts to deny that there was a link between smoking and disease, including the issue of whether the link between smoking and disease was an open question; Defendants' fraudulent promise to conduct independent, disinterested research; Defendants' fraudulent efforts to suppress development and marketing of a less hazardous cigarette; and Defendants' fraudulent efforts to conceal and suppress material information relating to smoking and health.

42. **Racketeering Act No. 42:** On or about December 29, 1977, defendants PHILIP MORRIS, REYNOLDS, BROWN & WILLIAMSON, LORILLARD, and AMERICAN, through defendant TOBACCO INSTITUTE, did knowingly cause a press release to be sent and delivered by the United States mails to newspapers

and news outlets. This press release contained statements suggesting that the contribution of smoking to disease was still an "open question" and that tobacco smoke does not harm nonsmokers.

This communication misrepresented and concealed the link between smoking and disease; concealed that Defendants were funding, controlling, and managing research that Defendants maintained was disinterested and independent; furthered Defendants' fraudulent position that the link between smoking and disease was an open question; and falsely stated that tobacco smoke does not harm nonsmokers. This communication was for the purpose of executing the scheme to defraud because its false statements and misrepresentations constitute principal gravamen of the scheme to defraud.

43. **Racketeering Act No. 43:** On or about January 17, 1979, defendants PHILIP MORRIS, REYNOLDS, BROWN & WILLIAMSON, LORILLARD, and AMERICAN, through defendant TOBACCO INSTITUTE, did knowingly cause a press release to be sent and delivered by the United States mails to newspapers and news outlets. This press release contained statements that defendants had spent 75 million dollars on research over 20 years to learn whether smoking is harmful but that "the case against cigarettes is not satisfactorily demonstrated."

This communication misrepresented and concealed the link between smoking and disease; misrepresented and concealed that tobacco industry was funding, controlling, and managing research that Defendants maintained was independent and disinterested; and furthered Defendants' fraudulent position that the link between smoking and disease was an open question. This communication was for the purpose of executing the scheme to defraud because its false statements and misrepresentations constitute principal gravamen of the scheme to defraud.

44. **Racketeering Act No. 44:** On or about November 20, 1979, defendants PHILIP MORRIS, REYNOLDS, BROWN & WILLIAMSON, LORILLARD, LIGGETT, and AMERICAN did knowingly cause to be sent and delivered by the United States mails letters separately addressed to Thomas F. Ahrensfield, Esq., Philip

Morris; Max Crohn, Esq., Reynolds; Joseph Greer, Esq., Liggett; Arnold Henson, Esq., American; Ernest Pepples, Esq., Brown & Williamson; Arthur J. Stevens, Esq., Lorillard; and William Shinn, Esq., Shook, Hardy & Bacon, Kansas City, Missouri, from CTR counsel Edwin J. Jacob, Jacob & Medinger, New York, New York. The memorandum described a proposal to research the relationship between stress and cardiac disorder, and stated, "I have discussed this with Bill Shinn, who agrees with me that this study is well worth doing and that we should recommend it to you for approval, financing to be handled through Special Account #4."

This communication was for the purpose of executing the scheme to defraud because it transmitted information relevant to and in furtherance of Defendants' fraudulent efforts to deny that there was a link between smoking and disease, including the issue of whether the link between smoking and disease was an open question, and Defendants' fraudulent promise to conduct independent, disinterested research.

45. **Racketeering Act No. 45:** On or about November 27, 1979, defendant BROWN & WILLIAMSON did knowingly cause to be sent and delivered by the United States mails a letter from Ernest Pepples, Esq., Brown & Williamson Vice President and General Counsel, addressed to CTR counsel Edwin J. Jacob, Esq., Jacob & Medinger, 1270 Avenue of the Americas, New York, New York 10020, regarding a proposal to fund a study on the relationship between stress and cardiac disorder, and agreeing that the study should be financed through Special Account #4.

This communication was for the purpose of executing the scheme to defraud because it transmitted information relevant to and in furtherance of Defendants' fraudulent efforts to deny that there was a link between smoking and disease, including the issue of whether the link between smoking and disease was an open question, and Defendants' fraudulent promise to conduct independent, disinterested research.

46. **Racketeering Act No. 46:** In or about 1979, the exact date being unknown, defendants PHILIP MORRIS, REYNOLDS, BROWN & WILLIAMSON, LORILLARD, and AMERICAN, through defendant TOBACCO INSTITUTE, did

knowingly publish a document entitled "Fact or Fancy?" and caused copies of said document to be sent and delivered by the United States mails to newspapers and news outlets. This publication contained statements asserting that smoking does not contribute to low birth weight in babies and suggesting that cigarette smoking is not harmful to women.

This communication misrepresented and concealed link between smoking and disease; misrepresented and concealed that smoking did not contribute to low birth weight in babies; and misrepresented and concealed that cigarette smoking is not harmful to women. This communication was for the purpose of executing the scheme to defraud because its false statements and misrepresentations constitute principal gravamen of the scheme to defraud.

47. **Racketeering Act No. 47:** During 1979, the exact dates being unknown, defendant PHILIP MORRIS caused to be placed in various national magazines an advertisement for Merit cigarettes entitled "Best Move Yet," which magazines were then sent and delivered by the United States mails to subscribers and others. The advertisement stated that Merit's "ability to satisfy over long periods of time could be the most important evidence to date that MERIT science has produced what it claims: The first real alternative for high tar smokers."

This communication concealed knowledge that smokers compensate by changing how they smoke to obtain sufficient delivery of nicotine and that "low tar/low nicotine" cigarettes like MERIT were designed so that smokers could obtain variable levels of tar and nicotine, and falsely implied that "low tar/low nicotine" cigarettes like MERIT are less hazardous. This communication was for the purpose of executing the scheme to defraud because its false statements and misrepresentations constitute principal gravamen of the scheme to defraud.

48. **Racketeering Act No. 48:** During 1979, the exact dates being unknown, defendant PHILIP MORRIS caused to be placed in various national magazines an advertisement for Merit cigarettes entitled "Merit Taste Eases Low Tar Decision," which magazines were then sent and delivered by the United States mails to subscribers and others. The advertisement stated that Merit's "ability to satisfy over long periods of time could be the most important evidence to date that

MERIT is what it claims to be: The first real alternative for high tar smokers."

This communication concealed the Defendants' knowledge that smokers compensate by changing how they smoke to obtain sufficient delivery of nicotine and that "low tar/low nicotine" cigarettes like MERIT were designed so that smokers could obtain variable levels of tar and nicotine; and falsely implied that "low tar/low nicotine" cigarettes like MERIT are less hazardous. This communication was for the purpose of executing the scheme to defraud because its false statements and misrepresentations constitute principal gravamen of the scheme to defraud.

49. **Racketeering Act No. 49:** On or about May 13, 1981, defendants PHILIP MORRIS, REYNOLDS, BROWN & WILLIAMSON, LORILLARD, and AMERICAN, through defendant TOBACCO INSTITUTE, did knowingly cause a press release to be sent and delivered by the United States mails to newspapers and news outlets. This press release contained statements that members of the Tobacco Institute had a "long-standing policy" of discouraging smoking by children and suggested that smoking is a free choice when done by adults.

This communication misrepresented that members of the Tobacco Institute discouraged smoking by children; misrepresented and concealed that members of the Tobacco Institute marketed to youth; and misrepresented that smoking is a free choice when done by adults. This communication was for the purpose of executing the scheme to defraud because its false statements and misrepresentations constitute principal gravamen of the scheme to defraud.

50. **Racketeering Act No. 50:** On or about November 9, 1981, defendant BRITISH-AMERICAN TOBACCO COMPANY (predecessor to BAT INVESTMENTS) did knowingly cause a letter to be delivered by the United States mails, and defendant BROWN & WILLIAMSON did thereafter receive, a letter addressed to Mr. J. Kendrick Wells III, Esq., Brown & Williamson, 1600 West Hill Street, P.O. Box 35090, Louisville, Kentucky 40232, and signed by Sarah Mash, Secretary to M.J. Leach, BAT Co. The letter referenced an enclosed

"copy of the Parliamentary Brief in order that you can see how the B & W amendments have been incorporated into the text," and sought Wells' approval of the revised document. Brown & Williamson's amendments intended to ensure that the Brief did not contain anything that could be construed as an admission regarding the health effects of smoking.

This communication was for the purpose of executing the scheme to defraud because it transmitted information relevant to and in furtherance of Defendants' fraudulent efforts to deny that there was a link between smoking and disease, including the issue of whether the link between smoking and disease was an open question.

51. **Racketeering Act No. 51:** On or about December 17, 1981, defendant BRITISH-AMERICAN TOBACCO COMPANY (predecessor to BAT INVESTMENTS) did knowingly cause to be delivered by the United States mails, and defendant BROWN & WILLIAMSON did thereafter receive, a letter addressed to J. Kendrick Wells III, Esq., Brown & Williamson, 1600 West Hill Street, P.O. Box 35090, Louisville, Kentucky 40232, and copied to Don Hoel, Esq., Shook, Hardy & Bacon, Kansas City, Missouri, from M.J. Leach, BAT Co. The letter enclosed, for review by Wells and Ernest Pepples, another Brown & Williamson attorney, a draft "UK Parliamentary Brief" in which BAT Co.'s position on smoking and health incorporates "open controversy" language urged by Brown & Williamson.

This communication was for the purpose of executing the scheme to defraud because it transmitted information relevant to and in furtherance of Defendants' fraudulent efforts to deny that there was a link between smoking and disease, including the issue of whether the link between smoking and disease was an open question.

52. **Racketeering Act No. 52:** On or about February 12, 1982, defendant BROWN & WILLIAMSON did knowingly cause to be sent and delivered by the United States mails a letter from Ernest Pepples, Esq., Brown & Williamson General Counsel, addressed to Patrick M. Sirridge, Esq., Shook, Hardy & Bacon, 20th Floor, Mercantile Tower, 1101 Walnut, Kansas City, Missouri. The letter concurs in the recommendation to renew an annual grant to Dr. Arthur Furst to be paid from Special Fund 4.

This communication was for the purpose of executing the scheme to defraud because it transmitted information relevant to and in furtherance of Defendants' fraudulent efforts to deny that there was a link between smoking and disease, including the issue of whether the link between smoking and disease was an open question, and Defendants' fraudulent promise to conduct independent, disinterested research.

53. **Racketeering Act No. 53:** On or about April 7, 1982, defendant BRITISH-AMERICAN TOBACCO COMPANY (predecessor to BAT INVESTMENTS) did knowingly cause to be delivered by the United States mails, and defendant BROWN & WILLIAMSON did thereafter receive, a letter addressed to W.L. Telling, Esq., Brown & Williamson International Tobacco, 1600 West Hill Street, Louisville, Kentucky 40232, from G.O. Brooks, BAT Co. The letter replied to a request from Telling for a report on a Smoker Compensation Study that examined how a cigarette smoker's method of smoking alters tar and nicotine delivery, and enclosed "a paper from one of our recent Product Knowledge Seminars [entitled "Human Smoking Behaviour"] which contains a summary of the work and a number of the tables from the report."

This communication was for the purpose of executing the scheme to defraud because it transmitted information relevant to and in furtherance of Defendants' fraudulent efforts to deny that there was a link between smoking and disease, including the issue of whether the link between smoking and disease was an open question, and Defendants' false and misleading statements regarding nicotine addiction, manipulation, and delivery.

54. **Racketeering Act No. 54:** On or about April 8, 1982, defendant BRITISH-AMERICAN TOBACCO COMPANY (predecessor to BAT INVESTMENTS) did knowingly cause to be delivered by the United States mails, and defendant BROWN & WILLIAMSON did thereafter receive, a letter addressed to J. Kendrick Wells III, Esq., Corporate Counsel, Brown & Williamson, 1600 West Hill Street, Louisville, Kentucky 40232, from L.C.F. Blackman, BAT Co., in which Blackman informed Wells that "[w]e have acted on the various points you have made" regarding a BAT Co. position paper relating to

smoking and health.

This communication was for the purpose of executing the scheme to defraud because it transmitted information relevant to and in furtherance of Defendants' fraudulent efforts to deny that there was a link between smoking and disease, including the issue of whether the link between smoking and disease was an open question.

55. **Racketeering Act No. 55:** On or about April 14, 1982, defendant BAT INDUSTRIES (predecessor to BAT P.L.C.) did knowingly cause to be delivered by the United States mails, and defendant BROWN & WILLIAMSON did thereafter receive, a letter addressed to Dr. I.W. Hughes, Brown & Williamson, 1600 West Hill Street, P.O. Box 35090, Louisville, Kentucky 40232, from T.J. Walker, BAT Industries, Windsor House, 50 Victoria Street, London SW1H 0NL, England. The letter referenced materials regarding the "BAT Board Guidelines" on public affairs matters, and referred to enclosed "secret" papers entitled "Assumptions and Strategies of the Smoking Issues."

This communication was for the purpose of executing the scheme to defraud because it transmitted information relevant to and in furtherance of Defendants' fraudulent efforts to deny that there was a link between smoking and disease, including the issue of whether the link between smoking and disease was an open question.

56. **Racketeering Act No. 56:** On or about November 3, 1983, defendants PHILIP MORRIS, REYNOLDS, BROWN & WILLIAMSON, LORILLARD, and AMERICAN, through defendant TOBACCO INSTITUTE, did knowingly cause a press release to be sent and delivered by the United States mails to newspapers and news outlets. This press release contained statements disputing the addictiveness of cigarette smoking.

This communication misrepresented and concealed link between smoking and disease; misrepresented and concealed evidence of the addictiveness of cigarettes; and falsely promised and misrepresented that Defendants wanted to and would conduct independent and disinterested

research regarding smoking and disease and make the results of such research public. This communication was for the purpose of executing the scheme to defraud because its false statements and misrepresentations constitute principal gravamen of the scheme to defraud.

57. **Racketeering Act No. 57:** On or about July 20, 1983, defendant BRITISH-AMERICAN TOBACCO COMPANY (predecessor to BAT INVESTMENTS) did knowingly cause to be delivered by the United States mails, and defendant BROWN & WILLIAMSON did thereafter receive, a letter addressed to K. Wells, Esq., Brown & Williamson, 1600 West Hill Street, P.O. Box 35090, Louisville, Kentucky 40202, from Miss A. Johnson, BAT Co. The mailing included "the T.I.'s Australian booklet on the Waxman Hearings" and a note that Johnson had written "to Public Affairs Department about the way in which they can use Dr. Colby's article and the Waxman Hearings' summary in relation to the overseas companies." Johnson also informed Wells that BAT Co. intended to make the smoking and health "controversy" a "central issue" in future presentations to members of the British Parliament.

This communication was for the purpose of executing the scheme to defraud because it transmitted information relevant to and in furtherance of Defendants' fraudulent efforts to deny that there was a link between smoking and disease, including the issue of whether the link between smoking and disease was an open question.

58. **Racketeering Act No. 58:** On or about July 27, 1983, defendant PHILIP MORRIS, did receive from the United States mails a letter addressed to Frederic S. Newman, Esq., Philip Morris International, 120 Park Avenue, New York, New York 10017, from Patrick M. Sirridge, Esq., Shook, Hardy & Bacon, Kansas City, Missouri, enclosing a memorandum summarizing research on the addictive features of nicotine conducted by Philip Morris and recommending suppression of such research.

This communication was for the purpose of executing the scheme to defraud because it transmitted information relevant to and in furtherance of Defendants' fraudulent efforts to deny the addictiveness of nicotine; Defendants' fraudulent efforts to suppress and conceal material

information regarding the link between smoking and health; and Defendants' fraudulent efforts to misrepresent and conceal evidence of the addictiveness of cigarettes.

59. **Racketeering Act No. 59:** On or about September 9, 1983, defendant BAT INDUSTRIES (predecessor to BAT P.L.C.) did knowingly cause to be delivered by the United States mails, and defendant PHILIP MORRIS did thereafter receive, a letter from P. Sheehy, Chairman of BAT Industries, addressed to George Weissman, Philip Morris, Inc., 120 Park Avenue, New York, New York, 10017. The letter discussed an advertisement of Philip Morris' Holland affiliate, and stated: "I find it incomprehensible that Philip Morris would weigh so heavily the short-term commercial advantage from deprecating a competitor's brand while weighing so lightly the long-term adverse impact from an on-going anti-smoking programme. . . . In doing so, Philip Morris . . . makes a mockery of Industry co-operation on smoking and health issues. . . ."

This communication was for the purpose of executing the scheme to defraud because it transmitted information relevant to and in furtherance of Defendants' fraudulent efforts to deny that there was a link between smoking and disease, including the issue of whether the link between smoking and disease was an open question; Defendants' fraudulent exploitation of smokers' desire for less hazardous cigarettes; their concerted efforts to suppress development and marketing of less hazardous cigarettes; and their efforts to suppress and conceal material information regarding smoking and health.

60. **Racketeering Act No. 60:** On or about January 23, 1984, defendant BRITISH-AMERICAN TOBACCO COMPANY (predecessor to BAT INVESTMENTS) did knowingly cause to be delivered by the United States mails, and defendant BROWN & WILLIAMSON did thereafter receive, a letter addressed to Mr. E.E. Kohnhorst, Brown & Williamson, P.O. Box 35090, Louisville, Kentucky 40232, from C.I. Ayres, Group Research & Development Centre, BAT Co., Southampton, England, in which Ayres discussed and sought Kohnhorst's comments concerning an upcoming conference on nicotine to be held in Southampton on June 6-8, 1984. Ayres acknowledged the existence of articles in the scientific literature linking nicotine with various diseases and predicted that the Cigarette Companies would be "under pressure to reduce the delivery of nicotine. My translation is that, in the future, we have to evolve ways and means

of ensuring that smaller amounts of nicotine continue to give a satisfactory 'reward' to the smoker."

This communication was for the purpose of executing the scheme to defraud because it transmitted information relevant to and in furtherance of Defendants' fraudulent efforts relating to nicotine manipulation and delivery, and Defendants' fraudulent denials that nicotine is not addictive.

61. **Racketeering Act No. 61:** In or about April 1984, the exact date being unknown, defendant REYNOLDS did knowingly cause to be placed in numerous publications nationwide, including U.S. News and World Report, a weekly magazine, an advertisement entitled "We don't advertise to children," which magazine was then sent and delivered by the United States mails to subscribers and others. This advertisement contained the statement "we don't want young people to smoke," and further stated, "Kids don't pay attention to cigarette ads, and that's exactly as it should be."

This communication misrepresented that Reynolds did not target the youth market; concealed that Reynolds did target the youth market; and falsely stated that young people do not pay attention to cigarette advertising. This communication was for the purpose of executing the scheme to defraud because its false statements and misrepresentations constitute principal gravamen of the scheme to defraud.

62. **Racketeering Act No. 62:** In or about July 1984, the exact dates being unknown, defendant REYNOLDS did knowingly cause to be sent and delivered by the United States mails letters from Reynolds' employee Ann Griffin, addressed to various children who wrote to Reynolds. In the letter, Reynolds claimed to be engaged in an effort to determine the harmful effects of smoking for the benefit of smokers, promised to support disinterested research into smoking and health, and claimed that research had not revealed any "conclusive" evidence linking smoking to disease.

This communication contained false statements and misrepresentations that Reynolds was

engaged in an effort to determine the harmful effects of smoking for the benefit of smokers; Reynolds' false promise to support independent, disinterested research into smoking and health; false claim that research had not revealed any "conclusive" evidence linking smoking to disease; fraudulently concealed that tobacco industry was funding, controlling, and managing research that Defendants maintained was independent and disinterested; and furthered Defendants' fraudulent position that the link between smoking and disease was an open question. This communication was for the purpose of executing the scheme to defraud because its false statements and misrepresentations constitute principal gravamen of the scheme to defraud.

63. **Racketeering Act No. 63:** On or about August 28, 1984, defendant BROWN & WILLIAMSON did knowingly cause to be sent and delivered by the United States mails, and defendant BRITISH-AMERICAN TOBACCO CO., LTD. (predecessor to BAT INVESTMENTS) did thereafter receive, a letter addressed to Mr. Ray Pritchard, Deputy Chairman, BAT Co., P.O. Box 482, Westminster House, 7 Millbank, London, England, from Ernest Pepples, Esq., Senior Vice President and General Counsel of Brown & Williamson, enlisting the recipient's help in suppressing a BAT employee's conclusions regarding the addictiveness of nicotine because the conclusion contradicted the position taken by Brown & Williamson in ongoing litigation.

This communication was for the purpose of executing the scheme to defraud because it transmitted information relevant to and in furtherance of Defendants' fraudulent efforts to deny that there was a link between smoking and disease, including the issue of whether the link between smoking and disease was an open question, and Defendants' false and misleading statements regarding nicotine addiction, manipulation, and delivery.

64. **Racketeering Act No. 64:** In or about 1984, the exact date being unknown, defendant REYNOLDS did knowingly cause to be placed in daily newspapers an advertisement entitled "Can we have an open debate about smoking?" which newspapers were then sent and delivered by the United States mails to subscribers and others. In this advertisement Reynolds claimed that "studies which conclude

that smoking causes disease have regularly ignored significant evidence to the contrary," that this "significant evidence" comes from research "completely independent of the tobacco industry," and that "reasonable people" would consider the link between smoking and disease to be an "open controversy."

This communication misrepresented and concealed the link between smoking and health; concealed that many of the doctors and scientists who believed that the question of smoking and health was still an open question were conducting research that was funded, controlled, and managed by Defendants, while Defendants maintained that such research was disinterested and independent; falsely claimed that reasonable people would consider the link between smoking and disease to be an "open controversy;" and furthered Defendants' fraudulent position that the link between smoking and disease was an open question. This communication was for the purpose of executing the scheme to defraud because its false statements and misrepresentations constitute principal gravamen of the scheme to defraud.

65. **Racketeering Act No. 65:** In or about 1984, the exact date being unknown, defendant REYNOLDS did knowingly cause to be placed in numerous newspapers and magazines nationwide, including The New York Times, a daily newspaper, an advertisement entitled "Smoking and health: Some facts you've never heard about," which newspapers and magazines were then sent and delivered by the United States mails to subscribers and others. This advertisement contained the statement, "You hear a lot these days about reports that link smoking to certain diseases. This evidence has led many scientists and other people to conclude that smoking causes these diseases. But there is significant evidence on the other side of this issue. It is regularly ignored by the critics of smoking. And you rarely hear about it in the public media. But, it has helped persuade many scientists that the case against smoking is far from closed." Further, the advertisement contained the statement, "No one wants to know the real answers more than R.J. Reynolds. That is why we are providing major funding for scientific research. The funds are given at arms length to independent scientists who are free to publish whatever they find. We don't know where such research may lead. But this much we can promise: when we find the answers, you'll hear about it."

This communication misrepresented and concealed the link between smoking and disease; concealed that many of the scientists who believed that the case against smoking was far from closed were conducting research that was funded, controlled, and managed by the Defendants; falsely claimed that no one wants to know the real answers more than R.J. Reynolds; misrepresented that Defendants were funding independent, disinterested research; falsely claimed that funding for scientific research was given at arms length to independent scientists who were free to publish whatever they found; falsely claimed that the public would be told about the answers to the smoking and health questions; and furthered Defendants' fraudulent position that the link between smoking and disease was an open question. This communication was for the purpose of executing the scheme to defraud because its false statements and misrepresentations constitute principal gravamen of the scheme to defraud.

66. **Racketeering Act No. 66:** On or about February 18, 1986, defendants PHILIP MORRIS, REYNOLDS, BROWN & WILLIAMSON, LORILLARD, LIGGETT, and AMERICAN, through defendant COUNCIL FOR TOBACCO RESEARCH, did knowingly cause to be sent and delivered by the United States mails letters addressed separately to Alexander Holtzman, Esq., Philip Morris; Wayne W. Juchatz, Esq., Reynolds; Josiah Murray III, Esq., Liggett; Ernest Pepples, Esq., Brown & Williamson; Paul Randour, Esq., American; and Arthur J. Stevens, Esq., Lorillard, from Donald K. Hoel, Esq., Shook, Hardy & Bacon, Mercantile Bank Tower, 1101 Walnut, Kansas City, Missouri. The letter recommends funding the work of Dr. Theodor Sterling for the years 1986-1988 as a CTR Special Project.

This communication was for the purpose of executing the scheme to defraud because it transmitted information relevant to and in furtherance of Defendants' fraudulent efforts to deny that there was a link between smoking and disease, including the issue of whether the link between smoking and disease was an open question, and Defendants' fraudulent promise to conduct independent, disinterested research.

67. **Racketeering Act No. 67:** On or about February 25, 1986, defendants PHILIP MORRIS, REYNOLDS, BROWN & WILLIAMSON, LORILLARD, LIGGETT, and AMERICAN, through defendant COUNCIL FOR TOBACCO RESEARCH, did knowingly cause to be sent and delivered by the United States mails letters addressed separately to Alexander Holtzman, Esq., Philip Morris; Wayne W. Juchatz, Esq., Reynolds; Josiah S. Murray III, Esq., Liggett; Ernest Pepples, Esq., Brown & Williamson; Paul A. Randour, Esq., American; and Arthur J. Stevens, Esq., Lorillard, from Patrick M. Sirridge, Esq., Shook, Hardy & Bacon, 1101 Walnut, Kansas City, Missouri, counsel to CTR. The letter advised the Cigarette Companies to continue funding through CTR research by a "Special Fund" scientist.

This communication was for the purpose of executing the scheme to defraud because it transmitted information relevant to and in furtherance of Defendants' fraudulent efforts to deny that there was a link between smoking and disease, including the issue of whether the link between smoking and disease was an open question, and Defendants' fraudulent promise to conduct independent, disinterested research.

68. **Racketeering Act No. 68:** On or about March 11, 1986, defendant REYNOLDS did knowingly cause to be sent and delivered by the United States mails a letter from Reynolds counsel Wayne W. Juchatz, Esq., and addressed to Patrick M. Sirridge, Esq., Shook, Hardy & Bacon, 1101 Walnut, Kansas City, Missouri, counsel to CTR, in which Reynolds approved payment through CTR to a scientist conducting "Special Fund" research.

This communication was for the purpose of executing the scheme to defraud because it transmitted information relevant to and in furtherance of Defendants' fraudulent efforts to deny that there was a link between smoking and disease, including the issue of whether the link between smoking and disease was an open question, and Defendants' fraudulent promise to conduct independent, disinterested research.

69. **Racketeering Act No. 69:** On or about March 13, 1986, defendant PHILIP MORRIS COMPANIES did knowingly cause to be sent and delivered by the United States mails a letter from Philip Morris Companies employee Helen

Frustace addressed to Donald K. Hoel, Esq., Shook, Hardy & Bacon, Mercantile Bank Tower, 1101 Walnut, Kansas City, Missouri, indicating approval of request to support Dr. Theodore Sterling's research project "provided it is also approved by four other companies."

This communication was for the purpose of executing the scheme to defraud because it transmitted information relevant to and in furtherance of Defendants' fraudulent efforts to deny that there was a link between smoking and disease, including the issue of whether the link between smoking and disease was an open question, and Defendants' fraudulent promise to conduct independent, disinterested research.

70. **Racketeering Act No. 70:** On or about April 1, 1986, defendants PHILIP MORRIS, REYNOLDS, BROWN & WILLIAMSON, LORILLARD, LIGGETT, and AMERICAN, through defendant COUNCIL FOR TOBACCO RESEARCH, did knowingly cause to be sent and delivered by the United States mails letters addressed separately to Alexander Holtzman, Esq., Philip Morris; Wayne W. Juchatz, Esq., Reynolds; Josiah S. Murray III, Liggett; Ernest Pepples, Esq, Brown & Williamson; Paul A. Randour, Esq., American; and Arthur J. Stevens, Esq., Lorillard, from Donald K. Hoel, Esq., Shook, Hardy & Bacon, 1101 Walnut, Kansas City, Missouri, counsel to CTR. The letter advised the Cigarette Companies to continue funding through CTR research by a "Special Project" scientist.

This communication was for the purpose of executing the scheme to defraud because it transmitted information relevant to and in furtherance of Defendants' fraudulent efforts to deny that there was a link between smoking and disease, including the issue of whether the link between smoking and disease was an open question, and Defendants' fraudulent promise to conduct independent, disinterested research.

71. **Racketeering Act No. 71:** On or about April 23, 1986, defendant PHILIP MORRIS COMPANIES did knowingly cause to be sent and delivered by the United States mails a letter from Eric A. Taussig, Esq., Assistant General Counsel, Philip Morris Companies, addressed to Dr. Paul C. Mele, 3205 Whispering Pines Drive, Silver Spring, Maryland. The letter alleged that Dr.

Mele had violated a confidentiality agreement with Philip Morris and warned that "[i]n the future, you are expected to comply" with the agreement.

This communication was for the purpose of executing the scheme to defraud because it transmitted information relevant to and in furtherance of Defendants' fraudulent efforts to deny that there was a link between smoking and disease, including the issue of whether the link between smoking and disease was an open question; Defendants' false and misleading statements regarding nicotine addiction, manipulation, and delivery; Defendants' fraudulent promise to conduct independent, disinterested research; and their efforts to suppress and conceal material information regarding the link between smoking and adverse health effects.

72. **Racketeering Act No. 72:** On or about April 23, 1986, defendant PHILIP MORRIS COMPANIES did knowingly cause to be sent and delivered by the United States mails a letter from Eric A. Taussig, Esq., Assistant General Counsel, Philip Morris Companies, addressed to Dr. Victor J. DeNoble, 5603 Fox Run Drive, Plainsboro, New Jersey. The letter alleged that Dr. DeNoble had violated a confidentiality agreement with Philip Morris and warned that "[i]n the future, you are expected to comply" with the agreement.

This communication was for the purpose of executing the scheme to defraud because it transmitted information relevant to and in furtherance of Defendants' fraudulent efforts to deny that there was a link between smoking and disease, including the issue of whether the link between smoking and disease was an open question; Defendants' false and misleading statements regarding nicotine addiction, manipulation, and delivery; Defendants' fraudulent promise to conduct independent, disinterested research; and their efforts to suppress and conceal material information regarding the link between smoking and adverse health effects.

73. **Racketeering Act No. 73:** On or about September 4, 1986, defendants PHILIP MORRIS, REYNOLDS, BROWN & WILLIAMSON, LORILLARD, LIGGETT, and AMERICAN did knowingly cause to be sent and delivered by the United

States mails letters addressed separately to Alexander Holtzman, Esq., Philip Morris; Wayne W. Juchatz, Esq., Reynolds; Josiah S. Murray III, Liggett; Ernest Pepples, Esq., Brown & Williamson; Paul A. Randour, Esq., American; and Arthur J. Stevens, Esq., Lorillard, from Patrick M. Sirridge, Esq., Shook, Hardy & Bacon, 1101 Walnut, Kansas City, Missouri, advising the companies to continue funding research by a former "Special Project" scientist through the "Shook, Hardy & Bacon Special Account."

This communication was for the purpose of executing the scheme to defraud because it transmitted information relevant to and in furtherance of Defendants' fraudulent efforts to deny that there was a link between smoking and disease, including the issue of whether the link between smoking and disease was an open question; Defendants' fraudulent promise to conduct independent, disinterested research; and their efforts to suppress and conceal material information regarding the link between smoking and adverse health effects.

74. **Racketeering Act No. 74:** On or about September 10, 1986, defendant PHILIP MORRIS COMPANIES did knowingly cause to be sent and delivered by the United States mails a letter from Eric A. Taussig, Esq., Assistant General Counsel, Philip Morris Companies, addressed to Dr. Paul C. Mele, 3205 Whispering Pines Drive, Silver Spring, Maryland. The letter alleged that Dr. Mele and Dr. DeNoble had violated their respective confidentiality agreements with Philip Morris and stated that "The Company cannot tolerate this kind of conduct. . . . Any further breach of your agreement will result in action being taken."

This communication was for the purpose of executing the scheme to defraud because it transmitted information relevant to and in furtherance of Defendants' fraudulent efforts to deny that there was a link between smoking and disease, including the issue of whether the link between smoking and disease was an open question; Defendants' false and misleading statements regarding nicotine addiction, manipulation, and delivery; Defendants' fraudulent promise to conduct independent, disinterested research; and their efforts to suppress and conceal material

information regarding the link between smoking and adverse health effects.

75. **Racketeering Act No. 75:** On or about September 10, 1986, defendant PHILIP MORRIS COMPANIES did knowingly cause to be sent and delivered by the United States mails a letter from Eric A. Taussig, Esq., Assistant General Counsel, Philip Morris Companies, addressed to Dr. Victor J. DeNoble, 5603 Fox Run Drive, Plainsboro, New Jersey. The letter alleged that Dr. DeNoble and Dr. Mele had violated their respective confidentiality agreements with Philip Morris and stated that "The Company cannot tolerate this kind of conduct. . . . Any further breach of your agreement will result in action being taken."

This communication was for the purpose of executing the scheme to defraud because it transmitted information relevant to and in furtherance of Defendants' fraudulent efforts to deny that there was a link between smoking and disease, including the issue of whether the link between smoking and disease was an open question; Defendants' false and misleading statements regarding nicotine addiction, manipulation, and delivery; Defendants' fraudulent promise to conduct independent, disinterested research; and their efforts to suppress and conceal material information regarding the link between smoking and adverse health effects.

76. **Racketeering Act No. 76:** From about April 1, 1988, through about June 30, 1988, defendant REYNOLDS caused an advertisement for Camel cigarettes to be placed in various print media, including the "Sporting News and other Jumbo Jr. Size Magazines," which magazines were then sent and delivered by the United States mails to subscribers and others. This advertisement was captioned "Get On Track With Camel's 75th Birthday!" and depicted the Joe Camel character in a Formula One-type automobile racing suit, opening a bottle of champagne, with racing cars whizzing by in the background.

This communication was for the purpose of executing the scheme to defraud because it transmitted information relevant to and in furtherance of Defendants' fraudulent efforts to target the youth market, which they publicly denied.

77. **Racketeering Act No. 77:** On or about April 19, 1988, defendants PHILIP MORRIS, REYNOLDS, BROWN & WILLIAMSON, LORILLARD, LIGGETT,

and AMERICAN, through defendant COUNCIL FOR TOBACCO RESEARCH, did knowingly cause to be sent and delivered by the United States mails letters separately addressed to Alexander Holtzman, Esq., Philip Morris; Wayne W. Juchatz, Esq., Reynolds; Josiah Murray III, Esq., Liggett; Ernest Pepples, Esq., Brown & Williamson; Paul Randour, Esq., American; and Arthur J. Stevens, Esq., Lorillard, from Bernard V. O'Neill, Jr., Esq., Shook, Hardy & Bacon, One Kansas City Place, 1200 Main Street, Kansas City, Missouri. The letter recommended funding Dr. Alvan Feinstein's work in clinical epidemiology as a CTR Special Project for two years.

This communication was for the purpose of executing the scheme to defraud because it transmitted information relevant to and in furtherance of Defendants' fraudulent efforts to deny that there was a link between smoking and disease, including the issue of whether the link between smoking and disease was an open question, and Defendants' fraudulent promise to conduct independent, disinterested research.

78. **Racketeering Act No. 78:** On or about May 9, 1988, defendant PHILIP MORRIS COMPANIES did knowingly cause to be sent and delivered by the United States mails a letter from Philip Morris Companies employee Helen Frustace addressed to Bernard V. O'Neill, Jr., Esq., Shook, Hardy & Bacon, One Kansas City Place, 1200 Main Street, Kansas City, Missouri, indicating approval Dr. Rodger L. Bick's request for a one-year extension of the funding for his CTR Special Project.

This communication was for the purpose of executing the scheme to defraud because it transmitted information relevant to and in furtherance of Defendants' fraudulent efforts to deny that there was a link between smoking and disease, including the issue of whether the link between smoking and disease was an open question, and Defendants' fraudulent promise to conduct independent, disinterested research.

79. **Racketeering Act No. 79:** On or about May 16, 1988, defendants PHILIP MORRIS, REYNOLDS, BROWN & WILLIAMSON, LORILLARD, and AMERICAN, through defendant TOBACCO INSTITUTE, did knowingly cause a press release to be sent and delivered by the United States mails to newspapers

and news outlets. This press release contained statements disputing the addictiveness of cigarette smoking.

This communication contained false and misleading statements disputing the addictiveness of cigarette smoking. This communication was for the purpose of executing the scheme to defraud because its false statements and misrepresentations constitute principal gravamen of the scheme to defraud.

80. **Racketeering Act No. 80:** On or about May 16, 1988, defendant PHILIP MORRIS COMPANIES did knowingly cause to be sent and delivered by the United States mails a letter from Philip Morris Companies employee Helen Frustace addressed to Donald K. Hoel, Esq., Shook, Hardy & Bacon, One Kansas City Place, 1200 Main Street, Kansas City, Missouri 64105. The letter indicated the approval of Alexander Holtzman, Esq., Philip Morris Companies, to renew Dr. Carl Seltzer's CTR Special Project funding.

This communication was for the purpose of executing the scheme to defraud because it transmitted information relevant to and in furtherance of Defendants' fraudulent efforts to deny that there was a link between smoking and disease, including the issue of whether the link between smoking and disease was an open question, and Defendants' fraudulent promise to conduct independent, disinterested research.

81. **Racketeering Act No. 81:** On or about July 1, 1988, defendants PHILIP MORRIS, REYNOLDS, BROWN & WILLIAMSON, LORILLARD, and AMERICAN, through defendant TOBACCO INSTITUTE, did knowingly cause a press release to be sent and delivered by the United States mails to newspapers and news outlets. This press release contained statements disputing the addictiveness of cigarette smoking.

This communication contained false and misleading statements disputing the addictiveness of cigarette smoking. This communication was for the purpose of executing the scheme to defraud because its false statements and misrepresentations constitute principal

gravamen of the scheme to defraud.

82. **Racketeering Act No. 82:** On or about August 18, 1988, defendant REYNOLDS did knowingly cause to be sent and delivered by the United States mails a letter from Reynolds employee Jo F. Spach addressed to Mr. Anthony A. Christina, 815 188th Street, Court E, Spanaway, WA 98387. The letter denied any causal link between smoking and disease.

This communication misrepresented and concealed the link between smoking and disease. This communication was for the purpose of executing the scheme to defraud because its false statements and misrepresentations constitute principal gravamen of the scheme to defraud.

83. **Racketeering Act No. 83:** During 1988, the exact dates being unknown, defendant REYNOLDS caused a multi-page advertisement for Camel cigarettes to be placed in various print media, including Sports Illustrated, which magazines were then sent and delivered by the United States mails to subscribers and others. The second page of the advertisement, which was captioned, "Some have it. Most don't," stated, "You can have it free!" and contained a coupon for a free pack of Camels. The advertisement depicted Joe Camel in the foreground, with a beautiful woman sitting on the hood of a convertible automobile in the background.

This communication was for the purpose of executing the scheme to defraud because it transmitted information relevant to and in furtherance of Defendants' fraudulent efforts to target the youth market, which they publicly denied.

84. **Racketeering Act No. 84:** During 1989, the exact dates being unknown, defendant REYNOLDS caused advertisements for Camel cigarettes, to be placed in various print media, including magazines, which magazines were then sent and delivered by the United States mails to subscribers and others. The advertisements were part of Program No. 900162, which involved "buy one, get one free coupons" and included the following advertisements:
- a. An advertisement with the words "Bored? Lonely? Restless? What you need is" This advertisement featured the face of a beautiful woman gazing at the reader.
 - b. An advertisement captioned "Camel Smooth Moves." One such advertisement offered "Smooth Move #325 - Foolproof Dating Advice," and "Smooth Move #334 - How to impress someone at the beach." The "Foolproof

dating advice" concluded with "[a]lways break the ice by offering her a Camel." The "advice" concerning the beach facetiously suggested that the reader "[r]un into the water, grab someone and drag her back to the shore, as if you 've saved her from drowning. The more she screams, the better" and "[a]lways have plenty of Camels ready when the beach party begins."

c. An advertisement captioned "Smooth Move #437 - How to get a FREE pack even if you don't like to redeem coupons."

This communication was for the purpose of executing the scheme to defraud because it transmitted information relevant to and in furtherance of Defendants' fraudulent efforts to target the youth market, which they publicly denied.

85. **Racketeering Act No. 85:** On or about January 11, 1990, defendant REYNOLDS did knowingly cause to be sent and delivered by the United States mails a letter addressed to Principal, Willow Ridge School, Amherst, New York, from Jo F. Sprach, Manager, Public Relations Department, Reynolds, claiming that defendants, in a sincere attempt to determine what harmful effects, if any, smoking might have on human health, established CTR, claiming that scientists do not know the causes of the chronic diseases reported to be associated with smoking, and stating that Reynolds intends to continue to support scientific research in a continuing search for answers. The letter asked the recipient to pass this information along to her students.

This communication misrepresented and concealed link between smoking and disease; concealed that through CTR, Reynolds and the other Defendants were conducting research that was funded, controlled, and managed by Defendants while Defendants maintained that such research was independent and disinterested; and furthered Defendants' fraudulent position that the link between smoking and disease was an open question. This communication was for the purpose of executing the scheme to defraud because its false statements and misrepresentations constitute principal gravamen of the scheme to defraud.

86. **Racketeering Act No. 86:** On or about March 5, 1990, defendant REYNOLDS did knowingly cause to be sent and delivered by the United States mails a letter addressed to Mark Green, New York City Commissioner of Consumer Affairs,

from James W. Johnston, Chairman and CEO of Reynolds. In response to a letter sent by Green to Louis V. Gerstner, Jr., Chairman and CEO of RJR Nabisco (predecessor to RJR Tobacco Holdings), in which Green had complained about the design of the "Joe Camel" advertising campaign in such a manner as to appeal to youths, Johnston stated that it "has long been an R.J. Reynolds policy not to induce youths to smoke," further stating that, as CEO of Reynolds, "I have reinforced this policy," and "I see no basis to conclude that R.J. Reynolds has conducted itself in an unethical, illegal or misleading manner."

This communication falsely stated and misrepresented that Reynolds did not market to youths, and concealed Reynolds' fraudulent efforts to target the youth market. This communication was for the purpose of executing the scheme to defraud because its false statements and misrepresentations constitute principal gravamen of the scheme to defraud.

87. **Racketeering Act No. 87:** On or about May 24, 1990, defendants PHILIP MORRIS, REYNOLDS, BROWN & WILLIAMSON, LORILLARD, and AMERICAN, through defendant TOBACCO INSTITUTE, did knowingly cause a press release to be sent and delivered by the United States mails to newspapers and news outlets. This press release contained statements suggesting that Cigarette Companies actively discourage smoking by young people.

This communication falsely stated and misrepresented that cigarette companies actively discouraged smoking by young people, and concealed Defendants' fraudulent efforts to target the youth market. This communication was for the purpose of executing the scheme to defraud because its false statements and misrepresentations constitute principal gravamen of the scheme to defraud.

88. **Racketeering Act No. 88:** On or about August 31, 1990, defendants PHILIP MORRIS, REYNOLDS, BROWN & WILLIAMSON, LORILLARD, LIGGETT, and AMERICAN, through defendant COUNCIL FOR TOBACCO RESEARCH, did knowingly cause to be sent and delivered by the United States mails letters addressed separately to Wayne W. Juchatz, Esq., Reynolds; Josiah S. Murray III, Esq., Liggett; Ernest Pepples, Esq, Brown & Williamson; Paul A. Randour, Esq., American; Arthur J. Stevens, Esq., Lorillard; Charles R. Wall, Esq., Philip Morris Companies, from Patrick M. SIRRIDGE, Esq., Shook, Hardy & Bacon, 1200 Main

Street, Kansas City, Missouri 64105, advising that the Companies fund research to be conducted by a scientist who generated favorable results for defendants.

This communication was for the purpose of executing the scheme to defraud because it transmitted information relevant to and in furtherance of Defendants' fraudulent efforts to deny that there was a link between smoking and disease, including the issue of whether the link between smoking and disease was an open question, and Defendants' fraudulent promise to conduct independent, disinterested research.

89. **Racketeering Act No. 89:** On or about September 18, 1990, defendant REYNOLDS did knowingly cause to be sent and delivered by the United States mails a letter addressed to Joanna Brown, from Joan F. Cockerham of the Reynolds Public Relations Department. Responding to concerns expressed by Ms. Brown about the "Joe Camel" ad campaign appealing to youth, the letter stated, "Our intention with this campaign, as with all of our advertising, is to appeal only to adult smokers. We would not have launched the current Camel campaign if we thought its appeal was to anyone other than this group."

This communication falsely claimed that Reynolds' intention in designing the "Joe Camel" ad campaign, and other campaigns, was to appeal only to adult smokers; falsely claimed that Reynolds would not have launched the campaign if it thought it appealed to anyone other than adult smokers; and concealed Reynolds' fraudulent efforts to market to youth. This communication was for the purpose of executing the scheme to defraud because its false statements and misrepresentations constitute principal gravamen of the scheme to defraud.

90. **Racketeering Act No. 90:** On or about October 2, 1990, defendant AMERICAN did knowingly cause to be sent and delivered by the United States mails a letter addressed to Patrick M. Sirridge, Esq., Shook, Hardy & Bacon, 1200 Main Street, Kansas City, Missouri 64105, from Paul A. Randour, Esq., American Vice President and General Counsel, approving payment to a "Special Project" researcher.

This communication was for the purpose of executing the scheme to defraud because it

transmitted information relevant to and in furtherance of Defendants' fraudulent efforts to deny that there was a link between smoking and disease, including the issue of whether the link between smoking and disease was an open question, and Defendants' fraudulent promise to conduct independent, disinterested research.

91. **Racketeering Act No. 91:** On or about October 11, 1990, defendants PHILIP MORRIS, REYNOLDS, BROWN & WILLIAMSON, LORILLARD, and AMERICAN, through defendant TOBACCO INSTITUTE, did knowingly cause a press release entitled "Major New Initiatives to Discourage Youth Smoking Announced" to be sent and delivered by the United States mails to newspapers and news outlets. This press release contained statements suggesting that defendants had a "longstanding policy" of discouraging and preventing smoking by youth.

This communication falsely stated and misrepresented that Defendants discouraged youth smoking; and concealed Defendants' fraudulent efforts to target the youth market. This communication was for the purpose of executing the scheme to defraud because its false statements and misrepresentations constitute principal gravamen of the scheme to defraud.

92. **Racketeering Act No. 92:** On or about June 4, 1991, defendant PHILIP MORRIS COMPANIES did knowingly cause to be sent and delivered by the United States mails a letter from Philip Morris Companies' Charles R. Wall, Esq., Vice President and Associate General Counsel, in New York, to: Philippa J. Casingena, Esq., British American Tobacco Company Ltd., England; John Evans, Esq., Ashurst Morris Crisp, England; Marion Funck, Esq., Reemtsma Cigaretten Fabriken GmbH, Germany; Alan D. Porter, Esq., Imperial Tobacco Limited, England; and James W. Seddon, Esq., Rothmans International Limited, in which Mr. Wall enclosed "a brief statement and a somewhat longer statement discussing the 'risk factor' language" relating defendants' position on the health effects of smoking.

This communication misrepresented and concealed the link between smoking and disease. This communication was for the purpose of executing the scheme to defraud because its false statements and misrepresentations constitute principal gravamen of the scheme to defraud.

93. **Racketeering Act No. 93:** On or about December 11, 1991, defendants PHILIP MORRIS, REYNOLDS, BROWN & WILLIAMSON, LORILLARD, and AMERICAN, through defendant TOBACCO INSTITUTE, did knowingly cause a press release to be sent and delivered by the United States mails addressed to newspapers and news outlets. This press release contained statements suggesting that the majority of smokers in the United States are of legal age when they begin smoking and that defendants have discouraged youth smoking.

This communication falsely claimed and misrepresented that the majority of smokers in the United States are of legal age when they begin smoking; falsely claimed that Defendants have discouraged youth smoking; and concealed Defendants' fraudulent efforts to target the youth market. This communication was for the purpose of executing the scheme to defraud because its false statements and misrepresentations constitute principal gravamen of the scheme to defraud.

94. **Racketeering Act No. 94:** On or about January 28, 1992, defendant REYNOLDS did knowingly cause to be sent and delivered by the United States mails a letter addressed to James Harrison, President of the Vermont Retail Grocers Association, from Yancey W. Ford, Jr., Executive Vice President for Sales of Reynolds, stating "R.J. Reynolds Tobacco Co. does not want youth to smoke" and denying in substance that the "Joe Camel" advertising campaign was directed at youth.

This communication misrepresented and concealed link between cigarette advertising and youth smoking; falsely claimed that Reynolds discouraged youth smoking; and misrepresented that Reynolds did not target youths. This communication was for the purpose of executing the scheme to defraud because its false statements and misrepresentations constitute principal gravamen of the scheme to defraud.

95. **Racketeering Act No. 95:** On or about May 18, 1992, defendant PHILIP MORRIS COMPANIES did knowingly cause to be sent and delivered by the United States mails a letter from Charles R. Wall, Esq., Vice President and Associate General Counsel, Philip Morris Companies, addressed to Bernard O'Neill, Esq., Shook, Hardy & Bacon, 1200 Main Street, Kansas City, Missouri. The letter accompanied a check representing Philip Morris' contribution to the

research efforts of Theodor D. Sterling.

This communication was for the purpose of executing the scheme to defraud because it transmitted information relevant to and in furtherance of Defendants' fraudulent efforts to deny that there was a link between smoking and disease, including the issue of whether the link between smoking and disease was an open question, and Defendants' fraudulent promise to conduct independent, disinterested research.

96. **Racketeering Act No. 96:** On or about August 28, 1992, defendant REYNOLDS did knowingly cause to be sent and delivered by the United States mails a letter addressed to Dr. Francis A. Neelon, Editor of the North Carolina Medical Journal, purporting to be from Dr. Robert G. Fletcher, Medical Director of Reynolds, but bearing a handwritten notation on the copy retained by Reynolds stating that it was "written by SWM for Dr. Fletcher," complaining about an article in the North Carolina Medical Journal, and stating about the author of the article, "He claims the tobacco industry spends huge amounts of money promoting its products to youth. This is blatantly false. None of Reynolds Tobacco's product advertising or promotions are directed toward anyone under the legal age to smoke."

This communication misrepresented and concealed link between cigarette advertising and youth smoking; falsely claimed that Reynolds discouraged youth smoking and did not target the youth market. This communication was for the purpose of executing the scheme to defraud because its false statements and misrepresentations constitute principal gravamen of the scheme to defraud.

97. **Racketeering Act No. 97:** During 1992, the exact dates being unknown, defendant REYNOLDS caused an advertisement captioned "Camel Lights" to be placed in various print media, including Sports Illustrated, a magazine, which magazines were then sent and delivered by the United States mails to subscribers and others. The advertisement depicted Joe Camel wearing sunglasses, a tee shirt, and blue jeans, with a pack of cigarettes rolled up in his sleeve and a lit cigarette hanging from his mouth, and casually leaning against a convertible automobile.

This communication was for the purpose of executing the scheme to defraud because it

transmitted information relevant to and in furtherance of Defendants' fraudulent efforts to target the youth market, which they publicly denied.

98. **Racketeering Act No. 98:** On or about March 11, 1993, defendants PHILIP MORRIS, REYNOLDS, BROWN & WILLIAMSON, LORILLARD, and AMERICAN did knowingly cause to be sent and delivered by the United States mails letters addressed separately to Wayne W. Juchatz, Esq., Reynolds; Ernest Pepples, Esq., Brown & Williamson; Gilbert L. Klemann, II, Esq., American; Arthur J. Stevens, Esq., Lorillard; and Charles R. Wall, Esq., Philip Morris Companies, from Bernard V. O'Neill, Jr., Esq., Shook, Hardy & Bacon, 1200 Main Street, Kansas City, Missouri 64105, advising that the Cigarette Companies continue to fund research to be conducted by a scientist who generated favorable results for defendants and seeking financial contributions in proportion to each Cigarette Company's "market share" to support such research.

This communication was for the purpose of executing the scheme to defraud because it transmitted information relevant to and in furtherance of Defendants' fraudulent efforts to deny that there was a link between smoking and disease, including the issue of whether the link between smoking and disease was an open question, and Defendants' fraudulent promise to conduct independent, disinterested research.

99. **Racketeering Act No. 99:** On or about November 12, 1993, defendant REYNOLDS did knowingly cause to be sent and delivered by the United States mails a letter addressed to Mr. Mark E. Smith, 26582 Mocine Avenue, Hayward, California 94544, from Reynolds employee Catherine Clinton. The letter denied the existence of any proof that smoking causes lung cancer, heart disease, or emphysema, and asserted that "a cause and effect relationship between smoking and disease has not been established."

This communication misrepresented and concealed the link between smoking and disease. This communication was for the purpose of executing the scheme to defraud because its false statements and misrepresentations constitute principal gravamen of the scheme to defraud.

100. **Racketeering Act No. 100:** In or about December 1994, the exact date being unknown, defendant PHILIP MORRIS did knowingly cause a draft press release

to be prepared, which was released in a final version in June 1995 and disseminated to the public through United States wires. This press release stated that "Philip Morris is taking aggressive steps to keep cigarettes out of the hands of young people" and that the company sought to eliminate access to cigarettes by minors.

This communication misrepresented that the Defendants discouraged youth smoking; misrepresented that the Defendants did not target the youth market; and concealed that Defendants market to youth. This communication was for the purpose of executing the scheme to defraud because its false statements and misrepresentations constitute principal gravamen of the scheme to defraud.

101. **Racketeering Act No. 101:** On or about October 31, 1996, defendant BAT INDUSTRIES (predecessor to BAT P.L.C.) did knowingly cause to be transmitted in interstate commerce by means of the mails comments for publication in the Wall Street Journal, which newspaper was then sent and delivered by the United States mails to subscribers and others. The Chief Executive of BAT Industries, Martin Broughton, denied charges that BAT Industries, including its Brown & Williamson subsidiary, concealed research linking smoking and disease. He stated: "We haven't concealed, we do not conceal and we will never conceal. We have no internal research which proves that smoking causes lung cancer or other diseases or, indeed, that smoking is addictive."

This communication falsely denied that BAT Industries, including its subsidiaries, Brown & Williamson & BATCo, had not concealed research linking smoking and disease; falsely denied that BAT Industries, including BATCo and Brown & Williamson, had no internal research which proved that smoking caused lung cancer or other diseases or that smoking was addictive; and fraudulently concealed that BAT Industries, including BATCo and Brown & Williamson, possessed internal research that demonstrated the link between smoking and disease and that smoking is addictive. This communication was for the purpose of executing the scheme to defraud because its false statements and misrepresentations constitute principal gravamen of

the scheme to defraud.

102. **Racketeering Act No. 102:** During 1996, the exact dates being unknown, defendant REYNOLDS caused multi-page advertisements captioned "Take a Rockin' Road Trip" and "Go ahead, it's on me," to be placed in various print media, including magazines which were then sent and delivered by the United States mails to subscribers and others. The advertisements depicted Joe Camel and offered gift certificates in the amount of \$25 to purchase tickets "to just about any Ticketmaster event," in exchange for 100 Camel Cash C-Notes.

This communication was for the purpose of executing the scheme to defraud because it transmitted information relevant to and in furtherance of Defendants' fraudulent efforts to target the youth market, which they publicly denied.

103. **Racketeering Act No. 103:** On or about July 3, 1963, defendant BROWN & WILLIAMSON did knowingly cause to be sent by cable, and BRITISH-AMERICAN TOBACCO COMPANY (predecessor to BAT INVESTMENTS) received, a message from Addison Yeaman, Esq., Brown & Williamson General Counsel, to A.D. McCormick, Esq., BAT Co., in London, England, with copies to Messrs. Finch, Wade, and Griffith, reporting that W.T. Hoyt, Executive Director of the TIRC had agreed to withhold a Battelle report from TIRC members or the Scientific Advisory Board, and further agreed that submitting certain information to the Surgeon General would be "undesirable."

This communication was for the purpose of executing the scheme to defraud because it transmitted information relevant to and in furtherance of Defendants' fraudulent efforts to deny that there was a link between smoking and disease, including the issue of whether the link between smoking and disease was an open question; Defendants' false and misleading statements regarding nicotine addiction, manipulation, and delivery; and Defendants' fraudulent promise to conduct independent, disinterested research.

104. **Racketeering Act No. 104:** On or about July 22, 1970, defendant LORILLARD did knowingly cause to be sent by telegram, and defendant REYNOLDS did receive, a message from Arthur J. Stevens, Esq., Lorillard General Counsel, to Henry Ramm, Esq., Reynolds Vice President and General Counsel, transmitting

Lorillard's agreement to participate in a CTR Special Project that involved sponsoring a conference on the benefits of smoking.

This communication was for the purpose of executing the scheme to defraud because it transmitted information relevant to and in furtherance of Defendants' fraudulent efforts to deny that there was a link between smoking and disease, including the issue of whether the link between smoking and disease was an open question; Defendants' false and misleading statements regarding nicotine addiction, manipulation, and delivery; and Defendants' fraudulent promise to conduct independent, disinterested research.

105. **Racketeering Act No. 105:** On or about January 3, 1971, defendant PHILIP MORRIS did knowingly cause to be transmitted on the nationally televised CBS program *Face the Nation*, air date January 3, 1971, statements before a live television and radio audience by Joseph Cullman III, President and CEO of Philip Morris, that misrepresented Philip Morris' funding of independent research and denied that cigarettes are hazardous or pose a hazard to pregnant women or their infants.

This communication misrepresented and concealed the link between smoking and disease; falsely promised and misrepresented that Defendants wanted to and would conduct independent, disinterested research regarding smoking and disease; concealed that Philip Morris and the other Defendants were funding, controlling, and managing research that Defendants maintained was independent and disinterested; falsely denied that cigarettes are hazardous or pose a hazard to pregnant women or their infants; and furthered Defendants' fraudulent position that the link between smoking and disease was an open question. This communication was for the purpose of executing the scheme to defraud because its false statements and misrepresentations constitute principal gravamen of the scheme to defraud.

106. **Racketeering Act No. 106:** On or about September 16, 1976, defendants

BROWN & WILLIAMSON did knowingly cause to be transmitted, and BRITISH-AMERICAN TOBACCO COMPANY (predecessor to BAT INVESTMENTS) did receive, a letter cable addressed to G.C. Hargrove, BAT Co., London, England, from Ernest Pepples, Esq., Brown & Williamson, counseling BAT to maintain the same position in England as Brown & Williamson maintained in America that the use of tobacco is not unduly dangerous.

This communication was for the purpose of executing the scheme to defraud because it transmitted information relevant to and in furtherance of Defendants' fraudulent efforts to deny that there was a link between smoking and disease, including the issue of whether the link between smoking and disease was an open question.

107. **Racketeering Act No. 107:** On or about February 25, 1981, defendant REYNOLDS did knowingly cause to be sent by telex a message from Reynolds' employee Frank Colby addressed to Wilfried Dembach, Cologne, Germany, discussing the disciplining of a company employee who admitted publicly that smoking plays a significant role in causing cancer.

This communication was for the purpose of executing the scheme to defraud because it transmitted information relevant to and in furtherance of Defendants' fraudulent efforts to deny that there was a link between smoking and disease, including the issue of whether the link between smoking and disease was an open question.

108. **Racketeering Act No. 108:** On or about October 26, 1983, defendants BAT INDUSTRIES (predecessor to BAT P.L.C.) and PHILIP MORRIS did knowingly cause to be transmitted a telephone conversation between BAT Industries employee Eric Alfred Albert Bruell, Esq., and Philip Morris Vice President Hugh Cullman, in which the participants agreed to continue the Cigarette Companies' internal agreement not to compete with one another on issues relating to smoking and health.

This communication was for the purpose of executing the scheme to defraud because it transmitted information relevant to and in furtherance of Defendants' fraudulent efforts to deny

that there was a link between smoking and disease, including the issue of whether the link between smoking and disease was an open question; Defendants' fraudulent promise to conduct independent, disinterested research; Defendants' fraudulent efforts to suppress development and marketing of a less hazardous cigarette; and Defendants' fraudulent efforts to conceal and suppress material information relating to the link between smoking and adverse health effects.

109. **Racketeering Act No. 109:** On or about April 14, 1994, defendant PHILIP MORRIS did knowingly cause to be transmitted the testimony of the President and Chief Executive Officer of Philip Morris, William I. Campbell, which was presented at a nationally televised hearing of the House Subcommittee on Health and the Environment. During this hearing, Mr. Campbell denied that nicotine is addictive, denied that Philip Morris research establishes that smoking is addictive, and denied that Philip Morris manipulates the amount of nicotine contained in cigarettes.

This communication falsely denied that nicotine was addictive; falsely denied that Philip Morris research established that smoking was addictive; and falsely denied that Philip Morris manipulated the amount of nicotine delivered to smokers. This communication was for the purpose of executing the scheme to defraud because its false statements and misrepresentations constitute principal gravamen of the scheme to defraud.

110. **Racketeering Act No. 110:** On or about April 14, 1994, defendant REYNOLDS did knowingly cause to be transmitted the testimony of the Chairman and Chief Executive Officer of Reynolds, James Johnston, which was presented at a nationally televised hearing of the House Subcommittee on Health and the Environment. During this hearing, Mr. Johnston denied that nicotine is addictive and denied that Reynolds manipulates the amount of nicotine contained in cigarettes.

This communication falsely denied that nicotine is addictive; misrepresented that R.J. Reynolds did not manipulate the amount of nicotine delivered to smokers; and concealed that

Reynolds manipulated the amount of nicotine delivered to smokers. This communication was for the purpose of executing the scheme to defraud because its false statements and misrepresentations constitute principal gravamen of the scheme to defraud.

111. **Racketeering Act No. 111:** On or about April 14, 1994, defendant LORILLARD did knowingly cause to be transmitted the testimony of the Chief Executive Officer of Lorillard, Andrew H. Tisch, which was presented at a nationally televised hearing of the House Subcommittee on Health and the Environment. During this hearing, Mr. Tisch denied that Lorillard manipulates the amount of nicotine contained in cigarettes.

This communication misrepresented that Lorillard did not manipulate the amount of nicotine delivered to smokers. This communication was for the purpose of executing the scheme to defraud because its false statements and misrepresentations constitute principal gravamen of the scheme to defraud.

112. **Racketeering Act No. 112:** On or about April 14, 1994, defendant LIGGETT did knowingly cause to be transmitted the testimony of the Chairman and Chief Executive Officer of Liggett, Edward A. Horrigan, Jr., which was presented at a nationally televised hearing of the House Subcommittee on Health and the Environment. During this hearing, Mr. Horrigan denied that Liggett manipulates the amount of nicotine contained in cigarettes.

This communication misrepresented that Liggett did not manipulate the amount of nicotine delivered to smokers. This communication was for the purpose of executing the scheme to defraud because its false statements and misrepresentations constitute principal gravamen of the scheme to defraud.

113. **Racketeering Act No. 113:** On or about April 14, 1994, defendant AMERICAN did knowingly cause to be transmitted the testimony of the Chief Executive Officer of American, Donald S. Johnston, which was presented at a nationally televised hearing of the House Subcommittee on Health and the Environment. During this hearing, Mr. Johnston denied that American manipulates the amount of nicotine contained in cigarettes.

This communication misrepresented that American did not manipulate the amount of nicotine delivered to smokers. This communication was for the purpose of executing the scheme to defraud because its false statements and misrepresentations constitute principal gravamen of the scheme to defraud.

114. **Racketeering Act No. 114:** On or about May 9, 1994, defendant PHILIP MORRIS did knowingly cause to be transmitted a telefax letter addressed to The Honorable Henry Waxman, Chairman, Subcommittee on Health and the Environment, Committee on Energy and Commerce, 2415 Rayburn House Office Building, Washington, D.C. 20515-6118, from Dr. Cathy Ellis, Director of Research, Philip Morris. The letter denied that nicotine causes addiction, based on a definition of addiction overwhelmingly rejected by public and mental health professionals: "intoxication, pharmacological tolerance, and physical dependence in a manner that would impair the smokers' ability to exercise a free choice to continue or to quit smoking."

This communication falsely denied that nicotine causes addiction. This communication was for the purpose of executing the scheme to defraud because its false statements and misrepresentations constitute principal gravamen of the scheme to defraud.

115. **Racketeering Act No. 115:** On or about April 27, 1995, defendant BROWN & WILLIAMSON did transmit and cause to be transmitted a telephone call placed by Brown & Williamson employee Melanie Gnadinger to Brown & Williamson Japan employee Hiromi Mikami in furtherance of defendants' public assertions that smoking does not cause disease.

This communication was for the purpose of executing the scheme to defraud because it transmitted information relevant to and in furtherance of Defendants' fraudulent efforts to deny that there was a link between smoking and disease, including the issue of whether the link between smoking and disease was an open question.

116. **Racketeering Act No. 116:** During 1999, the exact dates being unknown, defendant BROWN & WILLIAMSON did knowingly cause to be posted on the

Brown & Williamson Internet web site a document entitled "Hot Topics: Smoking and Health Issues. The company stated:

Brown & Williamson believes that the relevant issue should not be how or whether one chooses to define cigarette smoking as addictive based on an analysis of all definitions available. Rather, the issue should be whether consumers are aware that smoking may be difficult to quit (which they are) and whether there is anything in cigarette smoke that impairs smokers from reaching and implementing a decision to quit (which we believe there is not).

This communication falsely denied that smoking is addictive. This communication was for the purpose of executing the scheme to defraud because its false statements and misrepresentations constitute principal gravamen of the scheme to defraud.

117. **Racketeering Act No. 117:** On or about November 20, 1962, defendants PHILIP MORRIS, REYNOLDS, BROWN & WILLIAMSON, LORILLARD, and AMERICAN, through defendant TOBACCO INSTITUTE, did knowingly cause a press release to be sent and delivered by the United States mails addressed to newspapers and news outlets. This press release was entitled "TOBACCO INSTITUTE HEAD CALLS N.A.B. PRESIDENT'S CHARGES INCORRECT" and was issued in response to a comment by LeRoy Collins, President of the National Association of Broadcasters, that cigarette advertising is designed primarily to influence high school children.

This communication falsely denied that Defendants targeted their products to the youth market. This communication was for the purpose of executing the scheme to defraud because it constitutes the principal gravamen of the scheme to defraud.

118. **Racketeering Act No. 118:** On or about April 27, 1964, defendants PHILIP MORRIS, REYNOLDS, BROWN & WILLIAMSON, LORILLARD, LIGGETT, and AMERICAN, through defendant TOBACCO INSTITUTE, did knowingly cause a press release to be sent and delivered by the United States mails addressed to newspapers and news outlets. This press release was entitled "CIGARETTE MANUFACTURERS ANNOUNCE ADVERTISING CODE" and was issued to

announce a so-called Cigarette Advertising Code establishing "uniform standards for cigarette advertising" to include standards relating to youth advertising, and other marketing activities, and the provision that "cigarette advertising shall not represent that cigarette smoking is essential to social prominence, distinction, success, or sexual attraction."

This communication was for the purpose of executing the scheme to defraud because it transmitted information relevant to and in furtherance of Defendants' fraudulent efforts to target the youth market, which they publicly denied, and to deceive the public by fraudulently representing that they did not and would not market to youths.

119. **Racketeering Act No. 119:** On or about November 15, 1967, defendant AMERICAN, did knowingly cause an advertisement to be sent and delivered by the United States mails as an attachment to a letter of Nov 15, 1967 of that same date. The advertisement states that Carlton filter cigarettes delivers "70% less 'tar' than the average filter king."

This communication is relevant to and was in furtherance of Defendants' fraudulent efforts to exploit smokers' desire for less hazardous cigarettes, and Defendants' fraudulent and misleading representations regarding low tar and "light" cigarettes. This communication was for the purpose of executing the scheme to defraud because it constitutes the principal gravamen of the scheme to defraud.

120. **Racketeering Act No. 120:** On or about April 22, 1970, defendants PHILIP MORRIS, REYNOLDS, BROWN & WILLIAMSON, LORILLARD, and AMERICAN, through defendant COUNCIL FOR TOBACCO RESEARCH, did knowingly cause a press release to be sent and delivered by the United States mails addressed to newspapers and news outlets. This press release was entitled "STUDIES RAISE QUESTIONS ABOUT SMOKING AS HEALTH HAZARD," and was issued to identify studies supported by the Council for Tobacco Research that call into question whether "smoking has actually been shown to be a health hazard," or that there is a link between smoking and diseases such as lung cancer and emphysema.

This communication misrepresented and concealed the link between smoking and

disease, and contained false promises and misrepresentations that the Defendants supported independent, disinterested research into the link between smoking and disease. This communication was for the purpose of executing the scheme to defraud because its false statements and misrepresentations constitute principal gravamen of the scheme to defraud.

121. **Racketeering Act No. 121:** On or about March 15, 1974 defendant REYNOLDS, did knowingly cause to be sent and delivered by the United States mails a letter to National Family Opinion, 711 S. St. Clair Street, Toledo, Ohio 43691. The purpose of the letter is a request by Reynolds that, when National Family Opinion conducts its consumer surveys, it continue to question 14 through 17 year olds as well as 18 year olds.

This communication was for the purpose of executing the scheme to defraud because it transmitted information relevant to and in furtherance of Defendants' fraudulent efforts to target the youth market, which they publicly denied.

122. **Racketeering Act No. 122:** On or about September 24, 1974, defendant REYNOLDS did knowingly cause to be sent and delivered by the United States mails, a letter and attachments regarding "Salem Back-Up Advertising and Creative Development Statement" to Mr. A. M. Allen, William Esty Company, Inc., 100 East 42nd Street, New York, New York. The purpose of the letter and attachments is to review Salem's advertising strategy and the effect it has on "young adults." The attachment statement refers to reviewing the Brand's image in the following manner: "This Brand 'personality' positioning will also provide, as a secondary benefit, an image which will improve Salem's attractiveness to...current Kool smokers...as well as to the majority of young adult smokers entering the cigarette market for the first time."

This communication was for the purpose of executing the scheme to defraud because it transmitted information relevant to and in furtherance of Defendants' fraudulent efforts to target the youth market, which they publicly denied.

123. **Racketeering Act No. 123:** On or about March 1 1976, defendant COUNCIL

FOR TOBACCO RESEARCH did knowingly cause to be sent and delivered by the United States mails a letter and manuscript from Theodor D. Sterling, Director, Simon Fraser University, to Dr. William U. Gardner, Scientific Director, Council for Tobacco Research, that attributed the health effects of smoking to occupation. The letter, referring to the manuscript, states that "Smokers turn out to come from mostly blue collar occupations where they are exposed with high probability to toxic dust, fumes, and chemicals."

This communication was for the purpose of executing the scheme to defraud because it transmitted information relevant to Defendants' fraudulent efforts to misrepresent and conceal information relating to the link between smoking and disease.

124. **Racketeering Act No. 124:** On or about June 21, 1977, defendant BROWN & WILLIAMSON did knowingly cause to be sent and delivered by the United States mails, a letter addressed to Mr. Andy Miller, McCann-Erickson, 485 Lexington Avenue, New York, New York, from D.A. Litwin, a letter discussing a project on marketing opportunities, and segmenting the cigarette market into the following flavor categories: "Taste," "Taste with implicit health benefit," "Taste with contemporaneous health benefit," and "Explicit health benefit."

This communication was for the purpose of executing the scheme to defraud because it transmitted information relevant to and in furtherance of Defendants' fraudulent efforts to deny that there was a link between smoking and disease and Defendants' fraudulent efforts to exploit smokers' desires for less hazardous cigarettes.

125. **Racketeering Act No. 125:** On or about May 4, 1979, defendant BROWN & WILLIAMSON did knowingly cause to be sent and delivered by the United States mails, a letter addressed to Mr. Joseph A. Califano, Jr., Secretary of Health, Education, and Welfare, Washington, DC 20201, from C.I. McCarty, Chairman, responding to letter of April 26, 1979 from Mr. Califano that urged Brown & Williamson to dedicate a percentage of its advertising budget to youth smoking prevention efforts. McCarty stated B&W's "policy against advertising or promoting the sale of cigarettes to persons under 21," and stated that it "does not have at hand the research data and other information necessary to a responsible analysis of the suggestion made in [the April 26 letter]."

This communication falsely denied that Defendants targeted their products to the youth

market, and concealed material information relating to Defendants' fraudulent efforts to target the youth market. This communication was for the purpose of executing the scheme to defraud because it constitutes the principal gravamen of the scheme to defraud.

126. **Racketeering Act No. 126:** On or about May 18, 1979, defendant LIGGETT did knowingly cause to be sent and delivered by the United States mails, a letter addressed to Mr. Joseph A. Califano, Jr., Secretary of Health, Education, and Welfare, Washington, DC 20201, from Raymond J. Mulligan, President, responding to a letter of April 26, 1979 from Mr. Califano, identifying that millions of children are regular cigarette smokers, and urging Liggett to dedicate a percentage of its advertising budget to youth smoking prevention efforts. Mulligan stated that "this Company does not promote or advertise its cigarette products to children or young people under twenty-one years of age, nor are our promotional activities and advertising aimed at encouraging such children and young people to begin smoking or even continue smoking." The letter further stated that "Cigarette smoking is an adult pleasure and custom" and referred to industry policies aimed at "limiting the pleasure of smoking to adults."

This communication falsely denied that Defendants targeted their products to the youth market, and concealed material information relating to Defendants' fraudulent efforts to target the youth market. This communication was for the purpose of executing the scheme to defraud because it constitutes the principal gravamen of the scheme to defraud.

127. **Racketeering Act No. 127:** On or about June 1, 1979, defendant BROWN & WILLIAMSON did knowingly cause to be sent and delivered by the United States mails, a letter addressed to Mr. Joseph A. Califano, Jr., Secretary of Health, Education, and Welfare, Washington, DC 20201, from C.I. McCarty, Chairman, responding to a letter of April 26, 1979 from Mr. Califano, identifying that millions of children are regular cigarette smokers, and urging Liggett to dedicate a percentage of its advertising budget to youth smoking prevention efforts. McCarty stated: "We do not want children to smoke not because we agree with your oft-repeated slogan that smoking is 'slow-motion suicide' but because the decision whether to smoke, we think, is a decision which should be made by adults, not children. . . . I have serious doubts about the effectiveness of any campaign directed toward children advising them to postpone making the decision to smoke until they are adults. Such a campaign could backfire. Children might elect to smoke as a rebellion against authority or in an attempt to show adult

behavior."

This communication falsely denied that Defendants targeted their products to the youth market; concealed material information relating to Defendants' fraudulent efforts to target the youth market; and fraudulently denied the link between smoking and adverse health effects. This communication was for the purpose of executing the scheme to defraud because it constitutes the principal gravamen of the scheme to defraud.

128. **Racketeering Act No. 128:** On or about May 4, 1981, defendant REYNOLDS did knowingly cause to be sent and delivered by the United States mail, a letter from Warren Cowan, President, Rogers & Cowan, Inc., to Mr. Gerald Long, Executive Vice President, Reynolds, discussing Rogers & Cowan's past and continuing efforts on behalf of Reynolds to have smoking featured favorably "in a prominent way" in movies, with celebrities, on television, and in other arenas.

This communication was for the purpose of executing the scheme to defraud because it transmitted information relevant to and in furtherance of Defendants' fraudulent efforts to target the youth market, which they publicly denied.

129. **Racketeering Act No. 129:** On or about April 13, 1983, defendant BROWN & WILLIAMSON did knowingly cause a contract to be placed in the United States mail from Artistry Limited, Pinewood Studios, Iver Health, Bucks, England, to Brown & Williamson, through N.V. Domantay, vice President, Brand Management, memorializing the agreement to place Barclay outdoor advertising displays in the film "Supergirl."

This communication was for the purpose of executing the scheme to defraud because it transmitted information relevant to and in furtherance of Defendants' fraudulent efforts to target the youth market, which they publicly denied.

130. **Racketeering Act No. 130:** On or about October 20, 1983, defendants PHILIP MORRIS INC., REYNOLDS, BROWN & WILLIAMSON, AND LORILLARD, through defendant TOBACCO INSTITUTE, did knowingly cause to be transmitted on the nationally televised ABC program *20/20*, air date October 20,

1983, before a live television audience, statements by Anne Browder of the Tobacco Institute that include "We feel very strongly that cigarette smoking is an adult custom that one should not even consider until they've reached the age of maturity," "We do everything possible to discourage teenage smoking," and "age of maturity is 21."

This communication contained false and misleading statements regarding Defendants' fraudulent efforts to target the youth market. This communication was for the purpose of executing the scheme to defraud because it constitutes the principal gravamen of the scheme to defraud.

131. **Racketeering Act No. 131:** On or about January 14, 1986, defendant PHILIP MORRIS did knowingly cause to be sent and delivered by the United States mails, an advertising contract addressed to the Los Angeles Dodgers, Inc., Advertising and Novelty Department, 1000 Elysian Park Ave., Los Angeles, California, for the purpose of placing Marlboro advertising in the 1986 Dodger scorecard and magazine available at Dodger major league baseball games.

This communication was for the purpose of executing the scheme to defraud because it transmitted information relevant to and in furtherance of Defendants' fraudulent efforts to target the youth market, which they publicly denied.

132. **Racketeering Act No. 132:** On or about May 16, 1988, defendants PHILIP MORRIS, REYNOLDS, BROWN & WILLIAMSON, LORILLARD, and AMERICAN, through defendant TOBACCO INSTITUTE, did knowingly cause a press release to be sent and delivered by the United States mails addressed to newspapers and news outlets. This press release was entitled "CLAIMS THAT CIGARETTES ARE ADDICTIVE CONTRADICT COMMON SENSE" and was issued in response to the Surgeon General's Report on nicotine addiction.

This communication contained false and misleading statements that nicotine was not addictive and that discredited the evidence that nicotine is addictive. This communication was for the purpose of executing the scheme to defraud because it constitutes the principal gravamen of the scheme to defraud.

133. **Racketeering Act No. 133:** On or about July 29, 1988, defendants PHILIP MORRIS, REYNOLDS, BROWN & WILLIAMSON, LORILLARD, and AMERICAN, through defendant TOBACCO INSTITUTE, did knowingly cause a press release to be sent and delivered by the United States mails addressed to newspapers and news outlets. This press release quoted Mr. Charles O. Whitley of the Institute as stating "that the Surgeon General's Report 'undermines efforts to combat drug abuse,' " and that the Report calling cigarette smoking an addiction was "without medical or scientific foundation."

This communication contained false and misleading statements that nicotine was not addictive and that discredited the evidence that nicotine is addictive. This communication was for the purpose of executing the scheme to defraud because it constitutes the principal gravamen of the scheme to defraud.

134. **Racketeering Act No. 134:** On or about April 5, 1990, defendant REYNOLDS did knowingly cause to be sent by wire and mail a memorandum from R.G. Warlick, Division Manager, to all area sales representatives instructions to list in their "Y.A.S. accounts" "[a]ll package action calls located across from, adjacent to [or] in the general vicinity of High Schools or College Campus. (under 30 years of age)."

This communication was for the purpose of executing the scheme to defraud because it transmitted information relevant to and in furtherance of Defendants' fraudulent efforts to target the youth market, which they publicly denied.

135. **Racketeering Act No. 135:** In or about 1999, the exact dates being unknown, defendant BROWN & WILLIAMSON did knowingly cause to be placed in newspapers and magazines nationwide an advertising campaign for KOOL cigarettes captioned "B Kool," which newspapers and magazines were then sent and delivered by the United States mails to subscribers and others. Among several treatments, "BKool" advertising depicted attractive young women gazing longingly back at a man in the foreground holding a lighted cigarette and a pack of Kools.

This communication was for the purpose of executing the scheme to defraud because it transmitted information relevant to and in furtherance of Defendants' fraudulent efforts to target

the youth market, which they publicly denied.

136. **Racketeering Act No. 136:** In or about 1999, the exact dates being unknown, defendant REYNOLDS did knowingly cause to be placed in newspapers and magazines a nationwide advertising campaign for Camel cigarettes captioned "Viewer Discretion Advised," which newspapers and magazines were then sent and delivered by the United States mails to subscribers and others.. Among several treatments, advertisements depicted a "farmer's daughter" scene that included a young man being run off by the irate father of an attractive blonde female. The caption reads, "VIEWER DISCRETION ADVISED. This ad contains: SS... Satisfied Smoking FV... Farm Violence AN ... Animal Nudity. *Mighty Tasty!*"

This communication was for the purpose of executing the scheme to defraud because it transmitted information relevant to and in furtherance of Defendants' fraudulent efforts to target the youth market, which they publicly denied.

137. **Racketeering Act No. 137:** In or about 2000, the exact dates being unknown, defendant PHILIP MORRIS did knowingly cause a nationwide advertising campaign for Marlboro cigarettes captioned "Marlboro Country," to be placed in radio and television broadcasts, newspapers, which broadcasts and newspapers and magazines, were then sent and delivered by the United States mails or by wire transfer to subscribers and others. Among several treatments, advertisements often depicted a cowboy smoking or handling cigarettes in a western setting.

This communication was for the purpose of executing the scheme to defraud because it transmitted information relevant to and in furtherance of Defendants' fraudulent efforts to target the youth market, which they publicly denied.

138. **Racketeering Act No. 138:** In or about 2000, the exact dates being unknown, defendant PHILIP MORRIS did knowingly cause a nationwide advertising campaign for Virginia Slims cigarettes, to be placed in newspapers and magazines, which newspapers and magazines were then sent and delivered by the United States mails to subscribers and others. Among several treatments, advertisements often depicted slim, independent, well-dressed attractive women smoking cigarettes.

This communication was for the purpose of executing the scheme to defraud because it

transmitted information relevant to and in furtherance of Defendants' fraudulent efforts to target the youth market, which they publicly denied.

139. **Racketeering Act No. 139:** In or about 2001, the exact dates being unknown, defendant REYNOLDS did knowingly cause to be placed in newspapers and magazines a nationwide advertising campaign for Camel cigarettes captioned "Pleasure to Burn," which newspapers and magazines were then sent and delivered by the United States mails to subscribers and others. Among several treatments, "Pleasure to Burn" advertising depicted attractive young men and young women smoking cigarettes or offering cigarettes, including series that are entitled, "7 Pleasures of the Casbah," "Turkish Gold," "Flavors of the Exotic," and "Turkish Jade."

This communication was for the purpose of executing the scheme to defraud because it transmitted information relevant to and in furtherance of Defendants' fraudulent efforts to target the youth market, which they publicly denied.

140. **Racketeering Act No. 140:** In or about 2000, the exact dates being unknown, defendant REYNOLDS did knowingly cause to be placed in newspapers and magazines nationwide an advertising campaign for Winston cigarettes captioned "No Bull, which newspapers and magazines were then sent and delivered by the United States mails to subscribers and others. Among several treatments, "No Bull" advertising depicted attractive young men and young women smoking cigarettes or offering cigarettes often in circumstances involving irreverent humor or sporting events, and touted that the Winston brand cigarettes had "100% Tobacco" and "No Additives".

This communication was for the purpose of executing the scheme to defraud because it transmitted information relevant to and in furtherance of Defendants' fraudulent efforts to deny that there was a link between smoking and disease, including the issue of whether the link between smoking and disease was an open question. Moreover, this communication was for the purpose of executing the scheme to defraud because it transmitted information relevant to and in furtherance of Defendants' fraudulent efforts to target the youth market, which they publicly

denied.

141. **Racketeering Act No. 141:** In or about 2001, the exact dates being unknown, defendant BROWN & WILLIAMSON did knowingly cause to be placed in newspapers and magazines a nationwide advertising campaign for KOOL cigarettes captioned "House of Menthol," which newspapers and magazines were then sent and delivered by the United States mails to subscribers and others.

This communication was for the purpose of executing the scheme to defraud because it transmitted information relevant to and in furtherance of Defendants' fraudulent efforts to target the youth market, which they publicly denied.

142. **Racketeering Act No. 142:** In or about 2001, the exact dates being unknown, defendant LORILLARD did knowingly cause to be placed in newspapers and magazines a nationwide advertising campaign for Newport cigarettes captioned "Pleasure! Fire It Up!," which newspapers and magazines were then sent and delivered by the United States mails to subscribers and others. Among several treatments, "Pleasure! Fire It Up!" advertising depicted attractive young men and young women smoking cigarettes or offering cigarettes often in circumstances involving sports and other physical activities.

This communication was for the purpose of executing the scheme to defraud because it transmitted information relevant to and in furtherance of Defendants' fraudulent efforts to deny that there was a link between smoking and disease. Moreover, this communication was for the purpose of executing the scheme to defraud because it transmitted information relevant to and in furtherance of Defendants' fraudulent efforts to target the youth market, which they publicly denied.

143. **Racketeering Act No. 143:** During June 2001, the exact dates being unknown, defendant LORILLARD did knowingly cause to be posted on the Lorillard Internet web site a document entitled "Marketing and Promotion." The section of the website entitled "Marketing and Promotion" represents that "Lorillard does not and will not design or implement any marketing or promotional program intended to encourage youth to smoke cigarettes, and will continue to utilize only those advertising, promotional and marketing materials that do not, directly or

indirectly, target youth."

This communication contained false and misleading statements denying Defendants' fraudulent efforts to target the youth market. This communication was for the purpose of executing the scheme to defraud because it constitutes the principal gravamen of the scheme to defraud.

144. **Racketeering Act No. 144:** During 1999 and through June 2001, the exact dates being unknown, defendant BROWN & WILLIAMSON did knowingly cause to be posted on the Brown & Williamson Internet web site a document entitled "Hot Topics: Corporate Responsibility." The section of the document entitled "Marketing Principles and Practices: Advertising," represents that "the intended audience for all B&W marketing programs is adults 21 and over."

This communication contained false and misleading statements denying Defendants' fraudulent efforts to target the youth market. This communication was for the purpose of executing the scheme to defraud because it constitutes the principal gravamen of the scheme to defraud.

145. **Racketeering Act No. 145:** During June 2001, the exact dates being unknown, defendant PHILIP MORRIS did knowingly cause to be posted on the Philip Morris Internet web site a document entitled "Philip Morris U.S.A. Marketing Policies." The section of the website entitled "Philip Morris U.S.A. Marketing Policies" represents that "All of our brand advertising and promotions are intended for adults who choose to smoke. They serve to enhance brand awareness, recognition and loyalty among adult smokers."

This communication contained false and misleading statements denying Defendants' fraudulent efforts to target the youth market. This communication was for the purpose of executing the scheme to defraud because it constitutes the principal gravamen of the scheme to defraud.

146. **Racketeering Act No. 146:** During June 2001, the exact dates being unknown,

defendant R.J. REYNOLDS did knowingly cause to be posted on the R.J. Reynolds' Internet web site a document entitled "Marketing Philosophy." The section of the website entitled "Marketing Philosophy" represents that "Reynolds Tobacco is not interested in, and does nothing aimed at, trying to persuade any nonsmokers to begin smoking."

This communication contained false and misleading statements regarding Defendants' fraudulent efforts to market to youth. This communication was for the purpose of executing the scheme to defraud because it constitutes the principal gravamen of the scheme to defraud.

147. **Racketeering Act No. 147:** In or about 2001, the exact dates being unknown, defendant PHILIP MORRIS did knowingly cause a nationwide advertising campaign for Marlboro cigarettes captioned "Marlboro Country," to be placed in radio and television broadcasts, newspapers, which broadcasts and newspapers and magazines, were then sent and delivered by the United States mails or by wire transfer to subscribers and others. Among several treatments, advertisements often depicted a cowboy smoking or handling cigarettes in a western setting.

This communication was for the purpose of executing the scheme to defraud because it transmitted information relevant to and in furtherance of Defendants' fraudulent efforts to target the youth market, which they publicly denied.

148. **Racketeering Act No. 148:** In or about 2001, the exact dates being unknown, defendant PHILIP MORRIS INC. did knowingly cause a nationwide advertising campaign for Virginia Slims cigarettes, to be placed in newspapers and magazines, which newspapers and magazines were then sent and delivered by the United States mails to subscribers and others. Among several treatments, advertisements often depicted slim, independent, well-dressed attractive women smoking cigarettes.

This communication was for the purpose of executing the scheme to defraud because it transmitted information relevant to and in furtherance of Defendants' fraudulent efforts to target the youth market, which they publicly denied.

VI

EACH DEFENDANT ENGAGED IN A PATTERN OF RACKETEERING ACTIVITY

1. The Court finds that the respective Defendant committed each of the 148 racketeering acts, as alleged in the Amended Complaint, in the United States' Response to Interrogatory 35, and as set forth above in Section V, in the conduct of the affairs of the Enterprise. See supra §§ I, IV and V.

2. Each Defendant engaged in a pattern of racketeering activity in the conduct of the affairs of the Enterprise.

3. The 148 racketeering acts are "related" in that they:

- a. have the same or similar purposes, results, participants, victims and methods of commission;
- b. furthered the objectives of the Enterprise, especially the Enterprise's primary objective to maximize its members' profits through a scheme to defraud the public;
- c. benefitted the interests of the Enterprise; and
- d. the Defendants' control of, and participation with others in, the Enterprise facilitated their commission of the racketeering acts.

4. The evidence establishes the requisite "continuity" or threat of continued criminal activity because:

- a. the Defendants committed the racketeering acts over a substantial period of time;
- b. the racketeering acts are a regular way of conducting the Defendants' ongoing businesses;
- c. the Defendants' cigarette company businesses are ongoing and they continue to be in a position to continue their unlawful fraudulent activity; and
- d. the totality of the evidence establishes that the Defendants and others acting in concert with them have participated in extensive fraudulent activity for nearly 50 years, and have committed literally thousands of acts of mail and wire fraud in addition to the 148 racketeering acts specifically alleged.

VII

EACH DEFENDANT CONSPIRED TO VIOLATE RICO

1. The Court finds that the United States has established that each Defendant knowingly conspired to conduct the affairs of the Enterprise through a pattern of racketeering activity, consisting of literally thousands of acts of mail and wire fraud, in violation of 18 U.S.C. § 1962(d).

2. Each Defendant knew the general nature of the conspiracy and that the conspiracy extends beyond each Defendant's individual role. In that respect, as the Court has found in Sections I, IV and V above, each Defendant knew about, and participated in, the Enterprise, and well knew that the "primary objective" of the Enterprise is to preserve and enhance the Defendants' profits by, among other means, devising and executing a scheme to defraud the public, as set forth in Section IV above, and to avoid adverse liability verdicts in the face of the growing body of scientific and medical evidence about the adverse health effects and addictiveness of smoking cigarettes.

3. Each Defendant committed at least several related racketeering acts in furtherance of the Enterprise's affairs. From such evidence the Court may, and does, infer an agreement to violate RICO.

4. In addition, the Court finds that each Defendant agreed to violate RICO in that each Defendant agreed to facilitate the commission of the substantive RICO violation with the knowledge that other Defendants were also conspiring to participate in the same Enterprise through racketeering activity.

5. For example, in January 1954, Defendants Philip Morris, R.J. Reynolds, American, B&W and Lorillard and other entities established the Tobacco Industry Research Committee ("TIRC"), which changed its name to the Council for Tobacco Research ("CTR") in 1964. Defendant Liggett, while not a member company of TIRC/CTR, did make contributions to CTR's Special Projects fund from 1966 through 1975 and to CTR's Literature Retrieval Division from 1971 through 1983. See supra § I.B., I.E., and I.I. These six Defendants controlled and funded TIRC/CTR to further the objectives of the Enterprise, including to preserve and enhance the Defendants' profits by, among other means, devising and executing a scheme to defraud the public, as set forth above in Section IV, and to avoid adverse liability verdicts in the face of the growing body of scientific and medical evidence about the adverse health effects and addictiveness of smoking cigarettes. See supra § I and § IV.

6. Each Cigarette Company Defendant (except for BATCo) agreed to fund, and did jointly fund, numerous Special Projects through CTR, a component of the Enterprise, that were designed to generate information and support research that could bolster the Defendants' litigation positions, which contradicted such Defendants' promises to conduct independent research through the TIRC/CTR in the Frank Statement and similar statements. See supra § I. E., § II. J., § IV.F.

7. In January 1958, Defendants American, Brown & Williamson, Liggett, Lorillard, Philip Morris, and R.J. Reynolds and other entities established the Tobacco Institute, another component of the Enterprise, and thereafter these Defendants controlled and funded the Tobacco Institute to further the objectives of the Enterprise. See supra § I. C, § II. I and § IV.

8. TIRC/CTR and the Tobacco Institute also participated in the RICO conspiracy by, among other means, helping to coordinate and implement aspects of the Enterprise's scheme to defraud the public, especially its fraudulent public relations matters. See supra § I., and § IV.

9. Each Cigarette Company Defendant (except for BATCo and Philip Morris Companies) participated in the Tobacco Institute Committee of Counsel and other Tobacco Institute committees, additional components of the Enterprise, to further the Enterprise's conspiratorial objectives. See supra § I.

10. Each Defendant (except for BATCo and Philip Morris Companies) caused and aided and abetted defendants TIRC/CTR and the Tobacco Institute to commit racketeering acts in furtherance of the affairs of the Enterprise and the RICO conspiracy. See supra § I. and §§ IV, V and VI.

11. The Cigarette Company Defendants (except Philip Morris Companies) established a "Gentlemen's Agreement" whereby they agreed that any tobacco company that discovered an innovation that could lead to the manufacture of a less hazardous or "safer" cigarette would share that discovery with other tobacco companies and that no domestic tobacco company would use intact animal in-house biomedical research. Pursuant to this "Gentleman's Agreement", the Cigarette Company Defendants sought to retard, if not prevent, the development and marketing of a potentially less hazardous cigarette. See supra § I. J. and § IV. F and G.

12. Each Defendant endeavored to facilitate the commission of the substantive RICO offense by participating in one or more of various projects and committees designed to further the above-referenced objectives of the Enterprise and the RICO conspiracy, including, but not

limited to: CTR Special Projects, Ad Hoc Special Projects, the Center for Indoor Air Research ("CIAR"), the Research Liaison Committee, the Industry Technical Committee, the International Tobacco Information Inc. ("INFOTAB"), Cooperation for Scientific Research Relative to Tobacco ("CORESTA"), the International Committee on Smoking Issues ("ICOSI") and its successor, the International Tobacco Documentation Center ("TDC"), the Tobacco Research Council ("TRC"), and the Tobacco Manufacturers' Standing Committee ("TMSC"). See supra § I.

13. In furtherance of the objectives of the Enterprise and the RICO conspiracy, all the Defendants developed and executed a scheme to defraud the public that was designed to preserve and enhance the market for cigarettes through a variety of means. See supra §§ I and IV.

14. In furtherance of the objectives of the Enterprise and RICO conspiracy, each Defendant caused the public dissemination of numerous false, deceptive or misleading statements. See supra §§ I, IV and V.

15. In furtherance of the objectives of the Enterprise, each Defendant endeavored to conceal or suppress information and documents and/or to destroy records which may have been detrimental to the interests of the members of the Enterprise, including information which could be discoverable in smoking and health liability cases against the Defendants or in Congressional and other governmental proceedings and information that could constitute, or lead to, evidence of the link between smoking cigarettes and adverse health consequences and addictiveness. See supra § I.K and § IV.F.

16. All the Defendants directed and coordinated various activities in furtherance of the

Section VII

affairs of the Enterprise and the RICO conspiracy through correspondence and other communications between and among the Defendants and their representatives' participation in meetings and committees. See supra § I. and § IV.

VIII

**THE UNITED STATES ESTABLISHED THAT THERE IS A
REASONABLE LIKELIHOOD THAT THE DEFENDANTS WILL
VIOLATE THE LAW IN THE FUTURE**

1. The Court has found that Defendants have engaged in an extensive pattern of intentional, unlawful, fraudulent activity over a forty-five year period. See supra Secs. IV, V. and VI.

2. Consequently, the Court finds that there is a reasonable likelihood of Defendants' committing future unlawful activity because: (a) Defendants' unlawful violations were part of an extensive pattern extending over forty-five years, and were not isolated; (b) Defendants' violations were flagrant and deliberate, and not merely technical in nature; and (c) Defendants remain in the business of selling and marketing cigarettes and hence they will have countless opportunities and temptations to violate the law in the future.

3. Therefore, the United States is entitled to injunctive and other equitable relief without any need to establish any Defendant's continuing unlawful conduct.

4. In any event, the Court finds that Defendants have continued to engage in misconduct after 1995 in furtherance of the objectives of the Enterprise and Defendants' scheme to defraud the public, as set forth below, which further supports the Court's finding that there is a reasonable likelihood that Defendants will engage in unlawful conduct in the future.

5. Defendants' continuing misconduct includes violations of the Master Settlement Agreement ("MSA"), and also demonstrates that notwithstanding the terms of the MSA, Defendants continue to try to deceive smokers about the full health consequences of smoking and

to market their cigarettes to attract youth smokers.

A. Defendants Continue to Conceal and Suppress Information Notwithstanding Their Promises to Make Full and Open Disclosures About Smoking and Health

6. As discussed in detail in Section I.K, above, I find that notwithstanding their recently reaffirmed promises to make full and open disclosures of the health risks of their products, Defendants continue to conceal and suppress relevant information from public disclosure as they have for many years.

7. Defendants' representations concerning their public commitments continue to this day. For example, Philip Morris's Internet website, states in part as follows:

Our goal is to be the most responsible, effective, and respected developer, manufacturer and marketer of consumer products, especially products intended for adults. . . . We will support our Mission by proactively engaging with our stakeholders to enhance our ability to act in a way that is consistent with society's expectations of a responsible company.

The same Philip Morris website states: "We will be successful in achieving our goal when we: Communicate Health Effects of Our Products – Communicate openly, honestly and effectively about the health effects of our products."

8. BATCo recently prepared a "Social Report" and published the report on its internet website. The "British American Tobacco Social Report 2001/2002" noted that: "The Scientific Research Group, comprising scientific experts from our Group companies' worldwide Research & Development facilities, meets regularly to review, with input from independent scientific experts, developments in the science of smoking and health and to consider external research proposals for funding in this field. External requests for Scientific Research Group

funding are granted when the research proposed is relevant, of sufficiently high quality and where the area of investigations has not previously been comprehensively explored. We give independent researchers freedom to publish their findings with no editorial constraints."

(1) Defendants Continue to Improperly Suppress Information and Withhold Documents from Discovery

9. Several courts have ruled recently that Defendants have improperly withheld documents from discovery by designating them as privileged or protected despite a complete absence of a valid basis for claiming privilege, or because the privilege does not exist under the crime-fraud exception, or that the privilege has been lost as a result of the abuse of the privilege.

10. In State of Minnesota v. Philip Morris Inc., the court found that Defendants Philip Morris, R.J. Reynolds, Brown & Williamson, BATCo, American, Lorillard, CTR, and the Tobacco Institute "claimed privilege for documents which are clearly and inarguably not entitled to protections of privilege;" "that many documents examined contained nothing of a privileged nature, establishing a pattern of abuse;" and that these Defendants "have been found to have committed numerous abuses of privilege." Based upon the "intentional and repeated misuse of claims of privilege [which are] intolerable in a court of law," the court found that "an appropriate sanction for such abuse is release of all documents for which privilege is improperly claimed." The Minnesota court also adopted the special master's findings that for several categories of documents, including scientific reports, the crime-fraud exception to the attorney-client privilege applied. State of Minnesota v. Philip Morris Inc. et al., No. C1-94-8565, 1998 WL 257214, at *9 (Minn. Dist. Ct. Mar. 7, 1998), mandamus denied sub nom., State of Minnesota v. Philip Morris, Inc., et al., No. CX-98-414 (Minn. App. Mar. 17, 1998), petitions for further review denied sub

nom., State of Minnesota v. Philip Morris Inc. et al., Nos. CX-98-414, CX-98-431, 1998 WL 154543 (Minn. Mar. 27, 1998), cert denied, 523 U.S. 1056 (1998).

11. In April 1997, a Florida Circuit Court upheld a special master's ruling that lawyers for Defendants American, R.J. Reynolds, Brown & Williamson, BATCo, Philip Morris, Liggett, Lorillard, CTR, and the Tobacco Institute "undertook to misuse the attorney/client relationship to keep secret research and other activities related to the true health dangers of smoking." State of Florida v. American Tobacco Co., Civ. Action No. CL 95-1466 AH (Palm Beach Cty., Fla., filed Feb. 21, 1995).

12. In State of Minnesota v. Philip Morris Inc., et al., the court struck claims of attorney-client privilege as a result of continued and blatant disregard of court orders, the authority of the court, and the judicial process by Brown & Williamson and American, including orders "to provide complete, full, and unevasive answers to specific questions regarding the existence and location of smoking and health research documents and documents regarding the advertising, marketing, and promotion of cigarettes, and, further, ordering B&W and American to produce the documents so identified." State of Minnesota v. Philip Morris, et al., No. C1-94-8565 (Minn. Dist. Ct. Dec. 30, 1997).

13. In State of Washington v. American Tobacco Co., Inc., et al., the court issued several rulings in which it determined that numerous documents for which Defendants American, Brown & Williamson, Liggett, Lorillard, Philip Morris, R.J. Reynolds, CTR, and the Tobacco Institute had asserted privilege were subject to the crime/fraud exception and were therefore "de-privileged." The bases for the findings included "that defendants attempted to misuse legal

privileges to hide research documents"; "that attorneys controlled corporate research and/or supported the results of research regarding smoking and health"; "that the industry, contrary to its public statements, was suppressing information about smoking and health"; "that CTR was neither created nor used to discover and disseminate the 'truth,' contrary to defendants' representations to the public"; "that Special Account #4 was used to conceal problematic research"; and "that CTR and the SAB [Scientific Advisory Board] were not independent and that the industry's use of CTR was misleading to the public." State of Washington v. American Tobacco Co., Inc., et al., No. 96-2-15056-8 SEA (King Cty. Sup. Ct. 1998).

14. In Sackman v. Liggett Group, Inc., the court found that attempts by Liggett, as well as Philip Morris, Brown & Williamson, R.J. Reynolds, Lorillard, and CTR (who were intervenors in that litigation) to designate CTR Special Project documents as privileged was inappropriate. 173 F.R.D. 358, 362-364 (E.D.N.Y. 1997). The court concluded that, despite lawyer involvement in Special Projects, the documents were not privileged because they were prepared to further the public relations position of the tobacco manufacturers and that any usefulness in litigation "was merely an incidental benefit." Id. at 363.

15. The court in Burton v. R.J. Reynolds Tobacco Co. found that plaintiffs had made a prima facie showing of crime/fraud with respect to Defendants R.J. Reynolds and American. 167 F.R.D. 134, 142 (D. Kan. 1996). In a separate later opinion, the court found that numerous documents identified as privileged by R.J. Reynolds and American were in fact not privileged, including memoranda relating to research and development, letters from outside counsel on scientific research, literature reviews prepared by scientists at the direction of counsel, minutes of

research-related meeting, and notes made by employees at industry meetings on smoking and health research. 170 F.R.D. 481, 490 (D. Kan. 1997).

16. In Carter v. Brown & Williamson Tobacco Corporation, the court found that even if a privilege existed, an issue which the court did not reach, the crime-fraud exception applied to certain Brown & Williamson documents. Carter v. Brown & Williamson, Case No. 95-00934 CA (Duval Cty. Cir. Ct., Fla., Transcript July 26, 1996 pp. 1329-1332).

17. In Haines v. Liggett Group, Inc., et al. 140 F.R.D. 681, 689 (D.N.J. 1992), vacated on procedural grounds, 975 F.2d 81 (3rd Cir. 1992), the court, following an in camera review of 1,500 documents, confirmed "plaintiff's contentions of the explicit and pervasive nature of the alleged fraud by defendants [Liggett, Lorillard, R.J. Reynolds, Philip Morris, and the Tobacco Institute] and defendants' abuse of the attorney-client privilege as a means of effectuating that fraud." Specifically, the court found "that the attorney-client privilege was intentionally employed to guard against [] unwanted disclosure." Id. at 684. Finally, the court stated that defendants and their lawyers "abused the attorney-client privilege in their efforts to effectuate their allegedly fraudulent schemes." Id. at 695.

18. In addition, as described in Section I.K above, Brown & Williamson and BATCo's extensive efforts to destroy or keep out of the United States research and other potentially damaging documents continued at least into the mid-1990s, as the companies' own witnesses have admitted in their depositions in this action. Further, the companies' efforts to resist disclosure of the evidence of this activity continues even in this litigation.

(2) Defendants Continue to Misrepresent or Deny the Health Effects of Smoking

19. As discussed in Section IV.A. above, Defendants continued to publicly misrepresent or deny the link between smoking and disease through the 1990s, even after the MSA took effect in November 1998. With the exception of Liggett, no defendant had admitted that smoking causes disease until after the filing of this lawsuit.

20. In their responses to Interrogatories and Requests for Admission served in this litigation, several Defendants still refused to publicly admit what they have known and acknowledged internally for 50 years. That smoking causes lung cancer, heart disease, emphysema, and other diseases is universally accepted by medical and scientific authorities, yet Lorillard, BATCo, and Brown & Williamson still qualify their statements on causation, and R.J. Reynolds acknowledged only that smoking "may contribute to causing . . . diseases in some individuals."

21. In addition, all of the Cigarette Company Defendants except Liggett continue to deny that they fraudulently disputed the link between smoking and disease in the past, claiming now that they were silent on the subject in the past or at least did nothing to undermine public health messages about the dangers of smoking.

22. Further, despite certain Defendants' qualified admissions that smoking causes disease in smokers, Defendants' decades-long campaign to falsely and fraudulently deny the harmful effects of smoking continues in the form of their intense efforts to mislead the public as to the link between ETS exposure and disease. See Sec. IV.A., supra.

23. Defendants sponsored numerous projects through Center for Indoor Air Research ("CIAR") and individual scientists that were designed to undermine the scientific work and

conclusions of numerous reputable scientific and public health organizations worldwide that have concluded that secondhand smoke causes disease.

24. Liggett admitted in 2002 that ETS exposure causes disease. The chief chemist at Vector Tobacco, a Liggett corporate affiliate, testified in this case that ETS causes lung cancer in nonsmokers. Bennett LeBow admitted that "secondhand smoke is dangerous."

25. Nevertheless, to this day, Philip Morris, BATCo, B&W, Lorillard, and R.J. Reynolds deny that ETS causes disease in nonsmokers. These assertions continue to be made in order to advance the goals of the Enterprise, despite the contrary conclusions of countless medical and scientific organizations, including the United States Surgeon General; the National Cancer Institute; the Environmental Protection Agency; the Department of Health & Human Services' National Toxicology Program; the National Heart, Lung and Blood Institute of the National Institutes of Health; the World Health Organization; the American Cancer Society; the American Medical Association; the American Heart Association; the American Lung Association; and the American Academy of Pediatrics.

26. Defendants also continue to conceal and mislead consumers about other risks posed by their products. For example, as described in detail in Section IV.A. above, Philip Morris developed a banded paper cigarette, Merit PaperSelect, that it touts and markets as a reduced ignition-propensity product. In fact, however, Philip Morris' own internal testing has confirmed the large number of consumer complaints that the product has a much higher than normal risk of harm, including burns due to coal drop-off. Not only has Philip Morris not informed consumers of this risk (a risk about which its own scientists were warned), but it fired

the senior researcher who identified the problem and brought it to the attention of senior Philip Morris management.

(3) Defendants Continue to Misrepresent or Deny the Facts About Addiction and Nicotine Manipulation

27. As described in Section IV.B, above, Defendants have long denied that smoking is addictive and that the nicotine in cigarettes is an addictive drug. With the exception of Liggett, no Defendant admitted that the term “addictive” is properly applied to smoking until after this lawsuit was filed in 1999. In addition, no Defendant other than Liggett has admitted and announced publicly that nicotine is an addictive drug, and most continue to argue that cigarettes are not as addictive as other addictive drugs and to misrepresent the difficulty of quitting smoking once the smoker is addicted.

28. On its current website, Philip Morris states that “[w]e agree with the overwhelming medical and scientific consensus that cigarette smoking is addictive.” However, while adding that it can be difficult to quit smoking, there is no mention of the established fact that the nicotine in cigarettes is what causes the smoker's addiction.

29. On January 6, 2003, Philip Morris admitted for the first time in a legal pleading in this case that “nicotine in cigarette smoke is addictive,” after previously contending that the available scientific evidence did not support that conclusion. Philip Morris has not offered any explanation for the change in its corporate position on the addictiveness of nicotine, nor has it changed its corporate website or other public materials to reflect this change.

30. On its current website, BATCo states that “[w]e accept the common understanding today that smoking is addictive.” Yet, when discussing quitting smoking, the

company makes no mention of the role nicotine plays in maintaining the addiction, downplays the success of nicotine replacement therapy in helping smokers quit, and states that the most important factors in successful quitting are "having the motivation and the self-belief that you can quit."

31. On its current website, R.J. Reynolds states that "[m]any people believe that smoking is addictive, and as that term is commonly used, it is." However, R.J. Reynolds later dilutes this statement, stating its disagreement with the opinion in the health and scientific communities that smoking is addictive as heroin or cocaine. No mention is made of nicotine and its role in smoking addiction.

32. On its current website, Brown & Williamson states that it "agrees that, by current definitions of the term 'addiction,' including that of the Surgeon General in 1988, cigarette smoking is addictive." However, like R.J. Reynolds, it also states its rejection of a comparison between smoking cigarettes and using other addictive substances. Finally, while admitting that quitting smoking can be very difficult, it stated its rejection of the notion that "the term 'addiction' should be used to imply that there is anything in cigarette smoke that prevents smokers from reaching and implementing a decision to quit." Nicotine is not mentioned in this addiction section.

33. In addition, today, in spite of the overwhelming medical and scientific evidence to the contrary, only one tobacco company, Liggett, has placed a warning on its packages stating that nicotine is addictive. When Philip Morris purchased premium brands from Liggett in 1999, Philip Morris affirmatively removed the addiction warning from those brands' packages.

34. As discussed in Section IV.C., above, Cigarette Company Defendants have been manipulating their products' delivery of nicotine for decades, while continuing to deny that the levels of nicotine delivered by their cigarettes results from anything other than the nicotine naturally present in the tobacco.

35. Defendants' deception, suppression, and conspiracy regarding nicotine manipulation continues to this day. For instance, Cigarette Company Defendants' representatives continue to deny that nicotine levels in cigarettes are manipulated, asserting instead either that nicotine delivery is a function of tar levels in a given cigarette, or that nicotine levels are controlled because of nicotine's effect on the cigarette's taste. Notwithstanding these false statements, as discussed in detail in Section IV.C.2, Cigarette Company Defendants have designed their cigarettes to ensure register of a sufficient level of nicotine to create and sustain addiction, even in cigarettes which deliver low yields on the FTC method tests.

36. As of January 1, 2003, R.J. Reynolds continues to state on its website that the company did not "do anything to enhance the effects of nicotine on the smoker."

37. As of January 1, 2003, B&W's website contains a similar representation: "Brown & Williamson does not in any way control the level or nature of nicotine in cigarettes to induce people to start smoking or to prevent people from quitting."

38. On June 21, 2002, Hector Alonso, Vice President of Product Development and Technology at Philip Morris, unequivocally testified that Philip Morris does not exercise control over the level of nicotine in the cigarettes it sells. Asked "Does Philip Morris exercise any control over the level of nicotine in the cigarettes that it sells?" Alonso answered only: "No."

39. On May 23, 2002, Lonnie Joe Inman, Vice President of Manufacturing for R.J. Reynolds testified that diammonium phosphate is added to reconstituted tobacco extract for a signature taste even though, as described in Section IV.C.2 above, Cigarette Company Defendants know that this additive affects nicotine delivery.

B. Defendants Continue to Target the Youth Market

40. As discussed in detail in Section IV.E. above, notwithstanding the marketing restrictions imposed by the MSA and Defendants' repeated claims that they never targeted youth in their advertising and do not do so now, Defendants continue to target youth in their advertising and marketing strategies.

(1) Defendants Continue to Falsely Claim That They Do Not and Have Never Marketed Cigarettes to Youth

41. As described in section IV.E.1 above, Defendants continue to make false public statements that they do not market their products to youth and do not encourage youth to smoke.

(a) False, Deceptive, or Misleading Statements of Philip Morris

42. In a February 27, 1996 media training report for Philip Morris International to regional presidents, which provided "key messages," the section entitled "Marketing, Youth Access and Advertising" included the key fraudulent message that "Advertising doesn't cause young people to smoke."

43. On March 4, 1998, Geoffrey Bible, Chairman and CEO of Philip Morris Companies, testified that "We do not market cigarettes to teenagers."

44. On or about June 2001, Philip Morris posted on its Internet website a document entitled "U.S.A. Marketing Policies," which represented that "All of our brand advertising and

promotions are intended for adults who choose to smoke. They serve to enhance brand awareness, recognition and loyalty among adult smokers."

45. Philip Morris' Internet website, which was launched on October 13, 1999, stated in part as follows: "Our goal is to be the most responsible, effective, and respected developer, manufacturer and marketer of consumer products, especially products intended for adults We will support our Mission by proactively engaging with our stakeholders to enhance our ability to act in a way that is consistent with society's expectations of a responsible company." The website further stated that: "Philip Morris is committed to acting responsibly in marketing its tobacco products to adults who choose to smoke. We demonstrate this commitment by implementing all of our marketing programs in compliance with both the letter and the spirit of the laws, rules, policies and restrictions that govern our business practices." Regarding Philip Morris's Youth Smoking Prevention program, the website stated as follows: "At Philip Morris, Inc., we believe we have an important role to play in helping to prevent youth smoking. As the manufacturer of a product intended for adults that has health risks, we have a responsibility to help prevent kids from using it. We take our responsibility very seriously."

46. As recently as March 10, 2002, Philip Morris's Board of Directors cited, among other things, the industry's voluntary advertising code as a reason for recommending a vote against a shareholder proposal that would have provided for independent review of all marketing activities to eliminate activities that appealed to young people age 12 to 17 years old. The proposal would have required that Philip Morris, "before any promotional, marketing, and/or advertising campaign presently running is allowed to continue or is inaugurated in the future, it

must be submitted to independent and certifiable testing to ensure that it is not equally or more appealing to the 12-to-17 age group than groups 18 and over.”

47. As of January 13, 2003, a section of Philip Morris’s internet website, entitled "Responsible Marketing," stated in part that: "[W]e demonstrate our commitment to responsibly marketing our products to adult smokers by developing and implementing programs that comply with both the letter and the spirit of the laws, rules, policies and agreements that govern our business practices. . . [including] PM USA's Marketing Practices. . . . Our marketing programs are designed to enhance brand awareness, recognition and loyalty among adult smokers, while honoring the Company's commitment to responsible marketing."

(b) False, Deceptive, or Misleading Statements of Lorillard

48. In his April 2, 2002 deposition in this case, Steven C. Watson, Lorillard Vice President, External Affairs, testified that, in 2001, he caused to be issued a press release stating that "Lorillard Tobacco Company has never marketed or sold its products to youth" which was transmitted electronically by e-mail from North Carolina to P.R. Newswire in New York, and distributed from there by wire to various news agencies, to be published in newspapers, magazines or similar publications.

49. In June 2001, Lorillard posted on its Internet website a document entitled "Marketing and Promotion" which stated that "Lorillard does not and will not design or implement any marketing or promotional program intended to encourage youth to smoke cigarettes, and will continue to utilize on those advertising, promotional and marketing materials that do not, directly or indirectly, target youth."

(c) False, Deceptive, or Misleading Statements of BATCo and Brown & Williamson

50. The "British American Tobacco Social Report 2001/2002," in response to the question of whether British American Tobacco used advertising to encourage people to begin smoking, stated: "Our companies take care to ensure that their advertising does not encourage people to start smoking, to smoke more or not to quit. Our companies' advertising aims to inform adult smokers about British American Tobacco brands so that they will switch from competitor brands to ours, or if they are already a smoker of our brands will remain so." BATCo further stated that: "Numerous research studies have sought to establish why people start to smoke but none has identified advertising as the primary motivation." In a section entitled "Tackling Under Age Smoking," the report stated: "We are working hard to help tackle under age smoking through Youth Smoking Prevention (YSP) programmes, believing this to be a proper part of product stewardship."

51. In a April 11, 1997 letter from Brown & Williamson Chairman and CEO Nicholas Brookes to BATCo's Ulrich Herter, Brookes stated that "B&W is committed to the principle that smoking is an adult custom and directs all of its marketing, advertising and sales effort to adult smokers 21 years of age and older."

52. In 1998, Brown & Williamson's Internet website included a document entitled "Marketing & Consumer Principles and Practices," which stated that "we conduct our business in a principled manner to assure that our cigarettes are marketed responsibly, and that our advertising, promotion and sponsorship programs are not directed toward youth. Although state law permits individuals under the age of twenty-one to purchase tobacco products, the intended

audience for all B&W marketing programs is adults twenty-one and over. Hence, the purpose of B&W's marketing programs is to encourage smokers twenty-one and over to select B&W brands."

53. During 1999 and through June 2001, Brown & Williamson's Internet website included a page entitled "Hot Topics: Corporate Responsibility." The section of the document entitled "Marketing Principles and Practices: Advertising" stated that "the intended audience for all B&W marketing programs in adults 21 and over."

54. A Brown & Williamson document entitled "Social Report 2001/2001" stated: "Our companies take care to ensure that their advertising does not encourage people to start smoking, to smoke more or not to quit. Our companies' advertising aims to inform adult smokers about British American Tobacco brands so that they will switch from competitor brands to ours, or if they are already a smoker of our brands will remain so."

55. In a press release issued on August 15, 2001, Brown & Williamson stated that it had asked "the New York Times to issue an official apology and correction for its page one story today incorrectly stating that the company is advertising its products in magazines with significant numbers of young readers. [Brown & Williamson] provided . . . information that shows the company does not advertise in youth-oriented publications." The release further stated: "Beginning shortly, B&W ads will be carried only in those publications that are mailed to adults 21 years of age and older. The magazines match names on their subscriber lists against databases that confirm the recipient is at least 21 years old. B&W ads will not appear in newsstand editions of those publications."

56. B&W's website contains the transcript of an "e-chat" hosted on December 8, 1999 by Claudia Newton, B&W's Vice President of Corporate and Youth Responsibility. Among other things, Newton wrote:

Brown & Williamson Tobacco Corporation strongly believes that kids should not smoke cigarettes, under any circumstances, and we're taking action to prevent youth smoking.

.....

[W]e really don't believe that advertising causes kids to smoke.

.....

[Y]ou should trust Brown & Williamson because we are truly sincere in our efforts to keep kids from smoking. To prove that to you, all we can do is to continue to sponsor programs that are effective and to continue to limit our marketing efforts to adult smokers. And that's exactly what we plan to do.

(d) False, Deceptive, or Misleading Statements of R.J. Reynolds

57. At the 1998 tobacco trial, Lynn J. Beasley, Executive Vice President for Marketing at R.J. Reynolds was asked if "getting new smokers into the market" was ever an objective of R.J. Reynolds's marketing. She testified: "No, it has never been."

58. As of June 2001, the R.J. Reynolds Internet website contained a document entitled "Marketing Philosophy," which stated that "Reynolds Tobacco is not interested in, and does nothing aimed at, trying to persuade any nonsmokers to begin smoking."

59. As of January 13, 2003, the R.J. Reynolds Internet website, relating to the company's position on youth smoking, stated: "As a responsible manufacturer and marketer of adult products, we make every effort to ensure that all of our actions are guided by this basic belief [that youth should not smoke]."

(2) Defendants Continue to Study Youth Behavior and Attitudes for the Purpose of Targeting the Youth Market Through Advertising and

Other Means

60. Despite their claims that they do not market to consumers under age twenty-one, Defendants continue to study and track data pertaining to young people with the intent of targeting the youth market through advertising and other means.

61. Although the Industry's voluntary marketing code states that cigarette advertising shall not appear in publications directed primarily to those under twenty-one years of age, including school, college or university media, in 1995 Philip Morris was tracking the smoking preferences of college students through an analysis of College Scan 1995, a nationally projectable telephone study conducted among 3,000 full time college students 18+ years of age.

62. Recent studies, performed by reputable independent scientists and published in reputable journals and other fora, confirm that smoking initiation is caused by Defendants' targeted marketing activities. As an example, one such study measured progression to smoking in 1996 among young persons who reported being confirmed "never smokers" in 1993 (ages 12-17), but who had a favorite cigarette advertisement or who owned or were willing to own a cigarette brand promotion item, and concluded that 34% of all experimentation with cigarettes in California between 1993 and 1996 (ages 15-20) was attributable to tobacco marketing activities. Similar research using Massachusetts surveys, conducted in 1997-98 and published in 2000, replicated this result, finding that, among persons who reported smoking less than one cigarette in their lifetime in 1993 (ages 12-15), but who had a favorite cigarette advertisement or who owned a cigarette brand promotion item, 46% progressed to established smoking (ages 16-19).

63. A Philip Morris document entitled "Metro YAS Tracking Study, Post Wave I,

Final Report” stated that, at least as recently as 1998, Philip Morris launched nationally in urban metro areas retail visibility, promotion programs, and bar programs, to counteract the decrease in Marlboro's share among so-called young adult smokers, to increase Marlboro's "top-of-mind" awareness and "perceived popularity." At her June 27, 2002 deposition in this case, Philip Morris Marketing Senior Vice President Nancy Lund confirmed that these programs were launched "to increase [Philip Morris's] share of young adult smokers."

64. On March 20, 1997, Bennett LeBow, CEO of Vector Tobacco and controlling shareholder and CEO of Vector Group Inc., the holding company that is 100% owner of Liggett, Vector, and Liggett Vector Brands, testified that “Liggett acknowledges that the tobacco industry markets to youth, which means those under 18 years of age, and not just those 18 to 24 years of age.” LeBow subsequently testified that his attorneys, after reviewing Liggett documents, informed him that the Cigarette Company Defendants targeted young people with their advertising and marketing. LeBow testified that the purpose of targeting young people was “to try to keep people smoking, keep their [cigarette] business going,” because, if young people did not start smoking, “they’d have no business in this generation.” LeBow also indicated that his attorneys told him that they found some Liggett documents that indicated that Liggett cigarette marketing had been targeted at the young.

65. On November 2, 2000, Liggett stated that “it acknowledges that the tobacco industry has marketed to youth, which means those under 18 years of age, and not just those 18-24 years of age.” At his June 21, 2002 deposition in this case, Bennett LeBow reaffirmed his earlier admission that the Cigarette Company Defendants targeted youths.

66. Nevertheless, at his June 14, 2002 deposition in this case, James Taylor, Senior Vice President of Marketing for Liggett Vector Brands, testified [REDACTED]

[REDACTED]

67. In approximately 1998, Lorillard placed in newspapers and magazine nationwide advertising campaign for Newport cigarettes captioned "Pleasure! Fire It Up!" Among several treatments, "Pleasure! Fire It Up" advertising depicted attractive young men and young women smoking cigarettes often in circumstances involving sports and other physical activities.

68. Lorillard's 2002 Marketing and promotion budget was approximately \$580 million, with most of that budget allocated to Newport, Lorillard's primary youth brand and one of the most popular brands among teenagers.

69. At his May 16, 2002 deposition in this case, Lorillard's senior group brand director Victor D. Lindsley, III, testified that the long-running advertising concept of "'Newport Pleasure' should be appealing to anyone that likes to have a good time." Lindsley also testified that the advertising theme of "pleasure" used by Newport appeals to all ages, especially the advertised "pleasure" of hanging out with friends.

70. At his June 26, 2002 deposition in this case, George Telford testified that, as part of Lorillard's direct marketing efforts, the company collects demographic information about smokers' age, sex, and race which is used by Lorillard to target its marketing efforts. Telford further testified that Lorillard tailors its advertising for different brands based on the particular

demographic profile of those brands. Because Newport ads are targeted at the younger segment of the adult smoking population, Lorillard advertises for Newport in publications like Sports Illustrated, Playboy and Penthouse, all of which have substantial youth readership.

71. As discussed in detail in Section IV.E. above, Brown & Williamson and BATCo have aggressively gone after the “young adult” market since the mid-1990s.

72. In 1995, Brown & Williamson employees attended regular meetings at BAT Centre of the Brand Group which consisted of brand managers and marketing executives for all BAT operating companies, according to the testimony of Sharon Smith in her February 28, 2002 deposition in this case. At these meetings, Brown & Williamson and all the sister operating companies shared brand advertising campaigns, product development, packaging research, and marketing research learning and experiences. Although Brown & Williamson claims it does not market to persons under age twenty-one or perform market research using persons under age twenty-one, the BAT Group's global policy is that it markets and conducts market research on persons age eighteen and above. The Brand Group meetings resulted in Brown & Williamson presently receiving soon thereafter market research that was conducted on persons at least as young as 18-20 years old from sister operating companies.

73. A May 30, 1997 BATCo document entitled "Lucky Strike – Strategic Development of Get Lucky Campaign" produced from the files of Brown & Williamson demonstrates that Brown & Williamson is in fact reviewing marketing research performed by BATCo among smokers under twenty-one. The document discussed Lucky Strike's "[e]xtremely successful results . . . achieved in two . . . key test markets," and indicated that the principle

target group of the Lucky Strike campaign was male young adult urban smokers aged 18-25 who were "opinion leaders and trendsetters." The document described Lucky Strike as such: "James Dean – an archetypal Luckies smoker," "a legendary marque of teenage rebellion and rock 'n' roll heroes of the 1950's," having a smooth, not harsh smoke, and with ads that communicate an irreverent, light-hearted humor. It stated: "Lucky Strike is one of the greatest 'badges' of all time Cigarette consumers crave this sort of 'badge'; it is more important to them than anything else. This sort of authenticity is rare and invaluable since it demonstrates to peer groups that you are 'in the know.'"

74. In 1999, Brown & Williamson caused to be placed in newspapers and magazines nationwide an advertising campaign for Kool cigarettes captioned "B Kool." Among several treatments, "B Kool" advertising depicted an attractive young women gazing longingly back at a partially visible man in the foreground holding a lighted cigarette and a pack of Kools.

75. In 2000, Brown & Williamson sponsored a Christmas celebration, Light Up Louisville, that started with a gathering at the Brown & Williamson Tobacco Company Tower and continued with a parade that included a Brown & Williamson Frosty the Snowman float. Mark D. Smith, Brown & Williamson's Director of Public Affairs, denied that this event was meant to engender positive attitudes toward its tobacco products among children. Smith stated that such sponsorships would be branded: "[I]f there was any effort to do that, we would have called it the Kool Light Up Louisville or the GPC Light Up Louisville."

76. At her February 22, 2002 deposition in this case, Sharon Smith testified that Brown & Williamson received Imperial Tobacco market research showing the success of Players'

Indy car sponsorship information which motivated Brown & Williamson to embark on Kool's recent Indy car sponsorship. Smith further testified that Brown & Williamson chose the Indy car CART sponsorship for Kool in order to convey that Kool was a modern, high quality brand for men. Smith confirmed that CART racing news is carried in several car and sport magazines with substantial readership among youth aged 12-17.

77. As discussed in Section IV.E. above, R.J. Reynolds's media and advertising plans from 1996 and later show that the company also aggressively targeted so-called "young adult" smokers and focused heavily on the 18-24 year old market segment.

78. Despite R.J. Reynolds's supposed post-1992 policy which proscribed marketing to anyone under twenty-one years of age, R.J. Reynolds made no changes in its marketing efforts after the enactment of this policy. As one example, R.J. Reynolds did not restrict the locations of the vending machines in which its cigarettes were sold to only twenty-one-plus venues.

79. R.J. Reynolds CEO Andrew Schindler testified, at his June 12, 2002 deposition in this case, that the post-1992 policy in fact meant only that R.J. Reynolds would not use source data information gathered from research into 18-20 year olds' smoking preferences. Schindler testified that ceasing to use such research meant that R.J. Reynolds was no longer marketing or "talking to" anyone under twenty-one.

80. Schindler further testified that he did not believe that there is any sort of "trickle down" effect of advertising to teenagers, and that R.J. Reynolds's 1992 policy is only meant as a "buffer" between adult smokers and potential underage smokers. According to Schindler's testimony, however, R.J. Reynolds does nothing affirmative to establish this alleged buffer

between legal age and illegal-age smokers. It does not research whether ads can or cannot be targeted to one age group (21-24) and not the other (18-20), nor did it change its ads which were developed prior to 1992 from focus group research which included 18-20 year olds.

81. R.J. Reynolds did not withdraw or change its "Joe Camel" campaign until required to do so by the MSA, even though Andrew Schindler testified that the target group of this campaign was 18-24 year olds. R.J. Reynolds has not tried to find out what cigarette design features might make them appealing to kids so as to avoid them. Schindler testified: "I do not believe that we should be doing research on kids as they relate to products[.]"

82. At his May 2, 2002 deposition in this case, Edmund Leary testified that advertising and promotion "can influence the behavior of purchasers" and specifically stated that R.J. Reynolds uses "advertising and promotion to incent [sic] adult smokers of other brands to try our brands and hopefully to switch." Leary also testified that R.J. Reynolds has not done any research to ensure that its marketing does not affect youth initiation.

(3) Defendants Continue to Market and Advertise to Youth

83. A 2002 study by reputable scientists from the University of Chicago Department of Pediatrics and Medicine documented violations of the youth-targeting ban in magazine advertisements by Philip Morris, R.J. Reynolds, and Brown & Williamson. The study analyzed magazine readership and cigarette advertisements in United States magazines from 1997 to 2000 and found that all three of these Defendants failed to comply with the MSA's youth-targeting ban, selectively increasing their youth targeting.

84. The Defendants continue to use advertising in magazines and other publications to

reach a youth audience.

85. In June 2002, R.J. Reynolds was fined \$20 million for violating the MSA by targeting youths in a magazine advertising campaign. See People ex rel. Lockyer v. R.J. Reynolds Tobacco Co., 2002 WL 1292994 (Cal. Superior June 06, 2002). The court found, in part, that:

After it entered into the MSA, RJR made absolutely no changes to its advertising campaigns, failed to include the goal of reducing Youth exposure to tobacco advertising in its marketing plans and failed to take any actions to track whether or not it was meeting its professed goal of reducing Youth smoking. Further, while RJR made some changes to its marketing strategies in subsequent years, the changes were minimal and had little, if any, impact in reducing Youth exposure to its tobacco advertising. As a result, since the M.S.A. was signed, RJR has exposed Youth to its tobacco advertising at levels very similar to those of targeted groups of adult smokers.

86. Similarly, two additional courts, in Arizona and California, found that R.J. Reynolds had violated the advertising provisions of the MSA by posting outdoor advertising (billboards for the Winston racing series) beyond the maximum time limitations.

87. As described in Section IV.E. above, prior to 1998, Philip Morris measured its compliance with its own so-called voluntary “advertising code” by conducting subjective in-house evaluations of the content of magazines in which Philip Morris advertised. Virtually no magazines failed to pass muster under Philip Morris’s policies during this time, and even after Philip Morris began considering some objective readership data, many youth-oriented magazines such as Rolling Stone continued to qualify for cigarette advertising.

88. Even after the effective date of the MSA in 1998, Philip Morris continued to

advertise in youth-oriented publications until mid-2000.

89. Philip Morris is well aware of the demographics, including age of readership, for the various publications in which it advertises its cigarettes.

90. Although Philip Morris has reduced the quantity of its magazine and other publication advertising as recently as June 2002, it has de-emphasized its print media profile in exchange for a greater emphasis on one-to-one marketing (also known as relationship marketing), through the use of direct mail databases, for example. This new de-emphasis on advertising “to the masses” in place of creating relationships with individual consumers is entirely consistent with Philip Morris's overall marketing strategy in recent years, and is not based on a decision to stop targeting youth. In fact, to this day, Philip Morris denies that it ever targeted youth in its advertisements. Furthermore, as of June 2002, Philip Morris was still placing cigarette advertisements in magazines with high youth readership, including Outdoor Life, and GQ.

91. As described in section IV.E. above, Brown & Williamson continued to target youth after entering into the MSA in 1998, most notably through its “BKool” campaign in numerous youth-oriented publications. B&W lowered the age of models in its advertisements from thirty to twenty-five years of age.

92. Brown & Williamson continues to advertise in well known youth magazines such as Rolling Stone and Sports Illustrated, while falsely stating that starting in December 1999, it only advertised in magazines whose readers younger than eighteen years of age constituted less than 15% of total readership as measured by MRI or Simmons readership data.

93. As recently as February 2002, Brown and Williamson has chosen to rely on magazine subscriber lists and publisher certifications to support its claim that it does not advertise in youth-oriented publications, even while knowing that the actual readership of some magazines in which it advertises its cigarettes very likely has a youth readership of greater than 15%. As of May 15, 2002, Brown and Williamson continues to advertise its brands in general circulation magazines that it knows reach over two million readers under the age of eighteen years of age.

94. As described in section IV.E. above, Lorillard also intentionally targets youth in its cigarette advertisements while falsely stating otherwise. Despite claiming publicly that “we are agreeing to refrain from placing any advertisement in any magazine whose youth readership is greater than 18% of total readership,” Lorillard continues to advertise in magazines for which it has no data to support this claim.

95. In addition, Lorillard's advertising campaigns reached the same number of "adult" smokers through magazine advertising as they did prior to the MSA.

96. Although Lorillard continued to claim as recently as May 16, 2002 that it does not advertise in magazines with youth readership (under 18) above 18%, it still sets no limit on the actual number of youth readers a magazine may have and still receive Lorillard advertising.

97. As described in section IV.E. above. R.J. Reynolds has positioned Camel as its youth cigarette brand and continues to compete with Philip Morris's Marlboro for the youth market. R.J. Reynolds knows that advertising supposedly targeted at “young adults” will likely also appeal to younger viewers of the advertising. Camel advertising continues to be directed at

youth, both in content and in placement.

98. R.J. Reynolds continues to create advertisements directed at youth as shown by the following examples:

- (1) A 1999 advertising campaign for Camel cigarettes captioned "Viewer Discretion Advised." Among several treatments, advertisements depicted a "farmer's daughter" scene that included a young man being run off by the irate father of an attractive blond female. The caption reads "Viewer Discretion Advised." This ad contains: "SS. . . Satisfied Smoking, FV. . . Farm Violence, AN. . . Animal Nudity. Mighty Tasty!;"
- (2) A 2001 advertising campaign for Camel cigarettes captioned "Pleasure to Burn." Among several treatments, "Pleasure to Burn" advertising depicted attractive young men and young women smoking cigarettes or offering cigarettes, including series that are entitled "7 Pleasures of the Casbah," "Turkish Jade," "Flavors of the Exotic," and "Turkish Gold;"
- (3) A 2001 advertising campaign for Winston cigarettes captioned "No Bull." Among several treatments, "No Bull" advertising depicted attractive young men and young women smoking cigarettes or offering cigarettes often in circumstances involving irreverent humor or sporting events; and (4) a 1999 placement in Stuff magazine.

99. R.J. Reynolds also has continued to use cartoons in advertisements to appeal to youth even after agreeing to cease the "Joe Camel" campaign under the terms of the MSA. In

around March of 1999, R.J. Reynolds used a magazine advertisement for Doral, containing a dog with comically exaggerated features, contrary to the MSA's youth marketing prohibitions on cartoons.

100. According to R.J. Reynolds's Media Director, Patti Ittermann, [REDACTED]

[REDACTED]

101. R.J. Reynolds continues to advertise in those magazines in which Philip Morris recently stopped advertising Marlboro and that have significant youth readership. [REDACTED]

[REDACTED]

102. Although it has admitted that the cigarette industry targets youth and has targeted youth in the past, Liggett has been unable to identify any way in which it has changed its marketing strategy in order to comply with the youth provisions of the MSA.

103. Focus group research, conducted by Sun Research Corporation for Philip Morris in September 1995 and contained in a report entitled "Qualitative Insights on Preliminary Ad Campaigns For a New Parliament Lights Menthol," confirms that young people, starting at age eighteen, associate certain cigarette brands with "popularity," including Newport, Marlboro, and sometimes Kool.

104. As discussed above, Philip Morris's marketing for its youth brand, Marlboro, is

expressly designed to appeal to young smokers' desire for peer acceptance by emphasizing Marlboro's popularity and status as the "number one" brand.

105. A Philip Morris "National Market Structure Study" dated May 1999, which discussed a 1998 survey conducted to update a 1992 survey, examined cigarette brand popularity. The study stated that respondents are not accurate in self-reporting their motivations for choosing a cigarette brand. The study showed that, despite self-reporting to the contrary, popularity of the brand is most important: "The attributes associated with brand choices are very different from those stated to be important--popularity is key." The study concluded that: "young adults are influenced by peer popularity while 25's to 29's look to overall popularity in assessing brands."

106.

[REDACTED]

[REDACTED]

107. At her April 16, 2002 deposition in this case, Philip Morris executive Shari Teitelbaum testified that Philip Morris has used the term "herd smoker" to refer to the most popular cigarette brands, like Marlboro, Camel, and Newport, because these brands attract the largest share of young-adult smokers. Herd brands are "the most popular, it's for smokers that would be likely to kind of follow the herd, kind of more of a group mentality type of thing.

108. R.J. Reynolds knows, through smoker research, that first brand choice is largely based on brand popularity and "peer pressure." At his deposition in this case on May 2, 2002, Edmund Conger Leary testified that "I think advertising and promotion can influence an adult smoker's brand choice, and I think, you know, if it's your first brand choice, if the brand is popular, that has lot to do with it, as well as what your friends smoke."

109. The Newport magazine campaign is intended to showcase Newport's peer popularity. According to Lorillard's senior group brand director for Newport cigarettes, the advertising theme of "pleasure" appeals to all ages, especially the advertised "pleasure" of hanging out with friends.

110. At her July 1, 2002 deposition in this case, Brown & Williamson executive (and former long-time Tobacco Institute spokesperson) Brennan Dawson testified that she believes that, while influences other than advertising are the predominant reason why young people smoke, advertising is influential to some extent (in brand choices) in youth smoking, because "what you find is that youngsters, children, teenagers tend to smoke the more popular brands, and that you can relate their popularity to their advertising."

111. Defendants have long recognized the importance of price-based marketing efforts as a key marketing strategy, particularly for attracting young people. Defendant-initiated reductions in price, such as the steep drop in the wholesale price of cigarettes most popular with young people that was led by Philip Morris on "Marlboro Friday," have reduced the rate of decline in overall cigarette smoking and contributed to increases in youth smoking incidence and prevalence observed during much of the 1990s.

112. Similarly, Cigarette Company Defendants' price-related marketing efforts, including coupons, multi-pack discounts, and other retail value-added promotions, have partially offset the impact of higher list prices for cigarettes, historically and currently, particularly with regard to young people.

113. Statistics recently released by the Federal Trade Commission in its Cigarette Report for 1999 (published 2001) show that advertising and marketing expenditures by Cigarette Company Defendants rose significantly after the MSA took effect in November 1998. In fact, total advertising and promotional expenditures rose 22.3% to \$8.24 billion, the most ever reported to the FTC. By 2000, total expenditures leaped to \$9.57 billion.

114. While substantial decreases were reported for outdoor advertising (down 81.7 percent from 1998 to 1999) and transit advertising (down 86.1%), due to the restrictions of the MSA, increases in expenditures for promotional allowances and retail value added account for virtually all of the overall rise in spending. The industry also reported significant percentage increases in spending for newspapers (up 73.0%), magazines (up 34.2%), sampling (up 133.5 %) and direct mail (up 63.8%), but all of these expenditure categories are relatively small in terms of overall spending.

115. Expenditures on cigarette advertising and promotion, historically and currently, remain high on an absolute basis and relative to other industries. For example, in 1999, domestic cigarette advertising and promotion totaled \$8.2 billion, an increase of 22% over 1998, and a six-fold increase over 1963, after adjusting for inflation. In the nine year period from 1991-1999, domestic cigarette advertising and promotional expenditures totaled \$51.4 billion dollars

(unadjusted for inflation). Promotional allowances have been the single largest category of expenditure each year since 1994. Each Cigarette Company Defendant links and coordinates the many facets of its marketing activities. Expenditures are inextricably linked and coordinated by the companies for maximum impact, particularly upon young people.

116. As they did in the past when television advertising was eliminated, Cigarette Company Defendants' strategy continues to be to simply redirect their marketing focus and funds when one form of media is disallowed or restricted, such as billboard advertising under the MSA..

117. Defendants have aggressively reshaped their marketing since the MSA so that they remain effective at reaching youth.

118. The FTC reported that in 1999, \$3.54 billion or (43%) of the tobacco industry's advertising and promotion expenditures were devoted to trade promotions, up from \$856 million in 1987.

119. Philip Morris admits that increased cigarette price is a variable that would lower youth smoking rates. Carolyn Levy, Senior Vice President for Youth Smoking Prevention Department from that department's inception in April 1998 to approximately March 2002, testified in this case that Philip Morris was aware that "the price of cigarettes for some kids appears to be an important variable in preventing them from smoking [I]t's an important reason for at least a third of the kids" surveyed in the Philip Morris's Teenage Attitudes and Behavior Study ("TABS"). When asked the implications of these results from the TABS data, Levy further stated: "I think these results, in combination with other findings in TABS, as well as the other reading [from outside authorities], led me to conclude that while the price of cigarettes

was not the only variable that would keep kids from smoking, that it did play a role," and that "while it's appealing to think, well, most kids don't buy their own cigarettes, so price isn't a variable, I think price is a variable."

120. At his July 1, 2002 deposition in this case, Robert L. Mikulay testified that Philip Morris relied much more heavily on retail promotions in the late 1990s than it did during the mid-1980s because of the increase in the price of cigarettes and the increased presence of discount brand cigarettes.

121. At his August 22, 2002 deposition in this case, Philip Morris Companies' CEO Geoffrey Bible testified that he "assumes that young people are sensitive to prices," so smoking incidence would decrease due to price increases caused by the MSA.

122. At his June 5, 2002 deposition in this case, Mark Kovatch, Brown & Williamson's Vice President of Trade Marketing, testified that Brown & Williamson spent \$300 million discounting (distributing coupons for) Kool in calendar 2001. The MSA price change was the largest price increase Brown & Williamson had ever taken in the history of the company, and as a consequence price reductions became a very large percentage of the selling price.

123. According to Lorillard's senior brand manager, the company has increased its marketing expenditures since Lorillard entered the MSA.

124. Since entering the MSA, R.J. Reynolds has spent less on print advertising, but has redirected its marketing funds to promotional spending and discounting.

125. As of May 21, 2002, Liggett was still promoting its products with "buy one get one free" programs, as well as sampling.

126. Cigarette Company Defendants have increased their event and sponsorship budgets since signing the MSA. [REDACTED]

[REDACTED]

127. Cigarette Company Defendants also increased their budgets for auto-racing sponsorships, a marketing activity permitted under the MSA. These sponsorships allow the Cigarette Company Defendants to garner national television exposure, despite the broadcast ban on televised cigarette advertising. In 1999, for the three main tobacco-sponsored auto racing series (NASCAR Winston Cup, CART FedEx Championship where Marlboro and Kool sponsor racing teams and Philip Morris offers the Marlboro Pole Award, and NHRA Winston Drag Racing), the tobacco industry realized over \$120 million of television exposure in the United States alone.

128. For example, with regard to the NASCAR Winston Cup, the Winston brand name is displayed on the television graphics and referred to by announcers during the two to three hour race broadcast. Such races are preceded by run-up events, including qualifying and announcement of pole positions, and followed by highlight footage or the announcement of awards, such as the Winston "No Bull" race awards. The NASCAR Winston Cup is a very popular sport in the Southeastern United States, with a large fan base, a huge television audience, and attendance at races sold out over a year in advance. Recent NASCAR television ratings were double that of the NBA playoffs.

129. In addition, cigarette brand names are reinforced in press releases, interviews,

and news stories regarding tobacco-sponsored auto racing series. Branded advertising includes not only logo-bearing racing machines (cars), but also drivers' uniforms, team uniforms, hats, and the large transporters used to move cars from event to event. The events also offer marketing opportunities for trackside billboards, sampling, hospitality tents, and promotional giveaways, like hats, sunglasses, and programs. All of these cigarette marketing activities intentionally reach millions of young people who attend, watch on television, listen to, or read sports news. The continued funding of this marketing tool, as well as its success with young people, clearly belies R.J. Reynolds August 1994 statement before the U.S. House of Representatives Committee on Energy and Commerce, Subcommittee on Health and Environment, that "radio and television exposure is not a motivating consideration for Reynolds in deciding whether to sponsor an event or a vehicle participating in an event."

130. As set out above, the most significant increase in total advertising and promotional spending by Defendants has occurred at the point of sale in the form of point of sale advertising and promotional programs. The growth in the payment of slotting fees and trade promotions to retailers by the Cigarette Company Defendants has been so substantial that the Cigarette Company Defendants are now dominating the stimuli in many retail avenues in the hope of dominating impulse and other types of purchases.

131. Slotting fees and other trade promotions are currently implemented through the sales forces of the Cigarette Company Defendants. This sales force effort in self-service-oriented, advertising-saturated, convenience, "ma and pa," and liquor stores, utilizing fees and promotions, combined with point of sale advertising materials featuring the same themes and

images as the print advertising used by the Cigarette Company Defendants for decades, has helped to create a retail environment that stimulates a lift in sales, with much of the increased purchases coming from new or occasional smokers.

132. The enormous post-MSA spending increase on trade deals, value-added, and other forms of promotion, along with the relatively lower and more varied real prices these promotions have helped to create, have raised demand for tobacco products more than the elimination of billboards and certain sponsorships have reduced it. Young people are being tempted to smoke by the more tobacco-friendly environment, and the fees, promotions and close relationships between members of manufacturer sales forces and retailers encourage stores to be lax about youth pilferage and underage sales.

133. In addition, the Cigarette Company Defendants market their cigarettes using the same or nearly identical imagery in point of sale advertising as that used for decades in magazines and on billboards. Studies support the Cigarette Company Defendants' belief that marketing at retail is the best forum for delivering and reinforcing brand equity and promotion messages. Surveys show that in-store marketing activities are the biggest source of the understanding and knowledge of a particular cigarette brand name and image for consumers and for the youth that frequent convenience stores and other retail outlets for cigarettes. For instance, Brown & Williamson's United States' Market Monitor pilot results "indicate that the store environment, especially displays, inside stores is the biggest source of advertising awareness for all cigarette trademarks."

134. Visibility in convenience stores is especially important as such stores are the

primary trade channel for pack sales and reach the most important demographic group for trial, occasional purchase, switching and long term sales. The communication of brand image – the sought image on the part of a manufacturer or retailer associated with a brand or the derived image in the mind's eye of a consumer relative to a brand – is critical to the success of a brand and the launch of a new brand or line extension. Visibility of brands means communicating a brand equity message, which influences consumer choice, creates brand awareness and encourages product trial. It speeds and improves cigarette sales. And it is the vehicle by which the Cigarette Company Defendants communicate the same youth-targeted advertising images that they have honed and refined through their long-time recognition of the importance of the youth market, research into the best ways to obtain the youth market, and development of advertising campaigns to designed to capture it that have remained largely unchanged for more than thirty years.

(4) Defendants Continue to Violate Their Own Marketing Code

135. As discussed in Section IV.E.2, above, each Cigarette Company Defendant continues to state to the public on its website and in other public statements that it has adopted the industry's voluntary advertising and marketing code ("Advertising Code" or "Code"), and that it follows this Code in planning and execution of its cigarette marketing. These statements are knowingly false, deceptive, and misleading.

136. The voluntary industry Code provides, in relevant part, that "Cigarette advertising shall not appear . . . [o]n television or radio programs, or in publications directed primarily to persons under 21 years of age Cigarette advertising shall not depict as a smoker any persons

participating in, or obviously just having participated in, physical activity requiring stamina or athletic conditioning beyond that of normal recreation."

137. In addition to routinely violating the Code by targeting marketing activities to influence persons under twenty-one, the Cigarette Company Defendants also violate the Code provision that specifically prohibits advertising depicting a smoker as any person participating in, or obviously having just participated in, a physical activity requiring stamina or athletic conditioning beyond normal recreation. In cigarette advertising and promotions related to sports sponsorships, cigarette smoking is also associated with physical power and endurance, violating the prohibitions of the Code, and the advertisements are also located at sporting events where large numbers of youth are likely to view them. The Cigarette Company Defendants also violate the Code provision that specifically prohibits advertising depicting cigarettes as essential to social prominence, distinction or success, as well as the Code provision that specifically prohibits advertising depicting cigarettes as essential to sexual attraction.

138. Testimony given in this case by Philip Morris's executives show that Philip Morris does not adhere to the Code. For example, Richard Camisa, who has been the Director of Media at Philip Morris since April 1998, a former Marlboro brand manager, and a Philip Morris employee since 1979, testified when shown a copy of the Advertising Code then still in place: (1) that he did not recognize the Advertising Code of 1964; (2) did not recognize the term "Code Administrator"; (3) did not know how Philip Morris interpreted the term "Code Administrator"; and (4) did not know whether the company had a Code Administrator as the term is used in the Code. Camisa also testified that with respect to the provision of the Code that states, "Cigarette

advertising shall not suggest that smoking is essential to social prominence, distinction, success or sexual attraction, nor shall it picture a person smoking in an exaggerated manner," (1) he could not explain its meaning and stated that it "could mean different things to different people" within Philip Morris; (2) could not provide a single example of an advertisement that might improperly suggest that smoking is essential to sexual attraction; (3) no one at Philip Morris ever provided him with a list of objective standards or characteristics to determine whether an advertisement violated this provision; and (4) he was not "trained" to determine whether an advertisement suggests that a person's attractiveness and good health is due to cigarette smoking.

139. Philip Morris marketing executive Robert Mikulay testified that while he was the head of Philip Morris's marketing department and ultimately responsible for ensuring compliance with the Advertising Code, (1) he could not recall the existence of a formal policy with respect to training new employees about the provisions of the Code; (2) could neither confirm nor deny that new employees received a copy of the Advertising Code; (3) was not aware of an independent entity that had the responsibility for ensuring that Philip Morris and Leo Burnett, the advertising agency that creates advertising and marketing campaigns for Marlboro, Virginia Slims, and other Philip Morris brands, complied with the provisions of the Code; (4) was not aware of the provision of the Code that states that advertising shall not represent that cigarette smoking is essential to social prominence, distinction, success or sexual attraction; (5) he had never thought about, nor had occasion to think about, how a cigarette advertisement could violate this provision.

140. Despite the proscription in the Advertising Code that prevents R.J. Reynolds from

advertising themes portraying extraordinary athletic activity associated with smoking, R.J. Reynolds continues to advertise the Winston Cup Series, and admits that the Winston Cup drivers have "above average athletic ability." R.J. Reynolds takes the position that the advertisements do not violate the Code because they do not show race car drivers smoking.

141. At his deposition in this case, Victor D. Lindsley of Lorillard testified that Lorillard has no specific guidelines for determining, as required by the Advertising Code (1) whether a model in an advertisement appears to be under 25; (2) whether an advertisement depicts smoking in an "exaggerated manner"; and (3) whether an advertisement depicts an individual participating or just having participated in "a physical activity requiring stamina or athletic conditioning beyond that of normal recreation." These decisions are "judgment calls" made by attorneys.

142. Claudia Newton, former Vice President, Corporate Responsibility and Youth Smoking Prevention at Brown & Williamson, testified in this case that there is no mechanism at Brown & Williamson for punishing any employees for violations of the marketing code.

C. Defendants Continue to Fraudulently Exploit Consumers' Desire for Safer Cigarettes While Continuing to Delay Development or Successful Marketing of Products with Actual Potential to Reduce Harm

(1) Defendants Continue to Fraudulently Exploit Consumers' Desire for Low Tar/Low Nicotine Products

143. As described in Section IV.D. above, Defendants have exploited smokers' perception that low tar/low nicotine products are less harmful than so-called "full flavor" cigarettes, even though Defendants have known for decades that products which deliver lower tar and nicotine levels according to the FTC testing method do not in fact deliver lower tar and

nicotine levels when smoked by most smokers. Defendants continue to fraudulently exploit smokers' misunderstanding of the tar and nicotine numbers disseminated by the Cigarette Company Defendants that derive from the FTC test.

144. Philip Morris continues to use descriptors on its brand packages that it claims are based on FTC practice. Philip Morris claims that its use of descriptors is not misleading because its "use of descriptors is not intended to be misleading and descriptors are not used in a way that is intended to be misleading." [REDACTED]

[REDACTED]

145. In 1997 comments to the FTC, Philip Morris argued that descriptors such as "light" and "low tar" "provided a very legitimate service and enabled adult smokers to distinguish among the brands they choose to smoke; and that issues relating to descriptors could be addressed through communication." [REDACTED]

146. Susan Ivey, B&W CEO, testified on June 20, 2002: "I think [B&W] customers

should look at lights as a descriptor in the context of lighter taste and in the context of lower deliveries than the fuller flavor alternative. . . . [D]o some people perceive them as healthier? Probably." Ivey acknowledged that, while B&W "[c]ertainly [has] the capacity to do the inquiry" as to whether a percentage of consumers choose lights because they perceive a health benefit, B&W has not done any such research.

147. Liggett markets low tar discount brands. According to the president of Liggett's Northern Sales Business Unit, the company does not do any market research to determine how its marketing of those low tar brands affects consumers. Liggett is therefore exploiting consumers' belief that low delivery products are safer.

148. D [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] Liggett also does not disclose to consumers of its non-Omni brands the more accurate data on tar and nicotine yields obtained by the Massachusetts or Texas testing methods, but instead complies only with its obligation to reveal FTC Method numbers.

149. [REDACTED]

[REDACTED]

150. Defendants continue to argue, including in lawsuits pending as recently as 2001 (for example, Blankenship v. Phillip Morris Inc. et al., Civil Action No. 00-C-6000 (Arthur M. Recht, Judge) Circuit Court of Ohio County, W. Va.) that they have substantially reduced the tar and nicotine deliveries of cigarettes and cite the FTC ratings as their primary basis of support for this assertion, even though they have known for years that the FTC ratings do not reflect the deliveries ingested by actual smokers.

151. On February 25, 1999, B&W started a campaign identifying Carlton cigarettes as Ultra Ultra Light, including packs stating "1 mg.," and used the slogan "Isn't it time you started thinking about number one." Mark Smith, B&W Director of Public Affairs, agreed that the "number one" referred to the one milligram of FTC tar and the double meaning meant think about your health. Karen Brotzge, Director of B&W's Marketing Strategy and Development, analogized the ultra-light reference in the advertisement to low fat messages in foods, saying: "They [customers] look at fat grams and calories." Nevertheless, on June 20, 2002, Susan Ivey of B&W testified that B&W has "never advertised that lights are a safer cigarette."

152. B&W's advertising slogan for Advance cigarettes overtly implies that Advance is less harmful: "Advance: All of the taste . . . Less of toxins." However, like all the previous low tar campaigns, there is no evidence to support the inference that this product is any less

hazardous than any of B&W's other brands. A November 5, 2002 B&W press release for B&W's Advance Lights cigarettes makes several statements indicating that Advance Lights are less hazardous: "The new cigarette brand has significantly less of many toxins than the leading lights brand styles."

153. Beginning late November 2001, Vector Tobacco (100% owner of Liggett) placed an ad in several magazines and other publications stating: "Omni: Reduced carcinogens. Premium taste."

154. On November 13, 2001, Vector Tobacco (100% owner of Liggett) placed ads in several newspapers and other publications, including the Washington Post, and posted on its web site (<http://www.omnicigs.com/prodBenLetter.asp> last viewed Oct. 7, 2002), entitled "An Open Letter to American Smokers," which has the slogan "Omni. The First Reduced Carcinogen Cigarette." in bold, underlined large type. This document is a letter from Bennet LeBow, CEO of Vector Tobacco, and includes the following statements: "Omni is important because it is the first reduced carcinogen cigarette that tastes, smokes, and burns just like any other premium cigarette. As we all know, smoking is addictive and hazardous to your health. However, the medical community has identified specific carcinogens that are a major cause of lung cancer in smokers. In a groundbreaking move, we have greatly reduced many of these. . . . [W]e strongly believe that if you do smoke, OMNI is the best alternative. While OMNI has not yet been proven to reduce health risks, the significant reduction of carcinogen levels is, in our opinion, a major step in the right direction."

155. Liggett (Vector) marketed the Omni with a misleading slogan. The company

knew the phrase "reduced carcinogens/premium taste" was not literally true, but intended to communicate the message that they were trying to reduce the harmful effects of cigarettes to the greatest extent possible, and had reduced carcinogens compared to Marlboro brands. Liggett (Vector) is still using the potentially misleading "Reduced Carcinogen/Premium Taste" slogan on its point of sale materials, and intends to advertise for the Omni again, and to communicate to smokers that Omni may reduce harm.

(2) Defendants Continue Their Efforts to Delay Development and Successful Marketing of Potentially Safer Cigarettes

156. As described in Section IV.G above, Defendants have acted individually and in concert to avoid successfully bringing to market products that may be potentially safer than the cigarettes presently marketed in the United States.

157. As described above, Philip Morris has developed considerable evidence of the potential risk reduction properties of charcoal filters. Despite decades of experience with charcoal filters, however, Philip Morris continues to assert that further research is necessary before implementing the regular use of these filters and marketing them to consumers as reducing risk. However, Philip Morris has never itself previously undertaken the research to determine whether charcoal-filtered cigarettes or any of its products including "low-ta/low nicotine" cigarettes actually lower the harms caused by smoking relative to other cigarettes.

158. Philip Morris is currently test-marketing Accord, which it touts as a potentially risk-reduced product in depositions given in this case and to government regulators, courts, juries, and the public health community. Philip Morris announced and introduced the product before it has the evidence to support a reduced risk in human Smokers. [REDACTED]

[REDACTED]

[REDACTED] While Philip Morris has hailed Accord as a significant technological achievement, there is little evidence to suggest that Philip Morris believes it has a realistic chance for commercial success – or is even trying to make that happen.

159. In addition, to the extent that Philip Morris has sought to market Accord, despite the company's statements that it will not get in the way of anyone who wants to quit smoking, there is evidence showing that it had its advertising agency assist in marketing Accord to those who want to quit or who have quit and are rejoining the cigarette market.

[REDACTED]

[REDACTED]

160. Similarly, while R.J. Reynolds claims a long-term commitment to increasing safety of its products and “extraordinary achievements” in cigarette design that have reduced the delivery of toxins by its cigarettes, it has no data to show that any of these purported reductions have actually reduced the risk of smoking and has only recently begun testing necessary to make those determinations.

161. I [REDACTED]

[REDACTED]

162. R.J. Reynolds has had Eclipse, its second generation "effort" to produce a safer cigarette through tobacco-heating technology, in test market status in a few cities since 1996.

Initially, like Premier, R.J. Reynolds marketed Eclipse as a "low ETS" cigarette. In April 2000, R.J. Reynolds announced that it was beginning a new test market of the Eclipse cigarette with the claims that it may present less risk of certain smoking related illnesses "compared to other cigarettes." Specifically, it claimed that Eclipse may pose less risk for lung cancer, chronic bronchitis and possibly emphysema.

163. However, in addition, the health claims it does make are based on questionable scientific data, and R.J. Reynolds has misrepresented the independence of the scientists who have reviewed its data on Eclipse.

164. Despite its public position that Eclipse is aimed only at current smokers who want to quit, R.J. Reynolds' internal documents reveal that it studied the potential appeal of Eclipse to youth smokers, while it has done no studies to test whether Eclipse has drawn smokers who might otherwise have quit or not started smoking at all.

165. In July 1997, Liggett Director of Research Dr. John Woods offered suggestions to then CEO Ronald Fulford on how to make a traditional Liggett product safer. These suggestions include removing ventilation holes and using a carbon filter. Fulford testified that the company did not pursue either approach that course for, among others, financial reasons – he did not want to invest in the company's premium product lines at the time. He "couldn't find any instance anywhere in the world of anybody taking any initiative on the premium product to improve the sales."

166. Despite admitting in the mid-1990s that cigarettes cause lung cancer, and that nicotine is addictive, as of 2000, Liggett had not made any product design changes on any of its

products that could potentially make them less hazardous or less addictive. Indeed, the company has spun off its safer cigarette research staff, products and research to what is now Vector Tobacco. Bennett Lebow, controlling shareholder and CEO of Liggett's parent company, testified in 2002 that this spin-off was due in part to litigation concerns.

IX**DISGORGEMENT****A. Introduction**

1. As more thoroughly set forth above, the Court finds that Defendants have engaged in a pervasive scheme to defraud the public spanning over forty-five years, have spent billions of dollars annually on marketing, advertising and public relations, and hired scores of public affairs experts, psychologists, and marketing experts to develop advertising strategies and campaigns in furtherance of their scheme to defraud. Defendants caused the public dissemination of thousands of false, deceptive, and misleading public statements, in various media, including newspapers, press releases, magazines, billboards, and the internet. Defendants' scheme was not only well-financed, but intentionally capitalized on smokers' desire for "safer" cigarettes, exploited and targeted the youth market, and, coupled with the addictiveness of their products, served to enhance and preserve their market for cigarettes.

2. Therefore, as set forth in greater detail below and in the Proposed Conclusions of Law, the Court finds that disgorgement of Defendants' gains related to this unlawful conduct is appropriate relief in this case. The Court further finds that a reasonable measure of Defendants' ill-gotten gain from their RICO violations is \$289 billion and that amount shall be disgorged to the United States as unlawful proceeds under RICO.

B. Causation

(1) Impact and Design of Advertising on Consumers' Decisions to Start and Continue Smoking

3. Cigarette marketing, including advertising and promotion, stimulates primary demand for cigarettes. The marketing efforts of Defendants, including activities creating doubt about smoking and health concerns and the denial of smoking's addictiveness brought people "into the market" and helped retain them as smokers. These programs impacted the overall size of the market as well as shares of individual brands.

4. The Federal Trade Commission ("FTC") reports that in 1999, \$3.54 billion (43%) of the tobacco industry's advertising and promotion expenditures were devoted to trade promotions, up from \$856 million in 1987. Defendants' expenditures take many forms: cash ("slotting fees"), rebates, free products, display cases and other point-of-sale benefits for retailers. These payments, advertising, and promotions reduce prices and create tobacco friendly environments that stimulate a lift in sales, particularly among new or occasional smokers. As Defendants know, young people are also tempted to smoke by the ubiquity of these tobacco friendly environments in retail outlets, like convenience stores, gas stations, and groceries, and payments to retailers make encourage stores to be lax about youth pilferage and underage sales of cigarettes.

5. For the year 2000, the Defendant Cigarette Companies' advertising and marketing expenditures were approximately \$9 billion.

6. Expenditures on cigarette advertising and promotion, historically and currently, remain high on an absolute basis and relative to other industries. For example, in 1999 domestic

cigarette advertising and promotion totaled \$8.2 billion, an increase of 22% over 1998, and a six-fold increase over 1963, after adjusting for inflation. In the nine year period from 1991-1999, domestic cigarette advertising and promotional expenditures totaled \$51.4 billion dollars (unadjusted for inflation). Promotional allowances have been the single largest category of expenditure each year since 1994.

7. Contrary to Defendants' statements, "brand switching" between companies could not possibly justify the billions of dollars in advertising expenditures since only approximately 6.7% of adult smokers switch companies annually. A 1990 marketing document from the files of R.J. Reynolds acknowledged that "[m]uch of this brand switching tends to be random noise, with little net effect on shares for most brands."

8. At the same time, for smoking initiation, advertising plays an incredibly important role; teenagers smoke the most heavily advertised brands: Marlboro, Camel, and Newport. The critical importance of youth smoking to cigarette industry profits since the issuance of the Frank Statement in 1954 cannot be disputed. In the year 2000, 80% of the consumption of the Cigarette Company Defendants' cigarettes in the United States was by persons who were smoking daily before reaching age 21. See also Section IV.E above discussing the role of advertising and smoking initiation, especially among youths.

9. Each Cigarette Company Defendants' expenditures for different components of its marketing activities are inextricably linked and coordinated "integrated marketing communications" for maximum impact, particularly upon young people.

10. Historically and currently, cigarette advertising has particularly appealed to

children and adolescents as Defendants intended. The messages, images, and merchandise used in cigarette advertising have corresponded precisely to adolescent aspirations, and appeal to those themes and imagery most attractive to youths. Over the past ten years, there have been at least six comprehensive reviews of the scientific evidence concerning the effects of advertising on smoking decisions by young people. Each review has come to the same conclusion: the weight of all available evidence, including survey data, scientific studies and experiments, behavioral studies and econometric studies, supports the conclusion that advertising/promotion is a substantial contributing factor in the smoking decisions of young people, including the decision to begin smoking and the decision to continue smoking.

11. As presented above in Section IV.E, and as Defendants know, the imagery found in cigarette advertising, independence, liberation, attractiveness, adventurousness, being cool, popularity, and rebelliousness, mislead people about the health consequences of smoking because they induced inferences about smoking that are not true. Youths are particularly vulnerable to "affective" (emotion driven) advertising and promotion actively searching for clues in advertising for the right way to look or behave.

12. The vast majority of risk decisions are motivated by affect (emotion) rather than the analysis of quantitative statistical fact (logic). Cigarette advertising and promotion is designed to play a key role in this process by exposing young people and others to massive amounts of positive imagery associating positive qualities with cigarette smoking. Research in psychology and cognitive neuroscience demonstrate how powerful such imagery can be in suppressing perception of risk and manipulating behavior. Defendants' marketing research and

public practices reveal that the companies were well aware of this power and wielded it intentionally to maximize profits.

13. The most prospective consumer of cigarettes does not go through several hierarchical stages of information processing (awareness, knowledge, liking, conviction and purchase) that are associated with the purchase of some other products. The cigarette consumer responds to ubiquitous cigarette advertising imagery and seeks quick satisfaction bypassing logical analysis.

14. Many people, especially youths, underestimate the health hazards of smoking, and fail to appreciate the risk of addiction.

15. As part of Defendants' scheme to defraud, Defendants have directed cigarette advertising and promotion to persons under 21 years of age, contrary to Defendants' public statements. The vast majority of new smokers are under age 18, and teens smoke the most heavily advertised "starter" brands: Marlboro, Camel and Newport. The Defendants have long known that their marketing campaigns appeal to this protected class and even denominate these brands and others as "starter" or "entry level" brands.

16. A recent Harris poll, reported on January 15, 2003, noted that its data shows "hardly any decline in the smoking rate over the last decade":

This failure of the public health efforts to reduce smoking may surprise some readers. To many people, smoking appears to have declined because it is not allowed in most offices, many restaurants and other public spaces and is, therefore, much less visible. But the smoking habit is very addictive (other Harris Interactive surveys have shown that most smokers have tried several times, but failed, to quit). And tobacco companies have been remarkably

successful in recruiting new, young smokers to fill the gaps of those who have quit.

17. Accordingly, the actions of Defendants substantially contributed to, and continue to contribute to, widespread initiation of smoking behavior among young people and others and to the persistence of cigarette smoking among adolescents and adults in the United States.

(2) Addiction and "Health Reassurance" Messages Influence Consumers' Decisions to Start or to Continue Smoking

18. As discussed in Section IV.B above, smoking is addictive, and nicotine in cigarettes is a dependence-producing drug that meets widely accepted criteria for determining that a drug is dependence producing. Although nicotine naturally occurs in the tobacco plant, the modern cigarette is a highly engineered and sophisticated product in both manufacture and design. As a result of an intentional design, cigarettes are extremely effective and cheap nicotine-delivery devices that are engineered to easily provide users with rapidly delivered nicotine in a dose sufficient to create and sustain addiction. Cigarette Company Defendants' intentionally design features to enhance the addicting effects of nicotine, and thereby facilitate the repetitive and longterm delivery of extremely toxic and carcinogenic chemicals.

19. In addition to engineering a product that will allow the smoker to receive his or her optimal dose of nicotine efficiently delivered to the brain, pharmacologically sufficient to create and maintain addiction, Defendants manipulate the cigarette to optimize the delivery of the nicotine itself. Nicotine addiction alters brain chemistry and affects the way a person feels, behaves, and functions – including a person's propensity and difficulty in quitting smoking. See Sections IV.B and IV.C above.

20. As Defendants know, many smokers face significant difficulty quitting smoking because they are addicted to nicotine. All tobacco products contain nicotine, and cigarettes are the most effective means of transmitting the drug to a smoker's brain. People who try to quit smoking often experience withdrawal symptoms that can be extremely disruptive. Most smokers require several attempts before they are successfully able to give up cigarettes, and many smokers die from smoking-related diseases before they are able to quit. Although the smoking habits of youth often differ from those of adults, children and adolescents under the age of 18 can and do become addicted to nicotine through smoking cigarettes.

21. In addition to influencing smoking initiation and succeeding in addicting the vast majority of smokers to, marketing activities that were part of Defendants' scheme to defraud sought to maximize profits by inducing some smokers not to quit and former smokers to return to the market. The addictive nature of the product was important to this scheme, but it was intentionally supported by other marketing efforts as well. In addition to the "open controversy" public relations statements, a key to these efforts was the development of the "health reassurance" brands, like Kent, L&M, True, Carlton, Merit, Vantage and Now, featuring specially designed filters, or purportedly "low tar" or "low nicotine" filtered cigarettes, all of which were meant by the Cigarette Company Defendants to assuage the smoking and health concerns of smokers and their family members.

22. Defendants' false and misleading statements regarding the link between smoking and disease and addiction and their deceptive marketing of "low tar" and "low nicotine" brands not only have attracted new consumers, but also have allowed smokers to "rationalize" their

continued smoking. For instance, Defendants' maintenance of an "open controversy" allowed smokers to believe that, because the case for causation had not yet been scientifically proven, their continued smoking likely would not cause them to suffer serious disease. Similarly, Defendants' false and fraudulent statements denying the addictiveness of smoking allowed people to believe that experimenting with cigarettes or occasional use of cigarettes would not lead to addiction, or that continued smoking would not sustain addiction.

23. "Light" or "low-tar" cigarettes, though no less hazardous than "full flavor" or regular cigarettes, are believed to be safer by smokers. Through their advertising and marketing, Defendants themselves exploit this belief by implying such comparative safety, and that smoking "light" cigarettes is an acceptable alternative to quitting. Indeed, Defendants themselves referred to such products as "health reassurance" cigarettes, while also knowing that they were just as dangerous as regular cigarettes. See Section IV.D above.

(3) Pricing Strategy

24. Defendants have long recognized the importance of price-based marketing efforts as a key marketing strategy, particularly for attracting young people. Calculated reductions in price, such as the steep drop in the wholesale price of the cigarettes most popular with young people that was led by Defendant Philip Morris on "Marlboro Friday," have reduced the rate of decline in overall cigarette smoking and contributed to the substantial increases in youth smoking incidence and prevalence that was observed during much of the 1990s.

25. For example, Philip Morris, the maker of Marlboro, the leading "starter" brand, frankly discussed its intent to not let price increases drive youngsters away from the cigarette

market generally, and from Philip Morris products in particular. In 1987, an internal Philip Morris memorandum that was widely circulated within the company stated, "[T]he 1982-83 round of price increases caused two million adults to quit smoking and prevented 600,000 teenagers from starting to smoke. . . . [T]his means that 700,000 of those adult quitters had been PM smokers and 420,000 of the non-starters would have been PM smokers. Thus, if Harris is right, we were hit disproportionately hard. We don't need to have that happen again." In 1994, after "Marlboro Friday" had its intended effect of bringing hundreds of thousands of young people back to the market, Philip Morris congratulated its employees for defeating 34 of 37 government attempts to increase price through excise taxes, "Your batting average on state excise taxes has been outstanding only 3 of the 37 states proposing tax increases passed them." The company also called for an "incredibly effective" effort of fighting restrictions on marketing activities.

26. Generally, young people are two to three times more sensitive to price than adults. Estimates from recent studies of youth smoking initiation indicate that a 10% increase in cigarette prices would reduce the number of youth who become daily smokers by more than 88,000 teens each year. In these same circumstances, an additional 170,000 high school smokers would stop smoking.

27. Similarly, price-related cigarette industry marketing efforts, including coupons, multi-pack discounts, and other retail value-added promotions, have partially offset the impact of higher list prices for cigarettes, historically and currently, particularly with regard to young people.

(4) Defendants' Unlawful Activities Are Causally Related to Smoking Consumption Rates

28. Economic theory and additional substantial scientific evidence demonstrate that over the past fifty years, American consumers have reduced their use of cigarettes in response to accurate information concerning the health hazards of smoking. If Defendants had not engaged in a concerted campaign of misinformation about smoking and health, then the rate of smoking cessation would have been higher and the rate of smoking initiation would have been lower. Therefore, absent Defendants' misconduct, the total consumption of cigarettes would have declined more rapidly over time.

29. As demonstrated by the foregoing, behavioral scientific evidence reliably shows, to a reasonable certainty, that tobacco industry marketing is a substantial contributing factor to youth initiation and continuance of smoking, as well as that of others. This is true for several reasons. Defendants have understood from at least the 1950's that the recruitment of children and adolescents to smoking was vital to their business because, despite protestations to the contrary, each Cigarette Company Defendant knew that its market share depended on becoming the entry level first brand smoked by starters, the majority of whom are younger than eighteen. Second, manufacturing Defendants conducted sophisticated motivational market research on young people and tracked their smoking behavior. Despite an industry code that publicly stated that Cigarette Company Defendants would not market to persons under twenty-one, Defendants did just that, creating advertising and promotions that took advantage of the vulnerabilities of young people to get them to smoke and by using every means of marketing available to them to reach

millions of young people. Also, despite Defendants' frequent public assertions that cigarette marketing only affects brand switching and brand loyalty, Defendants have been and continue to be quite effective in influencing young people to smoke. This is shown by the fact that (a) young people who are more familiar with the advertising are more likely to begin smoking; (b) increased expenditures on cigarette marketing campaigns have been associated with increases in the incidence of smoking among adolescents; (c) adolescents who are exposed to more cigarette advertising are more likely to begin smoking; and (d) the brands that are most popular with young people are the ones where ads are designed to appeal to their needs and the ones for which the most money has been spent on advertising and promotional activities.

(5) Defendants Intended the Public, Especially Youths, to Rely on Their False and Fraudulent Statements

30. In a variety of contexts, Defendants have repeatedly expressed their intent that members of the public, including and especially youths, rely on their fraudulent statements.

31. A November 10, 1989 document, created by Ronald Tully of INFOTAB, a component of the Enterprise, stressed the import of using manufacturers' jointly funded and controlled organizations, such as the Tobacco Institute and INFOTAB, as well as industry networks. Tully noted that:

[a]s an industry we must be pre-emptive by developing and fostering coalitions with long-established and well respected trade, political and freedom associations. . . . We need to frame the advertising issue at a very basic level and present the case to the public. The way to influence opinion formers is to take your case to the public and obtain their participation in the fight against advertising restrictions.

Tully's point was made evident in his conclusion:

Just remember, we lose more to the bottom line each year in markets as a direct result of the policies pushed by the anti-smoking fraternity. Can we afford to let these groups continue their propaganda unabated??

32. Similarly, various defendants' internal documents show defendants' efforts to capitalize upon smokers' "rationalization" of smoking. For instance, high level Philip Morris executives described how "we must in the near future provide some answers which will give smokers a psychological crutch and a self-rationale to continue smoking."

33. Furthermore, as discussed above in Section IV.D, Defendants developed and marketed filtered, "light," and "low tar" brands knowing full well that smokers would believe them to be healthier than "full flavor" cigarettes. Defendants intended smokers and prospective smokers to rely on such implied health claims, and to keep individuals from quitting.

34. As early as 1966, Philip Morris recognized the import of nicotine to success in the cigarette market. "A cigarette that does not deliver nicotine cannot satisfy the habituated smoker and cannot lead to habituation, and would almost certainly fail." Colin Greig, a researcher at BATCo's Group Research and Development Centre, stated internally that nicotine is a "fast, highly pharmacologically effective and cheap 'drug'" for which the company hoped the user's thirst would be unsatisfied since "[a]ll we would want then is a larger bag to carry the money to the bank." At R.J. Reynolds in 1972, nicotine was seen as a "potent drug with a variety of physiological effects" and a cigarette was a "vehicle for delivery of nicotine designed to deliver the nicotine in a generally acceptable and attractive form."

35. The Defendants' own secret internal documents reveal that tobacco manufacturers were aware of, and took advantage of, flaws in the testing process employed by the FTC to

measure tar and nicotine levels in cigarettes, and intentionally designed their cigarettes to increase the flexibility of their tar and nicotine dosing capacity to smokers even as they reduced the tar and nicotine yields as determined by machine tests.

36. For example, a December 4, 1968 letter from R.A. Sanford, B&W Director of Research and Development, to S.J. Green, a BATCo scientist, acknowledged that "low tar" cigarettes were not less harmful, but merely perceived by the public as such: "It was also recognized that there are two types of health products possible and that they should be distinguished. (a) Health image (health reassurance cigarette) such as a low tar – low nicotine cigarette which the public accepts as a healthier cigarette and (b) Health-oriented cigarette which has minimal biological activity; for example, one which would yield a near zero reading in a mouse skin painting test."

37. A "1969 Survey of Cigarette Smoking Behavior and Attitudes" performed for American Tobacco illustrates defendants' efforts to have their cigarettes perceived by consumers as the least harmful. The survey contained the following questions: "What brand or brands of cigarettes come to mind when I say: Is safest to smoke? Is most effective in eliminating the things that are bad for you? Can prevent cigarette cough? Is best for people who are just starting to smoke regularly?" The survey was performed on age sixteen plus, and included data indicating that at age fourteen, 60% of boys who would become smokers had already smoked their first cigarette.

38. Indeed, certain high ranking company officials expressly advised against informing consumers about the likelihood that they would inhale tar and nicotine levels much

higher than reported FTC deliveries. An internal B&W memo dated June 28, 1985 from R.A. Sanford, B&W Director of Research & Development, to E. E. Kohnhorst, Vice President for the Research Department, discussing research programs for the development of new products, stated:

Compensation: It exists; most smokers practice it, but we need to understand it better before advantage can be taken in the marketplace. Here, I believe designing to the subconscious is preferred to requiring the smoker to make a conscious act. . . .
Smoker Concerns: The consumer is desperately waiting for help or direction. Biological assurance has not been realized despite the years and money spent. . . . Learn from the Consumer: . . . we are beginning to read [the consumer's] reliance on compensation as more creative procedures are applied.

39. A 1972 BATCo memorandum explained that health reassurances usually result in increased sales: "Over the years manufacturers have provided the public with a variety of platforms to . . . 'enhance the association in smokers minds between the benefits of smoking and our cigarette products.' Increasingly, by implication, these claims have turned to a health orientation and very often the closer these have come to relating the smoking benefit to being one of 'health' the more successful has been the brand."

40. As Brown & Williamson recognized in 1975, "advertising must cope with consumer attitudes about smoking, providing either a rationale or a means of repressing the health concern."

41. Philip Morris recognized the importance of "light" cigarettes as the company's "traditional response to anti-smoking publicity." A November 13, 1973 presentation by A.W. Spears, a Lorillard scientist and later CEO, stated: "Clearly the consumer is concerned about

smoking and health, and is convinced in varying degrees that smoking is a possible detriment to his health. Presently, this factor is of active interest to R&D, since it has been used to an advantage in marketing both the KENT and TRUE brands." B&W conducted a focus group survey of smokers in 1977, and observed that "almost all smokers agree that the primary reason for the increasing acceptance of low tar brands is based on the health reassurance they seem to offer." Indeed, B&W had previously concluded that such reassurances were effective and attracted smokers "in droves."

42. An internal March 25, 1983 B&W memo from A. J. Mellman, an employee in marketing, to R.A. Blott, B&W Senior Vice President of Domestic Marketing, regarding current cigarette project ideas stated: "KOOL maintained a three share level for over 30 years (through mid-60's) while positioning itself as a specialty cigarette to be smoked only for remedial or medicinal purposes. Product Implications: Develop a cigarette combining menthol with eucalyptus and position it to be smoked when one has a cold." The fourth project idea was to "Improve health aspect: Anything that can be done to decrease the risks associated with cigarettes is a positive to most consumers."

43. Defendants' fraudulent representations regarding environmental tobacco smoke ("ETS") include the same attention to public reliance and cigarette sales. See Section IV.A above. In 1987, Philip Morris hosted an internal conference, code-named "Project Down Under" to look at the ETS health concern confronting Defendants because "[i]n U.S., ETS issue will have devastating effect on sales." The "Problem" was further identified as ETS health concern "threatens number of smokers & number of cigarettes they smoke," and the conference identified

the question confronting Defendants as "[h]ow to alter public perception that ETS is damaging." Advertising was identified as a key to influencing public opinion about the health effects of ETS exposure and the need for smoking restrictions. After summarizing a series of recommended approaches to the problem, the meeting minutes stated:

These steps are not a single silver bullet with which to hit the problem but a MIRV, (multiple warhead) system that targets specific audiences with specific messages and tactics. The time-scale plan is first to reshape the environment on the annoyance issue and, once this groundwork is laid, introduce the longer term science work to address the health issue.

44. Additionally, Defendants have long recognized the effectiveness of advertising and marketing to attract individuals to the cigarette market and to become smokers.

45. George Washington Hill, President of American Tobacco, testified to the power of cigarette advertising to attract people to become smokers, as well as to the fact that maintaining and enhancing the size of the cigarette market is a collective effort shared by the cigarette industry as a whole: "The impetus of those great advertising campaigns not only built this [business] for ourselves, but built the cigarette business as well, because that is the way competition works. You don't benefit yourself most, I mean, altogether. Of course, you benefit yourself more than the other fellow if you do a good job, but you help the whole industry if you do a good job."

46. BATCo's Charles Ellis stated in a May 25, 1960 report that "[t]he sale of cigarettes depends on how it is advertised to the public."

47. Contrary to Defendants' public statements that advertising is directed solely to "brand switchers," in 1974, B&W's internal documents also described a plan to "[p]lace

marketing efforts against all current smokers and those who are predisposed to commence smoking in the near future."

48. Furthermore, and as related above, see Section IV.E above, Defendants especially intended to target youths as their primary audience for advertising. For instance, in 1986 internal BATCo General Marketing Policies stated: "Overall BAT strategy will be market specific and multi-brand but within each market major effort behind one brand aimed at starters/young adults."

49. As Diane Burrows of Reynolds wrote in February 1984, "Younger adult smokers are the only source of replacement smokers. . . . If younger adults turn away from smoking, the industry must decline, just as a population which does not give birth will eventually dwindle."

50. In September 1974, Mr. C.A. Tucker, R.J. Reynolds's Vice President of marketing, wrote as follows in a presentation to the Board of Directors: "[T]his young adult market, the 14-24 age group, . . . represent tomorrow's cigarette business. As this 14-24 age group matures, they will account for a key share of the total cigarette volume -- for at least the next 25 years."

51. A document produced by B&W, entitled the "The 'New' Smoker" concludes in a section entitled "Summing Up" that "the younger smoker is of pre-eminent importance."

52. Defendants' internal documents indicate that Defendants knew that, because most "starter smokers" are youths, their marketing efforts should be directed to this important demographic. While publicly denying that they targeted their products to youth, internal documents reveal that Defendants understood the import of their marketing to youths, and

documented their success in doing so. In 1978, Lorillard's president indicated the formula for success one of his brands, Newport: "[T]he base of our business is the high school student."

53. Philip Morris also boasted of its success rate in attracting youths. In a May 1975 memorandum from Myron Johnston, a Senior Economist in Philip Morris's R&D department to Robert Seligman, Vice President of Research and Development:

It has been well established by the National Tracking Study and other studies that Marlboro has for many years had its highest market penetration among younger smokers. Most of these studies have been restricted to people age 18 and over, but my own data, which includes younger teenagers, shows even higher Marlboro market penetration among 15-17 year-olds. The teenage years are also important because those are the years during which most smokers begin to smoke, the years in which initial brand selections are made, and the period in the life-cycle in which conformity to peer-group norms is greatest.

54. Indeed, a 1979 Philip Morris marketing document shows that the company tracked the smoking habits of customers as young as twelve, and remarked that "Marlboro dominates in the 17 and younger age category, capturing over 50 percent of this market."

55. In 1973, B&W's general strategy statement called for improvement in " B&W's position in attracting young male smokers by making as direct an appeal as possible in product, packaging, and advertising to young males. . . . Target: "6.3 million 16-25 year old smokers."

56. In 1973, a confidential R.J. Reynolds memorandum to R&D researchers trying to redesign Winston to have the product characteristics of Marlboro opined that the company should use marketing that emphasizes belonging, novelty, and daring in order to attract young people and experimenters.

Thus a new brand aimed at the young smoker must somehow

become the 'in' brand and its promotion should emphasize togetherness, belonging and group acceptance, while at the same time emphasizing individuality and 'doing own's own thing.' . . . The fragile, developing self-image of the young person needs all of the support and enhancement it can get. . . . This self-enhancement effect has traditionally been a strong promotional theme for cigarette brands and should continue to be emphasized. . . . There is a strong drive in most people, particularly the young, to try new things and experiences. . . . A new brand offering something novel and different is likely to attract experimenters, young and old, and if it offers an advantage it is likely to retain these users. . . . Further, if the desire to be daring is part of the motivation to start smoking, the alleged risk of smoking may actually make smoking attractive. . . . The smoking and health controversy does not appear important to the group because, psychologically at eighteen, one is immortal.

57. Subsequently in 1975, R.J. Reynolds formally launched the new blend with the "Meet the Turk" campaign, a marketing campaign that was explicitly targeted at the 14-24 age group. In the recommendation, which was subsequently approved by William D. Hobbs, R.J. Reynolds's Chairman and Chief Executive Officer, R.J. Reynolds stated, "Our attached recommendation to expand nationally the successfully tested 'Meet the Turk' ad campaign and new Marlboro-type blend is another step to meet our marketing objective: To increase our young adult franchise. To ensure increased and longer-term growth for CAMEL FILTER, the brand must increase its share penetration among the 14-24 age group which have a set of more liberal values and which represent tomorrow's cigarette business."

58. Further, Defendant Cigarette Companies' marketing specifically targeted to young women, including Virginia Slims, Silva Thins, Eve, Capri, and Misty. For example, R.J. Reynolds test marketed Dakota in 1989, and found "the Dakota woman appears to be perceived as an independent woman who has her own mind, and when presented in a variety of situations

could also be perceived as sensitive, friendly and warm, yet retaining her contemporary independence. In addition to appealing to some women immediately, she could be an aspirational figure for . . . women who . . . aspire to her psychological strength and independence as they mature."

59. One candid internal document illustrates the profitability of attracting young people to smoking. In 1989, R.J. Reynolds wrote, "Our aggressive Plan calls for gains of about 5.5 share points of smokers 18-20 per year, 1990-93 (about 120,000 smokers per year). Achieving this goal would produce an incremental cash contribution of only about \$442 million during the Plan period (excluding promotion response in other age groups and other side benefits). However, if we hold these YAS [younger adult smokers] for the market average of 7 years, they would be worth over \$2.1 billion in aggregate incremental profit."

60. After a more than a decade of trying to replicate Philip Morris's success with "entry level" consumers, R.J. Reynolds stated in 1984 the Cigarette Company Defendants' business purpose boldly and succinctly: "In a very real sense, the principle that is suggested by the Younger Adult Smoker Analysis is much broader. . . . It can be stated as: Attract a smoker at the earliest opportunity and let brand loyalty turn that smoker into a valuable asset." As blunt was the recommendation to R.J. Reynolds that it "should market to 'maximize the hit' against occasional users."

61. Similarly, a 1989 market plan for R.J. Reynolds's Salem brand cigarettes promotion "Salem Soundwaves," showed both the nature of the target market, as well as the reason why the company should plan its success. The document describes the target

demographic as:

less educated than others into escapism because they have no intellectual diversions more immature in some cases than college kids They're less formed intellectually . . . more malleable. . . . These kids see themselves as grownups There are lots of young people at Rolling Stones concerts Should we be more involved with skin events? . . . with kids trying to meet each other?

62. In 1992, during Joe Camel's surge in popularity among "starters," Bruce Eckman, Inc., reported to Philip Morris, "Given the innovativeness and the impact of the Camel advertising with the 18-24 segment the question was asked whether the Marlboro Man is still viable with this age group and what could be done to make the symbol more powerful today. . . . Eight focus groups were conducted However, to ignore the impudence of the Camel could also be gambling with the entry level smoker and the future of the Marlboro franchise."

63. In 1995, B&W Chairman and CEO Nicholas G. Brookes stated that B&W's strategic vision, consonant with BATCo's General Marketing Policies, was to generate "sustainable long-term growth through increased penetration of young adult smokers (Kool, Lucky Strike)."

64. In 1996, R.J. Reynolds drew up a report summarizing the competitive positions of Newport, Marlboro Menthol, and its own menthol brand Salem. Finding that the "vast majority of 18-24 year old African-Americans continue to choose a menthol product," the report concluded that it is "critical to get into the 18-24 group." R.J. Reynolds did not intend to accomplish this critical market penetration by attracting switchers from its competitors, but rather intend to compete in the youngest age groups to attract new smokers. The report concluded that

it was "critical that Salem have front door opportunity to ensure long term viability."

65. In its Answer to the United States' Complaint, filed in 2000, Liggett frankly acknowledged, "The Liggett Group, Inc. . . . acknowledges that the tobacco industry has marketed to youth, which means those under 18 years of age, and not just those eighteen to twenty-four years of age."

66. Further, Defendant Cigarette Companies' marketing targeted at women, like the Virginia Slims campaign, and the Joe Camel campaign that targeted young people, had demonstrable success among adolescents.

67. Philip Morris also knowingly exploited an appeal to young people. Marlboro "hit a responsive chord among post-war baby-boom teenagers with the theme from the Magnificent Seven and an image uncalculatedly right for the wave of teenagers coming of smoking age."

68. A 1990 internal R.J. Reynolds memorandum emphasizes the power of advertising to quell public outrage over targeted marketing to young people. On March 30, 1990, L.L. Bender, wrote to D.N. Iauco as a result of press attention to National Organization of Women press release and subsequent press about Dakota brand cigarette where brand was admittedly targeted to "Virile Female 18-24 years of age without a high school education" in Houston test market. Bender stated:

I. LEARNING[:] . . . [e]ven with the tightest possible security, however, we must operate with the knowledge that anything we write, say, or do can become "public knowledge" overnight. . . . Fortunately, focus group learning suggests that exposure to the brands' advertising can quickly reorient brand perceptions/positioning. Surprisingly, focus group learning also indicates a straightforward "statement" ad or letter from the company would be less effective at reversing negative brand

perceptions than advertising. In fact, detailed explanations of our position seemed to surface new issues and fuel the controversy. II. IMPLICATIONS FOR FUTURE [NEW BRAND] INTRODUCTIONS/ CONTROVERSY[:] "Target" definitions should be broad and refer only to competitive brands. Proposals/recommendations that are not accepted should be discarded immediately. Out of date documents should be destroyed also. If anti's, the press, or government officials misrepresent the brand, advertising reflecting correct brand positioning should be run as soon as possible. However, this advertising should not be designed to refute claims directly."

69. Finally, various Defendants in the State of Minnesota litigation provided sworn testimony conceding that they hoped and intended that the public rely on their statements.

70. In June 1997, Joseph Cullman, who was Vice President of Benson & Hedges in 1954 and ultimately became President and Chief Executive Officer of Philip Morris, admitted that the industry intended that smokers rely upon the Frank Statement, the seminal public statement of Defendants' fraudulent scheme:

Q: The cigarette companies intended consumers to read this Frank Statement; correct?

A: Yes.

Q: And you hoped people would believe them; right?

A: Yes.

Q: Conduct their affairs with the belief that what is asserted herein is true and accurate.

A: I believe it was true and accurate.

Q: And you wanted the people who read this to believe that it was true and accurate; correct?

A: I would expect that was the reason, yes.

Q: Okay. And you wanted them, in conducting their affairs, to rely on the facts asserted herein as being true and accurate; right?

A: They were true and accurate.

Q. And you wanted people to believe and rely on that; right?

A. I see no reason why they shouldn't We hoped they would.

Q. And that's what you wanted then; right?

A: Yes.

71. Lorillard's CEO Alexander Spears testified in 1997 that he believed smokers should rely upon statements by the Tobacco Institute that smoking does not cause cancer:

Q. And to the extent that Tobacco Institute has made that statement [smoking not proved to cause lung cancer] publicly in the past, do you believe that smokers have the right to rely upon that statement?

A. I believe they should have -- they should rely on information that's provided along with other information that they have.

72. Walker Merryman, spokesperson for the Tobacco Institute, explained in 1997 how the industry intended that smokers rely upon the industry's public statements that no scientific proof showed cigarette smoking to be hazardous:

Q. And it is true, isn't it, that the Tobacco Institute has consistently in its public statements on smoking and health taken the position that no scientific proof had been found to convince -- to convict smoking as a hazard to health?

A. We have said that from time to time.

Q. And in fact you intended people who received this publication and read it to believe what was being said; correct?

A. Correct.

Q. And sir, the sentence -- the paragraph goes on to say, quote, "The statistical, clinical and experimental findings have not established smoking as a cause of any disease," close quote.

A. That -- that is correct.

Q. And in fact The Tobacco Institute intended the people who received this publication and read it to believe what the Tobacco Institute was saying.

A. Yes.

(6) Defendants Internally Admitted that Their False and Fraudulent Statements Did, In Fact, Induce Reliance

73 Defendants not only internally admitted that they intended the public to rely on their statements and advertising, but they also lauded their success in creating and sustaining this reliance. For instance, in 1955, the scientific director of TIRC stated that "the phase of uncontrolled fear . . . created by the original premature and overbalanced statement of the American Cancer Society is rapidly passing," and noted the "general trust which the American people had begun to place in our efforts."

74 Defendants also lauded the success of TIRC in inspiring this trust: "There is absolutely no question in my mind that if this committee [TIRC] had not been formed, the industry by now would have been in a deplorable position. . . . In other words, the TIRC has been a successful defensive operation."

75. A 1979 study by BAT found that many smokers do not accept that smoking is dangerous and "smokers are more ready to deny the validity of the evidence, or consciously suppress their awareness of overt propaganda."

76. Defendants knew that their maintenance of an "open controversy" enabled smokers to justify their continued smoking. One focus group of smokers, conducted on behalf of R.J. Reynolds, found that the smokers rationalized the risks of smoking and that they "discounted the statistical risks of smoking."

77. Brown & Williamson acknowledged that advertising must "cope with consumer attitudes about smoking, providing either a rationale or a means of repressing the health

concern." B&W also knew that "the smoker seeks a 'new covenant' with the industry: that the industry will provide him with a cigarette he can smoke without fear of physical or psychological reprisal."

78. Likewise, in the area of "light" or "low tar" cigarettes, defendants not only intended consumers to rely on their implied (and false) statements that such cigarettes were somehow healthier, but they remarked upon the success of these statements in reassuring consumers and in discouraging them from quitting smoking. For instance, Philip Morris referred to such "light" cigarettes as the company's "traditional response to anti-smoking publicity."

79. A November 13, 1973 presentation by A.W. Spears, a Lorillard scientist and later CEO, stated: "Clearly the consumer is concerned about smoking and health, and is convinced in varying degrees that smoking is a possible detriment to his health. Presently, this factor is of active interest to R&D, since it has been used to an advantage in marketing both the KENT and TRUE brands."

80. A Lorillard research report shows that "[t]hose who smoke low tar and nicotine cigarettes generally do so because they believe such cigarettes are 'better for you,'" and therefore Lorillard admitted that the smoker's "concern[] about smoking and health . . . has been used to an advantage in marketing Kent and True."

81. A September 15, 1964 memo from M. Yellen of Lorillard to Morgan J. Cramer, Lorillard President and Chief Executive Officer, concerning Lorillard's marketing and sales policies, stated that, for several months before the release of the first Surgeon General's Report in

January 1964, "LARK was setting a base for future sales activities through the use of hospitals via rumors or otherwise . . . that medical scientists endorse LARK as the safest cigarette. This marketing technique on the part of LARK proved successful."

82. A January 1979 study prepared for Philip Morris by Goldstein/Krall Marketing Resources, Inc., entitled "A Qualitative Exploration of Smoker Potential for a New Entry in the Ultra Low Target Market Category," reported on the focus group discussions relating to the health assurance characteristics to ultra low tar cigarettes (emphases added):

[W]ith respect to ultra low tar brands there are appear to be particular additional motivations for smoking this type of cigarette. These include: a - Voluntary desire for a safer cigarette. b - Increasing awareness and concern about possible hazards of smoking . c - Health problem forcing a change to a safer cigarette (as an alternative to not being able to quit). d - Peer and family pressure to smoke a safer cigarette (as an alternative to not being able to stop smoking). e -Mental commitment to do something about smoking habits. These ultra low tar smokers indicated that they are aware of the low tar levels in their brands and that they switched to them specifically because of advertising calling this fact to their attention.

* * *

There is also apparently the psychological satisfaction of smoking a safer cigarette.

* * *

While some smokers indicated that they are smoking less and others said they are smoking more after switching to ultra low tar brands, it seems that smoking patterns might be similar to those with previous brands. . . . In verbal terms, respondents tended to say that they thought they were smoking a greater number of cigarettes. This might be attributed to the presumed need to compensate for less taste and tar and nicotine.

* * *

Characteristics of ultra low tar smokers were: [p]eople who want to quit . . . [o]lder-longer term smokers . . . [p]ossibly physical problems . . . [m]ore interested in health. . . . [T]hey also appear to be interested in the safest possible cigarette.

* * *

Although many respondents in these groups said they had tried to quit smoking at some point in time, they do not appear to have cut down the number of cigarettes they are smoking. The only concession that has been made is the switch to an ultra low tar brand. These smokers seemed to be either resigned to the fact or satisfied that they will probably never quit smoking. In point of fact, smoking an ultra low tar cigarette seems to relieve some of the guilt of smoking and provide an excuse not to quit (emphasis added).

* * *

All of these smokers expressed an awareness of a health hazard from smoking, but felt that they had alleviated some of this hazard by smoking an ultra low tar brand. They described these cigarettes as "safer". . . .

* * *

With these justifications, there may be less of a compulsion to quit smoking. . . . Also, there seemed to be some feeling that more cigarettes could be smoked with less harm because of significantly lower tar levels.

* * *

When Carlton ads were shown in the groups, it was obvious that most respondents had seen them and were aware of the copy claims. It was these claims and other Carlton ads to which smokers referred prior to exposure and when discussing the fact that advertising had been one of the factors causing them to try the brand. This would seem to indicate that ultra low tar smokers are paying attention to and being attracted by the advertising.

* * *

Respondents, for the most part, appeared to react favorably to the Triumph ads. They said that 3 mg. tar was within the ultra low tar range implying that it represented a safer cigarette.

83. Brown & Williamson conducted a focus group survey of smokers in 1977, discovering that "almost all smokers agree that the primary reason for the increasing acceptance of low tar brands is based on the health reassurance they seem to offer." Brown & Williamson thus concluded that such reassurances were indeed effective, and in fact attracted smokers "in droves." The presence of what was perceived, in reliance on industry action, to be a safer cigarette was a substantial cause of continued smoking. BAT knew, for example, that the ventilated cigarette (low tar) "is emerging as an important health reassurance mechanism for many smokers" and that such a mechanism would prevent smoking rates from declining.

84. A BATCo memorandum dated April 4, 1979, entitled "Year 2000" contains predictions for the future of the tobacco industry:

Low tar products will eventually and substantially define the tobacco business. This will serve as an important mechanism for reassuring smokers. . . . Quitting rates will also not increase as existing smokers become increasingly reassured by the growth of Low Tar brands and increasingly reassuring health reports. . . . Although S and H [smoking and health] concern will diffuse down through [consumers] the ready availability of Low Tar brands will supply high reassurance [to] smokers who refrain or give up in response to pressures from family or friends who say that smoking will harm the health of the smoker. The strength of this argument will diminish as markets become dominated by lower risk products"

85. A Lorillard research report shows that "those who smoke low tar and nicotine

cigarettes generally do so because they believe such cigarettes are "better" for you." BAT knew, for example, that the ventilated cigarette (low tar) "is emerging as an important health reassurance mechanism for many smokers" and that such a reassurance mechanism would prevent smoking rates from declining.

86. Brown & Williamson also recognized the import of discouraging or intercepting quitters. A 1986 B&W document stated: "Quitters may be discouraged from quitting, or a least kept in the market longer. . . . A less irritating cigarette is one route (indeed, the practice of switching to lower tar cigarettes and sometimes menthol in the quitting process tacitly recognises this). The safe cigarette would have wide appeal, limited mainly by the social pressures to quit."

87. Defendants also tracked and noted their success in marketing to youths. For instance, in the nineties, R.J. Reynolds's Joe Camel marketing campaign began to have demonstrable success among "entry level" consumers. In 1990, Young & Rubicam recapped R.J. Reynolds's frustrations and celebrated Joe Camel's initial success. "Historically, RJR has been substantially underdeveloped in the 18-34 adult smoker segment, versus PM. RJR has identified CAMEL as the Brand best able to build share against this segment. The successful 75th Birthday 'event' and introduction of Joe provided the evidence that CAMEL could deliver against this objective."

88. Philip Morris was also well aware of its success among children. As Myron Johnston, Senior Economist in Research and Development, wrote in 1975: "It has been well established . . . that Marlboro has for many years had its highest market penetration among younger smokers. Most of these studies have been restricted to 18 and over, but my own data,

which includes younger teenagers, shows even higher Marlboro market penetration among 15-17 year olds." Indeed, Philip Morris marketing documents show that the company knew that "Marlboro dominates in the 17 and younger age category, capturing over 50% of this market."

89. In 1978, in Lorillard's internal documents, during a surge of Newport's popularity with young people that supplanted Kool as the most popular menthol, Lorillard's T.L. Achey proudly trumpeted the company's success with Newport among high school students to President Curtis Judge. "The success of Newport has been fantastic during the past few years. Our profile taken locally shows this brand being purchased by black people (all ages), young adults (usually college age), but the base of our business is the high school student. Newport in the 1970s is turning into the Marlboro of the 1960s and 1970s. It is the 'In' brand to smoke if you want to be one of the group."

90. In 1980, Lorillard also acknowledged that starters were the backbone of Newport's success. A Lorillard manager recommended during the preparation of a five-year plan that its "easiest to keep riding . . . Newport. However, I think we must continually keep in mind that Newport is being heavily supported by blacks and the under 18 smokers. We are on somewhat thin ice should either of these two groups decide to shift their smoking habits."

91. In 1974, the Roper Corporation, in a study ordered by Philip Morris, found that "Marlboro is the starting brand for young whites and Kool is the starting brand for young blacks." Roper recommended to Philip Morris that "[c]ertainly Philip Morris should continue efforts on Marlboro in the youth market." The Roper Organization's "A Study of Smoking Habits Among Young Smokers," prepared for Philip Morris was conducted on smokers aged twenty-four and

younger; no age floor was set.

92. In 1975, a widely circulated Philip Morris internal memorandum boasted of Marlboro's penetration of the teenage market. "The teenage years are also important because those are the years during which most smokers begin to smoke, the years in which initial brand selections are made."

93. Moreover, despite what they claimed publicly, Defendants internally recognized that their advertising generated results. In 1989, INFOTAB's Ronald Tully discussed Defendants' position advertising and noted that:

[t]he general argumentation used by the industry is beginning to look extremely weak. . . . This is best illustrated in the advertising bans and consumption argument, where the industry argues that 'advertising does not increase total market size', yet we are presented with a dilemma in developing markets where the total market is growing and advertising expenditure is rising accordingly.

94. Finally, the one of the best measures of reliance is Defendants' success in sales. As American Tobacco's Eric Gesell admitted in a deposition in the State of Minnesota litigation on September 1997:

Q: You expect people to be able to rely on the advertising that you place on behalf of the American Tobacco Company; correct?

DEFENSE COUNSEL: Object to the form.

A. Sure.

Q. And you know, in fact, people will rely?

A. Yes.

Q. And one of the best measures of reliance would be sales; correct?

DEFENSE COUNSEL: Object to the form.

A. Correct.

C. Calculation of Disgorgement

95. There are several reasonable alternative models from which United States' experts, Franklin Fisher, Ph.D., and Jonathan Gruber, Ph.D., Professors of Economics at the Massachusetts Institute of Technology, reliably determined the amount of proceeds that were obtained by the Cigarette Company Defendants on the sale of cigarettes to the "Youth-Addicted Population." Generally, the "Youth-Addicted Population" consists of every smoker (regardless of age) who was addicted to smoking cigarettes in his or her youth.

96. Those experts calculated various amounts of proceeds depending on which alternative factor was used in the following criteria: (a) the definition of protected class of young people (i.e., below age twenty-one or below age eighteen); (b) the level or intensity of smoking (i.e., daily smoking, amount of adult smoking attributable to initiation as a member of the protected class, smoking intensity cutoff of more than five cigarettes per day, or more than ten cigarettes per day); (c) the time period (i.e., smoking by the protected class starting from 1971, the first calendar year after the enactment of the RICO statute, or starting from 1954, the first calendar year after the date the complaint alleges the conspiracy and RICO violations began).

97. Smoking one to five cigarettes per day is a predictor of continued smoking and nicotine dependence. Such dependence increases sharply and significantly when the quantity smoked increases from less than one cigarette per day to one to five cigarettes per day. Adolescents who smoke significantly fewer cigarettes per day than adults, experience significantly higher rates of dependence than adults at the same level of use.

98. Applying the various factors (definition of youth, incidence of smoking, and time period) will result in different amounts of proceeds from the Youth-Addicted Population, any one

of which is reasonable as court-ordered disgorgement in the circumstances found here, as set forth below.

99. For example, Cigarette Company Defendants' proceeds from the sales of cigarettes during the time period 1954-2001 smoked by the Youth-Addicted Population, approximately 49 million persons who started smoking more than five cigarettes daily before reaching the age of twenty-one, is \$742 billion.

100. Cigarette Company Defendants' proceeds from the sales of cigarettes during the time period 1954-2001 smoked by the Youth-Addicted Population, approximately 33 million persons who started smoking more than ten cigarettes daily before reaching the age of twenty-one, is \$562 billion.

101. Cigarette Company Defendants' proceeds from the sales of cigarettes during the time period 1954-2001 smoked by the Youth-Addicted Population, approximately 30 million persons who started smoking more than five cigarettes daily before reaching the age of eighteen, is \$421 billion.

102. Cigarette Company Defendants' proceeds from the sales of cigarettes during the time period 1954-2001 smoked by the Youth-Addicted Population, approximately 17 million persons who started smoking more than ten cigarettes daily before reaching the age of eighteen, is \$249 billion.

103. Cigarette Company Defendants' proceeds from the sales of cigarettes during the time period 1971-2001 smoked by the Youth-Addicted Population, approximately 33 million persons who started smoking more than five cigarettes daily before reaching the age of twenty-

one, is \$289 billion.

104. Cigarette Company Defendants' proceeds from the sales of cigarettes during the time period 1971-2001 smoked by the Youth-Addicted Population, approximately 22 million persons who started smoking more than ten cigarettes daily before reaching the age of twenty-one, is \$227 billion.

105. Cigarette Company Defendants' proceeds from the sales of cigarettes during the time period 1971-2001 smoked by the Youth-Addicted Population, approximately 21 million persons who started smoking more than five cigarettes daily before reaching the age of eighteen, is \$170 billion.

106. Cigarette Company Defendants' proceeds from the sales of cigarettes during the time period 1971-2001 smoked by the Youth-Addicted Population, approximately 13 million persons who started smoking more than ten cigarettes daily before reaching the age of eighteen, is \$108 billion.

107. To determine each of the "proceeds" amounts referenced above, Dr. Fisher used the formula:

$$\text{Number of cigarettes sold to the Youth-Addicted Population (youth defined either under age 21 or age 18) X Proceeds per cigarettes = Youth Addicted Proceeds.}$$

108. Under this formula, the annual number of cigarettes sold to the entire population was reliably estimated by using information from Defendants' responses to interrogatories, from Defendants' annual financial statements, and from the Maxwell Reports. The proportion of cigarettes smoked by the Youth-Addicted Population was reliably estimated for each year by

Gruber for use in Fisher's equation.

109. Also under the above formula, to determine the "proceeds," Fisher used the definition of "proceeds" found in the Civil Asset Forfeiture Reform Act of 2000. That statute, which applies to the proceeds of sales in situations involving the sale of lawful goods in an allegedly illegal manner, defines "proceeds" as

the amount of money acquired through the illegal transactions resulting in the forfeiture, less the direct costs incurred in providing the goods or services. The claimant shall have the burden of proof with respect to the issue of direct costs. The direct costs shall not include any part of the overhead expenses of the entity providing the goods or services, or any part of the income taxes paid by the entity.

18 U.S.C. § 981(a)(2)(B).

110. Fisher calculated the proceeds separately for each Cigarette Company Defendant for each year from 1954 to 2001.

111. Based upon application of the definition of "proceeds" in 18 U.S.C. § 981(a)(2)(B), Fisher used a reasonable method for calculating total proceeds from Defendants' available financial statements.

112. The estimate of costs in the proceeds calculation were based upon standard cost-accounting methodology. In order to calculate the "total proceeds," reasonable direct cost estimates were made because direct cost figures do not appear on financial statements and Defendants did not otherwise provide them. Based upon the best data and information available, direct costs were reasonably calculated.

113. The Fisher calculated contemporaneous proceeds amount per cigarette on an

annual basis for each Cigarette Company Defendant as the total proceeds divided by the number of cigarettes sold. A further adjustment, as explained below, was performed before arriving at the proceeds from the Youth-Addicted Population.

114. Once the contemporaneous value of the proceeds was calculated, then Fisher adjusted the proceeds to account for the time value of money. The calculations discussed above were performed for each year using the contemporaneous dollar amounts. Thus, an adjustment factor was used to bring the proceeds amount to account for the time value of money. The proceeds were adjusted to account for the additional gains due to the use of additional proceeds over time (a process which brings the proceeds from other years to a common present day amount).

115. The Court finds that the definition of "proceeds" used by the United States' experts is reasonable, and that all the above-referenced calculations of "proceeds" are reasonable.

DEFENDANTS' CONTRIBUTIONS TO THE CTR GENERAL FUND

	American	B&W	Liggett	Lorillard	PMI	RJR
1954	479,250.00	95,625.00		104,000.00	147,450.00	387,000.00
1955	310,000.00	84,000.00		59,000.00	80,000.00	236,000.00
1956	392,187.50	125,000.00		69,062.50	98,750.00	310,937.50
1957	382,812.50	140,625.00		70,312.50	112,500.00	338,750.00
1958	288,203.14	106,562.50		77,015.64	91,305.06	284,570.70
1959	218,248.00	78,375.00		96,372.00	75,372.00	234,748.00
1960	263,812.00	99,092.00		118,126.00	92,968.00	306,250.00
1961	306,500.00	122,000.00		131,250.00	109,250.00	386,250.00
1962	316,750.00	121,000.00		129,250.00	115,250.00	417,500.00
1963	368,125.00	137,750.00		154,375.00	139,531.25	514,000.00
1964	393,750.00	168,750.00	158,842.40	168,748.00	150,000.00	546,876.00
1965	476,250.00	225,000.00	186,885.00	176,248.00	180,000.00	618,752.00
1966	483,750.00	255,000.00	168,750.00	176,248.00	198,750.00	633,752.00
1967	472,500.00	277,500.00	165,000.00	183,428.00	217,500.00	637,500.00
1968	516,250.00	336,875.00	41,206.45	236,250.00	288,750.00	743,752.00
1969	783,750.00	543,125.00	1,185.00	357,500.00	515,625.00	1,155,000.00
1970	650,000.00	512,500.00		287,500.00	481,125.00	1,025,000.00
1971	334,015.00	745,966.00		882,156.00	712,160.00	1,372,462.00
1972	550,339.00	512,476.00		290,230.00	648,333.00	1,100,405.00
1973	674,291.00	733,628.00		361,458.00	837,692.00	1,335,334.00

DEFENDANTS' CONTRIBUTIONS TO THE CTR GENERAL FUND

	American	B&W	Liggett	Lorillard	PMI	RJR
1974	787,066.00	894,555.00		423,431.00	1,140,755.00	1,562,698.00
1975	861,284.00	1,100,764.00		517,401.00	1,373,310.00	1,967,995.00
1976	1,055,816.34	1,219,921.23		587,127.00	1,737,960.47	2,401,860.86
1977	888,619.74	1,092,260.52		543,579.32	1,902,921.58	2,204,141.64
1978	905,940.42	1,153,456.55		656,046.93	1,830,438.82	2,451,852.00
1979	748,420.76	1,107,672.51		631,190.98	1,992,658.50	2,262,025.31
1980	888,628.44	1,059,512.22		718,578.84	2,126,878.68	2,415,625.22
1981	741,467.56	970,071.65		704,934.41	2,238,843.26	2,328,984.69
1982	742,713.60	1,189,268.98		746,152.74	2,657,229.84	2,695,690.73
1983	893,878.44	1,166,354.79		857,689.78	3,008,257.67	3,236,627.68
1984	934,324.94	1,270,627.34		984,496.21	3,909,018.97	3,503,884.11
1985	951,195.88	1,394,951.96		1,021,440.04	4,390,132.76	3,848,392.60
1986	1,105,217.00	1,728,575.00		1,180,694.00	5,308,278.00	4,705,793.00
1987	1,121,960.00	1,802,087.00		1,266,704.00	5,754,937.00	5,112,586.00
1988	1,245,548.00	1,975,311.00		1,451,569.00	6,752,365.00	5,954,450.00
1989	1,238,943.00	1,982,550.00		1,493,867.00	7,245,257.00	5,588,403.00
1990	1,339,819.00	2,201,026.00		1,533,071.00	8,162,873.00	5,672,304.00
1991	1,478,630.00	2,137,030.00		1,594,063.00	9,307,060.00	6,368,672.00
1992	1,794,877.00	2,698,230.00		1,870,264.00	10,945,500.00	7,016,192.00
1993	1,772,151.00	3,095,923.00		1,750,210.00	11,070,876.00	7,933,688.00
1994	1,770,955.00	2,867,365.00		1,902,162.00	11,196,196.00	7,867,212.00

DEFENDANTS' CONTRIBUTIONS TO THE CTR GENERAL FUND

	American	B&W	Liggett	Lorillard	PMI	RJR
1995		*5,180,923.00		2,118,097.00	12,633,022.00	7,636,778.00
1996		5,153,111.00		2,301,226.00	13,523,170.00	7,292,655.00
1997		7,915,574.00		3,922,479.00	22,194,342.00	11,569,109.00
1998		5,679,878.00		3,183,472.00	18,277,616.00	9,033,107.00
1999		4,208,231.00		2,658,982.00	13,504,470.00	6,674,603.00
Total	31,928,239.26	67,666,080.25	721,868.85	40,747,457.89	189,476,678.86	141,890,169.04

Source: Defendant CTR's Answers to First Set of Interrogatories

* ATC and B&W contributions combined for 1995

DEFENDANTS' CONTRIBUTIONS TO THE CTR LITERATURE RETRIEVAL FUND

	American	B&W	Liggett	Lorillard	PMI	RJR
1971	69,940.00	59,442.50	23,140.00	0	59,312.50	113,165.00
1972	121,843.00	117,095.50	41,950.50	0	129,703.00	224,408.00
1973	118,670.00	122,625.00	38,915.00	0	144,810.00	224,980.00
1974	123,615.00	133,330.00	38,470.00	0	165,250.00	239,335.00
1975	124,265.00	137,968.00	36,322.00	0	178,060.00	248,385.00
1976	171,726.00	193,217.00	48,511.00	0	269,413.00	367,133.00
1977	181,162.00	206,703.00	49,330.00	0	320,870.00	416,935.00
1978	214,378.50	268,640.00	60,409.00	0	451,208.00	560,364.50
1979	193,340.00	251,625.00	53,520.00	0	459,205.00	542,790.00
1980	246,392.50	307,030.00	58,650.00	206,157.50	613,915.00	692,855.00
1981	280,660.00	355,880.00	60,240.00	254,740.00	800,780.00	847,700.00
1982	298,905.00	424,790.00	74,330.00	282,485.00	964,685.00	1,004,805.00
1983*	69,238.00	103,012.00	22,256.00	68,458.00	256,204.00	260,832.00
Total	2,214,135.00	2,681,358.00	606,043.50	811,840.50	4,813,415.50	5,743,687.50

Source: Defendant CTR's Answers to First Set of Interrogatories

DEFENDANTS' CONTRIBUTIONS TO THE CTR SPECIAL PROJECTS FUND

	American	B&W	Liggett	Lorillard	PMI	RJR
1966	51,600.00	27,200.00	18,000.00	18,800.00	21,200.00	67,600.00
1967	51,000.00	28,400.00	17,800.00	19,200.00	22,200.00	67,800.00
1968	70,800.00	46,200.00	24,600.00	32,400.00	39,600.00	102,000.00
1969	22,800.00	15,800.00	7,400.00	10,400.00	15,000.00	33,600.00
1970	41,600.00	32,800.00	16,000.00	18,400.00	30,800.00	65,600.00
1971	61,200.00	55,800.00	19,200.00	28,200.00	53,400.00	101,400.00
1972	53,400.00	49,800.00	19,200.00	27,600.00	61,200.00	104,400.00
1973	33,404.00	33,807.40	7,817.75	17,369.68	41,193.99	64,387.83
1974	57,009.00	61,619.00	11,614.00	29,875.00	76,652.00	110,677.00
1975	43,969.00	48,847.00	2,199.00	23,050.00	63,022.00	87,913.00
1976	57,328.00	64,585.00		30,233.00	89,967.00	122,569.00
1977	106,254.00	121,263.00		59,757.00	188,190.00	244,536.00
1978	90,476.00	113,552.00		63,444.00	190,676.50	236,851.50
1979	103,525.00	134,692.00		80,252.00	245,903.00	290,628.00
1980	124,605.00	155,288.00		104,203.00	310,574.00	350,330.00
1981	104,905.00	132,960.00		94,950.00	300,025.00	317,160.00
1982	137,028.00	193,978.00		129,296.00	440,644.00	459,054.00
1983	94,069.00	140,746.00		92,676.00	347,794.00	354,715.00
1984	79,778.00	105,983.00		85,271.00	317,774.00	291,193.00
1985	84,804.00	122,122.00		89,070.00	379,082.00	340,922.00

DEFENDANTS' CONTRIBUTIONS TO THE CTR SPECIAL PROJECTS FUND

	American	B&W	Liggett	Lorillard	PMI	RJR
1986	175,530.00	277,880.00		190,058.00	839,902.00	741,830.00
1987	204,687.00	290,687.00		156,796.00	641,763.00	556,067.00
1988	94,608.00	149,940.00		112,657.00	517,770.00	445,017.00
1989	75,310.00	119,537.00		90,113.00	428,618.00	346,922.00
1990	29,665.00	47,859.00		34,420.00	174,973.00	126,083.00
Total	2,049,354.00	2,571,345.40	143,830.75	1,638,490.68	5,837,923.49	6,029,255.33

Source: Defendant CTR's Answers to First Set of Interrogatories

DEFENDANTS' DUES PAID AND/OR CONTRIBUTIONS TO THE TOBACCO INSTITUTE

	American	B&W	Liggett	Lorillard	PMI	RJR
1958	154,530.00			43,527.92		
1959	108,891.00			52,236.75		
1960	119,943.00			80,949.09		
1961	246,537.00			106,000.00		323,200.00
1962	198,794.00			82,460.00		271,870.00
1963	268,866.00			118,150.00		385,050.00
1964	336,641.00			144,375.00		478,000.00
1965	306,177.00			115,425.00		409,925.00
1966	149,900.00			109,350.00		426,350.00
1967	160,047.00			145,876.37		463,250.00
1968	192,000.00			not member		908,250.00
1969	166,267.00			not member		747,293.00
1970	178,169.00			not member		456,225.00
1971	59,679.00		153,538.00	274,580.35		858,803.00
1972	170,000.00		117,450.00			668,083.00
1973	25,606.00		131,370.00	130,745.40		684,631.00
1974	41,292.00		172,847.00	207,520.00		760,341.00
1975	250,000.00			251,737.20		980,044.00
1976	250,000.00		145,867.00	281,184.20		1,123,084.00
1977	250,000.00		179,448.00	329,354.50		1,403,574.00

DEFENDANTS' DUES PAID AND/OR CONTRIBUTIONS TO THE TOBACCO INSTITUTE

	American	B&W	Liggett	Lorillard	PMI	RJR
1978	250,000.00		175,439.00	690,877.11		3,082,521.00
1979	350,000.00	2,160,598.00	170,240.00	1,247,767.00	662,194.00	4,584,772.00
1980	350,000.00	1,823,740.00	112,643.00	1,260,893.00	3,613,118.00	4,190,628.00
1981	350,000.00	2,299,842.00	116,967.00	1,695,229.00	5,238,852.00	5,709,581.00
1982	500,000.00	3,477,265.00	158,516.00	2,269,787.00	7,769,565.39	8,287,093.00
1983	650,000.00	2,869,614.00	259,774.00	2,150,121.00	7,402,441.36	7,987,814.00
1984	800,000.00	2,794,027.00	1,225,830.00	2,219,160.00	7,544,601.15	7,752,214.00
1985	800,000.00	3,184,914.00	1,554,170.00	2,414,513.00	9,358,595.46	8,327,714.00
1986	850,000.00	3,560,083.00	863,573.00	2,552,095.00	8,821,404.20	9,911,000.00
1987	850,000.00	3,702,585.00	338,919.00	3,057,463.00	11,555,809.20	12,215,008.00
1988	2,495,726.00	not member	453,642.00	3,206,271.00	14,941,127.51	12,579,126.00
1989	2,565,457.00	not member		3,605,355.00	17,540,330.00	13,885,062.00
1990	3,222,803.00	not member		4,367,449.00	24,348,972.55	16,721,000.00
1991	3,427,205.00	not member		3,703,653.00	22,095,096.64	14,721,421.00
1992	2,585,912.00	not member		3,247,920.00	19,745,067.54	12,205,199.00
1993	3,279,976.00	not member	0	3,008,512.00	18,630,613.13	12,809,039.00
1994	1,165,756.00	1,204,704.00	0	1,466,723.00	16,174,215.00	9,339,996.00
1995		5,011,394.00		1,987,636.00	12,840,772.00	7,201,570.00
1996		7,195,627.00	0	3,148,626.00	21,509,843.54	11,747,008.00
1997		7,192,250.00	0	3,481,641.00	20,309,795.00	10,260,248.00
1998		6,218,949.00	0	2,535,264.00		8,927,161.00

DEFENDANTS' DUES PAID AND/OR CONTRIBUTIONS TO THE TOBACCO INSTITUTE

	American	B&W	Liggett	Lorillard	PMI	RJR
1999		3,555,556.00	0	2,551,254.00		5,486,301.00
Total	28,126,174.00	56,251,148.00	6,330,233.00	58,341,680.89	250,102,413.67	219,279,449.00

Source: Individual Defendant's Answers to Interrogatory No. 25 of U.S. 1st Set of Interrogatories

Defendants' Gross Revenues
Philip Morris Companies, Inc.

\$ Billions

Year	Total Company Revenue	Total Tobacco Revenue	Domestic Tobacco Revenue	International Tobacco Revenue
1985	12.15	6.79	4.56	2.23
1986	20.68	7.96	4.40	3.56
1987	22.27	9.23	5.49	3.74
1988	25.86	10.70	6.37	4.33
1989	39.01	12.12	7.35	4.77
1990	44.32	14.24	8.21	6.03
1991	48.06	15.45	8.61	6.84
1992	50.10	16.64	9.13	7.51
1993	50.62	15.69	7.15	8.55
1994	53.78	17.32	7.68	9.64
1995	53.14	19.38	8.05	11.34
1996	54.55	21.90	8.92	12.98
1997	56.11	23.88	9.89	13.99
1998	57.81	26.12	11.87	14.25
1999	61.75	30.26	16.34	13.91
2000	63.28	31.95	18.35	13.60
2001	89.92	51.37	24.78	26.59
TOTALS	803.42	331.01	167.16	163.85

Defendants' Gross Revenues
Philip Morris, Inc.

\$ Billions

Year	Total Company Revenue	Total Tobacco Revenue	Domestic Tobacco Revenue	International Tobacco Revenue
1954	0.16			
1955	0.16			
1956	0.18			
1957	0.26			
1958	0.28			
1959	0.29			
1960	0.33			
1961	0.34			
1962	0.36			
1963	0.38			
1964	0.42	0.32	0.24	0.07
1965	0.46			
1966	0.51			
1967	0.59	0.52	0.38	0.14
1968	0.68	0.60	0.43	0.17
1969	0.77	0.68	0.48	0.20
1970	0.99	0.83	0.55	0.28
1971	1.21	0.91	0.59	0.32
1972	1.41	1.07	0.67	0.40
1973	1.71	1.23	0.74	0.49
1974	2.04	1.42	0.88	0.54
1975	2.56	1.68	1.04	0.65
1976	3.13	1.89	1.18	0.70
1977	3.85	2.16	1.30	0.86
1978	4.97	2.58	1.48	1.11
1979	6.14	3.19	1.73	1.46
1980	7.33	3.98	2.17	1.82
1981	8.31	4.58	2.59	1.99
1982	8.97	5.28	3.15	2.13
1983	9.47	5.66	3.54	2.12
1984	10.14	6.20	4.09	2.11
1985	4.56	4.56	4.56	
1986	4.40	4.40	4.40	
1987	5.49	5.49	5.49	
1988	6.37	6.37	6.37	
1989	7.35	7.35	7.35	
1990	8.21	8.21	8.21	
1991	8.61	8.61	8.61	
1992	9.13	9.13	9.13	
1993	7.15	7.15	7.15	
1994	7.68	7.68	7.68	
1995	8.05	8.05	8.05	
1996	8.92	8.92	8.92	

Defendants' Gross Revenues

Year	Total Company Revenue	Total Tobacco Revenue	Domestic Tobacco Revenue	International Tobacco Revenue
1997	9.89	9.89	9.89	
1998	11.87	11.87	11.87	
1999	16.34	16.34	16.34	
2000	18.35	18.35	18.35	
2001	24.78	24.78	24.78	
Totals	245.57	211.94	194.40	17.54

Defendants' Gross Revenues
R.J. Reynolds Tobacco Company

\$ Billions

Year	Total Company Revenue	Total Tobacco Revenue	Domestic Tobacco Revenue	International Tobacco Revenue
1954	0.44			
1955	0.47			
1956	0.52			
1957	0.58			
1958	0.64			
1959	0.72			
1960	0.79			
1961	0.86			
1962	0.90			
1963	0.96			
1964	0.94			
1965	1.00			
1966	1.09			
1967	1.21			
1968	1.26			
1969	1.58			
1970	1.79			
1971	1.82			
1972	1.52	1.52	1.33	0.19
1973	1.38	1.38	1.22	0.17
1974	1.69	1.69	1.37	0.32
1975	2.01	2.01	1.62	0.39
1976	2.32	2.32	1.81	0.51
1977	2.59	2.59	2	0.58
1978	2.85	2.85	2.15	0.7
1979	3.25	3.25	2.39	0.86
1980	3.71	3.71	2.71	1
1981	3.81	3.81	2.74	1.07
1982	4.82	4.82	3.81	1.02
1983	4.81	4.81	3.79	1.02
1984	5.18	5.18	4.16	1.02
1985	5.42	5.42	4.39	1.03
1986	5.87	5.87	4.67	1.19
1987	6.35	6.35	4.82	1.53
1988	7.07	7.07	5.23	1.84
1989	6.98	6.98	4.92	2.06
1990	8.05	8.05	5.8	2.25
1991	8.54	8.54	5.86	2.68
1992	9.03	9.03	6.17	2.86
1993	8.08	8.08	4.95	3.13
1994	7.67	7.67	4.57	3.1
1995	7.71	7.71	4.48	3.23
1996	8.17	8.17	4.55	3.62

Defendants' Gross Revenues

Year	Total Company Revenue	Total Tobacco Revenue	Domestic Tobacco Revenue	International Tobacco Revenue
1997	8.32	8.32	4.9	3.43
1998	8.64	8.64	5.57	3.07
1999	7.57	7.57	7.57	
2000	8.17	8.17	8.17	
2001	8.59	8.59	8.59	
TOTALS	187.74	170.17	126.31	43.87

Defendants' Gross Revenues
Brown and Williamson Tobacco Corporation

\$ Billions

Year	Total Company Revenue	Total Tobacco Revenue	Domestic Tobacco Revenue	International Tobacco Revenue
1961	0.403	0.403		
1962	0.425	0.425		
1963	0.493	0.493		
1964	0.546	0.546		
1966	0.685	0.685		
1967	0.705	0.705		
1968	0.760	0.760		
1969	0.803	0.803		
1970	0.900	0.900		
1971	0.940	0.940		
1972	0.980	0.980		
1973	1.075	1.075		
1974	1.146	1.146		
1975	1.238	1.238		
1976	1.267	1.267		
1977	1.315	1.315		
1978	1.364	1.364		
1979	1.410	1.410		
1980	1.475	1.475		
1981	1.677	1.677		
1982	1.778	1.778		
1983	1.884	1.884		
1984	1.983	1.983		
1985	2.089	2.089		
1986	2.103	2.103		
1987	2.104	2.104		
1988	2.256	2.256		
1989	2.393	2.393		
1990	2.250	2.250		
1991	2.675	2.675		
1992	2.902	2.902		
1993	2.439	2.439		
1994	2.549	2.549		
1995	4.063	4.063		
1996	4.089	4.089		
1997	4.083	4.083		
1998	4.313	4.313		
1999	5.025	5.025		
TOTALS	70.587	70.587		

**Defendants' Gross Revenues
American Tobacco Company**

\$ Billions

Year	Total Company Revenue	Total Tobacco Revenue	Domestic Tobacco Revenue	International Tobacco Revenue
1954	0.56			
1955	0.58			
1956	0.57			
1957	0.58			
1958	0.64			
1959	0.7			
1960	0.72			
1961	0.78			
1962	0.66			
1963	0.68			
1964	0.69			
1965	0.71			
1966	0.92			
1967	0.74	0.74	0.72	0.02
1968	0.87	0.87	0.66	0.21
1969	1.09	1.09	0.55	0.55
1970	1.06	1.06	0.53	0.53
1971	1.18	1.18	0.57	0.6
1972	0.87	0.87	0.53	0.35
1973	0.93	0.93	0.53	0.41
1974	1.02	1.02	0.57	0.45
1975	1.13	1.13	0.64	0.49
1976	1.15	1.15	0.67	0.48
1977	1.84	1.84	0.67	1.17
1978	2.07	2.07	0.69	1.38
1979	2.33	2.33	0.74	1.59
1980	2.70	2.70	0.74	1.96
1981	1.78	1.78	0.94	0.84
1982	1.82	1.82	1	0.82
1983	1.86	1.86	1.03	0.83
1984	1.82	1.82	1.04	0.78
1985	1.88	1.88	1.07	0.81
1986	2.08	2.08	1.08	0.99
1987	2.33	2.33	1.09	1.24
1988	2.63	2.63	1.2	1.44
1989	2.68	2.68	1.26	1.42
1990	2.96	2.96	1.32	1.64
1991	2.92	2.92	1.38	1.54
1992	2.93	2.93	1.44	1.48
1993	2.53	2.53	1.14	1.39
TOTALS	57.99	49.20	23.80	25.41

Defendants' Gross Revenues

Liggett Group, Inc.

\$Billions

Year	Total Company Revenue	Total Tobacco Revenue	Domestic Tobacco Revenue	International Tobacco Revenue
1954	0.29			
1955	0.30			
1956	0.31			
1957	0.32			
1958	0.32			
1959	0.32			
1960	0.31			
1961	0.30			
1962	0.29			
1963	0.29			
1964	0.29			
1965	0.29			
1966	0.37			
1967	0.39			
1968	0.44			
1969	0.49	0.24		
1970	0.53	0.25		
1971	0.59	0.25		
1972	0.60	0.25		
1973	0.59	0.25		
1974	0.62	0.26		
1975	0.68	0.29		
1976	0.72	0.32		
1977	0.82	0.28		
1978	0.85	0.24		
1979	0.95	0.22		
1980	0.97	0.22		
1981	1.11	0.25		
1982	1.26	0.31		
1988	0.38	0.38		
1989	0.38	0.38		
1990	0.96	0.41		
1991	1.00	0.45		
1992	0.57	0.46		
1993	0.55	0.35		
1994	0.35	0.33		
1995	0.34	0.33		
1996	0.35	0.34		
1997	0.30	0.30	0.24	0.06
1998	0.36	0.36	0.28	0.08
1999	0.50	0.46	0.36	0.09
2000	0.62	0.54	0.45	0.09
2001	0.73	0.73	0.73	0.00
TOTALS	22.99	9.44	2.06	0.33

Defendants' Gross Revenues

Lorillard, Inc.

\$ Billions

Year	Total Company Revenue	Total Tobacco Revenue	Domestic Tobacco Revenue	International Tobacco Revenue
1954	0.13			
1955	0.13			
1956	0.12			
1957	0.17			
1958	0.27			
1959	0.28			
1960	0.28			
1961	0.28			
1962	0.30			
1963	0.30			
1964	0.28			
1965	0.29			
1966	0.31			
1967	0.35			
1968	0.36			
1969	0.41			
1970	0.52			
1971	0.58			
1972	0.61			
1973	0.38	0.38		
1974	0.41	0.41		
1975	0.48	0.48		
1976	0.52	0.52		
1977	0.52	0.52		
1978	0.60	0.60		
1979	0.72	0.72		
1980	0.81	0.81		
1981	0.88	0.88		
1982	0.96	0.96		
1983	1.06	1.06		
1984	1.05	1.05		
1985	1.12	1.12		
1986	1.20	1.20		
1987	1.31	1.31		
1988	1.46	1.46		
1989	1.45	1.45		
1990	1.58	1.58		
1991	1.65	1.65		
1992	1.83	1.83		
1993	1.53	1.53		
1994	1.48	1.48		
1995	1.60	1.60		
1996	1.74	1.74		
1997	1.93	1.93		

Defendants' Gross Revenues

Year	Total Company Revenue	Total Tobacco Revenue	Domestic Tobacco Revenue	International Tobacco Revenue
1998	2.37	2.37		
1999	3.55	3.55		
2000	3.67	3.67		
2001	4.53	4.53		
TOTALS	48.36	42.40		

Defendants' Gross Revenues

BATCO

\$Billions (estimated)

Year	Total Company Revenue	Total Tobacco Revenue	Domestic Tobacco Revenue	International Tobacco Revenue
1989	0.003	0.003		
1990	0.003	0.003		
1991	0.005	0.005		
1993	0.006	0.006		
1995	0.008	0.008		
1996	0.012	0.012		
1997	0.009	0.009		
1998	0.012	0.012		
1999	0.011	0.011		
TOTALS	0.069	0.069		

LIST OF SMOKING AND HEALTH CASES IN WHICH ONE OR MORE DEFENDANT WAS A PARTY

CASE	USDC	ST	#	AT	BW	BAT	LGT	LOR	PM	RJR	CTR	TI	Oth.	BEG	END	Disposition
Castano v. UST	N.D.	AK											UST			
Cruz-Vargas v. RJR		PR	00-2334							x					2002	Verdict for Plaintiff 9/26/02
Duke v. RJR	D.	TX	D-122-149							x						
Fine v. PM	S.D.	NY							x							Action brought in NY state court. Defs moved action to USDC. Plaintiff motion to remand granted as to all but one cause of action (10/26/64)
In the Matter of Alan Rodgman	M.D.	NC	1:02MC41													
In re: Tobacco/Intergovernmental Health Care Costs Litigation	D.	DC														
Miles v. PM									x							
Cooper v. RJR	D.	MA	54-500-W							x				1954	1957	Dismissed 12/26/1957, Aff'd Cir. 1, 1958.

LIST OF SMOKING AND HEALTH CASES IN WHICH ONE OR MORE DEFENDANT WAS A PARTY

CASE	USDC	ST	#	AT	BW	BAT	LGT	LOR	PM	RJR	CTR	TI	Oth.	BEG	END	Disposition
Deutsch v. RJR	N.D.	CA	33779	x			x	x	x	x				1954	1955	Dismissed 7/20/55
French v. RJR	N.D.	CA	33678 (So Div)							x				1954	1955	Dismissed 7/20/55
H.C. Wilson v. AT	W.D.	WA		x										1954	1957	Dismissed 2/11/57
Lowe v. RJR	E.D.	MO	9673	x	x			x		x				1954		Discontinued 6/16/54. Reinstated in USDC E.D. Mo. 6/24/55. Discontinued without prejudice 1957.
Lowe v. RJR	E.D.	MO	9871							x				1954		

LIST OF SMOKING AND HEALTH CASES IN WHICH ONE OR MORE DEFENDANT WAS A PARTY

CASE	USDC	ST	#	AT	BW	BAT	LGT	LOR	PM	RJR	CTR	TI	Oth.	BEG	END	Disposition
Pritchard v. L&M	W.D.	PA	12820				x L& M							1954	1960	Directed verdict for def 1960, Rev'd Cir. 3, 1962; general verdict for def 1962 10/62; rev'd Cir. 3 1965; cert. denied 1966; mandate amended Cir. 3 1966 ; rehearing denied Cir 3. 1967; cert. denied 1967. General verdict for defendant 1968. No appeal.
Ross v. PM	W.D.	MO	9494						x PMI PM C LTD .					1954	1062	General verdict for defendant 7/11/62 Aff'd Cir. 8 2/64.
Samuelson v. Liggett	N.D.	CA	34163				x							1954	1956	Discontinued 2/2/56
Wilson v. AT	W.D.	WA	3837	x					x					1954	1957	Dismissed 2/11/57

LIST OF SMOKING AND HEALTH CASES IN WHICH ONE OR MORE DEFENDANT WAS A PARTY

CASE	USDC	ST	#	AT	BW	BAT	LGT	LOR	PM	RJR	CTR	TI	Oth.	BEG	END	Disposition
Lartigue v. L&M	E.D.	LA	L20-61				L&M							1955	1960	Verdict for def 1960 Aff'd Cir. 5, 1963, cert. denied 10/12/64.
Lartigue v. Liggett	E.D.	LA	5271				x L&M			x				1955	1961	
Lowe v. RJR	E.D.	MO	10318 Eastern Div.	x	x			x		x			x	1955		
Mitchell v. PM	N.D.	MS							x					1955	1956	Dismissed 11/7/56
Padovani v. L&M	E.D.	NY	15963											1955	1969	Dismissed for failure to prosecute 3/26/69
Wolff v. Liggett	E.D.	MO	UNK (Eastern Div)											1955	1956	Dismissed 2/24/56
Watsky v. AT	S.D.	NY												1956	1958	Dismissed 2/58

LIST OF SMOKING AND HEALTH CASES IN WHICH ONE OR MORE DEFENDANT WAS A PARTY

CASE	USDC	ST	#	AT	BW	BAT	LGT	LOR	PM	RJR	CTR	TI	Oth.	BEG	END	Disposition
Green v. AT	S.D.	FL	8505 & 8070M	x		x								1957	1971	General verdict for def 1960; aff'd, Cir. 5 5/2/62; advisory opinion, Sup. Ct. Fla. 6/5/63; rev'd Cir. 5 12/11/63; cert. denied, 1964; verdict for def 11/64; rev'd Cir 5, 1/24/68, rehearing en banc granted, Cir. 5 3/35/68' aff'd Cir 5, 1969. Pet. for cert. denied 2/24/70.
Nelson v. RJR	D.	NJ								x				1957	1958	Dismissed 1/13/58
DeShields v. Liggett	M.D.	PA	UNK				x							1958	1963	Discontinued 3/21/63
Keller v. AT	N.D.	CA	37,711	x										1958	1969	Dismissed 3/3/69
Shannon v. B&W	W.D.	MO	1607		x									1958		
Sharp v. Lorillard	E.D.	LA	7701	x			x	x						1958	1966	Dismissed 6/21/66

LIST OF SMOKING AND HEALTH CASES IN WHICH ONE OR MORE DEFENDANT WAS A PARTY

CASE	USDC	ST	#	AT	BW	BAT	LGT	LOR	PM	RJR	CTR	TI	Oth.	BEG	END	Disposition
Yowell v. RJR	S.D.	GA	1067							x				1958 or 1959	1961	Dismissed 5/4/61
Braun v. AT	N.D.	IL	59-619	x										1959	1960	Dismissed 6/60
Hudson v. RJR	E.D.	LA	8273							x				1959 or 1968	1970	Summary judgment granted 6/13/60 Aff'd Cir 5, 6/3/70, rehearing & rehearing en banc denied 7/14/70.
Kearns v. RJR	S.D.	CA	972-59- TC							x				1959	1962	Dismissed 4/16/62
Kratenstein v. Lorillard	S.D.	CA	59-449 (Central Div)					x						1959	1960	Dismissed 7/5/60
Lescure v. Lorillard	N.D.	IL	59-2097					x						1959	1963	Dismissed 1963
Marlowe v. RJR	N.D.	CA	38775	x	x		x	x	x	x				1959	1964	Dismissed 9/16/64
Mitchell v. AT	M.D.	PA	59-6539	x				x						1959	1963	Dismissed 12/26/63
Moore v. RJR	D.	AR	3990 (3990)							x				1959	1961	Discontinued 9/15/66

LIST OF SMOKING AND HEALTH CASES IN WHICH ONE OR MORE DEFENDANT WAS A PARTY

CASE	USDC	ST	#	AT	BW	BAT	LGT	LOR	PM	RJR	CTR	TI	Oth.	BEG	END	Disposition
Cash v. R.J.R.	W.D.	WA	60-5002							x				1960	1963	Dismissed 2/27/63
Davis v. RJR.	S.D.	MS	60-2955							x				1960	1962	Dismissed 11/2/62
Johnson v. B&W	S.D.	MS	60-3004	x	x			x	x	x				1960		
Styfer v. PM	N.D.	CA												1960	1966	Dismissed 6/3/66
Szyfer v. PM	N.D.	CA	60-38805											1960	1966	Dismissed 6/3/66
Bottner v. AT	S.D.	MS	1176	x										1962 or 1963	1970	Dismissed w/prejudice 9/3/70
Buchanan v. AT	N.D.	CA	41640	x										1963	1969	Dismissed 6/19/69
Godfrey v. RJR	M.D.	FL	63-110							x				1963	1965	Dismissed 1965
Lantow v. AT	S.D.	FL	63-518 (Miami Div)	x										1963	1965	Discontinued 2/65
McGraw v. RJR	S.D.	FL	63-656							x				1963	1965	Dismissed 1965
Zagursky v. AT	D.	CT	63-9988	x										1963	1967	
Burrill v. Lorillard	S.D.	MS	64- 2810(S)(C)					x						1964	1965	Dismissed 1965

LIST OF SMOKING AND HEALTH CASES IN WHICH ONE OR MORE DEFENDANT WAS A PARTY

CASE	USDC	ST	#	AT	BW	BAT	LGT	LOR	PM	RJR	CTR	TI	Oth.	BEG	END	Disposition
DeLoach v. AT	W.D.	OK	64-46	x						x				1964	1973	Dismissed as to RJR 12/13/71. Dismissed as to AT 8/29/73
Dowell v. Liggett	N.D.	CA	64-42842				x L& M							1964	1967	Dismissed 5/17/67
Fine v. PM	M.D.	PA	64-8340						x					1964	1967	Dismissed 5/1/67
Foote v. RJR	W.D.	MI	64-782							x				1964	1965	Dismissed 1965
Forbes v. AT	E.D.	WI	64-142	x										1964	1965	Dismissed 6/29/65
France v. L&M	W.D.	PA	64-UNK				x							1964	1964	Discontinued 12/22/64
Girard v. AT	E.D.	WI	64-143	x										1964	1965	Dismissed 6/29/65
Landis v. AT	S.D.	CA	64-3145	x			x L& M	x		x				1964	1969	Dismissed 4/8/69
Lapp v. RJR	D.	NJ	64-UNK	x				x		x				1964		
Martin v. PM	N.D.	OH	64-454						x					1964	1967	Dismissed 3/22/67

LIST OF SMOKING AND HEALTH CASES IN WHICH ONE OR MORE DEFENDANT WAS A PARTY

CASE	USDC	ST	#	AT	BW	BAT	LGT	LOR	PM	RJR	CTR	TI	Oth.	BEG	END	Disposition
Albright v. RJR	W.D.	PA	65-1155							x				1965	1971	Motion for summary judgment & dismissal granted 10/23/72. Aff'd on dismissal ground only Cir. 3 10/25/73 as modified Cir 3 11/23/73.
Allen v. Lorillard	N.D.	IA	65-3029 (Western Div)					x						1965	1966	Dismissed 1966
Hickman v. AT	N.D.	AL	65-282	x										1965	1968	Discontinued 7/22/68
Polita v. RJR	D.	MA	64-537-w	x						x				1965	1969	Dismissed 2/28/66
Venuto v. AT	E.D.	PA	65-37222	x										1965	1968	Discontinued 2/68
Gardner v. AT	N.D.	IN	4398	x										1966	1972	Dismissed 3/13/72
Gentry v. AT	E.D.	CA	66-91483	x										1966	1967	Dismissed 7/67
Graham v. AT	W.D.	TX	66-12 (Del Rio Div.)	x	x									1966	1967	Discontinued 2/67

LIST OF SMOKING AND HEALTH CASES IN WHICH ONE OR MORE DEFENDANT WAS A PARTY

CASE	USDC	ST	#	AT	BW	BAT	LGT	LOR	PM	RJR	CTR	TI	Oth.	BEG	END	Disposition
Noble v. AT	W.D.	OK	66-222	x						x				1966	1970	Dismissed w/o prejudice 4/30/70
Robinson? v. Lorillard	M.D.	NC	C-141-G-66											1966		
Thayer v. L&M	W.D.	MI	66-5314				x L& M							1966	1969	Verdict for defendant 12/12/69
Sharp v. RJR	D.	NJ	899-66							x				1967		
Spitlane v. L&M	D.	CT	67-UNK				x							1967	1970	Discontinued with prejudice 2/3/70.
Trau v. L&M	N.D.	CA	47361		x		x L& M			x				1967	1971	Dismissed 12/10/71 Affirmed, Cir. 9 12/21/72
Gibbs v. AT	C.D.	CA	69-54-S	x						x				1968	1971	Dismissed by stipulation 9/15/71

LIST OF SMOKING AND HEALTH CASES IN WHICH ONE OR MORE DEFENDANT WAS A PARTY

CASE	USDC	ST	#	AT	BW	BAT	LGT	LOR	PM	RJR	CTR	TI	Oth.	BEG	END	Disposition
Hodges v. RJR	W.D.	OK	68-576							x				1968	1972	Dismissed w/o prejudice 10/28/79. Refiled & dismissed w/ prejudice 5/30/72
Jones v. RJR	N.D.	AL	68-513	x	x					x			other	1968	1970	
Stoll v. AT	C.D.	CA	68-1398HP	x						x				1968	1970	Dismissed with prejudice 10/22/70
Vardy v. B&W	N.D.	OH	68-344 (Eastern Div)											1968	1971	Dismissed by stipulation 7/21/71
Yocum v. AT	M.D.	FL	68-182	x										1968	1968	Dismissed 10/1/68
Bailey v. AT	W.D.	VA	69-36	x										1969	1971	Dismissed 9/3/71
Jones v. B&W	N.D.	AL	69-325 (So. Div)											1969	1971	Dismissed w/o prejudice on Plaintiff's motion 11/12/71

LIST OF SMOKING AND HEALTH CASES IN WHICH ONE OR MORE DEFENDANT WAS A PARTY

CASE	USDC	ST	#	AT	BW	BAT	LGT	LOR	PM	RJR	CTR	TI	Oth.	BEG	END	Disposition
Levine v. Lorillard	N.D.	IL	69-1820 (Eastern Div)					x					x	1969	1972	Dismisses as to Lor 6/9/70. Continued against Loews Theaters, Inc. Dismissed 10/2/72
McCully v. RJR	D.	OR	69-286							x				1969		Dismissed with prejudice 4/13/70
Money v. AT	C.D.	CA	69-53-S	x						x			x	1969	1972	Dismissed 1/24/72
Peters v. B&W	N.D.	IL	69-2340 (Eastern Div.)		x	x BAT Co								1969	1972	Dismissed as to BAT Judgment for B&W 7/19/72
Sunstein v. AT	S.D.	FL	69-332	x										1969	1970	Dismissed with prejudice 4/2/70
Anderson v. RJR	W.D.	LA	70-15770						x	x				1970	1970	Dismissed w/prejudice 10/13/70
Atkins v. L&M	N.D.	IL	70-UNK				x							1970	1970	Dismissed w/prejudice 12/18/70

LIST OF SMOKING AND HEALTH CASES IN WHICH ONE OR MORE DEFENDANT WAS A PARTY

CASE	USDC	ST	#	AT	BW	BAT	LGT	LOR	PM	RJR	CTR	TI	Oth.	BEG	END	Disposition
Bradford v. Lorillard	S.D.	IL	70-3124 (No. Div)					x						1970	1970	Dismissed w/ prejudice 6/25/70
Campbell v. RJR	E.D.	PA	70-2248							x			& RJR Indus tries, RJR Food s	1970		Discontinued as to Reynolds Industries & Reynolds Foods 4/19/71. Discontinued w/prejudice as to RJR 11/28/72
D'Ewart v. AT	N.D.	CA	C-70 2527	x										1970	1973	Voluntarily Dismissed 7/11/73 by stipulation
Grant v. AT	E.D.	CA	70-1638	x										1970	1971	Dismissed 5/19/71
O'Dea v. AT	N.D.	IL	70-763	x										1970	1970	Dismissed with prejudice 6/11/70
Robinson v. ABC Inc.	E.D.	KY	2101											1970		
Tidwell v. AT	N.D.	AL	70-305 (So. Div)	x										1970	1971	Dismissed w/o prejudice 2/10/71

LIST OF SMOKING AND HEALTH CASES IN WHICH ONE OR MORE DEFENDANT WAS A PARTY

CASE	USDC	ST	#	AT	BW	BAT	LGT	LOR	PM	RJR	CTR	TI	Oth.	BEG	END	Disposition
U.S. (FTC) v. AB			8799	AB										1970		?
Langley v. RJR	S.D.	ID	71-1017-117							x				1971	1973	Summary judgment for RJR 9/13/73
Bogucki v. Lorillard	N.D.	IL	72c1008					x						1972	1973	Summary judgment for Lorillard on 1/11/73. Dismissed w/prejudice as to L&M 2/12/73
Comstock v. AT	C.D.	PA	72-2394	x						x		x		1972	1974	Dismissed as to AT 7/23/73, RJR & TI 11/1/74
DiTizio v. PM	E.D.	PA	72-452						x					1972	1973	Dismissed with prejudice subject to Rule 37(b) 5/29/73
Hayes v. General Cigar Co.	S.D.	NY	72CV6										Gen. Cigar Co., Inc.	1972	1977	Verdict for Defendant 11/17/77
Myers v. AT	S.D.	CA	72-1291	x										1972	1973	Dismissed with prejudice 5/17/73

LIST OF SMOKING AND HEALTH CASES IN WHICH ONE OR MORE DEFENDANT WAS A PARTY

CASE	USDC	ST	#	AT	BW	BAT	LGT	LOR	PM	RJR	CTR	TI	Oth.	BEG	END	Disposition
Nickloff v. Liggett	C.D.	CA	71-1123		x		x			x		x		1972	1974	Voluntarily dismissed
Buchanan v. RJR	E.D.	TN								x				1973	1974	Dismissed w/o prejudice 11/25/74
Clayborn v. U.S. Tobacco	W.D.	AK	FS-73-C-103 & FS-76-72-C										UST	1973		Amended complaint to include U.S Tob.
Douglas v. USTC	W.D.	AR	76-72-c										UST C Other s	1973	1981	
U.S. v. RJR	S.D.	NY	76cv813							x				1973	1982	
Monroe v. B&W	N.D.	IN	76-124 (So. Bend Div.)		x									1976	1979	Dismissed 6/4/79
U.S. v. Lorillard	S.D.	NY	76cv814					x						1976		
U.S. v. AB	S.D.	NY	76CV812										x	1976		
U.S. v. PM	S.D.	NY	76CV815						x					1976		
US v. L&M	S.D.	NY	76civ811				L&M							1976 ?		
US V. B&W	S.D.	NY	76 civ 810		x									1976 ?		

LIST OF SMOKING AND HEALTH CASES IN WHICH ONE OR MORE DEFENDANT WAS A PARTY

CASE	USDC	ST	#	AT	BW	BAT	LGT	LOR	PM	RJR	CTR	TI	Oth.	BEG	END	Disposition
Lyman v. RJR	E.D.	PA	Civ. A. 77-13					Loew s		x				1977	1977	Dismissed 4/4/77
Stewart v. PM	E.D.	AR	97-869 (Western Div)						x PM C					1977		
Bouchelle v. Johns- Manville Products Corp.	S.D.	GA	178-81											1978	1979	Motion to add tobacco defendants dismissed 2/15/79
Goff v. RJR	N.D.	CA	78-UNK							x				1978	1979	Dismissed w/prejudice 9/18/79
Grooms v. AT	D.	SC	78-1876, 79-797 (Charleston Div)	x					x				Asbe stos Corp. Other	1978	1982	Dismissed w/o prejudice 8/26/81
Morello v. AT	N.D.	CA	78-2436	x					x	x				1978	1979	Dismissed 4/24/79
Schoenkopf v. B&W	E.D.	PA	78-1592		x					x			x	1978		
Browner v. RJR	N.D.	CA	186-692							x				1979		Amended complaint joined RJR as additional defendant.

LIST OF SMOKING AND HEALTH CASES IN WHICH ONE OR MORE DEFENDANT WAS A PARTY

CASE	USDC	ST	#	AT	BW	BAT	LGT	LOR	PM	RJR	CTR	TI	Oth.	BEG	END	Disposition
Browner v. Johns-Manville Corp.	N.D.	CA	79-0384							x			x	1979		
Price v. B&W	N.D.	GA	79-381		x									1979		
Adelson v. AT	C.D.	CA	80-4986	x			x	x & Loews		x				1980	1982	Dismissed 5/12/82
Carlisle & Boatright v. PM	W.D.	TX	86-552							x				1980s	1980s	
Wilson v. AT	N.D.	CA												1980	1980	Dismissed 3/3/80
Young v. B&W	E.D.	LA	80-2049		x								aesbestos	1980	1981	Dismissed 4/22/81
Dewey v. RJR	D.	NJ	071733-81	x	x					x			x	1981		
Giannunzio v. PM	D.	MN	3-81-921						x					1981	1982	Dismissed 3/2/82
Reach v. AT	D.	NJ	82-3938, L-008714-83	x	x		x		x				American Brands	1982	1980s	

LIST OF SMOKING AND HEALTH CASES IN WHICH ONE OR MORE DEFENDANT WAS A PARTY

CASE	USDC	ST	#	AT	BW	BAT	LGT	LOR	PM	RJR	CTR	TI	Oth.	BEG	END	Disposition
Cipollone v. Liggett	D	NJ	83-CV - 2864				x	Loew s	x				Loew 's	1983	1992	Jury verdict for plaintiff. Manuf moved for jnov. District Court denied, USCA remanded 1/5/90
FTC v. B&W	D.	DC	83-1940 (77- 0098DC)		x								x	1983		
Palmer v. Liggett	D.	MA	83-2445; Appeal No. 86- 1525					x LG						1983	1989	
Pennington v. RJR	M.D.	LA	83-1382	x						x			chem ical cos & brew eries	1983		
Raney v. RJR	S.D.	IN	83-816							x				1983		
Smith v. AB	N.D.	CA	83-3158										x	1983		
Barnes v. RJR	D.	NJ	84-56							x		x	x	1984	1985	
Berko v. RJR	D.	NJ	84-2468							x				1984		
Forster v. RJR	D.	NJ	84-2468							x				1984		
Haight v. AT	S.D.	W.VA	84-2232	x	x		x	x	x				Other	1984		

LIST OF SMOKING AND HEALTH CASES IN WHICH ONE OR MORE DEFENDANT WAS A PARTY

CASE	USDC	ST	#	AT	BW	BAT	LGT	LOR	PM	RJR	CTR	TI	Oth.	BEG	END	Disposition
Haines v. LG	D.	NJ	84-678, 86-678, 92-5144, 84-00678				x	Loew s Theat re	x	x		x	Corp oratio n Trust Co; Loew 's	1984	1992	Magistrate judge upheld privilege claims (CTR docs). District ct. reversed. Petit for writ of mandamus granted.
Harrison v. RJR	M.D.	LA	84-746							x				1984		
Kirby v. RJR	E.D.	TN	84-371							x		x		1984		
Marsee v. UST Co.	W.D.	OK	civ-84- 2777-R											1984		
Rogers v. RJR	E.D.	TN	84-309		x					x		x		1984		
Roysdon v. RJR Industries	E.D.	TN	3-84-606							x				1984	1988	
Yantiss v. RJR	N.D.	OH	84-7993							x				1984		
Bullitt v. Liggett	D.	MA	85-2506	x					x			x		1985		
Chewning v. RJR	S.D.	OH	2-85-316							x				1985		
DiBlasi v. B&W	D.	MA	85-2291		x									1985		
Girton v. AT	E.D.	PA	85-7180	x						x			aesbe stos cos.	1985		

LIST OF SMOKING AND HEALTH CASES IN WHICH ONE OR MORE DEFENDANT WAS A PARTY

CASE	USDC	ST	#	AT	BW	BAT	LGT	LOR	PM	RJR	CTR	TI	Oth.	BEG	END	Disposition
Hataye v. RJR	D.	HI	85-416 & 85-769							x			aesbe stos co.	1985		
Herlihy v. RJR	D.	MA	85-3888- MA							x		x		1985		
Hess v. PM	D.	MA	85-3271						x			x		1985		
Jagel v. PM	D.	MA	85-3703						x					1985		
Kendall v. RJR	S.D.	OH	85-11					Loew s		x				1985		
King v. RJR	S.D.	OH	85-1913							x				1985		
Liester v. RJR	E.D.	PA	85-5363	x	x		x	x	x	x				1985		
Melancon v. B&W	W.D.	KY	C-85- 1042- L(B)		x									1985		
Miller v. PM	N.D.	OH	85-8131	x	x		x		x	x				1985		
Northing v. PM	E.D.	PA	85-5364						x					1985		
Parrot v. RJR	S.D.	OH	c2-85- 1964							x				1985		
Peck v. RJR	E.D.	TX	85-1479							x			aesbe stos cos.	1985		

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CASE	USDC	ST	#	AT	BW	BAT	LGT	LOR	PM	RJR	CTR	TI	Oth.	BEG	END	Disposition
Ramirez v. RJR	E.D.	LA	85-3620		x					x			aesbe stos cos	1985		
Ryan v. PM	C.D.	CA	85-7791	x					x					1985		
Shires v. PM	E.D.	PA	85-7141	x					x	x		x	aesbe stos cos	1985		
Takahashi v. B&W	D.	HI	85-1433		x								aesbe stos cos.	1985		
Viola v. AB	D.	MA	85-2496- WD	x						x				1985		
Ward v. Feist Watson Enterprises, Inc.		MT	85-203	x	x		x	Loew s Theat ers	x					1985		
Baker v. Liggett	D.	MA	86-1326				x			x				1986	1990	
Bey v. B&W	W.D.	MN	MS6- 145CA (L- 008714- 83)		x									1986	1986 ?	
Bigelow v. PM	N.D.	CA	86-2984					x						1986		

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CASE	USDC	ST	#	AT	BW	BAT	LGT	LOR	PM	RJR	CTR	TI	Oth.	BEG	END	Disposition
Boles v. Liggett	D.	HI	86-5				x						aesbe stos co.	1986		
Bratcher v. RJR	S.D.	OH	1:86-631	x	x					x				1986		
Carr v. PM	N.D.	NY	86-518					x	x					1986		
Ebert v. AB	M.D.	FL	86-38	x					x	x				1986		
Gajdos v. RJR	N.D.	IN	86-431							x				1986		
Gianitis v. AB	S.D.	WV	C-86-299- L	x				x	x	x		x		1986		
Harrod v. B&W	D.	MT	86-55		x					x				1986		
Hulin v. Fibreboard Corp.	M.D.	LA	LA/86-C V-11	x									aesbe stos co.	1986		
Johnson v. RJR	S.D.	TX	H-86- 1343	x					x	x		x		1986		
Kotler v. AT	D.	MA	Civ. A. 86-0810- S	x			x		x					1986		Dismissed in part
LeJuene v. Armstrong World Industries	W.D.	LA	86-0421	x									aesbe stos cos.	1986		
Miller v. B&W	E.D.	PA	86-5913		x			x				x		1986	1988	

LIST OF SMOKING AND HEALTH CASES IN WHICH ONE OR MORE DEFENDANT WAS A PARTY

CASE	USDC	ST	#	AT	BW	BAT	LGT	LOR	PM	RJR	CTR	TI	Oth.	BEG	END	Disposition
Moss v. RJR	S.D.	OH	2-85-0217							x				1986 ?		
Newell v. Fibreboard Corp.	W.D.	WA	C-86-979R		x	BAT Inc.				x & Ind., Co., Ltd.			HK Porter etc., aesbe stos co.	1986	1988	
Planchard v. RJR	M.D.	LA	86-623							x				1986		
Santoya v. RJR	M.D.	MO	86-1065							x				1986		
Segler v. RJR	N.D.	AL	86-433-5							x				1986		
Semowich v. RJR	N.D.	NY	86-VC-118							x				1986		
Shorley v. RJR	E.D.	PA	86-377	x				x		x		x		1986		
Stephen v. AB	N.D.	FL	PCA 86-4004-RV	x										1986		
Swenson v. RJR	W.D.	WA	86-1135				x	x		x				1986		
Bartlett v. AT	N.D.	NY	87-1305	x										1987		
Blanchard v. AT	D.	MN	4-87-244	x										1987		
Covert v. LG	M.D.	LA	87-0131		x		x	x	x			x		1987	1994	
Kauffman v. PM	M.D.	LA	87-103	x				x	x	x			aesbe stos cos.	1987		

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CASE	USDC	ST	#	AT	BW	BAT	LGT	LOR	PM	RJR	CTR	TI	Oth.	BEG	END	Disposition
Lincks v. AT	M.D.	FL	87-1475	x									local physi cians	1987		
McDonnell v. B&W	D.	M.D.	87-3117		x									1987		
Phillip v. AT	D	MA	87-135	x										1987		
Babineaux v. PM	W.D.	LA	88-539						x					1988		
Covert v. Lorillard	M.D.	LA	88-1018					x						1988		
Hardin v. B&W	W.D.	MI	G87-503- CA1		x									1988		
Jones v. RJR	S.D.	IL	88-3416							x				1988		
Lepore v. Liggett	D.	NJ	88-1226				x							1988		
Marshall v. AT	E.D.	LA	88-526	x										1988		
Miceli v. AT	M.D.	LA	88-732	x			x	x					aesbe stos cos	1988		
Milton v. RJR	E.D.	LA	88-2147							x			aesbe stos cos, insur ance cos.	1988		
Selph v. RJR	D.	MD	88-1854	x				x	x	x				1988		

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CASE	USDC	ST	#	AT	BW	BAT	LGT	LOR	PM	RJR	CTR	TI	Oth.	BEG	END	Disposition
Varga v. B&W	W.D.	MI	G88-568 CA6											1988		
Villar v. AT	M.D.	LA	88-887	x	x		x			x				1988		
Bennett v. AT	D.	MN	4-89-411	x			x		x	x				1989		
Davis v. RJR	M.D.	LA	89-851							x				1989		
Galloway v. RJR	W.D.	TX	89-1098	x	x		x	x	x	x	x	x		1989		
Gregg v. RJR	W.D.	TX	89-1099	x	x		x	x	x	x	x	x		1989		
Hale v. RJR	W.D.	LA	89-94 (Shreveport Div.)	x					x	x		x	aesbe stos cos	1989		
Purkey v. B&W	M.D.	LA	89-313		x									1989		
White v. AT	D.	NV	CV-S-89- 86- LDG(RJJ)											1989		
Ierardi v. Lorillard	E.D.	PA	90-7049					x						1990	1991 ?	
Jamerson v. AT	E.D.	NY	90-3739	x						x				1990		
Lybarger v. Lorillard	W.D.	PA	90-44 (Johnstown Div)	x				x					whol esaler	1990		

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CASE	USDC	ST	#	AT	BW	BAT	LGT	LOR	PM	RJR	CTR	TI	Oth.	BEG	END	Disposition
Schultz v. AT/ PM	D.	AZ	CV-90-01588-WPC	x					x					1990	1993	Dismissed. Affirmed on appeal 10/5/93
Wilson v. PM	W.D.	TX	90-400 (El Paso Div.)						x					1990		
Allgood v. RJR	S.D.	TX	91-0158 (Houston Div)	x						x	x	x		1991		
Chere v. RJR	D.	NJ	91-2754	x					x	x				1991		
Feriozi v. Lorillard	E.D.	PA	91-4209					x					aesbestos, automobile cos	1991		
Kreuper v. RJR	N.D.	IL	91-00556-WDS							x				1991		
Rossi v. AT	E.D.	PA	91-5575	x					x	x				1991	1993	Dismissed with prejudice (4/13/93)
Wilkes v. AT	D.	MS	9383 OR 91-123-55-(B)(W) or 93-TS-1265											1991		

LIST OF SMOKING AND HEALTH CASES IN WHICH ONE OR MORE DEFENDANT WAS A PARTY

CASE	USDC	ST	#	AT	BW	BAT	LGT	LOR	PM	RJR	CTR	TI	Oth.	BEG	END	Disposition
Woodruff v. RJR	M.D.	LA	91-666							x			aesbe stos cos	1991		
Zwillman v. Liggett	D.	NJ	91-633	x			x				x	x		1991		
Brown v. RJR	M.D.	LA	92-0836					x	x	x			other	1992		
Butler v. RJR	S.D.	MS	3:92-CV-732B		x			x						1992		
Danna v. B&W	N.D.	AL	92-2341 (Southern Div)		x					x				1992		
Economy v. RJR	N.D.	OH	1:92-1543 (Eastern Div)							x				1992		
Faliveno v. Liggett	D.	NJ	92-3049				x		x				Lorillard (nam ed but not serve d)	1992		
Foster v. RJR	D.	AZ	92-1651	x	x		x	x		x				1992		
Gasparac v. Pinkerton Tobacco	N.D.	OH	5:92-175 (Eastern Div)							x				1992		

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CASE	USDC	ST	#	AT	BW	BAT	LGT	LOR	PM	RJR	CTR	TI	Oth.	BEG	END	Disposition
Herndon v. B&W	W.D.	MI	1:97- cv:166		x									1992		
Hutchin v. AT	W.D.	LA	92-1934 (Lafayette)	x					x	x				1992		
Mangini v. RJR	N.D.	MA	92-0963B or BC04521 5 939359							x				1992		
Mangini v. PM	C.D.	CA	92-732	x					x				movi e studi os	1992		
Miller v. PM	E.D.	VA	3:92-615						x					1992		
Nunnally v. RJR	N.D.	MS	92-148 (Delta Div)							x			retail ers	1992		
Paugh v. RJR	N.D.	OH	1:92-1444 (Eastern Div)							x				1992		
Sawyer v. RJR	S.D.	AL	92-3855 (Mobile Div)							x			whol esaler s	1992		
Tyler v. RJR	S.D.	TX	92-163							x				1992		

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CASE	USDC	ST	#	AT	BW	BAT	LGT	LOR	PM	RJR	CTR	TI	Oth.	BEG	END	Disposition
Chustz v. RJR	M.D.	LA	93-710-B	x						x				1993		
Guillory v. RJR	W.D.	LA	93-407 (Lafayette Div)	x	x					x			whols aler	1993		
Marks v. RJR	W.D.	LA	93-1496 (Lafayette Div)	x					x	x				1993		
Mussman v. AT	D.	OR	93-209	x										1993		
Ohio (Consumers of) v. B&W	S.D.	OH	93-CV-14 2		x									1993	1993	

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CASE	USDC	ST	#	AT	BW	BAT	LGT	LOR	PM	RJR	CTR	TI	Oth.	BEG	END	Disposition
Sackman v. Liggett	E.D.	NY	93-4166 (ADS)				x							1993		Summary judgment granted 5/25/96 on plaintiff's fraud & breach of warranty claims. District Ct. vacated Magistrate's order compelling production of CTR docs to which Liggett asserted privilege. Motion for reconsideration under review (as of 97)
Voth v. Forsyth Tobacco	D	OR	93-498	x	x				x	x				1993		
Weaver v. Liggett	N.D.	MS	1:93-185				x						whol esaler s	1993		
Williams v. Lorillard	D.	NJ	93-4325					x						1993		

LIST OF SMOKING AND HEALTH CASES IN WHICH ONE OR MORE DEFENDANT WAS A PARTY

CASE	USDC	ST	#	AT	BW	BAT	LGT	LOR	PM	RJR	CTR	TI	Oth.	BEG	END	Disposition
Allman v. PM	S.D.	CA	94-0504-IEG (CM)(combined with Higley v. PM)	x	x		x	x	x	x	x	x	Hill & Knowlton, US Tobacco	1994	1994	Dismissed 9/22/94
Badon v. RJRN	W.D.	LA	10-13653							RJR N				1994		
Bluitt v. RJR	N.D.	TX	3:94-122	x	x		x	x	x	x				1994		
Bluitt v. RJR	E.D.	LA	Misc.A. 94-2318							x				1994		
Bond v. PM	E.D.	KY	94-87 (Ashland Div)						x					1994		
Boyer v. B&W	D.	NV	94-161		x		x		x	x				1994		
Burton v. RJR	D.	KS	94-2202-JWL	x						x				1994		

LIST OF SMOKING AND HEALTH CASES IN WHICH ONE OR MORE DEFENDANT WAS A PARTY

CASE	USDC	ST	#	AT	BW	BAT	LGT	LOR	PM	RJR	CTR	TI	Oth.	BEG	END	Disposition
Castano v. AT	E.D.	LA	95-30725 94CV104 4 94-3000	x	x		x L& M	x	PMI	x RJR N		x	Amer ican Bran ds; BAT US Holdi ngs; BAT US Inc. UST C; Loew s Cor. Other	1994	1996	P's motion for class certification granted (2/95). 5th Cir. Ct. of Appeals reversed and instructed dismissal (5/96). Agreement to settle reached 3/96. 1/98 tobacco companies agreed with plaintiffs to dismiss action w/o prejudice and toll statute of limitations
Collins v. RJR	D.	SC	3:94/1563 /17 (Columbi a Div)	x						x Nabi sco				1994	1995 ?	
Cubano v. RJR	D	CT	3:95-292						x	x				1994		
Cullum v. B&W	D	DC	94-2270		x				x	x				1994		
Granier v. AT	E.D.	LA	94-3096 Sect N Mag 4	x			x	x	x	x				1994		

LIST OF SMOKING AND HEALTH CASES IN WHICH ONE OR MORE DEFENDANT WAS A PARTY

CASE	USDC	ST	#	AT	BW	BAT	LGT	LOR	PM	RJR	CTR	TI	Oth.	BEG	END	Disposition
Hennemann v. PM	D	VI	94-120						x					1994		
Higley v. PM	S.D.	CA	94-510	x	x		x	x	x	x	x	x	Hill & Knowlton, US Tobacco	1994		
Hinkson v. PM	E.D.	PA	3:94-1028	x				x	x	x			Lane Ltd; prison officials	1994		
Jensen v. AT	E.D.	MI	94-72168 (Southern Div)	x									prison officials	1994		
Kurzweil v. PM	S.D.	NY	(Steiner v. PM) 94CV237 3 & (King v. PM) 94CV254 6						x					1994		P's motion to vacate dismissal granted & leave to amend. D's appeal dismissed by Ct. of Appeals for lack of appellate jurisdiction

LIST OF SMOKING AND HEALTH CASES IN WHICH ONE OR MORE DEFENDANT WAS A PARTY

CASE	USDC	ST	#	AT	BW	BAT	LGT	LOR	PM	RJR	CTR	TI	Oth.	BEG	END	Disposition
Lacey v. Lorillard	N.D.	AL	94-901						x	x				1994		Summary judgment for Defs.
Lawrence v. PM	E.D.	NY							x					1994		
Martinez v. Pinkerton	D.	CO	94-2780	x						x				1994		
Miller v. B&W	E.D.	PA	94-6831	x	x		x	x	x	x			prison officials	1994		
Mohammed v. RJR	N.D.	CA	95-586						x	x				1994		
Morris v. PM	W.D.	LA	94-907 (Lafayette)						x					1994		
Robinson v. B&W	D.	CO	94-D-2712		x				x	x				1994		
Shedd v. RJR	W.D.	LA	94-906 (Lafayette)							x				1994		
Smith v. B&W	S.D.	IN	94-109 (Terre Haute Div)		x				x	x				1994		
Smith v. B & W	D.	NV	N-94CV161		x									1994		?

LIST OF SMOKING AND HEALTH CASES IN WHICH ONE OR MORE DEFENDANT WAS A PARTY

CASE	USDC	ST	#	AT	BW	BAT	LGT	LOR	PM	RJR	CTR	TI	Oth.	BEG	END	Disposition
Smith v. RJR	M.D.	LA	94-308							x				1994		
Smith v. RJR	W.D.	LA	94-950 (Lafayette)						x	x				1994		
Sparks v. RJR	W.D.	WA	94-783							x			adver tising agenc ies	1994		
Sterling v. RJR	W.D.	MO	94-1159							x				1994		
Tompkin v. AB	N.D.	OH	5:94cv13 02	AB										1994	2001	Verdict for Defendant 10/5/01
Arnold v. AB	D.	RI	95-399-L		x			x	x	x Nabi sco			x	1995		Summary judgment for defs. based on statute of limitations
Boughton v. B&W	S.D.	FL	95-1914 (Miami Div)		x			x		x				1995		
Ciapaglini v. B&W	W.D.	WI	95-596		x				x					1995		
Ciarlante v. B&W	E.D.	PA	95-4646						x					1995		
Cullum v. B&W	D	CO	95-771		x				x	x				1995		

LIST OF SMOKING AND HEALTH CASES IN WHICH ONE OR MORE DEFENDANT WAS A PARTY

CASE	USDC	ST	#	AT	BW	BAT	LGT	LOR	PM	RJR	CTR	TI	Oth.	BEG	END	Disposition
Foster v. RJR	S.D.	OH	95-3867 (Eastern Div)					x						1995		
Humes v. PMC	D.	NJ	95-UNK						PM C					1995		
Jacobson v. PM	S.D.	FL	95-1915	x					x					1995		
Jay v. RJR	S.D.	FL	95-1916	x	x			x	x	x			retail ers	1995		
Jensen v. RJRN Holdings Corp	M.D.	NC	6:95-303							RJR NC RJR N RJR NI			priso n offici als	1995		
Jernigan v. B&W	E.D.	CA	94-1325		x			x	PMI	x				1995		
Katz v. B&W	S.D.	FL			x									1995		
Massachusetts (Commonwealth of) v. PM	D.	MA	96-10014- GAO						x					1995		Tobacco cos. removed to fed dist. ct. P's motion to remand granted
Picard v. AT	E.D.	LA	95-985	x			x	x	x	x				1995		
Ragland v. Lorillard	S.D.	OH	95-53					x						1995		

LIST OF SMOKING AND HEALTH CASES IN WHICH ONE OR MORE DEFENDANT WAS A PARTY

CASE	USDC	ST	#	AT	BW	BAT	LGT	LOR	PM	RJR	CTR	TI	Oth.	BEG	END	Disposition
Raulerson v. B&W	S.D.	FL	95-1917 (Miami Div)		x			x	x	x				1995		
Sacks v. PM		MD	CA-95- 1840- WMN						x					1995		Dismissed for failure to state a claim. Affirmed
Shaw v. B&W	D.	MD	B-95- 3280		x									1995		
Todd v. B&W	W.D.	LA	95-1920		x									1995		
Weisholtz v. B&W	S.D.	FL	95-1918 (Miami Div)		x		x	x	x	x				1995		
Winters v. B&W	S.D.	IN	94-108		x & CE O				x & CE O	x & CE O				1995		
Alaniz v. PM	W.D.	TX	97-379 (San Antonio Div)						x					1996		
Alfonso v. RJR	S.D.	FL	97-28						x	x				1996		
Alvarado v. BATI	W.D.	TX	97-6-50- 734 (San Antonio Div)		x	BATI				x			retail er	1996		
Arch v. AT	E.D.	PA	96-5903	x										1996	1997	

LIST OF SMOKING AND HEALTH CASES IN WHICH ONE OR MORE DEFENDANT WAS A PARTY

CASE	USDC	ST	#	AT	BW	BAT	LGT	LOR	PM	RJR	CTR	TI	Oth.	BEG	END	Disposition
Arendt v. B&W	M.D.	FL	96-1685		x					x				1996		
Arrington v. B&W	N.D.	IL	6 C 5715											1996		
Assad v. RJR	S.D.	FL	96-3548		x					x				1996		
Astfanous v. B&W	M.D.	FL	96-1688		x									1996		
Aurelio v. PM	D.	RI	96-569				LG L& M		x					1996		
Barnes (formerly Arch) v. AT	E.D.	PA	96-5903-CN	x AB	x	BAT US, BAT US H, BATI	LG, L& M, BG	x Loew s Corp	x PM C	x RJR N	x	x	US Toba cco UST Inc.	1996	1997	Decertification dismissal 10/97 and granted defendant's motion for summary judgment. Affirmed by appellate court
Barrier v. B&W	M.D.	FL	96-1708		x		LG		x	x				1996		
Bear v. PM	M.D.	FL	96-2284						x					1996		
Beebe v. BATI	S.D.	TX	97-37		x	BATI			x	x			retail ers	1996		
Bisch v. Lorillard	M.D.	FL	96-2281					x		x				1996		

LIST OF SMOKING AND HEALTH CASES IN WHICH ONE OR MORE DEFENDANT WAS A PARTY

CASE	USDC	ST	#	AT	BW	BAT	LGT	LOR	PM	RJR	CTR	TI	Oth.	BEG	END	Disposition
Bleakley v. Engler	E.D.	TX	96-72224	x	x	BATI , BAT US H, BAT Co	LG L& M, BG, BG Ltd.	x Loew s Corp	x PM C	x RJR N	x	x	Hill & Kno wlton , Gov of Michi gan, US Toba cco, UST Inc, Dosal Toba cco	1996		
Bourgeois v. LG	M.D.	FL	97-580		x		LG		x	x				1996		
Bowman v. RJR	M.D.	FL	96-1686							x				1996		
Brackens v. Lorillard	M.D.	FL	97-581		x			x	x	x				1996		
Brakel v. AT	E.D.	LA	96-13672- D, 97-288	x	x	BATI BAT US H	LG	x	x PM C	x RJR N				1996	1999	Dismissed 6/22/99
Burke v. B&W	D.	KS	96-4157		x									1996		
Burkholz v. PM	S.D.	FL	96-2032				LG		x					1996		
Burns v. B&W	M.D.	FL	96-1704		x			x	x					1996		

LIST OF SMOKING AND HEALTH CASES IN WHICH ONE OR MORE DEFENDANT WAS A PARTY

CASE	USDC	ST	#	AT	BW	BAT	LGT	LOR	PM	RJR	CTR	TI	Oth.	BEG	END	Disposition
Castillo v. PM	S.D.	TX	97-2 (Corpus Christi Div)						x	x			retailer	1996		
Chamberlain v. AT	N.D.	OH	1:96CV2005 (Eastern Div.)	x AB	x	BATI	LG L&M, BG	x Loews Corp	x PM C	x RJR N	x	x	US Tobacco, UST Inc.	1996		
Christen v. RJR	W.D.	LA	96-2901 (Lafayette Div)	x	x			x	x	x				1996		
Chutz-Reymers v. Liggett	M.D.	FL	96-409		x		LG							1996	1997	Set for trial 6/97
Clark v. RJR	M.D.	FL	96-2296		x					x				1996		
Colunga v. AB	S.D.	TX	97-265 (Corpus Christi Div)	x AB	x	BATI	LG L&M BG BG LS		x	x			retailers	1996		
Connolly v. PM	M.D.	FL	97-575		x				x				retailer	1996		
Cook v. RJR	M.D.	FL	96-2648		x					x				1996		
Counsil v. RJR	M.D.	FL	96-1715		x					x				1996		

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CASE	USDC	ST	#	AT	BW	BAT	LGT	LOR	PM	RJR	CTR	TI	Oth.	BEG	END	Disposition
Courchesne v. LG	M.D.	FL	96-1709		x		LG		x	x				1996		
Coyne v. AT	N.D.	OH	96-2247	x										1996	1998	Def's motion to dismiss for lack of standing granted 2/98
Daniels v. B&W	E.D.	PA	96-5226	x	x				x	x RJR N	x	x	Jacob Medi nger Finne gan & Hart, Shoo k Hard y & Baco n	1996		
Dellechiaie v. B&W	M.D.	FL	96-1699		x		LG		x					1996		
Demos v. AT	D.	CT	3:96-1822	x										1996		
Derzekos v. B&W	M.D.	FL	97-582		x				x	x				1996		
DiMalta v. B&W	M.D.	FL	96-2293		x									1996		

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CASE	USDC	ST	#	AT	BW	BAT	LGT	LOR	PM	RJR	CTR	TI	Oth.	BEG	END	Disposition
Dymits v. AB	N.D.	CA	C-96-1897-CW	x AB	x	BAT US Inc BAT US H	LG L& M	x Loew s Corp	x PM C	x RJR N, RJR NH		x	US Toba cco Co, UST Inc	1996		
Ehrich v. BATI	D	NJ	96-4318 (JAG)	x AB	x	BATI , BAT US, BAT USH BAT		x	x PM C	x RJR N	x	x	Shoo k, Hard y & Baco n, Jacob Medi nger Finne gan & Hart	1996	1997	Dismissed (5/28/97)
Farmer v. LG	M.D.	FL	96-1705		x		LG	x	x	x				1996		
Fernandez v. AB	S.D.	TX	97-133 (Corpus Christi Div)	x AB	x	BATI				x			retail er	1996		
Fischer v. B&W	M.D.	FL	96-2292		x		LG							1996		

LIST OF SMOKING AND HEALTH CASES IN WHICH ONE OR MORE DEFENDANT WAS A PARTY

CASE	USDC	ST	#	AT	BW	BATI	LGT	LOR	PM	RJR	CTR	TI	Oth.	BEG	END	Disposition
Flores v. BATI	S.D.	TX	97-232 (Corpus Christi Div)		x	BATI		x	x	x			retailer	1996		
Galvan v. AB	S.D.	TX	97-188 (Corpus Christi Div)	x AB	x	BATI			x	x			retailers	1996		
Gange v. B&W	M.D.	FL	96-2288		x					x				1996		
Gardner v. LG	M.D.	FL	96-2639		x		LG		x	x				1996		
Glass v. PM	S.D.	TX	96-2371 (Houston Div)						x		x	x		1996		
Gonzalez v. AB	S.D.	TX	97-147 (Corpus Christi Div)	x AB	x	BATI			x	x			retailers	1996		
Gossett v. AB	S.D.	TX	96-238 (Brownsville Div)	x AB	x	BATI	LG L& M BG BG LS	x	x	x			retailer	1996		
Grealis v. B&W	M.D.	FL	96-1697		x		LG	x		x				1996		

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CASE	USDC	ST	#	AT	BW	BAT	LGT	LOR	PM	RJR	CTR	TI	Oth.	BEG	END	Disposition
Green v. PM	S.D.	TX	97-28 (Victoria Div)						x	x				1996		
Guidry v. UST	W.D.	LA	96-1295		x				x	x	x	x	Smok eless Toba cco Coun sel, Smok eless Toba cco Resea rch Coun cil, Pinke rton Toba cco, US Toba cco, Conw ood Co.	1996	1999	Dismissed 12/8/99

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CASE	USDC	ST	#	AT	BW	BAT	LGT	LOR	PM	RJR	CTR	TI	Oth.	BEG	END	Disposition
Hagness v. AB	S.D.	TX	97-198 (Corpus Christi Div)	x AB	x	BATI							retailers	1996		
Hale v. AB	S.D.	TX	97-84 (McAllen Div)	x AB	x	BATI	LG L& M BG BG LS		x	x			retailers	1996		
Hamilton v. BGLS	S.D.	TX	97-72 (McAllen Div)				LG L& M BG BG LS		x	x			retailers	1996		
Hansen v. AT	E.D.	AK	96-881	x AB	x	BATI BAT US BAT USH	LG, L& M, BG	x Loews Corp	x PM C	x RJR N	x	x		1996		
Harper v. Lorillard	N.D.	CA	C-95-2690		x			x						1996		
Harris v. PM	S.D.	TX	97-202 (Corpus Christi Div)						x	x			retailer	1996		

LIST OF SMOKING AND HEALTH CASES IN WHICH ONE OR MORE DEFENDANT WAS A PARTY

CASE	USDC	ST	#	AT	BW	BAT	LGT	LOR	PM	RJR	CTR	TI	Oth.	BEG	END	Disposition
Harris v. AB	S.D.	TX	97-4 (Corpus Christi Div)	x AB	x	BATI	LG L& M BG BG LS	x		x			retail er	1996		
Harris v. AT	M.D.	PA	96-1631	x	x	BAT US, BAT US H	LG L& M		x PM C	x RJR N		x	Amer ican Bran ds, Broo ke Grou p, US Toba cco, UST Inc.	1996		

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CASE	USDC	ST	#	AT	BW	BAT	LGT	LOR	PM	RJR	CTR	TI	Oth.	BEG	END	Disposition
Hebert v. UST	D.	LA	96-1308	x	x		LG		x	x	x	x	Smok eless Toba cco Resea rch Coun cil, Smok eless Toba cco Coun cil, US Toba cco	1996		
Heitsch v. AB	S.D.	TX	97-70 (McAllen Div)	x AB	x	BATI			x	x			retail ers	1996		
Hernandez v. BATI	S.D.	TX	97-8		x	BATI			x	x			retail ers	1996		
Hernandez v. AB	S.D.	TX	97-186 (Corpus Christi Div)	x AB	x	BATI				x			retail ers	1996		
Hernandez v. BATI	S.D.	TX	97-6		x	BATI				x			retail ers	1996		

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CASE	USDC	ST	#	AT	BW	BAT	LGT	LOR	PM	RJR	CTR	TI	Oth.	BEG	END	Disposition
Higgins v. AT	E.D.	LA	96-2205	x			LG	x	x PM C	x RJR N				1996	1999	Dismissed 6/22/99
Hoetzel v. PM	S.D.	FL	96-712						x					1996		
Houghton v. BATI	S.D.	TX	97-185 (Corpus Christi Div)		x	BATI				x			retail ers	1996		
Hubbard v. B&W	M.D.	FL	96-2289		x					x				1996		
Hughes v. B&W	M.D.	FL	96-1714		x									1996		
Hulsey v. AB	S.D.	TX	97-3 (Corpus Christi Div)	x AB	x	BATI		x	x	x			retail ers	1996		
Ieyoub v. AT	W.D.	LA	96-0908	x										1996		Def's motion to dismiss denied 1/97. Motion challenging AG's authority pending. 3/97 AG amended complaint to join insur cos.
Insua v. PM	S.D.	FL	96-1657		x					x				1996		
Jackson v. B&W	M.D.	FL	96-411		x					x				1996		

LIST OF SMOKING AND HEALTH CASES IN WHICH ONE OR MORE DEFENDANT WAS A PARTY

CASE	USDC	ST	#	AT	BW	BAT	LGT	LOR	PM	RJR	CTR	TI	Oth.	BEG	END	Disposition
Jenkins v. PM	M.D.	FL	96-1706					x	x	x				1996		
Joy v. B&W	M.D.	FL	96-2645		x				x	x				1996		
Judge v. B&W	M.D.	FL	96-2279		x		LG	x	x	x				1996		
King v. B&W	M.D.	FL	97-575		x					x				1996		
Konkle v. RJR	M.D.	FL	96-412		x		LG		x					1996		
Kopacki v. B&W	M.D.	FL	96-2282		x				x	x				1996		
Kranz v. B&W	M.D.	FL	96-1689		x		LG		x					1996		
Krueger v. B&W	M.D.	FL	96-1692		x		LG							1996		
Kulbabinski v. RJR	M.D.	FL	96-1716							x				1996		
Langdo v. Lorillard	M.D.	FL	96-1717					x						1996		
Lauer v. PM	M.D.	FL	97-583						x				retailer	1996		
Lawrence v. B&W	M.D.	FL	96-1712		x					x				1996		
Lebson v. PM	S.D.	FL	96-701				x	x	x					1996		
LePaw v. BATI.	S.D.	NY	No. 96-4373	AB	x	BATI , BAT US, BAT US H		x	x PM C	x RJR N	x	x	Shook, Hardy & Bacon	1996		
Levy v. B&W	M.D.	FL	96-2280		x		LG	x		x				1996		

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CASE	USDC	ST	#	AT	BW	BAT	LGT	LOR	PM	RJR	CTR	TI	Oth.	BEG	END	Disposition
Linton v. RJR	M.D.	FL	96-2640							x				1996		
Lonkowski v. RJR	W.D.	LA	96-1192						x	x	x	x	Swisher, Hill & Knowlton , retailers	1996		
Lorenzo v. PM	M.D.	FL	96-410		x		LG		x	x				1996		
Love v. AB	S.D.	TX	97-99 (Brownsville Div)	x AB	x	BATI		x	x	x			retailer	1996		
Luna v. AB	S.D.	TX	97-174 (Corpus Christi Div)	x AB	x	BATI	LG L& M BG BG LS		x	x			retailer	1996		

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CASE	USDC	ST	#	AT	BW	BAT	LGT	LOR	PM	RJR	CTR	TI	Oth.	BEG	END	Disposition
Lyle v. B&W	S.D.	MS	4:96-220	x AB	x	BAT US, BAT US H	LG L& M, BG	x Loew s Corp	x	x RJR N			US Toba cco, UST Inc. Dept of Corre ctions offici als, Miss state govt office rs	1996		
Lyons v. AT	S.D.	AL	96-0881- BH-S	x	x	BATI		x	x	x	x	x	whol esaler s	1996		
Magill v. AB	S.D.	TX	97-167 (Corpus Christi Div)	x AB	x	BATI				x			John Midd leton, Inc.; retail ers	1996		

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CASE	USDC	ST	#	AT	BW	BAT	LGT	LOR	PM	RJR	CTR	TI	Oth.	BEG	END	Disposition
Mantel v. BATI	D.	NJ	96-3796	AB	x	BATI BAT US Inc., BAT US H	LG	x	x PM C	x RJR N	x	x	Shook, Hardy & Bacon	1996		
Margotta v. B&W	M.D.	FL	96-2641		x					x				1996		
Martinez v. BATI	S.D.	TX	97-7 (Corpus Christi Div)		x	BATI			x	x			retailers	1996		
Martinez v. AB	S.D.	TX	97-132 (Corpus Christi Div)	x AB	x	BATI				x			retailers	1996		
Maryland (State of) v. PM	D.	MD	CCB-96-1691 966-122-01721148						x					1996		Defs. removed action from state court and Maryland's motion for remand was granted (8/1/96)
Masepohl v. AT	D.	MN	3-96-888	x										1996	1997	Manufacturers removed action and P's motion to remand was denied (8/8/97)

LIST OF SMOKING AND HEALTH CASES IN WHICH ONE OR MORE DEFENDANT WAS A PARTY

CASE	USDC	ST	#	AT	BW	BAT	LGT	LOR	PM	RJR	CTR	TI	Oth.	BEG	END	Disposition
Mattingly v. BATI	S.D.	TX	97-34 (Victoria Div)		x	BATI		x	x	x			retail er	1996		
Maynard v. Lorillard	M.D.	FL	96-1701					x						1996		
McCleary v. RJR	M.D.	FL	96-1707		x				x	x				1996		
McDermott v. B&W	M.D.	FL	96-1703		x				x	x				1996		
McLean v. PM	E.D.	TX	96cv167	x	x	BATI	LG L& M, BG	x	x	x	x	x		1996		
Mesa v. AB	S.D.	TX	97-201 (Corpus Christi Div)	x AB	x	BATI				x			retail ers	1996		
Meyer v. PM	M.D.	FL	96-1682						x					1996		
Meyers v. RJR	W.D.	OK	97-933							x				1996		
Michael v. B&W	M.D.	FL	96-1711		x									1996		
Mikulcik v. B&W	M.D.	FL	97-483		x				x					1996		
Miller v. LG	M.D.	FL	96-413		x		LG	x	x	x				1996		

LIST OF SMOKING AND HEALTH CASES IN WHICH ONE OR MORE DEFENDANT WAS A PARTY

CASE	USDC	ST	#	AT	BW	BAT	LGT	LOR	PM	RJR	CTR	TI	Oth.	BEG	END	Disposition
Mireles v. AB	S.D.	TX	97-166 (Corpus Christi Div)	x AB	x	BATI			x	x			Core Mark ; retailers	1996		
Mireles v. AB	S.D.	TX	97-157 (Corpus Christi Div)	x AB	x	BATI	LG L& M BG BG LS		x	x			retailer	1996		
Misell v. AB	S.D.	TX	97-373 (Corpus Christi Div)	x AB	x	BATI	LG L& M BG BG LS			x			retailer	1996		
Montenegro v. RJR	S.D.	TX	97-71 (McAllen Div)							x			retailers	1996		
Morales v. AB	S.D.	TX	97-168 (Corpus Christi Div)	x AB	x	BATI			x	x			retailers	1996		
Munoz v. RJR	S.D.	TX	97-45 (McAllen Div)							x			retailers	1996		

LIST OF SMOKING AND HEALTH CASES IN WHICH ONE OR MORE DEFENDANT WAS A PARTY

CASE	USDC	ST	#	AT	BW	BAT	LGT	LOR	PM	RJR	CTR	TI	Oth.	BEG	END	Disposition
Navarro v. BATI	S.D.	TX	97-36 (McAllen Div)		x	BATI			x	x			retail ers	1996		
Nicolo v. PM	D.	RI	96-528-T				LG L& M		x					1996		Action time barred
Nordstrum v. B&W	M.D.	FL	96-1694		x					x				1996		
Norstrand v. PM	M.D.	FL	96-2295		x				x	x				1996		
Oglesby v. AB	S.D.	TX	97-5 (Corpus Christi Div)	x AB	x	BATI			x	x			retail er	1996		
Owens v. B&W	M.D.	FL	96-2294		x									1996		
Pelaprat v. B&W	M.D.	FL	96-1713		x					x				1996		
Perez v. B&W	M.D.	FL	96-1721		x		LG		x	x				1996		
Perez v. B&W	M.D.	FL												1996		

LIST OF SMOKING AND HEALTH CASES IN WHICH ONE OR MORE DEFENDANT WAS A PARTY

CASE	USDC	ST	#	AT	BW	BAT	LGT	LOR	PM	RJR	CTR	TI	Oth.	BEG	END	Disposition
Perez v. B&W	S.D.	TX	97-70 (Corpus Christi Div)		x	x BATI BAT US H		x Loew s Corp	x PM C	x RJR N	x	x	UST Inc.; UST C; Hill & Kno wlton ; Shoo k Hard y & Baco n; retail ers	1996		
Perez v. AB	S.D.	TX	97-49 (McAllen Div)	x AB	x	BATI		x	x	x			retail ers	1996		
Perez v. RJR	M.D.	FL	96-2647							x				1996		

LIST OF SMOKING AND HEALTH CASES IN WHICH ONE OR MORE DEFENDANT WAS A PARTY

CASE	USDC	ST	#	AT	BW	BAT	LGT	LOR	PM	RJR	CTR	TI	Oth.	BEG	END	Disposition
Pollan v. B&W	E.D.	NY	96-5214	x AB	x				x	x RJR N	x	x	Jacob Medi nger Finne gan & Hart, Shoo k Hard y & Baco n	1996		
Prince v. B&W	M.D.	FL	96-2644		x		LG		x	x				1996		
Qualls v. B&W	M.D.	FL	96-1692		x		LG	x						1996		
Quintanilla v. AB	S.D.	TX	97-77 (McAllen Div)	x AB	x	BATI	LG L& M BG BG LS		x	x			retail er	1996		
Ramirez v. AB	S.D.	TX	97-146 (Corpus Christi Div)	x AB	x	BATI				x			retail er	1996		

LIST OF SMOKING AND HEALTH CASES IN WHICH ONE OR MORE DEFENDANT WAS A PARTY

CASE	USDC	ST	#	AT	BW	BAT	LGT	LOR	PM	RJR	CTR	TI	Oth.	BEG	END	Disposition
Ramirez v. AB	S.D.	TX	97-32 (McAllen Div)	x AB	x	BATI	LG BG L& M BG LS						retail ers	1996		
Ramirez v. AB	S.D.	TX	97-50 (McAllen Div)	x AB	x	BATI	LG L& M BG BG LS	x	x	x			retail ers	1996		
Ramsey v. AB	S.D.	TX	97-311 (Corpus Christi Div)	x AB	x	BATI				x			retail ers	1996		
Reed v. PM			5070-96						x					1996		
Reed v. AB	S.D.	TX	97-1 (Brownsv ille Div)	x AB	x	BATI			x	x			retail ers	1996		
Reyna v. PM	S.D.	TX	97-63 (McAllen Div)						x				retail er	1996		
Ricciardi v. B&W	M.D.	FL	96-2283		x				x					1996		
Riedel v. PM	M.D.	FL	96-1719		x			x	x	x				1996		
Roach v. PM	M.D.	FL	96-2642		x				x	x				1996		

LIST OF SMOKING AND HEALTH CASES IN WHICH ONE OR MORE DEFENDANT WAS A PARTY

CASE	USDC	ST	#	AT	BW	BAT	LGT	LOR	PM	RJR	CTR	TI	Oth.	BEG	END	Disposition
Rodriguez v. B&W	M.D.	FL	96-1710		x		LG	x	x	x				1996		
Rodriguez v. BATI	S.D.	TX	97-61 (McAllen Div)		x	BATI				x			retail ers	1996		
Ruiz v. AT	D.	PR	96-2300 JAF	x AB	x	BATI		x	x	x	x	x		1996		Motion to dismiss based on lack of jurisdiction denied (5/19/97)
Ruiz v. AT	D.	OR		x										1996		
Sager v. RJR	M.D.	AL	97-8		x					x				1996		
Salazar v. PM	S.D.	TX	97-51 (McAllen Div)						x	x			retail ers	1996		
Salinas v. AB	S.D.	TX	97-36 (Laredo Div)	x AB	x	BATI		x	x	x			retail ers	1996		
Sampson v. RJR	M.D.	FL	96-2643		x					x				1996		
Samson v. RJR	M.D.	FL	96-414- civ-T- 24(B)							x				1996		

LIST OF SMOKING AND HEALTH CASES IN WHICH ONE OR MORE DEFENDANT WAS A PARTY

CASE	USDC	ST	#	AT	BW	BAT	LGT	LOR	PM	RJR	CTR	TI	Oth.	BEG	END	Disposition
San Francisco (City of) v. PM	N.D.	CA	4:96CV02090 -DLJ980864	x	x	BATI	LG	x	PMI	x	x	x	CA cities	1996	2000	Complaint dismissed w/leave to amend 2/97. Amended complaint filed 3//97. Def's motion to dismiss negligent breach of special duty & fraud denied 3/4/98 & motion to dismiss for intentional breach granted.
Sanchez v. AB	S.D.	TX	97-57 (McAllen Div)	x AB	x	BATI			x	x			retailers	1996		
Saunders v. PM	E.D.	NC	CA-96-446-5-F						x	x			Republic Tobacco, prison officials	1996	1997	Case dismissed. Affirmed 4/2/97
Schary v. Lorillard	M.D.	FL	96-2287					x						1996		

LIST OF SMOKING AND HEALTH CASES IN WHICH ONE OR MORE DEFENDANT WAS A PARTY

CASE	USDC	ST	#	AT	BW	BAT	LGT	LOR	PM	RJR	CTR	TI	Oth.	BEG	END	Disposition
Scott v. AT	E.D.	LA	96-1946, 96-2200, 2201, 2202, 2203, 2204, 2779 and 97-1178	x										1996	1999	Motion for remand granted; Dismissed 9/28/99
Seaborn v. RJR	M.D.	AL	Civ.A. 96-T- 1540-N							x				1996		
Seale v. PM	S.D.	TX	96-272 (McAllen Div)						x				US Toba cco, Pinke rton Toba cco, retail ers	1996		
Sergi v. RJR	M.D.	FL	96-1687							x				1996		
Shepard v. PM	M.D.	FL	96-1720					x	x					1996		
Simon v. B&W	S.D.	FL	96-974		x					x			retail ers	1996		
Sirop v. PM	M.D.	FL	96-1681						x					1996		
Smalley v. B&W	M.D.	FL	96-1684		x									1996		

LIST OF SMOKING AND HEALTH CASES IN WHICH ONE OR MORE DEFENDANT WAS A PARTY

CASE	USDC	ST	#	AT	BW	BAT	LGT	LOR	PM	RJR	CTR	TI	Oth.	BEG	END	Disposition
Smith v. B&W	W.D.	MO	96-0459-CV-W-3		x									1996		
Smith v. RJR	M.D.	FL	96-1702							x				1996		
Smithson v. RJR	M.D.	FL	96-2286							x				1996		
Sonnenreigh v. PM	S.D.	FL	96-0686-CIV-KING		x		LG	x	x					1996	1996	Dismissed, 5/29/96
Sparks v. AB	S.D.	TX	97-43 (Brownsville Div)	x AB	x	BATI		x	x	x			retailers	1996		
Stokes v. B&W	M.D.	FL	96-1718		x					x				1996		
Storms v. PM	M.D.	FL	96-1696		x				x					1996		
Strobl v. Lorillard	M.D.	FL	96-1700		x									1996		
Sutherland v. B&W	M.D.	PA	3:96-659		x					x			HHS Sec, US Surgeon General, FTC	1996		
Taylor v. RJR	M.D.	FL	96-1723							x				1996		

LIST OF SMOKING AND HEALTH CASES IN WHICH ONE OR MORE DEFENDANT WAS A PARTY

CASE	USDC	ST	#	AT	BW	BAT	LGT	LOR	PM	RJR	CTR	TI	Oth.	BEG	END	Disposition
Texas (State of) v. AT	E.D.	TX	5-96cv91	x	x	BATI	LG	x	PMI	x & RJR NA B	x	x	UST C H&K	1996	2000	Settled 1/98
Thompson v. AT	D.	MN	CV3-96-888	x AB	x	BAT US BAT USH		x Loew s Corp	PM PM C	x RJR N	x	x	US Toba cco, UST Inc.	1996		
Tipton v. RJR	S.D.	TX	97-178 (Corpus Christie Div)							x			retail er	1996		
Tremblay v. RJR	M.D.	FL	96-2291		x		LG			x				1996		
Tricocci v. RJR	M.D.	FL	96-2290							x				1996		
Tricomi v. B&W	M.D.	FL	96-1973		x				x	x				1996		
Unkel v. LG	M.D.	FL	96-1683				LG	x	x					1996		

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CASE	USDC	ST	#	AT	BW	BAT	LGT	LOR	PM	RJR	CTR	TI	Oth.	BEG	END	Disposition
Utah (State of) v. RJR	C.D.	UT	CV-0829W	x AB	x	BATI BAT US H, BAT, BAT H	LG L& M BG	x Loew s Corp	x PM C	x RJR N	x	x	Hill & Kno wlton , Britis h Amer ican Toba cco, Britis h- Amer ican Toba cco (Hold ings)	1996		
Vaquera v. AB	S.D.	TX	97-38 (McAllen Div)	x AB	x	BATI			x				retail ers	1996		
Vargas v. AB	S.D.	TX	97-158 (Corpus Christi Div)	x AB	x	BATI				x			retail er	1996		
Vega v. BATI	S.D.	TX	97-51 (Brownsv ille Div)		x	BATI			x	x			retail er	1996		

LIST OF SMOKING AND HEALTH CASES IN WHICH ONE OR MORE DEFENDANT WAS A PARTY

CASE	USDC	ST	#	AT	BW	BAT	LGT	LOR	PM	RJR	CTR	TI	Oth.	BEG	END	Disposition
Vickrey v. RJR	W.D.	LA	96-2612				LG			x	x	x	Hill & Knowlton, wholesaler, retailer	1996		
Villia v. B&W	M.D.	FL	96-1691		x		LG	x	x					1996		
Walchak v. B&W	M.D.	FL	96-2646		x			x		x				1996		
Wallis v. B&W	D.	ND	1:96-59		x					x				1996		
Weiffenbach v. PM	M.D.	FL	96-1690		x		LG	x	x	x				1996		
Whirley v. AB	S.D.	TX	97-9 (Corpus Christi Div)	x AB	x	BATI				x			retailers	1996		
White v. B&W	M.D.	FL	96-1695		x			x		x				1996		

LIST OF SMOKING AND HEALTH CASES IN WHICH ONE OR MORE DEFENDANT WAS A PARTY

CASE	USDC	ST	#	AT	BW	BAT	LGT	LOR	PM	RJR	CTR	TI	Oth.	BEG	END	Disposition
Williams v. B&W	E.D.	PA	96-3503	x	x		LG	x	x	x			Federal Bureau of Priso ns, priso n offici als	1996		
Wilson v. B&W	S.D.	WV	5:96-2029		x									1996		
Witherspoon v. PM		DC	96-02322											1996		Def's motion to dismiss granted in part and denied in part (5/2/97)
Wollaver v. PM	M.D.	PA	96-785						x					1996		
Wolpin v. PM	S.D.	FL	96-1781		x				PMI					1996	1999	Motion to dismiss and strike complaint denied (8/18/97)
Yost v. RJR	M.D.	FL	96-1698							x				1996		
Zakas v. RJR	M.D.	FL	96-2285				LG		x	x				1996		
Zarcone v. LG	M.D.	FL	96-2287				LG			x				1996		
Zito v. AT		NY	1109525- 96											1996		

LIST OF SMOKING AND HEALTH CASES IN WHICH ONE OR MORE DEFENDANT WAS A PARTY

CASE	USDC	ST	#	AT	BW	BAT	LGT	LOR	PM	RJR	CTR	TI	Oth.	BEG	END	Disposition
Abbott v. B&W	N.D.	OH	97-11975		x								Does	1997		
Akin v. RJR	N.D.	IL	1:97-3943							x				1997		
Aksamit v. B&W	D.	SC	6:97-3636-21	AB	x	x BATI BAT USH	L&M BG LG	x Loews Corp	x PM C	x RJR N	x	x	British-American Holdings Ltd.; USTC; UST Inc.	1997		
Alaniz v. PM	S.D.	TX	97-184 (McAllen Div)						x	x				1997		
Alvarado v. B&W	S.D.	TX	97-95 (Victoria Div)	x	x				x	x				1997		
Anderson v. AT	E.D.	TN												1997		
Anderson v. AT	E.D.	TN	3:97-441	x AB	x	x BATI BAT US BAT USH		x Loews Corp	x PM C	x RJR N	x	x	USTC; UST, Inc.; retailers	1997		

LIST OF SMOKING AND HEALTH CASES IN WHICH ONE OR MORE DEFENDANT WAS A PARTY

CASE	USDC	ST	#	AT	BW	BAT	LGT	LOR	PM	RJR	CTR	TI	Oth.	BEG	END	Disposition
Anyanwutaku v. B&W	D.	DC	97-177		x				x				DC; govt agencies & officials; prison officials; wholesaler	1997		
Ark-La-Miss Laborers v. PM	E.D.	LA	97-1944 and/or 97-2570	x	x	BATI	LG	x	x	x	x	x	the Smok eless Toba cco Coun cil	1997	1997	9/97 consolidated with Asbestos Workers Local 53 Health & Welfare
Arkansas Carpenters Health & Welfare Fund	E.D.	AK	LR-C-97-0754	x	x	BATI	LG	x	x	x	x	x	the Smok eless Toba cco Coun cil	1997		

LIST OF SMOKING AND HEALTH CASES IN WHICH ONE OR MORE DEFENDANT WAS A PARTY

CASE	USDC	ST	#	AT	BW	BAT	LGT	LOR	PM	RJR	CTR	TI	Oth.	BEG	END	Disposition
Asbestos Workers Local 53 v. PM (consolidated with Ark-La-Miss 9/97)	E.D.	LA	97-1944 and 97-2570	x	x	BATI		x	x	x	x	x	UST C; the Smok eless Toba cco Coun cil; Hill & Kno wlton ; Does	1997		

LIST OF SMOKING AND HEALTH CASES IN WHICH ONE OR MORE DEFENDANT WAS A PARTY

CASE	USDC	ST	#	AT	BW	BAT	LGT	LOR	PM	RJR	CTR	TI	Oth.	BEG	END	Disposition
Azorsky v. RJR	W.D.	PA	97-1483	x	x		LG	x	x	x			The U.S. Arme d Force s; Reser ve and Natio nal Guar d; Dept of Defe nse; USA	1997		

LIST OF SMOKING AND HEALTH CASES IN WHICH ONE OR MORE DEFENDANT WAS A PARTY

CASE	USDC	ST	#	AT	BW	BAT	LGT	LOR	PM	RJR	CTR	TI	Oth.	BEG	END	Disposition
B.A.C Local 32 v. PM	E.D.	MI	97-75675	x	x	x BATI	L& M	x	x	x	x	x	UST C; the Smok eless Toba cco Coun cil; Hill & Kno wlton ; Britis h Indus tries; Does	1997		
Badillo v. AT	D.	NV	CV-N-97- 573- DWH (RAM)	x AB	x	BAT US BAT US H	L& M LG BG	x Loew s Corp	x PM C	x RJR N		x	UST C; UST, Inc.; Dosal Toba cco	1997		

LIST OF SMOKING AND HEALTH CASES IN WHICH ONE OR MORE DEFENDANT WAS A PARTY

CASE	USDC	ST	#	AT	BW	BAT	LGT	LOR	PM	RJR	CTR	TI	Oth.	BEG	END	Disposition
Badon v. RJRN	W.D.	LA	98-215	x AB		BATI	L& M		x PM C	RJR N	x	x	Hill & Kno wlton ; whol esaler s	1997		
Ball v. PM	S.D.	WV	2:97-867		x				x	x				1997		
Beckom v. AT	E.D.	TN	3:97-436	x AB	x	x BATI BAT US BAT US H	LG L& M BG	x Loew s Corp	x PM C	x RJR N	x	x	UST C; UST, Inc.; whol esaler s	1997		
Beddow v. PM	S.D.	WV	6:97-756		x	BATI	L& M LG BG		x	x	x	x		1997		
Begley v. RJR	M.D.	FL	97-1708						x	x				1997		
Bird v. AT	E.D.	LA	97-1149	x			LG	x	x PM C	x RJR N				1997	1999	Dismissed 6/22/99

LIST OF SMOKING AND HEALTH CASES IN WHICH ONE OR MORE DEFENDANT WAS A PARTY

CASE	USDC	ST	#	AT	BW	BAT	LGT	LOR	PM	RJR	CTR	TI	Oth.	BEG	END	Disposition
Birmingham (City of) v. AT	N.D.	AL	97-1449-S	x	x	BAT US	LG L& M BG	x Loew s Corp	x PM C	x RJR N	x	x	Fortune Brands; Hill & Kno wlton ; Gene ric Produ cts Corp oratio n; Does	1997	1998	Dismissed 3/9/98
Blackburn v. RJR	N.D.	CA	3:97-4439							x				1997		

LIST OF SMOKING AND HEALTH CASES IN WHICH ONE OR MORE DEFENDANT WAS A PARTY

CASE	USDC	ST	#	AT	BW	BAT	LGT	LOR	PM	RJR	CTR	TI	Oth.	BEG	END	Disposition
Brammer v. RJR	S.D.	IA	4:97-90461 or 10461 (Central Div)	x AB	x	x BATI BAT US H	LG L& M BG	x Loew s Corp	x PM C	x RJR N	x	x	Britis h Amer ican (Hold ings) Ltd.; UST C; UST, Inc.; Hill & Kno wlton	1997		
Brown v. RJR	N.D.	AL	97-1448							x				1997		
Bush v. PM	E.D.	TX	5:97-180 (Texarkan a Div)	x			L& M LG BG	x	x	x	x	x		1997		
Carpenters & Joiners Welfare Fund v. PM	D.	MN	60,633-001 or 98-515JMR	x	x	x BATI	LG	x	x	x	x	x	BAT (U.K. & Expo rt) Limit ed	1997		

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CASE	USDC	ST	#	AT	BW	BAT	LGT	LOR	PM	RJR	CTR	TI	Oth.	BEG	END	Disposition
Cavigliano v. B&W	D.	NJ	97-4705		x								B&W offici als; priso n offici als	1997	1999	Dismissed 12/2/99
Central States Joint Board H&W Fund v. PM	N.D.	IL	97L12855 97c8114						x					1997	1998	Court granted def's motion to dismiss 12/98
Central Illinois Laborers H&W Trust Fund v. PM	S.D.	IL	97-CV- 568-WDS						x					1997		

LIST OF SMOKING AND HEALTH CASES IN WHICH ONE OR MORE DEFENDANT WAS A PARTY

CASE	USDC	ST	#	AT	BW	BAT	LGT	LOR	PM	RJR	CTR	TI	Oth.	BEG	END	Disposition
Central States v. PM	N.D.	IL	97-8114	x	x	BATI	L&M	x	x	x	x	x	USTC; the Smokeless Tobacco Council; Hill & Knowlton; Republic Trust Management; wholesalers	1997		
Chapman v. B&W	N.D.	OH	5:97-657		x	BAT USH BAT US		x			x	x		1997		

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CASE	USDC	ST	#	AT	BW	BAT	LGT	LOR	PM	RJR	CTR	TI	Oth.	BEG	END	Disposition
Chark v. RJRN H	N.D.	IL	98-889							x RJR NH RJR N			RJR Intern ation al; Nabis co Holdi ngs Corp	1997		
Cheeseman v. B&W	M.D.	FL	97-506		x				x	x				1997		
Clay v. AT	S.D.	IL	97-4167- JPG	x AB	x	BATI BAT US BAT US H		x	x PM C	x RJR N	x	x	UST C; UST, Inc.	1997		
Cole v. TI	E.D.	TX	1:97CV25 6 (Beaumont Div)	x	x	BATI	LG Inc.	x	PMI	x & Inc. Co.	x	x	UST C	1997	2002	

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CASE	USDC	ST	#	AT	BW	BAT	LGT	LOR	PM	RJR	CTR	TI	Oth.	BEG	END	Disposition
Connecticut Pipe Trades Health Fund v. PM	D.	CT	3:97-1305	x	x	BATI	L&M	x	x	x	x	x	USTC; the Smokeless Tobacco Council; Hill & Knowlton	1997		
Cook (County of) v. PM	N.D.	IL	97 C 3295						x					1997		Def's moved action from circuit court.
Cook v. TI	N.D.	OH	5:97-656							x	x	x	Does	1997		
Costello v. B&W	M.D.	FL	97-502		x									1997		
Coulbourn v. Lorillard	D.	RI	97-362					x		x				1997		
Crane v. AT	S.D.	NY	106202-97	x										1997		
Criss v. PM	N.D.	OH	5:98-278 (Eastern Div)						x				Does	1997		

LIST OF SMOKING AND HEALTH CASES IN WHICH ONE OR MORE DEFENDANT WAS A PARTY

CASE	USDC	ST	#	AT	BW	BAT	LGT	LOR	PM	RJR	CTR	TI	Oth.	BEG	END	Disposition
Crooke v. RJR	N.D.	GA	97-6261275		x					x			retailers	1997		
Daley v. AB	N.D.	IL	97L07963	AB										1997		
Davis v. RJR	S.D.	IA	4:97-10753 (Central Div)	x AB	x	x BATI BAT US H				x RJR N			BAT H	1997		
Day Care Council Local 205 DC 1707 Welfare Fund v. PM	S.D.	NY	97-606240						x					1997		
DeLaRosa v. PM		PR	97-1335						x	x			Doe	1997		

LIST OF SMOKING AND HEALTH CASES IN WHICH ONE OR MORE DEFENDANT WAS A PARTY

CASE	USDC	ST	#	AT	BW	BAT	LGT	LOR	PM	RJR	CTR	TI	Oth.	BEG	END	Disposition
Denberg v. AB	N.D.	IL	97-8641	x AB	x	x BATI BAT US BAT US H	LG L& M BG	x Loew s Corp	x PM C	x RJR N	x	x	Hill & Kno wlton ; the Smok eless Toba cco Coun cil; UST C; UST, Inc.; whol esaler s	1997		
Deniscevich v. B&W	D.	RI	97-700		x									1997		
Dickerson v. B&W	S.D.	TX	97-592 (Corpus Christi Div)	x	x				x	x				1997		
Dienno v. Liggett (consolidated w/Badillo 12/98)	D.	NV					x							1997		

LIST OF SMOKING AND HEALTH CASES IN WHICH ONE OR MORE DEFENDANT WAS A PARTY

CASE	USDC	ST	#	AT	BW	BAT	LGT	LOR	PM	RJR	CTR	TI	Oth.	BEG	END	Disposition
DiEnno v. LG	N.D.	NV	98-489	x	x	x BATI BAT US H	LG L& M BG	x	x	x	x	x	whol esaler s	1997		
Dieste v. PM	E.D.	TX	5:97-117 (Texarkan a Div)	x	x		LG L& M BG	x	x	x	x	x		1997		
Doyle v. RJR	W.D.	TX	97-247 (Austin Div)				LG			x				1997		
Durkin v. PM	M.D.	PA	97-887						x					1997		
Eastern States H&W Fund v. PM	S.D.	NY	97cv7346						x					1997		
Emig v. AT	D.	KS	97-1121- MLB	x AB	x	x BATI BAT US BAT US H	LG L& M BG	x Loew s Corp	x PM C	x RJR N	x	x	UST C; UST, Inc.	1997	1998	P's motion for class cert. denied 12/98
Encinia v. PM	S.D.	TX	97-183 (McAllen Div)						x	x				1997		
Erler v. PM	S.D.	CA	98-138						x					1997		
Ernst v. PM		RI	97-414		x				x					1997		

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CASE	USDC	ST	#	AT	BW	BAT	LGT	LOR	PM	RJR	CTR	TI	Oth.	BEG	END	Disposition
Estivo v. RJR	M.D.	FL	97-505				LG		x	x				1997		
Falise (trustees of Manville Trust) v. AT	E.D.	NY	CV 97-7640(JBW) CV 97-7658(JBW) 98 CV 675 (JBW (Queens Div))	x	x	BATI	LG	x	x	x				1997		Motion to dismiss denied, w/leave to amend in form of summary judgment
Fernandez-Martinez v. RJR	M.D.	FL	97-158		x				x	x	x	x	retailer	1997	1999	Dismissed 4/29/99
Fibreboard Corp. v. AT	N.D.	CA	97-4439	x	x	BATI	LG	x	x	x			Does	1997		
Frank v. AT	E.D.	LA	97-3054	x	x				x PM C				insurance companies	1997	1999	Dismissed 11/4/99
Fuller v. Liggett	M.D.	PA	3:97-726				x			x				1997		
Fuller v. Liggett	M.D.	NC	1:97-895 (transferred from M.D. PA 3:97-726 above)				x			x				1997		

LIST OF SMOKING AND HEALTH CASES IN WHICH ONE OR MORE DEFENDANT WAS A PARTY

CASE	USDC	ST	#	AT	BW	BAT	LGT	LOR	PM	RJR	CTR	TI	Oth.	BEG	END	Disposition
Garza v. B&W	S.D.	TX	97-217 (McAllen Div)		x					x				1997		
Ghazhrian v. PM	E.D.	CA	97-6161						x				Does	1997		

LIST OF SMOKING AND HEALTH CASES IN WHICH ONE OR MORE DEFENDANT WAS A PARTY

CASE	USDC	ST	#	AT	BW	BAT	LGT	LOR	PM	RJR	CTR	TI	Oth.	BEG	END	Disposition
Gonzales v. B&W	D.	PR	3:97cv01 910	AB	x	BAT US BAT CO BATI	L& M LG	x Tob. Inc.	PMI PM C	RJR NA B	x	x	Covi ngton & Burli ng/ Jacob , Medi nger & Finne gan/C hadb ourne & Parke /Shoo k Hard y/Bro oke Hard y Ltd./ Loew s/US TC	1997	1998	
Goodpasture v. AT	D.	KS			x									1997	1998	Voluntarily dismissed w/o prejudice 2/98

LIST OF SMOKING AND HEALTH CASES IN WHICH ONE OR MORE DEFENDANT WAS A PARTY

CASE	USDC	ST	#	AT	BW	BAT	LGT	LOR	PM	RJR	CTR	TI	Oth.	BEG	END	Disposition
Guinto v. PM	D.	MA	97-12527						x					1997		
H.K. Porter Co. v. BATI	E.D.	NY	97-7658 (Queens Div)			BATI			x	x			Does	1997		
Habib v. RJR			97-30960		x		LG	x	x	x	x	x	retailer	1997		
Hagadorn v. PM		MN	97-1169						x					1997		
Haskin v. RJR	M.D.	FL	97-445-civ-ORL-18B		x				x	x	x	x	retailer	1997	1999	Dismissed 4/29/99
Hawaii H&W Trust Fund for Operating Engineers v. PM	D.	HI	97-833SPK	x	x	BATI	LG	x	x	x	x	x	Hill & Knowlton	1997	1999	Def's motion to dismiss granted 1/99
Henry v. B&W	M.D.	FL	97-500		x					x				1997		
Hilling v. B&W	N.D.	OH	5:97-1979		x								Does	1997		
Hollar v. PM	N.D.	OH	1:97-667						x	x	x	x	industrial companies; Does	1997		Motion to dismiss granted in part and denied in part (7/7/98) Fraud, misrepresentation & conspiracy claims not barred.

LIST OF SMOKING AND HEALTH CASES IN WHICH ONE OR MORE DEFENDANT WAS A PARTY

CASE	USDC	ST	#	AT	BW	BAT	LGT	LOR	PM	RJR	CTR	TI	Oth.	BEG	END	Disposition
Hyde v. PM	D.	RI	C.A. 97-359-ML						x					1997	2002	Verdict for Defendant 3/21/02
IBEW Local 25 Health & Benefit Fund v. PM	S.D.	NY	97-9395 or 97-9396						x					1997		
Insolia v. PM	W.D.	WI	97-347		x	BATI	LG	x	x	x	x	x	Hill & Knowlton	1997		P's motion for class certification denied 12/98 Motion to dismiss for lack of pers. jurisdiction granted 12/14/98. Summary judgment for def. 5/19/99 on 4 counts. Def. ordered to inform ct by 6/3/99 on whether they intend to move for summary judgment on final count (nicotene manipulation)

LIST OF SMOKING AND HEALTH CASES IN WHICH ONE OR MORE DEFENDANT WAS A PARTY

CASE	USDC	ST	#	AT	BW	BAT	LGT	LOR	PM	RJR	CTR	TI	Oth.	BEG	END	Disposition
Int'l Brotherhood of Teamsters, Local 734 H&W Trust Fund v. PM	N.D.	IL	97 C 8113 97 C 8114						x					1997	1998	Court granted def's motion to dismiss for failure to state a claim, 1/98
Int'l Union of Oper. Engineers Local 132 (formerly WV Laborers) v. PM	S.D.	WV	3:97-708	x	x	BATI	LG	x	x	x	x	x	the Smok eless Toba cco Coun cil	1997		P's motion to drop class allegations granted 1/99
Iowa Laborers District Council H&W Fund v. PM	S.D.	IA							x					1997	1997	Voluntarily dismissed w/o prejudice 9/97

LIST OF SMOKING AND HEALTH CASES IN WHICH ONE OR MORE DEFENDANT WAS A PARTY

CASE	USDC	ST	#	AT	BW	BAT	LGT	LOR	PM	RJR	CTR	TI	Oth.	BEG	END	Disposition
Iron Workers Local Union 17 Insurance Fund v. PM	N.D.	OH	1:97-1422 (Eastern Division)	x	x	x BATI	LG	x	x	x RJR N, RJR N H	x	x	UST C Sales & Mark eting; Hill & Kno wlton ; the Smok eless Toba cco Coun cil	1997	1999	Judgment for def 3/22/99. Motion to set aside verdict denied 5/11/99
Jackson v. RJR	W.D.	TX	97-594 (Austin Div)	x	x				x	x				1997		
Jackson v. B&W	M.D.	LA	97-631	x	x			x	x	x			UST C; whol esaler s	1997		

LIST OF SMOKING AND HEALTH CASES IN WHICH ONE OR MORE DEFENDANT WAS A PARTY

CASE	USDC	ST	#	AT	BW	BAT	LGT	LOR	PM	RJR	CTR	TI	Oth.	BEG	END	Disposition
Jackson v. B&W	W.D.	LA	97-441		x			x	x	x			UST C; whol esaler s	1997		
Jones v. AT	N.D.	OH	5:97cv05 93, 5:97c059 4	x					x	x			Does	1997		
Kaefer-Millus v. USTC	N.D.	CA	C 97- 2144 VRW											1997		
Kennon v. B&W	M.D.	LA	443708	x	x		LG	x	x	x			UST C	1997	1999	Dismissed 3/11/99
Kentucky Laborers Dist. Council H&W Trust Fund v. Hill & Knowlton	W.D.	KY	3:97-394	x	x	BATI	LG	x	x	x	x	x	Hill & Kno wlton ; the Smok eless Toba cco Coun cil	1997		

LIST OF SMOKING AND HEALTH CASES IN WHICH ONE OR MORE DEFENDANT WAS A PARTY

CASE	USDC	ST	#	AT	BW	BAT	LGT	LOR	PM	RJR	CTR	TI	Oth.	BEG	END	Disposition
Kirksey v. RJR	N.D.	IL	98-1927					x		x				1997		Dismissed for failure to state a claim Aff'd by USCA
Klinge v. PM	S.D.	TX	97-466 (Corpus Christi Div)						x	x				1997		
Knowles v. AT	E.D.	LA	97-2365	x AB	x	BAT US BAT US H		x Loew s Corp	x	x RJR N		x	UST C; UST, Inc.; whol esaler s; retail ers	1997	1998	Voluntarily dismissed w/o prejudice 12/98
Kulaga v. RJR	M.D.	FL	97-1710		x			x	x	x				1997		
Laborers & Operating Engineers Utility Agreement for Arizona v. PM	D.	AZ	97-1406	x	x	BATI	LG	x	x	x	x	x	Hill & Knowlton	1997	1999	Court granted defendant's motion to dismiss for failure to state a claim, 2/99

LIST OF SMOKING AND HEALTH CASES IN WHICH ONE OR MORE DEFENDANT WAS A PARTY

CASE	USDC	ST	#	AT	BW	BAT	LGT	LOR	PM	RJR	CTR	TI	Oth.	BEG	END	Disposition
Laborers Local 17 Health & Benefit Fund v. PM	S.D.	NY	97-4550 and/or 97-4676-SAS-MHD	x	x	BATI	L&M	x	x	x	x	x	USTC; the Smok eless Toba cco Coun cil; Hill & Kno wilton	1997		Dismissed in part 3/25/98. USCA reversed & remanded w/instructions to dismiss. Case dismissed as to foreign holding company (BAT) for lack of pers. juris. 8/27/98.
LaTona v. Lorillard	M.D.	FL	97-497		x			x						1997		
Latronica v. B&W	N.D.	OH	1:97-161	x	x					x			Does	1997		
Lawrence v. B&W	D.	KS	97-4221	x	x	BAT USH BAT US		x		x				1997		
Lewis v. AB	S.D.	TX	97-60 (McAllen Div)	x AB	x	BATI				x				1997		
Local 138, 138A & B Int'l Union of Oper. Engineers Welfare Fund v. PM	S.D.	NY	97-9402						x					1997		

LIST OF SMOKING AND HEALTH CASES IN WHICH ONE OR MORE DEFENDANT WAS A PARTY

CASE	USDC	ST	#	AT	BW	BAT	LGT	LOR	PM	RJR	CTR	TI	Oth.	BEG	END	Disposition
Local 840 Int'l Brotherhood of Teamsters Health & Insur. Fund v. PM	S.D.	NY	97civ9398						x					1997		
Local 1199 Home Care Industry Benefit Fund v. PM	S.D.	NY	97cv9401						x					1997		
Lopez v. B&W	S.D.	TX	97-296		x				x	x				1997		
Lopez v. PM	S.D.	TX	97-3281 (Houston Div)						x					1997		
Lopez v. B&W	S.D.	TX	97-467 (Corpus Christi Div)	x	x				x	x				1997		
Lyons v. B&W	N.D.	GA	1:97-1850	x AB	x	BAT US BAT US H		x Loew s Corp	x PM C	x RJR N	x	x	UST C; UST, Inc.; forme r R.J. Reyn olds execu tive; whol esaler s	1997	1998	Voluntarily dismissed w/o prejudice 12/98

LIST OF SMOKING AND HEALTH CASES IN WHICH ONE OR MORE DEFENDANT WAS A PARTY

CASE	USDC	ST	#	AT	BW	BAT	LGT	LOR	PM	RJR	CTR	TI	Oth.	BEG	END	Disposition	
Maldonado v. BGLS	S.D.	TX	97-437 (Corpus Christi Div)	x	x		LG L& M BG BG LS		x	x				1997			
Manos v. B&W	N.D.	OH	1:97-365	x	x								Does	1997			
Marheski v. PM	M.D.	PA	97-880						x					1997			
Marshall Islands (Citizens of the Republic of) v. AT	D.	HI	97-846	x	x			x	x PM C	x	x	x	UST C; UST, Inc.	1997			
Mason v. AT	N.D.	TX	7:97-293	x	x		LG L& M BG	x	x	x			UST C	1997	1999	Def's motion to dismiss for failure to state a claim denied, 1/99	
Massachusetts Laborers H&W Fund v. PM	D.	MA	97-11552-GAO		x	BATI	LG	x	x	x		x	Hill & Knowlton ; wholesalers	1997			
McCauley v. B&W	N.D.	GA	1:97-1744		x			x	x	x	x	x		1997			

LIST OF SMOKING AND HEALTH CASES IN WHICH ONE OR MORE DEFENDANT WAS A PARTY

CASE	USDC	ST	#	AT	BW	BAT	LGT	LOR	PM	RJR	CTR	TI	Oth.	BEG	END	Disposition
McGuinness v. PM	M.D.	FL	97-503				LG		x	x				1997		
Messer v. RJR	D.	MA	97-30159						x	x				1997		
Mittelhauser v. Lorillard	M.D.	FL	97-499		x			x						1997		
Moore v. AT	D.	KS		x										1997	1998	Voluntarily dismissed w/o prejudice 2/98
Morgan v. B&W	M.D.	FL	97-1708		x									1997		
Mosley v. PM	S.D.	AL												1997		
Muchnick v. PM	S.D.	FL	97-6570						x					1997		
New York (State of) v. PM	S.D.	NY	97 CIV. 794 (LMM)						x					1997	1998	remanded to state (1/5/98)
New York (City of) v. TI	S.D.	NY	97 CIV. 904 (LMM)									x		1997		P's motion to remove action back to state court granted (12/5/97)

LIST OF SMOKING AND HEALTH CASES IN WHICH ONE OR MORE DEFENDANT WAS A PARTY

CASE	USDC	ST	#	AT	BW	BAT	LGT	LOR	PM	RJR	CTR	TI	Oth.	BEG	END	Disposition
New Jersey Carpenters Health Fund v. PM		NJ	CIV.A. 97-4728 (MTB) or 97-1728	x	x	BATI	L&M	x	x	x	x	x	USTC; the Smok eless Toba cco Coun cil; Hill & Kno wlton	1997		Motion to dismiss granted in part & denied in part (8/26/98)
Newborn v. B&W	W.D.	TN	97-2938		x		LG	x	x	x	x	x	USTC	1997		
Newborn v. B&W	W.D.	TX			x									1997	1999	Dismissed 9/16/99
Northwest Laborers-Employers v. PM	W.D.	WA	97-849	x	x	BATI , BAT CO	L&M	x	PMI	x	x	x	USTC, Smok eless TRC, H&K	1997	1999	Court certified class 11/97. Def's motion to dismiss for judgment on pleadings denied 2/98. Trial scheduled for 9/99

LIST OF SMOKING AND HEALTH CASES IN WHICH ONE OR MORE DEFENDANT WAS A PARTY

CASE	USDC	ST	#	AT	BW	BAT	LGT	LOR	PM	RJR	CTR	TI	Oth.	BEG	END	Disposition
Nwanze v. PMC	S.D.	NY	97-7344 (LBS)		x	BAT US	LG L& M	x Loew s Corp	x PM C	x RJR N				1997		Motion to file amended complaint granted 5/10/99
O'Connor v. PM	S.D.	TX	97-437 (Corpus Christi Div)						x	x				1997		
Operating Engineers Local 12 H&W Trust v. AT	C.D.	CA	BC17796 8	x										1997		
Operating Engineers Local 324 Health Care Fund v. PM	E.D.	MI							x					1997		
Oppermann v. AT	D.	CO	97-2731	x										1997		
Oregon Laborers-Employers H&W Trust Fund v. PM	D.	OR	97-1051	x	x	x	LG	x	x	x	x	x	UST C; the Smok eless Toba cco Coun cil; Hill & Kno wlton	1997		Motion for judgment on pleadings granted 8/24/98. Trial scheduled for 1/99.

LIST OF SMOKING AND HEALTH CASES IN WHICH ONE OR MORE DEFENDANT WAS A PARTY

CASE	USDC	ST	#	AT	BW	BAT	LGT	LOR	PM	RJR	CTR	TI	Oth.	BEG	END	Disposition
Oser v. AT	E.D.	LA	97-1902	x										1997		
Persley v. B&W	C.D.	CA	97-2696		x									1997		
Peterson v. AT	D.	HI												1997		
Phillips v. PM	S.D.	AL	98-133 (Southern Div)		x				x PM C				whol esaler s; Does	1997		
Puerto Rican Ilgwu H&W Fund v. PM	S.D.	NY	97cv9396						x					1997		
Pukancek v. RJR	M.D.	FL	97-2167							x				1997		
Pukancek v. PM	M.D.	FL	97-6167						x					1997		
Quintanilla v. BGLS	S.D.	TX	97-494 (Corpus Christi Div)	x	x		LG L& M BG BG LS	x	x	x				1997		
Ralston v. B&W		KS	97-4174		x	BAT US BAT US H								1997		
Ramirez v. RJR	M.D.	FL	97-504						x	x				1997		

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CASE	USDC	ST	#	AT	BW	BAT	LGT	LOR	PM	RJR	CTR	TI	Oth.	BEG	END	Disposition
Ramon v. B&W	S.D.	TX	97-164 (McAllen Div)		x				x	x				1997		
Raymark Industries v. RJR	N.D.	FL	97-1245		x	BAT US H	LG	x Loew s Corp	x	x RJR N	x	x	UST C; Hill & Kno wlton	1997		
Raymark Industries Inc. v. B&W	N.D.	GA	97CV027 11		x	BAT US	LG	x & LOR INC Loew s Corp.	PMI	RJR & RJR N	x	x	Loew 's Grou p H&K	1997	1998	
Reid v. AT	M.D.	LA	97-680	x	x				x				whol esaler	1997		
Rhode Island Laborers' H&W Fund v. AT		RI	97-500L	x	x	BATI	L& M	x	x	x	x	x	UST C; Hill & Kno wlton ; Does	1997		

LIST OF SMOKING AND HEALTH CASES IN WHICH ONE OR MORE DEFENDANT WAS A PARTY

CASE	USDC	ST	#	AT	BW	BAT	LGT	LOR	PM	RJR	CTR	TI	Oth.	BEG	END	Disposition
Rimmer v. B&W	S.D.	TX	97-368 (Corpus Christi Div)	x	x				x	x				1997		
Robbins v. RJR	M.D.	FL	97-1711					x		x				1997		
Rogers v. B&W	M.D.	AL	97-511		x				x				Repu blic Toba cco; whol esaler ; Alaba ma Dept of Corre ctions ; priso n offici als	1997		
Roitenberg v. PM		MN	Not Available						x					1997		

LIST OF SMOKING AND HEALTH CASES IN WHICH ONE OR MORE DEFENDANT WAS A PARTY

CASE	USDC	ST	#	AT	BW	BAT	LGT	LOR	PM	RJR	CTR	TI	Oth.	BEG	END	Disposition
Rossello v. B&W	D.	PR	97-1910	AB	x	x BATI BAT US H	LG L& M BG	x Loew s Corp	x PM C	x RJR N	x	x	UST C; UST, Inc.; Shoo k, Hard y & Baco n; Chad bourn e & Parke ; Covi ngton & Burli ng; Does	1997		
Russell v. PM	M.D.	FL	97-1144						x	x	x	x	retail er	1997		
Russell v. B&W	S.D.	WV	3:97-869		x									1997		
Russo v. RJR	N.D.	OH	4:98-71 (Eastern Div)							x			Does	1997		

LIST OF SMOKING AND HEALTH CASES IN WHICH ONE OR MORE DEFENDANT WAS A PARTY

CASE	USDC	ST	#	AT	BW	BAT	LGT	LOR	PM	RJR	CTR	TI	Oth.	BEG	END	Disposition
Saenz v. B&W	S.D.	TX	97-270 (Corpus Christi Div)	x	x				x	x			John Middleton, Inc.	1997		
Samuels v. Lorillard	M.D.	FL	97-501		x			x	x					1997		
Sanchez v. L&M	S.D.	TX	97-301		x	x BAT US H	LG L& M BG	x	x	x	x	x	UST C; Hill & Knowlton; Shook, Hardy & Bacon; retailers	1997		
Sanders v. RJR	M.D.	LA	97-636							x			wholesaler	1997		

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CASE	USDC	ST	#	AT	BW	BAT	LGT	LOR	PM	RJR	CTR	TI	Oth.	BEG	END	Disposition
Seafarers Welfare Plan & United Indus. Workers Welfare Plan v. PM	D.	MD	97-2127-MJG	x	x	BATI	LG	x	x	x	x	x	the Smok eless Toba cco Coun cil; Hill & Kno wlton ; UST C	1997	1998	Dismissed for failure to state a claim (7/13/98)
Selcer v. RJR	D.	NV	97-334	x	x	BATI	LG BG	x Loew s Corp	x	x	x	x	BAT US Toba cco Servi ces; Does	1997		
Shubert v. RJR	E.D.	PA	97-5658							x				1997		
Smith v. B&W	D.	DC	97-2711-DAR		x				PMI	x			retail er	1997	2000	Motion to dismiss granted in part & denied in part (5/19/98) Fraud claims not barred by stat of limit

LIST OF SMOKING AND HEALTH CASES IN WHICH ONE OR MORE DEFENDANT WAS A PARTY

CASE	USDC	ST	#	AT	BW	BATI	LGT	LOR	PM	RJR	CTR	TI	Oth.	BEG	END	Disposition
Solis v. B&W	S.D.	TX	97-84 (Victoria Div)	x	x				x	x				1997		
Soto v. B&W	S.D.	TX	97-210 (McAllen Div)	x	x				x	x				1997		
Southeast Florida Laborers Dist. Council H&W Trust Fund v. PM	S.D.	FL	97-8715- RYSKA MP	x	x	BATI	L& M	x	x	x	x	x	UST C; the Smok eless Toba cco Coun cil; Hill & Kno wlton	1997		
St. Martin v. PM	E.D.	LA	Civ.A. 97-148						x					1997		
Stationary Engineers Local 39 H&W Trust Fund v. PM	N.D.	CA	97-1519 DLJ	x	x	BATI	LG	x	x	x	x	x	Hill & Kno wlton	1997		Motion to dismiss granted in part, denied in part

LIST OF SMOKING AND HEALTH CASES IN WHICH ONE OR MORE DEFENDANT WAS A PARTY

CASE	USDC	ST	#	AT	BW	BAT	LGT	LOR	PM	RJR	CTR	TI	Oth.	BEG	END	Disposition
Steamfitters Local 420 Welfare Fund v. PM	E.D.	PA	97-5344	x	x	BATI	L& M	x	x	x	x	x	UST C; the Smok eless Toba cco Coun cil; Hill & Kno wlton	1997		Dismissed Affirmed by USCA
Steele v. B&W	W.D.	MO	97-961		x					x				1997	1999	Verdict for Defendant 5/13/99
Stephens v. PM	S.D.	WV	2:97-868		x		L& M LG BG		x					1997		
Stern v. LG	S.D.	NY	97-1175	x AB	x	BATI	LG BG	x	x PM C	x	x	x	Hill & Kno wlton ; UST C	1997		

LIST OF SMOKING AND HEALTH CASES IN WHICH ONE OR MORE DEFENDANT WAS A PARTY

CASE	USDC	ST	#	AT	BW	BAT	LGT	LOR	PM	RJR	CTR	TI	Oth.	BEG	END	Disposition
Taylor v. AT	E.D.	Mich	97-40224	x										1997		Def's moved to federal court & P's motion to remand granted (11/3/97)
Teamsters Local 734 v. PM	N.D.	IL	97-8113	x	x	BATI	L&M	x	x	x	x	x	UST C; the Smokeless Tobacco Council; Hill & Knowlton; Republic Tobacco; wholesalers	1997		
Teamsters Union 142 v. PM	N.D.	IN	3:97cv00667RM						x					1997		

LIST OF SMOKING AND HEALTH CASES IN WHICH ONE OR MORE DEFENDANT WAS A PARTY

CASE	USDC	ST	#	AT	BW	BAT	LGT	LOR	PM	RJR	CTR	TI	Oth.	BEG	END	Disposition
Texas Carpenters Health Benefit Fund v. PM	E.D.	TX	1:97-625 (Beaumont Div)	x	x	BATI	LG	x	x	x	x	x	USTC; the Smokeless Tobacco Council; Hill & Knowlton	1997	1998	Dismissed 8/31/98 lack of proximate cause
Thomas v. RJR	S.D.	MS	5:97cv14-BrS							x				1997		
Thomas v.AT	M.D.	GA	5:97-cv-488-1 (WDO)	x										1997		
Thomas v. AT	E.D.	MI	97-73927	x AB	x	BATI BAT US BAT US H	LG BG	x Loew s Corp	x PM C	x RJR N	x	x	USTC; wholesalers	1997		
Tidwell v. RJR	M.D.	FL	97-498							x				1997		
Tuggle v. B&W	N.D.	FL	97-2983 (Tampa Div)		x				x	x			retailer	1997		

LIST OF SMOKING AND HEALTH CASES IN WHICH ONE OR MORE DEFENDANT WAS A PARTY

CASE	USDC	ST	#	AT	BW	BAT	LGT	LOR	PM	RJR	CTR	TI	Oth.	BEG	END	Disposition
United Federation of Teachers v. PM	S.D.	NY	97-4676	x	x	BATI	L&M	x	x	x	x	x	USTC; the Smokeless Tobacco Council; Hill & Knowlton	1997		
United Food & Commercial Workers v PM	N.D.	AL	97-3351	x	x	BATI	L&M	x	x	x	x	x	USTC; the Smokeless Tobacco Council; Hill & Knowlton; wholesalers	1997		

LIST OF SMOKING AND HEALTH CASES IN WHICH ONE OR MORE DEFENDANT WAS A PARTY

CASE	USDC	ST	#	AT	BW	BAT	LGT	LOR	PM	RJR	CTR	TI	Oth.	BEG	END	Disposition
United Food & Commercial Workers Unions & Employers H&W Fund v. PM	N.D.	AL	CV-97-1340						x					1997	1997	Ex parte order granting conditional class certification 12/97
University of South Alabama v. AT	S.D.	AL	97-05520B H-S	x										1997		AG's motion to dismiss on ground that univ. lacked authority granted
Unpingco v. AT	D.	GU	97-42	x	x			x	x PM C	x	x	x	UST C; UST, Inc.	1997		
VanDavis v. PM	S.D.	TX	96-782						x	x				1997		
Vogel v. B&W	S.D.	TX	97-186 (McAllen Div)	x	x				x					1997		
Wade v. BGLS	S.D.	TX	97-491 (Corpus Christi Div)				LG L& M BG BG LS			x				1997		
Wakeland v. B&W	S.D.	AL	97-1091 (Southern Div)	x	x			x	x PM C	x RJR N			retail ers; Does	1997		

LIST OF SMOKING AND HEALTH CASES IN WHICH ONE OR MORE DEFENDANT WAS A PARTY

CASE	USDC	ST	#	AT	BW	BAT	LGT	LOR	PM	RJR	CTR	TI	Oth.	BEG	END	Disposition
Walker v. LG	S.D.	WV	2:97-102				LG L& M							1997	1998	Settlement agreement approved 12/8/98
Walls v. AT	N.D.	OK	97-218-H	x	x			x	x PM C	x	x	x	UST C; UST, Inc.	1997		
Walters v. B&W	S.D.	TX	97-175 (McAllen Div)	x	x				x	x				1997		
Weingarten v. Liggett	W.D.	VT												1997		
West Virginia Laborers Pension Trust Fund v. PM	S.D.	WV	3:97-0708											1997		Motion to dismiss denied (8/12/98)

LIST OF SMOKING AND HEALTH CASES IN WHICH ONE OR MORE DEFENDANT WAS A PARTY

CASE	USDC	ST	#	AT	BW	BAT	LGT	LOR	PM	RJR	CTR	TI	Oth.	BEG	END	Disposition
West Virginia–Ohio Valley IBEW v. AT	S.D.	WV	2:97-0978 and/or 97-C-2135	x AB	x	x BAT US H	BG L& M LG	Loew s Corp	x PM C	x RJR N	x	x	Hill & Kno wlton ; UST C; UST C Sales and Mark eting; UST, Inc; whol esaler s; Does	1997		Motion to dismiss denied
Whelan v. B&W	M.D.	FL	97-453		x						x	x	retail er	1997		
White v. RJR	D.	MD	5:97-4301		x					x				1997		
Williams v. RJR	N.D.	OH	5:97-594	x					x	x	x	x	Does	1997		
Willis v. AT	W.D.	LA	97-848	x AB	x	BAT US BAT US H		x Loew s Corp	x PM C	x RJR N			UST C; UST, Inc.	1997		
Worthington v. RJR	N.D.	OH	2:97-261							x	x	x	Does	1997		

LIST OF SMOKING AND HEALTH CASES IN WHICH ONE OR MORE DEFENDANT WAS A PARTY

CASE	USDC	ST	#	AT	BW	BAT	LGT	LOR	PM	RJR	CTR	TI	Oth.	BEG	END	Disposition
Young v. RJR	N.D.	IL	97-c-3118											1997		
Young v. AT	E.D.	LA	Civ.A. 97-3851											1997		
Abraham v. B.A.T. Ltd.	S.D.	OH	C2-98-1036		x	BATI		x					B.A. T. Limited	1998		
Allegheny General Hospital v. PM	W.D.	PA	99-9	x	x	BATI	LG	x	x	x	x	x	USTC; the Smokeless Tobacco Council; Hill & Knowlton	1998		
Amendola v. RJR	N.D.	OH	4:98-1150							x				1998		

LIST OF SMOKING AND HEALTH CASES IN WHICH ONE OR MORE DEFENDANT WAS A PARTY

CASE	USDC	ST	#	AT	BW	BAT	LGT	LOR	PM	RJR	CTR	TI	Oth.	BEG	END	Disposition
American Samoa v. PM	N.D.	IL	98-7444		x	x BATI	L& M	x	x	x	x	x	UST C; the Smok eless Toba cco Resea rch Coun cil; Hill & Kno wlton ; Does	1998		
Amron v. PM	E.D.	NY	98-3619 or 98- 2588						x					1998		

LIST OF SMOKING AND HEALTH CASES IN WHICH ONE OR MORE DEFENDANT WAS A PARTY

CASE	USDC	ST	#	AT	BW	BAT	LGT	LOR	PM	RJR	CTR	TI	Oth.	BEG	END	Disposition
Arkansas BCBS v. PM	N.D.	IL	98cv2612		x	BATI , BAT CO	L& M, LG	x	PMI	x	x	x	UST C; the Smok eless Toba cco Resea rch Coun cil; Hill & Kno wlton ; Does	1998	2002	Court recommended limiting trial to RICO issues 4/6/99
Ashanti v. RJR	E.D.	CA	98-2216		x				x	x			Calif ornia Dept of Corre ctions ; priso n offici als	1998		
Aspinall v. PM	D.	MA	98-12576						x					1998		

LIST OF SMOKING AND HEALTH CASES IN WHICH ONE OR MORE DEFENDANT WAS A PARTY

CASE	USDC	ST	#	AT	BW	BAT	LGT	LOR	PM	RJR	CTR	TI	Oth.	BEG	END	Disposition
Baker v. PM	S.D.	CA	98-1684						x				Does	1998		
Barnes v. PM	E.D.	KY	98-106						x					1998		
Basik v. Lorillard	N.D.	IL	98-3212					x	x					1998		
Batten v. PM		NJ	1:98-4421						x				Does	1998		
BCBS of NJ v. PMI	E.D.	NY	CV98-3287		x	BATI , BAT CO	L& M, LG	x	PMI	x	x	x	UST C, Smok eless TRC, H&K	1998	2001	Court denied def's motion to dismiss for failure to state a claim (3/30/99) Trial to commence 1/21/00
Beebe v. B&W	S.D.	TX	98-253 (McAllen Div)		x									1998		

LIST OF SMOKING AND HEALTH CASES IN WHICH ONE OR MORE DEFENDANT WAS A PARTY

CASE	USDC	ST	#	AT	BW	BAT	LGT	LOR	PM	RJR	CTR	TI	Oth.	BEG	END	Disposition
Belk (trustees of the I.B.E.W. – N.E.C.A. Local 505) v. PM	S.D.	AL	98-332 (Southern Div)	x	x	BATI		x	x	x	x	x	USTC; Hill & Knowlton; the Smokeless Tobacco Council; wholesalers	1998		
Boerner v. B&W	E.D.	AR	98-427		x									1998		
Brown v. B&W	D.	RI	98-565		x		LG		x	x			retailer	1998		

LIST OF SMOKING AND HEALTH CASES IN WHICH ONE OR MORE DEFENDANT WAS A PARTY

CASE	USDC	ST	#	AT	BW	BAT	LGT	LOR	PM	RJR	CTR	TI	Oth.	BEG	END	Disposition
Brown v. PM	E.D.	PA	98-5518	x	x	BATI	L&M	x	x	RJR N	x	x	UST C; the Smok eless Toba cco Coun cil; Hill & Kno wlton	1998		
Brown-Jones v. AT	N.D.	GA	1:98-36	x AB	x	BATI BAT USH	LG BG	x Loew s Corp	x PM C	x RJR N	x	x	Does; Hill & Kno wlton	1998	1999	Dismissed 1/4/99
Burgess v. B&W	E.D.	VA	98-522		x									1998		
Cantu v. B&W	S.D.	TX	98-22		x				x	x				1998		
Carlson v. PM	D.	RI	98-69		x				x					1998		

LIST OF SMOKING AND HEALTH CASES IN WHICH ONE OR MORE DEFENDANT WAS A PARTY

CASE	USDC	ST	#	AT	BW	BAT	LGT	LOR	PM	RJR	CTR	TI	Oth.	BEG	END	Disposition
Chopper v. RJR	N.D.	IA	98-63 (Cedar Rapids Div)		x	x BAT US H BATI			x	x			Britis h Amer ican Toba cco Holdi ngs	1998		
Christensen v. PM	D.	NV							x					1998		
Colfield v. AT	E.D.	CA	98-1695	x AB	x	x BATI BAT US	LG L& M BG	x Loew s Corp	x PM C	x RJR N	x	x	UST C; UST, Inc.	1998		
Collier v. PM	S.D.	MS	1:98-246 (Southern Div)		x		LG	x	x	RJR N			whol esaler	1998	1999	Voluntarily dismissed w/o prejudice 3/9/99
Compton (formerly Moree) v. RJR	S.D.	TX	1:98-1833							x				1998		
Construction Laborers of Greater St. Louis Welfare Fund	E.D.	MO	4:97CV02 030ERW											1998		

LIST OF SMOKING AND HEALTH CASES IN WHICH ONE OR MORE DEFENDANT WAS A PARTY

CASE	USDC	ST	#	AT	BW	BAT	LGT	LOR	PM	RJR	CTR	TI	Oth.	BEG	END	Disposition
Contractors, Laborers, Teamsters & Engineers v. PM	D.	NE	8:98-364	x	x	x BATI	LG	x	x	x RJR N RJR N H	x		UST C Sales and Mark eting; Hill & Kno wlton ; the Smok eless Toba cco Coun cil	1998	1999	Court granted def's motion to dismiss for failure to state a claim, 2/99
Conwed Corp. v. RJR	D.	MN	98-1412		x	BATI	LG	x	x	x			Does	1998		
Cook v. AT	E.D.	CA	S-98- 1698	x AB	x	x BATI BAT US	LG L& M BG	x Loew s Corp	x PM C	x RJR N	x	x	UST C; UST, Inc.	1998		
Coyle v. AT	N.D.	NV	98-38	x AB	x	BAT US BAT US H	L& M LG BG	x Loew s Corp	x PM C	x RJR N		x	UST C; UST, Inc.	1998		
Crump v. RJR	N.D.	GA	1:98-1349							x				1998		

LIST OF SMOKING AND HEALTH CASES IN WHICH ONE OR MORE DEFENDANT WAS A PARTY

CASE	USDC	ST	#	AT	BW	BAT	LGT	LOR	PM	RJR	CTR	TI	Oth.	BEG	END	Disposition
DaLuz v. PM	S.D.	CA	98-1144						x PM C		x	x	whol esaler ; Does	1998		
Daniels v. PM	S.D.	CA	98-836- IEG (CGA)						x					1998	1998	Case remanded to state court (8/7/98)
Draper v. RJR	N.D.	OH	5:98-1423	x	x				x	x			Does	1998		
Encinia v. PM	S.D.	TX	98-252 (McAllen Div)						x					1998		
Ferrell v. B&W	S.D.	WV	2:98-439		x		LG L& M BG			x				1998		
Filkin v. B&W	N.D.	IL	98-238		x									1998		
Gallup v. AT	D.	NV	98-283	x AB	x	BAT US BAT US H	L& M LG BG	x Loew s Corp	x PM C	x RJR N		x	UST C; UST, Inc.	1998		

LIST OF SMOKING AND HEALTH CASES IN WHICH ONE OR MORE DEFENDANT WAS A PARTY

CASE	USDC	ST	#	AT	BW	BAT	LGT	LOR	PM	RJR	CTR	TI	Oth.	BEG	END	Disposition
Gatlin v. AT	E.D.	MO	4:99-90	x	x	x BATI BAT US H	L& M LG BG	x Loew s Corp	x PM C	x	x	x	British h Amer ican Toba cco (Hold ings); UST C; Hill & Kno wlton	1998		
Gerrity v. Lorillard	N.D.	IL	99-1126		x			x	x					1998		
Goldman v. PM	E.D.	LA	98-355						x					1998		
Gonzalez v. B&W	S.D.	TX	98-179 (Corpus Christi Div)		x				x	x				1998		
Great Lakes Sales & Marketing [formerly Williams & Drake] v. AT	W.D.	PA	98-553	x	x	BATI	L& M	x	x	x	x	x	UST C	1998	1998	Dismissed with prejudice 12/98

LIST OF SMOKING AND HEALTH CASES IN WHICH ONE OR MORE DEFENDANT WAS A PARTY

CASE	USDC	ST	#	AT	BW	BAT	LGT	LOR	PM	RJR	CTR	TI	Oth.	BEG	END	Disposition
Green v. RJR	S.D.	TX	4:99-1409		x				x	x			BAT US Toba cco Servi ces; B&W (Japa n); whol esaler	1998		
Green v. RJR	S.D.	TX	99-2579		x				x	x			BAT US Toba cco Servi ces; B&W (Japa n); whol esaler	1998		

LIST OF SMOKING AND HEALTH CASES IN WHICH ONE OR MORE DEFENDANT WAS A PARTY

CASE	USDC	ST	#	AT	BW	BAT	LGT	LOR	PM	RJR	CTR	TI	Oth.	BEG	END	Disposition
Group Health Plan v. PM	D.	MN	98-1036		x	x BATI	LG	x	x	x	x	x	BAT (U.K. & Export) Limited; USTC; Hill & Kno wlton ; the Smok eless Toba cco Coun cil	1998		
Guatemala (Republic of) v. TI	D.	DC	98-1185		x	x BATI BAT US H, BAT CO	LG BG		x PMI PM C		x	x		1998	2000	
Guilbeault v. RJR	D.	RI	98-035L											1998		

LIST OF SMOKING AND HEALTH CASES IN WHICH ONE OR MORE DEFENDANT WAS A PARTY

CASE	USDC	ST	#	AT	BW	BAT	LGT	LOR	PM	RJR	CTR	TI	Oth.	BEG	END	Disposition
Guilbeault v. RJR	D.	RI	98-35 (Providence)							x				1998		
Guzman v. PM	N.D.	CA	99-1797		x	x	x L& M	x	x	x			Does	1998		
Hall v. RJR	M.D.	PA	4:97-1723				LG L& M			x RJR N			whol esaler s	1998		
Hatfield v. B&W	C.D.	CA	98-7205		x					x			Does	1998		
Hay v. B&W	W.D.	MO	98-1072-3		x		LG		x	x				1998		
Helt v. AT	E.D.	CA	98-1697	x AB	x	x BATI BAT US	LG L& M BG	x Loew s Corp	x PM C	x RJR N	x	x	UST C; UST, Inc.	1998		
Herrera v. AT	D.	UT	2:98-126 (Central Div)	x AB	x	BAT US H	LG L& M BG	x Loew s Corp	x PM C	x RJR N		x	Hill & Kno wlton ; UST C; UST, Inc.	1998		
Hill v. RJR	W.D.	KY	3:98-cv- 548-H							x				1998		

LIST OF SMOKING AND HEALTH CASES IN WHICH ONE OR MORE DEFENDANT WAS A PARTY

CASE	USDC	ST	#	AT	BW	BAT	LGT	LOR	PM	RJR	CTR	TI	Oth.	BEG	END	Disposition
Hiscock v. RJR	D.	MA	98-11960		x	BATI	LG	x	x	x	x	x	whol esaler s	1998		
Hise v. PM	N.D.	OK							x					1998		
Hogue v. PM	MD.	FL							x					1998		
Holland (trustees of United Mine Workers) v. PM	D.	DC	1:98CV01 716-GK	x	x	BATI	L& M	x	PMI	x	x	x	UST R	1998	2001	
Holloway v. RJR	S.D.	TX	98-1979							x				1998		
Huddleston v. RJR	N.D.	GA	98-1865							x				1998		

LIST OF SMOKING AND HEALTH CASES IN WHICH ONE OR MORE DEFENDANT WAS A PARTY

CASE	USDC	ST	#	AT	BW	BAT	LGT	LOR	PM	RJR	CTR	TI	Oth.	BEG	END	Disposition
Jackson v. PM	D.	UT	2:98-178 (Central Division)	x AB	x	x BATI BAT US H	L& M BG LG	x Loew s Corp	x PM C	x RJR N	x	x	Britis h- Amer ican Toba cco (Hold ings); UST C; UST, Inc.; Cuba n Cigar Incor porat ed; Core- Mark Intern ation al; whol esaler ; Does	1998		Leave to amend complaint granted 12/8/98
Jennings v. RJR	C.D.	CA	98-6091						x	x				1998		
Kenney v. PM	W.D.	NY	98-109						x					1998		

LIST OF SMOKING AND HEALTH CASES IN WHICH ONE OR MORE DEFENDANT WAS A PARTY

CASE	USDC	ST	#	AT	BW	BAT	LGT	LOR	PM	RJR	CTR	TI	Oth.	BEG	END	Disposition
Kessler v. B&W	E.D.	OK	98-380		x			x	x	x				1998		
Kobold v. BATI	S.D.	IA	4:98-10537		x	BATI BAT US H	LG BG L&M	x Loew s Corp		x RJR N			Britis h Amer ican (Inve stmen ts) Limit ed; Britis h Amer ican Toba cco (Hold ings)	1998		
LaBelle v. B&W	D.	SC	2:98-3235 (Charleston)		x	x BATI BAT US H	L& M BG LG	x Loew s Corp	x PM C	x RJR N	x	x	Fortu ne Bran ds	1998		
Lackey v. PM	E.D.	AR	98-405 (Pine Bluff Div)						x					1998		
Lande v. PM	E.D.	PA	98-3835						x PM C	x RJR N				1998		

LIST OF SMOKING AND HEALTH CASES IN WHICH ONE OR MORE DEFENDANT WAS A PARTY

CASE	USDC	ST	#	AT	BW	BAT	LGT	LOR	PM	RJR	CTR	TI	Oth.	BEG	END	Disposition
Landry v. BCBS of Louisiana	E.D.	LA	98-455	x AB	x	x BAT US BATI	L& M BG	x Loew s Corp	x	x RJR N	x	x	Gene ric Produ cts Corp oratio n; UST C Toba cco Sales and Mark eting; Hill & Kno wlton ; whol esaler s; Does	1998		
Laurenzi v. PM	E.D.	PA	98-1892						x				Does	1998		
Levine v. PM	D.	MA	98-11722						x				retail er	1998		

LIST OF SMOKING AND HEALTH CASES IN WHICH ONE OR MORE DEFENDANT WAS A PARTY

CASE	USDC	ST	#	AT	BW	BAT	LGT	LOR	PM	RJR	CTR	TI	Oth.	BEG	END	Disposition
Little v. B&W	D.	SC	2:98-1879	AB	x	x BATI BAT US H	L& M BG LG	x Loew s Corp	x PM C	x RJR N	x	x	retail ers	1998		
Madden v. B&W	W.D.	MO	98-481		x				x	x			whol esaler	1998		
Magnus v. Fortune Brands	E.D.	NY	98-3441	x	x		LG L& M BG		x PM C		x	x	Fortu ne Bran ds	1998	1999	Dismissed in part 3/18/99
Mann v. Lorillard	S.D.	IA	4:98- 80567					x Loew s Corp		x RJR N				1998		
Mapp v. RJR	E.D.	LA	98-598							x				1998		
McDade v. PM	E.D.	TX	4:98-323 (Sherman Div)						x					1998		
McKiernan v. B&W	D.	RI	98-564		x				x	x			retail ers	1998		
McNamara v. PM	E.D.	PA							x					1998		
Meadows v. RJR	D.	MD	98-3767		x					x				1998		

LIST OF SMOKING AND HEALTH CASES IN WHICH ONE OR MORE DEFENDANT WAS A PARTY

CASE	USDC	ST	#	AT	BW	BAT	LGT	LOR	PM	RJR	CTR	TI	Oth.	BEG	END	Disposition
Milwaukee Carpenters v. PM	E.D.	WI	98-394	x	x	x BATI	L& M	x	x	x	x	x	UST C; the Smok eless Toba cco Coun cil; Hill & Kno wlton ; Natio nal Toba cco Co.; whol esaler ; Does	1998		

LIST OF SMOKING AND HEALTH CASES IN WHICH ONE OR MORE DEFENDANT WAS A PARTY

CASE	USDC	ST	#	AT	BW	BAT	LGT	LOR	PM	RJR	CTR	TI	Oth.	BEG	END	Disposition
Mitchell v. RJR	W.D.	TX	3:98-293		x		x	x	x	x			United States Government; Janet Reno; officials from U.S. Bureau of Prisons	1998		
Moore v. RJR	S.D.	IA	1:98-10029 (Western Div)		x	x BAT USH BATI			x PM C	x RJR N			British American Tobacco Holdings	1998		
Morgan v. B&W	E.D.	MO	4:98-456		x									1998		
Murphy v. AT	S.D.	NV	5:98-21	x AB	x	BAT US BAT USH	L& M LG BG	x Loews Corp	x PM C	x RJR N		x	USTC; UST, Inc.	1998		

LIST OF SMOKING AND HEALTH CASES IN WHICH ONE OR MORE DEFENDANT WAS A PARTY

CASE	USDC	ST	#	AT	BW	BAT	LGT	LOR	PM	RJR	CTR	TI	Oth.	BEG	END	Disposition
National Asbestos Workers Medical Fund v. PM	E.D.	NY	98-1492	x AB	x	x BAT US H BATI	LG L& M BG	x Loew s Corp	x PM C	x RJR N	x	x	Hill & Kno wlton	1998		Def's motion to dismiss denied, 10/98
Neri v. RJR	N.D.	NY	98-685 (Syracuse Div)							x				1998		
Nicaragua (Republic of) v. LG	D.	DC	1:99-1535		x	x	LG BG		x PM C PMI		x	x	Britis h Amer ican Toba cco Inves tment s; Philip Morri s Sales	1998		
Nicaragua (Republic of) v. Liggett	D.	PR					x							1998		
North Carolina (State of) v. AT	M.D.	NC	1:98-138	x	x		LG BG	x	x	x	x	x	Hill & Kno wlton	1998		
Panama (Republic of) v. AT	E.D.	LA	Civ.A.98-3297	x										1998		

LIST OF SMOKING AND HEALTH CASES IN WHICH ONE OR MORE DEFENDANT WAS A PARTY

CASE	USDC	ST	#	AT	BW	BAT	LGT	LOR	PM	RJR	CTR	TI	Oth.	BEG	END	Disposition
Peel v. RJR	N.D.	GA	98-2426							x				1998		
Perseley v. B&W	C.D.	CA	97-2696		x									1998		
Racca v. RJR	W.D.	LA	98-1494	x	x		LG	x	x	x	x	x	whol esaler s	1998		
Ransom v. B&W	N.D.	GA	98-1148		x	BAT US BAT US H								1998		
Raymark Industries v. AT	E.D.	NY	98-675	x	x	BATI	LG	x	x	x			Does	1998		
Regents Blueshield v. PM	W.D.	WA	2:1998cv 00559		x	x BATI , BAT CO	L& M	x	x PMI	x	x	x	UST C; Smok eless Toba cco Resea rch Coun cil; Hill & Kno wlton ; Does	1998	2002	Court granted certain defendants' motion to dismiss for failure to state a claim 1/99

LIST OF SMOKING AND HEALTH CASES IN WHICH ONE OR MORE DEFENDANT WAS A PARTY

CASE	USDC	ST	#	AT	BW	BAT	LGT	LOR	PM	RJR	CTR	TI	Oth.	BEG	END	Disposition
Renteria v. B&W	S.D.	TX	98-201 (Corpus Christi Div)		x				x	x				1998		
Richardson v. PM	E.D.	OH	98-604 (Eastern Div)		x				x				Does	1998		
Rivenburgh v. AT	S.D.	NV	5:98-23	x AB	x	BAT US BAT US H	L& M LG BG	x Loew s Corp	x PM C	x RJR N		x	UST C; UST, Inc.	1998		
Robison v. AT	N.D.	OH	1:98-1360 (Eastern Div)	x	x	BATI	LG	x	x	x	x	x		1998		
Robles v. BATI	S.D.	TX	3:98-2097		x	x BATI							retailer	1998		
Rodriguez v. PM	E.D.	LA	98-1632						x PM C				insurers	1998		
Romine v. RJR	E.D.	AR	98-424		x					x				1998		
Rose v. RJR	N.D.	MS	2:98-132	x			LG		x	x				1998		
Russell v. PM	E.D.	TN												1998		
Samarone v. Lorillard		NJ	99-4021					x						1998		

LIST OF SMOKING AND HEALTH CASES IN WHICH ONE OR MORE DEFENDANT WAS A PARTY

CASE	USDC	ST	#	AT	BW	BAT	LGT	LOR	PM	RJR	CTR	TI	Oth.	BEG	END	Disposition
Scroggins v. RJR	E.D.	AR	98-426		x					x				1998		
Seibels Bruce Group v. RJR	N.D.	CA	C99-0593MHP							x				1998		
SEIU #74 v. PM		DC	1:98CV01569	x	x	BATI	L&M	x	PMI	x & RJR NA B	x	x	UST R	1998	2001	
Service Employees Int'l Union H&W Trust Fund v. PM	D.	DC	1:98-704	x	x	BATI	L&M	x	x	x RJR N	x	x	UST C	1998		
Shipunoff v. AT	E.D.	CA	98-1696	x AB	x	x BATI BAT US	LG L&M BG	x Loew s Corp	x PM C	x RJR N	x	x	UST C; UST, Inc.	1998		
Smith v. B&W	N.D.	AL	98-2018	x	x		LG		x PM C	x RJR N			whol esaler s	1998		
Springer v. Liggett	E.D.	AK					x							1998		
Stewart v. B&W	E.D.	AR	98-425		x					x				1998		
Sumpter v. AT	S.D.	IN	98-401	x AB	x	x BATI	L&M	x	x	x RJR N RJR NH	x	x	Hill & Kno wlton ; UST C	1998		

LIST OF SMOKING AND HEALTH CASES IN WHICH ONE OR MORE DEFENDANT WAS A PARTY

CASE	USDC	ST	#	AT	BW	BAT	LGT	LOR	PM	RJR	CTR	TI	Oth.	BEG	END	Disposition
Sweeney v. AT	W.D.	PA		x										1998		
Tabb v. PM	E.D.	PA	98-3223	x	x		x	x	x	x				1998		Rulings on motions to compel
The Seibels Bruce Group v. RJR	N.D.	CA	99-593	x	x	x BATI	x	x	x	x	x	x	Does	1998		
Thompson v. B&W	E.D.	PA	98-cv-4273		x									1998		
Thompson v. RJR	C.D.	CA	98-6090							x			Does	1998		
Truett v. PM	E.D.	AR	98-429 (Western Div)						x PM C					1998		
Tucker v. AT	N.D.	NV	98-39	x AB	x	BAT US BAT USH	L& M LG BG	x Loew s Corp	x PM C	x RJR N		x	UST C; UST, Inc.	1998		
Ulrich v. AT	S.D.	NV	5:98-22	x AB	x	BAT US BAT USH	L& M LG BG	x Loew s Corp	x PM C	x RJR N		x	UST C; UST, Inc.	1998		

LIST OF SMOKING AND HEALTH CASES IN WHICH ONE OR MORE DEFENDANT WAS A PARTY

CASE	USDC	ST	#	AT	BW	BAT	LGT	LOR	PM	RJR	CTR	TI	Oth.	BEG	END	Disposition
Utah Laborers v. PM	D.	UT	2:98-403 (Central Div)	x AB	x	x BATI BAT US H	L& M BG LG	x Loew s Corp	x	x RJR N	x	x	Britis h Amer ican Toba cco (Hold ings); UST C; the Smok eless Toba cco Coun cil; Hill & Kno wlton ; Kimb erly- Clark Corp oratio n; East man Chem ical;	1998		

LIST OF SMOKING AND HEALTH CASES IN WHICH ONE OR MORE DEFENDANT WAS A PARTY

CASE	USDC	ST	#	AT	BW	BAT	LGT	LOR	PM	RJR	CTR	TI	Oth.	BEG	END	Disposition
VanFossen v. AT	E.D.	CA	98-1694	x AB	x	x BATI BAT US	LG L& M BG	x Loew s Corp	x PM C	x RJR N	x	x	UST C; UST, Inc.	1998		
Varney v. RJR		MA	98-12564		x	BATI	x	x	x	x	x	x	Hill & Kno wlton ; whol esaler s	1998		
Vaughn v. PM	W.D.	VA	98-55	x AB	x	BAT US BAT US H BATI	LG L& M BG	x Loew s Corp	x PM C	x RJR N				1998	1999	Dismissed 6/22/98

LIST OF SMOKING AND HEALTH CASES IN WHICH ONE OR MORE DEFENDANT WAS A PARTY

CASE	USDC	ST	#	AT	BW	BAT	LGT	LOR	PM	RJR	CTR	TI	Oth.	BEG	END	Disposition
Virgin Islands (US) v. PM	D.	VI	Case # not available (Division of St. Croix)		x		LG	x	x	x			UST C; UST C Manufacturing Company; UST C Sales and Marketing Company	1998		
Wajda v. RJR		MA	98-12152		x	BATI	x	x	x	x	x	x	wholesalers	1998		
Watkins v. RJR	E.D.	KY	98-130							x				1998		
Watt v. Liggett		MA												1998		
Weld v. RJR	S.D.	CA	99-134							x	x	x	Does	1998		

LIST OF SMOKING AND HEALTH CASES IN WHICH ONE OR MORE DEFENDANT WAS A PARTY

CASE	USDC	ST	#	AT	BW	BAT	LGT	LOR	PM	RJR	CTR	TI	Oth.	BEG	END	Disposition
White v. RJR	S.D.	TX	4:99-1408		x				x	x			BAT US Toba cco Servi ces; B&W (Japa n); whol esaler	1998		
Woods v. AT	M.D.	NC												1998		
Zeringue v. AT	E.D.	LA	98-2981	x AB	x								retail ers	1998		
Zwerneman v. PMC		MT	98-7						x PM C					1998		

LIST OF SMOKING AND HEALTH CASES IN WHICH ONE OR MORE DEFENDANT WAS A PARTY

CASE	USDC	ST	#	AT	BW	BAT	LGT	LOR	PM	RJR	CTR	TI	Oth.	BEG	END	Disposition
Acoma Pueblo v. AT	D.	NM	99-149	x AB	x	BATI	LG	x	x	x	x	x	Hill & Kno wlton ; UST C; UST Inc.; Santa Fe Natur al Toba cco	1999		
Adams v. PM	D.	MA	99-11438						x					1999		
Allegheny (County of) v. AT	W.D.	PA	99-365	x AB	x	x BAT US H BATI	LG BG L& M	x Loew s Corp	x	x	x RJR N	x	Hill & Kno wlton	1999		

LIST OF SMOKING AND HEALTH CASES IN WHICH ONE OR MORE DEFENDANT WAS A PARTY

CASE	USDC	ST	#	AT	BW	BAT	LGT	LOR	PM	RJR	CTR	TI	Oth.	BEG	END	Disposition
Association of Washington Public Hospital Districts v. PM	W.D.	WA	98-1675		x	x	x L& M	x	x	x	x	x	British h Amer ican Toba cco Inves tment s; UST C; Smok eless Toba cco Coun cil; Hill & Kno wlton ; Does	1999		
Barrett v. RJR	E.D.	LA	99-1194 or 1195							x			whol esaler	1999		
Binion v. RJR	S.D.	OH	3:97-394							x RJR N			Does	1999		

LIST OF SMOKING AND HEALTH CASES IN WHICH ONE OR MORE DEFENDANT WAS A PARTY

CASE	USDC	ST	#	AT	BW	BAT	LGT	LOR	PM	RJR	CTR	TI	Oth.	BEG	END	Disposition
Bolivia (Republic of) v. PMC	D.	DC	99-586		x	BAT US H	LG BG	x Loew s Corp	x PM C PMI	x RJR N RJR N H			Philip Morri s Produ cts; Philip Morri s Mana geme nt Corp. ; Philip Morri s Duty Free; R.J.R eynol ds Intern ation al	1999		USDC, S.D. Texas transferred case to DC 3/99
Bolivia (Republic of) v. PM	S.D.	TX	G-99-110					x						1999		transferred to DC
Bowden v. RJR	W.D.	VA	98-0068- L		x	x BATI	x	x		x			Fortu ne Bran ds	1999	1999	Dismissed 6/21/99

LIST OF SMOKING AND HEALTH CASES IN WHICH ONE OR MORE DEFENDANT WAS A PARTY

CASE	USDC	ST	#	AT	BW	BAT	LGT	LOR	PM	RJR	CTR	TI	Oth.	BEG	END	Disposition
Brown v. PM	D.	NJ	3:99-4139		x			x	x				Does	1999		
Burleson v. Liggett	E.D.	TX	9:99-233 (Lufkin Div)		x	BAT US H BATI	x BG	x Loew s Corp	x PM C	x			Philip Morri s Produ cts	1999		
Canada v. RJR	N.D.	NY	99cv2194							x				1999		
Carter v. PMC	E.D.	PA	99-4991						PM C				retail er	1999		
Cocca v. PM	D.	AZ	99-1009						x					1999		
Cornelius v. PM	N.D.	TX	3:99-2125 (Dallas Div)						x					1999		
DeNiro v. PM	N.D.	OH	99-493		x				x	x			Does	1999		
Engle v. PM	D.	AZ	99-1642						x PM C					1999		

LIST OF SMOKING AND HEALTH CASES IN WHICH ONE OR MORE DEFENDANT WAS A PARTY

CASE	USDC	ST	#	AT	BW	BAT	LGT	LOR	PM	RJR	CTR	TI	Oth.	BEG	END	Disposition
Engolio v. PM	M.D.	LA	99-232						x	x	x	x	Lane Limited; Hill & Knowlton; Swisher International; retailers	1999		
Falise v. AT	E.D.	NY	99-CV-7392	x	x	BATI	x	x	x	x				1999	pending?	
Gauthier v. RJR	W.D.	LA	1:99-402		x			x	x	x				1999		
Gerrity v. RJR	D.	CT	3:99-1329					x		x				1999		
Glass v. PM	D.	NV	99-999		x	x BAT USH BATI	LG	x	x	x			DNA Plant Technology; retailer; Does	1999		
Glassner v. RJR	N.D.	OH	99-3952						x	x			Does	1999		

LIST OF SMOKING AND HEALTH CASES IN WHICH ONE OR MORE DEFENDANT WAS A PARTY

CASE	USDC	ST	#	AT	BW	BAT	LGT	LOR	PM	RJR	CTR	TI	Oth.	BEG	END	Disposition
Green v. B&W	W.D.	TN	99-2246	x	x			x		x				1999		
Griffiths v. PM	S.D.	TX	99-146						x					1999		
Halvorsen v. AT	E.D.	CA	99-21	x AB	x	x BATI BAT US BAT US H	x BG	x Loew s Corp	x PM C	x RJR N	x	x	UST C; UST, Inc.; whol esaler	1999		
Harris v. PM	S.D.	TX	98-521						x					1999		
Hazeltine v. PM	D.	MA	99-11549						x				physi cians; clinic ; healt h maint enanc e organ izatio n	1999		
Hughes v. TI	E.D.	TX	1:99-263 (Beaumont Div)	x	x	BATI	LG	x	x	x	x	x	UST C	1999		
Hunter v. B&W	M.D.	LA	99-756		x			x						1999		

LIST OF SMOKING AND HEALTH CASES IN WHICH ONE OR MORE DEFENDANT WAS A PARTY

CASE	USDC	ST	#	AT	BW	BAT	LGT	LOR	PM	RJR	CTR	TI	Oth.	BEG	END	Disposition
Jones v. PM	C.D.	CA	5:99-1131		x	x BAT US H BAT US BATI	LG	x	x	x			Does	1999		
Lanzo v. RJR	D.	MA	99-11320							x				1999		
Latronica v. B&W	N.D.	OH	4:99-449 (Eastern Div)		x					x				1999		
Lopez v. RJR	S.D.	TX	98-543							x				1999		
Lovejoy v. PM	W.D.	WI	97-347		x	BATI	LG	x	x	x	x	x	Hill & Kno wlton	1999 (date of sever ance from <u>Insoli a</u>)		
Lovett v. B&W	D.	SC	2:99-989- 23 (Charlesto n Div)		x				x					1999		
Maggard v. PM	N.D.	CA	not available		x		LG		x	x	x	x	Does	1999		

LIST OF SMOKING AND HEALTH CASES IN WHICH ONE OR MORE DEFENDANT WAS A PARTY

CASE	USDC	ST	#	AT	BW	BAT	LGT	LOR	PM	RJR	CTR	TI	Oth.	BEG	END	Disposition
Martin v. PM	M.D.	LA	99-799						x		x	x	whol esaler s	1999		
Mason v. AB	S.D.	IA	4:99- 10269 (Central Div)	x AB	x	BATI BAT USH	x L& M BG	x Loew s Corp	x PM C	x RJR N			Britis h Amer ican Toba cco Inves tment s; Britis h Amer ican Toba cco Holdi ngs	1999		
Mattingly v. PM	E.D.	TX	98-105 (Victoria Div)						x					1999		

LIST OF SMOKING AND HEALTH CASES IN WHICH ONE OR MORE DEFENDANT WAS A PARTY

CASE	USDC	ST	#	AT	BW	BAT	LGT	LOR	PM	RJR	CTR	TI	Oth.	BEG	END	Disposition
Mays v. PM	W.D.	WI	97-347		x	BATI	LG	x	x	x	x	x	Hill & Knowlton	1999		(date of severance from <u>Insolia</u>)
McClure v. PMC	M.D.	TN	3:99-197						x PM C					1999		
Midili v. PM		NJ	99-3900						x				retailers; Does	1999		
Morrison v. PM	D.	MA	99-11065						x				physicians	1999		
Mumin v. PM	D.	NE	4:99-3005	x	x		LG BG	x	x	x	x	x		1999		
Murphy v. RJR	D.	MA	99-11370							x				1999		
Myers v. PM	E.D.	CA	99-5449		x				x	x			Does	1999		
Patrick v. RJR	W.D.	LA	99-1235		x				x	x				1999		

LIST OF SMOKING AND HEALTH CASES IN WHICH ONE OR MORE DEFENDANT WAS A PARTY

CASE	USDC	ST	#	AT	BW	BAT	LGT	LOR	PM	RJR	CTR	TI	Oth.	BEG	END	Disposition
Paxton v. PM	S.D.	WV	99-930		x	x BAT US H BAT US BATI			x	x			DNA Plant Tech nolog y; retail er	1999		
Pennison v. PM	W.D.	LA	99-1482						x	x				1999		
Perez v. PM	S.D.	TX	99-153 (Corpus Christi Div)						x					1999		
Perrelli v. PM Capital Corp.	D.	CT	3:99-1871										Philip Morri s Capit al Corp oratio n	1999		
Poindexter v. RJR	N.D.	TX	3:99-262 (Dallas Div)							x				1999		
Post v. PM	D.	MA	99-11439						x					1999		
Rosol v. RJR	N.D.	IA	99-2089							x RJR N				1999		

LIST OF SMOKING AND HEALTH CASES IN WHICH ONE OR MORE DEFENDANT WAS A PARTY

CASE	USDC	ST	#	AT	BW	BAT	LGT	LOR	PM	RJR	CTR	TI	Oth.	BEG	END	Disposition
Serrano v. PM	D.	MA	99-11921						x	x				1999		
Sheet Metal Workers v. PM	D.	DC	1:99-2326	x	x	BATI	LG	x	x	x	x	x	UST C	1999		
Shortino v. PM		NJ	2:99-5074						x PM C		x	x	whol esaler s	1999		
Simon/Sturgeon v. PM	E.D.	NY	99CV198 8	x	x	BATI	L& M	x & Inc. Co.	PMI	x				1999	2002	
Spain v. B&W	N.D.	AL	99-2424 (Southern Div)		x				x	x			R.J. Reyn olds empl oyees ; retail ers; Does	1999	1999	Dismissed 11/8/99
Sturgeon v. PM	E.D.	NY	99-1988	x	x	BATI	L& M	x	x	x				1999		
Thailand (Kingdom of) v. TI	S.D.	TX	99-320		x	x BATI BAT US H	LG BG		x PM C	x	x	x		1999		

LIST OF SMOKING AND HEALTH CASES IN WHICH ONE OR MORE DEFENDANT WAS A PARTY

CASE	USDC	ST	#	AT	BW	BAT	LGT	LOR	PM	RJR	CTR	TI	Oth.	BEG	END	Disposition
Tobacco Consumers Group No. 3 v. RJR	D.	MA	99-10950		x	BATI	x	x	x	x	x	x	Hill & Knowlton ; wholesalers	1999		
Tubbs v. PM	N.D.	AL	99-111 (Jasper Div)						x					1999		

LIST OF SMOKING AND HEALTH CASES IN WHICH ONE OR MORE DEFENDANT WAS A PARTY

CASE	USDC	ST	#	AT	BW	BAT	LGT	LOR	PM	RJR	CTR	TI	Oth.	BEG	END	Disposition
Tuttle v. Lorillard		MN	not available					x					investment banker; Worldwide Sports and Entertainment; National Tobacco Finance; Pinkerton Tobacco; Smokeless Tobacco Research Council	1999		

LIST OF SMOKING AND HEALTH CASES IN WHICH ONE OR MORE DEFENDANT WAS A PARTY

CASE	USDC	ST	#	AT	BW	BAT	LGT	LOR	PM	RJR	CTR	TI	Oth.	BEG	END	Disposition
Venezuela (Republic of) v. PMC		DC	1:99-1534	x AB	x	x BAT US H BATI	LG L& M BG	x Loew s Corp	x PM C	x RJR N	x	x		1999		
Williams v. RJR	S.D.	TX	99-2108 (Houston Div)		x				x PM C	x RJR N			BAT US Toba cco Servi ce; B&W (Japa n); retail er	1999		
Sims v. PM	D.	DC	1:01CV01 107	x	x	BATI	LGT Gro up/ Inc.	x	PMI PM C	x	x	x		2001	Pendi ng	
US v. Star Scientific	D.	DC	02-MS- 266										Star Scien tific	2002		
US v. Star Scientific	D.	MD	02-CV- 971										Star Scien tific	2002	2002 (trans - to DC)	

Source Material for the United States' Preliminary Proposed Findings of Fact:
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1005038656-8658	1005132853-2855
1005039423-9424	1005136918-6933
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Pollice, Lorraine
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Rodgman, Alan
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Shipe, Steven
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Szymanczyk, Michael
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Teitelbaum, Shari
Telford, George
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Tredennick, Donald
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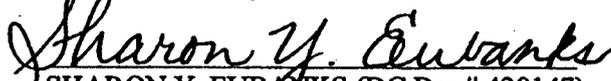
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