

FOIA MARKER

This is not a textual record. This is used as an administrative marker by the William J. Clinton Presidential Library Staff.

Collection/Record Group: Clinton Presidential Records
Subgroup/Office of Origin: Office of Science and Technology Policy
Series/Staff Member: Jerold Mande
Subseries:

OA/ID Number: 13036
FolderID:

Folder Title:
Tobacco: Minnesota [3]

Stack:	Row:	Section:	Shelf:	Position:
S	66	4	4	2

Jury Instruction No. 9

EVALUATION OF DEPOSITION EVIDENCE

Testimony has been presented to you by way of deposition. The testimony of a witness who for some reason cannot be present to testify in person may be presented in this form. Such testimony is under oath and is entitled to neither more nor less consideration by you because it was so presented. You are to judge its believability and weight in the same manner as you would had the witness been present in court.

Jury Instruction No. 10

IMPEACHMENT

In deciding the believability and weight to be given the testimony of a witness, you may consider:

1. Evidence of the witness' reputation for truthfulness.

2. Evidence of a statement by or conduct of the witness on some prior occasion which is inconsistent with the witness' present testimony. This evidence may be considered by you only for the purpose of testing the believability and weight of the witness' testimony and for no other purpose. If, however, the statement was given under oath or the witness is a party or agent of a party in the case, the evidence of the prior inconsistent statement or the conduct . . . may be considered as evidence bearing on the issues in this case as well for testing believability and weight.

Jury Instruction No. 11

DOCUMENT DESTRUCTION

You have heard evidence regarding the destruction of certain documents. If you find that plaintiffs have shown that a defendant or defendants destroyed documents and have failed to provide a satisfactory explanation for doing so, you are permitted to infer that the evidence, if produced, would have been unfavorable to that party.

For the purposes of this rule, "destruction" is not limited to physically destroying or discarding evidence. "Destruction" means any act or omission that prevents the other party from obtaining evidence to which it would otherwise be entitled.

In determining whether a party's explanation regarding the destruction of evidence is satisfactory, you may consider all of the facts and circumstances, including whether documents were destroyed in bad faith. Bad faith includes both deliberate destruction or concealment as well as destruction or concealment with reckless disregard for the relevance of the evidence. Bad faith is not required, however; it is sufficient if the party knew or should have known of the importance of preserving the evidence.

Jury Instruction No. 12

EVIDENCE INTRODUCED SOLELY TO SHOW NOTICE

I previously instructed you that public opinion polls and certain other documents, such as certain opinion polls, articles from newspapers and magazines and textbooks were admitted into evidence not for the truth of the matter contained in them, but to show that a party or person had notice of the particular information at issue. If I previously gave you that instruction with regard to particular exhibits, you should consider the information solely for the purpose of deciding whether a party or person had notice of the particular information.

Jury Instruction No. 13

CORPORATION--LIABILITY FOR CONDUCT OF EMPLOYEES

Defendants are corporations and can act only through their officers and employees. The conduct of an officer or employee acting within the scope of their authority or employment is the conduct of the corporation.

Jury Instruction No. 14

DIRECT ACTION BY THE STATE OF MINNESOTA

AND BLUE CROSS AND BLUE SHIELD OF MINNESOTA

You are instructed that this case is a direct action brought by the State of Minnesota and Blue Cross and Blue Shield of Minnesota. No individual smoker is a party to this action.

The actions of individual smokers do not insulate defendants from liability since the actions of smokers -- for example, the fact that they smoke -- are both foreseeable by defendants and in accord with defendants' intentions for use of their product. Any knowledge by smokers of any health risks of cigarettes, or any conduct of the smokers, is not a defense as to whether a defendant or defendants have violated the law in this case.

Jury Instruction No. 15

CONDUCT OF THE STATE OF MINNESOTA AND BLUE CROSS AND BLUE

SHIELD OF MINNESOTA

This Court has determined that any alleged fault of the State of Minnesota and Blue Cross and Blue Shield of Minnesota is not at issue in this case. Therefore, you should not consider any allegations that either plaintiff is at fault, nor should you compare any alleged fault of either plaintiff to the alleged fault of the defendants.

Jury Instruction No. 16

RESPONSIBILITY OF A MANUFACTURER

Manufacturers have a duty to conduct research into the safety of their product and to inform consumers of dangers associated with using the product.

This requires the tobacco companies to keep abreast of the hazards posed by their product and to disclose internal information relating to smoking and health. The tobacco companies' duty to research and report findings cannot be delegated to others. Therefore, the fact that the government or other organizations may have researched tobacco or issued warnings about smoking does not relieve the tobacco companies of their responsibilities.

Jury Instruction No. 17

GOVERNMENT STANDARDS ONLY A MINIMUM

Evidence has been admitted regarding certain government regulations. Government regulations are only minimum standards. The fact that a manufacturer complies with those regulations, or that the government allows cigarettes to be sold, does not mean that the manufacturer has met its duty under the law applicable in this case. You have heard testimony and seen evidence in this case which may or may not have been presented to governmental agencies.

Even if you find that a defendant or defendants met all governmental regulations and requirements, such compliance is not a defense if you determine that any defendant should have acted differently, or taken additional measures or precautions, in order to comply with Minnesota law, as set forth in the instructions I am giving you.

Jury Instruction No. 18

THEORIES OF LIABILITY

The State of Minnesota and Blue Cross and Blue Shield of Minnesota seek to impose liability under the following principles of law:

1. The State of Minnesota claims that defendants violated a duty which defendants voluntarily assumed. See Instruction No. 25. This cause of action is asserted only by the State of Minnesota. Each of the following causes of action is asserted by both the State of Minnesota and Blue Cross and Blue Shield of Minnesota.

2. Plaintiffs claim that the defendants violated the prevention of consumer fraud act. See Instruction No. 26.

3. Plaintiffs claim that the defendants violated the unlawful trade practices act. See Instruction No. 28.

4. Plaintiffs claim that the defendants violated the false statement in advertising act. See Instruction No. 30.

5. Plaintiffs claim that defendants violated Minnesota's antitrust laws by conspiring to restrain trade. See Instruction No. 32.

I will instruct you on each of these legal theories. You must evaluate the evidence and determine whether plaintiffs have met their burden by establishing the liability of a defendant or defendants under these theories.

The State of Minnesota has entered into a settlement with defendant Liggett Group, Inc. The fact that Liggett settled with

the State of Minnesota should not influence your determination in this case.

Jury Instruction No. 19

INTENTIONAL CONDUCT

Intentionally means that the actor either has a purpose to do the thing, or cause the result specified, or believes that his act, if successful, will cause that result. In order to find for the plaintiffs on any of theories of liability, you must find that the wrongful conduct of a defendant or defendants was intentional.

Jury Instruction No. 20

TWO OR MORE DEFENDANTS

There are multiple defendants in this lawsuit. Answer the special questions as to each defendant as though the lawsuits are being tried separately. Each defendant is entitled to a fair and separate consideration in this case and is not to be prejudiced by your answers with respect to the others. These instructions govern the case as to each defendant so far as they apply to that defendant.

However, in this case, the plaintiffs claim that the defendants conspired together. Therefore, in considering each defendant's liability, you must also take into account the following instruction on conspiracy.

Jury Instruction No. 21

CONSPIRACY

A conspiracy is a combination of two or more persons or entities to accomplish an unlawful purpose or to accomplish a lawful purpose by unlawful means. It is the agreement to act together that constitutes the offense. Plaintiffs must establish that a conspiracy existed and that defendants knowingly became members of the conspiracy with the intent to advance or further some object or purpose of the conspiracy. "Knowingly" means voluntarily and intentionally, and not because of mistake or accident or other innocent reason.

A conspiracy does not have to be established by direct proof and no formal or written agreement is necessary. The agreement itself may have been entirely unspoken. Its existence may be proved by circumstantial evidence. You may infer the existence of an agreement or mutual understanding from what you find the alleged members actually did. Mere similarity of conduct among various persons, however, or the fact that they may have associated with one another and may have met or assembled together and discussed common aims and interests, does not necessarily establish the existence of a conspiracy. If they acted similarly, but independently of one another, without any agreement or mutual understanding among them, then there would be no conspiracy.

A conspiracy may be formed without all parties coming to an agreement at the same time. The unlawful agreement may be shown

if the proof establishes that the parties knowingly worked together to accomplish a common purpose. It is not essential that all persons acted exactly alike.

A party who knowingly joins an existing conspiracy, or who participates only in part of a conspiracy with knowledge of the overall conspiracy, is just as responsible as if it had been one of those who formed or began the conspiracy and participated in every part of it. A party may become a member of a conspiracy without full knowledge of all the details of the conspiracy, the identity of all its members, or the parts they played. Knowledge of the essential nature of the plan is enough. On the other hand, a person who has no knowledge of a conspiracy, but happens to act in a way which furthers some object or purpose of the conspiracy, does not thereby become a conspirator.

Once a conspiracy has been established, the acts, statements, and conduct of each of the conspirators in execution or furtherance of the common purpose may be considered as evidence against the others regardless of their presence or absence. The "in furtherance" requirement is broadly construed and is satisfied if the acts, statements or conduct promote the common good of the conspirators. For example, statements describing past events are in furtherance of the conspiracy if they are made to plan future activities or to keep coconspirators abreast of current developments and problems facing the group.

Jury Instruction No. 22

CONSPIRACY ELEMENTS

Plaintiffs allege that defendants participated in a civil conspiracy. In order to prove a civil conspiracy, the plaintiffs must prove the following:

First, the plaintiffs must have succeeded in proving a defendant's intentional liability for one or more of their five theories of liability (which I instructed you on in Instruction No. 18);

Second, two or more defendants entered into a combination of persons or entities; and

Third, these defendants entered into a combination of persons or entities to accomplish an unlawful purpose or to accomplish a lawful purpose by unlawful means.

Jury Instruction No. 23

CONSPIRACY -- INTENT

TO ACCOMPLISH AN UNLAWFUL PURPOSE OR

INTENT TO ACCOMPLISH A LAWFUL PURPOSE BY UNLAWFUL MEANS

The mere existence of a combination of persons acting in concert does not establish allegations of civil conspiracy. A combination of persons to accomplish a lawful purpose by lawful means cannot form the basis of a conspiracy.

Jury Instruction 24

CONSPIRACY--

CONSPIRING THROUGH WHOLLY OWNED SUBSIDIARIES

Under the law, a conspiracy cannot be made up of only a parent corporation (for example B.A.T. Industries) and its wholly owned subsidiaries (in the case of B.A.T Industries, for example, Brown & Williamson Tobacco Corporation). However, this rule does not apply if other unrelated companies or entities - that is in this case any defendants outside the BAT Group - are part of the conspiracy. Thus, if a parent corporation participates in the conspiracy with others through its subsidiary, they are all members of the conspiracy.

JURY INSTRUCTION ON COUNT ONE

Jury Instruction No. 25

UNDERTAKING OF SPECIAL DUTY

The first theory of liability is undertaking of a special duty. You are instructed that the Court has found as a matter of law that defendants Philip Morris Incorporated, R.J. Reynolds Tobacco Company, Brown & Williamson Tobacco Corporation, Lorillard Tobacco Company, American Tobacco Company and The Council for Tobacco Research voluntarily undertook to accept an interest in people's health as a basic responsibility, paramount to every other consideration in their business; and/or to cooperate closely with those whose task it is to safeguard the public health, and/or to pledge aid and assistance to the research effort into all phases of tobacco use and health. Accordingly, the Court has filled in question 1.A. of the Special Verdict Form, which I will be reading to you later, for these defendants. These defendants do not include The Tobacco Institute, B.A.T. Industries, p.l.c., and the British-American Tobacco Company Limited.

However, the State of Minnesota also claims that The Tobacco Institute, B.A.T. Industries, p.l.c., and British-American Tobacco Company Limited voluntarily assumed the same undertaking.

In order to prevail on a special duty claim against a defendant or defendants, the State of Minnesota must show the following:

First, the defendant or defendants voluntarily undertook to perform a special duty, which I have instructed you was done as

to certain defendants. You must determine whether plaintiffs have established a duty as to the remaining defendants;

Second, the defendant or defendants intentionally breached the duty assumed; and

Third, the defendant's or defendants' breach of that duty was the direct cause of the State of Minnesota's damages.

CONSUMER PROTECTION STATUTES

Jury Instruction No. 26

CONSUMER FRAUD

Plaintiffs allege that the defendants violated the Minnesota consumer fraud act, Minn. Stat. § 325F.69, subd. 1, which states that "the act, use, or employment by any person of any fraud, false pretense, false promise, misrepresentation, misleading statement or deceptive practice, with the intent that others rely thereon in connection with the sale of any merchandise, whether or not any person has in fact been misled, deceived, or damaged thereby, is enjoined as provided herein."

Jury Instruction No. 27

CONSUMER FRAUD - ELEMENTS

To find liability under the Minnesota consumer fraud act, plaintiffs must show the following elements. That a defendant or defendants:

- (1) Engaged in a fraud, false pretense, false promise, misrepresentation, misleading statement or deceptive practice;
- (2) Intended that others rely thereon;
- (3) In connection with the sale of cigarettes.

Jury Instruction No. 28

UNLAWFUL TRADE PRACTICES

Plaintiffs allege that defendants violated the Minnesota Unlawful Trade Practices Act, Minn. Stat. § 325D.13, which states that "[n]o person shall, in connection with the sale of merchandise, knowingly misrepresent, directly or indirectly, the true quality, ingredients or origin of such merchandise."

Jury Instruction No. 29

UNLAWFUL TRADE PRACTICES -- ELEMENTS

To establish liability under the Minnesota unlawful trade practices act, plaintiffs must show the following elements. That a defendant or defendants:

- (1) In connection with the sale of cigarettes;
- (2) Knowingly misrepresented, directly or indirectly;
- (3) The true quality, ingredients, quality, or origin of cigarettes.

Jury Instruction No. 30

FALSE STATEMENT IN ADVERTISING

Plaintiffs allege that defendants violated the False Statement in Advertising Act, Minn. Stat. § 325F.67, which prohibits any person, firm, corporation or association, directly or indirectly, with the intent to sell or distribute merchandise or services or to increase consumption thereof, to place or caused to be placed in Minnesota, an advertisement of any sort, that contains any material assertion, representation, or statement of fact which is untrue, deceptive or misleading.

Jury Instruction No. 31

FALSE STATEMENT IN ADVERTISING - ELEMENTS

To recover damages under the False Statement in Advertising Act, plaintiffs must show the following elements. That a defendant or defendants:

- (1) Directly or indirectly;
- (2) With the intent to sell or distribute cigarettes or to increase consumption thereof;
- (3) Placed or caused to be placed in Minnesota;
- (4) An advertisement of any sort regarding cigarettes;
- (5) That contains any material assertion, representation, or statement of fact;
- (6) That is untrue, deceptive or misleading.

An advertisement may appear in a newspaper or other publication, or in the form of a book, notice, handbill, poster, bill, label, circular, pamphlet, program, or letter, or be transmitted over any radio or television broadcast, or made, published, disseminated, circulated or placed before the public in Minnesota in any other way.

Jury Instruction No. 32

ANTITRUST

RESTRAINT OF TRADE

Plaintiffs allege that defendants violated Minnesota's antitrust law, Minn. Stat. § 325D.51, which states that "a contract, combination, or conspiracy between two or more persons in unreasonable restraint of trade or commerce is unlawful."

Jury Instruction No. 33

ANTITRUST -- RESTRAINT OF TRADE -- ELEMENTS

Plaintiffs claim that defendants conspired to unreasonably restrain trade and commerce in the cigarette industry in violation of the Minnesota antitrust laws. To prevail on this claim, plaintiffs must prove:

- (1) that there was a conspiracy among some or all of the defendants;
- (2) what the relevant market was;
- (3) that the conspiracy unreasonably restrained trade or commerce in that relevant market.

You have already been instructed on conspiracy and you should follow those instructions again here in considering plaintiffs' claim for unreasonable restraint of trade.

Jury Instruction No. 34

ANTITRUST -- RESTRAINT OF TRADE

DEFINING THE RELEVANT MARKET

In order to show that the restraint was unreasonable, defendants' activities must have harmed competition in the relevant market. There are two aspects you must consider in defining a relevant market. The first is the relevant product market; the second is the relevant geographic market.

In this case, plaintiffs claim that the relevant product market is cigarettes.

The basic idea of a relevant product market is that the products within it are reasonable substitutes from a buyer's point of view; that is, the products compete with each other.

The other aspect of relevant market to be considered is the geographic area within which the products compete. In this case, plaintiffs claim that the relevant geographic market is the United States. The defendants contend that the relevant market is the world.

You must determine whether the defendants possessed sufficient market power within the relevant market to adversely affect competition.

Jury Instruction No. 35

ANTITRUST -- UNREASONABLE RESTRAINT OF TRADE OR COMMERCE

In order to prove that the restraint was unreasonable, the plaintiffs must prove that the defendants substantially harmed competition or supply of the service or product in the relevant market.

In determining whether a restraint of trade is unreasonable, you must examine the market power, the particular business of defendants, the anti-competitive effect, the history of the restraint, the reason for adopting the restraint, and the purpose of the restraint and thus arrive at a conclusion as to the reasonableness of the restraint.

Jury Instruction No. 36

ANTITRUST -- UNREASONABLE RESTRAINT OF TRADE OR COMMERCE

-- MARKET POWER

In order to find that the defendants' actions produced unreasonable restraint in the relevant market, plaintiffs must prove that defendants possessed market power in the relevant market.

Market power means the power to adversely affect competition in the relevant market.

Jury Instruction No. 37

DIRECT CAUSE

In order to find defendants liable for damages, plaintiffs must also establish a causal connection between defendants' wrongful conduct and plaintiffs' damages. A direct cause under the law is a cause which had a substantial part in bringing about the injury either immediately or through happenings which follow one after another. Under Minnesota law, a cause may be a substantial factor without being the sole cause of the plaintiffs' damages.

Jury Instruction No. 38

CAUSATION

CONCURRING CAUSE

There may be more than one direct cause of an injury. When the effects of fault of each of two or more persons, or a person and a force of nature, actively work at substantially the same time to cause the injury, each may be a direct cause of the injury.

Jury Instruction No. 39

INDIVISIBLE INJURY

The Court has determined that the health care costs caused by smoking which have been paid by the State of Minnesota and Blue Cross and Blue Shield of Minnesota are what the law deems an "indivisible injury." Thus, if you find that a defendant or defendants have engaged in wrongful conduct and the wrongful conduct of a defendant or defendants was a substantial factor in causing plaintiffs' damages, plaintiffs are not required to separate that portion of their damages caused by defendants' wrongdoing from that attributable to any other contributing factor. Rather, if defendants' conduct is a substantial contributing factor, plaintiffs are entitled to recover their full measure of damages.

Jury Instruction No. 40

DAMAGES

Questions ____ and ____ on the special verdict form relate to damages.

You must answer these questions regardless of your answers to the other questions in the special verdict form. You are not to consider the possible effect of your answers to other questions when you determine damages. Your verdict is not complete until these questions are answered.

The term "damages" means a sum of money that will fairly compensate the State of Minnesota and Blue Cross and Blue Shield of Minnesota for their payment of health care costs caused by smoking.

Jury Instruction No. 41

DAMAGES: BURDEN OF PROOF

A party seeking damages must prove the nature, extent, duration, and consequences of its injury. On the one hand, determination of damages must not be based on speculation or guess. On the other hand, difficulty in determining the amount of damages is no reason for denying damages so long as there is a reasonable basis upon which to approximate the amount.

Jury Instruction No. 42

NO DAMAGES OFFSET FOR TAX REVENUES

Certain evidence has been admitted regarding the taxation of cigarettes. This Court has ruled, however, that defendants may not offset any damages they may owe by the amount of excise taxes on cigarettes. Accordingly, I instruct you that should you find that plaintiffs are entitled to damages, you may not consider taxes or deduct from that measure of damages any cigarette tax revenues.

Jury Instruction No. 43

OTHER RISK FACTORS OR RISK-TAKING BEHAVIORS

You have heard evidence regarding the overall health of smokers. Defendants have suggested that, in addition to smoking, some smokers suffer from other "risk factors" which contribute to poor health. Defendants have also suggested that youth are known to take risks.

You are instructed that it is the law of this state that defendants must take their customers as they find them. Therefore, even if some smokers suffer from other "risk factors" which might otherwise contribute to increased health care costs, defendants are not relieved from liability and monetary damages if you find that smoking was a substantial contributing factor in causing the diseases at issue in this case. Likewise, even if the alleged risk-taking nature of young people made them more susceptible to smoking, defendants are not relieved from liability or damages if their conduct was a substantial factor in the uptake of smoking by young people.

Jury Instruction No. 44

INVOCATION OF THE FIFTH AMENDMENT

During the trial, you also heard evidence from past or present employees of two of the defendants refusing to answer certain questions on the grounds that their answers might tend to incriminate them. Under the Fifth Amendment to the United States Constitution, a witness has a right to decline to answer on the grounds that it may tend to incriminate them.

You may, but you need not, infer by such refusal that the answers would have been adverse to the interests of the witness.

If you choose to draw adverse inferences from a current employee's decision to invoke the Fifth Amendment, and if you find that the testimony the employee refused to give was related to his employment, then you are also permitted to infer that, had the employee answered, the testimony would have been adverse to that defendant.

If you choose to draw adverse inferences from a former employee's decision to invoke the Fifth Amendment, and you further find that the questions that the former employee refused to answer concerned his activities undertaken on behalf of his employer and during the period of employment, then you may infer that, had the former employee answered, the testimony would have been adverse to the defendant.

Jury Instruction No. 45

NEGATIVE INFERENCE AGAINST AMERICAN TOBACCO

As you know, the parties in this lawsuit had the opportunity to examine, and present as evidence, the internal documents of the opposing parties. Prior to trial, plaintiffs requested certain documents and answers to certain questions regarding research on smoking and health from American Tobacco and Brown & Williamson as successor by merger to American Tobacco. After American Tobacco and Brown & Williamson failed to produce the information, they were ordered to do so by this Court. American Tobacco and Brown and Williamson then violated that order, which required them to produce the documents and answer the questions in an unevasive manner.

I now instruct you that you may draw a negative inference from American Tobacco's and Brown & Williamson's failures to provide the information ordered produced. You may assume that if the information about American Tobacco's and Brown & Williamson's smoking and health research had been produced, it would have been unfavorable to the positions taken by American Tobacco and Brown & Williamson.

Jury Instruction No. 46

NEGATIVE INFERENCE AGAINST B.A.T INDUSTRIES, P.L.C. AND

BRITISH-AMERICAN TOBACCO

You are instructed that the Court ordered Mr. Alan Heard and Dr. Ray Thornton to appear and give deposition testimony in this case. Mr. Heard and Dr. Thornton are former employees of BATCo. Both men had consulting agreements with BATCo's lawyers. The Court found Mr. Heard and Dr. Thornton to be under the control of BATCo and B.A.T Industries. The Court also ordered that B.A.T Industries and BATCo "take whatever steps required and necessary" to ensure their appearance. The witnesses did not appear at the Ramsey County Courthouse, St. Paul, Minnesota, U.S.A., as ordered by the Court. They did not give deposition testimony in this case. Furthermore, three cases of files containing documents belonging to D.G. (Geoff) Felton, BATCo's retired Research and Development Manager, were destroyed in approximately July 1985. No index was made of their contents. The person most knowledgeable about the destruction of Felton's files is Dr. Ray Thornton.

You are instructed that if a party fails to call a person who possesses knowledge about the facts in issue and who is reasonably available to the party, and who is not equally available to the other side, then you may infer that the testimony of that witness is unfavorable to the party who could have called him but did not. If a party destroys documents

within that party's control and fails to provide a satisfactory explanation for doing so, you are permitted to infer that the evidence, if produced, would have been unfavorable to that party.

Jury Instruction No. 47

PUNITIVE DAMAGES

If you find by clear and convincing evidence that the acts of any defendants show a deliberate disregard for the rights or safety of others, then you may, in addition to other damages to which you find the plaintiffs entitled, award the plaintiffs an amount which will serve to punish those defendants and deter others from the commission of like acts.

When I say clear and convincing evidence, I mean that the evidence must lead you to conclude that it is highly probable that the defendant acted with deliberate disregard for the rights or safety of others. Put another way, the evidence must produce in your minds a firm belief or conviction that the defendant acted with deliberate disregard for the rights or safety of others.

A defendant has acted with deliberate disregard for the rights or safety of others if the defendant has knowledge of facts or intentionally disregards facts that create a high probability of injury to the rights or safety of others and:

(1) Deliberately proceeds to act in conscious or intentional disregard of the high degree of probability of injury to the rights or safety of others; or

(2) Deliberately proceeds to act with indifference to the high probability of injury to the rights or safety of others.

If you determine that punitive damages should be awarded, you should consider factors relating to the purpose of punitive

damages in determining the amount, including but not limited to, the following factors:

1. The seriousness of hazard to the public arising from the defendant's misconduct.
2. The profitability of the misconduct to the defendant.
3. The duration of the misconduct and any concealment of it.
4. The degree of the defendant's awareness of the hazard and of its excessiveness.
5. The attitude and conduct of the defendant upon discovery of the misconduct.
6. The number and level of employees involved in causing or concealing the misconduct.
7. The financial condition of the defendant.
8. The total effect of other punishment likely to be imposed upon the defendant as a result of the misconduct, including compensatory and punitive damages awards to the plaintiff and other similarly situated persons.
9. The severity of any criminal penalty to which the defendant may be subject.

You may award punitive damages against an employer because of an act done by an employee or agent only if you find that:

1. The employer authorized the doing and the manner of the act, or
2. The employee or agent was unfit and the employer deliberately disregarded a high probability that the agent was unfit, or
3. The employee or agent was employed in a managerial capacity with authority to establish policy and make planning level decisions for the employer and was acting in the scope of that employment, or
4. The employer or a managerial employee or agent of the employer who was employed in a managerial capacity with authority to establish policy and make planning level decisions for the employer and was acting in the scope of

that employment, ratified or approved the act while knowing of the character and probable consequences of the act.

STATE OF MINNESOTA
Office of the Attorney General
102 State Capitol
Saint Paul, MN 55155
(612) 296-6196

TO: JERRY MANDE

White House

(202) 456-6027 (fax)

FROM: ERIC JOHNSON

Executive Assistant to the Attorney General

(612) 296-2643

DATE: 4/22/98

PAGES: 4, including this cover

Message:

If there are any problems or questions concerning this transmission,
please call (612) 296-6196 or Jenifer at (612) 297-4274. Thank you.



STATE OF MINNESOTA

OFFICE OF THE ATTORNEY GENERAL

STATE OF MINNESOTA
ST. PAUL, MINNESOTA 55102
TEL: (612) 297-3200

HUBERT H. HUMPHREY III
ATTORNEY GENERAL

Statement of Hubert H. Humphrey III Attorney General State of Minnesota

Re:

The Public Release of over 38,000 Secret Tobacco Industry Documents Wednesday, April 22, 1998

These internal documents provide devastating proof that the tobacco lawyers and scientists conspired to systematically destroy documents, alter findings and ship research overseas in order to conceal the truth from the American public.

They make clear that the industry's lawyers were an integral part of the 40-year cover-up. In fact, tobacco lawyers, not scientists, were the gatekeepers controlling research on smoking and health and blocking important health research that could have saved lives. Their conduct was not only unprofessional and illegal, it was unethical and morally reprehensible.

This massive fraud and conspiracy left an unprecedented toll of death and disease in America. We'll never know how many lives could have been saved had the tobacco industry come clean with the truth. But now that the truth is coming out, it can change the course of history and save future generations from tobacco addiction, disease and death.

Now Congress and the Department of Justice will have the detailed picture of what this industry knew and when it knew it, so they can take appropriate action to protect kids and the American public.

-30-



STATE OF MINNESOTA

OFFICE OF THE ATTORNEY GENERAL

DO STATE CAPITOL
ST. PAUL, MN 55155-0001
TELEPHONE (612) 296-6000

HUBERT H. HUMPHREY III
ATTORNEY GENERAL

FOR IMMEDIATE RELEASE:

Wednesday, April 22, 1998

CONTACT:

Eric Johnson (612) 296-2643
Leslie Sandberg (612) 296-2069 VM
(612) 538-3707 Pager

When Science Goes Bad: False Science and Cover-Ups **Document From Minnesota Case Shows Systematic Subversion of** **Health Research at R. J. Reynolds**

Among more than 39,000 sensitive tobacco industry documents obtained recently by the State of Minnesota and released by Congress today is a comprehensive catalogue of the subversion of scientific research by America's second-largest tobacco company, R.J. Reynolds.

Last week saw the revelation in Minnesota's tobacco litigation of a 1969 document indicating that R.J. Reynolds had removed from its files "objectionable" scientific findings, when necessary "for the successful defense of our present and future suits. . . ." In the one-page document (Trial Exhibit 26,216, attached as Exhibit A), RJR's Research Director had advised a company attorney that RJR could simply destroy or re-write troublesome documents.

At the time of last week's revelation, RJR vehemently denied that it had re-written or destroyed any scientific reports. RJR attorney Robert Weber, of the Cleveland law firm of Jones, Day, Reavis & Pogue, told reporters at the Minnesota courthouse that the document was "a red herring", and that no internal documents had actually been destroyed. (See news articles attached as Exhibit B).

These denials were blown sky-high today with the release of many so-called "privileged" documents long withheld by the tobacco industry. Among the documents released was a massive 1985 report chronicling the thirty-year history of a company at war with the truth. The 104-page document, compiled by the same Cleveland law firm that dismissed last week's disclosure as a "red herring," shows that, contrary to last week's denials, the company systematically destroyed, suppressed, re-worded and concealed damaging research.

Publicly, Reynolds and the entire industry insist to this day that they are leaving no stone unturned in a sincere quest for the truth about smoking and health, that the safety of their customers is their paramount concern, and that they are cooperating with public health authorities to get the facts out. The document released today tells a different story - - a story in which science and truth are distorted and re-written to support a company's claims in litigation.

The report, entitled "RJR Research and Development Activities. Fact Team Memorandum, Volume III", December 31, 1985 (Bates Nos. 515873805-515873929) is a 1985 reconstruction of the history of the ways in which Reynolds' smoking and health research was suppressed, subverted, re-written and destroyed. Some of the many examples recounted in the report:

- As early as 1953, the company destroyed documents that put company officials on notice about the public scientific research linking smoking and disease. (E.g., Bates Nos. 515873896-515873897).
- The company destroyed the results of its own product testing, when the results apparently showed "biological activity" of smoke condensate from Camel cigarettes. (E.g., 515873901-515873902).
- Scientific reports were systematically reviewed to remove harmful conclusions or admissions before the reports were finalized. Every report was edited at least twice to root out "poor or imprecise wording" (515873889-515873893). In addition, at one time, every report was personally edited by the scientist responsible for smoking and health issues, "to eliminate unfortunate word choices". (515873814, 515873890). These controls, euphemistically referred to as "wordsmithing" (515873888), were intended to "make sure that no sensitive information would creep into the reports." (515873891). Scientists were instructed, for example, not to use certain words, such as smoker "compensation", (515873902), not to discuss "potential biological activity" (i.e., causation of disease), and to be careful to refer to carcinogens as "alleged" carcinogens. (515873889).
- In the mid-1970s, a company scientist discovered a method for removing carbon monoxide from cigarette smoke, but company lawyers suppressed publication of the research. The scientist believes the company was afraid that

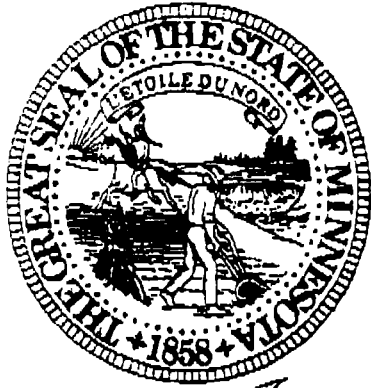
disclosure of the discovery would compel the company to adopt the potentially-expensive process, which used the costly element palladium. (5153873921-5153873924).

- The company president was angered to learn, in the mid-1950s, that his scientists were testing for, and finding, carcinogens in cigarette smoke. (515873844).
- Company scientists were prohibited by RJR's attorneys from testing the safety of the additives already in use in the company's cigarettes. (515873875).
- Scientists were repeatedly refused permission to test the harmfulness of products, or to test for potentially harmful substances, because senior executives or lawyers feared the research findings would help "the other side" or "the enemy". (E.g., 515873876).
- A formal company policy prohibited publication of any research on dangerous smoke constituents such as hydrogen cyanide, carbon monoxide or polycyclic hydrocarbons, which might "draw attention to the product". 515873910, 515873911, 515873927).
- Lawyers blocked the publication of research findings that would have advanced scientific understanding of the way the particulate matter in smoke is inhaled and retained in the body. Despite the desire of outside medical scientists for access to this new test methodology, the research was suppressed because it might be "helpful to the opponents of smoking." (515873919).
- Potentially harmful research was sometimes conducted in Germany, with German researchers "steered" in the "right direction" to avoid "bad" reports (515873896). Sensitive reports on the research were sometimes held in Germany and did not reach the U.S. (515873895). Some reports that were received from Germany were apparently re-written by RJR's outside U.S. law firm, while others were kept by the firm, where they were apparently held as "privileged," rather than being forwarded to the company. (515873895).
- The company systematically avoided written records of "sensitive" information. Its senior scientist responsible for smoking and health issues, Dr. Frank Colby, acknowledged that he did not put information on paper if he

thought it was sensitive. (515873903). Comments about an unidentified research project that had the potential to "shoot a hole in [RJR's] foot" were simply not put in writing. (515873893, 515873894).

- By 1985, RJR management had apparently decided to discourage or prohibit written reports on some projects, saying it preferred "verbal reports on proprietary work, because it is difficult to keep scientists from speculating in their written reports." (515873893).
- The company's external scientific research program is controlled, not by its scientists or R& D department, but by its lawyers, (515873880). Much of this control was exerted, apparently, through an outside law firm which for years has exercised extraordinary influence over RJR research, even to the point of deciding which species of rodent would be used in one research project. (515873880-515873884).
- Even with regard to in-house research, the company's lawyers assumed a major role because of liability concerns, to the point that the relationship between the senior scientists and the lawyers was "almost a closed loop". (515873866, 515873867), and the research program was seen, not as a means of finding the truth about smoking and disease, but as a means "to develop good scientific data to respond to claims against the product". (515873867).
- The "greatest fear" of the company's top lawyer throughout the 1950s and 1960s "was that RJR would do something that would enable the FDA to assert jurisdiction over cigarettes". (515873867, footnote 70). Perhaps motivated by this fear, the lawyers "traditionally" blocked scientists from conducting research on nicotine. (515873878). When some research in this area was eventually begun in 1980, the scientist involved was not forced to stop, but felt "the heavy oversight" of the lawyers, and felt their attitude was "don't touch that; it might open a can of worms". (515873878).

STATE OF MINNESOTA



OFFICE OF THE ATTORNEY GENERAL
HUBERT H. HUMPHREY III

102 State Capitol
St. Paul, MN 55155

(612) 296-6196

Fax: (612) 297-4193

TO:

Jerry Mande

FAX NO.:

(702) 456-6027

FROM:

Eric Johnson

DATE:

4/27/98

Pages:

5

(including cover page)

Message:

The information contained in this Fax message is attorney-client or work product **PRIVILEGED** and/or **CONFIDENTIAL INFORMATION**. It is intended only for the use of the individual or entity named below. If the reader of this Fax is not the intended recipient, or the employee or agent responsible to deliver it to the intended recipient, you are hereby notified that any dissemination, distribution, or copying of this communication is strictly prohibited. Furthermore, you should (a) refrain from examining the materials, (b) immediately notify the sending person of the mistake, and (c) abide by the sending person's instructions regarding the return of the document(s).

If there are any problems or questions concerning this transmission,
please call (612) 296-6196 or: _____ at (612) _____

(B&W) PROTECTED BY MINNESOTA TOBACCO LITIGATION PROTECTIVE ORDER

CONFIDENTIAL - MINNESOTA TOBACCO LITIGATION

LIMITEDMEMORANDUM

TO: C. S. JOINSTON

FROM: F. E. McKeown

DATE: November 15, 1978

SUBJECT: Rationale for Discontinuance

This responds to Mr. Scholz's memo of 11/6/78 wherein he stated the Bates point of view as follows:

- A. Abandonment of advertising on the KOOL parent would result in acceleration of the share erosion.
- B. To promote "different kinds" of KOOL to correct perceived deficiencies of the KOOL parent will fractionalize the perception of KOOL as a unique product.
- C. The benefit communication for the whole KOOL line should be "cooling satisfaction" with each product also promoting a subordinate benefit of various "tar" deliveries and user image variables.

As a result of this point of view, Bates recommended the following:

1. New exploratory on the parent which emphasizes "cooling satisfaction."
2. Continue development of KOOL Super Lights on the consensus Agency/Brand Group view.
3. Market tests for new creative on KOOL Milds under conditions of advertising both the parent and Milds simultaneously compared to other markets advertising Super Lights and Milds simultaneously.

The following refutation of the key Bates arguments are offered:

- A. Not to advertise parent KOOL is to accelerate the erosion of the brand. The Corporate forecast calls for the menthol hi-fi segment to grow from its current 7% to 15% by 1982. The vast majority of this menthol hi-fi growth will come directly from the menthol full taste segment which is projected to decline from its current 22% to 15%.

NOTICE IF THE FROM PAGE IS LESS CLEAR
THAN THIS NOTICE, IT IS DUE TO THE
QUALITY OF THE DOCUMENT BEING FILMED.

68506 9617

51

DETERMINED TO BE AN
ADMINISTRATIVE MARKING
INITIALS: W DATE: 10/22/13

TRIAL EXHIBIT
13,893

(B&W) PROTECTED BY MINNESOTA TOBACCO LITIGATION PROTECTIVE ORDER

CONFIDENTIAL MINNESOTA TOBACCO LITIGATION

-2-

Since KOOL represents 30% of menthol full taste sales, it is estimated that we could suffer a share decline of three share points from full taste KOOL due to this category movement. This projected movement equates to approximately 7-8% per year compounded decline on the KOOL parent from now through 1992.

Currently, KOOL smokers are moving in equal proportions to other menthol full taste brands and to menthol high filtration brands. This is completely consistent with qualitative research which indicates that KOOL defectors are leaving for two motives: for a lower level of menthol and to address "health concerns" by a switch to hi-fi menthols. Given this motivation, it is felt that the only KOOL parent advertising which could stem the rate of decline would be an overt repositioning of the parent as having less menthol and/or lower "tar". Our qualitative analysis of the lower "tar" parent indicates this latter option is not feasible. To reposition the KOOL parent as a lighter menthol cigarette would be to run a significant risk to the 83% of the franchise that are currently loyal by changing their perceptions of their favorite product.

It is felt, therefore, that the only advertising which might be successful in decreasing the rate of defection would produce such an abrupt perceptual change in the KOOL parent product image that it would present significant risk of losing a large portion of the 83% loyal franchise. Image advertising, per se, which did not address these defector motives did not stem the decline.

Switching study data indicates that the main groups accounting for the 93% loyal franchise are starters, young smokers, males and Blacks. We call this group "the young (immoral)s". It is felt that the major reasons for this group's loyalty are peer group pressure, current product and smoker image attractions and, most important, a desire for the menthol impact that KOOL provides. It is further felt that our current advertising campaign reinforces none of these buying motivations with a possible exception of heightening overall brand awareness. We feel that this is totally applicable in the White market but that the use of Black models in Black advertising (new format) and support in the growing Spanish segment are exceptions to this rule and that support should be maintained against these important segments.

As to the point of brand awareness increase, we feel that by advertising KOOL Mills and KOOL Super Lights in image motifs similar to

NOTICE IF THE FILM IMAGE IS LESS CLEAR
-THAN THIS NOTICE, IT IS DUE TO THE
QUALITY OF THE DOCUMENT BEING FILMED.

68506 9 6 1 8

(B&W) PROTECTED BY MINNESOTA TOBACCO LITIGATION PROTECTIVE ORDER

CONFIDENTIAL, MINNESOTA TOBACCO LITIGATION

-3-

the historical KOOL advertising, we will actually enhance awareness of the total KOOL brand name without materially changing the perception of the parent product.

In summary, we feel that to continue to advertise the parent will not slow the rate of decline and that to radically alter the product image of the parent, while this could hold some current defections, would result in a substantial risk to the 93% loyal franchise.

- B. To promote "different kinds" of KOOL will fractionalize the perception of KOOL as a unique product. We totally agree with this point of view and for this reason have recommended that the advertising of new KOOL Miles and KOOL Super Lights be done in a way that is consistent with the KOOL heritage. The campaigns presented to date on KOOL Milds are examples of this. While we have modified the message to indicate satisfaction as the prime benefit supported by a balance of tobacco flavor and menthol taste, we still depict the water and greenery that are synonymous with KOOL. We suggest that this is not only consistent with the heritage, but also that it positively heightens brand awareness of the KOOL parent. Our long-term campaign on KOOL Super Lights will also have the same continuity elements and, as such, will heighten awareness and positive perceptions of the whole KOOL line while promoting the specific smooth menthol benefit of KSL.

It is, therefore, suggested that our strategy does address Mr. Scholz's point and that not only will our heritage be protected with these campaigns, but that it will be made much more relevant to today's buying motivation.

- C. The benefit for the KOOL line should be "cooling satisfaction." This is completely contradictory to all of the research amassed to date in that we have isolated the major reasons for parent defection to be "too much menthol," harsh taste and high "tar" and nicotine. To use the expression "cooling satisfaction" would be to promote again the connotation of "extra coolness" which is synonymous with the very product perceptions (i.e. strong, harsh, a lot of menthol) that seem to be at the root of our product defection. To use this copy claim on KOOL Super Lights would exacerbate the current KSL problem in that it would make the brand be perceived closer to the KOOL parent and, therefore, less acceptable to menthol hi-fl smokers.

While the KOOL line is considered deficient to Salem in satisfaction, it is felt this needs to be addressed as "cigarette satisfaction" rather than "cooling satisfaction" since the former represents a more balanced benefit and helps to mitigate the harsh, strong perception

NOTICE IF THE FILM IMAGE IS LESS CLEAR
FROM THIS NOTICE, IT IS DUE TO THE
QUALITY OF THE DOCUMENT BEING FILMED.

68506 9 6 1 9

(B&W) PROTECTED BY MINNESOTA TOBACCO LITIGATION PROTECTIVE ORDER

CONFIDENTIAL: MINNESOTA TOBACCO LITIGATION

of KOOL's "overmenthol." This is exactly the reason that satisfaction was chosen as the positioning for new KOOL Milds with the support of a balance between tobacco and menthol.

Don, after having reviewed in depth the three key arguments advanced by Bates above, we feel that we should reject their point of view and continue with our current plan of launching new KOOL Milds and repositioning KOOL Super Lights as soon as possible. The issue of whether or not to test market new KOOL Milds or new K&L should not be determined a priori but should depend entirely upon the results of the quantitative taste of each element of the marketing mix for these products.

Please let me know if you have any questions on the above.

Frank
F. E. McK.

FEMcK/cu

cc: J. T. Reid
E. A. Wilkins, III

NOTICE: IF THE FIRM IMAGE IS LESS CLEAR
THAN THIS NOTICE, IT IS DUE TO THE
QUALITY OF THE DOCUMENT BEING FILMED.

68506 9 6 2 0

57

STATE OF MINNESOTA
Office of the Attorney General

TO:

Jerry Mande

DATE:

PHONE:

FAX:

202-456-6007

Location

FROM:

Heather Gold

PHONE:

297-3309

FAX:

297-4036

TTY:

297-7206

445 Minnesota St., #1400
St. Paul, MN 55101-2131

SUBJECT:

CONFIDENTIAL FACSIMILE

NUMBER OF PAGES (including cover page):

COMMENTS

YAS

- Here is one document
that shows what a
"young adult" smoker is.
Feel free to call with questions

FOR TRANSMISSION PROBLEMS, PLEASE CALL:

FAX OPERATOR:

OR RECEPTIONIST AT: (612) 296-7575

The information contained in this Fax is intended only for the use of the individual or entity named above. If the reader of this Fax is not the intended recipient, or the employee or agent responsible to deliver it to the intended recipient, you are requested to (a) refrain from examining the materials, (b) immediately notify the sending person of the mistake, and (c) abide by any instructions of the sending person regarding the return of the document(s).

AG:108227 v1

Gen. 6.12

CONFIDENTIAL

September 21, 1972

Mr. W. S. Smith, Jr.

Re: COMPANY SHARES BROKEN BY AGE GROUPS

DETERMINED TO BE AN
ADMINISTRATIVE MARKING
INITIALS: MA DATE: 10/22/13

Below are Company shares broken by age groups as we discussed on the recent flight to New York. Here we are talking share of smokers as taken from our April, 1972 screening. It's interesting to note that Philip Morris, the fastest growing company, has a substantially higher share among smokers under 35 than over 35. An estimated number of smokers in each age group is being shown to give an idea of the size of each group.

COMPANY SHARE OF SMOKERS BY AGE*						
	Total Smokers	14-17	18-24	25-34	35-49	50 & Over
Estimated Of Smokers (Million)	56	2	10	13	16	15
PM	1	2	2	2	1	2
ATC	30	24	31	33	28	30
B&W	16	4	9	14	19	18
L&M	13	18	17	14	15	15
Lorillard	7	2	4	5	8	9
PM	12	6	7	12	13	12
PM	19	46	32	22	16	13

Source: April, 1972, NFO Screening

Of course, Marlboro is the primary reason that Philip Morris does so well among young adults. In the last six years Marlboro King has almost doubled its share with most all of its growth coming from young adults. On the other hand, Winston King which also is skewed toward young adults, has not improved its position among this group and has shown some weakness among the important 35-49 age group.

50076 9839

TRIAL EXHIBIT
12,360

500769839

Mr. W. S. Smith, Jr.
 Page 2
 September 21, 1972

**MARLBORO KING & BOX
 SHARE OF SMOKERS BY AGE: 1966-1972***

	<u>Total Smokers</u> x	<u>14-20</u> x	<u>21-24</u> x	<u>25-34</u> x	<u>35-49</u> x	<u>50 & Over</u> x
1966	4	**	10	6	4	3
1969	5	**	15	8	4	3
1972	9	34	19	10	4	3

WINSTON KING & BOX - SHARE OF SMOKERS

1966	12	**	21	13	11	10
1969	11	**	20	13	10	9
1972	11	13	17	13	8	9

Source: Spring NFO Screenings 1966, 69, 72.

*Not Available.

I hope to elaborate on the data if you have any questions.

J. H. Sherrill, Jr.
 Marketing Research Department

JHSb:pd

cc: Mr. A. Blevins, Jr.
 Mr. T. P. Haller

produced by RJRTC

in
 HUMPHREY

50076 9040

500769840

STATE OF MINNESOTA
Office of the Attorney General
WWW.AG.STATE.MN.US

TO: Terry Mando

DATE: April 27, 1998

PHONE: _____

FAX: _____

202-456-6027

Location _____

FROM: Heather Gould

PHONE: _____

FAX: 296-9663

TTY: 297-7206

445 Minnesota St., #1400
St. Paul, MN 55101-2131

SUBJECT: _____

TRANSMISSION BY FACSIMILE

NUMBER OF PAGES (including cover page): 12

COMMENTS: more docs on Tobacco's marketing
to people of color and children of color.

FOR TRANSMISSION PROBLEMS, PLEASE CALL:

FAX OPERATOR: _____

OR RECEPTIONIST AT: (812) 286-7575

The information contained in this Fax is intended only for the use of the individual or entity named above. If the reader of this Fax is not the intended recipient, or the employee or agent responsible to deliver it to the intended recipient, you are requested to (a) refrain from examining the materials, (b) immediately notify the sending person of the mistake, and (c) abide by any instructions of the sending person regarding the return of the document(s).

AG:108223 v1

DETERMINED TO BE AN
ADMINISTRATIVE MARKING
INITIALS: CC DATE: 10/22/13



PHILIP MORRIS

March 29, 1979

U.S.A.

100 PARK AVENUE, NEW YORK, N.Y. 10017 TELEPHONE (212) 679-1000

(MARLBORO)

Marlboro represents 60% of Philip Morris USA sales. The brand accounts for 1/3 of all growth of Philip Morris USA. In 1978 101 billion units were sold. The brand represents 17% of the national share of cigarettes. (One in five smokers smoke Marlboro). Marlboro is the volume growth leader in the industry with a 4.1 billion unit increase (1978) in sales. (Marlboro has been a volume growth leader in seven out of the last nine years). It was the first brand to pass 100 billion units sold.

Marlboro Red, Menthol, and Gold provide the stable base of the franchise. However, there has been a significant shift in where growth comes: Marlboro Lights overtook the full flavor packings in 1976. Lights and Lights 100's by themselves would be the 13th largest brand in the entire industry.

Demographics

Marlboro dominates in the 17 and younger age category, capturing over 50% of this market. In the 18-24 age group Marlboro dominates with 30.7% share. Marlboro Red is smoked by the younger group; Lights by the older group. The leading packing for men and women is Marlboro Red: 14.4% male; 7.0% female. Of all Marlboro packings, the share is divided as follows: 18.6% male, 12.3% female.

By race, Marlboro is a "white" brand with 16.1% share. Among black smokers the franchise has the highest penetration across the country of any Philip Morris brand, with a 4.4% share. (In urban areas Benson & Hedges dominates among blacks). Research shows that when black smokers advance from Kool or Salem, they come to Marlboro. Marlboro is the dominate brand among hispanics with a 23.8% share.

Advertising

When Lights were first introduced, it was a management decision that the advertising should be significantly different from Red advertising. The problem was, however, that the money spent on Lights advertising was not reinforcing the franchise. A decision was made to integrate Lights into Marlboro Country and that all advertising dollars spent would reinforce the franchise. We now have a single minded advertising campaign which is a source of growth for the brand, and successfully conveys flavor and quality at the same time.

MANUFACTURED BY PHILIP MORRIS INC. NEW YORK, N.Y. 10017

CONFIDENTIAL: MINNESOTA TOBACCO LITIGATION

2040828174

TRIAL EXHIBIT
11,808

Marlboro
Page 2
March 29, 1979

The ad for the Red packing would normally have the single cowboy. You would never see a Lights ad with the cowboy because the cowboy represents "flavor." The vista shots, however, work well for both Red and Light brands. Marlboro was the first franchise to bring together in the same ad a family of packings. This has worked very well to support the entire franchise.

Short-term objectives

1. Protect the full flavor base through effective Marlboro Country advertising.
2. Increase penetration of the low-tar category by making its packing more compatible with Marlboro Red.

Opportunities

1. Expand demographic base.
2. Brand has not achieved its full potential (Marlboro is No. 1 in 51 out of 93 marketing areas. This means that it is not No. 1 in the other 42 areas. Marlboro is no less than the No. 4 brand in any market).
3. Improving POS inventory.

1979 Special Programs

- .. Resort coverage in existence for eight years, this program represents a continuing brand presence among young adults. For two to three weeks during the spring and summer breaks the Sales Force promotes the brand heavily at POS. Marlboro T-shirts, visors, etc. are given away at the beach, bars and other hang outs. No publicity nor outside visibility is desired. The program is expanding and in '79 will cover the New England Shore, Myrtle Beach, Texas, Padre Island, The Drakes, Wisconsin and the Jersey Shore.

Summer Sampling. Approximately 150 samplers are dispatched to beaches, shopping centers, and other markets of opportunity. This program maintains a pressure on the marketplace.

1. Marlboro Chili Promotion. Would be conducted in April. This promotion is a joint POS and media event.
2. The Marlboro Cup. September 8th will mark the 7th running of the Cup.
- .. Marlboro Country Store. This is an ad which has run previously in 1972 and 1975. It is a spread, which offers 12-14 Western cowboy-type items. It is a self-liquidator and is scheduled to run in October weeklies and November monthlies.

CONFIDENTIAL: MINNESOTA TOBACCO LITIGATION

2043628175

CONFIDENTIAL MINNESOTA TOBACCO LITIGATION

MEMORANDUM

TO: F. E. MCKENNEY
CC: J. E. Rasmussen
FROM: R. G. YERK
DATE: August 10, 1978
SUBJECT: Pontiac KOOL Jazz Festival

The 1978 Pontiac KOOL Jazz Festival was held for the first time in Pontiac Stadium and provided a delightful evening of entertainment. The Friday night performance drew an enthusiastic crowd of 14 - 15,000 people. As an advertising medium, the festival proved to be a successful means of product publicity.

• Pre-concert publicity was given heavy coverage on local black radio stations via recordings of performing artists followed by disc jockey's requests for attendance. As in other cities visited, the festival was broadcast as Pontiac Jazz Festival versus Pontiac KOOL Jazz Festival.

• Stadium traffic/parking was a convenience to everyone. The stadium location was good for our target audience. Blacks living in Detroit had a maximum 45 minute drive to Pontiac. Also, the stadium appeared to be situated within a black community which might have accounted for frequent fluctuations in audience size.

• Audience composition covered the age spectrum with a slight skew toward the 16 - 25 age group. The audience was approximately 84% black and there was little spill-in from outside states. I saw nothing but Michigan license plates.

• Tone of audience was highly receptive to the artists and the emcee constantly asked the people, "What is it?", looking for the response, "KOOL Jazz Festival!"

IF THE FILE NAME IS NOT CLEAR FROM THIS COVER, IT IS ONE OF THE FILES OF THE BUREAU OF FILMS.

666011286

666011286

TRIAL EXHIBIT
13,682

CONFIDENTIAL MINNESOTA TOBACCO LITIGATION

-2-

The concert drew electricity in the air because "old" Motown favorites, Smokey Robinson and Marvin Gaye, were back in town. Both gave outstanding performances, especially Marvin. The distance between audience and performer were totally removed both spiritually and physically. Front row infield seats were approximately ten yards from the stage. The excitement of Marvin's act had women screaming and dashing to jump on the stage (two were successful). Security kept everything under control.

KOOL identification included the banner across the stage; artists and emcee recognition of KOOL sponsorship; the aerosol showings accompanied by the KOOL jingle; and KOOL novelty items being sold throughout the stadium.

Overall, the festival appeared effective in meeting our primary objective of product publicity in building brand awareness with hopes of generating additional sales. Pontiac is a "super" location and shows good potential for the future.

Robert J. [unclear]
R. C. Y.

/lpl

3-11-77
IF THE FILM FROM IS USED CLEAR THIS
THIS NOTICE. IT IS THE POLICE OFFICE
OF THE POLICE OFFICE OFFICE.

666011287

666011287

TO MR. R. A. PITTMAN
DEPT. _____
C.C. TO MR. B. L. Broecker ☐
 B. T. Henderson ☐
 C. E. Smoot ☐
 _____ ☐
 _____ ☐
FROM MR. B. L. JOHNSON /16
DATE February 21, 1973
SUBJECT _____

BROWN & WILLIAMSON TOBACCO CORPORATION
LOUISVILLE, KENTUCKY 40201
INTERNAL CORRESPONDENCE



Here is a list of conclusions based on Wave XIII and the latest Black Study. Only conclusions on which we plan to take action are listed.

CONCLUSIONS

- 1) KOOL Longs' female effort appears to be working. From studies dating back from 11/69 to the present, total KOOL as well as both KOOL 84mm and KOOL 99mm have shown growth. KOOL Longs' growth is averaging 20%, while Salem Longs growth is averaging only 13%. Concurrently, the segment appears to be growing at 11% per year over the past three years based on jobber data. In terms of female menthol longs smokers, KOOL Longs' female franchise is averaging 26% growth while Salem Longs are averaging 11%. Also, KOOL Longs have increased their female skew over the last three years. Salem's 99mm female skew has declined directionally. (See Appendix IA, IB, IC)
- 2) KOOL Milds' smoker profile appears to parallel KOOL most closely. High filtration products skew more female and so do high filtration menthol brands. However, KOOL Milds have a directionally masculine skew. Also, KOOL Milds have not been successful in improving KOOL's vulnerability to other menthol cigarettes in brand switching. Wave XIII shows that KOOL Milds gain almost without exception from KOOL 84 and competitive full taste 84mm products. (See Appendix IIA, IIB)
- 3) KOOL has shown little or no growth in share of users in the 26+ age group. Growth is from 16 - 25 year olds. At the present rate, a smoker in the 16 - 25 year age group will soon be three times as important to KOOL as a prospect in any other

CONFIDENTIAL-MINNESOTA TOBACCO LITIGATION

68013596

TRIAL EXHIBIT
13,820

broad age category. A less lopsided growth pattern appears for KOOL when examining users of the product by sex. (See Appendix IIIA, IIIB)

- 4) KOOL's racial make-up appears to be stabilizing with over 30% of the brand's volume going to Blacks. Growth is coming from Blacks and whites as well. Whereas in the general market, growth is with 16 - 25 year olds, with Blacks growth is among 35+ year olds.

The growth of KOOL among Blacks is due to both the 84mm product and the 99mm version as well. Softness seen with males under 35 is of concern. This is not of grave proportion, however, because of the data having only directional significance according to Marketing Research.

KOOL spends 17.7% of its budget against Blacks who comprise about 10% of the adult population. Thus KOOL's AI among Blacks is 177. KOOL's CPM with Blacks is calculated by a budget chargeable directly to Blacks of \$2,928,000 divided by sales to Blacks of 15.463 billion units. Thus, the CPM figures out to \$.19/M. With the general market it's \$.28/M in 1973. (See Appendix IVA, IVB, IVC)

RECOMMENDATIONS

- 1) Because of the success of the "Lady Be Cool" campaign in behalf of KOOL Longs in female magazines, deviations from the basic approach should not be attempted at the present time. It is felt the inclusion of a KOOL Milds offering would alter the approach proven successful.
- 2) Because KOOL Milds appear to parallel KOOL performance, it is recommended that we continue to offer this product with generic KOOL. In copy this would employ further use of the mortise. In media it would be advertising against the generic target audience. No special media program against older smokers, women or markets of high filtration development appears to be justified.

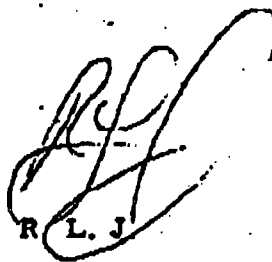
CONFIDENTIAL MINNESOTA TOBACCO LITIGATION

680135997

KOOL Milds' availability has not stopped the perplexing problem of the brand being vulnerable to other menthols. Generic advertising with copy aimed at menthol competitors has failed to remedy the situation. Because of this, it is recommended that the agency develop new copy for testing ... copy which arrests this vulnerability.

- 3) KOOL's stake in the 18 - 25 year old population segment is such that the value of this audience should be accurately weighted and reflected in current media programs. As a result, all magazines will be reviewed to see how efficiently they reach this group and other groups as well.
- 4) KOOL now uses virtually all known vehicles that reach Blacks effectively and efficiently. Despite the low CPM with Blacks it is recommended that we add only interior transit in 12 new markets. The annual cost would be \$160,716. With this additional transit effort, KOOL will cover the top 25 markets in terms of absolute numbers of Negroes.

Black-directed copy should feature both styles because of the growth of each KOOL product. Also, KOOL Milds should be mortised because of its higher performance with Black users than the population as a whole.


R. L. J.

CONFIDENTIAL MINNESOTA TOBACCO LITIGATION

680135998

Appendix IA:ACTUAL NUMBER OF SMOKERS

	<u>KOOL 99</u>			<u>SALEM 99</u>		
	<u>Total</u>	<u>Male</u>	<u>Female</u>	<u>Total</u>	<u>Male</u>	<u>Female</u>
11/69	94	42	52	200	82	138
5/70	112	42	70	233	77	156
11/70	135	49	86	282	91	191
5/71	139	49	90	257	88	169
11/71	147	59	88	277	104	173
5/72	155	71	84	267	80	187
11/72	181	57	104	290	100	190

Appendix IB:% MALE/FEMALE

	<u>KOOL 99</u>		<u>SALEM 99</u>	
	<u>Male</u>	<u>Female</u>	<u>Male</u>	<u>Female</u>
11/69	45	55	31	69
5/70	38	62	33	67
11/70	36	64	32	68
5/71	35	65	34	66
11/71	40	60	38	62
5/72	46	54	30	70
11/72	35	65	34	66

Appendix IC:

	<u>12 Mo. Moving Total for MF 99</u>	
	<u>Jobber Share</u>	<u>% Chg. vs. Year Ago</u>
11/69	5.24	
5/70	5.68	
11/70	6.46	+ 23.3%
5/71	6.48	+ 14.1%
11/71	6.44	- .3%
5/72	6.65	+ 2.6%
11/72	7.03	+ 9.2%

CONFIDENTIAL MINNESOTA TOBACCO LITIGATION

680135999

(B&W) PROTECTED BY MINNESOTA TOBACCO LITIGATION PROTECTIVE ORDER

Appendix IIIA:

TOTAL KOOL

SHARE OF USERS BY AGE

Wave		16 - 25	26 - 40	41+
I	11/86	3.0	4.2	4.1
II	5/87	3.5	4.3	4.4
III	11/87	3.8	4.1	4.2
IV	5/88	3.8	4.1	4.3
V	11/88	4.4	4.1	4.1
VI	5/89	4.3	4.5	4.0
VII	11/89	4.3	4.8	4.2
VIII	5/90	5.6	4.4	3.9
IX	11/90	7.4	4.6	4.1
X	5/91	8.4	5.2	4.4
XI	11/91	9.4	5.3	4.4
XII	5/92	8.8	4.4	4.1
XIII	11/92	10.8	4.5	4.2

Appendix IIIB:

TOTAL KOOL BY STYLE

SHARE OF USERS BY SEX

Wave		MALE				FEMALE			
		Milds	84	99	Total	Milds	84	99	Total
I	11/86	-	3.8	-	3.8	-	4.2	-	4.2
II	5/87	-	4.3	-	4.3	-	4.0	-	4.0
III	11/87	-	4.0	-	4.0	-	4.2	-	4.2
IV	5/88	-	4.4	-	4.4	-	3.9	-	3.9
V	11/88	-	4.8	-	4.8	-	4.4	-	4.4
VI	5/89	-	4.9	-	4.9	-	4.7	-	4.7
VII	11/89	-	5.1	.5	5.6	-	3.9	.9	4.5
VIII	5/90	-	5.1	.5	5.6	-	3.8	1.1	4.9
IX	11/90	-	6.7	.7	7.4	-	4.3	1.3	5.6
X	5/91	-	6.4	.6	7.0	-	4.0	1.3	5.3
XI	11/91	-	6.7	.7	7.4	-	4.3	1.3	5.6
XII	5/92	-	5.9	.9	6.8	-	3.9	1.3	5.2
XIII	11/92	.3	6.1	.7	7.1	.4	4.5	1.7	6.6

CONFIDENTIAL MINNESOTA TOBACCO LITIGATION

680136001

Appendix IVA:

	<u>Black Study of 6/68</u>	<u>Black Study of 4/71</u>	<u>Black Study of 12/72</u>
Adult Blacks	14,100	14,700	15,000
x			
Incidence	.59	.59	.56
x			
Black Smokers	8,319	8,673	8,400
x			
Consumption/Year	6,032	6,032	6,240
x			
Black Market Volume	50,180	52,315	52,416

KOOL's Share of Users	14.4%	27.4%	29.5%
KOOL Black Volume	7,226	14,334	15,463
KOOL Total Volume	29,646	42,086	49,535
KOOL White	22,420	27,752	34,072
KOOL % Black	24.4%	34.1%	31.2%

CONFIDENTIAL MINNESOTA TOBACCO LITIGATION

680136002

(B&W) PROTECTED BY MINNESOTA TOBACCO LITIGATION PROTECTIVE ORDER

Appendix IIA:

<u>KOOL 84 % LOSSES</u>							
	<u>11/69</u>	<u>5/70</u>	<u>11/70</u>	<u>5/71</u>	<u>11/71</u>	<u>5/72</u>	<u>11/72</u>
Competitive 84 MF	- 1.9	- 1.0	- 2.0	- 2.4	- 1.8	- 3.0	- 2.8
Competitive 99 MF	- 4.1	- 2.6	- 3.2	- 3.5	- 3.1	- 1.1	- 2.6
TOTAL	- 6.0	- 3.6	- 5.2	- 5.9	- 4.9	- 4.1	- 5.4

Appendix IIB:

<u>Demographics by Sex</u>		
	<u>M</u>	<u>F</u>
Menthol 84	54	46
KOOL 84	62	38
Menthol Hi-Fi 84	40	60
KOOL Milds	52	48
KOOL Longs	35	65
High Filtration	39	61

CONFIDENTIAL-MINNESOTA TOBACCO LITIGATION

680136000



STATE OF MINNESOTA
Office of the Attorney General
WWW.AG.STATE.MN.US

TO: Jerry Mando DATE: April 27, 1998
Location: _____ PHONE: _____
FAX: 262-456-6027

FROM: Heather Gould PHONE: _____
445 Minnesota St., #1400 FAX: 296-9663
St. Paul, MN 55101-2131 TTY: 297-7206

SUBJECT: _____

TRANSMISSION BY FACSIMILE

NUMBER OF PAGES (including cover page): 12

COMMENTS: more does on Tobacco's marketing
to people of color and children of color.

FOR TRANSMISSION PROBLEMS, PLEASE CALL:

FAX OPERATOR: _____

OR RECEPTIONIST AT: (612) 296-7876

The information contained in this Fax is intended only for the use of the individual or entity named above. If the reader of this Fax is not the intended recipient, or the employee or agent responsible to deliver it to the intended recipient, you are requested to (a) refrain from examining the materials, (b) immediately notify the sending person of the mistake, and (c) abide by any instructions of the sending person regarding the return of the document(s).

AO:108223 v1

MINNESOTA TOBACCO LITIGATION

MEMORANDUM

TO: P. E. McKEOWN
CC: J. R. Newcomb
FROM: R. G. TEAR
DATE: August 10, 1979
SUBJECT: Pontiac KOOL Jazz Festival

The 1979 Pontiac KOOL Jazz Festival was held for the first time in Pontiac Stadium and provided a delightful evening of entertainment. The Friday night performance drew an enthusiastic crowd of 14 - 16,000 people. As an advertising medium, the festival proved to be a successful means of product publicity.

• Pre-event publicity was given heavy coverage on local black radio stations via recordings of performing artists followed by disc jockey's request for attendance. As in other cities I visited, the festival was broadcasted as Pontiac Jazz Festival versus Pontiac KOOL Jazz Festival.

• Stadium traffic/parking was a convenience to everyone. The stadium location was good for our target audience. Blacks living in Detroit had a minimum 45 minute drive to Pontiac. Also, the stadium appeared to be situated within a black community which might have accounted for frequent fluctuations in audience size.

• Audience composition covered the age spectrum with a slight skew toward the 18 - 25 age group. The audience was approximately 85% black and there was little multi-in from outside states. I saw nothing but Michigan license plates.

• Time of audience was highly receptive to the slogan and the answer constantly asked the people. "What is it?", looking for the response, "KOOL Jazz Festival!"

NOTICE
IF THE FILE FRINGE IS ALSO CLEAN THIS
PAGE SHOULD BE 11 20 0-2 20 FOR "REMARKS"
OF THE BUREAU OF THE FILES.

166661 1 2 1 6

666011286

DETERMINED TO BE AN
ADMINISTRATIVE MARKING

INITIALS: W DATE: 10/22/13

TRIAL EXHIBIT
13,682

TO MR. R. A. PITTMAN
DEPT. _____
C. C. TO MR. B. L. Broecker ☐
 H. T. Henderson ☐
 C. E. Smoot ☐
 _____ ☐
 _____ ☐
FROM MR. R. L. JOHNSON /lb
DATE February 21, 1973
SUBJECT _____

BROWN & WILLIAMSON TOBACCO CORPORATION
LOUISVILLE, KENTUCKY 40201
INTERNAL CORRESPONDENCE



Here is a list of conclusions based on Wave XIII and the latest Black Study. Only conclusions on which we plan to take action are listed.

CONCLUSIONS

- 1) KOOL Longs' female effort appears to be working. From studies dating back from 11/69 to the present, total KOOL as well as both KOOL 84mm and KOOL 99mm have shown growth. KOOL Longs' growth is averaging 20%, while Salem Longs growth is averaging only 13%. Concurrently, the segment appears to be growing at 11% per year over the past three years based on jobber data. In terms of female menthol longs smokers, KOOL Longs' female franchise is averaging 26% growth while Salem Longs are averaging 11%. Also, KOOL Longs have increased their female skew over the last three years. Salem's 99mm female skew has declined directionally. (See Appendix 1A, 1B, 1C)
- 2) KOOL Milds' smoker profile appears to parallel KOOL most closely. High filtration products skew more female and so do high filtration menthol brands. However, KOOL Milds have a directionally masculine skew. Also, KOOL Milds have not been successful in improving KOOL's vulnerability to other menthol cigarettes in brand switching. Wave XIII shows that KOOL Milds gain almost without exception from KOOL 84 and competitive full taste 84mm products. (See Appendix 1IA, 1IB)
- 3) KOOL has shown little or no growth in share of users in the 26+ age group. Growth is from 16 - 25 year olds! At the present rate, a smoker in the 16 - 25 year age group will soon be three times as important to KOOL as a prospect in any other

TRIAL EXHIBIT
13,820

CONFIDENTIAL-MINNESOTA TOBACCO LITIGATION

broad age category. A less lopsided growth pattern appears for KOOL when examining users of the product by sex. (See Appendix IIIA, IIIB)

- 4) KOOL's racial make-up appears to be stabilizing with over 30% of the brand's volume going to Blacks. Growth is coming from Blacks and whites as well. Whereas in the general market, growth is with 16 - 25 year olds, with Blacks growth is among 35+ year olds.

The growth of KOOL among Blacks is due to both the 84mm product and the 98mm version as well. Softness seen with males under 35 is of concern. This is not of grave proportion, however, because of the data having only directional significance according to Marketing Research.

KOOL spends 17.7% of its budget against Blacks who comprise about 10% of the adult population. Thus KOOL's AI among Blacks is 177. KOOL's CPM with Blacks is calculated by a budget chargeable directly to Blacks of \$2,929,000 divided by sales to Blacks of 15.463 billion units. Thus, the CPM figures out to \$.19/M. With the general market it's \$.29/M in 1973. (See Appendix IVA, IVB, IVC)

RECOMMENDATIONS

- 1) Because of the success of the "Lady Be Cool" campaign in behalf of KOOL Longs in female magazines, deviations from the basic approach should not be attempted at the present time. It is felt the inclusion of a KOOL Milds offering would alter the approach proven successful.
- 2) Because KOOL Milds appear to parallel KOOL performance, it is recommended that we continue to offer this product with generic KOOL. In copy this would employ further use of the mortise. In media it would be advertising against the generic target audience. No special media program against older smokers, women or markets of high filtration development appears to be justified.

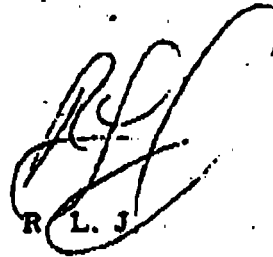
CONFIDENTIAL MINNESOTA TOBACCO LITIGATION

680135937

KOOL Milds' availability has not stopped the perplexing problem of the brand being vulnerable to other menthols. Generic advertising with copy aimed at menthol competitors has failed to remedy the situation. Because of this, it is recommended that the agency develop new copy for testing ... copy which arrests this vulnerability.

- 3) KOOL's stake in the 18 - 25 year old population segment is such that the value of this audience should be accurately weighted and reflected in current media programs. As a result, all magazines will be reviewed to see how efficiently they reach this group and other groups as well.
- 4) KOOL now uses virtually all known vehicles that reach Blacks effectively and efficiently. Despite the low CPM with Blacks it is recommended that we add only interior transit in 12 new markets. The annual cost would be \$160,716. With this additional transit effort, KOOL will cover the top 25 markets in terms of absolute numbers of Negroes.

Black-directed copy should feature both styles because of the growth of each KOOL product. Also, KOOL Milds should be mortised because of its higher performance with Black users than the population as a whole.


R. L. J.

CONFIDENTIAL MINNESOTA TOBACCO LITIGATION

680135998

Appendix IA:ACTUAL NUMBER OF SMOKERS

	KOOL 99			SALEM 99		
	Total	Male	Female	Total	Male	Female
11/69	94	42	52	200	82	138
5/70	112	42	70	233	77	156
11/70	135	49	86	282	91	191
5/71	139	49	90	257	88	169
11/71	147	59	88	277	104	173
5/72	155	71	84	267	80	187
11/72	161	57	104	280	100	180

Appendix IB:% MALE/FEMALE

	KOOL 99		SALEM 99	
	Male	Female	Male	Female
11/69	45	55	31	69
5/70	38	62	33	67
11/70	36	64	32	68
5/71	35	65	34	66
11/71	40	60	38	62
5/72	46	54	30	70
11/72	35	65	34	66

Appendix IC:

	12 Mo. Moving Total for MF 99	
	Jobber Share	% Chg. vs. Year Ago
11/69	5.24	
5/70	5.68	
11/70	6.46	+ 23.3%
5/71	6.48	+ 14.1%
11/71	6.44	- .3%
5/72	6.65	+ 2.6%
11/72	7.03	+ 9.2%

CONFIDENTIAL MINNESOTA TOBACCO LITIGATION

680135939

Appendix IIA:

KOOL 84 % LOSSES

	<u>11/69</u>	<u>5/70</u>	<u>11/70</u>	<u>5/71</u>	<u>11/71</u>	<u>5/72</u>	<u>11/72</u>
Competitive 84 MF	- 1.9	- 1.0	- 2.0	- 2.4	- 1.8	- 3.0	- 2.8
Competitive 99 MF	- 4.1	- 2.8	- 3.2	- 3.5	- 3.1	- 1.1	- 2.6
TOTAL	- 6.0	- 3.8	- 5.2	- 5.9	- 4.9	- 4.1	- 5.4

Appendix IIB:

Demographics by Sex

	<u>M</u>	<u>F</u>
Menthol 84	54	46
KOOL 84	52	38
Menthol Hi-Fi 84	40	60
KOOL Milds	52	48
KOOL Longs	35	65
High Filtration	39	61

CONFIDENTIAL MINNESOTA TOBACCO LITIGATION

680136000

(B&W) PROTECTED BY MINNESOTA TOBACCO LITIGATION PROTECTIVE ORDER

Appendix IIIA:

		<u>TOTAL KOOL</u>		
		<u>SHARE OF USERS BY AGE</u>		
Wave		18 - 25	26 - 40	41+
I	11/66	3.0	4.2	4.1
II	5/67	3.5	4.3	4.4
III	11/67	3.8	4.1	4.2
IV	5/68	3.8	4.1	4.3
V	11/68	4.4	4.1	4.1
VI	5/69	4.3	4.6	4.0
VII	11/69	4.3	4.8	4.2
VIII	5/70	5.6	4.4	3.9
IX	11/70	7.4	4.6	4.1
X	5/71	8.4	5.2	4.4
XI	11/71	9.4	5.3	4.4
XII	5/72	8.8	4.4	4.1
XIII	11/72	10.8	4.5	4.2

Appendix IIIB:

		<u>TOTAL KOOL BY STYLE</u>							
		<u>SHARE OF USERS BY SEX</u>							
Wave		MALE				FEMALE			
		Milds	84	99	Total	Milds	84	99	Total
I	11/66	-	3.8	-	3.8	-	4.2	-	4.2
II	5/67	-	4.3	-	4.3	-	4.0	-	4.0
III	11/67	-	4.0	-	4.0	-	4.2	-	4.2
IV	5/68	-	4.4	-	4.4	-	3.9	-	3.9
V	11/68	-	4.8	-	4.8	-	4.4	-	4.4
VI	5/69	-	4.9	-	4.9	-	4.7	-	4.7
VII	11/69	-	5.1	.5	5.6	-	3.9	.9	4.5
VIII	5/70	-	5.1	.5	5.6	-	3.8	1.1	4.9
IX	11/70	-	6.7	.7	7.4	-	4.3	1.3	5.6
X	5/71	-	6.4	.6	7.0	-	4.0	1.3	5.3
XI	11/71	-	6.7	.7	7.4	-	4.3	1.3	5.6
XII	5/72	-	5.9	.9	6.8	-	3.9	1.3	5.2
XIII	11/72	.3	6.1	.7	7.1	.4	4.5	1.7	6.6

CONFIDENTIAL MINNESOTA TOBACCO LITIGATION

680136001

Appendix IVA:

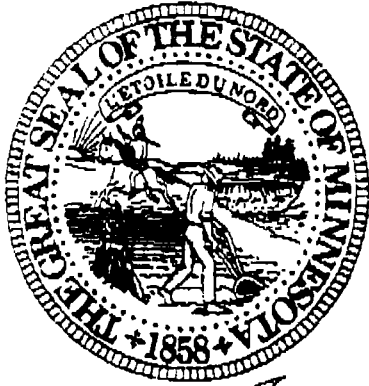
	<u>Black Study of 6/88</u>	<u>Black Study of 4/71</u>	<u>Black Study of 12/72</u>
Adult Blacks	14,100	14,700	15,000
x			
Incidence	.59	.59	.56
"			
Black Smokers	8,319	8,673	8,400
x			
Consumption/Year	6,032	6,032	6,240
"			
Black Market Volume	50,180	52,315	52,416

KOOL's Share of Users	14.4%	27.4%	29.5%
KOOL Black Volume	7,226	14,334	15,463
KOOL Total Volume	29,646	42,086	49,535
KOOL White	22,420	27,752	34,072
KOOL % Black	24.4%	34.1%	31.2%

CONFIDENTIAL MINNESOTA TOBACCO LITIGATION

680136002

STATE OF MINNESOTA



OFFICE OF THE ATTORNEY GENERAL
HUBERT H. HUMPHREY III

102 State Capitol
St. Paul, MN 55155

(612) 296-6196

Fax: (612) 297-4193

TO:

Jerry Mande

FAX NO.:

(702) 496-6027

FROM:

Eric Johnson

DATE:

4/27/98

Pages:

20

- (including cover page)

Message:

The information contained in this Fax message is attorney-client or work product **PRIVILEGED** and/or **CONFIDENTIAL INFORMATION**. It is intended only for the use of the individual or entity named below. If the reader of this Fax is not the intended recipient, or the employee or agent responsible to deliver it to the intended recipient, you are hereby notified that any dissemination, distribution, or copying of this communication is strictly prohibited. Furthermore, you should (a) refrain from examining the materials, (b) immediately notify the sending person of the mistake, and (c) abide by the sending person's instructions regarding the return of the document(s).

If there are any problems or questions concerning this transmission,
please call (612) 296-6196 or: _____ at (612) _____

(B&W) PROTECTED BY MINNESOTA TOBACCO LITIGATION PROTECTIVE ORDER

Sosa & Associates
One American Plaza
San Antonio, Texas
78206
M.E. 227,2073

HISPANIC SITUATIONAL ANALYSIS
FOR
KOOL CIGARETTES

Prepared by
SOSA & ASSOCIATES

February 25, 1982

TRIAL EXHIBIT
13,780

67601 9247

Si

DETERMINED TO BE AN
ADMINISTRATIVE MARKING

INITIALS: M DATE: 10/22/13

CONFIDENTIAL MINNESOTA TOBACCO LITIGATION