

TOBACCO LITIGATION

4/14/97



Official Business

Alaska State Legislature

State Capitol
Juneau, AK 99801-1182

AGENDA

Monday, April 14, 1997

Co-Chairs: Representative Con Bunde
Senator Gary Wilken

Presentations

1. Commissioner Karen Perdue
State of Alaska Department of Health & Social Services
Tobacco and public health
2. Attorney General Grant Woods
State of Arizona
Liggett tobacco settlement
Anti-tobacco tool for decreasing tobacco use
3. Attorney General Bruce Botello
State of Alaska
Status of tobacco litigation in Alaska
4. Question and answer session



STATE OF ARIZONA

OFFICE OF THE ATTORNEY GENERAL

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GRANT WOODS

Grant Woods is a lifelong resident of Arizona. He grew up in Mesa, Arizona, before attending Occidental College in Los Angeles where he graduated Phi Beta Kappa. In 1979 he received a law degree from Arizona State University.

Mr. Woods led all candidates on the 1990 ballot and was re-elected Arizona Attorney General in 1994 with 80% of the vote. He presides over a staff of 850 employees including 300 attorneys and is chief counsel and law enforcement officer for the State of Arizona.

He is recognized across the nation for his leadership in consumer protection, environmental enforcement, civil rights, and fighting crime. A pro-active Attorney General, Mr. Woods personally appears in the courtroom in trials, hearings and sentencing, and argues for the state before appellate courts throughout the state and country. Mr. Woods successfully argued to the United States Supreme Court the matter of Lewis v. Casey, a case dealing with inmate access to the courts. He was named "Attorney General of the Year" by the National Association of Attorneys General in June of 1995. He is the past national president of the Civil Rights Committee and currently chairs the national Supreme Court Committee.

Mr. Woods was founding President of the Mesa Education Foundation. In 1986, he founded the Mesa Boys & Girls Club. The Club recently opened its new facility, the largest in Arizona, and renamed it after Grant Woods. Mr. Woods also hosts his own radio show on Fridays from 1:00-3:00 P.M. on top-rated KTAR radio.

Mr. Woods is married to Marlene Galan Woods, news anchor at KSAZ-Channel 10, and has four children, Austin 13, Lauren 11, Cole 5 and Dylan 1.

For Immediate Release
March 20, 1997

Contact: David White (202-223-8700)
Jay Smith (703-683-8512)

ATTORNEYS GENERAL REACH MAJOR TOBACCO LAWUIT SETTLEMENT

Industry Documents Reveal Big Tobacco's Knowledge of Smoking's Dangers; Marketing to Kids

Washington, D.C., March 20 – In a stunning development for America's tobacco industry, Liggett Group, Inc. has agreed to settle lawsuits filed against it by twenty-two states, it was announced today.

For the first time in history, Liggett, one of the nation's top five tobacco companies, admits that three of the tobacco companies' major contentions are in fact false. Liggett admits that cigarette smoking causes lung cancer, heart disease and emphysema. Liggett admits that nicotine is addictive. Liggett admits that tobacco companies actively market to teenagers, and when tobacco companies refer in their internal documents to "youth," it includes teenagers 14-18 years of age.

Under the terms of the settlement, Liggett has agreed to waive privilege and turn over hundreds of industry documents going back decades. These documents are being filed in courthouses around the country.

In a statement issued as part of the settlement, Liggett CEO Bennett S. LeBow pledged to "scrupulously avoid any and all advertising and marketing that would appeal to children and adolescents" and to place a warning on all Liggett brands that "Smoking is Addictive."

"Never again will Big Tobacco be able to claim innocence with a straight face," said Mississippi Attorney General Michael Moore (D), whose first-in-the-nation lawsuit seeking compensation for the cost borne by taxpayers to treat tobacco-related disease in indigent citizens goes to trial in June. "The documents will tell the real story behind the industry's lies."

"To use a criminal analogy, Liggett is turning states evidence in our lawsuits against the other major tobacco companies," stated Arizona Attorney General Grant Woods (R).

-MORE-

a lead participant in the lengthy negotiations that led to today's settlement. "Juries across the country are finally going to hear the truth, from the inside, about how tobacco companies have operated over the years."

The Liggett agreement does not constitute a consent to any fraudulent conveyance of the RJR food group or any other entity which would constitute fraudulent conveyance.

"The Attorneys General want to be absolutely clear: we will fight any attempts to spin off assets in a fraudulent conveyance. RJ Reynolds is put on notice - you cannot protect your assets by spinning them off into a new company," said Attorney General Hubert H. Humphrey, III of Minnesota.

The Attorneys General participating in the Liggett settlement are (listed by alphabetical order of state): Arizona (Grant Woods); Connecticut (Richard Blumenthal); Florida (Bob Butterworth); Hawaii (Margery Bronster); Iowa (Tom Miller); Illinois (Jim Ryan); Indiana (Jeffrey Modisett); Kansas (Carla Stovall); Louisiana (Richard Ieyoub); Maryland (Joseph Curran, Jr.); Massachusetts (Scott Harshbarger); Michigan (Frank Kelley); Minnesota (Hubert H. Humphrey, III); Mississippi (Mike Moore); New Jersey (Peter Vemiero); New York (Dennis Vacco); Oklahoma (Drew Edmondson); Texas (Dan Morales); Utah (Janet Graham); Washington (Christine Gregoire); West Virginia (Darrel McGraw); and Wisconsin (James Doyle).

Copies of the settlement agreement can be obtained on the Internet at <http://stic.neu.edu>



Liggett settles with states

Cigarette maker to admit smoking causes cancer; pay some \$750 million

March 20, 1997: 6:10 p.m. ET

NEW YORK (CNNfn) - Liggett Group Inc. on Thursday reached an unprecedented lawsuit settlement with 22 U.S. states, becoming the first tobacco company to admit that cigarettes are addictive and can cause cancer.

Breaking ranks with the rest of the tobacco industry, Liggett Group, a unit of Bennett LeBow's Brooke Group, also agreed to turn over 25 percent of its pre-tax profits for the next 25 years.

Under the deal, Liggett will pay an estimated \$30 million annually to the states, or about \$750 million in total.

Liggett will also pay a flat \$25 million fee if the company either acquires an additional tobacco unit, or is itself purchased by a cigarette firm.

Further, Liggett agreed to add a label to its products, including the Chesterfield and Lark brands, stating the nicotine is addictive.

"This is the beginning of the end for this conspiracy of lies and deception that has been perpetrated on the American people by the tobacco companies," Grant Woods, Arizona's attorney general, told a Washington, D.C., news conference. "Someone is finally telling the truth." [\(814K WAV\)](#) or [\(814K AIFF\)](#)

Woods said Liggett would cooperate fully with state attorneys general in cases pending against the other companies, and would allow its current and former employees to testify about industry practices.

He said the company had already turned over internal documents, and would argue in court for the right to provide states with documents related



Grant Woods



Mike Moore

to other tobacco companies.

Liggett executives did not make any immediate comment about the settlement.

While industry watchers long viewed Liggett, the smallest of the top cigarette makers, as a loose link in the powerful tobacco front, analysts say the company's admission that tobacco causes disease deals a major blow to the sector.

Tobacco companies face a growing list of lawsuits filed by states seeking to recoup the medical costs of treating tobacco-related illnesses in impoverished patients who receive state-funded Medicaid insurance.

Along with the cases brought by the states and individual civil suits, the Justice Department is investigating whether top tobacco-industry executives lied to Congress in 1994 when they testified that nicotine is not addictive.

Scott Harshbarger, the Massachusetts attorney general and president of the National Association of Attorneys General, told reporters that the Liggett deal "will produce information that indicates that major tobacco companies were fully aware that the product they were selling is addictive, that the product they were selling had great impact on public health."

The nation's four largest tobacco companies, which all claim nicotine is a non-addictive flavor enhancement, quickly lashed out against Liggett's deal.

Philip Morris called the agreement a "sham," and insisted in a statement that the settlement did nothing to impact other tobacco litigation.

"Philip Morris will continue to defend vigorously against the meritless lawsuits filed by the states seeking to recover health-care expenses," the statement said.

A key element of the settlement is Liggett's agreement to turn over potentially damaging documents, including notes between tobacco companies.

However, a North Carolina state judge issued a temporary restraining order prohibiting Liggett for the time being from given any notes to the states.

Lawyers for R.J. Reynolds Tobacco, Philip Morris, Brown & Williamson Tobacco and Lorillard Tobacco argued that the information is protected by a joint-defense privilege.

Liggett is expected to argue in court that all the documents should be delivered to the states, Arizona's Attorney General Woods said.

Yet Mike Moore, Mississippi's attorney general, said that even with documents only involving Liggett, states will receive unprecedented help in litigation against Big Tobacco.

"We will bring the other four tobacco companies to their knees," he vowed. (151K WAV) or (151K AIFE)

Just one year ago, Liggett became the first company to ever offer to settle smoking litigation, reaching an accord with five states. The company also agreed to settle its part of a class-action lawsuit in New Orleans.

As word of Thursday's settlement leaked out, Wall Street investors sent tobacco shares down sharply.

Shares of Philip Morris (MO), a component in the Dow Jones industrial average, closed down 7-1/4 to 114-3/4, while RJR Nabisco Holdings (RN) lost 3/4 to 31-1/2 and B.A.T. Industries (BTI) fell 13/16 to 15-5/8. Brooke Group (BGL) rose 5/8 to 4-7/8. ▶

-- David Rynecki



Liggett to settle
- March 20,
1997

Liggett states
near settlement
- March 19,
1997

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THE ARIZONA

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Friday, March 21, 1997

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Phoenix, Arizona

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107th year, No. 307

Tobacco 'conspiracy' is broken

Firm gives up documents

By Jeff Barker
Republic Washington Bureau

WASHINGTON — A settlement signed Thursday could end the tobacco industry's 30-year "conspiracy of deceit" by making public documents detailing cigarette executives' highly sensitive conversations, Arizona Attorney General Grant Woods said.

The documents are being made available to judges around the country as part of a civil settlement that Arizona and 21 other states reached with Liggett Group Inc., the maker of Chesterfield and Lark cigarettes.

The documents, which go back decades, include industrywide conversations that Liggett says will demonstrate crime and fraud against its tobacco company.



Grant Woods /
"I believe this is
the beginning of
the end for this
conspiracy of
lies and
deception."

— See TOBACCO, page A16

Tobacco firm takes deal in suit

— TOBACCO, from page A1

brethren, according to Woods, who appeared at a news conference Thursday with other states' attorneys general.

Woods said the documents "could well break the back of this (tobacco) conspiracy" by showing that the industry lied about whether cigarette smoking causes lung cancer and other diseases, whether nicotine is addictive, and whether cigarette companies illegally marketed products to teens.

Woods said that Liggett's agreement was the equivalent of a criminal defendant turning state's evidence.

"I believe this is the beginning of the end for this conspiracy of lies and deception perpetrated on the American public by the tobacco companies," said Woods, who played a prominent role in the negotiations. "We're going to tell the truth from the inside, using their own documents."

Mississippi Attorney General Mike Moore said the bounty includes "the most incriminating documents ever in the history of tobacco litigation."

"These are documents, you see, that we never supposed to find out about," he said.

The documents are already on their way to Arizona, Mississippi and other states that still have claims pending against Philip Morris, R.J. Reynolds and other tobacco firms. In Arizona, Woods said in the suit that the firms illegally marketed their wares to minors.

Woods proceeded with the lawsuit over the objections of Gov. Fife Symington, who ordered him to drop the legal battle. Woods accused the governor of being "bought off" by tobacco companies.

Asked whether he felt vindicated, Woods replied Thursday, "The governor sided with the five tobacco companies, and one of them has now admitted that the allegations in our suit were correct. I don't know what more you can say."

Woods scored a publicity coup, moderating the press conference and appearing on a CNN program and other news talk shows.

Judges in each of the 22 states will determine whether the documents contain evidence of a crime. Such a finding is needed to overcome attorney-client privilege rules that

ARIZONA CENTRAL



Do you feel that the state Legislature has misused tobacco tax funds? How do you think those tax dollars should be spent? Sign on to America Online and tell us how you feel. Go to keyword: Arizona Central and click on the What's Hot icon.

would allow the documents to remain confidential.

Out of thousands of documents, Liggett has already chosen 25 to 30 that it believes will be particularly helpful to the 22 states — and damaging to the industry. Woods said he and the other attorneys general have not seen the documents since they are privileged, and are relying on the characterizations of Liggett.

Philip Morris has already won a temporary restraining order in a North Carolina court to prevent attorneys in the settlement from reading the documents immediately.

But Moore said the court order would not handicap the tobacco firm's opponents in other states.

"I doubt if a judge in any other state in this country is going to care too much about what a judge in North Carolina says to try to hide those documents continuously from us," Moore said.

In the settlement, Liggett became the first tobacco company to admit that cigarette smoking causes lung cancer, heart disease and emphysema, and that nicotine is addictive. The attorneys general said Liggett also conceded that tobacco firms market to "youth" 14-18 years of age.

Liggett agreed to pay 25 percent of its pretax profit over the next 25 years. If Liggett merges with another tobacco company, it would immediately have to pay \$25 million.

Liggett also said its attorneys will help the states interpret the documents it has made available.

Woods and the other attorneys general stressed that money was not the main factor in the settlement. They said they could not estimate how much Liggett would ultimately have to pay.

"This is a little bit like busting a street drug dealer to get at the Colombia drug cartel," said Minnesota Attorney General Hubert H. Humphrey III. "This is a one-time deal. The terms offered to Liggett today to come clean are not going to be offered to others."

Major tobacco stocks were off in morning trading. Philip Morris Cos. was down \$5 75, to \$116.25.

When smoke clears, truth about cigarettes is plain

For the nation's tobacco industry, it was the worst of times Thursday in Washington. For Arizona Attorney General Grant Woods, it was the best.

In a press conference broadcast live on CNN, Woods took center stage in announcing a historic settlement between Liggett Group Inc. and 22 states.

During the past seven months, Woods was lead negotiator for the settlement. Liggett attorneys flew to Phoenix three times for meetings, but most of the work was done on the phone, usually in conference calls involving 40 to 50 lawyers.

"Getting all of Liggett's people and 22 attorneys general to agree to every line in a 61-page document wasn't the easiest thing to do, but I'm feeling pretty good right now," Woods said from Washington.

In fact, he didn't complete the deal until moments before it was announced.

"We needed their lawyers' confirmation that (Liggett CEO) Bennett LeBow had signed the document," he said. "We got it



STEVE WILSON
Republic Columnist

on the phone as we were walking into the hotel for the press conference."

The deal is a savvy one for Liggett and a giant setback for the rest of the industry.

By being the first tobacco defendant to settle with the states, Liggett got favorable terms: It settles 22 state lawsuits in exchange for 25 percent of its pretax profits for the next 25 years.

But the guts of the agreement is Liggett's willingness to turn over more than 100,000 documents. These contain incriminating admissions that Woods expects will be pivotal in upcoming trials.

Liggett now admits that nicotine is addictive, that cigarettes cause cancer and heart disease, and that the tobacco industry markets to kids as young as 14.

For 40 years, the nation's tobacco companies have denied those things.

"This deal shatters their united front," said Ed Sweda, senior attorney for the Tobacco Products Liability Project at Northeastern University in Boston.

"Liggett's move seems comparable to the situation in criminal law where a co-conspirator provides critical evidence. It's very bad news for the bigger fish."

The agreement is all the sweeter for Woods because of his battle with Gov. Fife Symington over the state's lawsuit against the tobacco companies.

Symington ordered Woods to drop it last

fall, saying he feared the legal bill would be too high. It was later reported that Symington met with tobacco lobbyists before announcing the decision.

Woods got around the governor's order by filing an amended complaint on behalf of the state of Arizona rather than the Arizona Health Care Cost Containment System.

"The governor obviously sided with wrong people," Woods said Thursday.

"He sided with the tobacco companies, and one of them has now admitted that everything we allege is true."

Woods said Symington's order hurts Arizona's chances of collecting as much from the companies as other states.

"We are in an inferior position because he made us remove AHCCCS from the suit. But I think we will still get a lot of money. The other companies will have to do what Liggett did or be put out of business."

The tobacco companies' biggest problem all along, and the underlying reason for Thursday's settlement, is this simple:

Truth isn't on their side.

They have shown for years that if you hire enough lawyers and lobbyists, enrich enough politicians, and blow enough smoke, the truth can be covered up, twisted, shoved out of sight.

But it doesn't go away. Cigarettes are addictive. They are pitched to kids. They cost us billions in health care every year. They will kill 8,000 Americans this week. Just as many died last week. At least as many will die next week and the next.

It's worth noting that the settlement knocked tobacco stocks lower. The biggest cigarettemaker, Philip Morris, fell 6 points. It has lost 25 points in the past week.

The only exception was the stock of Liggett's corporate parent, Brooke Group. Wall Street pushed its price up for cutting a smart deal — not for coming clean — but it's still good to see honesty rewarded.

It will be even better to see the truth finally come out in court and put an end to Big Tobacco's decades of deadly deceit.



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Article 17 of 26

Subject: Ex-FDA chief Kessler sees anger in US tobacco case
From: anon3c67@nyx.cs.du.edu (Bruce Watson)
Date: 1997/03/21
Message-Id: <5guns5951r@nyx.cs.du.edu>
Newsgroups: alt.smokers, alt.support.non-smokers
[\[More Headers\]](#)

Ex-FDA chief Kessler sees anger in US tobacco case

WASHINGTON, March 21 (Reuter)--Former U.S. Food and Drug Administration Commissioner David Kessler said on Friday the American people would react angrily to a tobacco company's admission that the industry marketed cigarettes to children.

"For one of the major tobacco companies to admit that they marketed to children, that's striking," Kessler said on NBC's Today Show. "I think it will make the average person just angry," he added.

The admission by the Liggett Group Inc.--makers of Chesterfield, L&M and Lark cigarettes--is a striking blow to the cigarette industry. The admission came in a settlement of lawsuits on Thursday by attorneys general of 22 states who said Liggett confessed tobacco was addictive, caused cancer and that tobacco was marketed to minors.

The firm, the smallest of big tobacco companies, made the concessions to settle lawsuits by 22 states seeking to recoup money spent on health care for tobacco-related illnesses.

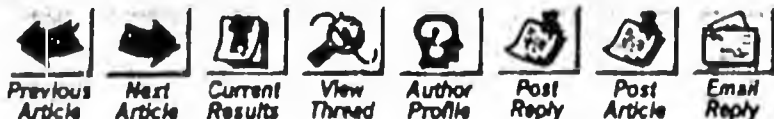
Liggett agreed to turn over documents to state judges that could prove crucial in lawsuits against other tobacco firms.

"The industry has always maintained that smoking is an adult choice," Kessler said. "Now one company has said it is addictive and they marketed an addictive product to children--it is not a matter of choice, that settles that issue."

He noted that even Republican presidential candidate Bob Dole said during last year's campaign that cigarettes were not necessarily addictive. "That has been the view of some--that cannot be credible any more," Kessler said.

Arizona Attorney General Grant Woods said on the program it was a significant decision. "This is the first time in the nation's history--remember there are only five of them--one of them has come forward and finally told the truth."

He added that "Most of us probably intuitively know they were not telling the truth--at least now it's over, as far as this discussion because an insider, one of the tobacco companies has come forward and says smoking causes cancer, smoking causes heart disease and emphysema, nicotine is addictive and, yes, we have marketed towards children and the tobacco industry markets toward children."



Article 10 of 26

Subject: Liggett told to retrieve documents
From: anon3c67@nyx.cs.du.edu (Bruce Watson)
Date: 1997/03/23
Message-Id: <5h4iv1\$069@nyx.cs.du.edu>
Newsgroups: alt.smokers,alt.support.non-smokers
[\[More Headers\]](#)

Liggett told to retrieve documents
Judge seals secret papers linked to nicotine addiction; 22 states may have them by now
By Steve McQuilkin
JOURNAL BUSINESS REPORTER

Judge William H. Freeman ordered the Liggett Group yesterday to retrieve any secret documents on nicotine addiction and other legal issues that may have been distributed after he ordered them sealed Thursday.

The tobacco industry sought the measure in Forsyth Superior Court after Grant Woods, the attorney general for Arizona, said that the Liggett documents were being flown to all 22 states suing the industry. "They will be all over the country before the sun comes up," Woods said Thursday.

Many involved with the dispute could not say yesterday whether the documents were delivered; several states had not received the documents by yesterday afternoon. But some who have been following the legal battle between the major tobacco companies and the 22 states suing them say that it will be hard for the industry to keep the documents confidential.

David Logan, a law professor at Wake Forest University who tracks tobacco issues, said that if even one attorney general finds a judge willing to unseal the documents "it won't matter very much what Judge Freeman decides 10 days from now because the cat's already out of the bag."

In a settlement agreement announced Thursday, Liggett admitted that nicotine is addictive and that smoking causes lung cancer and other ailments--something the other tobacco companies have denied.

Michael Moore, the attorney general for Mississippi, said that Liggett's internal documents show that the industry aimed marketing efforts at minors.

For many years, the tobacco companies shared information and legal strategies in developing defenses to lawsuits against the industry. At issue is whether Liggett can now break ranks and disclose notes and other papers gleaned from those meetings, which the other tobacco companies say should remain secret under client-attorney privilege.

Freeman's order requires Liggett to identify anyone who directed or failed to stop the distribution or production of the secret documents after 12:21 p.m. Thursday--shortly after he signed the order. It also demands that Liggett provide a full accounting of the whereabouts of all copies of the documents since that time.

"Talk about fighting a war on a lot of fields--this really is a logistical nightmare for them," Logan said of the tobacco companies.

Stewart H. Freeman, an assistant attorney general for Michigan, said he believes that the documents could be posted on the Internet with a week or two.

If cigarette companies have documents that show smoking causes health problems, then it would be hard for them to show why groups such as the American Lung and American Heart associations can't see those reports, Freeman said.

"We're not talking about the formula for Coca-Cola," he said.

Joseph D. Loveland, a spokesman for Attorney General Hubert H. Humphrey III of Minnesota, said that though protective orders vary from state to state, the judge in each case can decide whether to open documents for public inspection.

Loveland said he expects the documents to be unsealed in Mississippi first because that case is further along and in Florida because that state has strong Government-in-the-Sunshine laws. He said that the documents could be filed in Minnesota as early as Monday, but it may take much longer to get them unsealed because Minnesota has strong protective rules.

Logan said: "The key player in all this is the documents. Whatever is revealed will make things difficult for the tobacco companies."

Peggy C. Carter, a spokeswoman for R.J. Reynolds Tobacco Co. in Winston-Salem, said she doesn't believe that Reynolds will have to go to the other states to keep the documents confidential because she believes that judges will honor the temporary restraining order.

Carter said that some of the attorneys general are being too glib in the national spotlight. "They are saying a lot of things, but it doesn't logically compute," she said.

Carter said she was appalled by a comment by Moore, the chief legal officer for Mississippi, that he doesn't have to obey a court order from North Carolina. "If there was a court order from Mississippi that concerned us you can bet your buttons that he would expect us to comply with it," she said.

The documents shouldn't have any effect on a federal case over new Food and Drug Administration restrictions on the sale and marketing of tobacco products, she said. Judge William Osteen of the U.S. District Court in Greensboro is considering whether the restrictions are legal after a challenge by the tobacco and advertising industry and is expected to make a decision within the next five weeks, possibly as early as Monday. The restrictions include a ban on color and imagery in tobacco ads except in adult establishments and publications and a complete ban on self-service tobacco displays and the distribution of such products as baseball caps and jackets that bear tobacco logos.

Legally, Osteen is not allowed to consider facts that aren't already in the court record of the case--and he can't refer to the settlement to support any conclusions he might make, Logan said.

Stewart Freeman said that FDA attorneys probably should try to get some of Liggett's admissions in front of Osteen even though the hearing is over. "The Justice Department couldn't possibly have known that Liggett would make those statements until Liggett made them," Freeman said.

Allison M. Zieve, an attorney for the Public Citizen Litigation Group, said that though it's possible the federal government would move to introduce new evidence, it's not likely.

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Article 14 of 26

Subject: STATE ATTORNEYS GENERAL V. TOBACCO: A War Without End?
From: anon3c67@nyx.cs.du.edu (Bruce Watson)
Date: 1997/03/22
Message-Id: <5h1o4r\$948@nyx.cs.du.edu>
Newsgroups: alt.smokers,alt.support.non-smokers
[More Headers]

STATE ATTORNEYS GENERAL V. TOBACCO: A War Without End?
by: James E. Tierney (Attorney General of Maine 1980-1990)

On February 19, 1997, Indiana Attorney General Jeffrey Modisett filed a lawsuit against the tobacco industry asking for extensive regulatory relief and over a billion dollars in reimbursement for his state's medical expenses. Indiana therefore became the 22nd state to jump into the war between the tobacco industry and the state attorneys general.

The lines in this war are clear.

On one side is the tobacco industry. It is armed with billions of dollars in assets, hundreds of thousands of employees, hundreds of millions of dollars in political contributions and access to thousands of top-flight lawyers and lobbyists. No court has ever ordered the tobacco industry to pay one cent in damages for smoking related claims.

On the other side are twenty-two attorneys general. With their staffs, a group of well-financed trial lawyers, and the power of emerging public sentiment, they are utilizing legal theories that have yet to be successfully applied to the tobacco industry.

No one knows who will win the bitter battle currently being played out almost daily in court, press conferences, the halls of Congress and Wall Street. The answer may well lie buried deep in the eleven million tobacco industry documents that have been turned over to the state attorneys general and their lawyers.

I. The First and Second Wave

By any measure, the tobacco industry is big and growing. While tobacco has been cultivated since colonial days, it has only been since the dawn of the 20th Century that cigarettes, as opposed to cigars or smokeless (e.g. "spitting") tobacco, have dominated its use. Portable, inexpensive, and addictive, cigarettes were the perfect product to market with massive advertising campaigns directed by the fast-growing tobacco industry. By the end of World War II, no social gathering was complete without the availability of cigarettes and their use skyrocketed.

Also skyrocketing, however, were the number of deaths caused by lung cancer and heart attacks among heavy smokers. Medical research slowly began to find connections, physicians stopped smoking, the Surgeon General issued his reports and the rest is history. Today, every reputable scholar agrees that cigarette smoking kills 400,000 Americans a year making smoking the country's number one health problem.

During the 1960's and 1970's, the tobacco industry found itself the target of private litigation. Brought mainly under the tort theories of deceit, breach of express and implied warranty and negligence, plaintiffs' cases were hampered by the lack of definitive medical studies and a firm grasp of what was then internal tobacco industry knowledge.

In the 1980's, more suits were filed that added the newer legal theories of failure to warn and strict liability. While plaintiffs could generally now prove a direct connection between smoking and various diseases, the tobacco industry successfully countered by arguing that smokers had freely chosen to smoke, could quit anytime they wanted, and had thereby voluntarily assumed any hypothetical risk that might exist from smoking cigarettes. These defenses were ironically bolstered by the Federal Cigarette Labeling and Advertising Act's imposition of a warning label on all cigarette packaging and advertising.

Strategically, the tobacco industry countered each and every suit with scorched earth defense tactics that often spent their opposition into the ground. As a result, full discovery of internal industry practices never really took place. Coupled with seemingly invincible power in both political parties, the tobacco industry entered the 1990's with its power in tact and cigarette smoking on the rise among young people.

II. Third Wave

On May 23, 1994, Mississippi Attorney General Mike Moore filed an unprecedented law suit against the entire tobacco industry. On August 17, 1994, Minnesota Attorney General Hubert H. Humphrey, III, joined by Blue Cross and Blue Shield of Minnesota, did the same. Vilified not only by the tobacco industry but also by most large business groups, the actions by these two attorneys general will forever change the way tobacco is regulated in the United States.

These state's cases have much in common. Both assert that the tobacco industry has engaged in years of illegal activity. Both were brought by experienced private plaintiff's lawyers working under contract with the attorney general. The legal theories of the two cases, however, differ significantly.

In Mississippi, Attorney General Moore filed in his state's court of equity. Utilizing theories of unjust enrichment and restitution, his suit attempts to recoup for his state millions of dollars paid by it for the medical care of indigent citizens. By avoiding the filing of a subrogation claim that the State of Mississippi was acting on behalf of specific smokers, Moore avoided the assumption of the risk defense which had earlier proven successful for the tobacco industry.

In Minnesota, Attorney General Humphrey's case was filed in state court asserting that the tobacco industry engaged in a series of illegal activities that violate consumer protection and antitrust laws. The case further alleged that the tobacco industry knew of the addictiveness of nicotine and yet engaged in a "unified campaign of deceit and misrepresentation" to conceal the information from the general public and governmental agencies.

Both attorneys general, however, spoke forcefully of their concerns over the increased rate of teenage smoking. With statistics showing that 50% of all adult smokers had begun smoking before the age of 14, both Moore and Humphrey echoed Federal Food and Drug Administration (FDA) Commissioner David Kessler who since his appointment by President Bush had made the reduction of youthful smoking a top priority.

In February of 1994, Kessler wrote that he believed that there was "mounting evidence" that "the nicotine ingredient in cigarettes is a

powerfully addictive agent" and that "cigarette vendors control the levels of nicotine to satisfy this addiction." This letter was followed in April of 1994 by the now infamous hearing before the House Health and Environment Subcommittee then chaired by Rep. Henry Waxman (D-Ca) wherein the CEO's of the seven largest tobacco companies testified that they personally believed that nicotine is not addictive and that smoking has not been proven to be a cause of cancer. One month later, Moore filed his case.

III. The Next Brave Souls

On September 20, 1994, West Virginia Attorney General Darrell McGraw filed a medical reimbursement lawsuit that for the first time named U.S. Tobacco, manufacturers of 95% of the smokeless tobacco sold in the United States, as a defendant along with the other major cigarette companies. McGraw's case not only mirrored Moore's case legally, but politically as well. In both state's, the Governors came down hard on the side of the tobacco industry and filed briefs in court asserting that their attorney general lacked the authority to bring the suit and/or sign contracts with private lawyers to bring the case.

The attention that arose from these suits, however, at times seemed minor when compared to the controversy that erupted in Florida with the late-night passage of the Medicaid Third-Party Liability Act on the last day of the 1994 Legislative Session. Swept through the Legislature without a hearing, the Act specifically authorizes the Florida Attorney General to bring a reimbursement lawsuit and, more importantly, strips from tobacco defendants the ability to utilize the defenses of assumption of risk and contributory negligence. Strongly supported by Florida Governor Lawton Chiles and Attorney General Bob Butterworth, both the procedure and the substance of the passage resulted in a huge effort by the entire business community to repeal the Act as soon as possible.

IV. The Stall

During the summer and fall of 1995, the tobacco industry came very close to ending the initiative of the attorneys general. In Mississippi, Governor Kirk Fordice, with the support of the entire business community, sued Attorney General Mike Moore in an attempt to have the case dismissed. In West Virginia, Governor Gaston Caperton's legal intervention persuaded a trial judge that Attorney General McGraw did not have the authority to bring the suit and she dismissed most of the claims. In Florida, the Legislature overwhelmingly repealed the Liability Act and it appeared that the industry had the votes to override the veto of Governor Chiles. Only the Minnesota case was still politically alive although preliminary legal attacks left it buried deep in the state's appellate process.

The four attorneys general who sued, however, continued their efforts. Secret documents from the archives of the industry, brought forward by whistleblowers, sometimes in defiance of state court orders, increasingly appeared in the press. The tobacco industry then launched legal assaults on the media itself, winning an apology from ABC and frightening CBS's "60 Minutes" into cancelling a story on the eve of broadcast. The key committee posts in the new Republican controlled Congress were entirely pro-tobacco and federal "tort reform" threatened to wipe out all of the state cases. The tobacco industry dramatically increased its corporate and PAC contributions and the proposed FDA rule was under furious assault.

V. "Don't Let That Attorney General File That Suit!"

At this point, the industry launched what at best can only be charitably described as a curious litigation strategy. It initiated lawsuits against the attorneys general of Massachusetts, Texas, and Maryland, who--at that

point--were considering filing actions but had not yet finally decided to do so. These unprecedented suits asked the courts to stop the attorney general from ever filing a suit as opposed to the more common method of submitting a Motion to Dismiss after a suit had been filed.

Even a casual observer of state attorneys general could have predicted that these suits would have the exact opposite effect from what the industry wanted. Virtually all of the fifty attorneys general rallied to the defense of the four that had been sued. In private discussions, they characterized the preemptive efforts of the industry as an indication of corporate arrogance not shown by any other segment of the American business community. The response of Massachusetts Attorney General Scott Harshbarger was representative of others when he responded that "the tobacco industry may intimidate '60 Minutes,' but they won't intimidate me."

In November 1995, a conference for state attorneys general, funded by the Robert Wood Johnson Foundation and organized by the Tobacco Products Liability Project, was held at Northeastern University in Boston. It brought together representatives from thirty state attorneys general, leaders of the tobacco control movement, and the plaintiff's bar, and resulted in a renewed commitment to continue the litigation efforts.

After almost a year during which no state had sued, Massachusetts became the fifth state to file. On December 1, 1995 at a press conference held in a Catholic hospital attended by the Archbishop of Boston, Harshbarger stated that "cigarette manufacturers have ... known for years, based on their own secret research, that their products eventually injure or kill the consumer when used exactly as intended."

The stall was over.

VI. Liggett:

On March 15, 1995, the headlines of every newspaper in the country announced that The Liggett Group, the nation's fifth largest cigarette manufacturer, had settled its claims with five of the six states who had sued it for \$10 million, a stake in future profits, and an agreement to immediately comply with the proposed FDA rule dealing with youth access. (Louisiana Attorney General Richard Feyoub had filed the day before the settlement announcement.) Minnesota Attorney General Hubert Humphrey refused to join the settlement, noting that the dollars were too low and that the agreement actually provided the states with an economic stake in a failing tobacco company that was attempting a hostile takeover of R.J.Reynolds.

Regardless of the legal merits, there can be no question that the settlement was a stunning success for all state attorneys general. The industry's aura of invincibility was gone forever.

The settlement immediately solved several critical political problems. In West Virginia, the Governor, with a check for \$200,000 literally in hand, reversed his position, thereby reactivating the suit in his state. In Florida, the settlement on the eve of the vote to override Governor Chiles's veto of the Liability Act saved the day. In New Jersey, Governor Christine Todd Whitman ordered her appointed attorney general to start the process to file, making her the first prominent Republican to support state litigation.

Most important, the settlement legitimized the efforts of the first five attorneys general. The media lost its timidity and began launching new and ever more negative attacks on the tobacco industry. Editorials now asked why the state attorney general had not sued instead of the other way around. National health associations, long skeptical of litigation as a route to tobacco control, have whole heartedly supported the efforts of the

attorneys general.

VII. The Deluge

In December 1995, the tobacco industry had preemptively sued Texas Attorney General Dan Morales in state court in Austin. On March 28, 1996, Morales responded with a law suit, the first state case to be filed in federal court, that alleged civil racketeering violations. Morales also issued a blistering attack on the industry. In the face of polls that showed the citizens of his state opposed his filing the suit, Morales stated that he believed that the industry had engaged in the "systematic cultivation of new, life-long customers, life-long nicotine addicts."

On May 1, 1996, Maryland Attorney General Joe Curran became the eighth attorney general to file in a suit he hand delivered to the court house. Asking for \$3 billion in compensatory damages, Curran was the first to seek punitive damages.

On June 5, 1996, Washington Attorney General Christine Gregoire filed against the industry. Connecticut Attorney General Richard Blumenthal filed shortly thereafter. In just one August week, four states sued. Arizona Attorney General Grant Woods became the first Republican to actually file although he was immediately followed by Kansas Republican Attorney General Carla Stovall. Oklahoma Attorney General Drew Edmondson and Michigan Attorney General Frank Kelley, who called the industry "merchants of death," each filed in their state courts.

In the last six months, cases have been filed by Utah Attorney General Jan Graham, Iowa Attorney General Tom Miller, New York Attorney General Dennis Vacco, Hawaii Attorney General Margery Bronster, Wisconsin Attorney General Jim Doyle and Indiana Attorney General Jeff Modisett.

These state court cases make many of the same allegations. All are brought by a state attorney general who has hired, often on a contingent fee basis, a private firm who has agreed to front all or most of the up front litigation costs.

And there is no question that more states, counties, cities and towns will be filing in the near future.

VIII. Preliminary Results

All of the rulings to date in the state attorney general reimbursement actions have been legal and procedural in nature. In other words, they have not reviewed the factual basis of the claims. That said, as of March 1, 1997 the states have won almost every round.

Every preemptive suit decided to date has been dismissed with especially harsh language being directed at the tobacco industry by the Court in the Connecticut and Utah cases. Every attempt to remove state cases to federal court (or to state court in the case of Texas) has been defeated. Every contingent fee agreement attacked has been upheld. In Minnesota, the Supreme Court has upheld the trial judge's rulings that upheld the dismissal of a Motion to Dismiss and kept Blue Cross and Blue Shield of Minnesota as a co-plaintiff. In Florida, the state Supreme Court has upheld the basic constitutionality of the law that limited the tobacco industry's defenses and created a de facto strict liability law and the trial judge has upheld the state's inclusion of a major conspiracy count.

This is not to say that the tobacco industry is down for the count. The Mississippi Supreme Court has yet to rule on the lawsuit of Governor Fordice that challenges Attorney General Moore's right to bring his case. In Washington, Florida and West Virginia, a number of counts have been

dismissed. In Texas, a legislative attempt will be made to eliminate the right of the Attorney General Morales to hire outside counsel. Defense counsel in each state, many of whom are as powerful in the political arena as in the courtroom, are defending the industry in a sophisticated and tightly organized manner.

Still, as of right now, all twenty-two state cases are on track to go to trial. Mississippi trial is scheduled to begin on June 1, 1997. Florida's case is set to begin in August and Texas is scheduled in October. Minnesota begins its trial the first week of January, 1998.

IX. Possible Congressional Resolution

Geoffrey Bible, the President of Philip Morris, stated in June that "after 40 years of astonishing growth...our business is in phenomenally robust shape, and our prospects have never looked better."

There is much support for Bible's statement. Profits, fueled especially by international sales, are very high. Increased smoking rates for teenagers, officially decried by the industry, nonetheless make it clear that there will be plenty of American customers for generations to come. Congressional support in key positions remains absolute and polls consistently show that Americans are not in the mood to ban tobacco products from the adult population.

All of this notwithstanding, the tobacco industry has shifted its position in the last few months and will soon be approaching Congress seeking what they call "regulatory peace," or, in the words of RJR Chief Executive Officer Steven Goldstone, a definition of "the role that tobacco should play in commerce and our society." Pro-tobacco stock analyst Gary Black, who for years had derided the significance of state and private litigation, stated the issue clearly when he wrote last August that "we believe that odds have increased significantly that over the next 18-24 months, the industry will agree to a legislative solution that could put litigation risks behind it. We believe that tobacco stocks could soar as investors adopt the view that the current litigation discounts...are several times likely settlement costs...."

To get ready for this Congressional fight, the industry is employing an increased number of high profile lobbyists from both political parties and expanding their public relations efforts. President Clinton has indicated a willingness to help bring the two warring sides together to see if common ground can be found.

The suing attorneys general, however, cannot see how a truce can be declared as long as 400,000 Americans die each year of tobacco related illnesses and youth smoking rates continue to climb. All of its talk of "peace," few attorneys general are anxious for a settlement that allows tobacco stocks to "soar." While attorneys general are internally discussing the possible parameters of a "global settlement," all are spending most of their time getting ready for trial.

In their hearts, both sides to the tobacco wars know full well the risks of litigation. When it comes to the question of who will blink first, however, there is more than enough evidence that the state attorneys general who have sued the tobacco industry are not at all be afraid of going all the way.

James E. Tierney served as the Attorney General of Maine from 1980 until 1990. Since that time he has written widely on the subject of state attorneys general, served as a special prosecutor and serves on the Board of Commentators for the Courtroom Television Network. During 1995, Tierney worked with the Tobacco Products Liability Project and currently is assisting state attorneys general in the coordination of their tobacco litigation. For more information see: <http://stic.neu.edu>.



Article 8 of 26

Subject: Tobacco foes fired up
From: anon3c67@nyx.cs.du.edu (Bruce Watson)
Date: 1997/03/23
Message-Id: <5h4jca\$oig@nyx.cs.du.edu>
Newsgroups: alt.smokers, alt.support.non-smokers
[\[More Headers\]](#)

Tobacco foes fired up
Liggett pact with 22 states hailed by many, decried by RJR, others By
John Hoeffel
JOURNAL WASHINGTON BUREAU

WASHINGTON--In a stunning settlement reached yesterday with the attorneys general from 22 states, the Liggett Group, the country's fifth-biggest maker of cigarettes, admitted that nicotine is addictive, that smoking causes cancer and that cigarettes have long been marketed to minors.

Liggett, in a major concession, agreed to put a warning label on its cigarette packages declaring that smoking is addictive, contradicting the long-standing claims of tobacco officials that it is not.

The company, based in Durham, also agreed that its employees and attorneys will testify in the lawsuits the 22 states have filed against the four other major cigarette makers, including R.J. Reynolds Tobacco Co. in Winston-Salem.

Liggett also promised to hand over several boxes of highly confidential documents.

"We believe this is the beginning of the end for this conspiracy of lies and deception that's been perpetrated on the American public by the tobacco companies," said Grant Woods, the Arizona attorney general.

Woods, flanked by the other attorneys general in a packed hotel ballroom, announced the settlement yesterday afternoon shortly after the last attorney general and financier Bennett LeBow, Liggett's owner, accepted it.

CHRISTINE GREGOIRE, the Washington attorney general, lauded the agreement. "Today, we put Joe Camel in its coffin where it belongs," she said. "It is a breakthrough, watershed day."

Woods said that the documents could contain evidence of crime and fraud. "The documents are extremely damaging," he said.

Some of the hundreds of thousands of pages pertain just to Liggett, but many others, considered potentially explosive, describe meetings between the top in-house attorneys for all five of the major cigarette makers.

Long before the agreement was signed yesterday afternoon, Reynolds and the three other major cigarette companies obtained a temporary restraining order from Judge William H. Freeman of Forsyth Superior Court. Freeman's order bars Liggett from "misusing or disclosing any privileged or confidential information" relating to the four tobacco companies.

or confidential information" relating to the four tobacco companies.

The order set a hearing on the issue for March 31.

Woods said that the attorneys general had seen only the Liggett documents and not the industry documents but suggested that all the documents were being shipped to the courts where the 22 states have filed suit. "They will be all over the country before the sun comes up," said Woods, who had not seen Freeman's order. "We don't know what went on in that North Carolina courtroom."

Liggett, however, said in a statement that it would turn only Liggett documents over to the attorneys general and would wait to submit the industry documents to the courts "pursuant to court order."

Michael Moore, the Mississippi attorney general, ridiculed the notion that the top lawmen from 22 states would violate the law. "We're in the business of enforcing the law. That's what attorneys general do," he said. "We're the good guys. They're the bad guys."

Woods said he believes that the judges in those cases will unseal the documents, rejecting claims that they are protected by attorney-client privilege. Liggett, he said, has separated out about 25 of the most incendiary documents, which could be used to pierce the legal protection. "It has been represented to us that they are evidence of crime and fraud," Wood said.

With the aid of the documents and the witnesses, Moore predicted, "We will bring the other four tobacco companies to their knees."

Under the agreement, Liggett will pay 25 percent of its pretax profits for 25 years to a fund that would go to the states and others with claims against Liggett. Woods and Moore, however, acknowledged that the states might see little cash from the deal. Liggett is the smallest domestic cigarette maker by far and had no pre-tax profits last year. Liggett, which sells Chesterfield and Eve brands, has less than a 2 percent market share. Reynolds had a 24.6 percent share and Philip Morris USA had 47.8 percent.

"Money is way down the list of priorities," Woods said, explaining that the historic deal was cut to open the floodgates for documents and witnesses that could help win their suits to recoup state Medicaid spending on tobacco-related diseases, an amount some estimates put at \$6 billion a year.

"We got the wheel man. Now we're going after the bank robbers," Woods explained. Hubert H. Humphrey III, the Minnesota attorney general who has been instrumental in the lawsuits, quipped, "This is a little bit like busting a street drug dealer to get at the Colombia cartel."

Moore, whose lawsuit comes to trial in June, said, "Their lawyers are going to be on our team fighting on our side."

In Winston-Salem, news of the settlement was not taken lightly at Simos Barbecue Restaurant. Paul Simos built his business on R.J. Reynolds Tobacco's lunch crowd. So he lost no time removing three brands of Liggett cigarettes from a vending machine at the restaurant yesterday.

"We believe in our local products," Simos, 67, said. "Hell, I wear Hanes underwear."

The lunch crowd yesterday was buzzing with talk of Liggett's settlement. "Is it true," workers asked one another. Many called Simos over to their tables to ask what he thought.

"I think they are just trying to take the easy way out," Simos said. "I

"I think they are just trying to take the easy way out," Simos said. "I always felt like people ought to stick together in a great battle."

Anti-tobacco opponents heralded the settlement.

His voice quavering, Matthew L. Myers, the executive vice president of the National Center for Tobacco-Free Kids, proclaimed, "We have turned a very important corner."

"Make no mistake," he said. "This agreement is about kids and is about protecting kids."

Rep. Martin T. Meehan, D-Mass., a prominent congressional tobacco foe, said that the agreement "will make it very difficult for any member of Congress to argue against the FDA's plans to regulate tobacco products."

"What we have here is a major tobacco company making the case for FDA action," he said in a prepared statement.

But John C. Maxwell Jr., an analyst with Wheat First Butcher Singer in Richmond, said that the whole settlement is "media hype." "It's meaningless," he said, raising doubts about whether the documents contain any "smoking guns." "These guys have been sued since 1954. There's been 40 years of discovery. I don't think there's a hell of a lot more to discover," he said.

North Carolina, the country's top tobacco producer, is among the 28 states that have not sued. Attorney General Mike Easley could not be reached for comment, and several North Carolina congressmen declined to comment.

Tobacco opponents and several attorneys general also said that the Liggett documents and witnesses will help the plaintiff's attorneys pursue their lawsuits against the tobacco companies and the federal government defend the Food and Drug Administration regulations in federal court in Greensboro.

"I think the word will get around that there's plenty of incriminating stuff sitting around out there," said Richard A. Daynard, a law professor who is the chairman of the Tobacco Products Liability Project. "It's not good news for the other tobacco companies."

Daynard also predicted that the move to ask for a restraining order to keep documents secret would destroy whatever credibility the tobacco companies still have with the public. "I think the companies' responses are going to contribute to the general perception that these companies are hiding something really damning," he said.

The two biggest tobacco companies downplayed the agreement.

"It changes nothing," said a Philip Morris statement, adding that it "will continue to defend vigorously against the meritless lawsuits filed by the states seeking to recover health-care expenses."

Philip Morris, reiterating that it recognizes that smoking is a risk factor for some diseases and denying that it markets cigarettes to children, said it will continue to pursue "reasonable measures" to resolve pending lawsuits, including comprehensive legislation in Congress.

Reynolds, in a joint statement with Philip Morris, Brown & Williamson Tobacco Co. and Lorillard Tobacco Co., lashed out at LeBow, whose Brooke Group Ltd. owns Liggett. LeBow, who owns a significant stake in RJR Nabisco Holdings Corp., tried to sell Liggett to RJR Nabisco. LeBow also tried to strong-arm RJR Nabisco into spinning off its Nabisco food

operations by instigating a shareholder revolt at the annual meeting in April.

"We suspect he is simply brokering this deal in a desperate attempt to force one of the other cigarette manufacturers to take over his financially troubled and failing tobacco interests," the statement reads.

RJR Nabisco's next annual meeting is scheduled for April 16 in Winston-Salem.

The settlement includes what looks like an invitation for RJR Nabisco to buy Liggett and seize an advantage over arch-competitor Philip Morris. It includes a stipulation that a tobacco company, excluding Philip Morris, merging with Liggett "would receive certain settlement benefits, including limiting its potential liability to its domestic tobacco operations."

The joint statement from the tobacco companies also points out that LeBow testified under oath that he smoked two or three packs a day for about 15 years and quit with no problem. Asked if he believed tobacco was addictive, according to a transcript supplied by Reynolds, he said, "No, I do not."

"The only ones who potentially benefit from LeBow's latest shenanigans are plaintiffs' lawyers, who get nothing more than another free round of publicity and possibly some seed money to fund their illegitimate assault on the remainder of the tobacco industry," the statement concludes.

Under the settlement, Liggett also agreed to comply with some of the FDA regulations, including a prohibition on using cartoon characters and limitations on promotional materials and sample packages. It was unclear last night which provisions it does not plan to follow.

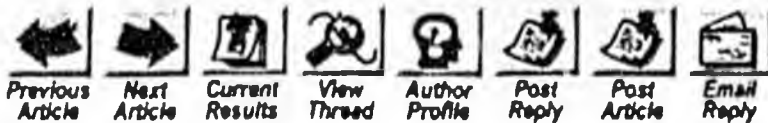
The settlement protects Liggett from further smoking-related claims filed by the 22 states. Liggett will also seek court approval for protection from all class-action and individual suits.

JOURNAL reporter Paula Christian contributed to this report.

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Article 4 of 26

Subject: Tobacco industry reportedly set targets by age, gender, ra
From: anon3c67@nyx.cs.du.edu (Bruce Watson)
Date: 1997/04/02
Message-Id: <5hu538\$e16@nyx.cs.du.edu>
Newsgroups: alt.smokers,alt.support.non-smokers
[\[More Headers\]](#)

Tobacco industry reportedly set targets by age, gender, race

PHOENIX (Apr 1, 1997 06:49 a.m. EST)--The tobacco industry targeted consumers by age, race and gender while knowing of the "severe toxicity" of nicotine, according to internal papers from the Liggett Group, a newspaper reported Tuesday.

The Arizona Republic said it obtained the confidential documents from Arizona Attorney General Grant Woods, who played a major role in lawsuits brought by Arizona and 21 other states that resulted recently in a settlement with Liggett.

The papers also show the industry manipulated nicotine levels in cigarettes and at one point, Liggett, which makes Lark and Chesterfield cigarettes, considered using synthetic ingredients to increase the impact of cigarettes on smokers "without the severe toxicity of nicotine itself," the Republic said.

The newspaper said the research papers from the 1960s and 1970s also show how manufacturers targeted marketing campaigns.

A report prepared by Arthur D. Little Inc., a Massachusetts consulting firm, identifies potential smokers ages 16 to 21 as those in "the formative years (when) smoking starts and brand preferences are developed," the Republic said.

One section of the Arthur Little report says that "Spanish and Negro groups like to purchase only the best of everything--they are not looking for bargains," the Republic reported.

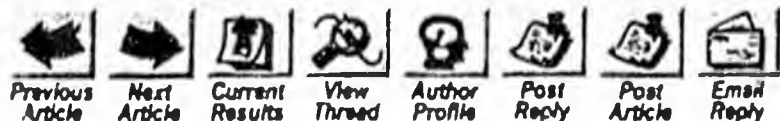
In the same report, issued about 1963, the consultants say, "There must be a racial slant in the marketing efforts" directed toward minorities, "while in the case of the Jewish market, this is not a requirement," according to the Republic.

The internal records, released as part of a settlement with Arizona and the other states, also show that Liggett was aware of that smoking is habit forming and once considered producing "less hazardous" cigarettes.

The documents released to The Republic represent only a fraction of thousands of papers being turned over to the states by Liggett. However, most of those are under seal until state judges determine whether to release them to the states.

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Article 3 of 26

Subject: Liggett worried about addiction
From: anon3c67@nyx.cs.du.edu (Bruce Watson)
Date: 1997/04/03
Message-Id: <5i0t6r\$ipp@nyx.cs.du.edu>
Newsgroups: alt.smokers,alt.support.non-smokers
[More Headers]

Liggett worried about addiction
By Bob Kur NBC NEWS CORRESPONDENT

When the Liggett Group agreed to settle lawsuits with 22 states suing the tobacco companies, the cigarette-maker turned over thousands of confidential, internal documents. Now, those documents are beginning to surface as officials in some of the states make them public.

For decades, Liggett and other tobacco companies experimented with so-called "safer cigarettes."

The goal, according to newly released Liggett documents, was finding a way to reduce harmful ingredients like tar and nicotine without breaking the smoker's addiction.

The documents show an obsession with "increasing the physiological effect of the nicotine" ... "without the severe toxicity of nicotine"--a stunning admission.

"They tried to figure out exactly how they could boost the addictive substance to the point where it would be very difficult for smokers to quit," says Grant Woods, Arizona's attorney general.

More than 20 years later, Liggett's chief and other tobacco executives swore before Congress--under oath--that they did not manipulate nicotine or believe it was addictive.

But one item from the Liggett collection, a 1978 chemists' report for tobacco companies, discusses ethics: "Is it morally permissible to develop a safe method for administering a habit-forming drug when, in so doing, the number of addicts will increase?"

Increasing the number of smokers was a priority, according to an undated marketing study done for Liggett. Targeted in the documents were: "16 to 21 year olds ... ages when brand preferences are developed." Also targeted were ethnic groups, with a document stating, "Spanish and negro markets ... there must be a racial slant in marketing efforts directed toward them..."

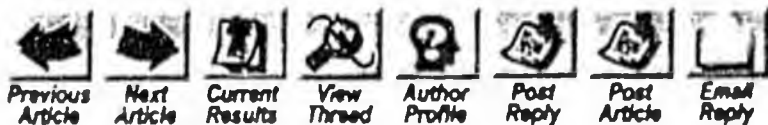
Anti-tobacco activists believe the racial targeting could prove to be a powerful weapon when the facts are presented in court, before a jury.

And all the way back in 1966, a memo shows industry researchers debated the risks of publishing what they knew then about the dangers of smoking.

"What they did was do a dollar and cents cost analysis. Was it cheaper for them to tell the truth and risk lawsuits, or was it cheaper for them to keep the truth hidden no matter how many people died?" says Matthew Myers of the Campaign For Tobacco Free Kids.

NBC News was told that the Liggett documents released Tuesday are not the most sensitive ones. Those, dealing with what the tobacco companies and their lawyers told each other over the years, may also play a key role in upcoming trials.

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