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May 8, 1998

STATEMENT BY THE PRESIDENT

THE WHITE HOUSE

Office of the Press Secretary
(Dover, Delaware)

For Immediate Release May 8, 1998

STATEMENT BY THE PRESIDENT

Every day, 3,000 young people start a habit that will kill 1,000 of them before their time. Three years ago, appalled by these trends, I committed this Administration to stopping the sale and marketing of cigarettes to children. Now, thanks to our efforts and the persistence of state attorneys general, we have the best opportunity ever to pass comprehensive tobacco legislation that will save millions of our children from premature death.

Today, we have learned that Minnesota has won important new concessions from the tobacco industry. The Minnesota settlement, like those reached earlier in Mississippi, Florida, and Texas, will help us combat tobacco industry marketing to kids. This action provides still further momentum to our effort to pass bipartisan, comprehensive tobacco legislation this year. All our nation?s children are at risk from tobacco, and we must have comprehensive national legislation to stop young Americans from smoking before they start, by raising the price of cigarettes, putting into place tough restrictions on advertising and access, imposing penalties on the industry if it continues to sell cigarettes to children, ensuring that the FDA has authority to regulate tobacco products, and protecting farmers and farming communities.

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STATE OF MINNESOTA

OFFICE OF THE ATTORNEY GENERAL

HUBERT H. HUMPHREY III
ATTORNEY GENERAL

FOR IMMEDIATE RELEASE:
Friday, May 8, 1998

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HUMPHREY ACHIEVES HISTORIC $6.1 BILLION SETTLEMENT OF TOBACCO LAWSUIT WITH IRONCLAD BAN AGAINST MARKETING TO CHILDREN

Settlement includes unprecedented industry reforms and full truth revealed to the public

After a four year legal battle with the tobacco industry, Attorney General Hubert H. Humphrey III and Andy Czajkowski, CEO of co-plaintiff Blue Cross and Blue Shield of Minnesota, today announced a historic agreement that requires the industry to pay $6.1 billion to the State of Minnesota and imposes the strongest ban in the nation against marketing cigarettes to children. The landmark agreement requires disclosure of secret tobacco documents, unprecedented reform of the industry, closure of the tobacco research and propaganda arm, the Council for Tobacco Research, and first-in-the-nation bans on tobacco branded merchandise and secret payments for using cigarettes in movies.

"When we launched this historic lawsuit against the tobacco cartel, the critics said we'd never prevail against this powerful industry," Humphrey said. "Today, the tobacco industry has surrendered -- and they have surrendered on our terms. Groundbreaking terms that will expose the truth to the public, recover record amounts for taxpayers, impose stringent reforms on the industry and, most important, protect future generations of kids."

The final agreement, reached early Friday morning, marks the end of a four-year legal battle to bring the tobacco industry to justice. Humphrey was the first state attorney general in the nation in August, 1994 to file a consumer fraud and antitrust lawsuit against the tobacco industry.

The Truth Comes Out

The Minnesota case stood out among all state lawsuits because unprecedented document discovery broke through the industry's 40-year conspiracy to hide what they knew about the health effects of smoking. Now these hard-won documents will become public.

The settlement calls for continued document disclosure and a lifting of the protective order which kept the most important road maps to the industry's decades-long conspiracy from the public. The millions of documents open to the public at the Minnesota document depository will remain open at industry expense for the next 10 years. Selected key documents from the document depository in England will be transferred to the Minnesota depository.

(more)

"The hallmark of our case has been our unwavering search for the truth," Humphrey said. "Now we intend to expose the remaining secrets of the industry's 40-year fraud, conspiracy and deception. The settlement will unseal the secret documents, including the 4-A indexes that we fought all the way to the Supreme Court to uncover and provide a roadmap to the documents."

Paying for the Harm Tobacco Caused

The tobacco industry will pay the State $6.1 billion over the next 25 years, making this the largest recovery in Minnesota history and the third largest in American history. The settlement is more than four times the amount sought in damages, which was $1.3 billion. The total amount is 20 to 100 percent higher per capita than any other state settlement.

The figure also represents over $2 billion more than what the state would have received if it had gone along with the proposed June 20 bailout deal. That deal was supported by most Attorneys General and the industry. But Humphrey led the fight to defeat it, arguing it was too weak and represented a huge financial windfall for the companies because they would have won immunity from lawsuits like the Minnesota case.

"The magnitude of these payments breaks the mold of big tobacco's sweetheart deal and sends the message to Congress that they must pay much more for the harm they've caused," Humphrey said.

Protecting Kids

- ***A Ban on Marketing to Kids***

For the first time in history, the tobacco companies face an ironclad ban against marketing to children in the form of a permanent injunction. Under the settlement, the tobacco companies are specifically prohibited, by court order, from using any marketing techniques that target children. This order is unprecedented. In the past, the only way to stop tobacco companies from targeting children has been to argue they are engaged in deceptive advertising or violation of similarly general laws. Now they will be bound by a specific, ironclad order.

"This injunction puts the tobacco industry on parole," Humphrey said. "If we find new evidence that they are marketing their deadly product to kids, we're going back into court to hold them in contempt and impose fines or damages. It's ironclad justice -- swift and certain punishment that will save kids' lives."

(more)

- ***Tobacco Billboards Come Down***

Cigarettes are the number one item advertised on billboards in Minnesota. But not for long. Under the settlement, tobacco billboards come down. Fifty come down within a month, and the rest will be phased out in less than six months. Tobacco advertising on buses, taxis and at bus stops also will end.

"The Marlboro Man and Joe Camel will no longer be hovering over our children near schools, parks and child care centers," Humphrey said.

- ***No More Branded Merchandise***

Under the settlement, Minnesota will be the first state in the nation to ban branded merchandise and all branded promotional items. Tobacco companies spend hundreds of millions of dollars annually on T-shirts, hats, gym bags, backpacks, CD players and other merchandise with cigarette logos, making our children walking billboards for cigarettes. An amazing 35 percent of kids from 12 to 17 years old -- including nonsmokers -- have at least one of these promotional items. Recent research shows these products may be one of the most powerful influences on getting teens to smoke.

- ***No More Secret Payoffs to Movie Producers - - Nationwide***

One of the most insidious tobacco marketing techniques has been the secret payment of fees to movie producers to feature cigarettes and smoking in popular films, sometimes in ways that showcase particular brands. A document uncovered in the Minnesota case shows that Philip Morris provided products for use in movies as recent and as youth-oriented, as "The Muppet Movie" and "Who Framed Roger Rabbit?" Under this settlement, the companies are barred from making such payments, directly or indirectly, anywhere in the nation.

"This ban on payments to place tobacco products in movies applies nationwide. It shows that state litigation can be used to create national solutions to the tobacco epidemic," Humphrey said.

Protecting Public Health

- ***Cessation for Every Minnesota Smoker***

The settlement provides for money to be set aside for a smoking cessation fund to make smoking cessation treatment available at no expense for every Minnesota smoker who wants to quit. Under the settlement, $102 million will be earmarked for this first-of-its-kind fund to be operated by health experts.

(more)

"Our trial made clear that the tobacco industry lied to the American public to protect their corporate profits. The result has been decades of crippling disease," Humphrey said. "We can't quell the heartbreak of those who have lost loved ones. But if we work together, we can and we will save future generations from tobacco addiction and disease."

- ***The World's Strongest Tobacco Control Program***

The settlement calls for creation of a non-profit foundation, run by a board of directors drawn mainly from prominent public health groups, to develop the world's most comprehensive and effective program to reduce teen smoking and combat the social and economic harm caused by tobacco.

Subject to the approval of the legislature, this foundation would ultimately oversee a trust fund of over $650 million to fund a large and sustained counter-advertising campaign; classroom education; community partnerships; research, advocacy and innovative prevention programs.

"This trust fund represents less than 11 percent of this historic settlement. But with it, Minnesota can create the world's most comprehensive and effective campaign to save the next generation from becoming addicted to the most deadly consumer product," Humphrey said.

Reforming the Industry

"The tobacco industry's 40-year campaign of deception and fraud is the saddest chapter in the history of corporate America," Humphrey said. "Neither I nor the American people can trust them to reform themselves. So we are using the power of the law to change their corporate conduct."

- ***Tobacco Trade Group Must Disband***

In its lawsuit, the State had alleged that the tobacco industry used a trade group, the Council for Tobacco Research (CTR), as a propaganda machine to mislead Americans and suppress health research. Under the settlement, the CTR is dissolved. The industry is permanently barred from reviving the CTR or anything similar.

- ***Expanded Lobbying Disclosure***

The tobacco industry is notorious for manipulating the political process and wielding its considerable clout through front-groups, highly paid lobbyists and secret surrogates. The settlement imposes new disclosure requirements on the industry, beyond those of Minnesota's lobbying laws, to shine the light of public scrutiny on the industry's efforts to influence Minnesota lawmaking.

(more)

Among the enhanced disclosures will be requirements that the industry reveal the amounts paid to its lobbyists and to other associations, reveal payments made to third parties to testify in hearings, and report on the use of controlled foundations to make gifts that benefit Minnesota officials. This is unprecedented.

- ***Protecting the Integrity of the Legislative Process***

The settlement contains provisions that help preserve Minnesota's tobacco laws and limit the industry's ability to block future legislation. The industry is specifically prohibited from bringing any legal or constitutional challenge to Minnesota's existing laws against: selling tobacco to minors; the Clean Indoor Air Act; the law against distribution of free tobacco samples; and a new ingredient disclosure law adopted in 1997 and not yet implemented. In addition, the industry is barred from opposing certain future legislation to reduce tobacco use by children.

Attorneys Fees

No attorneys fees will be deducted from the settlement amount. The Robins, Kaplan, Miller and Ciresi law firm will waive its special attorney appointment agreement with the state. The tobacco industry, which deployed more than 30 law firms and hundreds of lawyers to fight the state, agreed to pay all of the firm's fees for waging this four-year legal battle. The industry will pay attorneys fees amounting to about 7 percent of the settlement, less than one-third of the original 25 percent agreement.

"I'm old-fashioned enough to believe if you stand up for your principles, if you act from your heart, things will work out for the best," Humphrey said. "Well, we stood firm. And the result is a triumph of truth and justice for taxpayers. It is a monumental advancement for public health. And it's a bright and healthy future for our children."

The settlement agreement will be posted on the Attorney General's web site at: www.ag.state.mn.us. Click on "news," then click on "tobacco litigation news."

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For more information, click here.

PIONEERPLANET

Where the money goes

Minnesota will get an estimated $6.1 billion over 25 years. Of that money, $102 million is earmarked to help Minnesotans stop smoking. Tobacco companies will pay an additional $100 million to fund a national research project, based in Minnesota, aimed at creating a smoke-free society.

Blue Cross and Blue Shield of Minnesota will receive $469 million over five years.

Robins Kaplan Miller & Ciresi, the state's law firm, will receive about $440 million from the tobacco companies on top of the damages paid to the state.

(Payments calculated in today's dollars. Significant parts of both payments will rise yearly with inflation and perhaps decrease if the tobacco industry's domestic sales decline.)

Other key provisions

Permanent injunction against marketing cigarettes to children in Minnesota. State can seek contempt-of-court citations for violations.

Cigarette billboards will be removed throughout Minnesota, and caps, T-shirts and other merchandise with cigarette logos cannot be sold or given away in the state.

Tobacco industry will maintain public document depositories for 10 years in Minnesota and Great Britain.

National ban on payments to entertainment industry for displaying cigarettes in movies.

Permanent injunction against making claims about the health impact of smoking.

The Council for Tobacco Research, an industry research group, must disband.

Tobacco industry must reveal amounts paid to lobbyists in Minnesota and will not challenge in court existing state laws on the sale of tobacco to minors, bans on indoor smoking or a 1997 law requiring disclosure of ingredients in cigarettes. The industry also is obligated not to challenge any future legislative efforts to restrict smoking by children.

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A guide to

Minnesota's case against TOBACCO

Find out about:

The allegations

The lawsuit alleges cigarette makers are to blame for smokers' health care costs because they allegedly conspired for 40 years to create a false "controversy" about the health risks of smoking. The lawsuit alleges companies suppressed research, manipulated nicotine to keep smokers hooked and targeted youth to maintain market share. The legal claims against the companies include breaching their 1954 promise in nationwide newspaper ads to protect customers' health, controlling the market and violating consumer protection laws by misleading consumers and concealing research.

The defense

The industry claims nothing in its conduct over the past 40 years caused higher health-care expenditures. The industry denies it manipulated nicotine, targeted children or controlled markets. Rather, the industry contends, it supported research into smoking and health as well as programs to prevent sales of cigarettes to minors. Besides, the industry says, Minnesotans have long known the risks of smoking.

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The plaintiffs

The state of Minnesota/Attorney General Hubert Humphrey III: The Minnesota attorney general is the government agency responsible for enforcing consumer protection laws.

Blue Cross Blue Shield of Minnesota: Nonprofit health services organization based in Eagan, covers more than 1.6 million people in various health plans.

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The defendants

Philip Morris
Parent: Philip Morris Cos.
U.S. market 1996 sales: $12.5 billion
Market share: 48.7%
Headquarters: New York
Brand names: Marlboro, Basic, Virginia Slims

R.J. Reynolds
Parent: RJR Nabisco
U.S. market 1996 sales: $4.5 billion
Market share: 24.2%
Headquarters: Winston-Salem, N.C.
Brand names: Camel, Doral, Salem, Winston

Brown & Williamson
Parent: B.A.T Industries
U.S. market 1996 sales: $3 billion
Market share: 16.1%
Headquarters: Louisville, Ky.
Brand names: Kool, GPC, Lucky Strike, Carlton

Lorillard
Parent: Loews
U.S. market 1996 sales: $2.2 billion
Market share: 8.6%
Headquarters: New York
Brand names: Kent, True, Newport

Liggett Group*
Parent: Brook Group, Ltd.
U.S. market 1996 sales: $447 million
Market share: 1.5%
Headquarters: Miami
Brand names: L & M, Chesterfield, Lark
*Sued by Blue Cross only

The Council for Tobacco Research - U.S.A.
Nonprofit corporation organized in 1964 as successor to the Tobacco Institute Research Committee (TIRC). TIRC was formed in 1954 by presidents of the leading cigarette manufacturers after reports linking cigarette smoking to lung cancer. Headquarters: New York.

The Tobacco Institute
Nonprofit corporation formed as a trade group by cigarette manufacturers in 1958. Headquarters: Washington, D.C.

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The stakes

Civil charges: Consumer fraud, deceptive trade practices, unlawful trade practices, false advertising, antitrust conspiracy, breach of duty to public (state only)
Potential penalties: More than $1 billion in damages, punitive damages, shutdown of trade groups
More on what might happen if the tobacco industry loses

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The battle of experts

Smoking and disease	Medical experts will testify that smoking causes lung cancer, heart disease, emphysema and other illness. In rebuttal, the tobacco industry will present its own experts. The industry maintains that smoking may be a risk factor for some disease, but "causation" remains unproven.	**Fraud**	Experts will testify about cigarette makers' internal documents, comparing what companies knew about the perils of smoking with the industry's public statements.
Antitrust	Antitrust expert Adam Jaffe, associate professor of economics at Brandeis University, will testify about Minnesota's claim that the tobacco industry controlled the market for cigarettes through its alleged conspiracy to hide the truth about smoking.	**Cigarette design**	Experts and some internal documents likely will be used to explore the claim that tobacco companies viewed cigarettes as delivery devices for nicotine, and used ammonia to enhance the nicotine effect. The industry says the nicotine-manipulation claims are wrong.

Addiction	Experts, including Dr. Richard D. Hunt, professor of medicine at the Mayo Clinic, will testify about nicotine and addiction.	**Advertising**	Using internal documents, experts will explore whether cigarette makers falsely advertised filtered and low-tar cigarettes as beneficial to smokers.
Youth smoking	Internal company documents are likely to be a key part of the case against cigarette makers for allegedly targeting youths. Experts on youth smoking will testify, including Cheryl L. Perry, professor of epidemiology at the University of Minnesota School of Public Health.	**Public knowledge about smoking**	University of Minnesota history professor Hy Berman, among others, is likely to testify about what Minnesotans and government leaders have known about the risks of smoking. Berman is a witness for the industry.
Industry research	Experts for cigarette makers will describe decades of health research by the Council for Tobacco Research, an industry group formed in 1954 in response to public health concerns about smoking.	**Damages**	Several experts will testify about the cost of treating smokers, starting with the Minnesota Blue Cross statistical experts who estimated smoking-related disease costs the state and Blue Cross more than $1 billion over nearly two decades. Sources: Court papers, witness lists, interviews

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Key factors

Wildcards

Bennett LeBow, chairman of Liggett Group, the cigarette company that has settled with state attorneys general, could be called to testify. As part of the settlement, LeBow has admitted that smoking causes disease, nicotine is addictive and the industry marketed to children. Industry lawyers will portray LeBow as a businessman willing to say anything to benefit his struggling company.

Thomas Osdene, retired research director at Philip Morris, refused to answer questions during a Minnesota deposition last year, citing his Fifth Amendment right against self-incrimination. A largely secret legal battle has been waged over Osdene in the Minnesota case, and it's unclear what will be done about Osdene at trial.

Brown & Williamson Tobacco Corp.: The third largest cigarette company has been threatened with trial sanctions for its failure to hand over documents to Minnesota lawyers. In the worst case, the judge could rule the company violated consumer laws, leaving the jury to assess damages. This could indirectly hurt other tobacco companies, since they are accused of conspiracy.

CEOs: Five tobacco company chief executives may be called to testify.

Important players

Judge Kenneth Fitzpatrick, Ramsey County District Court: The 62-year-old judge has presided over the Minnesota tobacco lawsuit since 1994, and has issued a series of groundbreaking rulings. He ordered creation of the first tobacco document depositories, which now hold more than 30 million pages of internal records. He has imposed a record contempt sanction against one company. He has served nearly a quarter of a century on the bench, and worked nearly a decade as a government attorney before he was a judge.

Peter Bleakley, lead defense counsel Arnold & Porter, Washington, D.C.: Bleakley, 61, is a veteran litigator who represents Philip Morris, the largest cigarette maker, but also serves as main courtroom counsel for all the companies. This is not his first tobacco case. He also defended the industry in a 1988 New Jersey trial.

Peter Sipkins, liaison counsel for the defense Dorsey & Whitney, Minneapolis: Sipkins, 53, has handled scores of product liability cases over the past 20 years and has been a front-line lawyer for Philip Morris since the Minnesota case began in 1994. In the early 1970s, he worked in the Minnesota attorney general's office, and served three years as the state's solicitor general.

Michael Ciresi, lead trial counsel for the Minnesota Attorney General and Blue Cross Blue Shield of Minnesota Robins, Kaplan, Miller & Ciresi, Minneapolis: Ciresi, 51, was described by the National Law Journal last year as "one of the most feared and successful trial attorneys in the United States." He has obtained multimillion dollar verdicts and settlements from oil companies, drug companies and camera makers. He was the lead U.S. attorney for the government of India in its lawsuit over the 1984 Union Carbide plant explosion in Bhopal.

Roberta Walburn, liaison counsel for the Minnesota Attorney General and Blue Cross Blue Shield of Minnesota Robins, Kaplan, Miller & Ciresi, Minneapolis: Walburn, 45, is a former newspaper reporter and veteran litigator who coordinated the two-year document- gathering campaign against the industry. She also is a key strategist and has successfully argued some of the pretrial motions that opened up industry files.

Sources: Percentage of cigarettes sold, U.S. market, September 1996-September 1997 reported by the Maxwell Consumer Report, 1996 U.S. sales from company reports

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