

**BLOWING AWAY THE SMOKESCREEN:
THE CASE AGAINST BIG TOBACCO**

By Blair Horner and Michelle Stern

This book is dedicated to the millions of
New York families who have had to see one of their
loved ones suffer addiction, disease and early death
due to the deceptions of Big Tobacco.

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INTRODUCTION

After years of conclusive findings of scientific research and landmark litigation, Americans now have unprecedented access to a wealth of information about the corporate tactics and products of largest tobacco companies: R.J. Reynolds, Philip Morris, Brown and Williamson, Lorillard, US Tobacco, and British American Tobacco and the Liggett Group (otherwise known as “Big Tobacco”). This information clearly shows that Big Tobacco lied to the American people for decades, broke laws, and systematically engaged in a blatant effort to attract children to its addicting and deadly products, while coughing up millions of dollars in campaign contributions and other political gifts to buy protection in legislative and regulatory arenas.

Disturbingly, this strategy worked. For decades, a half dozen major tobacco companies purchased bogus science, manipulated public opinion and bought political protection. It wasn't until Mississippi Attorney General Michael Moore teamed up with public health advocates, powerful trial attorneys and industry whistleblowers that Big Tobacco's clever public relations smokescreen was partially blown away.

But Big Tobacco is hardly finished. The legal agreement between cigarette and smokeless tobacco manufacturers and the states' Attorneys General has bought the industry time to repair the political and public relations damage caused by the litigation of the mid 1990s. Big Tobacco is back to investing in the political process to find new friends and strengthen ties with old ones. Moreover, it has increasingly turned its marketing attention to the nations of Eastern Europe, Asia and other parts of the developing world to expand its addicted customer base, largely by targeting children.

This publication examines Big Tobacco's legacy of deception and offers New Yorkers concrete steps to taking on the tobacco menace in their communities. It is divided into six major chapters. The first two chapters provide a broad overview of Big Tobacco's deceptions and how the industry reacted to the mounting evidence of health harms from smoking. The third chapter examines government's most recent efforts to rein in the tobacco companies. The fourth chapter details Big Tobacco's growing global practices. Finally, the last two chapters provide information that will arm citizens with the tools necessary to successfully take on Big Tobacco and force these companies to change their ways.

I THE CASE AGAINST BIG TOBACCO

BIG TOBACCO'S DECADES OF DECEPTION

Big Tobacco has known for half a century that its products cause health problems. According to internal documents, tobacco executives secretly met in the early 1950s to discuss how to handle the mounting evidence of harm caused by smoking.¹ We now know that the industry developed strategies to cover up, deny and contradict mounting scientific evidence that tobacco smoking harms the public health.

Their responses to the mounting evidence of smoking hazards were two-fold: (1) deny health hazards existed; and (2) market “safer” cigarettes to appeal to consumers’ growing concerns. As a law firm representing the tobacco industry put it in the early 1950s:

“There is only one problem—confidence and how to establish it; public assurance and how to create it ... And, most important, how to free millions of Americans from the guilty fear that is going to arise deep in their biological depths—regardless of any pooh-poohing logic—every time they light a cigarette.”²

In 1953, secret meetings were held by tobacco executives to discuss how to respond to the growing scientific evidence that smoking caused lung cancer. The result of those meetings has been described as the creation of a “strategy of creating doubt and controversy over the scientific evidence, which was to come to be the centerpiece of the industry’s defense for decades to come.”³

The industry’s strategy had two parts: a public relations campaign and intense lobbying to prevent government regulation of production and marketing, and secondly, an advertising campaign to persuade consumers that they could continue to smoke safely.

For years, the tobacco companies had run ads highlighting special filters or promoting various alleged health benefits. In the 1930s and 1940s, a Lucky Strike ad stated “20,679 Physicians say ‘Luckies are less irritating.’”; and another claimed “More Doctors Smoke Camels Than Any Other Cigarette.”⁴ A 1952 Viceroy cigarette ad boasted “You can see why the Parliament Filter Mouthpiece gives you maximum protection ... You’re Smart to Smoke Parliaments.”⁵ This marketing increased

through the 1950s and 1960s as scientific information and public concern about the dangers of smoking grew.

It is obvious that the industry was playing on smokers' legitimate health concerns and duping them into believing that they were protecting themselves if they smoked filtered or low tar or low nicotine cigarettes. As the cigarette companies were well aware, the actual or implied health claims in their ads were misleading at best and duplicitous at worst. As a lawyer for Brown & Williamson noted in the late 1980s, "the adoption of filters in the late 1940s and early 1950s was probably not animated by a desire to lower deliveries of tar and nicotine. Advertising claims to the contrary aside, earlier filtered cigarettes had deliveries equal to or in excess of their unfiltered cousins."⁶

It wasn't until the U.S. Surgeon General's report of 1964 that the public was officially alerted to the dangers of tobacco use.⁷ For the next three decades, the industry continued to oppose the growing body of scientific opinion and fought—fairly successfully—the efforts by health experts to protect the public from hazards posed by tobacco products.

Addiction

For years, the tobacco industry has known of the health consequences of tobacco and its addictive component, nicotine. In 1954, tobacco researchers commented, "It's fortunate for us that cigarettes are a habit they can't break."⁸ In 1964, an internal British American Tobacco document discussed the issue of nicotine and addiction, "There seems no doubt that the 'kick' of a cigarette is due to the concentration of nicotine in the bloodstream which it achieves, and this is a product of the quantity of nicotine in the smoke and the speed of transfer of that nicotine from the smoke to the bloodstream."⁹ In 1969, a Philip Morris researcher bluntly stated, "We have, then, as our first premise, that the primary motivation for smoking is to obtain the pharmacological effect of nicotine."¹⁰ Philip Morris researchers also concluded:

"The cigarette should be conceived not as a product but as a package. The product is nicotine. The cigarette is but one of many package layers. There is the carton, which contains the pack, which contains the cigarette, which contains the smoke. The smoker must strip off all these package layers to get to that which he seeks ... Think of a cigarette pack as a storage container for a day's supply of nicotine ... Think of a cigarette as a dispenser for a dose unit of nicotine ... Think of a puff of smoke as the vehicle of nicotine ..."¹¹

For Big Tobacco researchers, the evidence of the addictiveness of nicotine kept piling up. In a 1983 internal Brown & Williamson memorandum, the message was clear "Nicotine is the addicting agent in cigarettes."¹²

For Big Tobacco, failure to win the debate over regulating nicotine in cigarettes threatened its existence as an industry. In a 1972 internal memorandum the director of research for R.J. Reynolds wrote,

“If, as proposed above, nicotine is the sine qua non of smoking, and if we meekly accept the allegations of our critics and move toward reduction or elimination of nicotine from our products, then we shall eventually liquidate our business. If we intend to remain in business and our business is the manufacture and sale of dosage forms of nicotine, then at some point we must make a stand.”¹³

Congressional Testimony Denying That Nicotine is Addictive

On April 14, 1994, the CEOs of the seven leading tobacco companies testified under oath in a hearing held by the U.S. Congress House of Representatives Committee on Energy and Commerce, Subcommittee on Health and the Environment. Despite extensive internal research on the issue of nicotine and addiction, Big Tobacco’s executives testified that they believed that nicotine was not addictive. Below is the transcript of the relevant exchange on that issue:

Rep. Ron Wyden (D-OR): Thank you, Mr. Chairman ... Let me begin my questioning on the matter of whether or not nicotine is addictive. Let me ask you first, and I’d like to just go down the row, whether each of you believes that nicotine is not addictive. I heard virtually all of you touch on it. Just yes or no. Do you believe nicotine is not addictive?

Mr. Campbell (President and CEO, Philip Morris, USA): I believe nicotine is not addictive, yes.

Rep. Wyden: Mr. Johnston?

Mr. Johnston (Chairman and CEO, RJR Tobacco Co.): Congressman, cigarettes and nicotine clearly do not meet the classic definitions of addiction. There is no intoxication.

Rep. Wyden: We’ll take that as a no and, again, time is short. If you can just — I think each of you believe nicotine is not addictive. We just would like to have this for the record.

Mr. Taddeo (President, US Tobacco Co.): I don’t believe that nicotine or our products are addictive.

Mr. Horrigan (Chairman and CEO, Liggett Group): I believe nicotine is not addictive.

Mr. Tisch (Chairman and CEO, Lorillard Tobacco Co.): I believe that nicotine is not addictive.

Mr. Sandefur (Chairman and CEO, Brown & Williamson Tobacco Corp.): I believe that nicotine is not addictive.

Mr. Donald Johnston (President and CEO, American Tobacco Co.): And I, too, believe that nicotine is not addictive.¹⁴

The executives escaped the probable legal consequences of their deceitful testimonies only because it is difficult to prove that they didn't believe the findings of their own companies' scientists.

“Safer” cigarettes

Instead of alerting public health officials to their research into addiction and health effects, tobacco manufacturers developed a strategy of developing cigarettes that they could directly or indirectly claim were “safer” for smokers. Every company developed and marketed filtered, low tar and low nicotine cigarettes to appeal to concerned smokers.

As the industry moved to offer these new “safer” cigarettes, it became clear that smokers who switched to these “light” brands were compensating for the lower nicotine levels by smoking cigarettes in new ways so that they would still obtain the same amount of nicotine found in their old cigarettes. In addition to simply smoking more of these “light” cigarettes, smokers would inhale more deeply and hold their fingers over the ventilation holes found in the filters, thus increasing the levels of nicotine and tar reaching their lungs.

Internal documents from tobacco companies show that they were well aware of smokers' low-tar “compensation” strategies. In 1985, a Brown & Williamson memorandum stated, “Compensation—It exists; most smokers practice it, but we need to understand it better before advantage can be taken in the marketplace.”¹⁵ Yet, the industry continued to advertise low-tar cigarettes with direct or implied health claims. An ad for True cigarettes, for example, stated, “All the fuss about smoking got me thinking I'd either quit or smoke True. I smoke True. The low tar/low nicotine cigarette. Think about it.”¹⁶

Despite all the industry's accumulated knowledge, the R.J. Reynolds Vice President of Product Development and Assessment admitted under oath in a 1988 trial that he was “not aware that R.J. Reynolds has ever warned consumers about the health risks of compensation.”¹⁷

When the first Surgeon General's report was being written in 1963, cigarette companies, which had representatives on the panel preparing the report, withheld the evidence they had accumulated about the addictiveness of nicotine. The report concluded cigarettes were habit-forming but not addicting.¹⁸

Former U.S. Surgeon General C. Everett Koop spoke for the millions who have needlessly gotten ill and the families of those who died due to Big Tobacco's disinformation campaign when he wrote:

“One can speculate, with enormous regret, how different that 1964 Surgeon General's report would have been had the tobacco companies shared their research with the Surgeon General's Advisory Committee ... The contrast of public and private statements from the tobacco industry reveals their deceit.”¹⁹

Marketing to Children

The most dramatic evidence of Big Tobacco's duplicity is found in the industry's efforts to target children as part of their customer base. Despite arguing for years that it was inappropriate for minors to smoke, internal industry documents clearly reveal how Big Tobacco targeted its marketing efforts in order to get children to use its products.²⁰

There is no better way to show Big Tobacco's deceit than to examine its own words. The tobacco giant Philip Morris told the public quite clearly how it viewed children smoking:

1966 Philip Morris President Joseph Cullman, III states publicly: “we do not favor smoking by young people. We think smoking should be a custom for adults.”²¹

Yet internally another story was being told:

1975 Internal Philip Morris research concludes: “Marlboro's phenomenal growth rate in the past has been attributable in large part to our high market penetration rate among young smokers ... my own data, which includes younger teenagers, shows an even higher Marlboro market penetration among 15-17-year olds.”²²

1981 “Because of our high share of the market among the youngest smokers, Philip Morris will suffer more than other companies from the decline in the number of teenage smokers.”²³

- 1981 “It is important to know as much as possible about teenage smoking patterns and attitudes. Today’s teenager is tomorrow’s potential regular customer, and the overwhelming majority of smokers first begin to smoke while in their teens ... it is during the teenage years that the initial brand choice is made.”²⁴
- 1988 “Sales—Outstanding! Outstanding! Outstanding! ... This account is located 2 blocks from Bellingham High School. Our pre-sell has sold through. The account had reordered and received more product.”²⁵

However, the public statements never really changed.

- 1998 Philip Morris President Geoffrey Bible: “In all my years at Philip Morris, I’ve never heard anyone talk about marketing to youth.”²⁶

Really? The truth was probably best told by RJR representatives attending a question and answer session at a regional sales meeting. Someone asked them who were the young people that were being targeted, junior high students, or younger. The reply was, “They got lips? We want ‘em.”²⁷

II.

POLITICAL SCANDAL IN NEW YORK STATE

Recently, legal settlements between the tobacco industry and states' Attorneys General have made available a massive archive of internal tobacco industry documents confirming public health officials' darkest allegations about industry behavior. For example, while Big Tobacco has denied that Environmental Tobacco Smoke (ETS, commonly referred to as second hand smoke) causes disease²⁸, internal documents indicate that the industry not only has long been aware of the potential dangers posed by ETS, but also that it actively sought to withhold this data from the public.

These internal documents have also illuminated the industry's political tactics that, at least in one case, were illegal.

Background: New York State's Clean Indoor Air Act

For years, the scientific community had documented the dangers posed to non-smokers who were exposed to Environmental Tobacco Smoke (ETS). In 1986, the U.S. Surgeon General detailed the evidence on involuntary smoking as a potential cause of disease in nonsmokers. In New York, the issue came to a head when a bill restricting smoking in worksites, restaurants and other public places passed both houses and was signed into law on July 5, 1989.²⁹

This law helped to reduce nonsmokers' exposure to ETS, but its weak limits on smoking in restaurants still left the public at risk. ETS from the restaurant smoking sections can drift into the nonsmoking sections, since no barrier between the two was legally required. Nonsmoking patrons and employees were still exposed to ETS's toxicity. In the workplace, nonsmokers were guaranteed a separate nonsmoking room, but shared ventilation systems carried smoke from smoking-permitted areas. Many workers were still exposed to unacceptable levels of tobacco toxins. The failure of the new law to offer adequate protections would be a new battleground as the scientific evidence of the hazards of ETS continued to mount.

Studies published in the 1990s led to further efforts by states and local governments to strengthen the ban on smoking in public places. Internal documents show

that in New York the cigarette companies were particularly concerned about local clean air initiatives. In March 1994, legislation was introduced in New York City that further would further restrict smoking in public places, and required smoking sections of restaurants to be separately ventilated. Soon after, Philip Morris' lobbyists began to meet weekly with representatives of other cigarette companies to plan how to fight against the bill. Their strategies failed to block the New York City effort and in late November 1994, it was clear that the bill would become law. For Philip Morris, with its world headquarters on Park Avenue, the defeat was particularly galling.

The Tobacco Industry's Counter-Attack

The results of the 1994 election gave the tobacco industry an opportunity to take the offensive in New York's tobacco wars. Within six weeks of Governor-elect George Pataki's electoral victory, Philip Morris's CEO, Geoffrey Bible, came calling. High on Bible's "wish list" was his clearly stated interest in repealing local anti-smoking laws, particularly the New York City regulations, and replacing them with a weak state regulation that provided "accommodation" to smokers.

Philip Morris's interest in state legislation that would preempt localities' authority to enact local smoking restrictions was not unique to New York. Many efforts were made all over the country to limit smoking restrictions at all levels. A speech to company employees by chief government affairs director Tina Walls reveals the strategy:

"Accommodation/pre-emption is vital to all the efforts of PM Corporate Affairs. If smoking is not seen as legitimate, our work on every other issue becomes that much more difficult. ... The goal of accommodation/pre-emption then is to ensure that adults who choose to smoke can do so conveniently and comfortably...."³⁰

Speaking of a nationwide campaign to block smoking restrictions, another Philip Morris document says,

"The passage of state uniformity laws—laws that pre-empt localities from passing restrictions that are harsher than the state law—are the primary tool that has made the difference on this issue."³¹

New York Governor Mario Cuomo's defeat in the 1994 election eliminated the tobacco industry's most serious opponent and provided an opening that it hadn't had in nearly a decade. In December of 1994, Philip Morris took the lead in hatching a scheme to snuff out all local smoking restrictions in New York.

A Key Meeting

For years, Philip Morris had endured defeats at the hands of the soon-to-be-former Governor and his allies in the public health community. Starting in 1988 and through 1994, the tobacco industry had seen tobacco tax hikes, restrictions on smoking in public places and tough new efforts to curb sales of tobacco to minors.

Most recently, smoke-free workplaces legislation at the local level—most notably in New York City—had clearly demonstrated the increasing potency of the anti-smoking forces. In New York City, a sweeping new bill sponsored by former City Council Speaker Peter Vallone that would greatly expand non-smoking sections in restaurants was on the verge of enactment.

The election of a pro-business Republican Governor offered a new opportunity to Bible, and he knew he'd need to make the most of it.

In a follow-up letter to Governor-elect Pataki, written on December 13th, Bible wrote:

“It was a pleasure visiting with you last night. I trust that this will only be the beginning of what I know can be a mutually beneficial dialogue.”³²

Bible wrote of the “Vallone Bill” and went into detail about its provisions. He argued that the bill, which he knew was on the verge of enactment, should be amended—weakened—to protect the “City’s economy from sudden economic fallout” that would result, in his opinion, from the enactment of the bill.³³

Bible reminded Pataki of the number of Philip Morris employees in New York, its charitable contributions and the “in-kind services that we provide non-profit organizations” all in an effort to justify Bible’s claim that the company “prided itself on being a respected member of the business community and a good corporate citizen.”³⁴

Bible closed by bemoaning the treatment the tobacco industry had suffered at the hands of the state and the city:

“Over the years, this state and, more recently, New York City, have become in-hospitable to our business, our products and especially our consumers. I sincerely appreciate the opportunity to share our views with you in the hope that we can begin a new and lasting relationship, one that would be to the mutual benefit of the state, our headquarters city, and Philip Morris. Thank you again and I look forward to hearing from you.”³⁵

A “blind” copy of the letter was sent to his government affairs staff including both Tina Walls, head of Philip Morris’s government affairs office and Sharon Portnoy, the company’s New York lobbyist.

On December 15, a Philip Morris check for \$25,000 was deposited to Pataki's then-secret "Inaugural Account."³⁶ Lobbyist Sharon Portnoy, began contacting other staff within the company to discuss the "New York State Preemption Plan,"³⁷ Philip Morris's attempt to overturn and preempt all local smoking restrictions.

On December 19, Portnoy sent a memo to the company's top public affairs staff: "Enclosed is the NY SWOT and preemption plan. We will plan to meet on 1/3..."³⁸ Other internal documents illustrated how the tobacco lobby in New York skillfully combined expensive campaign techniques and both legal and illegal gift-giving strategies in its efforts to pass state legislation that would overturn local anti-smoking ordinances. These strategies put New York State on a path that would ultimately lead to the biggest lobbying scandal in its history...

The New York State Preemption Plan

Making use of "front groups" has been a staple of tobacco industry political strategies. According to internal Philip Morris documents, industry lobbyists have used third parties to "carry its baggage."³⁹ Here, Philip Morris executive Tina Walls, speaks to Philip Morris employees:

"...we try to keep Philip Morris out of the media on issues like taxation, smoking bans and marketing restrictions. Instead, we try to provide the media with statements in support of our positions from third party sources, which carry more credibility than our company and have no apparent vested interest

...we create coalitions of third party sources to carry our baggage on issues. For example, on excise taxes, we work with state and local CARTS, the acronym for Committee Against Regressive Taxation ... restaurants owners on smoking bans ... retailers on minimum age issue ... and influential groups like the Association of National Advertisers on marketing restrictions."⁴⁰

In 1995, the tobacco industry's trade association, the Tobacco Institute, enlisted the Empire State Restaurant & Tavern Association⁴¹ to work as Big Tobacco's front group on a statewide level. The Association's role was to convince restaurant owners that the proposal for a new statewide law that tracked the New York City law would hurt business around the state and if enacted would prove devastating for their businesses.⁴²

In February, 1995 the tobacco companies hatched a "New' New York City Plan." The plan said, "The United Restaurant and Tavern Association of New York State was a tremendous ally during the legislative battle [to prevent passage of the

New York City law]. They have agreed to spearhead continuing efforts....”⁴³

On April 25, Scott Wexler, head of the restaurant group, sent a nine-page proposal on “New York Tavern & Restaurant Association” letterhead to John O’Connor, Tobacco Institute Regional Vice President in Albany. It set out an ambitious plan to “seek enactment of state legislation that establishes uniform standards for the regulation of smoking which preempts any local action in this area.” The proposal requested between \$307,400 and \$419,900, in addition to out-of-pocket expenses, to mobilize proprietors of approximately 45,000 eating and drinking establishments to support preemptive legislation and to “lobby” state legislators. The plan also foresaw conducting a statewide public opinion poll “that will demonstrate the public’s support for the existing statewide smoking regulation,” and economic impact studies to “demonstrate the need for economic relief.”⁴⁴

On May 11, 1995, New York Senate Majority Leader Joseph Bruno had a meeting with Philip Morris CEO Geoffrey Bible; Senior Vice President Ellen Merlo and Sharon Portnoy at Philip Morris’ New York City office. In a follow up letter sent on May 16, 1995, to Senator Bruno, Merlo wrote:

“Sharon has been singing your praises for quite sometime, it’s wonderful to know that the leadership in this state is taking a pro-business approach. As said in our meeting, working together we can accomplish a great deal. We all took comfort in the message that you had to deliver.”⁴⁵

Of course, we have no idea how Senator Bruno reacted to this meeting and correspondence or what his comforting message was, but on June 12, 1995, the Committee on Rules introduced New York State Senate bill 5414. The bill preempted all local laws and regulations “concerning the sale, distribution, use or display of tobacco products.”⁴⁶ When health advocates drew the media’s attention to the bill, there was confusion over who had initiated it. Senator Bruno was quoted as stating that Governor Pataki had requested the bill.⁴⁷ The Pataki administration protested Senator Bruno’s characterization and a Bruno spokesman ultimately claimed that some Senators had requested the bill’s introduction, but refused to reveal whom. Due partially to its late introduction and the widespread controversy and public outrage stimulated by health and consumer groups, the Legislature adjourned without taking action on the measure.

The tobacco lobby was undeterred by this failure. Philip Morris identified New York as a “uniformity target” in 1996.⁴⁸ Indeed, in 1996, new legislation, Senate bill 5902/Assembly bill 8433, was introduced. It repealed local laws that restricted smoking in restaurants and replaced them with a weaker uniform state standard.

The bill also prohibited localities from passing restrictions in the future.

The industry began its campaign in earnest. From April 1995 to May 1996, Philip Morris alone gave about \$100,000 in gifts to policymakers and their staffs in an effort to curry favor with state lawmakers.⁴⁹ Democrats in the Democrat-controlled Assembly received \$22,650 in tobacco industry campaign contributions, and Republicans in the Republican-controlled Senate received \$14,150. During that same period, Republican party committees received \$256,312 from tobacco interests, while Democratic party committees received \$56,366.⁵⁰

But the spending was in vain. Enormous public opposition to the bill generated by health advocates helped persuade the Speaker of the Assembly to oppose the bill, and without Assembly support, the proposal died.

The Philip Morris Lobbying Scandal

In 1998 when states settled their litigation against the tobacco industry over lost Medicaid costs attributed to smoking, virtually all of the public's attention was focused on the huge amounts of money coming to the states. These settlements cost the industry nearly \$250 billion over the next 25 years.⁵¹ New York specifically was to receive \$25 billion during that period.⁵²

Yet, there was little public attention of the fact that internal industry documents, obtained during the states' legal battles, now became public. And while this part of the settlement was not on the public's radar screen, it was to have dire consequences for New York's tobacco industry lobbyists.

In 1998, independent researchers working in the industry document repository in Minnesota came across an astonishing document. According to a Tobacco Institute budget, in 1995 the trade group had spent \$279,700 on something called the "New York Preemption Plan."⁵³ This spending was not reflected in legally required reports of lobbying expenditures filed with the state. Alerted to this finding, the New York Public Interest Research Group (NYPIRG), Common Cause/New York, and the League of Women Voters of New York State, filed a complaint with the New York Temporary State Commission on Lobbying charging that the Tobacco Institute had failed to disclose these expenditures and called on the Lobbying Commission to investigate.⁵⁴

As a result of its investigation, the Commission found that the Tobacco Institute had indeed failed to disclose its expenditures. Lawyers for the Institute admitted that it had spent \$443,072 that it had failed to report in 1995 lobbying in New York and that it had funneled those funds to the New York Tavern and Restaurant Association (also known as the Empire State Restaurant and Tavern Association and as the United Restaurant, Hotel and Tavern Association) to advocate on its behalf before both state and local governments. The Association admit-

ted it also had failed to report these expenditures as required by law.⁵⁵

In July 1999, the *New York Times*, basing its report on more documents from the Philip Morris document archive now available online, revealed that in the years 1995 through 1997, the tobacco giant spent tens of thousands of dollars on gifts for Albany lawmakers. The *Times*' examination of Sharon Portnoy's credit card receipts, on which she had carefully recorded the names of her guests, showed that at least 115 current and former legislators of the 211-member New York Legislature had accepted gifts from the tobacco giant ranging from meals at fine restaurants to seats at the men's final of the United States Open tennis tournament, hotel accommodations and tickets to the Indianapolis 500, and Yankees and Mets baseball games.⁵⁶

In many instances, Philip Morris did not declare these gifts on its lobbying reports. Portnoy, the chief lobbyist for Philip Morris in Albany, treated 60 lawmakers and their aides to more than \$12,000 in meals in the first half of 1996 alone. The *Times* also revealed that in 1995, Philip Morris contributed \$10,000 to the Hungarian-American Chamber of Commerce, shortly before it underwrote the cost of Governor Pataki's trip to Hungary. The tobacco giant dispatched its top lobbyist, Tina Walls, to dine with the Governor and others in Budapest during his trip, though the Governor denied knowing anything about the company's contribution.⁵⁷

Again Common Cause, the League of Women Voters and NYPIRG filed formal complaints with the Lobbying Commission—as they had done one year earlier. Following the investigation by the Lobbying Commission, Philip Morris was fined \$75,000 for its failure to disclose its lobbying activities as required by law. Sharon Portnoy was fined \$15,000 for her role and banned from lobbying in the state for the next three years, and her case was forwarded to the Albany County District Attorney's office for possible criminal penalties. An ethics investigation is still pending.

“Tort Reform”

Litigation was—and has been—a top concern of Big Tobacco. Lawsuits against the tobacco industry could be used to hold the companies responsible for their wrongdoing. Between 1950 and 1993, more than 800 personal injury claims were filed against tobacco companies. None of these were settled, only 23 were tried and in the one case where the plaintiffs won at the trial level, the victory was overturned on appeal.⁵⁸

The industry succeeded by using the “the smoker should have known better defense” (since cigarettes have been carrying federally mandated warning labels since the early 1970s) and by launching aggressive and costly defenses that wore down the plaintiff's side financially and emotionally.

Even though Big Tobacco had been successful, they knew that someday a plain-

tiff could win. One victory would encourage other potential plaintiffs and trial lawyers, who invest their own money in prosecuting lawsuits and are only paid if they win. So the industry developed a national strategy to advance proposals that limit the legal rights of smokers. This strategy, known as “tort reform,” allows Big Tobacco to escape legal responsibility for marketing its deadly products.

Since at least the 1980s, the tobacco industry has supported, funded and coordinated efforts to repeal laws that allow injured parties to hold manufacturers and other wrongdoers accountable in civil court. Big Tobacco allied itself with some of the world’s biggest companies in these efforts. Chemical companies, pharmaceutical producers, gun manufacturers and others have worked in a concerted effort to weaken the nation’s laws protecting consumers. Through the work of individual companies, the Tobacco Institute, the industry’s public affairs arm, the Washington D.C. lobby firm of Covington & Burling, and lobbyists in priority states, Big Tobacco has aggressively advanced its agenda for two decades.

At some point in the late 1980s, Big Tobacco came to believe that its chances for success were better at the state level than in Congress. An internal Philip Morris document states:

“1. Will Congress pass product liability reform legislation?

- For over ten years, Congress has considered uniform product liability legislation without passing a bill. While it’s expected they will consider such legislation again in 1993, the proposal is not expected to pass.
- We believe, however, that in the near future the future for reasonable balanced tort reform legislation are much better at the state level.”⁵⁹

The document goes on to reveal that Philip Morris has participated in state tort reform efforts through its surrogates: “... [w]e are participating in national and state tort reform coalitions, such as the American Tort Reform Association.”⁶⁰

In the early 1990s, two attorneys at a New York City firm coordinated the tort reform efforts in New York under the banner Council for Tort Law Reform, Inc. (CTLR). This effort was partially underwritten by Lorillard Tobacco Company. In requesting \$20,000 to support tort reform legislation a letter on behalf of CTLR to Lorillard stated “[w]e hope that you will recognize the value of the effort by making another contribution to help cover the expenses incurred by the Council during 1990.”⁶¹ Lorillard sent them a check.⁶²

In addition, Big Tobacco’s internal documents make clear the high level of coordination among the various parties in New York State. The Tobacco Institute’s 1992 budget identifies New York State “Legislative Consultants” for tort reform efforts.⁶³ In 1995, Covington & Burling encouraged members of the tobacco “Tort Reform Policy Committee” to buy tickets and attend a fundraiser to benefit

Governor Pataki. The memo suggests that “It would be helpful if several people from each of the companies were able to attend, and also if some of your New York counsel were advised of the event and might also attend.”⁶⁴

Despite intense efforts by the industry, no “tort reform” legislation has become New York law. However, the industry was quite right to be worried about the damages it could suffer from litigation.

III.

THE MASTER SETTLEMENT AGREEMENT

Governmental litigation efforts against tobacco companies began in 1994. On May 23, 1994, Mississippi became the first state to sue the tobacco industry. Minnesota followed that August. These lawsuits sought to recover money spent by the states to cover the Medicaid expenses for smokers who had become ill from tobacco use. In January 1997 New York became the 19th state to join this action.

In late 1998, negotiations between states' Attorneys General and the tobacco industry resulted in a settlement agreement known as the Master Settlement Agreement (MSA). The terms included payments in perpetuity to the 46 states involved in the negotiation that over the first twenty-five years amounted to \$206 billion. The settlement released the industry from all claims brought by the states, but did not give the industry immunity from private suits or protect it from punitive damages. It was the largest civil settlement in U.S. history.⁶⁵ The cigarette companies settled previously with the remaining four states for a total \$40 billion (Florida, Minnesota, Mississippi and Texas).

In addition to paying the state billions of dollars, the MSA also included several public health provisions.

Advertising. Print and in-store advertising is only permitted if it does not seek to “initiate, maintain or increase the incidence of youth smoking” as its “primary purpose.” Cartoon images like Joe Camel are banned, but the use of human figures like the Marlboro Man are still allowed. Internet advertising remains unrestricted. In addition, tobacco companies must contribute \$25 million a year over 10 years to advertisements to discourage young people from smoking.

Billboards. Tobacco advertising on billboards and transit signs are banned. Tobacco retailers may still advertise with multiple signs in store windows and on their premise—each up to 14 square feet in area.

Point of sale. Tobacco companies may still sell their products in self-service displays, vending machines and through the mail.

Sampling. Free cigarette sampling is restricted, but not banned entirely. Cigarettes may be given away in an establishment or in a restricted area where an operator ensures (such as through checking identification) that no one is present under the legal age to smoke.

Event sponsorship. Brand name sponsorship is restricted, but not banned entirely. Each tobacco company may continue sponsorship of one brand-name event, such as the Kool Jazz Festival.

Merchandise. Merchandise with brand-name logos is banned. Merchandise is still allowed with brand-name sponsorship of one selected sporting or cultural event, provided that the merchandise is sold only at the site of the sponsored event and is not sold by tobacco companies or anyone else who has received payment from a tobacco company to sell the merchandise.

Penalizing youth offenders. The settlement allows the states to make it a criminal offense for youth to purchase tobacco products, without opposition from the tobacco industry. At the states' discretion, legislation may include language that exempts youth from receiving criminal penalties when they obtain cigarettes for purposes of "sting" operations. Many states employ underage youth to buy tobacco products illegally in order to convict retailers of sales violations.

"*Corporate Culture Commitments.*" Under the settlement, tobacco companies are supposed to develop and regularly communicate corporate principles to employees, retailers and shareholders that commit them to complying with the agreement and to reducing youth smoking. The companies are to designate an executive-level manager to identify ways to reduce youth access and consumption of tobacco, and encourage employees to do the same.⁶⁶

Lastly, the agreement publicly released internal tobacco industry documents and provided for access to these documents through the Internet.

New York State's Lawsuit

In 1995, New York advocates had started urging then-State Attorney General Dennis Vacco to sue the tobacco industry following the actions by Mississippi and Florida. Vacco actively resisted filing suit until January 1997. The New York suit filed that month tracked other state actions and named the major tobacco companies as plaintiffs. In his action, the Attorney General claimed that the tobacco industry "deceived New Yorkers about the health effects of smoking, and illegally lured millions of teenagers to take up the deadly smoking habit."⁶⁷ The Attorney General stated:

“For decades, tobacco companies have engaged in a conspiracy to mislead, deceive and confuse New Yorkers ... Their scheme knowingly targeted children and adolescents with slick, multi-million dollar advertising and public relations campaigns to encourage them to begin smoking early and stay hooked for life.”⁶⁸

The Attorney General charged the tobacco industry with:

“conspiracy and racketeering in suppressing information about health and addiction, manipulating nicotine content, derailing development of ‘safer’ cigarettes, and marketing tobacco products to minors.”⁶⁹

As a result of the 1998 MSA, New York is to receive \$25 billion over the next 25 years, the revenue to be split evenly between the state and local governments (which share in the costs of the Medicaid program).

Has the Master Settlement Agreement Curbed Big Tobacco’s Actions?

Despite its contractual obligation contained in the Master Settlement Agreement not to “take any action, directly or indirectly, to target youth ... in the advertising, promotion or marketing of tobacco products,”⁷⁰ there is concrete evidence that the industry is renegeing on its promise. According to a recent article in the *New England Journal of Medicine*, tobacco advertising and promotion continues:

“The Master Settlement Agreement with the tobacco industry appears to have had little effect on cigarette advertising in magazines and on the exposure of young people to these advertisements.”⁷¹

In an editorial accompanying this article, former FDA Commissioner David Kessler wrote that the “Master Settlement Agreement has not lived up to its promise ... young persons continue to be bombarded by tobacco marketing.”⁷² Analyses of tobacco behavior prior to the MSA and after the agreement have found compelling evidence of how the MSA has failed to deter youth smoking.

Increased Spending in Advertising and Promotion

The Federal Trade Commission’s 1999 report on cigarette advertising and promotion showed that cigarette marketing increased by over \$1.5 billion in the first year after the MSA was signed to \$8.24 billion. This was the largest increase in dollar terms since the FTC began publishing the report and a 22.3 percent increase over the previous year. Marketing categories with the largest increase included cigarette

sampling to the public (up 133.4%), advertising in newspapers (up 73%), direct mail advertising (up 63.8%), and advertising in magazines (up 34.2%).⁷³

In Store Promotional Strategies to Reach Kids

In July 2000, researchers at the University of Illinois at Chicago released a study demonstrating that after the MSA ban on billboards went into effect, tobacco advertising and promotion increased significantly at retail outlets. The study found that nearly 80 percent of all retail outlets had interior tobacco advertising, nearly 60 percent had exterior tobacco advertising, 52 percent had tobacco promotions such as price discounts and gifts with purchase, and 73 percent had branded functional objects showing the tobacco advertising.⁷⁴

Increased Cigarette Ads in Magazines with Youth Readers

In May 2000, the Massachusetts Department of Public Health revealed that cigarette advertising in magazines with high youth readership increased 33 percent (almost \$30 million) since the MSA. Instead of reducing their advertising budgets in response to the settlement's ban on billboard advertising, the tobacco companies redirected the money to magazines. The study also showed that four of the five leading youth brands—Marlboro, Camel, Kool and Newport—increased their advertising spending in youth-oriented publications.⁷⁵

Cigarette Ads Still Attracting Youth

A June 2001 study found that exposure to cigarette ads results in youth to identifying smoking with popularity and relaxation. It is that association which counters any warnings about risk seen in anti-smoking ads. Adolescents exposed to cigarette ads reported a greater prevalence of smoking among their friends. The study also found that youth and young adults are more likely to recall cigarette ads than 30-year-olds.⁷⁶

Not surprisingly, studies have repeatedly found that the most popular cigarettes among kids are those that are most heavily advertised. Other research has found that kids are three times as sensitive to tobacco advertising than adults, and are more likely to be influenced to smoke by cigarette marketing than by peer pressure; and that a third of underage experimentation with smoking is attributable to tobacco company advertising and promotion.⁷⁷

Big Tobacco is Looking Out for its Own Interests and Not the Public's Health

National experts have charged that Big Tobacco's current "Youth Prevention" campaign is really just a public relations campaign targeted at policy makers and

potential jurors who control the future of the industry in the United States.⁷⁸ The “Youth Prevention” advertisements have been criticized as sending an “inconsistent and ineffective message.” Moreover, the advertising effort may, in fact, make it more likely that kids will want to try tobacco since the effort “positions smoking as an adult habit and, therefore, appeals to kids.”⁷⁹

The current campaigns are no different than earlier “youth prevention” campaigns conducted by the industry with names like “Helping Youth Say No,” and “Action Against Access.” In both campaigns, independent observers criticized the programs as at best ineffective and at worst as having the potential to encourage young people to smoke.⁸⁰

Reviews of internal tobacco industry documents clearly demonstrate that Big Tobacco viewed these programs as public relations ploys that would have no real effect.

A 1979 Tobacco Institute memo from then-Executive Vice President Franklin Dryden recommended that the industry consider a “pre-adult education” program, “It seems to me our objective is ... a ‘media event’ which in itself promises a lot and produces little.”⁸¹

A 1990 Tobacco Institute memo outlined the “Helping Youth Decide” program, “The industry has in the past and must continue to defend its marketing practices. To ensure that the industry is putting forth maximum effort to meet these growing challenges, I have asked Institute staff to identify opportunities to politically and publicly reaffirm the industry’s continued commitment to address the issue of youth smoking ... In order for this program to achieve its legislative goal, we believe a multi-year commitment must be made up front.”⁸²

A Philip Morris executive wrote in 1995, “If we can frame proactive legislation or other kinds of action on the Youth Access issue ... we will be protecting our industry for decades to come.”⁸³

In reality, an internal Philip Morris memo can best describe Big Tobacco’s approach to underage smoking, “The ability to attract new smokers and develop them into a young adult franchise is the key to brand development.”⁸⁴

Thankfully, Big Tobacco was unable to successfully frame legislation in the late 1990s.

The truth about the tobacco industry’s intentions can be summed up with one fact: Philip Morris spent more than \$150 million on ads to publicize \$115 million in philanthropy.⁸⁵ Clearly, Big Tobacco is concerned about its image, not the harm caused by its products.

IV.

BIG TOBACCO'S GLOBAL RECORD

Tobacco kills an estimated four million people around the globe each year. Because of growing international sales, experts believe that by the year 2020, one in three adult deaths in the world will be caused by smoking and other tobacco use. And these experts believe that by the year 2030, over ten million deaths worldwide will be caused each year by tobacco use. Tobacco is expected to be the leading cause of death worldwide in less than thirty years; 70 percent of these deaths will occur in developing countries.⁸⁶

Big Tobacco's Role in Trade

The impact of trade rules on global public health was highlighted during the mid-1980s, when the U.S. government began pressuring Asian nations to open up their markets to American tobacco companies or face tough retaliatory sanctions. Japan, South Korea, Taiwan and Thailand all had prohibitive tariffs on imported cigarettes, or banned them altogether. Only Thailand refused to comply. For the other nations, the consequences were devastating.

Through its sophisticated and aggressive marketing, particularly to women and children, Big Tobacco not only gained market share, but also actually increased the number of smokers. In Japan, for example, imported tobacco now accounts for 21 percent of the market. Female smoking there is at an all-time high. Overall the American entry into these Asian markets pushed average tobacco consumption by nearly 10 percent in targeted countries, according to the National Bureau of Economic Research. That report said fiercer price competition and slick advertising efforts had stimulated the increase.⁸⁷

Big Tobacco's Corporate Activities and their Impacts

Marketing to Children

As pressure in the U.S. has increased to curb its marketing to children, Big Tobacco has focused more of its advertising in developing nations. A World Health Organization (WHO)-Centers for Disease Control and Prevention (CDC) study

found that 11 percent of children in Latin America and the Caribbean were offered cigarettes by tobacco company representatives in 1999 and 2000. In Russia, nearly 17 percent said they were given free cigarettes. In Jordan, it was a whopping 25 percent!⁸⁸

These efforts are found all over the world. According to Vera da Costa e Silva, director of the WHO's tobacco program, Big Tobacco is making a big move to hook children outside of the United States:

“This is the right time for the tobacco industry to seduce children overseas. They are looking to increase the number of smokers in developing countries and elsewhere abroad because in the United States they are losing their market.”⁸⁹

According to the WHO, in developing nations, one in five school children now smoke.⁹⁰ The British American Tobacco Company is reportedly adding honey to some of its cigarettes sold in the South Pacific to make their products more appealing to children.⁹¹

Environmental Impacts

Tobacco agriculture has become an enormous environmental issue. The large amounts of fertilizer, herbicides, and pesticides used to grow tobacco seep into the soil and pollute waterways and food chains, poisoning livestock, food crops, and farm workers. For example, up to 16 applications of pesticide are recommended during the first three months of tobacco growing.⁹²

In developing nations, tobacco growing has had devastating consequences. The major tobacco companies have encouraged increased growing of inexpensive tobacco in the developing world in order to replace the more costly American-grown product. Tobacco is one of the highest-paying cash crops and is grown extensively in developing countries. For example, by 1993, Philip Morris, R.J. Reynolds and British American Tobacco companies were importing more than 1 billion pounds of tobacco into the United States. Three years earlier, that import totaled just over 400 million pounds.⁹³ The economics of growing tobacco inevitably leads to massive deforestation, fertilizer and pesticide pollution, as well as harmful impacts on families and society.⁹⁴

For example, the Economist Intelligence Unit says in a report Tobacco and Food Crops Production in the Third World, “one of the major consequences of tobacco production in the Third World results from the considerable energy requirements of the flue-curing and fire-curing process ... as such, tobacco is a contributory factor in some countries to the problems of deforestation now being encountered. The clearing of forest land opens the way to erosion of the soil and other environmental repercussions which ultimately reduce the productivity of adjacent agricul-

tural land.”⁹⁵ One study estimated that “... in Tanzania 12 percent of all trees felled annually are used for tobacco curing.”⁹⁶

Labor Practices

Not surprisingly, the constant exposure to pesticides and other chemicals can have a devastating effect on public health. According to testimony before the World Health Organization, Kenyan farmers are suffering:

“From the day the nursery is laid, to the day the pay cheque is collected, the farmer inhales an assortment of chemical, which does not do him any good. To make matters worse, the farmer has no protective gloves, gas masks, gum boots or dust-coats during his sad sentence as a tobacco farmer. Thus, at the end of the farming season, the farmer spends all he earned from the crop, sometimes more, to seek medication. At the Kehancha District Hospital, more than 60 percent of deaths are due to tobacco-related ailments. Infant mortality is also on the increase as are incidents of unexplained miscarriages, just to mention a few ... Tobacco nurseries are situated near water masses, most times at the source. Thus, as the farmer waters his chemical-drenched seedbed, the water flows back to the river carrying with it remnants of such chemicals. It does not need much intelligence to figure out that the same water will be used downstream by communities and their animals. The result is a proliferation of all sorts of ailments assaulting man and beast in the area ...”⁹⁷

Other global practices by Big Tobacco have come under fire:

- 520,000 children work on tobacco farms in Brazil, and a third of them are under the age of 14 years old.
- Children in southern Brazil are removed from classes before the end of the school year to help with the harvest.
- The average monthly income for a tobacco-growing family in Brazil is 334 Reals, the equivalent of \$137.⁹⁸

Although tobacco farming is not unique in its use of child labor, the rigors of working in tobacco fields places children at considerable risk. The hazards to children begin during the preparation of the soil, where highly toxic pesticides are used to kill soil organisms. During the cultivation period, children are directly exposed to highly toxic chemicals. These chemicals—including Aldicarb, Butralin and Endosulfan—can cause enormous harm to eyes, skin organs and are potentially carcinogenic and mutagenic.⁹⁹

Smuggling

There is new evidence that the tobacco industry has been deeply involved in a global effort to smuggle cigarettes in efforts to penetrate closed markets, increase the sale of their brands by making them available at reduced prices. The practice of smuggling also serves to undermine national efforts to reduce tobacco use that have been employed through increased cigarette taxes and import duties. If these charges are proven conclusively, industry leaders could face serious criminal penalties for their actions.

According to experts, roughly one-third of all legally exported cigarettes end up being illegally smuggled across international borders.¹⁰⁰ Well-known cigarette brands—such as Marlboro, Camel and Winston—are the smugglers' brands of choice.¹⁰¹

Internal tobacco industry documents have illuminated the involvement of the companies' top executives in global smuggling activities. According to an analysis conducted by the International Consortium of Investigative Journalists, a project of the Washington D.C.-based Center for Public Integrity, British American Tobacco Company (the parent company of Brown & Williamson in the U.S.) was for decades secretly involved in cigarette smuggling.

“Corporate documents, court records and internal government reports—some going back to the 1970s—also show that BAT [British American Tobacco Co.], Philip Morris and R.J. Reynolds have orchestrated smuggling networks variously in Canada, Colombia, China, Southeast Asia, Europe, the Middle East, Africa and the United States as a major part of their marketing strategy to increase profits.”¹⁰²

Other researchers have documented Big Tobacco's smuggling activities:

“As these examples show, the major companies have gone well beyond selling cigarettes that they know will end up in the hands of smugglers, but have also carefully monitored and overseen the smuggling of their brands into various countries, often treating the illegal importation and contraband sales of their cigarettes as just one more regularly monitored distribution channel, along with ongoing legal cigarette imports and sales. It is also clear that knowledge of the companies' efforts to promote and facilitate the smuggling of their brands often reach to the highest-ranking company executives.”¹⁰³

The European Community (EC) filed suit in New York court alleging that Philip Morris and R.J. Reynolds were involved in smuggling operations to avoid

payment of customs duties and value added taxes.¹⁰⁴ The case was brought under the U.S. Racketeer Influenced and Corrupt Organizations (RICO) statute, which provides for treble penalties if damages are awarded. Belgium, Finland, France, Germany and Italy have since joined the EC suit. In addition to the EC, Canada, Ecuador and various departments of Columbia have filed their own smuggling lawsuits against Philip Morris and/or Reynolds.¹⁰⁵

In addition to arguing that tobacco companies were involved in illegal smuggling activities, the European Union (EU) lawsuit further charges that the tobacco companies were using suspected drug traffickers in their scheme. The EU claims that RJR Nabisco and Philip Morris “have enabled drug lords to launder their illicit profits” and further accused the two companies of “involvement in organized crime in pursuit of a massive, ongoing smuggling scheme.”¹⁰⁶ Others have found evidence of Big Tobacco’s ties to organized crime. According to a year-long investigation,

“... tobacco company officials at BAT [British American Tobacco], Philip Morris and R.J. Reynolds have worked closely with companies and individuals connected to organized crime in Hong Kong, Canada, Colombia, Italy and the United States.”¹⁰⁷

A federal grand jury in North Carolina is investigating allegations that U.S. tobacco companies knowingly sell to dealers who resell American cigarettes to smuggling rings that infiltrate European countries. The British government has opened its own investigation into British American Tobacco Company; it suspects British American Tobacco of illegally importing cigarettes into the United Kingdom.¹⁰⁸

To date, the actions taken by the European Union and other nations have not concluded. However, a former R.J. Reynolds executive has admitted to helping smuggle cigarettes into Canada and has reportedly agreed to cooperate with authorities pursuing the investigation. According to news reports, Leslie Thompson, president of RJR’s Canadian affiliate Northern Brands, has stated that the affiliate was set up expressly for the purpose of smuggling cigarettes and that the parent company was fully aware of his activities.¹⁰⁹

The R.J. Reynolds subsidiary has pleaded guilty to the smuggling charges and has paid a \$15 million fine. R.J. Reynolds argues that Thompson was a rogue employee.

Philip Morris’s Report on Smoking and Health in the Czech Republic

A revealing look into the minds of those who run Big Tobacco can be found in a recent report issued by Philip Morris’s subsidiary in the Czech Republic. In its

report, the Philip Morris subsidiary's report argued "the effects of smoking on the public finance balance in the Czech Republic in 1999 was positive ..."¹¹⁰

The report calculated the benefit to public finances by comparing the income brought in by taxes and the savings from the early deaths of smokers who don't collect their pensions against the costs of treating smoking-related illnesses, absenteeism and lost income due to higher mortality.

This stunningly cynical analysis, that early deaths due to smoking had some benefit to the public, was quickly attacked. In addition to disputing the economic analysis, Eva Kralikova, a Czech smoking-prevention specialist at Charles University's First Medical Faculty challenged the report's moral underpinnings, "Following that logic, the best recommendation to government would be to kill all people on the day of their retirement."¹¹¹

FIGHTING BACK: HOW NEW YORK CAN STAND UP TO BIG TOBACCO

Big Tobacco's long and sordid history of deception cries out for a comprehensive response from concerned citizens. No longer should Big Tobacco get away with endangering and distorting political, legal and medical institutions. The information that is now available should generate unprecedented public outrage against the tobacco companies.

New York State has experienced some success taking on the tobacco industry. As mentioned earlier, local activists and statewide organizations have beaten the tobacco lobby and restricted smoking in most public places; created a groundswell of support for New York State's decision to sue the tobacco industry; fought to raise New York's tobacco taxes to the highest in the nation; and worked for a mandate that allows the sale of only those cigarettes which meet tough fire safety standards—the first of its kind in the nation.

Taking on Big Tobacco and winning can and has been done. Future successes will be built upon the success of the past. All concerned citizens need are the tools and know-how to best take on the tobacco lobby. The remainder of this book is devoted to providing those tools. The strategies we offer are drawn from our decade-long battle with Big Tobacco.

Advocates for meaningful tobacco control measures should be focusing on three broad areas:

- *Youth smoking*, since it's obvious that the industry has for decades consciously sought to get young people hooked on tobacco;
- *Pass Legislation protecting non-smokers*, the U.S. government has stated that Environmental Tobacco Smoke is a known human carcinogen that harms the health of non-smokers; and
- *Reining-in Big Tobacco's predatory global practices*, since that is where the industry sees its future markets and the public health damage it can cause there will be staggering.

1. Beef Up New York's Public Education and Enforcement Efforts

New York State established a roughly \$40 million anti-smoking, health education campaign in 1999. Using monies provided by the Master Settlement Agreement (MSA), Governor Pataki announced that this state program would use “guidelines produced by the federal Centers for Disease Control and Prevention for fighting tobacco use.”¹¹² Under the new law, by March 31, 2000, the Governor and legislative leaders were to have appointed an Advisory Panel to help administer the program. The program was to have begun in 2000 and was required to use the most effective research in designing its public education and mass media advertising.

There is compelling evidence that anti-smoking programs run along the CDC guidelines can be very effective. California, Massachusetts, Florida, Minnesota and Oregon have all had successes in their efforts to significantly reduce smoking.

In 1988, voters in California approved Proposition 99 that increased tobacco taxes and created an aggressive health education program aimed at reducing tobacco use. Since passage of Prop 99, the smoking rate has declined by 38 percent, or twice as much as the national average, and that the state has not seen the dramatic increase in youth smoking found in the rest of the nation.¹¹³ In 1992, Massachusetts voters approved a tobacco excise tax hike and created a California-style health program. In that state, between 1995 and 1999, smoking among high school students has been reduced by 15 percent and overall tobacco use has declined far in excess of the national average.¹¹⁴ Florida and Oregon have experienced similar successes. These models offer hope to other states, and advocates have been pushing for a similar program in New York.

The Failure of New York's Program

New York State's current program, however, has been criticized as inadequate. According to Centers for Disease Control and Prevention (CDC) guidelines, New York State should be spending at least \$95 million annually to run an effective program.¹¹⁵ Indeed, an independent advisory panel had recommended in 1998 that the state spend \$250 million, but its call was ignored.¹¹⁶ Instead, New York's program is funded at less than half the recommended minimum established by the CDC.¹¹⁷

In early 2001, New York State Comptroller Carl McCall complained of the Governor's failure to appoint an Advisory Panel as specified in the 1999 law.¹¹⁸ The complaints have not been limited to those in government. In a recent letter to New York State Health Commissioner Antonia Novello, health groups complained that the program has:

- Failed to conduct an independent evaluation as the law requires the state to have done by September 1, 2001.
- Had a lagging programmatic implementation. In comparison to other

states, New York's program has achieved little.

- An ineffective media campaign. The state has not launched an “aggressive, hard-hitting” advertising campaign.
- Failed to emphasize changing social norms and has instead focused on changing individual behaviors.
- Been silent on clean indoor air legislation currently before state lawmakers.¹¹⁹

These groups have offered a devastating critique of New York's existing anti-smoking program. The Pataski Administration and its Health Department should view their analyses as a wake-up call. Other states offer New York State a blueprint for success: the program must be aggressive, hard-hitting and well financed. The absence of these key elements will only lead to a program that will not succeed in its stated goal of dramatically reducing the terrible toll tobacco costs the state.

2. Pass Legislation Protecting the Public From Environmental Tobacco Smoke

There is overwhelming evidence that Environmental Tobacco Smoke (ETS) is extremely hazardous to the health of nonsmokers. The most recent scientific barrage against ETS started in 1991. The American Heart Association (AHA) published a paper concluding that ETS is the third leading cause of preventable death in this country, and that for every eight smokers the tobacco industry kills, they take one nonsmoker with them.¹²⁰ In 1992, an AHA study concluded that ETS causes heart disease and aggravates pre-existing heart disease. AHA estimated that ETS kills about 40,000 people a year due to heart disease.¹²¹

In 1992, the U.S. Environmental Protection Agency (EPA) declared that ETS was a proven Group A carcinogen—a substance known to cause cancer in humans. There is no safe level of exposure to Group A toxins.¹²² The EPA said that ETS causes 3,000 lung cancer deaths a year in nonsmokers, and approximately 60,000 non-smokers die each year from diseases directly related to the passive inhalation of ETS.¹²³

In 1993, both the EPA and the U.S. Surgeon General stated that ETS is extremely harmful to non-smokers. Nearly 9 out of 10 non-smoking Americans are exposed to ETS.¹²⁴ ETS causes more deaths in the United States than all other known environmental toxins combined, and it causes or exacerbates an estimated 300,000 cases of respiratory distress.

The EPA has classified eight substances as Group A carcinogens (the most deadly designation a chemical can receive from the EPA). The substances are listed below with the annual number of deaths attributed to each.¹²⁵

<i>Group A Carcinogens</i>	<i>Annual Deaths</i>
ETS	Heart disease 37,000
	Lung Cancer 4,000
	Other Cancers 12,000
	Total 53,000
Indoor Radon Gas	Smokers 12,000
	Non-smokers 4,000
	Total 16,000
Vinyl Chloride	27
Radionuclides (other than radon gas)	17
Airborne asbestos	15
Coke oven emissions	15
Benzene	8
Arsenic	5

In 1996, the Centers for Disease Control and Prevention agreed with earlier reports and stated that nearly nine out of ten non-smoking Americans are exposed to ETS.¹²⁶

In 1999, the California Environmental Protection Agency examined the main health risks of ETS. It estimated that nationally 9,700 to 18,600 cases of low birth weight babies resulted from exposure to ETS.¹²⁷ Also, in infants and children under 18 months, there are 150,000 to 300,000 cases of lower respiratory tract infections such as bronchitis and pneumonia that can be attributed to ETS annually, resulting in 7,500 to 15,000 hospitalizations.¹²⁸ ETS also increases the risk of Sudden Infant Death Syndrome (SIDS).¹²⁹

In children older than 18 months, ETS causes large increases in acute lower respiratory tract illness, middle ear infection, and chronic respiratory symptoms—such as cough, phlegm, and wheezing. Exposure to ETS has been shown to exacerbate asthma symptoms in children and studies suggest that exposure to ETS can exacerbate cystic fibrosis.¹³⁰

The California EPA found that ETS accounts for the deaths of 60,000 Americans annually and the illnesses of many more. Exposure to other people's smoke has been linked to lung cancer, heart disease, asthma, cervical cancer, brain tumors, emphysema, and many types of respiratory problems.¹³¹

The California smokefree law banning smoking in all workplaces, including restaurants, taverns and casinos, has proven to be beneficial from both a health and an economic standpoint. It has cut down on the number of employees and patrons getting sick and dying from ETS. It has saved employers money, lowered absenteeism and workers compensation claims, cut the cost of cleaning facilities, encouraged smoking employees to quit, and promoted employee health, productivity and morale.¹³²

In 2000, the American College of Occupational and Environmental Medicine published a report confirming earlier findings of the hazards of ETS.¹³³ The College cited researching showing that, “To date, affected populations that have been reported to be at special risk of ETS exposure are flight attendants, food service and hospitality workers, including restaurant and bar employees.”¹³⁴ The report found that ETS is extremely hazardous in all workplaces and proposes specific recommendations to protect employees.

However, the College argued that benefits to both employees and employers of non-smoking policies in the workplace far outweigh any costs associated with the development and implementation of policies that prevent worksite and public exposure to ETS. The report states that, “Economic benefits derived from improved health and increased productivity have been well-documented for workers and employers, and so have the benefits realized from decreased time invested in smoking behaviors.”¹³⁵

Big Tobacco’s Counter-Attack

As mentioned, Big Tobacco was—and still is—terrified about ETS legislation. Its efforts to block passage of New York health laws, designed to protect the public from ETS, sent it down the path to political scandal. From a business perspective, the industry itself knew that restrictions on smoking in public places led to reductions in smoking rates and had the ripple effect of publicly highlighting the dangers of cigarette smoke, thus providing more support for stricter measures. An internal Philip Morris document detailing a policy presentation for company staff describes the impact of smoking restrictions: “Erosion of the number of environments and ultimately the time individuals can elect to smoke can affect consumption and sales.”¹³⁶

State legislation was introduced in 2001 that modestly expands the current restriction on smoking in restaurants. This legislation is modeled on successful county laws and would prohibit smoking in restaurants that did not have separately ventilated rooms. Bars and bar areas of restaurants would be exempted.¹³⁷ The bill passed the Assembly with overwhelming bi-partisan support and was reported from the Senate Health Committee.

The bill was derailed in the State Senate reportedly at the behest of Governor Pataki who has publicly complained of the costs to restaurants.¹³⁸ Whether the Governor continues to support Big Tobacco’s position on this issue remains to be seen. Advocates should continue to fight for passage of legislation that protects the health of all New Yorkers (A7743/S3993 and A228/S4989).

3. Divest State Investments in Tobacco Stocks

Reining in Big Tobacco’s global practices are extremely difficult, particularly for state-based activists. However, in response to Big Tobacco’s activities around the

world, activists are challenging fiduciaries' public investments in tobacco companies. Simply stated, these activists argue, "Why should state investments bolster an industry which sells a dangerous and addictive product and an industry in which governments are engaged in a huge political battle over protecting the public from those products?"

Through its pension fund investments, New Yorkers are helping to fund Big Tobacco's deadly activities in the U.S. and overseas. Given the overwhelming mountain of damning evidence, why should anyone—particularly public institutions—help the tobacco industry succeed?

New Yorkers should draw the line. The tobacco industry's track record of law-breaking and the terrible human toll its products take clearly make it a corporate pariah—and one that should not be underwritten by the public. This report makes the case for New York governments and public institutions to stop investing in the tobacco industry. It also provides the campaign tools for citizens to take on Big Tobacco and its allies and to help succeed in this divestment effort.

Many government investors are reducing—if not eliminating—their pension fund holdings in tobacco companies and funds that include tobacco companies. In fact, New York State has acted to cap the amount of retirement funds it invests in tobacco companies. That courageous decision was made in 1996, long before the most damning new evidence of Big Tobacco's deceits were made public. It is that mountain of evidence that should lead New York State to take the next step and divest all tobacco holdings.

Divestment: The Basics¹³⁹

Here are some of the basics. First, divestment means to sell an investment. When an institution sells its tobacco stocks and bonds, it is said to divest from tobacco.

Is divestment legal?

Divestment is legal as long as the fund's decision-makers (i.e., retirement board members) have performed their fiduciary duty to ensure the soundness of the pension funds and done their homework. Their fiduciary duty requires them to complete the proper due diligence as to how divestment would impact their fund and to make a decision based on that assessment.

How does divestment improve public health?

Investments in the tobacco industry promote the use of tobacco products worldwide by ensuring the financial health of the industry and making available the resources it needs to market its deadly products. Investing in a tobacco company is like investing in any other. If the investment is to be profitable, the industry must

sell its product. Unfortunately, in the case of tobacco in the United States, the industry's product kills more people than AIDS, alcohol, drug abuse, car crashes, murders and suicides combined.¹⁴⁰

Furthermore, tobacco is going to be the leading cause of death in the world in the next thirty years.¹⁴¹ The American company Philip Morris sells most of its cigarettes overseas—including some countries that don't have the same stringent regulation of tobacco as the United States.¹⁴² Tobacco divestment separates investors from the tobacco industry's bad practices.

How will tobacco divestment make a difference?

Investments in the tobacco industry promote the use of tobacco products worldwide by financially supporting the industry. Tobacco investments also send the wrong message to the public, especially young people. On the one hand, local governments have spent millions of dollars to reduce tobacco use and have enacted laws to protect the public from the health hazards associated with tobacco products. On the other hand, the government invests in the tobacco industry promoting those same products that the state and local health departments are trying to control. Divestment is just another step to expose an industry that promotes a product that, when used as directed, is addictive and harmful to health.

Will divesting from tobacco open a Pandora's box of political issues?

Whether or not a fund decides to divest from tobacco, other social issues (e.g., continued investments in alcohol companies, and/or companies with poor environmental records) may be raised before the board (or in the case of New York State, the Comptroller). The board will have to decide on each issue it has chosen to address. Boards can adopt policies to guide their decision-making on current and future social issues.

Will divestment cost money?

Divestment transaction costs can include depressed stock prices due to a large sell-off, higher brokerage fees, and commissions. Some of the ways to minimize these costs are for the fund to divest over time, or have the broker cross-trade the stock with other clients' portfolios.

The Florida State Retirement Trust Fund sold over \$800 million in tobacco holdings from its \$57 billion portfolio. This cost the fund \$1.75 million or 0.2 percent of the sale. This may seem like a lot of money, but the cost of divestment was less than .0031 percent of the total portfolio.¹⁴³ Clearly, institutions across the United States have proceeded with divestment knowing there would be some small additional cost, but also knowing it was the right thing to do.

Will divestment hurt performance?

Because tobacco companies make up such a small percentage of an overall portfolio, divesting from tobacco stocks has very little financial significance to state pension funds. For example, Massachusetts strongly advocated for the divestment legislation purely for public health reasons without regard to financial concerns. Massachusetts Treasurer Joe Malone stated,

“There are some things more important than making money and one of them is protecting the health and well-being of our citizens, particularly our children. Divestment is the only way to get tobacco companies to finally wake up to the fact that they sell a dangerous product.”¹⁴⁴

Proponents of socially responsible investment maintain that funds that use screens to select companies with a high level of corporate responsibility actually improve their performance. Good corporate citizens are seen as having fewer liabilities. The tobacco industry certainly has not been a good corporate citizen and certainly has many liabilities.

Will selling tobacco holdings sacrifice the ability to introduce proxy votes and shareholder resolutions?

Unfortunately, the tobacco companies have been extremely resistant to change. Very few shareholder resolutions have been successful with tobacco companies. In fact, many institutions, such as Harvard University and the Massachusetts Public Retirement Investment Trust, have opted for divestment or restrictions on tobacco investment after their shareholder advocacy proved unsuccessful.¹⁴⁵

Will divestment increase investment risk?

Reducing the number of stocks in an index without replacing them increases the risk exposure in a fund. Of course, by replacing tobacco company stocks with similar large consumer goods companies, that risk can be dispersed.

What has New York State done in the past?

In 1996 New York State Comptroller McCall froze actively managed tobacco shares of the New York State Common Retirement Fund, while the New York State Teachers Retirement System under-weighted indexed tobacco by 25%.¹⁴⁶ In 1998 New York City froze all indexed tobacco in the New York City Employees Retirement System.¹⁴⁷ This is not the first time New York acted to address the social concerns raised by its investments. In 1987 New York State limited its pension funds only to those businesses investing in Northern Ireland that had moved to eliminate discrimination there.¹⁴⁸

New York State's 1996 Decision

The State Comptroller is New York State's chief fiscal officer. The Comptroller's job is to audit governmental activities and to oversee the Statewide Retirement Systems. The pension is managed by the Comptroller for both state and local public employee retirees and are valued at \$112 billion as of March 2001. This system provides services to over 260,000 retirees and their beneficiaries, over 600,000 members, and 2,700 employers who comprise one of the world's largest pension funds. New York's pension system places these assets under the sole custodianship of the Comptroller, there is no board.¹⁴⁹

In 1996, Comptroller Carl McCall concerned over the looming uncertainty about tobacco stocks—due in large part to pending public and private litigation against the tobacco industry—instructed his pension fund managers to stop purchasing additional tobacco stocks. McCall's March 19th news statement argued

“My actions today are not meant to conduct public policy through the investment process. Despite the past economic performance of the tobacco industry, what lies ahead is unknown. My actions are intended to prudently limit the fund's exposure to risk for nearly one million retirees and members of the fund.”¹⁵⁰

The Comptroller made a distinction between funds that are “passively” managed and those that are “actively” managed. Only those stocks that were “actively” managed would be impacted. These are stocks picked on an individual basis. The majority of the fund's tobacco holdings (about three quarters of the \$638 million invested in domestic tobacco stocks), were passively managed index funds.¹⁵¹ These are groups of stocks selected to reflect the total market or specific segments of it.

In the internal analysis leading up to that decision, the Comptroller's staff analyzed the index fund that is “passively” managed versus an index fund not containing tobacco stocks. The staff argued that the S&P 500 outperformed the S&P 500 without tobacco:

Total Return	1 Year	3 Years	5 Years
S&P 500	37.6%	15.4%	16.6%
S&P 500 without tobacco	36.2%	15.1%	16.4%

The small percentage difference in return was the major justification for recommending to the Comptroller that he not proceed with full divestment. In addition, looming litigation against cigarette manufacturers was a major concern for the Comptroller's staff and it was this justification that was used for the decision to

freeze investments.¹⁵²

One month later, the trustees of the New York State Teachers' Retirement Fund adopted a policy consistent with the Comptroller's decision. The trustees chose to "underweight" by 25 percent the value of tobacco stocks held in passively managed index funds that tracked the Russell 3000. In April 1996, the \$52 billion fund held \$500 million in tobacco stock, including \$375 million in the index fund. As a result of the decision to "underweight," the fund had to sell off \$94 million in tobacco stocks. Like McCall, the decision by the trustees was based on economic, not social concerns.¹⁵³

Comptroller McCall argued that continuing to hold tobacco stocks would allow the state to advocate reforms as a major shareholder in tobacco companies. McCall did, in fact, advocate a number of proposals to change Big Tobacco's corporate behavior, but with little evidence of success.¹⁵⁴

The Comptroller McCall's 1996 decision was a step in the right direction. However, the 1998 states' Attorneys General settlement with the tobacco industry has exposed potential legal liabilities that should allow the Comptroller to take further steps to eliminate tobacco investments all together.

Big Tobacco's Continuing Legal Exposure

Even though Big Tobacco has eliminated the litigation threat posed to the industry with its deal with the states' Attorneys General, the federal government's pending lawsuit and civil actions by individuals and groups still leave the industry in grave legal danger.

Since the Master Settlement Agreement, the tobacco industry has prevailed in most—but not all—court battles. The industry's biggest loss was a \$145 billion jury award last year on behalf of thousands of Florida smokers. If upheld, that award could bankrupt some tobacco companies. The verdict places five tobacco companies on the hook for staggering amounts of money: Philip Morris, \$73.96 billion; R.J. Reynolds, \$36.28 billion; Brown & Williamson (a division of British American Tobacco), \$17.59 billion; Lorillard Tobacco (a division of Loews), \$16.25 billion; and Liggett Group (a division of Vector Group), \$790 million. The largest previous punitive damage award was \$5 billion against ExxonMobil for the Exxon Valdez oil spill of 1989 (That case is still on appeal).¹⁵⁵ Also in Florida, the tobacco industry recently lost its appeal to block a \$349 million class action lawsuit filed by 3,125 flight attendants who claim that they became ill as a result of cigarette smoke in airlines.¹⁵⁶

In February 1999, a San Francisco jury assessed \$51.5 million against Philip Morris and R.J. Reynolds Tobacco Holdings Inc. A month later, a Portland, Oregon jury ordered Philip Morris to pay \$80.7 million. Both awards were reduced and are

being appealed. In a California case, a judge upheld a \$21.7 million awarded by a San Francisco jury. Cases are also pending in West Virginia and Louisiana.

The most recent decision on Big Tobacco's liability occurred in California. In that case, a jury awarded \$3 billion to a California smoker, which was reduced to \$100 million by the trial judge and accepted by the plaintiff. In his decision, Judge Charles McCoy wrote, "Philip Morris's conduct was, in fact, reprehensible in every sense of the word, both legal and moral."¹⁵⁷

Legal experts predict that the California award should encourage other legal actions against tobacco companies.¹⁵⁸ The tobacco industry's mounting legal exposure and the likelihood that these awards will finally hold up, makes the tobacco industry a hazardous investment, particularly for state managers of pension funds.

In addition, despite some early statements questioning the wisdom of the federal government's legal action, the Bush Administration has apparently decided to move forward with the federal government's suit. U.S. District Judge Gladys Kessler threw out part of the government's lawsuit seeking to recoup tobacco-related Medicare costs, but allowed two racketeering counts to go forward. In letting the case go forward, Judge Kessler said that the accusations that Big Tobacco made "false and deceptive statements" about the addictiveness and health effects of their products should be heard. The case is scheduled for trial in 2003.¹⁵⁹

The huge legal liabilities facing Big Tobacco have begun to affect stock prices as well. Recently, Goldman Sachs removed Philip Morris shares from the firm's "recommended list" citing—among other concerns—the lack of resolution of the litigation facing the company.¹⁶⁰

Global litigation

Legal strategies to get tobacco companies to pay for the health costs resulting from sick smokers is not unique to the United States. Other nations have filed suits as well. The Marshall Islands and the Canadian province of British Columbia have filed suits in their home courts against the tobacco industry seeking medical cost reimbursement. Israel's largest health fund has filed suit seeking medical cost reimbursement from U.S., British and Israeli tobacco companies.¹⁶¹

In addition, class action suits seeking an array of damages from tobacco multinationals and/or their subsidiaries have been filed in the home country courts in Australia, Brazil, Canada, India and Nigeria. Individuals have filed suit against tobacco companies in Argentina, Australia, Brazil, Canada, Finland, France, Germany, Ireland, Italy, Japan, Netherlands, Norway, Poland, South Africa, South Korea, Sri Lanka and Turkey.¹⁶²

Furthermore, as stated earlier, the industry faces serious litigation over allegations of its involvement in global smuggling activities. If the industry loses in any of these cases, the results could be devastating to the companies and their executives.

VI.

THE CITIZEN'S TOOLKIT FOR TAKING ON BIG TOBACCO

We've now gone beyond Big Tobacco's smokescreen. You've gotten a sampling of the dangers of tobacco use as well as the tactics, deceptions and outright lies used by the tobacco lobby. So now what? How can a citizen get involved to help safeguard New York's families and communities from the predatory practices of Big Tobacco?

This chapter offers some advocacy tools necessary to arm citizens taking on the tobacco lobby:

- Basic information any activist needs to get involved in reforming New York's public policies.
- Basic skills for activists.
- Background materials for each of the policy reforms mentioned earlier: Strengthening the state's anti-smoking programs; protecting the public from ETS; and eliminating state investments in tobacco companies' stocks.
- Additional resources for those interested in getting more information on these topics.

The Basics of the New York State Legislature

Any attempt to understand and ultimately influence legislative behavior in New York State must begin by confronting two crucial obstacles. First, most people know virtually nothing, and care even less, about the workings of state government. Second, what little they do know derives largely from creaky high school textbooks or self-serving political propaganda, and hence bears little resemblance to actual fact.

The first obstacle, lack of public concern, is rooted in the widespread belief that the state legislature deals with dull, insignificant matters overlooked (or deemed unworthy of consideration) by local and national governments. In fact, the legislative branch of the New York State government has broad powers and far-reaching authority, and is charged with making the state's laws in all areas except those specif-

ically reserved to the Federal Government. To quote Toby Moffet (former Democratic Congressman from Connecticut):

“the states tell us when we can marry, on what ground we may divorce, whether our sexual practices are legal, how qualified our medical doctors must be, whether we are eligible for welfare, what taxes we must pay, and how they are to be spent. In addition, the states establish criminal codes under which we may be arrested, maintain the courts in which we are tried, and supervise the prisons in which we may languish or be rehabilitated. In the end, the states tell us how we may dispose of our estates, and how much our heirs may keep.”

In the case of New York, the Legislature must also oversee the spending of a roughly \$85 billion plus budget, an amount larger than the gross national product of most of the nations in the world.

The second obstacle, widespread misunderstanding of the legislative process itself, is more complex, and has to do with a number of generally accepted, but largely erroneous, assumptions about how legislative decisions are made and who makes them. For example, common sense would suggest that legislative power would be distributed roughly in proportion to the relative numerical strength of the two major parties. In fact, due to a number of obscure rules and long-standing traditions, the major party exercises virtually complete control over its respective house of the legislature. Within each party, the leadership is strong, and seldom defied on important matters. The occasional maverick that decides to buck party discipline generally finds that reprisals are swift and severe. Consequently, independence is discouraged, and both parties tend to vote as solid blocs on most issues. This means very few wins for the minority, even though they may be outnumbered by only a handful of votes. Additionally, the majority party elects the officers in both chambers, makes the rules governing legislative action, receives extra funds, hires and directs the legislative staff, and controls the all-important committees.

Travails: How A Bill Really Becomes A Law

Another common belief perpetuated by traditional civics textbooks is that legislation results from rational and open debate among various and conflicting points of view on the floor of the two chambers. In fact, although the legislative sessions are open to the public, the reality is that decisions are made long before a bill gets to the floor. The outcome has usually been decided in advance by the leadership, and the legislative activity on the floor is nothing more than theater, an elaborate ritual designed to please the uninitiated constituents and support the prevailing myths about open government.

A bill can be drafted by one of several players in the legislative process; a legislator, legislative staff, the Governor or one of the executive agencies, a special interest lobbyist or other outside interest group. It is then formally "introduced" in the Senate or the Assembly by a legislator, given a bill number and referred by leadership to a legislative committee.

Nearly all important decisions are made at the party caucuses, where issues are discussed in closed session, and all members are presumed to vote the party line. While the rank and file are technically free to vote as they please, independent stands are likely to result in a shortage of good committee assignments, and a lack of party support on other bills. Under this system, votes are regularly swapped and bartered like so many poker chips, too often with little or no attention paid to the merits of the bill under consideration.

Committees

With this enormous amount of material to consider, it is literally impossible for a legislator to be able to study each bill carefully. Therefore, every bill that is introduced is referred to a committee, according to its subject matter. Each committee has jurisdiction over a certain area, such as Education, Health, etc. The committee can do a number of things with each bill; it can hold hearings on it, amend it, report it out of committee with a favorable or unfavorable recommendation, or not take any action on it. If the bill is amended, the amended version is then put on the calendar to be considered. Since the chairperson and the majority of the committee's members are of the majority party, the committee's recommendation is usually approved by the body at large. In addition, because legislators frequently do not often have expertise in an area being discussed, they tend to rely heavily on the committee's recommendation. If a committee does not act on a bill, the body at large can still consider it, but this rarely occurs.

In the Senate, committee chairpersons have at their disposal a particularly interesting option for killing bills they do not like: they simply do not allow the bill to come up for a committee discussion. In such cases, the only recourse a senate sponsor has is to have the bill considered for a "motion to discharge," which, if successful, would require the bill to go directly to the floor for a vote. However, no one can recall a successful motion to discharge in at least the past century.

Even if a committee passes a bill, it can still meet a swift end at the hands of the Senate leadership. According to Senate rules, the Senate Majority Leader can "star" a bill on the calendar, effectively stopping any progress on the bill until the star is removed.

Due to rule changes, the Assembly operates differently. There, a sponsor may request that a bill be put on the committee agenda, and the bill must be acted upon in committee at least once during the term, though it still can be buried as the last item on the agenda of the last meeting. In addition, the Assembly Speaker cannot

“star” other members’ bills. The result of these changes has been a marginally higher degree of public accountability, since members must actually cast votes, even if occasionally, on controversial issues.

These reforms haven’t diluted the power of Assembly leadership, however. Although the Assembly Speaker can no longer star a bill, there are many other ways that Assembly leadership can bottle up legislation. For example, legislation that has passed out of committee can be “flagged” by the Ways and Means Committee so that they can review the bill for “fiscal impact” on state or municipal treasuries. Sometimes known as the “graveyard committee,” Ways and Means stops hundreds of bills annually by putting them on a “kill” calendar.

If the main sponsor of the bill is in leadership, or is the committee chairperson under whose jurisdiction the proposal falls, and the sponsor is committed to the bill, then it usually has a good chance of passing in at least one house. Other bills that have a good chance of passing are those that are sponsored by “marginal” members of the majority party—or legislators who won their seats in the last election by a slim margin. Since it is one of the leadership’s roles to keep the majority in power, a bill needed by a marginal member for reelection has a good chance of gaining leadership support.

Another dead end in either house is often the Rules Committee. At a point near the end of session, regular standing committee action is suspended in the Senate and bills are referred to the Rules Committee. In the Assembly, standing committees continue to work until the end of session, but later in the session all bills still coming out of committee are referred to the Rules Committee for review. These committees are controlled by leadership, which has the final decision on what bills will be reported out onto the floor.

Additionally, both houses can avoid scheduling a bill for debate by “laying it aside” indefinitely, even after the bill has made it to the floor.

It is not until the end of session that the floor action really begins. The legislature usually meets from the first week of January to June or July. In recent years, because of political head banging on the part of the Republican Governor, Republican Senate Majority Leader and the Speaker of the Assembly who is a Democrat, session has stretched into August. Aside from the state’s budget, however, not many bills of significance are considered until the end of April. Then, in the last few days of session, hundreds of bills are passed, often without debate, and sent to the Governor.

Behind Closed Doors

If and when a bill makes it to the Assembly or Senate floor, the public show begins, sometimes consisting of long, heated debate and dramatically close voting. More often, however, the fate of a bill is decided before it reaches the floor.

Much of the real debate over a bill happens in party conferences held separately by the different parties of both houses. In these meetings, which are closed to the public,

the leadership gets to state its case in favor of a bill to all party members in one place. If a sufficient number of members doesn't support a measure, then it will probably not reach the floor for debate. In rarer cases, the conference may agree to disagree, and the bill could go either way on the floor. Most often, though, once the majority conference agrees to send a bill to the floor for a vote, leadership has enough votes to guarantee its passage. In many cases bills pass by party line votes or near party line votes.

Leadership: The Carrot and the Stick

Obviously, throughout the process the role of leadership is paramount. The Assembly and Senate leadership are powerful for several reasons. First, the Assembly Speaker and Senate Majority Leader appoint all of the other leadership positions and committee chairpersons, positions with fringe benefits as well as power and prestige. Committee chairpersons are allocated larger staff and bigger offices. In addition, they receive "lulus," which is extra money paid for holding certain positions. A committee chairperson who bucks leadership may not only find him or herself out of a position, but out of quite a bit of money as well.

Leadership also controls the flow of bills. A recalcitrant legislator may find his or her bill being sent to the Ways and Means or Rules Committees. Or in the Senate, stalled. In addition, leadership has a good deal of influence over reapportionment, or the division of the state into Congressional, Assembly and Senate districts. Although this typically happens once a decade, a sure way to punish a member is to rearrange his or her district to make for a tough reelection.

Conversely, leadership can be very helpful to loyal members through awards of choice committee assignments or leadership positions. They can also help members get reelected by giving them extra staff help, district office space, sponsorship of good legislation, or local budget items, sometimes known as "member items" or "pork barrel legislation."

It's important for the legislative leader to be responsive to the needs of his members. Without majority support in his conference, the leader can lose his position. At the end of 2001, in the 150 seat Assembly, there were 99 Democrats. In the 61 seat Senate, there were 36 Republicans. Advocates must ensure that they can muster bi-partisan support for a bill. Without it, the proposal goes nowhere.

Influence

The ability to have input in the legislative process is a basic citizen right. The problem is that the input of ordinary citizens is heavily outweighed by that of special interests like tobacco corporations, banks and utilities. Besides the sheer number of lobbyists at their disposal, the special interests also hire the best-connected lobbyists. These lobbyists often receive large fees to help make sure their clients' bills are passed into law, or, more often, that legislation deleterious to their clients does not pass. Often these lobby-

ists have some previous association with the legislature. For example, former top aides to the Speaker of the Assembly and the Majority Leader of the Senate are now lobbying.

Besides spending money on lobbyists, corporations and other special interests contribute large sums of money to the campaigns of state legislators and the Governor. In order to be reelected, every two years legislators become fundraisers to finance their campaigns, with much of the money contributed by special interests.

General Information: Upstate v. Downstate

The imbalance between the parties is further accentuated by the population distribution in New York State. While more than half of the state's population is from the Greater New York City Metropolitan Area, an article in the state's constitution prohibits one city from having control of the legislature. Needless to say, this causes a certain amount of animosity between Upstate and Downstate legislators, as the Upstate members are primarily rural and Republican, while the Downstaters are primarily urban and Democrats.

Home Rule

The State Constitution contains an odd and important provision called the Home Rule Article. This article is supposed to prevent the legislature from usurping the rights of local government by passing laws which apply only to a single locality, unless the constituents from that locality request such a law. However, this provision can be circumvented, if the Governor issues a message of necessity.

The Citizen's Role

In spite of all the special interest pressure on the legislative process, an informed voter committed to spending some time and effort to influence the process *can* have an impact. An essential fact to remember is that politicians want to be reelected. No matter how much money corporations give to their campaigns, they still need votes. Your vote is power, and as a constituent, your voice is important to your legislator.

Below are some time-tested tips for getting what you want from state government.

Know Your Legislators

If you do not know who your legislators are, you can find out from your local Board of Elections, the League of Women Voters, or NYPIRG. Once you know who your legislators are, you can get a wealth of information about them from various sources at the local library, including information about the committees they sit on, their outside occupations, campaign contributions, voting records, and so on. Much

important information can be obtained by visiting the Assembly and Senate websites: www.senate.state.ny.us or www.assembly.state.ny.us. If you want to get information about the Governor or the executive branch, start at www.state.ny.us and go to either "Governor" or "state agencies" (there are links to the senate and assembly here as well). If you're looking for information on the Comptroller, go to "state agencies" and link to the "State Comptroller, Office of" or simply go to www.osc.state.ny.us.

By the way, the general state website (www.state.ny.us) also offers links to the federal government and local governments as well. Start by clicking on "state agencies" and you'll get the option to go to those sites.

Become Informed About Legislation

Before approaching a legislator about a bill that interests you, there are several things that you can do to learn about the issue:

- *Research your subject in the library.* A Readers Guide to Periodical Literature is a good place to begin. Other good sources of information might be the Empire State Report (a magazine covering legislative activities in New York), as well as NYPIRG or other local groups who work on issues that concern you;
- *Adapt the research to your local area if possible.* For instance, if you want the passage of local law banning smoking in restaurants, be armed with information documenting how well restaurants have fared in counties with similar smoking restrictions;
- *Know if there is current law covering your subject.* Often, the problem may not be that there is no law, but that it is not being enforced. Check McKinney's Consolidated Laws of New York. Reading statutes may seem intimidating at first, but you will find it easier than it seems;
- *Find out if there are bills on your subject that have been introduced.* Check the *Legislative Digest* under the subject section;
- *Learn your legislator's position on bills.* To see if your legislator is a sponsor of a bill, you can check the *Legislative Digest* or the bill itself. In addition, using the other information sources listed on the next page, you can learn whether your legislator sits on a committee that has jurisdiction over the bill;
- You can gain easy access to this information on the web by going to either the senate or assembly websites (www.senate.state.ny.us or

www.assembly.state.ny.us) and looking for links to “bills.” On both sites you can also gain access to state laws and the status of legislation.

Lobby

The tactics of lobbying for legislation range from writing letters or petitions, to visiting legislators, community “actions,” and getting media attention for your issue. Of these, do not downplay the importance of letter writing. Well written, personalized letters draw the attention of staff and legislators, and may help convince legislators that there are other voters who are concerned about the issue but didn’t bother to write.

Tips for Writing an Effective Letter

- Address the letter properly;
- Let the legislator know you are a constituent;
- Include some information that shows that you know something about the legislator and the state Legislature in general;
- Make your case in a short, persuasive manner;
- Always cite a bill number and other relevant bill information, if available;
- Include local arguments and facts where possible;
- Tell the legislator what you want him or her to do, and specifically request a written response;
- Do not tell the legislator you writing the letter only because an organization has asked you to do so;
- Write a follow-up letter;
- Write to other key public officials, such as committee chairpersons and the Governor.

Other extremely effective steps to lobby on an issue are to urge friends and neighbors to write letters, make calls, or visit legislators; write letters to the editor of local papers, TV or radio stations and encourage them to editorialize on the issue; and contact public interest groups that are lobbying on your issue. These groups often hold rallies or other actions to get media attention for an issue, or need volunteers to work in petition drives.

BASIC SKILLS FOR ACTIVISTS: PUBLIC SPEAKING

Before you accept or arrange to do a speech, you should identify and understand the specific purpose of the speech—to entertain, inform, or influence. After you have accomplished this important first step, you can then begin preparing the speech.

1. Preparation

A) How will you present the speech?

- From memory
- With the aid of an outline
- Using visuals

B) Who is your audience? To what extent are the members of your audience similar and what are these similar traits?

- Age
- Sex
- Occupation (blue-collar vs. white-collar)
- Level of education
- Social, professional, or religious group
- Geographical background: rural, suburban, urban

C) What's the occasion?

- First meeting or regular group meeting
- Time of day
- Size of audience
- Indoors vs. outdoors
- Other speakers

The quality of your speech will be affected by other factors than just the evidence you present. How your message is received is affected by many factors: the distance between you and the audience; by your dress, appearance and manner; by your actions and movements; and by the way that you manage your voice.

2. Presenting the Message

A) How will you deliver the speech, depending on the size of the audience and your distance from them?

- If large (more than 80), and you're speaking 15-20 feet from them, always stand and use a microphone.
- If medium (31-80), and you're speaking less than 15 feet from them, you should stand when speaking, but you need not use a microphone.

- If small (10-30), and you're speaking 7-10 feet from them, you may wish to sit if you wish to create an intimate and informal setting, but it may limit your command over the audience.
- If very small (less than 10), and you're speaking less than 7 feet from them, you should almost always sit down when speaking, unless you really need to project a forceful message.

Note: There are exceptions to these guidelines: (a) If you're using visuals often, you should always speak standing; (b) If you wish to gesture frequently throughout a speech, it is more easily done when standing.

B) How should you dress? What manner should you assume?

- Understand the occasion and the audience and dress appropriately
- Consider the preceding factors and the tone of your speech

C) How should you gesture or move?

- Movement can be a tremendous asset or a distraction
- A step forward can highlight emphasis
- A step sideways can help cue the audience to a transition in the speech
- On the other hand, too much movement or an overly "staged" movement can distract

D) How should you use your voice?

- Changing volume can be helpful in giving emphasis to words
- Varying the pitch of your voice adds emotion and enthusiasm—without varied pitch many speeches become monotonous despite any exciting ideas contained in the words
- The more you relax, the better the quality of your voice becomes, and your ability to project and command an audience increases
- Slowing the rate of speech is vital when you wish to highlight one particular statement or paragraph; to add excitement, you may wish to accelerate your speech pattern briefly
- A pause—a moment of silence—can be very effectively used once or twice in a speech, reinforcing that the last statement was very important

BASIC SKILLS FOR ACTIVISTS: THE MEDIA

Publicity is a key component of turning out people for a meeting, event or rally. What good will your new blockbuster study do when nobody knows about it? How will the organization build up credibility (either locally or statewide) without constant visibility?

Publicity involves a wide range of skills, tactics and tools. News conferences, letters to the editor, public service announcements, posters, leaflets, articles all have their time and place.

This section will provide some basic publicity dos and don'ts. Included is a variety of sample news releases and articles that can get you headed in the right direction. Use these as models, revise them carefully to suit your specific needs and build from there.

Why worry about media coverage?

If you're doing something newsworthy, won't reporters just come on their own? Unfortunately, the answer is no. The media focus their attention mainly on successful politicians: when sociologist Leon Sigan studied 2,850 New York Times and Washington Post stories, he found that 78% were largely based on statements by public officials. Citizen groups often don't rate automatic coverage in large media markets like New York City (though they often do better in smaller cities, like Albany, Binghamton and Syracuse). For citizen activists, getting good media coverage requires not just a newsworthy presentation and consistent follow through, but a systematic method of presentation as well.

Maximizing Media Coverage

First, the easier you make it for reporters to cover your story, the more likely you'll get coverage. Issuing a news release helps you get coverage because, in essence, you've written the reporter's story for him/her. Calling a radio station to give a reporter a radio audio clip amounts to bringing the news to him/her. Mailing out a cleverly written public service announcement (PSA) already timed for air play makes it easy for the station to use it. Reporters expend enormous energy trying to get all their work done by their daily deadlines; make their job simpler and you'll get more coverage.

Second, be helpful and persistent. Many events compete for a reporter's attention. For them to cover your story, they must 1) hear about it, 2) decide (along with their editors) that it's worth covering, and then 3) remember to cover it. You can control the second to some degree by how you frame the story and by how interesting you make it sound. But, you have enormous control over the first and third. So, don't just mail out a news release—follow it up with phone calls to the reporters and editors. Don't just announce a news conference—deliver media advisories and offer

interviews or drop off news releases. If your phone calls go unreturned, be patient and persistent, you often need to be called back.

Third, make it interesting. Use colorful language, especially quotes. When you write your news release, don't exaggerate or use hyperbole and don't use exclamation points. Instead, employ powerful analogies and no-nonsense argument. For example, here's a quote from NYPIRG Staff Attorney Gene Russianoff:

“The reasons the subways are in such rotten shape is that the Transit Authority, at least since the mid-1970's, has not had the operating funds to maintain them properly. Giving it almost \$5.6 billion in capital funds for new cars without increasing the operating subsidies is like giving a child a new toy without the batteries; the child will almost certainly break it while trying to make it work.”

Hints for Dealing with the Media

1. The Basics

A) Always be brief and to the point with reporters. It's hard, but you often have to sum up many months of work and complex issues in ten-second quotes. Otherwise, your points will be garbled.

B) Don't take for granted that they know what you know. Not everyone has heard of the way Big Tobacco has behaved. Be clear, don't use jargon. There's no need for laborious explanations: use simple, straightforward vocabulary. The reporter will tell you if s/he's heard it all before.

C) Try to find an angle that makes your story relevant to the paper's readership. For example, does our report on property taxes say that homeowners in the paper's readership neighborhood are overtaxed? Is it a homeowner neighborhood? If not, perhaps another angle can be found.

2. Community Newspapers

A) Community newspapers are chronically understaffed. They rarely send reporters out to cover stories, so you have to go to them. Having a written news release is half the battle (community papers often print them word for word). Because they're understaffed, it's useful to have or to offer to get them a graphic or photo to accompany your story.

B) Community newspapers are very locally oriented. It's their job to cover the local politicians and events that the bigger papers ignore. You must have some local angle.

For example, was a neighborhood person involved in doing the study? Is there an active, local, health group supporting some anti-tobacco action?

3. SCHOOL NEWSPAPERS

A) “A” and “B” above apply with equal force to school newspapers, especially “B.” If it didn’t happen on campus, or if it didn’t involve students, some campus paper just won’t consider it part of their beat.

B) School reporters are often inexperienced. While of course some are quite good, it is possible that some “get the story wrong”—they’ll forget to mention the name of the group, or misspell your name, or miss the entire point of the story—unless you are clear and very direct. Don’t be shy and deferential. Say, “What you should cover is...” and “Did you get the full spelling of our organization?”

When to Use What Media Techniques

Media Advisory Use it to announce any upcoming event or news conference. You should always include on campus media for events, such as meetings, films, and speakers.

News Release Use it to give reporters quotes and specific details about your event, report, etc. This should help them to form a good story.

News Conference Use it for similar reasons as above, but for stories that are urgent or more important. They should be a sign to the media that the story deserves special attention and is significant. You will not hold news conferences as often as you send out news releases. News conferences are also useful because reporters will ask questions, allowing you to expand on more complex topics. But remember this may open you up to closer scrutiny.

Media Event Use it to dramatize a point that would otherwise not be considered “new” news or an ongoing story that you want to bring attention to. These events need a special hook, something fun or out of the ordinary.

Public Service Announcement Use it to publicize events that you want people to take part in.

Letter-to-the-Editor Use it to publicize your opinion or point of view on a specific issue.

Radio Interview—Use it to give a statement on a breaking news story or to follow-up on radio stations that missed a news conference or event.

Media Advisories

In order to get your story or event covered, you must first make sure the assignment editors and news desks know about your event. As a general rule, advisories should arrive at your targeted media outlets 2-3 days before your event and again the afternoon before. Any earlier and they may get lost or forgotten, any later and there may not be enough time for the editors to plan to cover the event.

If you don't know who to fax or e-mail your advisory to, address it to the assignment editor or news desk. Sending an advisory to reporters you think might be interested in your event is also a good idea, but let them know if you've sent it to anyone else at the same paper/station. Try to call to make sure the advisory was seen. This also gives you another chance to pitch your event. Avoid calling in the late afternoon, however, as many reporters are on a deadline. *Early a.m. calls on the day of your event can be key to getting good electronic coverage.*

- It's a media advisory, not a press advisory. This includes the electronic media also.
- The main text should succinctly tell the reporter the details they'll want to know: who is sponsoring the event, what you will be announcing and what makes the event newsworthy. You should limit this section to no more than two sentences.
- On a separate line, let them know if anyone special will be appearing at your event. Mentioning the prominent participants can help generate coverage.
- Include the facts, nothing but the facts. Bullet the date, day of week, time and location of the event so it can be easily and quickly referred to.
- Give the media someone to call for more information. Try to include an evening or weekend number if possible.
- Let them know if you will be having visuals. Sometimes a paper may not send a reporter, but a good visual will get you a picture by their photographer.

News Releases

A news release provides the reporter with specific details about your event and good quotes. It should contain the information that you want covered, but should be brief and to the point. A well-written news release does not guarantee you will get attention, but it is an important first step.

- Put it on your organizational letterhead.
- Have the words "News Release" in bold type, centered directly under the

letterhead.

- Underneath the words “News Release” and at the left of the margin, type “For Immediate Release:” and then give the date on which you want the information in the release reported to the public.
- Underneath the words “News Release” and at the right of the margin, type “For More Information Contact:” and then give the name of the contact person who can give interviews and the phone number at which s/he can be reached the day of the event.
- Underneath the “For Immediate Release” and the “For More Information Contact,” your headline should be centered on the page. Put it in all capital letters and underline it. Make it catchy. For long news releases, having two or three headlines is fine, although it is not neces-

MEDIA ADVISORY

What: News conference by a coalition of health and fire safety groups calling on Governor Pataki to sign the Cigarette Fire Safety Act recently passed by the Legislature

Who: A broad coalition of health and fire safety groups joined by tobacco industry whistleblower Dr. Jeffrey Wigand (hero of the motion picture “The Insider”) and Andrew Maguire of the San Francisco Trauma Foundation, a leading national advocate for cigarette fire safety regulation

When: Monday, May 1, 11:00 AM

Where: LCA Press Room, LOB 130

For Information Call: Russell Sciandra—555-555-5555

Sample Media Advisory

sary. Short releases (1 to 1½ pages) should have only one headline.

- Underneath the headline begins the text. Double-space all text on the first page of the release and leave wide margins for the editor's convenience.
- The first paragraph of the text is called the lead. The lead should be only one sentence long. It should tell who, what, when, where and why. Reporters spend a great deal of time sharpening their lead—so should you.
- The text should be in the past tense. Many news editors define news as something that has already happened.
- The second paragraph may contain a good quote and should clarify the lead.
- The best quotes should be used first—be concise. Within quotation marks, you can put any of your opinions. All non-quotes must be “facts.”
- In general, mimic journalistic writing. After all, you want your release printed as a news article; make it sound like one. Adopt the standard journalistic pyramidal structure, where each paragraph expands upon the more general statement of the ideas made in the above paragraph above. This way, if an editor truncates your release, the resulting article may be missing important details, but it won't be missing important basic ideas. In other words, use the beginning of the release to get out the larger ideas. Save the details and the editorial opinion (expressed in quotes) for later in the release.
- If the release is more than one page long, at the bottom of the first page, centered, type “MORE.”
- For the first page, use letterhead stationary that has the squib at the bottom, which explains what the organization is. Subsequent pages should be typed on plain paper.
- If the release is more than one page long, at the top of each new page, at the left margin, repeat the first headline; this is called the running head. Underneath the running head, note which page it is of the release.
- The last paragraph of the release should be standard boilerplate that describes what the organization is and what it does. It will rarely be printed, but it is nice if it is and the very least, it gives the editor something to prune, so s/he feels s/he isn't printing unedited propaganda.
- To signify the end of the text, type, centered, “-30-.” This means stop.
- Fact sheets that provide background should be attached to the news release.
- In general, shorter is better. You're more likely to get your release printed without major alterations if it's short.

NEWS RELEASE

For immediate release:
Monday, March 20, 2000

For more information:
Blair Horner, Russ Haven
555-555-5555

INTERNAL TOBACCO INDUSTRY DOCUMENTS SHOW BIG TOBACCO'S ROLE IN NATIONAL AND NEW YORK "TORT REFORM" CAMPAIGNS

NYPIRG CALLS TORT REFORM BILL "TOBACCO INDUSTRY PROTECTION ACT"

The New York Public Interest Research Group (NYPIRG) today released internal documents demonstrating that the tobacco industry, its trade association and their lobbying firms have been prime supporters of so-called "tort reform" legislation in Congress and in New York State. The documents showed that for two decades the tobacco industry has funded efforts to restrict the rights of those injured or killed by smoking, through exposure to second-hand smoke or as a result of cigarette-caused fires. NYPIRG argued that, in fact, given the evidence, so-called "tort reform" legislation should be renamed the "Tobacco Industry Protection Act."

NYPIRG representatives Blair Horner and Russ Haven released the organization's letter to sixteen health groups—including the Medical Society of the State of New York and the HMO Conference of New York—which are involved in advocating "tort reform" legislation. In their letter Horner and Haven wrote that:

"there is overwhelming and compelling evidence that the tobacco industry has long supported, funded and coordinated efforts to pass legislation to overhaul the civil justice laws as a shield against responsibility for the deaths and injuries caused by its products."

NYPIRG called upon state and local doctor and hospital groups to drop support for tort reform legislation (S.2277/A.4509) and to pull out of a coalition of businesses supporting this legislation in New York State. The health groups support legislation that would shield the tobacco industry from civil liability for the deaths and injuries caused by cigarettes—positions in stark contrast to the organizations' stated objectives.

NYPIRG has spearheaded opposition to S.2277/A.4509. Well over 200 community, senior, law, health, religious and labor organizations are opposed to the legislation.

Guide to a News Conference

The objective of a news conference is to present journalists who will be covering your press conferences with a story. They are not experts on your issue. Reporters are extremely busy and often do not have time to study the subtler points of your story. Even if they *want* to do an in-depth story, newspapers, TV and radio rarely devote sufficient space or time to present complicated stories. Reporters want to learn just enough to write a story that can be communicated simply. You can use speakers, visuals and actions to present your story effectively. Be creative.

Part I: Before the Event

- Make sure your media list is completely updated.
- Talk to local experienced activists to get additional background on the local media.
- Choose the site. The location should be visually exciting or provocative background, especially for TV media. The site must be accessible for the media whether it is inside or outside. An outside background may be more interesting, but be sure to factor in the weather. Consider also the proximity of earlier news conferences to yours; it may pay to hold your news conference near an earlier one to get more coverage.
- Choose the date. A news conference must be timely to be well covered. If the statewide coalition is breaking a statewide story with a local angle, try to hold the news conference on the same day. You should ask yourself the following questions: Is one day of the week a slower news day? Do more people watch on one date than another? Will we be properly prepared by that day?
- Choose a time. Find out about deadlines. If a TV station has a 12:00 p.m. news show, you should hold your conference at 10:00 or 10:30 a.m., leaving them enough time to get the tape back to the studio. If you need to hold it later in the day, remember that all stations have 6:00 p.m. news, so you should be finished no later than 3:00 p.m. Check out competing events as well (other events should be listed on the Associated Press's "daybook," call them). It often works to schedule your conference a half hour later than theirs, especially if it's nearby.
- Write the media advisory. Send it out 2-3 days before the event. Some weeklies may need it sooner.
- Write the news release. This should be ready to give out to all the press at the news conference along with any reports, documents, etc. that will aid the reporter.
- Prepare a statement. It is always better not to read a speech and to sound as natural as possible. You should have a prepared statement, however,

especially if you have not done many news conferences or if the issue is new to you. It helps to write out what you want to say in outline form, highlighting the most important points and practicing your “statement” with the other people involved. It is common to split up the news conference so that everyone participating has something unique—or a relevant “angle”—to state.

- Follow-up on the media advisory. Call everyone you sent the advisory to and follow up on it. Find out whether or not they think they are coming. Sometimes they cannot give you a commitment right away, but you should have some idea as to what to expect.
- Prepare any visuals you may need. Visuals make your entire presentation more exciting and give you a better chance of getting covered. Things that have worked in the past include huge petitions, graphs, large checks and costumes. Be creative.
- Go over the logistics, statements and any foreseeable questions that may be asked.
- Only answer the questions that you are able to answer and want to answer. Don't be afraid to say you don't know.

Part II: At the Event

When reporters walk into a location where you are holding your news conference, make sure that each one has a copy of your news release and has signed a sign-in list. Your presentation at the news conference should last no more than 3-5 minutes. Other speakers should talk no more than 2-3 minutes (reporters will want to get to asking questions). The following is an agenda for a news conference:

- Introduce yourself and the organization you represent as the reporters come in. Make sure they sign in so that you can call them back after the conference to answer any questions. Get their names and news outlets.
- Every reporter at the news conference should receive a copy of the release with an outline of what will occur at the event.
- Summarize your media event in several “quotable” sentences (it is often this summary which gets coverage on radio and TV).
- Provide background on your issue.
- Provide background on the media event.
- Summarize the basic information you wish to communicate, e.g. “this report found that...”
- Summarize the significance of the event.
- Outline the group's recommendations to solve the problem.
- Take questions.

Part III: After the Event

- Don't get discouraged if many reporters don't initially show interest. Even if they do not show, you should call them back and offer to fax/drop off the news release and other materials and leave a number where you can be reached.
- Don't forget about weekly and community papers. One big mistake advocates make is to ignore local weeklies. All politicians read them and many of them are looking for stories. Find out the deadlines for these papers and send releases/photos.
- Make sure you get copies of all the coverage you receive and make arrangements to save clips, tapes, etc.
- Consider writing letters to the editor to correct errors and elaborate on particular points.

Part IV: General News Conference Tips

- State your points simply, directly and definitively.
- Be brief and concise.
- Don't have more speakers than you actually need (usually no more than 5).
- Think everything through before the news conference.
- Make sure that you have one key point that you want the media to cover.
- Restate this point at every opportunity you get.
- Don't be distracted by irrelevant questions. Answer such questions with relevant statements that may ignore the questions.
- Make sure that you have colorful, "quotable" statements in your prepared statement.

Public Service Announcements (PSA's) for Radio and Television

- There are approximately 7,000 radio and 700 television stations operating commercially in the United States with non-commercial air time to offer. Since competition for air time is great, your message should be of widespread importance and interest and should be presented in the best possible form.
- Stations should be approached personally: Learn the name of the person handling PSA's, call for an appointment to deliver your announcement—never mail it or leave it with the receptionist. If you succeed in convincing the station to use your PSA, be sure to express your appreciation to the person responsible for handling it.

For Radio

- Time spot announcements to run 10 seconds (25 words), 20 seconds (50 words), or 60 seconds (150 words). Use simple, descriptive words that

form pictures, give dimension and color. Radio reaches only the ear and the listener must be able to sketch the picture that you are trying to create in his/her mind.

For Television

- Check with the Program or News Director on slides, films and photographs which can be used to “demonstrate” your message.
- Make sure copy written to accompany such visual aids “fits” slide, film or photo shown.
- Time your copy at a slightly slower pace than for radio. Standard announcements for television run 10 seconds (about 20 words), 20 seconds (about 40 words) and 60 seconds (about 175 words).
- Provide one slide or photograph for each 10-second spot, two for a 20-second spot, etc. Keep in mind that slides are preferable in most cases to photographs. They can be made professionally at minimum cost. When photographs are used, matte or dull-surfaced prints are preferable, since glossy prints reflect studio lights. Materials should be free of scratches and other flaws.
- Be sure to request the return of your visual material if you want to preserve it.

Preparing a Radio Audio

A radio audio is a brief verbal statement of your position on an issue that is taped by a radio station for possible airplay. If you do it well, your radio audio becomes “news”; that is, it is aired as part of the station’s news programming. Sometimes, a station only tapes your prepared statement. More often, the audio also includes a brief interview, during which you are asked questions about your position, and are given the opportunity to respond. Here is how you prepare a radio audio.

- Identify the radio stations for which you want to do an audio. Mail all these stations a copy of your news release on the issue, marked to the attention of the news editor.
- Prepare a one-minute digest of the news release. Make it dynamic and include the highlights of the release. Practice doing it extemporaneously, since you should not read for audio (it sounds stiff). The more you practice, the smoother it will get and the less nervous you will be when doing it for real.
- Prepare yourself to answer typical questions, such as “What is the significance of the study?” and “What do you want public officials to do?”
- Call radio stations the morning of the news conference (if there is one; if not, call the morning the news is released) and be sure to call in the

morning, preferably quite early. Avoid calling stations on the hour or half-hour, since they are often doing live news shows then.

- When you call, ask for the newsroom, identify yourself and your group and say you have a story that they might be interested in. When the secretary puts you through, repeat this. If no one is available, leave a message, but call back yourself 45 minutes later. The newsperson will either let you elaborate on the story before expressing interest or will want to put you on tape immediately. Be prepared for either, so that you don't fumble between being conversational and doing a "dynamic" audio.
- When the station is taping, the phone will sound like it's dead, except for the "beep" some stations use while recording.
- When the news person is ready to do an audio, you will either be asked to give your statement and then follow-up questions will be asked, or the news person will simply have your statement, or the news persons may begin by asking leading questions. If questions are off the essential point, don't try to answer them; say what you want to say and make sure that you get your main point across. Remember that the news person is trying to assimilate unfamiliar information and still have a good-sounding story. It's your job to move into what you want to say. If you don't know the answer to a question, don't fake it; just say you don't know, but can check it out and call back. Saying "I don't know" is OK; they won't put it on the air.
- Most radio news people are either friendly or indifferent. Sometimes they ask good questions; rarely do they put you on the spot (they haven't enough time). Interview shows, obviously are different.
- Indifference is sometimes shown by not calling you back. Take the hint if you've talked to a busy news person who says your call will be returned. But, if a secretary takes your message and the call is not returned, remember the station is hectic and messages are easily lost. Try one more time.
- Get the names of news people who are particularly friendly or hostile. If you call a person friendly to your organization, you stand a much better chance of getting on the air.
- All your statements should be colorful and your voice should not be monotone. Use inflection to stress important facts and figures. Be careful not to make rambling responses; they may carry your answer, rather than your statement. They will cut you down to 30 to 60 seconds, so make it short and to the point. Don't be afraid to pause; they can't just edit that out. If you make an error in fact, tell the interviewer; it's no sweat to re-do it, and it's better than putting it on the air. If you stumble

over your words, keep it going. If it's bad, it will be edited, but normal fluffs don't sound bad on radio.

- Every time you do an audio, start by giving it to a couple of stations that have fewer listeners. You'll be able to hone your pitch and get over any butterflies. You may also find out that you need to check certain facts before you hit the big stations (which tend to have better interviewers).
- Finally, if the interviewer leads into a question by summarizing your release and says something quite inaccurate, don't hesitate to break in and make a courteous correction. The interviewer will not appreciate your allowing the error to get on the air. Remember, that most interviewers are trying to cooperate with you, so that both of you can get a good story.

Letters to the Editor

Letters-to-the-editor sections in your local newspapers are excellent forums for getting the word out about a local issue or problem. The letters-to-the-editor section is one of the most widely read section of a newspaper and your chances of being published are actually greater than you might suppose. *The Boston Globe* prints about 15 percent of the letters it receives. Smaller daily and weekly newspapers print a greater percentage.

- Be sure that your first sentence communicates your most important point.
- Write for brevity—under 200 words.
- The most important goal is to get your letter published; unpublished letters may affect the editor, but no one else. Be prepared to sacrifice depth and examples for brevity; but never sacrifice accuracy.
- When responding to a negative letter-to-the-editor or column, remember that many of the readers of your letter may not have read the negative piece to which you are responding; others may have forgotten or misunderstood it. Identify the piece and indicate that it was generally negative, but use your limited space to make your point about why your position is a better one.
- While reporters and editors get paid to write, citizens who take the time to compose a letter-to-the-editor on their own time generally feel strongly about their position and are often well informed. Readers and editors know and appreciate this, so make sure your concerns are clear.
- Type the letter, if you can, and double space it. Always sign the letter because unsigned letters never get published. Always include a phone number. The papers often check back with you to authenticate your letter. Include the name of the group beneath your name if you are writing as a representative.

BASIC SKILLS FOR ACTIVISTS: CAMPAIGNING

One important way citizen groups can influence state lawmakers is by organizing a meeting to discuss tobacco legislation. That meeting is known as a delegation visit.

How to Set Up A Delegation Visit to a Lawmaker

1. *Draft letter/send packet to legislator two weeks before you want the meeting.* State what you want in the first sentence—a meeting to discuss a particular issue. Then, without going into mind-numbing detail, sketch the issue and what you want to talk about. Include some materials on the issue (such as fact sheets or appropriate news clips), no more than 2-3 pages.

2. *Follow-up letter with a phone call.* Call 3-4 days after you post the letter to make sure the letter arrived and to nail down a date, place and time.

3. *Pick a date, place and time convenient to your group, as well as the legislator.* During the legislative session (January-July), lawmakers are typically in Albany Monday-Wednesday. Try to set a Thursday, Friday or Saturday date.

4. *Think about whom you bring to the meeting.* Select people who the legislature will listen to. Constituents are key. So are people with power and people who know what they are talking about. Pick a diverse line-up.

5. *Schedule a role-play session a day or two before the meeting.* Your colleagues may think it's a waste of time, but this session helps focus the goal of the meeting and who takes each role at the meeting. It also forces the group to confront political, strategic and substantive questions before the meeting.

6. *The group should leave the role-play meeting knowing the role of each individual.* One person should facilitate. That person should introduce each advocate present. One person should ask the “pin down” question. Each person should know the parameters of their role before they enter the legislator's office.

7. *Prepare briefing materials for the legislator.* Always bring written materials that reinforce the oral message. 1-2 page briefing sheets work best. The more concise the materials, the greater the chance the legislator will read them.

8. *Make a confirmation call the day of the meeting.* Call ahead just to make sure the meeting is on the legislator's calendar. Confirm how many advocates are coming, the time and place of the meeting, directions to the place if necessary.

9. *Write a thank-you note after the meeting.* Writing a thank-you note serves at least two purposes. One, it is a courteous thing to do. Second, it gives you a chance to remind the legislator what s/he committed to do.

10 Tips on Lobbying

1. *Come prepared.* (1) Everyone should know what role s/he is playing; (2) Bring a set of materials for the legislator and extra for their staff; (3) Know how much time you have for the meeting; (4) Know the issues; (5) Know who are your allies and opponents.

2. *Identify everyone in the room.* It is important for the legislator to know exactly who you represent, where your organization is based and how many members your group has. Be sure to point out which advocates are constituents of the legislator.

3. *Say what you know.* Never lie. There is no faster way to lose your credibility than to give false or misleading information to a legislator. If you don't know the answer to a question, acknowledge it and offer to get the facts and get back to the legislator.

4. *Be specific and direct about what you want.* Remind yourself what the purpose of the meeting is. Do you want the legislator to sponsor a bill? Vote a certain way? Speak to the Assembly Speaker or Senate Majority Leader? Make sure you ask in a clear, direct manner. Only one person should ask the "pin down" question.

5. *Stay focused.* Legislators are good at getting advocates to engage on every topic except the one at hand. Forcefully, but politely, steer the conversation back to the issue you came to lobby on. Do not leave before you get answers to the key questions.

6. *Don't argue.* No matter what, stay cool. You don't win any points for passion by arguing with a legislator.

7. *Maintain control of the meeting.* Don't let the legislator start facilitating the meeting. You asked for the meeting. You are the one with the agenda.

8. *Briefing materials should be just that—brief.* Legislators and their staff glaze over thick packets of information. Legislators will read a well-put-together 1-page fact sheet, probably nothing much more than that.

9. *Anticipate the arguments of your opponent.* It is better to address your opponent's arguments early in the dialogue. Do so directly and openly, without a hint of defensiveness.

10. Follow-up and follow through. Send a thank-you note to the legislator. The note should memorialize the commitments you extracted in the meeting. Follow-up after an appropriate interval to find out if your legislator did what s/he committed to do. It's also important for you to follow through on commitments that you made.

Building Coalitions

A coalition is a group of organizations working to pursue common interests. Coalitions show the backing of a wide variety of groups on a particular issue. Coalitions pool the skills and resources of the groups involved, greatly increasing the resources that can be brought to bear on the issue. Coalitions can also limit activists' options. Often to pull together a coalition of diverse interests, the scope of the proposal may have to be limited to ensure broad appeal. Thus, most frequently coalitions are formed around a specific issue and disbanded when the issue is resolved.

Demonstrating broad support

Most coalitions start the same way: a proposal is circulated and groups sign on in support. The mechanism is often a letter to an important policymaker, a statement of principles or a piece of legislation. Using this approach helps ensure that signators know exactly what they've supported and who is the audience. It is a way to quickly develop support around a proposal and a tactic that is often used to develop a long list of supporters. Often it is easier to assemble a coalition in opposition to a proposal than in support of something.

Coordinating activities

Typically a smaller number of organizations meet frequently to plot strategy and to discuss options. These groups must ensure that the larger membership is made aware of tactical decisions and has the opportunity to have their voices heard on important decisions. Usually, one group takes the lead in pulling together regular meetings, drafting an agenda and keeping on top of commitments made. Without the energy of this one group, the activities of the coalition can grind to a halt.

Once broad support is established, a smaller group of organizations begin to meet to plan additional activities. Usually these activities include: further broadening the list of supporters; agreeing to use the unique skills of their organization to advance the agenda of the group, such as reaching out to policymakers that may be more responsive to the plea from a particular group; and agreeing to publicly stand together to advance an initiative (typically at a news conference).

Usually coalitions make decisions based on consensus. The danger is obvious: it is possible that important actions can often be stymied by a small number of groups. On the other hand, acting without regard to the concerns of these groups could endanger the coalition and its overall objectives. As a result, in some coali-

tions, a smaller group may adopt tactics that the larger group simply cannot endorse.

Lobbying together

The group of organizations that are most committed to an issue are those that pledge to lobby lawmakers together. This is usually the most important activity of any coalition. As mentioned earlier, it is critical that at least one organization take the role of coordinating these meetings—setting them up, bringing materials, letting the group know the schedule.

Making Hard Choices

In many ways, the hardest decision coalitions must make is if, and when, to compromise. Often individual organizations are in the coalition for different reasons, or have different policy “bottom lines.” Any mistrust that has built up in a coalition can prove fatal when real compromises are under consideration. Coalitions that meet frequently, make decisions in an open manner, and discuss potential compromises in advance, are most able to deal with compromises when the opportunities occur.

SAMPLE LETTER (YOUR LETTERHEAD HERE)

[date here]

Dear Community Leader:

We write to urge you to join our fight against Big Tobacco. As citizens of New York State we are concerned that our state is supporting an industry that sells a deadly and addictive product.

Should New York's pension funds be invested in companies that:

- Have enticed children to use an addictive and cancer-causing substance?
- Have violated New York's lobbying and ethics laws?
- Have lied to government regulators about the safety of their products?
- Deliberately advertised their products as safe when they knew it wasn't true?
- Make products that kill more people than car crashes and murders combined?
- Paid over \$250 billion to the states for costs to taxpayers for decades of losses?

Of course not! In 1996, New York State Comptroller Carl McCall took the first step by freezing pension investments in tobacco companies. But America has learned a lot more about Big Tobacco's lying and deceptive behaviors since then. Furthermore in 1999, Philip Morris and the Tobacco Institute were caught flagrantly violating New York's lobbying law and were punished. In fact, Philip Morris's top lobbyist was been banned from lobbying in New York State for three years.

New York State must do more to than merely freeze its investments—it should completely divest.

Tobacco is expected to be the leading cause of death worldwide in less than thirty years, with 70% of those deaths coming in the developing world. The tobacco industry has been universally condemned for its unethical practices and deceptive behavior.

In 2000, the Universities of Vermont, Michigan, and Washington and two of the nation's largest pension funds — the California State Teacher's Retirement System and the California Public Employees Retirement System — all decided to divest their tobacco holdings, joining dozens of other colleges, universities, churches, cities, counties, and states nationwide. These respected institutions provide ample precedent of both the ethical necessity and financial prudence of divestment. It's time for New York to join the tobacco divestment movement.

Thank you for your consideration of this serious issue. We look forward to your response.

Sincerely,
[Your Name Here]

SAMPLE COALITION RESOLUTION

RESOLUTION URGING THE STATE COMPTROLLER USE ALL OF HIS POWERS UNDER NEW YORK LAW TO DIVEST STATE PENSION FUNDS FROM COMPANIES THAT PRODUCE OR MARKET TOBACCO PRODUCTS

WHEREAS, the use of tobacco products constitutes a continuing threat to the health of the citizens of the state of New York; and

WHEREAS, the state of New York should not profit from the disease and death of thousands of people by making investments in companies with substantial interests in the production or marketing of tobacco products; and

WHEREAS, New York State's Attorney General in his 1997 lawsuit charged the tobacco industry with "conspiracy and racketeering in suppressing information about health and addiction, manipulating nicotine content, derailing development of 'safer' cigarettes, and marketing tobacco products to minors"; and

WHEREAS, the tobacco giant Philip Morris and the Tobacco Institute have been fined for flagrantly violating New York State's Lobbying Law, including a three-year ban on lobbying by Philip Morris's lead lobbyist; and

WHEREAS, investment of retirement funds in businesses that have substantial interests in the production of tobacco products perpetuates the sale of deadly and addictive products, and constitutes a disregard of the fact that continuing financial rewards from the sale of tobacco products depend on the daily recruitment of thousands of young users through advertising; and

WHEREAS, the investment in businesses that derive substantial revenues from the production or marketing of tobacco products is fiscally imprudent in light of the expanding governmental regulation of the sale of tobacco products, the growing litigation against tobacco related businesses and the increasing public awareness of the addictive and dangerous nature of tobacco products; and

WHEREAS, there is a growing movement by governmental bodies to direct their investments away from industries that represent a danger to public health and towards investments that provide social, economic, and environmental benefits to the community.

THEREFORE BE IT RESOLVED that we the undersigned urge the state comptroller to use all of his powers under New York law to divest state pension funds from companies that produce or market tobacco products.

NAME OF ORGANIZATION

DATE

NAME OF OFFICER

TITLE

ADDRESS

PHONE E-MAIL

FACT SHEETS YOU CAN USE: DIVESTMENT¹⁶³

Is divestment legal?

Divestment is legal as long as the fund's decision-makers (i.e., retirement board members) have preformed their fiduciary duty to ensure the soundness of the pension funds. They must determine how divestment would impact their fund and make a decision based on that assessment.

How does divestment improve public health?

Investments in the tobacco industry promote the use of tobacco products worldwide by ensuring the financial health of the industry and making available the resources it needs to market its deadly products. Investing in a tobacco company is like investing in any other—if the investment is to be profitable, the industry must sell its product. Unfortunately, in the United States, the industry's product kills more people than AIDS, alcohol, drug abuse, car crashes, murders and suicides combined.¹⁶⁴ Worldwide, tobacco is expected to be the leading cause of death in the next thirty years.¹⁶⁵ The American company Philip Morris sells most of its cigarettes overseas—including in some countries that don't have the same stringent regulation of tobacco as the United States.¹⁶⁶ Tobacco divestment separates investors from the tobacco industry's bad practices.

How will tobacco divestment make a difference?

Investments help the tobacco industry finance the promotion of its products. Tobacco investments also send the wrong message to the public, especially young people. On the one hand, local governments have spent millions of dollars to reduce tobacco use and have enacted laws to protect the public from the health hazards associated with tobacco products. On the other, the government invests in the tobacco industry promoting those same products. Divestment is just another step to expose an industry that promotes a product that, when used as directed, is addictive and harmful to health.

Will divesting from tobacco open a Pandora's box of political issues?

Whether or not a fund decides to divest from tobacco, other social issues (e.g., continued investments in alcohol companies or companies with poor environmental records) may be raised before the board of directors of a company (or in the case of New York State, the Comptroller). The board will have to decide on each issue it has chosen to address. Boards can adopt policies to guide their decision-making on current and future social issues.

Will divestment cost money?

Divestment transaction costs can include depressed stock prices due to a large sell-off, higher brokerage fees, and commissions. Some ways to minimize these costs

are for the fund to divest over time, or have the broker cross-trade the stock with other clients' portfolios.

The Florida State Retirement Trust Fund sold over \$800 million in tobacco holdings from its \$57 billion portfolio. This cost the fund \$1.75 million or 0.2 percent of the sale, a significant sum, but less than .0031 percent of the total portfolio.¹⁶⁷ Institutions across the United States have proceeded with divestment knowing there would be some small additional cost, but also knowing it was the right thing to do.

Will divestment hurt performance?

Because tobacco companies make up such a small percentage of an overall portfolio, divesting from tobacco stocks has very little financial significance to state pension funds.

Proponents of socially responsible investment maintain that funds that use screens to select companies with a high level of corporate responsibility actually improve their performance. Good corporate citizens are seen as having fewer liabilities. The tobacco industry certainly has not been a good corporate citizen and certainly has many liabilities.

Will selling tobacco holdings sacrifice the ability to introduce proxy votes and shareholder resolutions?

Unfortunately, the tobacco companies have been extremely resistant to change. Very few shareholder resolutions have been successful with tobacco companies. In fact, many institutions, such as Harvard University and the Massachusetts Public Retirement Investment Trust, have opted for divestment or restrictions on tobacco investment after their shareholder advocacy proved unsuccessful.¹⁶⁸

Will divestment increase investment risk?

Reducing the number of stocks in an index without replacing them increases the risk exposure in a fund. Of course, by replacing tobacco company stocks with similar large consumer goods companies, that risk can be dispersed.

What has New York State done in the past?

In 1996 New York State Comptroller McCall froze actively managed tobacco shares of the New York State Common Retirement Fund, while the New York State Teachers Retirement System under-weighted indexed tobacco by 25%.¹⁶⁹ In 1998 New York City froze all indexed tobacco in the New York City Employees Retirement System.¹⁷⁰

FACT SHEET:

PROTECTING NONSMOKERS FROM SECOND HAND SMOKE

Secondhand smoke is the third leading cause of preventable death in this country, killing 53,000 nonsmokers in the U.S. each year. For every eight smokers the tobacco industry kills, they take one nonsmoker with them. (*Glantz, S. A. & Parmley, W. AHA Circulation, 1991: 83:1-12; and, Taylor, A., Johnson, D. & Kazemi, H. AHA Circulation, 1992: 699-702*)

The Environmental Protection Agency (EPA) has classified secondhand smoke as a Group A carcinogen - a substance known to cause cancer in humans. There is no safe level of exposure for Group A toxins. (*EPA, Respiratory Health Effects of Passive Smoking, December 1992*)

Nicotine is not the only toxin nonsmokers are exposed to in secondhand smoke. Smoke from the burning end of a cigarette contains over 4,000 chemicals and 40 carcinogens including: formaldehyde, cyanide, arsenic, carbon monoxide, methane and benzene. (*Environmental Protection Agency, Indoor Air Facts: Environmental Tobacco Smoke, 1989*)

Restricting Smoking to the back of the bus is not enough. Both the EPA and the National Institute of Occupational Safety & Health recommend that to protect nonsmokers in enclosed areas, smoking must be eliminated or restricted to rooms that have a separate ventilation system which is exhausted directly outside. (*Environmental Protection Agency, Indoor Air Facts: Environmental Tobacco Smoke, June 1989; and National Institute for Occupational Safety and Health, Environmental Tobacco Smoke in the Workplace, June 1991*)

Smoke free restaurant ordinances do not affect restaurant sales. University of California researchers found that 100% smoke free restaurant ordinances had no effect on restaurant sales in 15 cities in California and Colorado. Researchers analyzed sales tax data, comparing restaurant sales to total retail sales in the city, and restaurant sales in comparison cities. The study included a cumulative 102 quarters of experience from cities in urban, suburban and rural settings. (*Glantz and Smith, "The Effect of Ordinances Requiring Smokefree Restaurants on Restaurant Sales," American Journal of Public Health 1994; 84:1081-1085*)

Researchers at Roswell Park Cancer Institute found New York City restaurant revenue increased relative to the rest of the state after the City's smokefree restaurant law took effect. Three out of four restaurants adjusted to the law without spending any money. Public support for the law is overwhelming. (*Hyland, A. and Cummings, K.M., "The Economic Consequences of New York City's Smoke-Free Air Act: Preliminary Analysis"*)

Compliance with workplace smoking policies is high. A Bureau of National Affairs-Society for Human Resource Management survey found that seven out of 10 companies with smoking policies indicated that employees “rarely” (50%) or “never” (20%) violate smoking rules. (*The Bureau of National Affairs, “Smoking in the Workplace: 1991,” Bulletin to Management, SHRM-BNA Survey No. 55, August 29, 1991*)

There is a growing trend to eliminate smoking in the workplace. A 1992 survey found that 59% of worksites that employed more than 50 workers had a formal policy either banning smoking or restricting it to ventilated areas. A 1991 survey found 34% of companies had eliminated smoking in the workplace, compared to 7% in 1987, and 2% in 1986. (*Hammond, S.K., et al., “Occupational Exposure to Environmental Tobacco Smoke,” Journal of the American Medical Association, 1995: 956-960; The Bureau of National Affairs, “Smoking in the Workplace: 1991,” Bulletin to Management, SHRM-BNA Survey No. 55, August 29, 1991*)

FACT SHEET: GENERAL TOBACCO INFORMATION

Tobacco Use In the United States

Tobacco is a highly addictive drug. Below is the percent of those ever using substances who became addicted:

- Alcohol—15.4%
- Cocaine—16.7%
- Heroin—23.1%
- Tobacco—31.9%¹⁷¹

Tobacco Use In The USA¹⁷²

- High school students who are current (past month) smokers: 34.8%
- High school males who currently use smokeless tobacco: 14%
- Kids (under 18) who become new regular smokers each day: over 3,000
- Kids exposed to secondhand smoke at home: 15.5 million
- Packs of cigarettes consumed by kids each year: 900 million
- (producing tobacco company revenues of \$1.5 billion per year)
- Adults in the USA who smoke: 24.1% or 47 million (Men: 26.4%, Women: 22.0%)

Of the roughly 3,000 kids who become new regular smokers every day, almost a third will ultimately die from tobacco-related causes unless significant changes are made to current smoking and disease trends.¹⁷³

Deaths In The USA From Tobacco Use

- People who die each year from smoking: over 400,000
- Kids under 18 alive today who will ultimately die from tobacco use (if current trends continue): over 5,000,000
- Nearly 90 percent of all lung cancer cases, one-third of all cancer deaths and 1 in 5 deaths from heart disease are tobacco related.¹⁷⁴

Smoking kills more people than alcohol, AIDS, car accidents, illegal drugs, murders, and suicides combined — and thousands more die from spit tobacco use, smoking-caused fires (1,000+ deaths/year) and secondhand smoke (40,000+ deaths). Millions more live with serious tobacco-related diseases and other health problems.¹⁷⁵

Tobacco-Related Monetary Costs In The USA

Total annual public and private health care expenditures caused by tobacco use: \$89 billion¹⁷⁶

- Annual Federal and state government Medicaid payments directly caused by tobacco use: \$17.0 billion [Federal share: \$9.7 billion per year. States share: \$7.3 billion];
- Federal government Medicare expenditures each year attributable to tobacco use: \$20.5 billion;
- Other federal government tobacco-caused healthcare costs (e.g. through Veterans Administration health care): \$8 billion.
- Additional annual expenditures for health and developmental problems of infants caused by mothers smoking or being exposed to second-hand smoke during pregnancy: \$1.4 to \$4.0 billion.
- Additional annual expenditures through Social Security Survivors Insurance for kids who have lost one or both parents through smoking-caused deaths: \$2.1 billion.
- Residential and commercial property losses from fires caused by cigarettes each year: \$500 million.
- Annual tobacco-related cleaning and maintenance (commercial only): \$4 billion.
- Yearly state and federal tax burden caused by tobacco-caused costs: at least \$45 billion.

Additional tobacco health care costs caused by secondhand smoke total in the billions of dollars, but no specific dollar-amount estimates are currently available. A major indirect cost from tobacco use comes from lost or reduced work productivity (e.g., from work absences, on-the-job performance declines, and early termination of employment caused by tobacco-related health problems) which totals at least \$40 billion per year.

Tobacco Industry Advertising & Political Influence¹⁷⁷

- Annual tobacco industry advertising and promotion expenditures nationwide: more than \$8.4 billion. Research studies have found that kids are three times as sensitive to tobacco advertising than adults, as well as more likely to be influenced to smoke by cigarette marketing than by peer pressure; and that a third of underage experimentation with smoking is attributable to tobacco company advertising and promotion.
- Annual tobacco industry contributions to federal candidates and political parties: Over \$5 million.
- Tobacco Industry expenditures lobbying Congress during 1998: Over \$65 million.
- Additional tobacco industry expenditures in 1998 to influence state ballot questions and for a media campaign against the McCain tobacco control bill: Over \$70 million.

Tobacco Use In New York State¹⁷⁸

- 30,700 New Yorkers die annually from tobacco-related illnesses.
- 87,000 kids (minors under the age of 18) start smoking each year.
- 377,000 kids alive today will die from tobacco use.
- \$6.6 billion is spent annually on health care to treat individuals sick from tobacco exposure.

The tobacco industry has long been generous in its campaign contributions to friends in the state legislature. Between 1983 and 1998, the tobacco industry reported over \$6.7 million in campaign contributions and lobbying expenses in New York. Lobbying costs at the state level only comprised \$5.4 million of the total, and almost \$1 million went toward political parties; most of it contributed after 1995.¹⁷⁹

COMPARISON OF STATE AND SELECTED LOCAL SMOKING RESTRICTIONS AS OF 1/4/01

Worksites

New York State Clean Indoor Air Act (Article 13E amended) All employees guaranteed a smokefree work area. Common work areas must be smokefree. Smokefree work areas must be separate and enclosed, but separate ventilation of smoking areas not required. Law applies to all employers, including state and local government.

Erie County, Chautauqua County, Genesee County, Livingston County, Monroe County, Nassau County, Putnam County, Wayne County Smoking permitted only in separately ventilated Smoking Room. Law applies to all employers, including state and local government.

New York City Smoking permitted only in separately ventilated Smoking Room and in enclosed private offices occupied by no more than three people. Law applies to all employers, including state and local government.

Public Facilities

New York State Clean Indoor Air Act (Article 13E amended) Smoking prohibited at all times in auditoriums, elevators, food stores, gymnasiums, in all public transportation and on school grounds. Smoking areas (separate ventilation not required) may be designated in retail stores, commercial establishments, banks, theaters, museums, etc.

Erie County, Nassau County Smoking prohibited at all times in auditoriums, elevators, retail and food stores, banks, theaters, museums, laundromats, gymnasiums, all county and local government public assembly rooms, hospitals and medical facilities, common areas of apartment buildings and multiple unit residential buildings, lobbies, hallways and common areas in commercial buildings, government and municipal buildings, facilities and vehicles, places of worship, polling places, in all public transportation and on school grounds.

Genesee County, Monroe County, Livingston County, Wayne County All areas listed under Erie County plus correction facilities, sports arenas, spectator facilities and convention halls.

New York City Smoking prohibited at all times in auditoriums, elevators, retail stores accommodating more than 150 people, public transit, libraries, museums, galleries, hospitals and health care facilities, gymnasiums, health clubs, zoos, play-

grounds, child care facilities, places of public assembly, and outdoor performances and sports arenas where seating is assigned. Smoking prohibited except in separately ventilated smoking rooms in public transit waiting areas, motion picture and performance theaters, colleges and universities and convention halls.

Restaurants

New York State Clean Indoor Air Act (Article 13E amended) Establishments seating more than 50 must have a contiguous nonsmoking section sufficient to meet customer demand. If 70% of seating capacity is designated nonsmoking, then demand will have been met.

Suffolk County Smoking prohibited in all establishments except in a separately ventilated room.

Putnam County Smoking prohibited in all establishments except in a separately ventilated bar area or in a separately ventilated room.

Erie County, Genesee County, Livingston County, Monroe County, Wayne County, Westchester County Smoking prohibited in all establishments except in a separately ventilated smoking room or in a defined bar area.

Nassau County Smoking prohibited in all establishments with more than 50 seats, except in a separately ventilated smoking room or in a defined bar area.

New York City Smoking prohibited in establishments seating more than 35 except in a separately ventilated smoking room or in a defined bar area. Smoking prohibited in outdoor dining areas except that a contiguous area no greater than 25% of outdoor seating capacity may be designated for smoking.

Chautauqua County Smoking permitted only in bar area and no more than 20% of the seating area of all food service establishments.

Miscellaneous

New York State Clean Indoor Air Act (Article 13E amended) A contiguous nonsmoking area sufficient to meet demand must be provided in bingo halls. In bowling establishments, smoking is prohibited in bowler settee area. At least 25% of the concourse must be nonsmoking.

Erie County In bingo halls, smoking prohibited except in separately ventilated smoking room not seating more than 50% of total capacity. In bowling establish-

ments, smoking permitted when bowling is undertaken exclusively by adults; minors must be provided a separate smoke free enclosed area.

Livingston County In bingo halls, 50% of total capacity must be designated non-smoking. In bowling centers, smoking prohibited in settee area and during youth leagues or within one hour of the commencement of youth leagues.

Genesee County, Monroe County, Wayne County In bingo halls, smoking prohibited except in separately ventilated smoking room not seating more than 50% of total capacity. Smoking prohibited in bowling establishments except in bar area.

Putnam County In bingo halls, smoking prohibited except in separately ventilated smoking room or in bar area. Smoking prohibited in bowling establishments except in separately ventilated bar area.

CALIFORNIA CLEAN AIR LAW (State Labor Code Sections 6404 & 6404.5)

Smoking is prohibited in all indoor places of employment, including taverns, food service establishments, gaming clubs, etc. Employers may provide separately enclosed and ventilated break rooms for smokers, provided there are sufficient nonsmoking breakrooms to accommodate nonsmokers. The only exceptions are:

- **In a hotel or motel** the following areas may be exempted: 65% of the guest room accommodations, a designated area of the lobby, and meeting or banquet rooms while food or beverage service is *not* taking place, or when the room is being used for exhibit purposes.
- **Tobacco shops.**
- **Cabs of motor-trucks** if no nonsmoking employee is present.
- **Warehouse Facilities** greater than 100,000 square feet and with 20 or fewer full-time employees.
- **Long-term health care facilities** may have patient smoking areas.
- **Private residences**, except when licensed as family day care homes.
- **Employers with five or fewer employees** may permit smoking in a separately enclosed and ventilated work area provided that all employees who enter the work area consent to permit smoking, and the smoking area is not accessible to minors.

Any area not defined as a place of employment is subject to local regulation of smoking.

RESOURCE: NEW YORK STATE'S LOBBYING LAW

New York State requires reporting of lobbying activities to the New York Temporary State Commission on Lobbying. New York's law applies to lobbyists and to clients or employers of lobbyists, who in any calendar year either reasonably anticipate expending, incurring, or receiving, or actually expend, incur, or receive, more than \$2,000 of combined reportable compensation and expenses for lobbying activities. In other words, unless you are being paid—or expect to be paid or expend—\$2,000 or more in a calendar year advocating an issue, you probably don't have to worry about this requirement (although it does make sense to check it out).

The term "lobbying" means attempts to influence the passage or defeat of legislation; or the approval or disapproval of any legislation by the Governor; or the adoption or rejection of any rule or regulation having the force and effect of law by a state agency; or the outcome of any rate-making proceeding by a state agency.

Starting on April 1, 2002, New York's oversight of lobbying extends to local governments as well. If you want to get more information about the law, or if it may apply to you, contact the Lobbying Commission at 518-474-7126, or on the web at www.nylobby.state.ny.us.

RESOURCE: NEW YORK STATE'S CAMPAIGN FINANCE SYSTEM

If you want to get information about the campaign contributions to a state election official, the place to get that information is the New York State Board of Elections. Starting in 1999, New York State began to require the mandatory electronic financial disclosure by political committees and candidates registered with the State Board of Elections. Availability of disclosure reports on the Internet was also mandated. The public can view, or download, this database on the Internet. Interested persons can access the database from this Home Page or from public-access terminals at the State Board. Financial disclosure statements filed prior to the 1999 July Periodic report may still be viewed in hard copy at the State Board. If you want to view this database, go to the web at www.elections.state.ny.us/finance/fdis-menu.htm, or go to the general web address at www.elections.state.ny.us and click on the button for "campaign finance."

RESOURCE: SEARCHING TOBACCO INDUSTRY DOCUMENTS— BASIC INFORMATION, STEPS AND HINTS¹⁸⁰

(From the 11th World Conference on Tobacco OR Health)

As part of its settlement agreements with a number of U.S. states, the tobacco industry was forced to disclose millions of pages of internal documents, a large percentage of which are now publicly available on the World Wide Web. These docu-

ments have provided important revelations—from the tobacco industry’s role in facilitating cigarette smuggling to industry efforts to enhance the addictiveness of cigarettes—that have helped spur legislative and regulatory action. The continuing challenge for tobacco control advocates is how to search through these documents, the most relevant documents for legislative and regulatory efforts and then use them to good effect.

Document Web Sites for U.S.-based Tobacco Companies

- Brown & Williamson (the U.S. subsidiary of British American Tobacco)
<http://www.bw.aalatg.com/>
- Council for Tobacco Research <http://www.ctr-usa.org/ctr/>
- Lorillard Tobacco Company <http://www.lorillarddocs.com/>
- Minnesota Blue Cross/Blue Shield Tobacco Litigation
<http://www.cdc.gov/tobacco/industrydocs/mnbluecross.htm>
- R.J. Reynolds Tobacco Company <http://www.rjrtdocs.com>
- Philip Morris <http://www.pmdocs.com>
- The Tobacco Institute <http://www.tobaccoinstitute.com>
- University of California at San Francisco’s Brown & Williamson Collection
<http://galen.library.ucsf.edu/tobacco/bw.html>
- U.S. Committee on Commerce Document Website
<http://www.house.gov/commerce/TobaccoDocs/documents.html>
- <http://www.tobacodocuments.org> A meta-site that allows you to search multiple sites at once as well as look at various collections that researchers have compiled.
- <http://www.ash.org.uk/links.industry.html> Links to document sites and compilations of quotes from industry documents

Getting Started

For beginners, the Philip Morris site is one of the easiest to use and contains a large number of useful documents. Becoming proficient with this site first will help advocates better understand the more difficult sites.

How to begin:

The best way to explain how to use the document sites is to start with an example. Let’s say you want to know about Philip Morris’s marketing plans in China. If you go to the Philip Morris document site, <http://www.pmdocs.com> and type the word “China” as your search criteria, you will find this search returns 2,231 documents—clearly too many to look through. To narrow your search further, add the phrase “and marketing” to the search criteria. A search of “China and marketing” returns 108 documents. This is a much better, but still unwieldy number. Let’s say you first want to look at sports

sponsorships. Add the word “sports” to the search criteria, so it reads “China and marketing and sports.” This search will return 11 documents, including a 1991 marketing plan for Asia (<http://www.pmdocs.com/getallimg.asp?DOCID=2504051532/1658>) and a 1994 plan to boost sponsorship of national and regional football in Asia (<http://www.pmdocs.com/getallimg.asp?DOCID+2504034844/4875>).

Bear in mind that the search engines on the sites are only able to search the indices of the documents, rather than entire text of the document. Thus, those documents that contain the term “China” in the text, but not in the index, will not appear in a search for that term.

Search Tips and Tactics

When searching, keep a pad of paper handy to record code names of special projects, interesting terms and other words that could aid in later searches.

Keywords:

In addition to specific search terms, keep these generic keywords in mind:

- “Memo” (written correspondence between company employees)
- “Plan” (can help you find countrywide marketing plans)
- “Letter” (written correspondence, usually with people outside the company)
- “Publication” (articles published in journals or other periodicals)
- “Article” (usually a newspaper or magazine article)
- “Telex” (the industry’s word for e-mail as well as overseas telexes)
- “Confidential” To help find the most confidential information, you can also try adding the terms “attorney work product” or just “work product” to your search criteria. Some of the most sensitive documents were given this designation in an attempt to shield them from the public.

As you will find out when you start searching, the companies use code names and acronyms for many of their campaigns, internal studies, and research projects. Examples include “Project 16,” “Operation Downunder” and “FUBYAS” (an R.J. Reynolds acronym for “First Unbranded Young Adult Smokers”). These code names and acronyms can help you zero in on a particular project while excluding many extraneous documents.

The courts have placed a unique “Bates Number” on each and every page of documents. These identifying numbers are stamped on the page, usually vertically, on the lower left corner of each document. Record Bates numbers of important documents to use as references and make them easier to find again.

Note the names and titles of the employees on the documents that you find. Often, one executive is put in charge of a company’s political and/or marketing activities in a certain part of the world. Searching for documents authored by this person can reveal a cache of information about how the industry acted in certain countries.

Also these executives usually turned in regular reports to their headquarters about their divisional activities. These reports can be a tremendous source of information.

Sorting Documents for Later Use

The Philip Morris, Lorillard, and Tobacco Institute sites all allow you to “bookmark” documents. Any documents that you think are particularly important or that you might need in the future should be bookmarked. To do this, click the “view all pages” button, and then in your browser click the “add bookmarks” button. If you are using Internet Explorer it will prompt you to type in an identifying phrase into the “bookmark properties,” whereas with Netscape you will have to go into the “edit bookmarks” section to type in the phrase. If you do not add these annotations, your bookmarks will just say “image viewer” and will not reflect the contents of the documents itself, or even the title.

Where to Go for Further Help

The search instructions posted at each site contain basic search information that every document researcher should read before searching. These contain vital instructions such as how to properly format search terms. Always read these instructions before proceeding! Consult the examples offered as your first step in addressing problems.

You may also be able to get assistance from other experienced researchers by joining the tobacco industry document discussion lists “doc-talk” and “intldoc-talk” on the Web. To sign up for these lists, go to <http://www.smokescreen.org>.

Frequently Asked Questions

Q. How do I find a document if I only have the Bates number?

A. If, after typing in the Bates number on the appropriate site, you get the response “no records match your search”, you’ll need to try substituting a wildcard symbol (*) for the last digit in the Bates number. If that doesn’t work, try substituting two wildcards for the last two digits of the number. The idea is to find numbers that are very close to the one you’re looking for. Also, some sites respond to entering the Bates number of the starting page instead of the number for the entire document.

Q. Do all the sites respond to narrowing searches by using the word “and”?

A. No, on some sites you have to use a symbol (such as the “+” sign) to indicate the search term “and.” Read the search directions on each site to find out whether words or symbols are used on each site for terms such as “and” or “or.”

Q. How should I search for phrases, such as Philip Morris? Do I type in Philip Morris or Philip and Morris?

A. To find every occurrence of the company name Philip Morris you would type it

exactly the way the name of the company appears. Likewise, if you want to find every occurrence of the two-word phrase political strategy, type the two words together just like that. However, if you want to find every document with both the words political and strategy contained somewhere in the description, but not necessarily together, enter political and strategy as the search criteria.

Q. What about my privacy? Will the tobacco companies know it's me searching?

A. Visiting some of the sites will result in markers (or "cookies") being imbedded into your browser, which tells the companies where people go on the site and what they view. Currently there is no way of linking this information back to an individual, but cookies can be set up to identify the internet service provider you are using. All browsers allow you to either block cookies or delete them after each session.

Q. Is there any way to copy the text of a document into my word processor?

A. No, outside of retyping it verbatim. You should print documents directly from the site while you are online. For those sites that allow you to view and print documents in PDF format, you can save the document to your computer by clicking the "save" icon. It is possible to use a scanner to scan in the text from a printout, although the character recognition software is still somewhat crude.

Q. I've tried searching for a particular word or phrase but get nothing. How can I have a more productive search?

A. Be creative. Think of every possible phrase that could possibly turn up something on the subject for which you are searching. If you're looking for information about China, also try phrases such as "Far East," or "Asia." Most important, read carefully what you do find. The more you read, the more terms you will discover that will return a productive search. Take note of the authors' names, the jargon and acronyms that the companies use to refer to particular regions, projects, marketing techniques, etc. and then start searching for documents with those words and names.

Other Web Links and Resources

www.acoem.org/paprguid/papers/etspaper.html Epidemiological Basis for an Occupational and Environmental Policy on Environmental Tobacco Smoke: Read the position statement of the American College of Occupational and Environmental Medicine (ACOEM).

www.ash.org Action on Smoking and Health: Legal-action antismoking organization working to protect the rights of nonsmokers and others concerned about smoking.

www.ama-assn.org American Medical Association's Smokeless State's Program:

Builds coalitions in states across the country advocating for tobacco prevention and control.

www.badvertising.org BADvertising Institute: Creative and thought-provoking spoofs on tobacco ads.

www.bigtabaccosucks.org The tools and strategies students need to run tobacco divestment campaigns on their campuses. Includes information about the tobacco industries effects on labor, the environment, and human rights around the world.

www.cancer.org American Cancer Society: The nationwide community-based voluntary health organization dedicated to eliminating cancer as a major health problem through research, education, advocacy, and service.

www.cdc.gov/tobacco/index.htm The U.S. Centers for Disease Control Tobacco Information and Prevention Source Page.

www.cftfk.org Campaign for Tobacco Free Kids: The country's largest non-government initiative ever launched to protect children from tobacco addiction and second-hand smoke.

www.corpwatch.org An in depth look at tobacco and globalization, and the tobacco industry's attempts to greenwash itself.

www.emphysema.net/my.html Cigarette Anyone?: Read first-hand accounts of the health effects of smoking from members of EFFORTS, a non-profit group of people working to facilitate education, treatment, and, especially, a cure for Emphysema and related lung diseases. Many of the contributors began smoking as kids.

www.fda.gov/opacp/campaigns/tobacco The U.S. Food and Drug Administration's Tobacco Control Page: Information about FDA tobacco regulations, and what retailers and consumers can do to help reduce tobacco use by young people.

www.getoutraged.com Get Outraged: Sponsored by the Massachusetts Tobacco Control Program, this site includes information from formerly secret tobacco industry documents as well as suggestions for how to get involved.

www.infact.org INFACT's Tobacco Industry Campaign: Lists household products made by the tobacco companies. Great boycotting information!

www.legacy.library.ucsf.edu The UCSF library holds the Legacy Tobacco Document Library, a collection of more than 20 million pages of previously secret documents from tobacco industry files.

www.library.ucsf.edu/tobacco/state.html Reports on Tobacco Industry State Political Activities: In-depth reports on how tobacco industry money has influenced tobacco policy in various states.

www.lungusa.org American Lung Association: Information on lung health, tobacco control and advocacy

www.nobutts.ucsd.edu California Smokers' Helpline: A free service that helps people quit smoking, operated by the University of California, San Diego and funded by the California Department of Health Services.

www.no-smoke.org Americans for Nonsmokers' Rights: The only national lobbying organization dedicated to nonsmokers' rights. ANR pursues an action-oriented program of policy and legislation.

www.nyhpa.org New York Health Plan Association (HPA): Represents 31 managed care plans throughout New York serving nearly six million New Yorkers. The site provides information on all health plans in New York, information for consumers about managed care, information about the Child Health Plus program, HPA positions on policy issues, links to state government and other resources, and more.

www.nypirg.org This site contains useful activist information.

www.quitsmokingsupport.com Quitsmokingsupport.com: If you need help quitting smoking or know someone who wants to quit, this page is a great resource. Includes support groups, aids, fact sheets, organizations, and other cessation tools.

www.smokescreen.org/list/det.cfm Smokescreen Action Network: Write letters to policy makers, access state-specific resources.

www.smokefreeair.org Smokefree Educational Services: Provides smokefree advocates an opportunity to write letters to key Federal, state and local decision-makers.

www.tobaccofree.ny.org The Center for a Tobacco Free New York provides the latest authoritative information related to tobacco use, prevention, and control in New York State.

www.tobaccoarchive.org Tobacco Archives: Provides access to tobacco industry internal documents subpoenaed during lawsuits against the tobacco companies.

www.tobacco.org Tobacco BBS' Best Source for Tobacco-Related News

Letter from Coalition Members to Department of Health Commissioner

The following is a letter from the American Cancer Society, American Heart Association, American Lung Association, Center for a Tobacco Free New York, League of Women Voters/NYS, and the New York Public Interest Research Group to Commissioner Antonia M. Novello, M.D of the New York State Department of Health, dated September 28, 2001:

Dear Dr. Novello:

We recognize that you and others in the Department of Health must deal with numerous pressing issues arising from the September 11 tragedy, and that these issues must for some time be your first priority. But in the spirit of what the President and governor are encouraging all of us to do—get back to work—we write to again express our serious concerns regarding implementation of the Department of Health's Tobacco Use Prevention and Control Program.

Tobacco continues to be the leading cause of chronic disease and death in New York, and thousands of children begin smoking every year. It is important to everyone concerned with reducing tobacco's toll that the most current research findings be used in designing and implementing the program, and that the Department be able to provide to the Governor and Legislature objective evidence of the program's effectiveness when it faces renewal in 2003.

There are several specific areas that we believe require immediate attention. These problems are: 1) the failure to conduct an independent evaluation of the program; 2) the slow pace of program implementation; 3) an ineffective media campaign; 4) a mistaken program focus on individual behavior change; 5) lack of support for policy initiatives to reduce exposure to second hand smoke. Each is addressed briefly below.

Failure to conduct an independent evaluation Section 1399-jj of the Public Health Law, as amended by the Health Care Reform Act of 2000, directs that the Department of Health "shall conduct an independent evaluation of the statewide tobacco use prevention and control program....Such evaluation shall be provided to the governor, the majority leader of the senate and the speaker of the assembly on or before September first, two thousand one, and annually on or before such date thereafter." To our knowl-

edge, this independent evaluation has not been conducted.

Lagging program implementation The failure to meet this statutory deadline is, we regret, symptomatic of the Department's Tobacco Use Prevention and Control Program to date. While some potentially good programs have been funded, there is little evidence, nearly two years after the program was created in December 1999, that the program has had any impact on youth or adult smoking rates or that many New Yorkers are even aware a program exists.

We understand it takes time to get a large program off the ground, even, as in this case, when an infrastructure already exists. But other state programs, most notably Florida's and Minnesota's, generated and objectively demonstrated significant impacts on teen tobacco use rates in less time.

Ineffective media campaign In our previous letter, we urged that the program media campaign focus on three themes that have proven effective in other states: 1) Environmental Tobacco Smoke, 2) Tobacco Industry responsibility for tobacco addiction and death, and 3) graphic, personalized depictions of the health effects of tobacco use. We urged that the campaign be aggressive and hard-hitting, giving people in the community support for countering the influence of the tobacco industry. A few of the TV messages the Department has borrowed from other states reflect the third theme, but, other than one billboard pointing out the dangers of ETS to children, the other message themes have not been visible, although they have been the backbone of other state campaigns and are available at low cost.

We urged that materials and media reflect New York's diversity of cultures and languages. So far, we see only English-language materials.

And we still do not have any media messages aimed at children.

Targeting individual behavior, not social norms The fundamental approach of the tobacco use prevention and control program should be to change social norms regarding the use and marketing of tobacco products. Successful state programs have focused on denormalizing tobacco use for everyone. The state's program should not, as it has to date, target individual behavior change, nor should it direct the bulk of resources to programs that target youth. Children are indoctrinated into, and inherit, the norms of their community. Youth smoking will decline as more adults stop smoking and tobacco control policies, including youth access restrictions, higher taxes, limits on tobacco product marketing and clean air policies, take effect.

Silence on clean indoor air measures It is important that all of us concerned with

reducing tobacco use take every opportunity to support effective public policy measures that will help reduce the risk imposed by smoking. Two bills in the Legislature, S.3993a (Spano)/A.7743a (Paulin), and A.228b (Grannis)/S.4989 (Fuschillo), would greatly expand protection from second-hand smoke for all New Yorkers. Your department's publications clearly state the threat that second-hand smoke poses to New Yorkers. We call upon you to endorse these measures, which will reduce that threat, and to urge the Governor to do so as well.

It has been nearly a year since representatives of concerned public health organizations have met with your staff to discuss these and other matters around the implementation of the Department's program. We would appreciate an opportunity to meet again with you as soon as the press of other business allows in order that we may discuss our misgivings regarding the course of this program.

The letter is signed by Michael Bopp, American Cancer Society, Eastern Division; Mary Craig, American Heart Association; Timothy Nichols, American Lung Association; Russell Sciandra, Center for a Tobacco Free New York; Barbara Bartoletti, League of Women Voters/NYS and Blair Horner, New York Public Interest Research Group.

Glossary of Investment Terms¹⁸¹

Active Management A money-management approach based on informed, independent investment judgment, as opposed to passive management (indexing) which seeks to match performance of the overall market (or some part of it) by mirroring its composition or by being broadly diversified.

Benchmark A standard, used for comparison.

Beneficiary An individual, institution, trustee, or estate that receives, or may become eligible to receive, benefits under a will, insurance policy, retirement plan, annuity, trust, or other contract.

Bond A debt instrument issued for a period of more than one year with the purpose of raising capital by borrowing. A bond is generally a promise to repay the principal along with interest on a specified date (maturity).

Diversification A portfolio strategy designed to reduce exposure to risk by combining a variety of stocks, bonds, and real estate, which are unlikely to all move in the same direction.

Divest To sell off.

Due Diligence The process of investigation, performed by investors, into the details of a potential investment, such as an examination of operations and management and the verification of materials facts.

Fiduciary An individual, corporation or association holding assets for another party, often with legal authority and duty to make decisions regarding financial matters on behalf of another party.

Index A benchmark against which financial or economic performance is measured, such as the S&P 500.

Index Fund A passively managed mutual fund that tries to mirror the performance of a specific index, such as the S&P 500. Since portfolio decisions are automatic and transactions are infrequent, expenses tend to be lower than those of actively managed funds.

Passive management A money management strategy that seeks to match the return and risk characteristics of a market segment or index, by mirroring its composition.

Performance The results of activities of an organization or investment over a given period of time.

Return The annual return on an investment, expressed as a percentage of the total amount invested.

Risk The quantifiable likelihood of loss or less-than-expected returns.

Shareholder One who owns shares of a stock in a corporation or mutual fund. For corporations, along with the ownership comes a right to declared dividends and the right to vote on certain company matters, including the board of directors.

Social Responsibility The idea that businesses should not function amorally, but instead should contribute to the welfare of communities.

Stock An instrument that signifies an ownership position, or equity, in a corporation, and represents a claim on its proportionate share in the corporation's assets and profits. Also called equities or equity securities or corporate stock.

Trustee An individual or organization which holds or manages and invests assets for the benefit of another.

ENDNOTES

- 1 INFACT, *Making a Killing: Philip Morris, Kraft and Global Tobacco Addiction*, video, 2001. Comments by former Minnesota Attorney General Hubert Humphrey III.
- 2 Hill & Knowlton, Forwarding Memorandum (1953). Minnesota Trial Exhibit 18904. From Campaign for Tobacco-Free Kids. “The Cigarette Companies and “Safer” Cigarettes.”
- 3 Hurt, R., Channing, R., [Prying Open the Door to the Tobacco Industry’s Secrets About Nicotine](#), *Journal of the American Medical Association*, 10/7/98, Vol.280, No.13, p.1173.
- 4 Burnt Offerings, *Not A Cough in A Carload*, www.wclynx.com/burntofferings/adsmedical.html?
- 5 Leavell, N.R. & Cummings, K.M., *The Low-Tar Lie*, Erie Niagara Tobacco-Free Coalition (June 1999). From Campaign for Tobacco-Free Kids “The Cigarette Companies and “Safer” Cigarettes.”
- 6 Abrams, T. et al. for Jones, Day, Reavis & Pogue, undated attorney product for Brown & Williamson. B&W document 681879254/715. From Campaign for Tobacco-Free Kids. “The Cigarette Companies and “Safer” Cigarettes.”
- 7 U.S. Health and Human Services, “Smoking and Health: Report of the Advisory Committee to the Surgeon General.”
- 8 Hurt, R., Channing, R., [Prying Open the Door to the Tobacco Industry’s Secrets About Nicotine](#), *Journal of the American Medical Association*, 10/7/98, Vol.280, No.13, p. 1174.
- 9 *Ibid.*, p.1174.
- 10 Philip Morris Internal Document, www.pmdocs.com document number 1003287036-48.
- 11 Philip Morris Internal Document, www.pmdocs.com, document number 1003291922/1939.
- 12 Hurt, R., Channing, R., [Prying Open the Door to the Tobacco Industry’s Secrets About Nicotine](#), *Journal of the American Medical Association*, 10/7/98, Vol.280, No.13, p.1175.
- 13 *Ibid.*, pp. 1175, 1176.
- 14 <http://www.house.gov/waxman/tobacco/leg/hearings/highlights/highlights.html>
- 15 Sanford, R.A., Internal Memorandum to E.E. Kohnhorst, Research Development and Engineering (June 28, 1985), Minnesota Trial Exhibit 13250. From the Campaign for Tobacco-Free Kids. “The Cigarette Companies and “Safer” Cigarettes.”
- 16 [Carlton Campaign Boasts of Tar Rating](#), *Wall Street Journal*, 2/25/90. From the Campaign for Tobacco-Free Kids. “The Cigarette Companies and “Safer” Cigarettes.”
- 17 Townsend, D., RJR V-P of Product Development and Assessment, Minnesota trial testimony (April 2, 1998). From Campaign for Tobacco-Free Kids. “The

- Cigarette Companies and “Safer” Cigarettes.”
- 18 U.S. Health and Human Services, “Smoking and Health: Report of the Advisory Committee to the Surgeon General.”
 - 19 Glantz S., *The Cigarette Papers*, University of California Press, 1996 p. xiv.
 - 20 Throughout this publication, “children” and “kids” refer to minors under the age of 18.
 - 21 Philip Morris Internal Document, www.pmdocs.com, document number 1002600012.
 - 22 Philip Morris Internal Document, www.pmdocs.com document number 1000024921/4927.
 - 23 Philip Morris Internal Document, www.pmdocs.com document number 1000390803/0855.
 - 24 Ibid.
 - 25 Philip Morris Internal Document, www.pmdocs.com document number 87051949, March 8, 1988. From Campaign for Tobacco-Free Kids. “Philip Morris - A History of Double Talk.”
 - 26 *Minneapolis-St. Paul Tribune*, 3/4/98.
 - 27 Hilts, Philip, *Smokescreen: The Truth Behind The Tobacco Industry Cover-Up*, Addison-Wesley, 1996. p. 98.
 - 28 Tobacco Institute, “Tobacco Smoke and the Nonsmoker: Scientific Integrity at the Crossroads,” Washington, DC, 1986, cited in Deborah Barnes et al., *Environmental Tobacco Smoke: The Brown and Williamson documents*, 274(3) *Journal of the American Medical Association* 248, 250 (1995).
 - 29 Public Health Law, Chapter 244 of the Laws of 1989.
 - 30 Philip Morris, Internal Document, www.pmdocs.com, document number 2041183752
 - 31 Philip Morris, Internal Document, www.pmdocs.com, document number 2047296451/6459
 - 32 Philip Morris, Internal Document, www.pmdocs.com, document number 2046988148.
 - 33 Ibid.
 - 34 Ibid.
 - 35 Ibid.
 - 36 Governor-elect Pataki’s Inaugural Fund, 12/15/94
 - 37 Philip Morris, Internal Document, www.pmdocs.com, document number 2044716234
 - 38 Ibid.
 - 39 Philip Morris, Internal Document, www.pmdocs.com, document number 2024023252
 - 40 Ibid.
 - 41 Lorillard Tobacco Internal Document, www.lorillarddocs.com, document number 93766255. References to the Empire State Restaurant and Tavern Association are found under different names in the tobacco documents. They are also listed as “New York State Restaurant and Tavern Association” and its political action committee name of “United Restaurant and Tavern

- Association.”
- 42 Lorillard Tobacco, Internal Document, www.lorillarddocs.com, document number 92104062, see also New York Temporary State Commission on Lobbying, December 11, 1998 on its Tobacco Institute investigation.
- 43 Lorillard Tobacco, Internal Document, www.lorillarddocs.com, document 93766255/6261.
- 44 Ibid.
- 45 Philip Morris; Internal Document, www.pmdocs.com; document number 2044313530
- 46 New York State Senate bill 5414 (1995 session)
- 47 Precious, Tom, [Bruno butts heads with administration over anti-smoking bill](#), *Times Union*, June 22, 1995.
- 48 Philip Morris, Internal Document, www.pmdocs.com, document number 2047296451/6457
- 49 Calculations by authors from various tobacco disclosures to the New York Temporary State Commission on Lobbying, Philip Morris’s final client report, 12/99.
- 50 Dearlove & Glantz, *Tobacco Industry Political Influence and Tobacco Policy Making in NY 1983-1999*, February 2000, p.93.
- 51 “News Release: Attorneys General Announce Tobacco Settlement Proposal”, November 16, 1998. National Association of Attorneys General.
- 52 Master Settlement Agreement, November 16, 1998. National Association of Attorneys General.
- 53 Tobacco Institute, *The Tobacco Institute 1996 Budget-Special Projects*. Available from the New York Temporary State Commission on Lobbying.
- 54 Levy, C., [Lobby Admits to Higher Spending in Smoking Law Fight](#), *New York Times*, 12/12/98. Complaint made on September 4, 1998 to Lobby Commission by Common Cause/NY, League of Women Voters/NYS, New York Public Interest Research Group.
- 55 New York Temporary State Commission on Lobbying, December 11, 1998. “News Release: Commission Releases Inquiry Findings”
- 56 Levy, C., [Tobacco Giant Spends Heavily Around Albany](#), *The New York Times*, 7/27/99.
- 57 Levy, C., [Tobacco Giant Gave to Backer of Pataki Trips](#), *The New York Times*, 9/28/99.
- 58 World Health Organization, “Tobacco Fact Sheet: Litigation Against the Tobacco Industry,” 11th World Conference on Tobacco OR Health, August 6-11, 2000.
- 59 Philip Morris Internal Document, www.pmdocs.com, document number 2022989485/9520.
- 60 Ibid.
- 61 Lorillard Internal Document, www.lorillarddocs.com, document number 87712011.
- 62 Lorillard Internal Document, www.lorillarddocs.com document number 87712010.

- ⁶³ Tobacco Institute Internal Document, www.tobaccoinstitute.com document number TIMS0020293/0297.
- ⁶⁴ Lorillard Internal Document, www.lorillarddocs.com, document number 9210013.
- ⁶⁵ News Release, “Attorneys General Announce Tobacco Settlement Proposal” 11/16/98.
- ⁶⁶ Tobacco Settlement Summary, National Association of Attorneys General.
- ⁶⁷ New York State Department of Law, Attorney General’s News Release, “Vacco Files Suit Against Tobacco Industry: Slaps Companies for Targeting Youth”. 1/27/97.
- ⁶⁸ Ibid.
- ⁶⁹ Ibid.
- ⁷⁰ Tobacco Settlement Summary, National Association of Attorneys General.
- ⁷¹ King III, C., Siegel, M., The Master Settlement Agreement with the Tobacco Industry and Cigarette Advertising in Magazines, *New England Journal of Medicine*, Vol. 345, No. 7, 8/16/01, p. 504.
- ⁷² Kessler, D., Myers, M., Beyond the Tobacco Settlement, *New England Journal of Medicine*, Vol. 345, No. 7, 8/16/01, p. 535.
- ⁷³ Federal Trade Commission, “Cigarette Report For 1999, Issued 2001.
- ⁷⁴ Wakefield M, Terry, Y. et al, “Changes at the Point-of-Sale for Tobacco Following the 1999 Tobacco Billboard Ban, Research Paper Series, No. 4., impacTeen, administered by the University of Illinois at Chicago, July 2000.
- ⁷⁵ Turner-Bowker D., Hamilton W., “Cigarette Advertising Expenditures Before and After the Master Settlement Agreement: Preliminary Findings, Massachusetts Department of Public Health and Abt Associates, May 15 2000.
- ⁷⁶ Slovic, P., Smoking Risk, Perception, Policy, June 2001. p.127.
- ⁷⁷ R. Pollay, et al., The Last Straw? Cigarette Advertising and Realized Market Shares Among Youths and Adults, *Journal of Marketing* 60(2):1-16 (April 1996); N. Evans, et al., Influence of Tobacco Marketing and Exposure to Smokers on Adolescent Susceptibility to Smoking, *Journal of the National Cancer Institute* 87(20): 1538-45 (October 1995); J.P. Pierce et al., Tobacco Industry Promotion of Cigarettes and Adolescent Smoking, *Journal of the American Medical Association* 279(7): 511-505 (February 1998) [with erratum in *JAMA* 280(5): 422 (August 1998)].
- ⁷⁸ Campaign for Tobacco-Free Kids, “Kids and Tobacco: The Real Story,” September, 2001.
- ⁷⁹ Ibid.
- ⁸⁰ DiFranza J.R., McAfee, T., The Tobacco Institute: Helping Youth Say ‘Yes’ to Tobacco,” *Journal of Family Practice* 34(6):694-6 (June 1992) and Kirshebaum M, et al., “Smoke & Mirrors: How the Tobacco Industry Buys and Lies Its Way to Power and Profits,” Advocacy Institute (August 1998). From the Campaign for Tobacco Free Kids, “A Long History of Empty Promises.”
- ⁸¹ Tobacco Institute Internal Document, www.tobaccoinstitute.com, document number TIMN0065288. From the Campaign for Tobacco Free Kids, “A Long History of Empty Promises.”

- ⁸² Tobacco Institute Internal Document, www.tobaccoinstitute.com, document number TIMN021071/1075. From the Campaign for Tobacco Free Kids, “A Long History of Empty Promises.”
- ⁸³ Philip Morris Internal Document, www.pmdocs.com, document number 2044046017/6022. From the Campaign for Tobacco Free Kids, “A Long History of Empty Promises.”
- ⁸⁴ Philip Morris Internal Document, www.pmdocs.com, document number 2044895379/484. From the Campaign for Tobacco-Free Kids, “The Cigarette Companies Cannot Survive Unless Kids Smoke.”
- ⁸⁵ Harris, D., Corporate Goodwill or Tainted Money? Philip Morris’s Charitable Contributions, Ad Campaign Seen As Smokescreen, *ABC News*, 2/8/01.
- ⁸⁶ World Bank, “Curbing The Epidemic: Governments and the Economics of Tobacco Control,” 6/15/99.
- ⁸⁷ Frankel, G., US Aided Cigarette Firms in Conquests Across Asia, *Washington Post*, 11/17/96.
- ⁸⁸ Winter, Greg, Big Tobacco is Accused of Crossing the Age Line, *New York Times*, 8/24/01
- ⁸⁹ Ibid.
- ⁹⁰ World Health Organization, “One in Five Children Smoke in Developing Countries, New Survey Shows,” WHO Press Release, 8/14/00.
- ⁸⁸ Winter, Greg, Big Tobacco is Accused of Crossing the Age Line, *New York Times*, 8/24/01
- ⁹² “Tobacco: The Smoke Blows South,” CorpWatch, Panos Briefing Paper, London, 9/13/94.
- ⁹³ Hammond, R. Addicted To Profit: Big Tobacco’s Expanding Global Reach, Essential Action, 1998.
- ⁹⁴ “Tobacco: The Smoke Blows South,” CorpWatch, Panos Briefing Paper, London, 9/13/94.
- ⁹⁵ Ibid.
- ⁹⁶ Barry, Michele, The Influence of the U.S. Tobacco Industry on the Health, Economy and Environment of Developing Countries in the New England Journal of Medicine, 3/28/91. pp. 917-920.
- ⁹⁷ Testimony of Samson Mwita Marwa, tobacco farmer and former Kenyan member of Parliament, before the WHO Public Hearings on the Framework Convention on Tobacco Control.
- ⁹⁸ Child Labor Rampant in Tobacco Industry, *Inter Press Service*, 2/4/99.
- ⁹⁹ Campaign for Tobacco-Free Kids, “Tobacco and Agricultural Issues.”
- ¹⁰⁰ Campaign for Tobacco-Free Kids, “Illegal Pathways to Illegal Profits: The Big Cigarette Companies and International Smuggling”, p.1. 5/3/01
- ¹⁰¹ Ibid., p.1.
- ¹⁰² The Center for Public Integrity, “Special Report: Tobacco Companies Linked To Criminal Organizations In Lucrative Cigarette Smuggling,” 11/6/01
- ¹⁰³ Campaign for Tobacco-Free Kids, “Illegal Pathways to Illegal Profits: The Big Cigarette Companies and International Smuggling,” 5/3/01, p. vi.
- ¹⁰⁴ European Community, et al. v. R.J.R. Nabsico, et al. U.S. District Court,

- Eastern District of New York.
- ¹⁰⁵ World Health Organization, "Tobacco Fact Sheet: Litigation Against the Tobacco Industry."
- ¹⁰⁶ The Center for Public Integrity, "Tobacco Firms Used Suspected Drug Traffickers, E.U Lawsuit Claims," 11/6/01
- ¹⁰⁷ The Center for Public Integrity, "Special Report: Tobacco Companies Linked To Criminal Organizations In Lucrative Cigarette Smuggling", 11/7/00.
- ¹⁰⁸ The Center for Public Integrity, "Tobacco Firms Used Suspected Drug Traffickers, E.U Lawsuit Claims," 11/6/01
- ¹⁰⁹ CBS, 60 Minutes II, "Tobacco's Other Secret," 1/18/00.
- ¹¹⁰ Philip Morris CR a.s., "Public Finance Balance of Smoking in the Czech Republic," report conducted by Arthur D. Little International. June, 2000, executive summary.
- ¹¹¹ Swoger, K., Report says smoking has benefits, *The Prague Post*, 6/27/01.
- ¹¹² News release, "Governor, Legislature Agree to Historic Health Care Initiative," Office of the Governor, 12/17/99.
- ¹¹³ Pierce, J.P. et al, *Tobacco Control in California: Who's Winning The War? An Evaluation of the Tobacco Control Program, 1989-96*, University of California, San Diego, 1998.
- ¹¹⁴ Massachusetts Youth Risk Tobacco Survey: 1999 and Independent Evaluation of the Massachusetts Tobacco Control Program, Fifth Annual Report, January 1994 to June 1998, Abt Associates, Inc.
- ¹¹⁵ U.S. Centers for Disease Control and Prevention, "Best Practices for Comprehensive Tobacco Control Programs, August, 1999," p.66.
- ¹¹⁶ Commission for a Healthy New York, "Comprehensive Tobacco Prevention and Control Plan in New York State," 12/23/98.
- ¹¹⁷ U.S. Centers for Disease Control and Prevention, "Best Practices for Tobacco Control Programs," p. 66. New York State spends an estimated \$40 million annually on its program, 8/99.
- ¹¹⁸ Letter from the Comptroller to the Governor, 3/1/01.
- ¹¹⁹ Letter from the American Cancer Society, the American Heart Association, the American Lung Association, the Center for a Tobacco-Free New York, the League of Women Voters and NYPIRG, 9/28/01.
- ¹²⁰ Glantz, S. & Parmley, W., American Heart Association, Passive Smoking and Heart Disease, *Epidemiology, Physiology and Biochemistry, Circulation*, 1991 and Taylor, A., Johnson, D., & Kazemi, H., American Heart Association, Environmental Tobacco Smoke and Cardiovascular Disease, *Circulation*, 1992.
- ¹²¹ American Heart Association. "Cigarette and Tobacco Smoke," 1992.
- ¹²² U.S. E.P.A., Respiratory Health Effects of Passive Smoking Lung Cancer & Other Disorders. 1993.
- ¹²³ Ibid.
- ¹²⁴ Ibid.
- ¹²⁵ Repace, J. and Lowrey, A. *Risk Analysis*, Volume 10, 1990 and Glantz, S. and Parmley, W. *Passive Smoking and Heart Disease*, 1991. From Smokefree Educational Services, "Environmental Protection Agency Group A

- Carcinogens.”
- ¹²⁶ Centers for Disease Control and Prevention (CDC), 1996 published in the *Journal of the American Medical Association* (4/23/96). See “Exposure to Secondhand Smoke Widespread,” www.cdc.gov/tobacco/research_data/environmental/etsrel.htm.
- ¹²⁷ National Cancer Institute, National Institute of Health, Monograph #10: Health Effects of Exposure to Environmental Tobacco Smoke, The Report of the California Environmental Protection Agency.
- ¹²⁸ Ibid.
- ¹²⁹ Ibid.
- ¹³⁰ Ibid.
- ¹³¹ Ibid.
- ¹³² California Department of Health Services, Youth Media Network, 1999.
- ¹³³ American College of Occupational and Environmental Medicine, “Epidemiological Basis for an Occupational and Environmental Policy for ETS.” July 30, 2000.
- ¹³⁴ Ibid.
- ¹³⁵ Ibid.
- ¹³⁶ Philip Morris, Internal Document, www.pmdocs.com, document number 2023587689/7698
- ¹³⁷ Assembly bill 228-B (Grannis)/Senate bill 4989 (Fuschillo).
- ¹³⁸ *The Journal News*, Senate blows it on second-hand smoke, editorial, 6/29/01.
- ¹³⁹ Council for Responsible Public Investment, Divestment Action Guide, 2000.
- ¹⁴⁰ U.S. Centers for Disease Control and Prevention, “Death and Disease Attributable to Tobacco Use.”
- ¹⁴¹ World Bank, “Curbing The Epidemic: Governments and the Economics of Tobacco Control,” 6/15/99.
- ¹⁴² INFACT, Global Aggression: The Case for World Standards and Bold U.S. Action Challenging Philip Morris and RJR Nabisco, p. 20, 1998.
- ¹⁴³ The Council for Responsible Public Investment, Divestment Action Guide, p. 4.
- ¹⁴⁴ Ibid., p. 9.
- ¹⁴⁵ Ibid., p.14.
- ¹⁴⁶ Cogan, D. Investor Responsibility Research Center, Tobacco Divestment and Fiduciary Responsibility: A Legal and Financial Analysis, January 2000, p. B-29.
- ¹⁴⁷ The Council for Responsible Public Investment, Divestment Action Guide, page 21.
- ¹⁴⁸ Section 423-a (3) of the Retirement and Social Security Law of the State of New York.
- ¹⁴⁹ Office of the State Comptroller, www.osc.state.ny.us.
- ¹⁵⁰ Office of the State Comptroller, news release, “McCall Plans New Future of Pension Funds’ Tobacco Holdings”, 3/19/96.
- ¹⁵¹ Cogan, D. Investor Responsibility Research Center, Tobacco Divestment and Fiduciary Responsibility: A Legal and Financial Analysis, January 2000, p. B-

- 29.
- ¹⁵² Office of the State Comptroller, Inter-Office Memorandum, 3/18/96.
- ¹⁵³ Cogan, D. Investor Responsibility Research Center, Tobacco Divestment and Fiduciary Responsibility: A Legal and Financial Analysis, January 2000, p. B-31.
- ¹⁵⁴ *Ibid.*
- ¹⁵⁵ Engle, et al., v. R.J. Reynolds, et al.
- ¹⁵⁶ Wilson, C., Court Rejects Tobacco Appeal in Airline Smoke Settlement, *Associated Press*, 10/10/01.
- ¹⁵⁷ Decision by Los Angeles Superior Court Judge Charles McCoy, in Boeken v. Philip Morris, et al., Superior Court of the State of California, p. 3.
- ¹⁵⁸ McQuillan, W., Philip Morris Wins Cut in Record \$3 Billion Damage Award, *Bloomberg Wire*, 8/9/01.
- ¹⁵⁹ Kaufman, M., Ashcroft Signals Support of Tobacco Lawsuit, *Washington Post*, 10/6/01.
- ¹⁶⁰ CBS MarketWatch, "Philip Morris smoked by downgrade," 10/30/01.
- ¹⁶¹ World Health Organization, "Tobacco Fact Sheet: Litigation Against the Tobacco Industry," 11th World Conference on Tobacco OR Health, 8/6-11/00.
- ¹⁶² *Ibid.*
- ¹⁶³ Council for Responsible Public Investment, Divestment Action Guide, 2000.
- ¹⁶⁴ U.S. Centers for Disease Control and Prevention, "Death and Disease Attributable to Tobacco Use."
- ¹⁶⁵ World Bank, "Curbing the Epidemic: Governments and the Economics of Tobacco Control," 6/15/99.
- ¹⁶⁶ INFACT, Global Aggression: The Case for World Standards and Bold U.S. Action Challenging Philip Morris and RJR Nabisco, p. 20, 1998.
- ¹⁶⁷ The Council for Responsible Public Investment, Divestment Action Guide, p. 4.
- ¹⁶⁸ ¹⁴⁵ *Ibid.*, p.14.
- ¹⁶⁹ Cogan, D. Investor Responsibility Research Center, Tobacco Divestment and Fiduciary Responsibility: A Legal and Financial Analysis, January 2000, p. B-29.
- ¹⁷⁰ The Council for Responsible Public Investment, Divestment Action Guide, page 21.
- ¹⁷¹ National Comorbidity Survey (1994). See ACSH, "How Addictive is Cigarette Smoking?" Dr. C. Everett Koop, p. 2. 8/5/00.
- ¹⁷² Campaign for Tobacco-Free Kids, "The Toll of Tobacco in the U.S.A.," August, 2001.
- ¹⁷³ Incidence of Initiation of Cigarette Smoking—United States, 1965-1996, Centers for Disease Control and Prevention (10/9/98).
- ¹⁷⁴ Reducing the Health Consequences of Smoking: 25 Years of Progress. A Report of the Surgeon General (1989).
- ¹⁷⁵ Committee on Preventing Nicotine Addiction in Children and Youth, Division of Biobehavioral Sciences and Mental Disorders, Growing Up Tobacco Free, *Institute of Medicine* (1994).

- ¹⁷⁶ Health Care Financing Review (Summer 1999); “Cost of Smoking to Medicare Program, 1993,” p. 187.
- ¹⁷⁷ Campaign for Tobacco-Free Kids, “Kids and Tobacco: The Real Story,” September, 2001.
- ¹⁷⁸ National Center for Tobacco-Free Kids, Fact Sheet: The Toll of Tobacco in New York,” 10/18/99.
- ¹⁷⁹ Dearlove & Glantz, *Tobacco Industry Political Influence and Tobacco Policy Making in NY 1983-1999*, February 2000, p. 85.
- ¹⁸⁰ Based on information from the Eleventh World Conference on Tobacco Or Health
- ¹⁸¹ Definitions provided by the Council for Responsible Public Investment, Divestment Action Guide, Oakland, CA.

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