"(D) Indian tribes and tribal organizations.

"(E) States and units of local government.

"(h) DEFINITIONS.—For purposes of this section:

"(1)(A) The term 'minority tobacco activities' means activities that are directed toward minority health concerns regarding tobacco products.

"(B) The term 'minority health concerns' means the health concerns of racial and ethnic minorities.

"(2)(A) The term 'racial and ethnic minority group' means each of American Indians (including Alaska Natives, Eskimos, and Aleuts); Asian Americans and Pacific Islanders; Blacks; Hispanics; and Native Hawaiians.

"(B) The term 'Hispanic' means individuals whose origin is Mexican, Puerto Rican, Cuban, Central or South American, or any other Spanish-speaking country.".

TITLE II—EDUCATION INITIATIVES

SEC. 201. GRANTS TO MINORITY MEDICAL SCHOOLS.

Part B of title VII of the Public Health Service Act (42 U.S.C. 293 et seq.) is amended by adding at the end the following section:

"SEC. 741. GRANTS TO MINORITY MEDICAL SCHOOLS FOR ENDOWMENTS; PUBLIC HEALTH PROGRAMS REGARDING TOBACCO PRODUCTS.

"(a) IN GENERAL.—From amounts reserved under subsection (c), the Secretary shall make grants to schools specified in subsection (b) for the purpose of establishing at the schools endowments each of whose income is used exclusively to carry out—

"(1) public health programs; and

"(2) programs of biomedical research on diseases for which the consumption of tobacco products is a principal causal factor.

"(b) RELEVANT SCHOOLS.—The schools referred to in subsection (a) are the following medical schools (schools of medicine or osteopathic medicine):

"(1) The four medical schools in the United States whose enrollment for academic year 1998 of Black individuals constituted a higher percentage of such individuals than other medical schools in the United States.

"(2) The four medical schools in the United States (or consortia of such schools) whose enrollment for academic year 1998 of Hispanic individuals constituted a higher percentage of such individuals than other medical schools in the United States.

"(3) The two medical schools in the United States (or consortia of such schools) whose enrollment for academic year 1998 of Native American individuals constituted a higher percentage of such individuals than other medical schools in the United States.

"(c) FUNDING.—From amounts received by the Federal Government pursuant to national tobacco legislation and reserved for public health programs regarding the consumption of tobacco products, the Secretary shall, for each of the first 10 fiscal years following the date of the enactment of such legislation, reserve amounts for making a grant under subsection (a) to each of the schools specified in subsection (b). Each such grant shall be made in the amount of $10,000,000.".

SEC. 202. ADDITIONAL FUNDING FOR BUILDINGS AND STRUCTURES AT HISTORICALLY BLACK COLLEGES AND UNIVERSITIES.

Subsection (d) of section 507 of the Omnibus Parks and Public Land Management Act of 1996 (16 U.S.C. 470a note; 110 Stat. 4156) is amended to read as follows:

"(d) FUNDING.—For fiscal years beginning after fiscal year 1998 $377,500,000 shall be made available pursuant to section 108 of the National Historic Preservation Act to carry out the purposes of this section. In addition to other funds covered into the Historic Preservation Fund under section 108 of the National Historic Preservation Act or under any other authority of law, there is authorized to be appropriated to such Fund $377,500,000 for fiscal years beginning after fiscal year 1998.".

Tobacco - MN.

STATE OF MINNESOTA

Office of the Attorney General

WWW.AG.STATE.MN.US

TO: Minnesota Attorney General
National Contact List/Tobacco Litigation

DATE: 3/17/98
PHONE:
FAX:

FROM: Luanne Nyberg
445 Minnesota St., #1400
St. Paul, MN 55101-2131

PHONE: (612) 215-1533
FAX: (612) 297-4036
TTY: (612) 297-7206

SUBJECT: Transcripts

~~CONFIDENTIAL~~ FACSIMILE

NUMBER OF PAGES (including cover page): 5

COMMENTS:

Unfortunately, due to circumstances beyond our control, we are no longer able to post on our website the unofficial daily transcripts of proceeding in the tobacco trial.

Because of continued unauthorized re-publication of the transcripts, the unofficial court reporter, who owns the rights to his work product, has withdrawn his verbal authorization for such use, and has retained counsel to help resolve this matter.

An official transcript will be prepared in the event of any appeal.

Our office believes in timely access to information needed to inform public debate, and that full public disclosure, sometimes called sunlight, is, indeed, the best disinfectent.

We regret that we are not able to continue to provide even limited access to these important proceedings.

FOR TRANSMISSION PROBLEMS, PLEASE CALL FAX OPERATOR: Deanne Gueblaoui (612) 297-3578
OR RECEPTIONIST AT: (612) 296-7575

AG:109567 v1

WK 10/6/15

STATE OF MINNESOTA

OFFICE OF THE ATTORNEY GENERAL

HUBERT H. HUMPHEREY III
ATTORNEY GENERAL

LAW ENFORCEMENT SECTION
SUITE 1400
445 MINNESOTA STREET
ST. PAUL, MN 55101-2131
TELEPHONE: (612) 296-7575

Minnesota's Tobacco Trial Presents "The Osdene Files"

Thomas S. Osdene began at Philip Morris in 1965 as Manager of Chemical Research and retired as Senior Vice President for Science and Technology in 1992. He invoked the Fifth Amendment over 100 times during portions of his videotaped deposition played for the Minnesota jury.

Quote Sheet #3
From Deposition, Documents, and the Minnesota Trial on February 13 & 17, 1998

Q: "It would be your understanding that the sole basis for your being subject to a criminal inquiry would be your activities as an employee of Philip Morris; is that correct?"
A: "Yes"

Q: "Dr. Osdene, is it your belief that if you answer questions truthfully, your answers will confront you with a substantial hazard of self-incrimination?"
A: "On advice of counsel, I respectfully refuse to answer based on my Fifth Amendment privilege against self-incrimination because there is an ongoing parallel criminal investigation."

"It's certainly not what we wanted. Philip Morris asked Dr. Osdene to testify fully and truthfully." *Peter Bleakley, Philip Morris Attorney, as quoted in the press.*

"The Osdene testimony is a powerful reminder that these companies have much to hide." *Attorney General Hubert H. Humphrey III, as quoted in the press.*

<u>**Using Nicotine to Keep the Tobacco Industry in Business**</u>

Q: "First draft of annual report to Philip Morris board by VP for research and development considered too technical, fall '69... 'We have, then, as our first premise, that the primary motivation for smoking is to obtain nicotine.'... and that was the considered view of the research and development department of Philip Morris in 1969, was it not sir?" [*Report prepared by Osdene's Department.* <u>Trial Exhibit 3681</u>]
A: "On advice of counsel, I respectfully refuse to answer based on my Fifth Amendment privilege against self-incrimination because there is an ongoing parallel criminal investigation."

Q: "[T]he next paragraph... 'In the past, we at R&D have said that we're not in the cigarette business, we're in the smoke business. It might be more pointed to observe that the cigarette is the vehicle of smoke, smoke is the vehicle of nicotine and nicotine is the agent of a pleasurable body response'...And that was the view at Philip Morris research and development throughout the period of time that you were there; correct, sir?" [*Report prepared by Osdene's Department.* <u>Trial Exhibit 3681</u>]
A: "On advice of counsel, I respectfully refuse to answer based on my Fifth Amendment privilege against self-incrimination because there is an ongoing parallel criminal investigation."

Q: "[Y]ou state... 'This program includes both behavioral effects as well as chemical investigation. My reason for this high priority is that I believe the thing we sell most is nicotine'.... And in 1980, you

believed the thing Philip Morris sold most was nicotine; correct?" [*August 12, 1980 memo from T.S. Osdene regarding the evaluation of most R&D programs*. Trial Exhibit 10,255]
A: "On advice of counsel, I respectfully refuse to answer based on my Fifth Amendment privilege against self-incrimination because there is an ongoing parallel criminal investigation."

Q: "I'd like to first draw your attention to... a memorandum dated March 18, 1980 from James R. Charles to Dr. R.B. Seligman... it indicates that a CC was sent to Dr. T.S. Osdene...And the very first line...states, 'Nicotine is a powerful pharmacological agent with multiple sites of action and may be the most important component of cigarette smoke'.... and that was consistently the internal philosophy of Philip Morris research and development department...?"
A: "On advice of counsel, I respectfully refuse to answer based on my Fifth Amendment privilege against self-incrimination because there is an ongoing parallel criminal investigation."

"Dr. Seligman brought up the grant by Dr. Abood in which one of the stated aims was to make a clinically acceptable antagonist to nicotine. This goal would have the potential of putting the tobacco manufacturers out of business." *January 10, 1978 memo from Osdene regarding the issues discussed during a January 5, 1978 CTR meeting in New York City.* Trial Exhibit 10227

Smoking and Health Issues

Q: "And one of the statements you made to Dr. Seligman [Vice President, Philip Morris] and the board of directors [sic] of Philip Morris was, under biological effects of smoking... 'In view of the clouds on the horizon, we must be more aware of the activities of additives, materials etc.', correct?" [*August 12, 1980 memo from T.S. Osdene.* Trial Exhibit 10,255]
A: "On advice of counsel, I respectfully refuse to answer based on my Fifth Amendment privilege against self-incrimination because there is an ongoing parallel criminal investigation."

"Please find attached the additives list that we discussed on November 19, 1980. Additives are those used domestically by Philip Morris USA as of August 6, 1980." *1980 memo from Dr. Charles to R.P Heretick with a CC to Osdene.* Trial Exhibit 2513

Q: "And in fact one of your responsibilities as Philip Morris director of research was an overall responsibility for knowledge of the additives being sold throughout the United States; correct?"
A: "On advice of counsel, I respectfully refuse to answer based on my Fifth Amendment privilege against self-incrimination because there is an ongoing parallel criminal investigation."

"This company is in trouble. The cigarette industry is in trouble. If we are to survive as a viable commercial enterprise we must act now to develop responses to smoking and health allegations from both the private and the government sectors." *February 23, 1988 handwritten note from Dr. Charles to Osdene.* Trial Exhibit 10523

"An admission by the industry that excessive cigarette smoking is bad for you is tantamount to an admission of guilt with regard to the lung cancer problem. This could open the door to legal suits in which the industry would have no defense." *1978 Osdene memo to Dr. R.B. Seligman, Vice President, Philip Morris.* Trial Exhibit 3697

Q: "[You] have stated... "Dr. Kreisher's work in the area of AHH from my point of view, starts out with the proposition that smoking causes lung cancer. The rest of work seems to justify this approach. I am very surprised about the extensive human clinical data which is now being sought and feel after four years of this project nobody has the slightest idea where it is going, where it is, or what it is trying... It is my strong feeling that with the progress that has been claimed, we are in the process of digging our own

grave... I am very much afraid that the direction of the work being taken by CTR [Editor's note: CTR is Council for Tobacco Research, an arm of the Tobacco Industry] is totally detrimental to our position and undermines the public posture we have taken to outsiders....And, in fact, the direction of CTR changed significantly in response to your concerns; correct?"
A: " Same response." [Editor's note: Part way through the deposition, it was agreed that Dr. Osdene could answer "Same response" instead of the longer "On Advice of Counsel, I respectfully refuse to answer...".]

"Let's face the facts:

1) Cigarette smoke is biologically active.

A. Nicotine is a potent pharmacological agent. Every toxicologist, physiologist, medical doctor and most chemists know that. It's not a secret.

B. Cigarette smoke condensate applied to the backs of rats causes tumors.

C. Hydrogen cyanide is a potent inhibitor of cytochromesome oxidase - a crucial enzyme in the energy metabolism of all cells.

D. Oxides of nitrogen are important in nitrosamine formation. Nitrosamines as a class are potent carcinogens.

E. Tobacco-specific nonvolatile nitrosamines are frequent in significant amounts in cigarette smoke.

F. Acrolein is a potent eye irritant and is very toxic to cells. Acrolein is in cigarette smoke.

G. Polonium 210 is present in cigarette smoke.

H. We know very little about the biological activity of sidestream smoke.

I. We do not know enough about the biological activity of additives which have been in use for a number of years." *February 23, 1988 handwritten note from Dr. Charles to Osdene.* Trial Exhibit 10523

"While the bulk of gas phase is composed of nitrogen, oxygen, and carbon dioxide, there are present certain gases which are known to be or are suspected of being toxic....The single most toxic compound in gas phase (present in high concentration) is carbon monoxide." *1968 memo from Osdene. This information was never released to the public.* Trial Exhibit 3695

"Now we have a study of the effect of smoking in pregnancy which supports previous conclusions that smoking mothers produce smaller babies. The position of the medical people is that smaller babies suffer detrimental effects all through life." *1969 memo to Helmut Wakeham, Philp Morris V.P., that was also copied to Osdene. Philip Morris did not disclose this information and it was not required on warning labels until the 1980s.* Trial Exhibit 3696

Destruction of Documents and Hiding Research Abroad

"Since we have a major program at INBIFO, and since this is a locale where we might do some of the things which we are reluctant to do in this country, I recommend that we acquire INBIFO either in toto or to the extent of controlling interest." *1970 memo from Philip Morris Vice President, Helmut Wakeham, that recommended buying a research lab in Cologne, Germany. Philip Morris bought the lab in the early 1970's. When asked what Philip Morris did abroad that they were reluctant to do in the United States, Osdene took the Fifth Amendment.* Trial Exhibit 2554

"We have gone to great pains to eliminate any written contact with INBIFO... If this procedure is unacceptable to you, perhaps we should consider a 'dummy' mailing address in Koln [Cologne] for the receipt of samples." *March 1977 memo to Dr. Max Hansermann of Philip Morris Europe S.A.'s research department from Dr. R.B. Seligman, Philip Morris V.P. When asked why Philip Morris wanted to avoid direct contact with INBIFO, Osdene took the Fifth Amendment.* Trial Exhibit 2688

"1. Ship all documents to Cologne. 2. Keep in Cologne. 3. Okay to phone and telex (these will be destroyed)... 5. We will monitor in person every 2-3 months. 6. If important letters or documents have to be sent, please send to home - I will act on them and destroy." *Handwritten note by Thomas S. Osdene on how sensitive Philip Morris documents should be handled.* Trial Exhibit 2501

Q: "Did you ever receive letters or documents concerning research conducted on behalf of Philip Morris by IMBIFO [sic] [German research facility] at your home....[D]id you ever destroy any such documents, sir?"
A: "Same response."

"I have given Carolyn (Levy) approval to proceed with this study. If she is able to demonstrate, as she anticipates, no withdrawal effects of nicotine, we will want to pursue this avenue with some vigor. If, however, the results with nicotine are similar to those gotten with morphine and caffein [sic], we will want to bury it." *November 1977 Philip Morris memo from William Dunn to Thomas S. Osdene.* Trial Exhibit 3708

"I consider myself well trained in the biological and chemical sciences and qualified to make the following comments which should be taken as constructive criticism with suggestions as to how to approach the solution to some of the problems. You may shred this document, have it typed as is, incorporate the suggestions in a position paper or use the document in any way you see fit." *Handwritten note from Dr. Charles to Osdene, February 23, 1982. When asked what he did with this document, Osdene took the 5th.* Trial Exhibit 10523

Marketing to Teens

"Smoking a cigarette for the beginner is a symbolic act... 'I am no longer my mother's child, I am tough, I am an adventurer, I'm not a square.'... As the force from the psychosocial symbolism subsides, the pharmacological effect takes over to sustain the habit." *1969 draft report to the Philip Morris board of directors prepared by Osdene's department.* Trial Exhibit 3681

"Most of these studies have been restricted to people age 18 and over, but my own data, which includes younger teenagers, shows even higher Marlboro market penetration among 15-17 year-olds. The teenage years are also important because those are the years during which most smokers begin to smoke, the years in which initial brand selections are made, and the period and the life-cycle in which conformity to peer group norms is greatest." *1975 memo from Myron Johnston to Dr. R.B. Seligman, Philip Morris VP, stating that several studies had attested to Marlboro's popularity among younger smokers. When asked if he encouraged staff to keep records on cigarette smoking among 15 to 17 year olds, Osdene took the Fifth Amendment.* Trial Exhibit 2557

Q: "And this document is entitled 'GENERAL COMMENTS ON SMOKING AND HEALTH.' The first line states, '.... Of all the concerns, there is one - taxation - that alarms us the most. While marketing restrictions and public and passive smoking do depress volume, in our experience taxation depresses it much more severely. Our concern for taxation is, therefore, central to our thinking about smoking and health. It has historically been the areas to which we have devoted most resources and for the foreseeable future, I think things will stay that way almost everywhere.'... And the reason that Philip Morris was concern [sic] about taxation was because Philip Morris knew that as taxes went up cigarette consumption went down; correct?"
Mr. Webb: "Objection"
A: "Same response."

bacco, cigars, little cigars, pipe tobacco, and smokeless tobacco, and roll-your-own tobacco.

(21) TRUST FUND.—Except as provided in section 121 and title IV, the term "Trust Fund" means the Health Enhancement and Lowered Tobacco Hazards for Young Kids Trust Fund established under section 101.

TITLE I—HEALTHY KIDS TRUST FUND

Subtitle A—General Provisions

SEC. 101. ESTABLISHMENT OF TRUST FUND.

(a) CREATION.—

(1) IN GENERAL.—There is established in the Treasury of the United States a trust fund to be known as the "Health Enhancement and Lowered Tobacco Hazards for Young Kids Trust Fund" (referred to as the "HEALTHY Kids Trust Fund"), consisting of such amounts as may be appropriated or credited to the Trust Fund.

(2) TRUSTEES.—The trustees of the Trust Fund shall be the Secretary of the Treasury and the Secretary of Health and Human Services.

(b) TRANSFERS.—There are hereby appropriated and transferred to the Trust Fund an amount equal to the initial payment under section 102 and 75 percent of the—

(1) amounts received under the annual assessments made under section 102;

(2) amounts paid as fines or penalties, including interest thereon, under section 103; and

(3) amounts repaid or recovered under title III, including interest thereon.

(c) REPAYABLE ADVANCES.—

(1) AUTHORIZATION.—There are authorized to be appropriated to the Trust Fund, as repayable advances, such sums as may from time to time be necessary to make the expenditures described in subsection (d).

(2) REPAYMENT WITH INTEREST.—Repayable advances made to the Trust Fund shall be repaid, and interest on such advances shall be paid, to the general fund of the Treasury when the Secretary of the Treasury determines that moneys are available in the Trust Fund for such purposes.

(3) RATE OF INTEREST.—Interest on advances made pursuant to this subsection shall be at a rate determined by the Secretary of the Treasury (as of the close of the calendar month preceding the month in which the advance is made) to be equal to the current average market yield on outstanding marketable obligations of the United States with remaining

period to maturity comparable to the anticipated period during which the advance will be outstanding.

(d) EXPENDITURES FROM TRUST FUND.—Amounts in the Trust Fund shall be made available in each fiscal year, without further appropriation as follows:

(1) 14.5 percent of such amounts shall be made available for payments to States as provided for under section 111.

(2) 17 percent of such amounts shall be made available for grants to the States for child care and early childhood development as provided for in section 131.

(3) 6 percent of such amounts shall be made available for grants to States for education as provided for in section 132.

(4) 4 percent of such amounts shall be made available to carry out the outreach and increased enrollment provisions under the amendments made by section 133 to the medicaid program under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) and the children's health insurance program under title XXI of such Act (42 U.S.C. 1397aa et seq.).

(5) 15.5 percent of such amounts shall be made available for public health programs, of which—

(A) $300,000,000 shall be made available to the Secretary to carry out chapter IX of the Food Drug and Cosmetic Act (as added by section 204);

(B) $200,000,000 shall be made available to the Indian Health Service to be used as provided for in title IX; and

(C) the remainder shall be made available for public health programs as provided for in title VI.

(6) 21 percent of such amounts shall be made available to the National Institutes of Health Trust Fund for Health Research for the conduct of health research as provided for in section 121.

(7) For agricultural programs as provided for in title IV—

(A) 12 percent of such amounts shall be made available to the Tobacco Community Revitalization Trust Fund for each of the first 10 fiscal years after the date of enactment of this Act;

(B) 4 percent of such amounts shall be made available to the Tobacco Community Revitalization Trust Fund for each of the 11th through 15th fiscal years after the date of enactment of this Act; and

(C) 2 percent of such amounts shall be made available to the Tobacco Community Revitalization Trust Fund for each of the 16th through 25th fiscal years after the date of enactment of this Act.

(8) For the Hospital Insurance Trust Fund—

(A) 4 percent of such amounts shall be made available to such Trust Fund for each of the first 10 fiscal years after the date of enactment of this Act (less amounts made available under paragraph (9) for the first 3 such fiscal years);

(B) 8 percent of such amounts shall be made available to such Trust Fund for each of the 11th through 15th fiscal years after the date of enactment of this Act;

(C) 9 percent of such amounts shall be made available to such Trust Fund for each of the 16th through 25th fiscal years after the date of enactment of this Act; and

(D) 10 percent of such amounts shall be made available to such Trust Fund for each subsequent fiscal year.

(9) For carrying out section 134, $250,000,000 shall be made available in each of the 3 fiscal years described in such section;

(10) For reducing the debt—

(A) 6 percent of such amounts shall be made available for such reduction in each of the first 10 fiscal years after the date of enactment of this Act;

(B) 10 percent of such amounts shall be made available for such reduction in each of the 11th through 15th fiscal years after the date of enactment of this Act;

(C) 11 percent of such amounts shall be made available for such reduction in each of the 16th through 25th fiscal years after the date of enactment of this Act; and

(D) 12 percent of such amounts shall be made available for such reduction in each subsequent fiscal year.

(e) BUDGETARY TREATMENT AND DEFINITION.—

(1) TREATMENT.—Amounts made available under paragraphs (8) and (10) of subsection (d) shall not be included—

(A) by the Office of Management and Budget in the estimates and reports required by sections 252(b) and 254 of the Balanced Budget and Emergency Deficit Control Act of 1985; and

(B) by the Committee on the Budget of the House of Representatives and the Committee on the Budget of the Senate for purposes of congressional enforcement under section 302(f) and 311(2)(B) of the Congressional Budget Act of 1974 and section 202 of House Concurrent Resolution 67 (104th Congress).

(2) DEFINITION.—In subsection (d)109), the term "debt" means any obligation of the Federal Government included in the debt subject to limit.

SEC. 102. LIABILITY OF TOBACCO PRODUCT MANUFACTURERS.

(a) PAYMENTS.—

(1) INITIAL PAYMENT.—Not later than 90 days after the date of enactment of this Act, each manufacturer shall pay to the Trust Fund an amount that bears the same ratio to $15,000,000,000 as the average stock market capitalization of the tobacco manufacturer (as defined in paragraph (3)) bears to the average stock market capitalization of all tobacco manufacturers for 1996.

Amy - could you copy these sections from the Conrad bill +

CPR - Tobacco - Minorities

Mary L. Smith
03/09/98 05:59:22 PM

Record Type: Record

To: See the distribution list at the bottom of this message

cc:
Subject: Conrad and Minorities

A quick search through Conrad's bill reveals the following provisions related to minorities

1. Section 101(d)(5), p.18 -- $200 million to Indian Health Service.
2. Section 121(c)(1)(A)(i), p. 39 -- 2% of 21% (sec. 101(d)(6)) at the discretion of Director of NIH to, among other things, the Office of Research on Minority Health.
3. Section 601(a)(7), p.2 -- Research on "the relationship between the use of tobacco products and cancer, particularly among minorities."
4. Section 601(e), p.3 -- The tobacco-related research program "shall be conducted in a manner that ensures that research will be conducted to investigate the different effects of tobacco use on minorities and women."
5. Section 602(e), p.4 -- The research program related to patterns of smoking "shall be conducted in a manner that ensures that research will be conducted to investigate the different factors affecting tobacco use among minorities and women in proportion to their prevalence in the smoking population."
6. Section 611(a), p.6 - Awards grants to carry out community-based prevention programs, including in predominantly minority communities.
7. Section 621(a), p.8 - Counter-advertising targeting, among other groups, women and minorities.
8. Section 901, p.9 -The provisions of the Act shall apply to the manufacture, distribution, and sale of tobacco products in any area within the jurisdiction of an Indian tribe or tribal organization.

Other areas where minorities could be included: farmers, child care, education, class size, and more in the health services.

Message Sent To:

Bruce N. Reed/OPD/EOP
Elena Kagan/OPD/EOP
Thomas L. Freedman/OPD/EOP
Christopher C. Jennings/OPD/EOP
Sarah A. Bianchi/OPD/EOP
Jeanne Lambrew/OPD/EOP
Cynthia A. Rice/OPD/EOP
Jerold R. Mande/OSTP/EOP
Toby Donenfeld/OVP @ OVP

(1) contributions to the program under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.);

(2) the provision of indigent care;

(3) the provision of health care coverage to governmental employees; or

(4) the implementation of tobacco product enforcement or tobacco product regulatory requirements in accordance with this Act.

CHAPTER 2—FEDERAL HEALTH PROGRAMS

SEC. 121. NATIONAL INSTITUTES OF HEALTH TRUST FUND FOR HEALTH RESEARCH.

(a) CREATION OF TRUST FUND.—There is established in the Treasury of the United States a trust fund to be known as the "National Institutes of Health Trust Fund for Health Research" (hereafter referred to in this section as the "Trust Fund"), consisting of such amounts as may be appropriated or transferred to the Trust Fund as provided in this section.

(b) FUNDING.—There shall be transferred to the Trust Fund an amount equal to the amount made available for a fiscal year under section 101(d)(6) to carry out this section in such fiscal year.

(c) OBLIGATIONS FROM TRUST FUND.—

(1) IN GENERAL.—Subject to the provisions of paragraph (4), with respect to the amounts made available in the Trust Fund in a fiscal year, the Secretary shall distribute during any fiscal year—

(A) 2 percent of such amounts to the Office of the Director of the National Institutes of Health to be allocated at the Director's discretion—

(i) for carrying out the responsibilities of the Office of the Director, including the Office of Research on Women's Health and the Office of Research on Minority Health, the Office of Alternative Medicine, the Office of Rare Disease Research, the Office of Behavioral and Social Sciences Research (for use for efforts to reduce tobacco use), the Office of Dietary Supplements, and the Office for Disease Prevention; and

(ii) for construction and acquisition of equipment for or facilities of or used by the National Institutes of Health;

(B) 2 percent of such amounts for transfer to the National Center for Research Resources to carry out section 1502 of the National Institutes of Health Revitalization Act of 1993 concerning Biomedical and Behavioral Research Facilities;

(C) 7.5 percent of such amounts to be used for research into the prevention and cure of cancer;

(D) 7.5 percent of such amounts to be used as provided for in section 601;

(E) 1 percent of such amounts to be used for prevention research programs at the Centers for Disease Control and Prevention;

(F) 1 percent of such amounts to be used for quality and health outcomes research at the Agency for Health Care Policy and Research; and

(G) the remainder of such amounts to member institutes and centers, including the Office of AIDS Research, of the National Institutes of Health in the same proportion to such remainder, as the amount of annual appropriations under appropriations Acts for each member institute and center for the fiscal year bears to the total amount of appropriations under appropriations Acts for all member institutes and centers of the National Institutes of Health for the fiscal year.

(2) PLANS OF ALLOCATION.—The amounts transferred under paragraph (1)(G) shall be allocated by the Director of the National Institutes of Health or the various directors of the institutes and centers, as the case may be, pursuant to allocation plans developed by the various advisory councils to such directors, after consultation with such directors.

(3) GRANTS AND CONTRACTS FULLY FUNDED IN FIRST YEAR.—With respect to any grant or contract funded by amounts distributed under paragraph (1), the full amount of the total obligation of such grant or contract shall be funded in the first year of such grant or contract, and shall remain available until expended.

(4) TRIGGER AND RELEASE OF MONIES AND PHASE-IN.—

(A) TRIGGER AND RELEASE.—No expenditure shall be made under paragraph (1) during any fiscal year in which the annual amount appropriated for the National Institutes of Health is less than the amount so appropriated for fiscal year 1999.

(B) PHASE-IN.—The Secretary shall phase in the distributions required under paragraph (1) so that—

(i) 25 percent of the amount in the Trust Fund is distributed in the first fiscal year for which funds are available;

(ii) 50 percent of the amount in the Trust Fund is distributed in the second fiscal year for which funds are available;

(iii) 75 percent of the amount in the Trust Fund is distributed in the third fiscal year for which funds are available; and

(iv) 100 percent of the amount in the Trust Fund is distributed in the fourth and each succeeding fiscal year for which funds are available.

CHAPTER 3—INVESTMENTS FOR CHILDREN

SEC. 131. IMPROVING CHILD CARE AND EARLY CHILDHOOD DEVELOPMENT.

(a) IN GENERAL.—The Secretary shall use amounts made available under section 101(d)(2) for a fiscal year for the following purposes:

(1) Improving the affordability of child care through increased appropriations for child care

"(c) ENFORCEMENT.—To be eligible to receive funds under the Healthy Kids Act, a State shall make a demonstration to the Secretary that the State is enforcing this section within the State. Such laws or procedures shall permit aggrieved individuals to enforce this section through administrative and judicial means.

"(d) PREEMPTION.—Notwithstanding section 18, nothing in this section shall preempt or otherwise affect any other existing or future Federal, State or local law which provides protection from health hazards from environmental tobacco smoke that are as least as stringent as those provided for in this section.

"(e) REGULATIONS.—Not later than 12 months after the date of enactment of this section, the Secretary of Labor shall promulgate such regulations as the Secretary deems necessary to carry out this section.

"(f) EFFECTIVE DATE.—The provisions of this section shall take effect on the date that is 1 year after the date of enactment of this section.".

TITLE VI—PUBLIC HEALTH AND OTHER PROGRAMS

Subtitle A—Research Programs

SEC. 601. TOBACCO-RELATED RESEARCH.

(a) IN GENERAL.—The Secretary shall establish a program to encourage and promote (through grants, contracts, or otherwise) expanded research, investigations, experiments and studies, concerning—

(1) the relationship between the use of tobacco products and cancer, cardiovascular diseases, lung diseases and other diseases;

(2) the effects of tobacco products, ingredients of tobacco products, and tobacco smoke on the human body and methods of reducing any negative effects, including the development of non-addictive, reduced risk tobacco products;

(3) the addictive effects of nicotine and how such effects differ with respect to different individuals;

(4) the prevention and cure of diseases and illnesses most associated with the use of tobacco products;

(5) differentials between brands of tobacco products with respect to health effects or addiction;

(6) the effectiveness of drugs and devices in assisting individuals to stop using tobacco products; and

(7) the relationship between the use of tobacco products and cancer, particularly among minorities.

(b) ELIGIBILITY.—To be eligible to receive a grant, contract, or other assistance under this section an entity or individual shall prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

(c) USE OF FUNDS.—Amounts received by an individual or entity under this section shall be used to carry out activities under the program established under subsection (a).

(d) ADDITIONAL REQUIREMENTS.—To be eligible to receive a grant, contract, or other assistance under this section an entity or individual shall provide assurances to the Secretary that—

(1) any research to be conducted under the grant or contract will be generally consistent with the requirements applicable to research conducted under the authority of the National Institutes of Health;

(2) adequate records will be maintained with respect to such assistance; and

(3) amounts provided to the individual or entity will be subject to independent audit.

(e) EFFECT ON MINORITIES AND WOMEN.—The program established under subsection (a) shall be conducted in a manner that ensures that research will be conducted to investigate the different effects of tobacco use on minorities and women.

(f) DISSEMINATION OF RESULTS.—The Secretary shall establish procedures for the dissemination of the results of the research conducted under this section.

(g) FUNDING.—There shall be made available to carry out this section an amount equal to the amount made available under section 121(c)(1)(D) for a fiscal year.

SEC. 602. RESEARCH RELATING TO PATTERNS OF SMOKING.

(a) IN GENERAL.—The Secretary shall establish a program to provide for the conduct of research (through the provision of grants, contracts, or otherwise) concerning the cultural, social, behavioral, neurological and psychological reasons that individuals refrain from using tobacco products, begin to use tobacco products, continue using tobacco products, or quit using tobacco products.

(b) ELIGIBILITY.—To be eligible to receive a grant, contract, or other assistance under this section an entity or individual shall prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

(c) USE OF FUNDS.—Amounts received by an individual or entity under this section shall be used to carry out activities under the program established under subsection (a).

(d) ADDITIONAL REQUIREMENTS.—To be eligible to receive a grant, contract, or other assistance under this section an entity or individual shall provide assurances to the Secretary that—

(1) any research to be conducted under the grant or contract will be generally consistent with the requirements applicable to research conducted under the authority of the National Institutes of Health;

(2) adequate records will be maintained with respect to such assistance; and

(3) amounts provided to the individual or entity will be subject to independent audit.

(e) EFFECT ON MINORITIES AND WOMEN.—The program established under subsection (a) shall be conducted in a manner that ensures that research will be conducted to investigate the different factors affecting tobacco use among minorities and women in proportion to their prevalence in the smoking population.

(f) DISSEMINATION OF RESULTS.—The Secretary shall establish procedures for the dissemination of the results of the research conducted under this section.

(g) FUNDING.—There shall be made available to carry out this section an amount equal to 10 percent of the amounts made available under section 101(d)(5)(C) for a fiscal year.

SEC. 603. SURVEILLANCE AND EVALUATION.

(a) IN GENERAL.—The Secretary, acting through the Director of the Centers for Disease Control and Prevention, shall conduct surveillance and evaluation activities, including the surveys authorized under title III, to monitor patterns of tobacco use and determine the effectiveness of various anti-tobacco programs funded under this Act. Such activities shall include studies of the responsiveness of smokers and potential smokers, particularly youth smokers, to price increases and non-price incentives.

(b) FUNDING.—There shall be made available to carry out this section an amount equal to 5 percent of the amounts made available under section 101(d)(5)(C) for a fiscal year.

Subtitle B—Education and Prevention Programs

SEC. 611. GRANTS FOR SCHOOL- AND COMMUNITY-BASED TOBACCO DANGER EDUCATION PROGRAMS.

(a) IN GENERAL.—The Secretary shall establish a program to award grants to States to enable such States—

(1) to carry out school-based and college- or university-based education programs concerning the

the amounts made available under section 101(d)(5)(C) for a fiscal year.

SEC. 603. SURVEILLANCE AND EVALUATION.

(a) IN GENERAL.—The Secretary, acting through the Director of the Centers for Disease Control and Prevention, shall conduct surveillance and evaluation activities, including the surveys authorized under title III, to monitor patterns of tobacco use and determine the effectiveness of various anti-tobacco programs funded under this Act. Such activities shall include studies of the responsiveness of smokers and potential smokers, particularly youth smokers, to price increases and non-price incentives.

(b) FUNDING.—There shall be made available to carry out this section an amount equal to 5 percent of the amounts made available under section 101(d)(5)(C) for a fiscal year.

Subtitle B—Education and Prevention Programs

SEC. 611. GRANTS FOR SCHOOL- AND COMMUNITY-BASED TOBACCO DANGER EDUCATION PROGRAMS.

(a) IN GENERAL.—The Secretary shall establish a program to award grants to States to enable such States—

(1) to carry out school-based and college- or university-based education programs concerning the

dangers of using tobacco products using methods that are proven and effective; and

(2) to carry out community-based prevention programs, including in predominantly minority communities, using methods that are proven and effective.

(b) ELIGIBILITY.—To be eligible to receive a grant under this section a State shall prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including a State plan (that is subject to approval by the Secretary) that describes—

(1) the types of programs that the State will fund under the grant;

(2) the manner in which the State will ensure that the programs will be age-appropriate, culturally appropriate, and linguistically appropriate for the target population; and

(3) the manner in which the State will monitor the effectiveness of such programs.

(c) USE OF FUNDS.—Amounts received by a State under this section shall be used to—

(1) carry out State-wide school-based education programs that are focused on those regions of the

State with high smoking rates and targeted at populations who are most at risk to start smoking;

(2) carry out State-wide college- and university-based education programs to discourage individuals between the ages of 18 and 24 from beginning to use tobacco products, such programs to be focused on colleges or universities with high smoking rates;

(3) carry out community-based prevention programs that are focused on those populations within the community that are most at-risk to use tobacco products or that have been targeted by tobacco advertising or marketing;

(4) develop curriculums for such programs;

(5) acquire materials for such programs;

(6) expand the IMPACT or ASSIST program; and

(7) carry out other activities determined appropriate by the Secretary.

(d) ADDITIONAL REQUIREMENTS.—To be eligible to receive a grant under this section a State shall provide assurances to the Secretary that—

(1) the State will annually report to the Secretary on the effectiveness of the educational approaches implemented by the State;

(2) adequate records will be maintained with respect to such assistance;

(3) amounts provided to individuals or entities will be subject to independent audit; and

(4) the State will involve local public health officials in the planning and implementation of the program.

(c) FUNDING.—There shall be made available to carry out this section an amount equal to 15 percent of the amounts made available under section 101(d)(5)(C) for a fiscal year.

Subtitle C—Miscellaneous Programs

SEC. 621. COUNTER-ADVERTISING PROGRAMS.

(a) IN GENERAL.—The Secretary shall carry out programs to reduce tobacco usage through media-based (such as counter-advertising campaigns) and nonmedia-based education, prevention and cessation campaigns designed to discourage the use of tobacco products by individuals and to encourage those who use such products to quit. Such programs shall include national and local campaigns and shall target, in a culturally and linguistically appropriate manner, adults, children, women and minorities who have been targeted by tobacco industry advertising.

(b) ELIGIBILITY.—To be eligible to receive assistance under this section an entity or individual shall prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

(c) USE OF FUNDS.—Amounts received by an individual or entity under this section shall be used to carry out activities under the programs established under subsection (a). Such amounts may be used to design and implement such activities and to conduct research concerning the effectiveness of such programs.

(d) FUNDING.—There shall be made available to carry out this section an amount equal to 25 percent of the amounts made available under section 101(d)(5)(C) for a fiscal year.

SEC. 622. NATIONAL TOBACCO CESSATION PROGRAM.

(a) ESTABLISHMENT.—There is established a program to be known as the "National Tobacco Cessation Program". The Secretary may award grants to, and enter into contracts and cooperative agreements with, public and private entities for the purpose of expanding the availability and utilization of tobacco use cessation services.

(b) USE OF FUNDS.—Amounts made available under a grant, contract or cooperative agreement under subsection (a) shall be used for the planning, establishment,

ment to any person or circumstance is held to be unconstitutional, the remainder of this Act, the amendments made by this Act, and the application of the provisions of such to any person or circumstance shall not be affected thereby.

TITLE IX—PROVISIONS RELATING TO NATIVE AMERICANS

SEC. 901. PROVISIONS RELATING TO NATIVE AMERICANS.

(a) IN GENERAL.—The provisions of this Act (or an amendment made by this Act) shall apply to the manufacture, distribution, and sale of tobacco products in any area within the jurisdiction of an Indian tribe or tribal organization.

(b) RELIGIOUS PRACTICE EXCEPTION.—In recognition of the religious, traditional and ceremonial uses of tobacco and tobacco products by many Indian tribes and the members of such tribes, nothing in this Act (or an amendment made by this Act) shall be construed to infringe upon the rights of such tribes or members to transfer, acquire, possess, or use any tobacco or tobacco products for such purposes. The preceding sentence shall only be construed to apply to those quantities of tobacco products necessary to fulfill recognized religious, traditional or ceremonial purposes and not to permit the general marketing of tobacco products not in compliance with chapter IX of the Federal Food, Drug and Cosmetic Act.

(c) PAYMENTS TO TRUST FUND.—Any Indian tribe or tribal organization that engages in the manufacturer of tobacco products shall be subject to liability for an assessment under section 102.

(d) APPLICATION OF FEDERAL FOOD, DRUG AND COSMETIC ACT REQUIREMENTS.—

(1) IN GENERAL.—The Secretary, in consultation with the Secretary of the Interior, shall promulgate regulations to provide for the application of any requirements of the Food, Drug and Cosmetic Act with respect to tobacco products manufactured, distributed, or sold in any area within the jurisdiction of an Indian tribe or tribal organization as appropriate to comply with subsections (a) and (b).

(2) ELIGIBILITY FOR ASSISTANCE.—Under the regulations promulgated under paragraph (1), the Secretary, after consultation with the Secretary of the Interior, may provide assistance to an Indian tribe or tribal organization in meeting and enforcing the requirements under such regulations if—

(A) the tribe or organization has a governing body that has powers and carries out duties that are similar to the powers and duties of

State or local governments and requests such assistance by application to the Secretary;

(B) the functions to be exercised through the use of such assistance relate to activities within the exterior boundaries of the reservation or other areas within the jurisdiction of the tribe involved; and

~~(C) the tribe or organization is reasonably~~ expected to be capable of carrying out the functions required by the Secretary.

(3) DETERMINATIONS.—The Secretary, in consultation with the Secretary of the Interior, shall make determinations concerning the eligibility of an Indian tribe or tribal organization for assistance under regulations under paragraph (1) not later than 90 days after the date on which such tribe or organization submits an application for such assistance.

(4) IMPLEMENTATION BY SECRETARY.—If the Secretary determines that the Indian tribe or tribal organization is not willing or qualified to administer the requirements of the regulations promulgated under this subsection, the Secretary, in consultation with the Secretary of the Interior, shall implement

and enforce such regulations on behalf of the tribe or organization.

(c) RETAIL LICENSING REQUIREMENTS.—

(1) IN GENERAL.—The requirements of section 577 of the Federal Food, Drug and Cosmetic Act (as added by section 204 of this Act) shall apply to retailers that sell tobacco products in any area within ~~the jurisdiction of an Indian tribe or tribal organization.~~

(2) SELF-REGULATION.—In order to be eligible for funds under subsection (f), an Indian tribe or tribal organization shall implement a tribal licensing program within the exterior boundaries of the reservation and other areas within the jurisdiction of the tribe consistent with the regulations promulgated under section 577 of the Federal Food, Drug and Cosmetic Act.

(3) IMPLEMENTATION BY SECRETARY.—If the Secretary, in consultation with the Secretary of the Interior, determines that the Indian tribe or tribal organization is not qualified to administer the requirements of section 577 of the Federal Food, Drug and Cosmetic Act, the Secretary, in consultation with the Secretary of the Interior, shall imple-

ment such requirements on behalf of the tribe or organization.

(f) ELIGIBILITY FOR PUBLIC HEALTH PAYMENTS.—

(1) IN GENERAL.—For each fiscal year the Secretary shall pay to each Indian tribe that has an approved tribal anti-smoking plan a tribal grant for the fiscal year in an amount equal to the amount determined under paragraph (3), and shall reduce the amounts payable under section 111 to any State in which the service area or areas of the Indian tribe are located by the amount so determined.

(2) PLAN.—To be eligible to receive a payment under paragraph (1), an Indian tribe shall prepare and submit to the Secretary for approval an anti-smoking plan and shall otherwise meet the requirements of subsection (e).

(3) AMOUNT DETERMINED.—The amount of any funds for which an Indian tribe is eligible under paragraph (1) shall be determined by the Secretary based on the ratio of the total number of Indians residing on such tribe's reservation or in areas within the jurisdiction of the tribe in the State to the total population of the State multiplied by the amount allocated to State under section 111.

(4) USE.—Amounts provided to a tribe or organization under this paragraph shall be used to reimburse the tribe for smoking-related health expenditures, to further the purposes of this Act, and in accordance with a plan submitted by the tribe or organization and approved by the Secretary as being in compliance with this Act. Tribes and tribal organizations ~~shall have the flexibility to utilize such~~ amounts to meet the unique health needs of such tribes within the context of tribal health programs if such programs meet the fundamental Federal requirements under this Act as determined by the Secretary.

(5) REALLOTMENT.—Any amounts set-aside and not expended under this paragraph shall be reallotted among other eligible tribes and organizations.

(g) OBLIGATION OF MANUFACTURERS.—A participating manufacturer shall not engage in any activity in an area within the jurisdiction of an Indian tribe or tribal organization that is prohibited under the Protocol.

(h) INDIAN HEALTH SERVICE.—Amounts made available under section 101(d)(5)(B) shall be provided to the Indian Health Service to be used for anti-tobacco-related consumption and cessation activities including—

(1) clinic and facility design, construction, repair, renovation, maintenance and improvement;

(2) provider services and equipment;

(3) domestic and community sanitation associated with clinic and facility construction and improvement;

(4) inpatient and outpatient services; and

~~(5) other programs and services~~ provided through the Indian Health Service or through tribal contracts, compacts, grants or cooperative agreements with the Indian Health Service and which are deemed appropriate to raising the health status of Indians.

(i) PREEMPTION.—

(1) GENERAL PREEMPTION.—Except as otherwise provided for in this section, nothing in this Act shall be construed as prohibiting an Indian tribe or tribal organization from imposing requirements, prohibitions, penalties or other measures to further the purposes of this Act that are in addition to the requirements, prohibitions, or penalties required under this Act.

(2) PUBLIC EXPOSURE TO SMOKE.—Nothing in the amendment made by title V shall be construed to preempt or otherwise affect any Indian tribe or

tribal organization rule or practice that provides greater protection from the health hazards of environmental tobacco smoke.

(3) NATIVE AMERICANS.—A State may not impose obligations or requirements relating to the application of this Act to Indian tribes and tribal organizations.

Tobacco - MN.

STATE OF MINNESOTA

Office of the Attorney General

WWW.AG.STATE.MN.US

TO: Minnesota Attorney General
National Contact List/Tobacco Litigation

DATE: 3/17/98

PHONE: -

FAX:

FROM: Luanne Nyberg
445 Minnesota St., #1400
St. Paul, MN 55101-2131

PHONE: (612) 215-1533
(612) 297-4036

FAX: (612) 297-7206

TTY:

SUBJECT: Transcripts

~~CONFIDENTIAL~~ *FACSIMILE*

The Minnesota Court of Appeals has denied the industry's petition for writs of prohibition and mandamus on the 39,000 privilege documents. The order is attached

The ruling itself is an unqualified victory for getting out the truth. However, the Court has delayed the effectiveness of its Order until noon on Thursday (3/19), permitting the defendants to seek a stay from the Minnesota Supreme Court.

Here is the address for the Appellate Court's decision which is now on our website:
http://www.ag.state.mn.us/press/newssearch.qry?function=tobaccolitigationsearch

The three-page decision states:

(1) any challenge to the use of document categories is too late;

(2) the industry failed to show that specific documents are CLEARLY not discoverable, or that they were afforded inadequate remedies, or that the District Court exceeded its legitimate powers;

(3) the industry failed to: (a) provide a full record of proceedings before the Special Master, (b) identify the specific documents on which they made individualized argument below, or (c) show that such claims were raised below.

The Court is "mindful of . . . the numerous interlocutory petitions previously filed by these parties". Petitioners fail to establish that:

(a) they were denied adequate opportunity to present their arguments;
(b) the District Court misapplied the crime-fraud standard; or
(c) the Special Master's findings of fact are inadequate.

"Petitioners are not entitled to relief".

FOR TRANSMISSION PROBLEMS, PLEASE CALL FAX OPERATOR: Deanne Gueblaoui (612) 297-3578
OR RECEPTIONIST AT: (612) 296-7575

DETERMINED TO BE AN ADMINISTRATIVE MARKING
INITIALS: WK DATE: 10/6/15

STATE OF MINNESOTA

IN COURT OF APPEALS

OFFICE OF
APPELLATE COURTS

MAR 17 1998

FILED

The State of Minnesota,
By Hubert H. Humphrey, III,
Its Attorney General,
and
Blue Cross and Blue Shield
of Minnesota,

Respondents,

vs.

Philip Morris, Inc., et al.,

Petitioners,

Liggett Group, Inc.,
Defendants.

ORDER

#CX-98-414
#CX-98-431

Considered and decided by Toussaint, Chief Judge, Lansing, Judge, and Crippen, Judge.

BASED ON THE FILE, RECORD, AND PROCEEDINGS, AND FOR THE FOLLOWING REASONS:

Petitioners seek prohibition and mandamus, for relief from orders compelling discovery. Petitioners also seek oral argument on the petitions and a stay, in the event that relief is denied. Respondents oppose the petitions and motion for stay and seek attorney fees and costs incurred in defense of the petitions.

The focus of the petitions is the trial court's use of a process of categorical review to evaluate claims of privilege. This process was established by order of May 9, 1997, and we have previously denied extraordinary relief on a similar petition involving production of a different group of documents. To the extent that petitioners are challenging the use of categories rather than a line-by-line review of every document, the petitions are untimely. ***See Ebenezer Soc'y v. Minnesota State Bd. of Health***, 301 Minn. 188, 193, 223 N.W.2d 385, 388 (1974) (petition for extraordinary relief to be filed within time permitted for appeal from an order).

To obtain a writ of prohibition, petitioners must establish that the documents ordered disclosed are *clearly* not discoverable. ***Mampel v. Eastern Heights State Bank***, 254 N.W.2d 375, 377 (Minn. 1977). Prohibition is appropriate "only in extreme cases where the law affords no other adequate remedy." ***Wasmund v. Nunamaker***, 277 Minn. 52, 54, 151 N.W.2d 577, 579 (1967). It is issued to prevent a trial court from acting when it is wholly without jurisdiction or from exceeding its legitimate powers. ***Id.*** at 55, 151 N.W.2d 579. Petitioners have not established that specific documents are *clearly* not discoverable, that the remedies afforded them are or were inadequate, or that the trial court exceeded its legitimate powers, and prohibition will not lie.

Petitioners did not (a) provide a complete record of the proceedings before the special master; (b) identify the documents on which they made individualized argument in support of their claims of privilege, either before the special master or the trial judge; or (c) establish that claims made in this court as to specific documents were raised and preserved in the trial court. We have carefully reviewed the arguments of the petitioners and the appendices submitted to this court (which lack many of the documents to which petitioners refer in their arguments) and are mindful of the facts and circumstances of this case, as well as the numerous interlocutory petitions previously filed by these parties, the submissions made in connection with those petitions, and our previous rulings in this case. Petitioners have failed to establish (a) that their opportunity to present argument or evidence in support of claims of privilege was limited or abridged in any significant way; (b) the existence of errors of law in the application of the standards governing the crime-fraud exception; or (c) that the detailed findings of the special master are inadequate to support the trial court's order compelling disclosure. Petitioners are not entitled to relief.

IT IS HEREBY ORDERED:

1. The petitions in CX-98-414 and CX-98-431 are consolidated.

2. The petitions and motions of the parties are denied.

3. This order shall be effective at noon on Thursday, March 19, 1998, unless a stay is granted by the Minnesota Supreme Court.

4. Counsel shall retrieve their confidential appendices from the clerk of the appellate courts by noon on Thursday, March 19, 1998.

Dated: March 17, 1998

BY THE COURT

Edward Toussaint

Chief Judge

CLL:blm

cc: Tom, JRM, EK, Chris - Minority concerns FYI

Cathy - file: Tobacco - Legislation

JOHNSON SMITH
PENCE
DENSBORN
WRIGHT & HEATH
ATTORNEYS AT LAW

One Indiana Square
Suite 1800
Indianapolis, Indiana 46204

(317) 634-9777 (Telephone)
(317) 636-9061 (Facsimile)

FACSIMILE TRANSMISSION

CONFIDENTIALITY NOTICE

PLEASE DELIVER THE ACCOMPANYING MATERIALS TO:

Name: Bruce Reed
Assistant to the President for Domestic Policy

Facsimile Number: (202)456-5542

From: Pamela F. Carter, Esq.

Date: November 18, 1997

Client/Matter No.: 05805-00001

Document Transmitted: Review and Revisions to Proposed Tobacco Settlement Resolution dated June 20, 1997

Total Pages: 7

IF YOU EXPERIENCE DIFFICULTY WITH THIS TRANSMISSION, PLEASE CALL (317) 686-4228 AND ASK FOR ALANNA DeFABIS.

MESSAGE:

Discussion Draft • October 28, 1997

Review and Revisions to Proposed Tobacco Settlement Resolution dated June 20, 1997

I. <u>Title I. Reformation of the Tobacco Industry</u>

A. Restrictions on Marketing and Advertising

1. Marketing and Advertising Restrictions must include a ban on lifestyle and image advertising that are appealing to minority populations.

2. Marketing and Advertising Restrictions must be required on all military bases and in all prisons.

3. Deceptive advertising, e.g., "low tar" and discounting practices, must be banned.

B. Warnings, Labeling and Packaging

1. All warnings, labeling and packaging must be distributed in languages that will reach nonEnglish speaking populations.

C. Restrictions on Access to Tobacco Products

1. No comments at present.

D. Licensing of Retail Tobacco Product Sellers.

1. No comments at present.

E. Regulation of Tobacco Product Development and Manufacturing

1. No comments at present (see F).

F. Non-tobacco Ingredients

1. Minority population's use of mentholated tobacco products is disproportionately high. There has been limited research evaluating the combined effects of menthol and nicotine in tobacco products.

2. The FDA's Scientific Advisory Committee must examine not only the effects of alteration of nicotine yield, but also the effects of mentholated products in tobacco products based on its prevalence in tobacco brands consumed by minorities.

G. Compliance and Corporate Culture.

No comments at present.

II. <u>Title II. Look-Back Provisions</u>

A. Historically, tobacco consumption in certain minority youth populations have been significantly less than for White youth. However, there is evidence indicating a significant increase in tobacco consumption in certain minority youth populations in the last few years.

1. The benchmark used must adequately capture data reflecting this changing trend.

2. The methodology used to compute the reduction targets must adequately capture changes in minority youth tobacco use.

3. The benchmark and targets must measure use of all tobacco products, including cigarettes, cigars, smokeless tobacco and other similar products that serve as nicotine delivery devices.

4. Any surcharge collected for failure to meet the targets must ensure that a percent of those funds be used exclusively for efforts to reduce tobacco use by minority youth. The percent would be based on the percent of minority youth tobacco users relative to all youth tobacco users.

III. Title III. Penalties and Enforcement Consent Decrees; Nonparticipating Companies.

No comments at present.

IV. Title IV. Nationwide Efforts to Minimize Involuntary Exposure to Environmental Tobacco Smoke.

A. All standards imposed must include the nation's prisons, mental health institutions and military bases.

V. Title V. Scope and Effects.

No comments at present.

VI. Title VI. Programs/Funding

See Title VII.

VII. Title VII. Public Health Funds from Tobacco Settlement

A. Allocation of Grant Monies Among Programs

To date, research on factors contributing to tobacco use in minority populations has been limited. As a result, the success of many cessation/treatment programs have not proven effective in minority communities. Therefore, any future research and cessation/treatment programs must include and be effective for minority communities.

1. Reduction in Tobacco Usage. This section must earmark a specified percent of these funds to programs targeted at the minority communities. The percent would be ___ based on the percent of minority smokers to all smokers. The Secretary could provide grants to qualified nonprofit organizations.

2. FDA/State Enforcement. This section must ensure that minority communities are not disproportionately targeted in enforcement.

3. State/Local Tobacco Control Community Based Efforts. This section must earmark a specified percent of these funds to programs targeted at the minority communities. These programs could be based on any effectively program designed to reduce tobacco use, not just ASSIST, in the minority communities. The

percent would be ___ based on the percent of minority smokers to all smokers. These funds could be distributed directly to qualified nonprofit entities.

4. Research/Methods for Prevention and Cessation. This section must earmark a specified percent of these funds to programs targeted at the minority communities. The percent would be ___ based on the percent of minority smokers to all smokers.

5. Compensation for Past Sponsorship. This section must earmark a specified percent of these funds to programs targeted at the minority communities. The percent would be ___ based on the percent of events sponsored by tobacco companies in minority communities.

B. Establishment of Programs by Secretary

1. The Secretary must be directed to ensure that any education, prevent and cessation campaign include culturally-sensitive, minority focused programs.

2. The Secretary must be directed to ensure that any research into and development of technologies designed to reduce tobacco use include minority communities.

3. The Secretary must be directed to evaluate the effects of menthol and tar, in addition to other tobacco and non-tobacco constituents of tobacco products.

C. Public Education Campaign.

1. The Commission must be directed to include representative of minority communities, without regard to whether the individual worked with an entity affiliated with tobacco. This is important due to the number of events and other activities in minority communities sponsored, in part, with tobacco dollars.

2. The Commission must earmark a specified percent of these funds be used to support campaigns that are targeted at the minority communities. The percent would be ___ based on the percent of minority smokers to all smokers.

3. The Commission must ensure that entities knowledgeable about

these communities be provided with funding to develop campaigns designed to discourage and deglamorize tobacco product use.

4. The Commission shall be directed to contract with private nonprofit entities, beyond state health departments, to run such campaigns. These entities must have a demonstrated knowledge of the community in which the campaign is run.

D. Tobacco Use Cessation

1. This Trust Fund must earmark a specified percent of these funds be used to support tobacco cessation/treatment in minority communities. The percent would be ___ based on the percent of minority smokers to all smokers.

2. The Secretary must use a negotiated rule-making process to develop the criteria and procedure for implementing this section.

E. Public Health Trust Fund

1. The Commission must include representatives from various organizations representing minority communities.

2. The Commission must earmark a specified percent of these funds be used to fund research of minority-specific tobacco-related health matters, The percent would be ___ based on the percent of minority smokers to all smokers and will be administered by the new independent nonprofit corporation created under Section F, of which __ percent shall be distributed to qualified educational institutions whose historic charter is designed to serve minority communities or who currently serve minority communities and who are eligible for funds under Title VIII of the Public Health Service Act. [Ensure that this wording is sufficient to include the 4 historically African-American medical schools, 4 medical school serving Hispanic communities and the 2 medical schools serving Native Americans.]

F. New Section.

1. ____ percent of the total payments described in Title VI, shall be distributed to an independent nonprofit organization with a Board made up of individuals and leaders with expertise in minority health and health-related professions, education, financial and other

relevant professions that shall be created under this Act. The organization shall be able to distribute funds to eligible and qualified nonprofit organizations to conduct research designed to examine factors promoting tobacco use in minority communities, to develop culturally appropriate prevention, treatment and education programs designed to reduce tobacco use in minority communities and to provide other health-related services to minority communities.

G. New Section. There shall be a clearinghouse created that will collect information regarding the use of funds distributed under this Title. The information collected shall include a description of all education, treatment, prevention and cessation programs and research funded under this Title and an evaluation of all such programs and research (including the program's effectiveness). This clearinghouse shall be maintained by the Office of Smoking and Health at the Center for Disease Control. This information shall be publicly available.

H. New Section. Definitions

1. For purposes of this Act, the term "minority" shall have the meaning used in the Disadvantaged Minority Health Act.

VIII. <u>Title VIII. Civil Liability</u>

A. The Commission must include representatives from minority communities.

B. In the event the annual aggregate cap is not reached in any year, ____ percent of those funds must be used to support smoking behavior programs and research targeted at minority communities.

IX. <u>Board Approval</u>

No comments.

JOHNSON•SMITH
PENCE
DENSBORN
WRIGHT & HEATH
ATTORNEYS AT LAW

Joseph J. Andrew
(317) 686-7382
E-Mail: JAndrew@jsplaw.com

MAYBE.
But only if Tom JRM think we have something to say.

February 2, 1998

VIA FACSIMILE (202) 456-5542

Call me on this

Mr. Bruce Reed
Assistant to the President for Domestic Policy
The White House
Washington, D.C.

CM

Re: Request for Meeting

Dear Mr. Reed:

Thank you for meeting with me, Pam Carter, Lacy Johnson and Karen Anne Lloyd to discuss the minority implications of a potential Tobacco Settlement. I hope the briefing book we supplied was helpful to you and your staff.

I would like to request a follow-up meeting with you on February 11, 1998, preferably mid-morning, to discuss the status of the tobacco settlement. Other attendees would include Lacy Johnson, Karen Anne Lloyd and Todd Gee of Congressman Thompson's office. Todd has been coordinating the efforts of the Congressional Black Caucus, Hispanic Caucus, Native American Caucus and Asian American Caucus toward a Tobacco Settlement. As you know, Lacy, Karen Anne and I represent those same groups.

My assistant, Angela, at (317) 686-4228 will be more than happy to make final arrangements. Thank you in advance for your continued assistance.

Sincerely,

Joseph J. Andrew

JJA/abp

Suite 1800
One Indiana Square
Indianapolis, Indiana 46204

Telephone: (317) 634-9777
Facsimile: (317) 636-9061

BENNIE G. THOMPSON
SECOND DISTRICT, MISSISSIPPI

DEMOCRATIC WHIP
REGION 7

WASHINGTON OFFICE:
1408 LONGWORTH HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-2402
(202) 225-5876
(202) 225-5898; FAX
E-Mail MS2ND@hr.house.gov
Home Page: http://www.house.gov/thompson/

Congress of the United States
House of Representatives
Washington, DC 20515-2402

COMMITTEE ON AGRICULTURE
SUBCOMMITTEES:
GENERAL FARM COMMODITIES
DEPARTMENT OPERATIONS, NUTRITION, AND FOREIGN AGRICULTURE
COMMITTEE ON THE BUDGET
CONGRESSIONAL BLACK CAUCUS
PROGRESSIVE CAUCUS
EDUCATION CAUCUS
SUNBELT CAUCUS

October 30, 1997

cc Tom, Jerry, EK

File: Tobacco - Black Caucus

Cathy - let's send TY for the mtg.

Mr. Bruce Reed
Assistant to the President
for Domestic Policy
The White House
Washington, D.C. 20500

Dear Mr. Reed:

I would like to thank you for attending the meeting I held last week to discuss minority concerns raised by the proposed tobacco settlement. As you observed, the Congressional Black Caucus and many members of the Congressional Hispanic Caucus, the Congressional Asian Pacific Caucus, and the Congressional Native American Caucus are very interested in this matter.

It can not be emphasized enough that the regressive nature of the settlement demands the inclusion of specific provisions to provide cessation, education, and prevention services targeted directly at minorities. These programs are essential in order to ensure that demand for tobacco products is driven downward among youth and adults in these populations.

These initiatives should be carried out by educational institutions and experienced public health organizations that have close ties to the minority communities. In order to develop these types of culturally-effective programs, funding will also have to be included for research conducted by minority education and public health institutions.

It should be noted that the Department of Health and Human Services and a number of federal departments have recognized the importance of establishing a community-oriented solution to the minority tobacco problem for some time. However, these suggestions have been largely ignored. Among African Americans, for example, the National Cancer Institute's 1991 report entitled "Strategies to Control Tobacco Use in the United States: a blueprint for public health action in the 1990's," called for developing extensive communications channels that included, among other things, "the health care system, black-focused mass media, churches, voluntary health organizations, fraternal and mutual aid organizations, workplaces, unemployment offices, job training programs, retail establishments, families, and neighborhood and tenants' organizations." These types of comprehensive efforts were never

107 WEST MADISON STREET
BOLTON, MS 39041
(601) 866-9003
(601) 866-9036: FAX
(800) 355-9003: IN ST.

509 HIGHWAY 82 WEST
GREENWOOD, MS 38930
(601) 455-9003
(601) 453-0118, FAX

910 COURTHOUSE LANE
GREENVILLE, MS 38701
(601) 335-9003
(601) 334-1304: FAX

QUITMAN CO. COURT HOUSE
230 CHESTNUT STREET
MARKS, MS 38646
(601) 326-9003

MOUND BAYOU CITY HALL
ROOM 134
106 WEST GREEN STREET
MOUND BAYOU, MS 38762
(601) 741-9003
(601) 741-9002: FAX

wholeheartedly undertaken by the Department of Health and Human Services and they certainly were not included in the proposed tobacco settlement.

I am pleased to see that President Clinton is interested in ensuring that minorities are properly represented in the negotiations on the proposed tobacco settlement. I hope this letter has clarified some of the minority concerns raised at this stage, and I look forward to discussing this matter with you further. Pam Carter, the first female African-American Attorney General in history, has been assisting the Congressional Black Caucus with this effort and she will be in contact with you shortly.

Sincerely,

Bennie G. Thompson
Member of Congress

BGT/tg

cc Representative Maxine Waters, Chairwoman of the Congressional Black Caucus
Representative Xavier Becerra, Chairman of the Congressional Hispanic Caucus
Representative Patsy Mink, Chairwoman of the Asian Pacific Caucus
Representative Dale Kildee, Co-Chair of the Congressional Native American Caucus

Congressman

BENNIE G. THOMPSON

2nd District - Mississippi

1408 Longworth H.O.B.
Washington, D.C. 20515

(202) 225-5876
Fax (202) 225-5898

FACSIMILE TRANSMISSION

DATE: 10/31/97 TIME: ____

Please Deliver the Following Transmission to:

NAME : Bruce Reed

COMPANY/FIRM: ____

CITY: ____ STATE: ____

FAX NUMBER: 456-5542 PHONE NUMBER: ____

FROM:

____ *Congressman Bennie G. Thompson*

____ *Tammy Boyd* √ *Todd Gee* ____ *Edward Jackson*

____ *Minnie Langham* ____ *Marsha McCraven* ____ *La Tario Powell*

____ *Walter Vinson* ____ ____

Pages, Including This Cover Page Total: 2

COMMENTS:

~~[illegible]~~ Hard copy to follow by mail.

CONFIDENTIALITY NOTICE:

Tobacco / Minority

CDC

CENTERS FOR DISEASE CONTROL AND PREVENTION

OSH

OFFICE ON SMOKING AND HEALTH

African Americans and Tobacco

Smoking rates among African American adults historically have been higher than among the general U.S. population; however, in recent years smoking rates have been similar. Smoking among African American teens has declined dramatically since 1976; however, recent increases in teen smoking among African American males document the need for continued prevention efforts. African Americans continue to suffer disproportionately from chronic and preventable disease compared to white Americans. Of the three leading causes of death in African Americans -- heart disease, cancer, and stroke -- smoking and other tobacco use is a major contributor of these illnesses.[1]

- Each year, approximately 45,000 African Americans die from a smoking-related disease that could have been prevented. [2]
- An estimated 1.6 million African Americans who are now under the age of 18 will become regular smokers. About 500,000 of those smokers will die of a smoking-related disease.[2]
- Aggregated data from 1994 and 1995 shows that current smoking prevalence rates were similar among African American adults (26.5%) and white adults (25.9%) in the United States. [3]
- In 1995, about 5.3 million African American adults smoke cigarettes, accounting for approximately 11.4% of the 47 million adult smokers in the United States.[4]
- In 1994 and 1995, African American men (31.4%) smoked at a higher rate than white men (27.6%), while African American women (22.7%) and white women (24.4%) smoked at a similar rate.[5]
- Among African Americans, as seen in other U.S. populations, the prevalence of smoking declines as education increases. Smoking rates were higher among African Americans who had less than a high school education (34.8%) compared to those with a college education (16.7%).[5]
- Among African American high school seniors, cigarette smoking declined by 76% from 1977 (36.7%) to 1992 (8.7%). However, smoking prevalence rates increased by 64% from 1992 to 1997 (14.3%).[6]
- Among African American 10th-grade students, smoking prevalence increased by 94% from 1992 (6.6%) to 1997 (12.8%). For African American eighth grade students, smoking prevalence increased by 106% from 1992 (5.3%) to 1997 (10.9%). The rate of increase was substantially higher among African African students than were observed for white and Hispanic students.[6]
- The Centers for Disease Control and Prevention's 1995 Youth Risk Behavior Survey shows that the rate of past month cigarette smoking among high school students in grades ninth through 12th increased from 27.5% in 1991 to 34.8% in 1995. The rate of increase among African American male high school students was particularly high, nearly doubling from 14.1% to 27.8% between 1991 and 1995.[7]
- In 1996, an estimated 6 million (26.7%) U.S. teenagers aged 14-19 -- 4.3 million males (37%) and 1.7 million females (16%) -- reported having smoked at least one cigar within the past year. A greater percentage of white (28.9%) and Hispanic (26.2%) teenagers reported smoking at least one cigar in the previous year compared to African American teenagers (19.3%) in 1996.[8]

- White male high school students (25.1%) were significantly more likely to use smokeless tobacco products compared with African American male (3.5%) high school students.[9]

- Of current African American smokers, more than 70% indicated that they want to quit smoking completely.[10] African American smokers are more likely than white smokers to have quit for at least one day during the previous year (48.7% vs 40.3%). African Americans, however, are much less likely than whites to remain abstinent for one year or more.[11]

- Prevalence of cessation was higher among whites who had ever smoked (50.7%) compared to African Americans who had ever smoked (35.4%).[12]

- A one-year study found that three major African American publications -- Ebony, Jet, and Essence -- had 12% more cigarette advertisements than widespread publications -- Newsweek, Time, People and Mademoiselle.[13]

- A study conducted in Los Angeles, California found a higher density of tobacco billboards (the number of billboards per mile) in African American communities, compared to Hispanic and Asian communities, with lowest billboard placement in white communities.[14]

- Approximately 90% of the billboards in African American communities featured an African American as the central character, while in other ethnic communities whites were portrayed as the central characters.[14]

- The tobacco industry attempts to maintain a positive image and public support among African Americans by supporting cultural events and by funding minority higher education institutions, elected officials, civic and communitity organizations, and scholarship programs.[15]

REFERENCES

1. Centers for Disease Control and Prevention, Chronic Disease In Minority Populations, 1994, p. 2-16.
2. Centers for Disease Control and Prevention, Office on Smoking and Health, Unpublished data, 1995.
3. Centers for Disease Control and Prevention, National Health Interview Survey, 1994 and 1995. Unpublished data, 1997.
4. Centers for Disease Control and Prevention, National Health Interview Surveys, - United States, 1965-1995.
5. Centers for Disease Control and Prevention, Office on Smoking and Health Unpublished data, 1997
6. The University of Michigan. Cigarette Smoking Rates May Have Peaked Among Younger Teens 1997 (press release). December 18, 1997.
7. Centers for Disease Control and Prevention, Tobacco Use and Usual Source of Cigarettes Among High School Students-- United States, 1995. Morbidity and Mortality Weekly Report 1996; Vol. 45, pages 413-418.
8. Centers for Disease Control and Prevention, Cigar Smoking Among Teenagers--United States, Massachusetts, and New York 1996. Morbidity and Mortality Weekly Report 1997; Vol. 46, pages 433-440.
9. Centers for Disease Control and Prevention Tobacco Use and Usual Source of Cigarettes Among High School Students-- United States, 1995. Morbidity and Mortality Weekly Report 1996; Vol. 45, pages 413-418.
10. Centers for Disease Control and Prevention. Cigarette Smoking Among Adults - United States, 1993. MMWR 1994 Vol. 43, 50: 925-929.
11. Centers for Disease Control and Prevention. CDC, Smoking Cessation During Previous Year Among Adults - United States, 1990 and 1991. MMWR 1993, Vol. 42: 504-507.
12. Centers for Disease Control and Prevention, National Health Interview Survey (NHIS),1995. Unpublished data, 1997.
13. Cummings KM, Giovino G. Mendicino AJ. Cigarette Advertising and Black-White Differences in Brand Preference. Public Health Reports, 1987, 102(6):698-701.
14. Stoddard JL, Johnson CA, Boley-Cruz T, Sussman S. Target Tobacco Markets: Outdoor Advertising in Los Angeles Minority Neighbors [Letter]. American Journal of Public Health 1997, 87(7):1232-1233.
15. Freeman H, Delgado JL, Douglas CE. Minority Issues. Tobacco Use: An American Crisis, Final Report of the Conference. January 1993, p. 43-47.

I think my
voice is weaking.

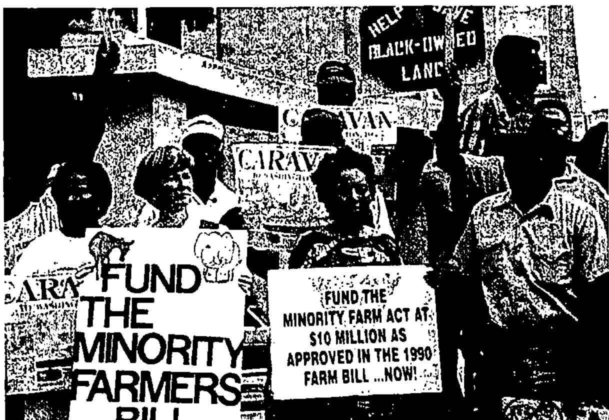
Clinton Presidential Records
Digital Records Marker

Federation Of Southern Cooperatives • Land Assistance Fund

Job. Minority EW

1967 • 1997

BUILDING
ON THE PAST



1996 • 1997
ANNUAL REPORT

DEVELOPING
A LASTING LEGACY

Johnello Ministry /SW

(i) who operate, supervise, or control the Corporation,

(ii) with whom the Corporation is supervised or controlled in connection with, or

(iii) which are closely related in purpose or function to the organizations referred to in Section 3.1(d)(i) or (ii);

(e) support or benefit "permissive beneficiaries" as defined in 26 C.F.R. § 1.509(a)-4(a)(1) or comparable regulations or tax law; and

(f) In furtherance of the aforesaid purposes, to transact any and all lawful business for which corporations may be incorporated under the Act, provided such business is not inconsistent with the Corporation being organized and operated exclusively for charitable purposes.

Section 3.2 Nonprofit Purposes.

(a) The Corporation is organized and operated exclusively for charitable purposes and its activities shall be conducted in such a manner that no part of its net earnings shall inure to the benefit of any member, director, or officer or other private person, except that the Corporation shall be authorized and empowered to pay reasonable compensation for services rendered and to make payments and distributions in furtherance of the purposes set forth in Section 3.1.

(b) No substantial part of the activities of the Corporation shall be the carrying on of propaganda, or otherwise attempting to influence legislation, and the Corporation shall not participate in, or intervene in (including the publishing or distribution of statements), any political campaign on behalf of any candidate for public office.

(c) Notwithstanding any other provision of these Articles of Incorporation, the Corporation shall not carry on any other activities not permitted to be carried on:

(i) By a corporation exempt from Federal income tax under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, or corresponding provisions of any subsequent Federal tax laws, or

(ii) By a corporation, contributions to which are deductible under Section 170(c)(2), Section 2055(a)(2), or Section 2522(a)(2) of the Internal Revenue Code of 1986, as amended, or corresponding provisions of any subsequent Federal tax laws.]

Section 3.3 Powers. Subject to any limitation or restriction imposed by the Act, any other law, or any other provisions of these Articles of Incorporation, the Corporation shall have the power:

(a) To do everything necessary, advisable, or convenient for the accomplishment of any of the purposes hereinbefore set forth, or which shall at any time appear conducive to or expedient for the protection or benefit of the Corporation and to do all of the things incidental thereto or connected therewith which are not forbidden by law;

(b) To engage in transactions, financial or otherwise, with a class of nonprofit corporations exempt from federal taxation pursuant to Section 501(a) of the Internal Revenue Code of 1986, as amended, or corresponding provisions of any subsequent Federal tax laws. Such transactions shall include, but not be limited to, the transfer of assets, bargain sales, the borrowing or leasing of employees, the sharing of goods or services, the guarantee of the payment of principal, interest, or other payment in whatever form on obligations evidenced by any form of indebtedness, and the guarantee of performance of any obligation of any member of said class of nonprofit corporations. Each member of said class shall be affiliated with the Corporation by:

(i) supporting the Corporation, being supported by the Corporation, or supporting or being supported by the same corporation or corporations as the Corporation pursuant to Section 509(a) of the Internal Revenue Code of 1986, as amended, or corresponding provisions of any subsequent Federal tax laws, or

(ii) being described in Sections 501(c)(2) or 501(c)(25) of the Internal Revenue Code of 1986, as amended, or corresponding provisions of any subsequent Federal tax laws, by paying over its income, less expenses, to the Corporation or to an organization described in Section 3.3(b)(i).

In any event, the foregoing power or powers shall not be exercised or exercisable in a manner inconsistent with the Corporation's status under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, or corresponding provisions of any subsequent Federal tax laws; and

(c) To have, exercise and enjoy in furtherance of the purposes herein before set forth all the general rights, privileges, and powers granted to corporations by the Act, as now existing or hereafter amended, and by the common law.

Section 3.4 Limitations on Powers. If the Corporation is or becomes a private foundation (as defined in Section 509(a) of the Internal Revenue Code of 1986, as amended, or corresponding provisions of any subsequent Federal tax laws), the Corporation shall be subject to the following requirements:

(a) The Corporation shall distribute its income for each taxable year at such time and in such manner as not to become subject to the tax on undistributed income imposed by Section 4942 of the Internal Revenue Code of 1986, as amended, or corresponding provisions of any subsequent Federal tax laws.

(b) The Corporation shall not engage in any act of self-dealing that would subject any person to the taxes imposed on acts of self-dealing by Section 4941 of the Internal Revenue Code of 1986, as amended, or corresponding provisions of any subsequent Federal tax laws.

(c) The Corporation shall not retain any excess business holdings which would subject it to the tax on excess business holdings imposed by Section 4943 of the Internal Revenue Code of 1986, as amended, or corresponding provisions of any subsequent Federal tax laws.

(d) The Corporation shall not make any investments in such a manner as to subject it to the tax under Section 4944 of the Internal Revenue Code of 1986, as amended, or corresponding provisions of any subsequent Federal tax laws.

(e) The Corporation shall not make any expenditures which would subject it to the taxes on taxable expenditures imposed by Section 4945 of the Internal Revenue Code of 1986, as amended, or corresponding provisions of any subsequent Federal tax laws.

ARTICLE IV

Distribution of Assets on Dissolution

In the event of the complete liquidation, dissolution of the Corporation, or the winding up of its affairs, the Board of Directors shall, after paying or making provision for the payment of all the liabilities of the Corporation, distribute all the assets of the Corporation exclusively for the purposes of the Corporation in such manner, or to such organization or organizations organized and operated exclusively for charitable, educational, religious or scientific purposes as shall at the time qualify as an exempt organization or organizations under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, or corresponding provisions of any subsequent Federal tax laws, as the Board of Directors shall determine. Any such assets not so disposed of shall be disposed of by the Judge of the Circuit Court of **[OPTION:** ________] County, Indiana, exclusively for such purposes or to such organization or organizations, as said Court shall determine, which are organized and operated exclusively for such purposes.

ARTICLE V

Term of Existence

The Corporation shall have perpetual existence.

ARTICLE VI

Registered Office and Registered Agent

Section 6.1. Registered Office and Registered Agent. The street address of the Corporation's registered office is ________________________ and the name of the Corporation's registered agent at that office is ____________________.

Section 6.2. Principal Office. The post office address of the principal office of the Corporation is ____.

ARTICLE VII

No Members

The Corporation shall have no members

ARTICLE VIII

Board of Directors

Section 8.1. Number and Term of Office. Upon incorporation, the initial Board of Directors shall consist of ______ (__) directors. Thereafter, the number of directors shall be as specified in or fixed in accordance with the Bylaws of the Corporation; provided, however, that the minimum number of directors shall be three (3). The term of office of a director shall be as specified in the Bylaws; provided, however, that the term of an elected director shall not exceed five (5) years. Directors may be elected for successive terms. Terms of office of directors may be staggered as specified in the Bylaws.

Section 8.2. Qualifications. Each director shall have such qualifications as may be specified from time to time in the Bylaws of the Corporation or required by law.

Section 8.3. Initial Board of Directors. The names and addresses of the initial Board of Directors of the Corporation are:

Names	Addresses

[List]

ARTICLE IX

Name[s] and Address[es] of Incorporator[s]

The name[s] and address[es] of the incorporator[s] of the Corporation are:

Name[s]	Address[es]

[List]

ARTICLE X

Indemnification

Section 10.1. Rights to Indemnification and Advancement of Expenses. The Corporation shall indemnify as a matter of right every person made a party to a proceeding because such person is or was

(a) a member of the Board of Directors of the Corporation,

(b) an officer of the Corporation, or

(c) while a director or officer of the Corporation, serving at the Corporation's request as a director, officer, partner, trustee, employee, or agent of another foreign or domestic corporation, partnership, joint venture, trust, employee benefit plan, or other enterprise, whether for profit or not, (each an "Indemnitee") against all liability incurred by such person in connection with the proceeding; provided that it is determined in the specific case that indemnification of such person is permissible in the circumstances because such person has met the standard of conduct for indemnification specified in the Act. The Corporation shall pay for or reimburse the reasonable expenses incurred by an Indemnitee in connection with any such proceeding in advance of final disposition thereof in accordance with the procedures and subject to the conditions specified in the Act. The Corporation shall indemnify as a matter of right an Indemnitee who is wholly successful, on the merits or otherwise, in the defense of any such proceeding against reasonable expenses incurred by the person in connection with the proceeding without the requirement of a determination as set forth in the first sentence of this paragraph.

Upon demand by a person for indemnification or advancement of expenses, as the case may be, the Corporation shall expeditiously determine whether the person is entitled thereto in accordance with this Article and the procedures specified in the Act.

The indemnification provided under this Article shall be applicable to any proceeding arising from acts or omissions occurring before or after the adoption of this Article.

Section 10.2. Other Rights Not Affected. It is the intent of this Article to provide indemnification to directors and officers to the fullest extent now or hereafter permitted by law consistent with the terms and conditions of this Article. Nothing contained in this Article shall limit or preclude the exercise of, or be deemed exclusive of, any right under the law, by contract or otherwise, relating to indemnification of or advancement of expenses to any person who is or was a director, officer, employee, or agent of the Corporation, or the ability of the Corporation to otherwise indemnify or advance expenses to any such individual.

Notwithstanding any other provision of this Article, there shall be no indemnification with respect to matters as to which indemnification would result in inurement of net earnings of the Corporation "to the benefit of any private shareholder or individual" or an "excess benefit transaction" within the meaning of Sections 501(c)(3) and 4958 of the Internal Revenue Code of 1986, as amended, or similar provisions of any subsequent Federal tax laws. The provisions of, and the rights and obligations created by, this Article shall not give rise or be deemed to give rise to "compensation for personal services" as described in IC 34-4-11.5-1 et seq., as amended.

Section 10.3. Definitions. For purposes of this Article:

(a) A person is considered to be serving an employee benefit plan at the Corporation's request if the person's duties to the Corporation also impose duties on, or otherwise involve services by, the person to the plan or to participants in or beneficiaries of the plan.

(b) The estate or personal representative of a person entitled to indemnification or advancement of expenses shall be entitled hereunder to indemnification and advancement of expenses to the same extent as the person.

(c) The term "expenses" includes all direct and indirect costs (including, without limitation, counsel fees, retainers, court costs, transcripts, fees of experts, witness fees, travel expenses, duplicating costs, printing and binding costs, telephone charges, postage, delivery service fees, and all other disbursements or out-of-pocket expenses) actually incurred in connection with the investigation, defense, settlement, or appeal of a proceeding or establishing or enforcing a right to indemnification under this Article, applicable law or otherwise.

(d) The term "liability" means the obligation to pay a judgment, settlement, penalty, fine, excise tax (including an excise tax assessed with respect to an employee benefit plan), or reasonable expenses incurred with respect to a proceeding.

(e) The term "party" includes an individual who was, is or is threatened to be made a named defendant or respondent in a proceeding.

(f) The term "proceeding" means any threatened, pending, or completed action, suit, or proceeding, whether civil, criminal, administrative, or investigative and whether formal or informal.

IN WITNESS WHEREOF, the undersigned incorporator[s] execute[s] these Articles of Incorporation and verifies[y] subject to penalties of perjury that the facts contained herein are true.

Dated this _____ day of _____________, 1997.

____

____

____

____

This instrument was prepared by Karen Ann P. Lloyd, ICE MILLER DONADIO & RYAN, One American Square, Box 82001, Indianapolis, Indiana 46282.

223601.1

DRAFT

Discussion Draft - September 23, 1997

BYLAWS

OF

____

ARTICLE I

Board of Directors

Section 1.1. Duties and Qualifications. The business and affairs of the Corporation shall be managed by the Board of Directors.

Section 1.2. Composition of Board. The Board of Directors shall consist of a minimum of three (3) directors and a maximum of **[thirty (30)]** directors, with the exact number of directors specified from time to time by resolution of the Board of Directors. Other than the initial directors, the directors shall be appointed as specified in Section 1.3 hereof.

Section 1.3. Appointed Directors and Term.

(a) The directors shall be appointed at the annual meeting of the Board of Directors as follows:

(i) ____ (____) Director(s) shall be appointed by ______________________;

(ii) ____ (____) Director(s) shall be appointed by ______________________;

(iii) ____ (____) Director(s) shall be appointed by ______________________;

(iv) ____ (____) Director(s) shall be appointed by ______________________;

(v) ____ (____) Director(s) shall be appointed by ______________________;

(vi) ____ (___) **Director(s) shall be appointed by** ____________________;

(vii) ____ (___) **Director(s) shall be appointed by** ____________________;

(viii) ____ (___) **Director(s) shall be appointed by** ____________________;

(ix) ____ (___) **Director(s) shall be appointed by** ____________________; and

(x) ____ (___) **Director(s) shall be appointed by** ____________________.

(b) Each appointed director shall serve for a term of a term of **[three (3) years]**. Despite the expiration of an appointed director's term, the director continues to serve until a successor is appointed and qualifies, or until there is a decrease in the number of directors.

Section 1.4. Vacancies. Any vacancy among the directors caused by death, resignation, removal, increase in the number of directors or otherwise shall be filled in the same manner as such director's position originally was filled as described in the Bylaws. The term of office of a director chosen to fill a vacancy shall expire at the later of the next annual meeting of the directors, or at such time as a successor shall be duly appointed and qualified.

Section 1.5. Removal. Any appointed director may be removed, with or without cause, by the appointing entity.

Section 1.6. Annual Meetings. Unless the Board of Directors determines otherwise, the Board of Directors shall meet on **[the second Thursday of November]** of each year for the purpose of election of officers of the Corporation and consideration of any other business which may be brought before the meeting. No notice shall be necessary for the holding of an annual meeting.

Section 1.7. Other Meetings. Regular meetings of the Board of Directors may be held pursuant to a resolution of the Board to such effect and shall be held whenever convenient for the Board of Directors. Unless otherwise provided by the Board of Directors, regular meetings shall be held at the Corporation's principal office. No notice shall be necessary for any regular meeting. Special meetings of the Board of Directors may be held upon the call of the presiding officer of the Board of Directors, the Chairman, or twenty percent (20%) of the directors then in office and upon at least forty-eight (48) hours' notice specifying the date, time, place and purpose or purposes of the meeting, given to each director either personally or by mail, telegram, facsimile transmission, or telephone. A director may waive any required notice of an annual, regular or special meeting. The waiver must be in writing, signed by the director entitled to the notice, and filed with the minutes or Corporate records. A director's attendance at or participation in a meeting waives any required notice to the director of the meeting unless the director at the beginning of the meeting or promptly upon the director's arrival, objects to holding the meeting or transacting business at the meeting and does not vote for or assent to action taken at the meeting.

Section 1.8. Quorum; Voting. The presence of **[one-third (1/3)]** of the directors in office when action is taken, but in no event fewer than two (2) directors, shall be necessary to constitute a quorum for the transaction of any business at a meeting of the Board of Directors. If a quorum is present when a vote is taken, the affirmative vote of a majority of the directors present when the act is taken shall be the act of the Board of Directors, unless the act of a greater number is required by law, the Articles of Incorporation, or these Bylaws.

Section 1.9. Action by Consent. Any action required or permitted to be taken at any meeting of the Board of Directors may be taken without a meeting if the action is taken by all directors. The action must be evidenced by at least one (1) written consent describing the action to be taken, signed by each director, and included in the minutes or filed with the corporate records reflecting the action taken. Action taken under this section is effective when the last director signs the consent, unless the consent specifies a prior or subsequent effective date.

Section 1.10. Committees.

(a) Executive Committee. There shall be, and by the adoption of these Bylaws the Board of Directors hereby creates, an Executive Committee of the Corporation, which shall consist of [**five (5)**] directors, appointed by a majority of all the directors in office when the action is taken. During intervals between meetings of the Board of Directors, the Executive Committee shall have and exercise all of the authority of the Board of Directors in the management of the Corporation, except where prohibited by law. In addition, the Executive Committee, to the extent specified by the Board of Directors, may exercise the authority of the Board of Directors, except where prohibited by law. The Executive Committee shall cause minutes of its proceedings to be kept and filed with the minutes of the proceedings of the Board of Directors.

(b) Research Committee.

[DESCRIPTION OF COMMITTEE FUNCTION]

(c) Educational Committee.

[DESCRIPTION OF COMMITTEE FUNCTION]

(d) Other Committees. The Board of Directors may from time to time create and appoint standing, special or other committees to undertake studies, make recommendations, and carry on functions for the purpose of efficiently accomplishing the purposes of the Corporation. Committees, to the extent specified by the Board of Directors, may exercise the powers, functions, or authority of the Board of Directors, except where prohibited by law; provided, however, that if a committee is to exercise board powers, functions, or authority, (a) all the persons serving on the committee must be directors, (b) there must be at least two (2) persons on the committee, and (c) the creation of the committee and the appointment of its members shall be by a majority of all directors in office when the action is taken.

ARTICLE II

Officers

Section 2.1. Officers and Qualifications Therefor. The officers of the Corporation shall consist of a Chairman, a Vice Chairman, a Secretary and a Treasurer. The officers shall be chosen by the Board of Directors. Any two (2) or more offices may be held by the same person.

Section 2.2. Terms of Office. Each officer of the Corporation shall be elected by the Board of Directors at its annual meeting and shall hold office for a term of one (1) year and until a successor shall be duly elected and qualified, or until resignation, removal, or death.

Section 2.3. Vacancies. Whenever any vacancies shall occur in any of the offices of the Corporation for any reason, the same may be filled by the Board of Directors, and any officer so elected shall hold office until the expiration of the term of the officer causing the vacancy and until the officer's successor shall be duly elected and qualified.

Section 2.4. Removal. Any officer of the Corporation may be removed, with or without cause, at any time by the Board of Directors.

Section 2.5. Compensation. Each officer of the Corporation shall receive such compensation for his or her services in such office as may be fixed by action of the Board of Directors.

ARTICLE III

Powers and Duties of Officers

Section 3.1. Chairman. The Chairman if present, shall preside at all meetings of the Board of Directors. At each annual meeting of Directors, the Chairman or the Chairman's designee shall report on the activities of the Corporation. Subject to the general control of the Board of Directors, the Chairman shall manage and supervise all of the affairs of the Corporation and shall perform all of the usual duties of the chief executive officer of a corporation.

Section 3.2. Vice Chairman. Subject to the general control of the Board of Directors, if the Chairman is not present, the Vice Chairman shall discharge all the usual functions of the Chairman and shall have such other powers and duties as these Bylaws, the Board of Directors, or an officer authorized by the Board may prescribe.

Section 3.3. Secretary. The Secretary shall attend all meetings of the Board of Directors, and prepare, keep, or cause to be kept, a true and complete record and minutes of the proceedings of such meetings, and shall perform a like duty, when required, for all committees appointed by the Board of Directors. If required, the Secretary shall attest the execution by the Corporation of deeds, leases, agreements and other official documents. The Secretary shall attend to the giving and serving of all notices of the Corporation required by these Bylaws, shall have custody of the books (except books of account) and records of the Corporation, shall be responsible for authenticating records of the Corporation, and in general shall perform all duties pertaining to the office of Secretary and such other duties as these Bylaws, the Board of Directors, or an officer authorized by the Board may prescribe.

Section 3.4. Treasurer. The Treasurer shall keep correct and complete records of account, showing accurately at all times the financial condition of the Corporation. The Treasurer shall have charge and custody of, and be responsible for, all funds, notes, securities and other valuables which may from time to time come into the possession of the Corporation and shall deposit, or cause to be deposited, all funds of the Corporation with such depositories as the Board of Directors shall designate. At each annual meeting of the Directors, the Treasurer, or the Treasurer's designee, shall report on the financial condition of the Corporation. The Treasurer, or the Treasurer's designee, shall furnish, at meetings of the Board of Directors or whenever requested, a statement of the financial condition of the Corporation, and in general shall perform all duties pertaining to the office of Treasurer.

Section 3.5. Assistant Officers. The Board of Directors may from time to time designate and elect assistant officers who shall have such powers and duties as the officers whom they are elected to assist shall specify and delegate to them, and such other powers and duties as these Bylaws or the Board of Directors may prescribe. An Assistant Secretary may, in the absence or disability of the Secretary, attest the execution of all documents by the Corporation.

ARTICLE IV

Miscellaneous

Section 4.1. Corporate Seal. The Corporation may, but need not, have a corporate seal. The form of any such corporate seal may be specified in a resolution of the Board of Directors. A corporate seal, however, shall not be required for any purpose, and its absence shall not invalidate any document or action.

Section 4.2. Execution of Contracts and Other Documents. Unless otherwise ordered by the Board of Directors, all written contracts and other documents entered into by the Corporation shall be executed on behalf of the Corporation by the Chairman or Vice Chair, and, if required, attested by the Secretary or an assistant secretary.

Section 4.3. Fiscal Year. The fiscal year of the Corporation shall begin on **[January 1]** of each year and end on the immediately following **[December 31]**.

Section 4.4. Executive Director. The Board of Directors shall employ an Executive Director for the Corporation who shall be responsible for the day-to-day operation and management of the Corporation. The Executive Director shall have the authority to employ and terminate the employment of staff members who are necessary to operate the Corporation and to determine their compensation within the budget approved by the Board of Directors. The Executive Director shall perform such other duties as the Board of Directors or Chairman may prescribe.

ARTICLE V

Amendments

Subject to law and the Articles of Incorporation, the power to make, alter, amend or repeal all or any part of these Bylaws is vested in the Board of Directors. The Corporation must provide notice to the directors of any meeting at which an amendment to the Bylaws is to be considered and voted upon.

Approved by the Board of Directors this day ___ day of September, 1997.

____

Secretary's Initial

DRAFT

AMENDMENT TO PROPOSED RESOLUTION

Pursuant to TITLE VII: Public Health Funds From Tobacco Settlement, the Secretary of HHS hereby recognizes the establishment of ______________ Corporation, a corporation created pursuant to the laws of the State of ______________, exclusively for charitable, educational, and scientific purposes within the meaning of Section 501(c)(3) of the Internal Revenue Code of 1986, or any subsequent federal tax law. ______________ Corporation being duly established pursuant to TITLE VII(B) of this Proposed Resolution, shall accomplish the following purposes as required by TITLE VII(B): (1) the reduction of tobacco product usage, both by seeking to discourage the initiation of tobacco use by persons under the age of eighteen (18) and by encouraging current tobacco users to quit through media-based and non-media-based prevention and cessation campaigns; (2) research into the development of and public dissemination of technologies and methods to reduce the risk of dependence and injury from tobacco product usage and exposure; (3) the identification, testing and evaluation of the health effects of both tobacco and non-tobacco constituents of tobacco products; (4) the promulgation of such other rules and regulations as are necessary and proper to carry out the provisions of this Proposed Resolution, as well as the development of such other programs as the Secretary determines are consistent with the goals of the Proposed Resolution. Because of the significant evidence clearly demonstrating that the tobacco industry has disproportionately targeted children, minorities and women in its campaigns to increase tobacco use, ______________ Corporation will accomplish, promote, foster, facilitate and encourage, the foregoing purposes as required by TITLE VII(B) of this Proposed Resolution and as stated in its Articles of Incorporation by: (1) engaging in activities designed to reduce smoking activities among minorities and females; (2) developing educational and marketing materials directed to the minority and female communities to counter the efforts of smoke promotions targeted at such communities; (3) conduct research designed to examine the efforts to reduce smoking in the minority and female communities and ways of reducing the rates of smoking in such communities.

228300.1

TITLE VII: Public Health Funds From Tobacco Settlement
As Recommended By The Attorneys General For Consideration By The President And The Congress

BASED ON THE PREMISE OF $ 1 BILLION FOR THE FIRST YEAR AND GRADUALLY INCREASING TO $1.5 BILLION THEREAFTER, ADJUSTED FOR INFLATION AFTER THE FIRST YEAR.

BASED ON THE PREMISE OF $1 BILLION FOR SMOKING CESSATION FOR THE FIRST 4 YEARS AND $1.5 BILLION THEREAFTER, ADJUSTED FOR INFLATION.

(A) ALLOCATION OF GRANT MONIES AMONG PROGRAMS -- The use of moneys under this Section shall be limited to programs established under this Section, shall be adjusted for inflation annually from the effective date, and shall be allocated among such programs as follows:

(1) $125,000,000 for the first three years and $225,000,000 annually thereafter to the Secretary of HHS to accomplish the purposes described in Paragraph (B) of this Section (Reduction in Tobacco Usage);

(2) $300,000,000 annually for the FDA to carry out its obligations under and to enforce the terms of this Act, including for grants to the states to assist in the enforcement of the provisions of the Act;

(3) $75,000,000 for the first two years, $100,000,000 in the third year, and $125,000,000 annually thereafter to fund state and local tobacco control community based efforts modeled on the ASSIST program, designed to encourage community involvement in reducing tobacco use and the enactment and implementation of policies designed to reduce the use of tobacco products;

(4) $100,000,000 annually to fund research and the development of methods for how to discourage individuals from starting to use tobacco and how to help individuals to quit using tobacco;

(5) Beginning in the second year, $75,000,000 annually for a period of ten (10) years to compensate events, teams or entries in such events, who lose sponsorship by the tobacco industry as a result of this Act, or who currently receive tobacco industry funding to sponsor events and elect to replace that

funding, provided that the event, team, or entry is otherwise unable to replace its tobacco industry sponsorship during those given years. Funds used for this purpose shall promote a Quit Tobacco Use theme. After a ten year period, no additional funds shall be used for this purpose and the funds previously allocated to this purpose shall be used as follows: 50% to supplement funding of the multi-media campaigns in paragraph (1) of this subsection; 25% to supplement the funding of the enforcement provisions of paragraph (2) of this subsection; and 25% to supplement the funding of community action programs in paragraph (3) of this subsection.

(B) ESTABLISHMENT OF PROGRAMS BY THE SECRETARY – The Secretary shall establish programs to accomplish the following purposes—

(1) the reduction of tobacco product usage, both by seeking to discourage the initiation of tobacco use by persons under the age of 18 and by encouraging current tobacco users to quit through media-based and non-media based education, prevention and cessation campaigns. The Secretary may make grants to state health departments to assist in carrying out the purposes of this provision.

(2) the research into and development and public dissemination of technologies and methods to reduce the risk of dependence and injury from tobacco product usage and exposure;

(3) the identification, testing and evaluation of the health effects of both tobacco and non-tobacco constituents of tobacco products;

(4) the promulgation of such other rules and regulations as are necessary and proper to carry out the provisions of this Act, as well as the development of such other programs as the Secretary determines are consistent with the goals of the Act.

(C) Public Education Campaign - $500,000,000 shall be spent annually in such multi-media campaigns designed to discourage and de-glamorize the use of tobacco products. To carry out such efforts, an independent non-profit organization with a Board made up of prestigious individuals and the leaders of the major public health organizations shall be created which shall contract or make grants to non-profit private entities who are unaffiliated with tobacco manufacturers or tobacco importers, who have a demonstrated record of working effectively to reduce tobacco product use and expertise in multi-media communications campaigns. The independent body shall be authorized to contract with state health departments, where appropriate, to run campaigns for their states and communities. In creating the program the Secretary or independent body shall also take into account the needs of particular populations. The goal shall be the reduction of tobacco product usage, both by seeking to discourage the initiation of tobacco use by persons under the age of 18 and by encouraging current tobacco users to quit.

(D) Tobacco Use Cessation - For the first 4 years, $1 billion, and thereafter, $1.5 billion of the total amount paid by the tobacco industry shall be paid into a Trust Fund to be used to assist individuals who want to quit using tobacco to do so. Within 12 months the Secretary shall promulgate regulations to govern (1) the establishment of criteria for and a procedure for the approval of cessation programs and devices for which payment may be made under the program, (2) the eligibility requirements for individuals seeking to use moneys from the trust to fund the tobacco cessation efforts, and (3) the procedures to govern the tobacco cessation program.

The goal of the tobacco cessation program shall to enable the most tobacco users possible to receive assistance in their effort to quit using tobacco by providing financial assistance and identifying the programs, techniques, and devices that have been shown to be safe and effective. Benefits to individuals should not be limited to a single effort, but should be tailored to the needs of individual smokers according to standards established by the Secretary using the best available scientific guidelines.

(E) Public Health Trust Fund Presidential Commission - A Presidential commission will be appointed to include representatives of the public health community, Attorneys General, Castano attorneys and others to determine the specific tobacco-related medical research for which the $25 Billion Public Health Trust Fund will be used.

ICE
MILLER
DONADIO
& RYAN

Minorities

TRANSMITTAL COVER SHEET

DATE: February 23, 1998   23 **PAGES INCLUDING THIS PAGE**

HARD COPY TO FOLLOW: ___Yes X No **VIA:** ___Mail ___Courier

TO: Donald Gips COMPANY: Chief Domestic Political Advisor to President FAX #: 202/456-6231 PHONE #:	TO: Thomas Freedman COMPANY: Special Assistant to the President FAX #: 202/456-7431 PHONE #:
TO: COMPANY: FAX #: PHONE #:	TO: COMPANY: FAX #: PHONE #:
TO: COMPANY: FAX #: PHONE #:	TO: COMPANY: FAX #: PHONE #:
TO: COMPANY: FAX #: PHONE #:	TO: COMPANY: FAX #: PHONE #:

FROM: Sandy Charnstrom   **TELEPHONE NUMBER:** 236-2355

SUBJECT: Not-For-Profit Draft Document

COMMENTS: Per Lacy Johnson's request.

CLIENT/MATTER NO.: 15259.0001   **JOB CODE** *(Fax Center Use Only)*: 41925

For questions or problems in transmission, please contact our Fax Operators at either: (317) 236-2352 Or (317) 236-2474

One American Square • Box 82001 • Indianapolis, Indiana 46282-0002 • (317) 236-2100 • FAX (317) 236-2219