STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF RAMSEY

SECOND JUDICIAL DISTRICT

Case Type: Other Civil

COURT FILE NO. C1-94-8565

THE STATE OF MINNESOTA,

BY HUBERT H. HUMPHREY, III,
ITS ATTORNEY GENERAL,

and

BLUE CROSS AND BLUE SHIELD
OF MINNESOTA

Plaintiffs,

vs.

PHILIP MORRIS INCORPORATED,
R.J. REYNOLDS TOBACCO COMPANY,
BROWN & WILLIAMSON TOBACCO
CORPORATION, B.A.T. INDUSTRIES
P.L.C., LORILLARD TOBACCO COMPANY,
THE AMERICAN TOBACCO COMPANY,
LIGGETT GROUP, INC., THE COUNCIL
FOR TOBACCO RESEARCH - U.S.A., INC.,
and THE TOBACCO INSTITUTE, INC.,

Defendants.

APPENDIX TO MEMORANDUM IN SUPPORT OF
MOTION FOR PROTECTIVE ORDER REGARDING MARKETING DOCUMENTS

EXCERPTS FROM PHILIP MORRIS INCORPORATED'S RESPONSE TO PLAINTIFF'S FIRST SET OF REQUESTS FOR PRODUCTION OF DOCUMENTS

REQUEST NO. 5. All documents relating or referring to communications to or from a corporate affiliate regarding smoking and health or the advertising, marketing or promotion of cigarettes.

RESPONSE: Philip Morris objects to this request on the grounds that it is vague and ambiguous, overly broad, unduly burdensome, fails to describe the documents sought with reasonable particularity, and seeks information that is not relevant to the subject matter involved in the pending action and is not reasonably calculated to lead to the discovery of admissible evidence. Subject to and without waiving this objection or the General Objections stated above, Philip Morris will produce documents which constitute communications between Philip Morris and a corporate affiliate on smoking and health issues or the advertising, marketing or promotion of cigarettes, and which are from the files of or were authored by or sent to the persons specified in Request Nos. 4, 133-35, 137-139, and 141-150.

REQUEST NO. 12. All documents relating or referring to a determination or decision of whether to conduct research involving smoking and health or research involving the advertising, marketing or promotion of cigarettes in any location outside of the United States.

RESPONSE: Philip Morris objects to this request on the ground that the phrases "a determination or decision of whether to conduct research" and "research involving the advertising, marketing or promotion of cigarettes" are vague and ambiguous. Philip Morris further objects because the request is overly broad, unduly burdensome, and seeks information that is not relevant to the subject matter involved in the pending action and is not reasonably calculated to lead to the discovery of admissible evidence. Subject to and without waiving these objections or the General Objections stated above, Philip Morris will produce documents which discuss or refer to a decision by Philip Morris to conduct smoking and health research or research involving the advertising, marketing, or promotion of cigarettes outside the United States, and which are from the files of or were authored by or sent to the persons specified in Request Nos. 4, 133-135, 137-139, and 141-150.

REQUEST NO. 19. All documents which summarize the advertising, marketing and promotional expenditures for cigarettes, by company and by the industry, for each year since 1900 in the United States and in the State of

Minnesota.

RESPONSE: Philip Morris objects to this request on the grounds that it is overly broad, unduly burdensome and seeks information that is not relevant to the subject matter involved in the pending action and is not reasonably calculated to lead to the discovery of admissible evidence. Subject to and without waiving this objection or the General Objections stated above, Philip Morris will produce documents which provide summary information of Philip Morris' advertising, marketing and promotional expenditures.

REQUEST NO. 37. All documents relating or referring to smoking and health or to the advertising, promotion or marketing of cigarettes exchanged or shared between your company and any of the following entities:

a. Any other defendant in the present case;
b. Hill & Knowlton;
c. Ted Bates & Co.;
d. Tiderock Corp.;
e. Any tobacco or cigarette trade group or organization in England;
f. Any tobacco or cigarette company in England;
g. The Roper organization;
h. Minnesota Candy and Tobacco Association;
i. Minnesota Convenience Stores Association;
j. Minnesota Grocers Association;
k. Minnesota Smokers' Rights Coalition.

RESPONSE: Philip Morris objects to this request on the grounds that it is overly broad, unduly burdensome, fails to describe the documents sought with reasonable particularity, and seeks information that is not relevant to the subject matter involved in the pending action and is not reasonably calculated to lead to the discovery of admissible evidence. Subject to and without waiving this objection or the General Objections stated above, Philip Morris will produce documents which (a) discuss or refer to smoking and health issues or the advertising, promotion or marketing of cigarettes, (b) were sent to or received from one of the specified entities, and (c) are from the files of or were authored by or sent to the persons specified in Request Nos. 4, 133-135, 137-139, and 141-150.

REQUEST NO. 65. All documents relating or referring to representations to make or refrain from making in the advertising, marketing or promotion of "safer" cigarettes.

RESPONSE: Philip Morris objects to this request on the grounds that it is overly broad and unduly burdensome. Subject to and without waiving this objection or the General Objections stated above, Philip Morris will produce

documents which discuss or refer to the subject specified in the request, and which are from the files of or were authored by or sent to the persons specified in Request Nos. 4, 133-135, 137-139, and 141-150.

REQUEST NO. 92. All documents relating or referring to the initiation of smoking or why persons begin smoking.

RESPONSE: Subject to and without waiving the General Objections stated above, Philip Morris will produce documents which discuss or refer to why persons, in general, begin to smoke, and which are from the files of or were authored by or sent to the persons specified in Request Nos. 4, 133-135, 137-139, and 141-150.

REQUEST NO. 93. All documents relating or referring to the advertising, marketing or promotion of cigarettes to persons age 18 or under (or children, adolescents or young adults).

RESPONSE: Philip Morris objects to this request on the grounds that it is vague and ambiguous, overly broad, unduly burdensome, and seeks information that is not relevant to the subject matter involved in the pending action and is not reasonably calculated to lead to the discovery of admissible evidence. Subject to and without waiving this objection or the General Objections stated above, Philip Morris will produce documents, if any, which discuss or refer to the subject specified in the request.

REQUEST NO. 94. All documents relating or referring to smoking cessation efforts, successful or unsuccessful, among persons age 18 or under (or children, adolescents or young adults).

RESPONSE: Philip Morris objects to this request on the grounds that the request is vague and ambiguous, overly broad, unduly burdensome, and seeks information that is not relevant to the subject matter involved in the pending action and is not reasonably calculated to lead to the discovery of admissible evidence. Subject to and without waiving this objection or the General Objections stated above, Philip Morris will produce documents, if any, which discuss or refer to the subject specified in the request.

REQUEST NO. 95. All documents relating or referring to focus groups, surveys, polls, interviews, studies, research or information regarding the number of smokers or prevalence of smoking among persons age 18 or under (or children, adolescents or young adults) for your cigarette brands or any other cigarettes.

RESPONSE: Philip Morris objects to this request on the grounds that it

is vague and ambiguous, overly broad, unduly burdensome, and seeks information that is not relevant to the subject matter involved in the pending action and is not reasonably calculated to lead to the discovery of admissible evidence. Subject to and without waiving this objection or the General Objections stated above, Philip Morris will produce documents, if any, which discuss or refer to the number of smokers or prevalence of smoking among persons who are 18 and under.

REQUEST NO. 96. All documents relating or referring to focus groups, surveys, interviews, polls, studies, research or marketing plans involving smoking and persons age 18 or under (or children, adolescents or young adults).

RESPONSE: Philip Morris objects to this request on the grounds that it is vague and ambiguous, overly broad, unduly burdensome, and seeks information that is not relevant to the subject matter involved in the pending action and is not reasonably calculated to lead to the discovery of admissible evidence. Subject to and without waiving this objection or the General Objections stated, Philip Morris will produce documents, if any, which discuss or refer to focus groups, surveys, interviews, polls, studies, research or marketing plans conducted or sponsored by Philip Morris involving smoking and persons age 18 and under.

REQUEST NO. 97. All documents relating or referring to focus groups, surveys, interviews, polls, studies or research regarding the attitudes, perceptions or behaviors of persons age 18 or under (or children, adolescents or young adults) regarding cigarettes or cigarette advertising, marketing or promotion.

RESPONSE: Philip Morris objects to this request on the grounds that it is vague and ambiguous, overly broad, unduly burdensome, and seeks information that is not relevant to the subject matter involved in the pending action and is not reasonably calculated to lead to the discovery of admissible evidence. Subject to and without waiving this objection or the General Objections stated, Philip Morris will produce documents, if any, which discuss or refer to focus groups, surveys, interviews, polls, studies or research conducted or sponsored by Philip Morris regarding the attitudes, perceptions or behaviors of persons age 18 or under regarding cigarettes or cigarette advertising, marketing or promotion.

REQUEST NO. 98. All documents relating or referring to industry or company guidelines or codes relating to advertising, marketing or promoting cigarettes to persons age 18 or under (or children, adolescents or young adults).

RESPONSE: Subject to and without waiving the General Objections stated above, Philip Morris will produce industry or Philip Morris guidelines or codes on advertising, marketing or promoting cigarettes to persons age 18 and under.

REQUEST NO. 99. All documents relating or referring to your efforts or cigarette industry efforts to prevent or discourage persons under age 18 (or children, adolescents or young adults) from smoking cigarettes.

RESPONSE: Philip Morris objects to this request on the grounds that it is vague and ambiguous, overly broad, and unduly burdensome. Subject to and without waiving this objection or the General Objections stated above, Philip Morris will produce documents which discuss or refer to the efforts of Philip Morris or the cigarette industry to discourage minors from smoking, and which are from the files of or were authored by or sent to the persons specified in Request Nos. 4, 133-135, 137-139, and 141-150.

REQUEST NO. 100. All documents relating or referring to the placement of cigarette billboards near schools or playgrounds.

RESPONSE: Subject to and without waiving the General Objections stated above, Philip Morris will produce documents, if any, which discuss or refer to the placement of cigarette billboards near schools or playgrounds.

REQUEST NO. 101. All documents relating or referring to the effects of point-of-sale advertising on persons age 18 or younger (or children, adolescents or young adults).

RESPONSE: Philip Morris objects to this request on the grounds that it is vague and ambiguous, overly broad, unduly burdensome, and seeks information that is not relevant to the subject matter involved in the pending action and is not reasonably calculated to lead to the discovery of admissible evidence. Subject to and without waiving this objection or the General Objections stated, Philip Morris will produce documents, if any, which discuss or refer to the effects of point-of-sale cigarette advertising on persons age 18 and younger.

REQUEST NO. 102. All documents relating or referring to surveys, polls, interviews, focus groups, studies or research involving the attitudes, understandings or beliefs of smokers regarding the health hazards or

addictiveness of cigarettes.

RESPONSE: Philip Morris objects to this request on the grounds that the term "addictiveness" is vague and ambiguous, and the request is overly broad and unduly burdensome. Subject to and without waiving this objection or the General Objections stated above, Philip Morris will produce documents which discuss or refer to the perception of smokers as to the alleged health risks of smoking or whether cigarettes are "addictive," and which are from the files of or were authored by or sent to the persons specified in Request Nos. 4, 133-135, 137-139, and 141-150.

REQUEST NO. 103. All documents relating or referring to the sociology or psychology of smokers in evaluating, understanding or reacting to information regarding the health hazards or addictiveness of cigarettes.

RESPONSE: Philip Morris objects to this request on the grounds that the phrase "sociology or psychology of smokers" and the term "addictiveness" are vague and ambiguous. Subject to and without waiving this objection or the General Objections stated above, Philip Morris will produce documents which discuss or refer to the ability of smokers to evaluate, understand or react to information regarding the alleged health risks of smoking or whether cigarettes are "addictive", and which are from the files of or were authored by or sent to the persons specified in Request Nos. 4, 133-135, 137-139, and 141-150.

REQUEST NO. 104. All documents relating or referring to the effectiveness of the warning labels on cigarettes.

RESPONSE: Philip Morris objects to this request on the ground that the phrase "effectiveness of the warning labels on cigarettes" is vague and ambiguous. Subject to and without waiving this objection or the General Objections stated above, Philip Morris will produce documents which discuss or refer to the ability of smokers to evaluate, understand or react to warning labels on cigarettes, and which are from the files of or were authored by or sent to the persons specified in Request Nos. 4, 133-135, 137-139, and 141-150.

REQUEST NO. 105. All documents relating or referring to research, surveys, focus groups, interviews, studies or information on consumers' views or perceptions concerning the levels of tar and nicotine in cigarettes.

RESPONSE: Philip Morris objects to this request on the grounds that it is vague and ambiguous, unintelligible, and seeks information that is not relevant to the subject matter involved in the pending action and is not reasonably calculated to lead to the discovery of admissible evidence. Subject to and without waiving this objection or the General Objections stated above, Philip Morris incorporates its response to Request No. 102.

REQUEST NO. 106. All documents relating or referring to the effects of cigarette advertising.

RESPONSE: Philip Morris objects to this request on the grounds that the phrase "effects of cigarette advertising" is vague, ambiguous and unintelligible, and the request is overly broad, unduly burdensome, and seeks information that is not relevant to the subject matter involved in the pending action and is not reasonably calculated to lead to the discovery of admissible evidence. Subject to and without waiving this objection or the General Objections stated above, Philip Morris will produce documents which discuss or refer to the impact of cigarette advertising on consumers' smoking habits, and which are from the files of or were authored by or sent to the persons specified in Request Nos. 4, 133-135, 137-139, and 141-150.

REQUEST NO. 107. All documents relating or referring to the effects of anti-smoking advertising or the Fairness Doctrine on smoking.

RESPONSE: Philip Morris objects to this request on the grounds that the phrase "effects of the Fairness Doctrine on smoking" is vague, ambiguous and unintelligible, and the request is overly broad, unduly burdensome, and seeks information that is not relevant to the subject matter involved in the pending action and is not reasonably calculated to lead to the discovery of admissible evidence. Subject to and without waiving this objection or the General Objections stated above, Philip Morris will produce documents which discuss or refer to the impact of anti-smoking advertisements on consumers' smoking habits, and which are from the files of or were authored by or sent to the persons specified in Request Nos. 4, 133-135, 137-139, and 141-150.

REQUEST NO. 108. All documents relating or referring to the Roper Proposal.

RESPONSE: Philip Morris objects to this request on the grounds that the

"Roper Proposal" is vague and ambiguous, and the request is overly broad and unduly burdensome.

REQUEST NO. 109. All documents relating or referring to research or polls by the Roper organization on smoking and health.

RESPONSE: Philip Morris objects to this request on the grounds that the request is overly broad and unduly burdensome. Subject to and without waiving this objection or the General Objections stated above, Philip Morris will produce documents which discuss or refer to research or polls performed by the Roper Organization regarding smoking and health issues, and which are from the files of or were authored by or sent to the persons specified in Request Nos. 4, 133-135, 137-139, and 141-150.

REQUEST NO. 110. All documents relating or referring to "editorial-type" advertisements or promotions discussing or addressing the relationship between smoking and health, including but not limited to drafts of such advertisements or promotions, memoranda relating or referring to such advertisements or promotions and the advertisements and promotions actually utilized. (The term "editorial-type" advertisements or promotions is meant to refer to materials such as the 1954 "A Frank Statement to Cigarette Smokers" or the R.J. Reynolds Tobacco ad "Of cigarettes and science," as opposed to advertisements specific to particular brands of cigarettes.)

RESPONSE: Philip Morris objects to this request on the ground that the phrase "'editorial-type' advertisements or promotions" is vague and ambiguous. Subject to and without waiving this objection or the General Objections stated above, Philip Morris will produce advertisements or promotions which it ran in United States magazines or newspapers, and which discuss general smoking and health issues as opposed to brand specific advertisements or promotions. Philip Morris will also produce any other documents that discuss or refer to the subject specified in the request, and which are from the files of or were authored by or sent to the persons specified in Request Nos. 4, 133-135, 137-139, and 141-150.

REQUEST NO. 111. All documents relating or referring to discussions or decisions by more than one cigarette company to refrain from certain types of advertising or promotion (for example, advertising with health claims).

RESPONSE: Subject to and without waiving the General Objections stated above, Philip Morris will produce documents, if any, which discuss or refer to the subject specified in the request, and which are from the files of or were authored by or sent to the persons specified in Request Nos. 4, 133-135,

137-139, and 141-150.

REQUEST NO. 112. All documents summarizing the number or percentage of smokers who switch cigarette brands.

RESPONSE: Philip Morris objects to this request on the grounds that it is overly broad, unduly burdensome, and seeks information that is neither relevant to the subject matter of this lawsuit nor reasonably calculated to lead to the discovery of admissible evidence. Subject to and without waiving this objection or the General Objections stated above, Philip Morris will produce documents which provide a summary of the number or percentage of smokers who switch cigarette brands.

REQUEST NO. 113. All documents relating or referring to a decision by any advertising, marketing or promotional firm to refuse to undertake, to cease, to decline or to resign from any advertising, marketing or promotional work for cigarettes because of any issue involving smoking and health.

RESPONSE: Philip Morris objects to this request on the grounds that it is vague and ambiguous, and seeks information that is not relevant to the subject matter involved in the pending action and is not reasonably calculated to lead to the discovery of admissible evidence. Subject to and without waiving this objection or the General Objections stated above, Philip Morris will produce documents which discuss or refer to the subject specified in the request, and which are from the files of or were authored by or sent to the persons specified in Request Nos. 4, 133-135, 137-139, and 141-150.

REQUEST NO. 114. All documents relating or referring to the placement of advertisements, promotional or marketing materials at sporting or entertainment events which also relate or refer to the displaying of such materials on television.

RESPONSE: Philip Morris objects to this request on the grounds that it is vague and ambiguous, unintelligible, overly broad, unduly burdensome, and seeks information that is not relevant to the subject matter involved in the pending action and is not reasonably calculated to lead to the discovery of admissible evidence. Subject to and without waiving this objection or the General Objection stated above, Philip Morris will produce documents, if any, which discuss or refer to the subject specified in the request, and which are from the files of or were authored by or sent to the persons specified in Request Nos. 4, 133-135, 137-139, and 141-150.

EXCERPT FROM PHILIP MORRIS INCORPORATED'S RESPONSE TO PLAINTIFF'S SECOND SET OF REQUESTS FOR PRODUCTION OF DOCUMENTS

REQUEST NO. 39. All documents relating or referring to Virginia Slims advertising campaigns, including reports, notes, memoranda, evaluations, marketing surveys, advertisements and promotions.

RESPONSE: Philip Morris objects to this request on the grounds that it is overly broad, unduly burdensome, and seeks information that is not relevant to the subject matter involved in the pending action and is not reasonably calculated to lead to the discovery of admissible evidence. Philip Morris further objects to this request on the ground that it seeks information regarding claims that are preempted by the Federal Cigarette Labeling and Advertising Act, codified as amended at 15 U.S.C. §§ 1331-41. See Cipollone v. Liggett Group, Inc., 505 U.S. 504, 112 S.Ct. 2608 (1992). Subject to and without waiving these objections or the General Objections stated above, Philip Morris will produce documents discussing or referring to Virginia Slims advertising campaigns which are from the files of or were authored by or sent to the persons specified in Request Nos. 4, 133-135, 137-139 and 141-150 of Plaintiffs' First Set of Requests for Production of Documents.

EXCERPT FROM PHILIP MORRIS INCORPORATED'S RESPONSE TO PLAINTIFFS' THIRD SET OF REQUESTS FOR PRODUCTION OF DOCUMENTS

REQUEST NO. 14. All documents to or from or referring or relating to Leo Burnett or Leo Burnett Co., Inc. (or its predecessor or successor companies) which refer or relate to issues of smoking and health or the advertising, marketing or promotion of cigarettes (including but not limited to why persons smoke).

RESPONSE: Philip Morris objects to this request on the grounds that it is overly broad, unduly burdensome, and seeks information that is not relevant to the subject matter involved in the pending action and is not reasonably calculated to lead to the discovery of admissible evidence. Subject to and without waiving these objections or the General Objections stated above, Philip Morris will produce documents that (1) discuss or refer to (a) Leo Burnett or Leo Burnett Co., Inc. (or its predecessor or successor companies) and (b) smoking and health issues or the advertising, marketing or promotion of cigarettes, and (2) are from the files of or were authored by or sent to the persons specified in Request Nos. 4, 133-135, 137-139 and 141-150 of

Plaintiffs' First Set of Requests for Production of Documents.