STATE OF MINNESOTA DISTRICT COURT

COUNTY OF RAMSEY SECOND JUDICIAL DISTRICT

Case Type: Other Civil

THE STATE OF MINNESOTA,

COURT FILE NO. C1-94-8565

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.

AFFIDAVIT OF
NANCY BRENNAN-LUND

STATE OF MINNESOTA)
)ss.
COUNTY OF HENNEPIN)

NANCY BRENNAN-LUND, being duly sworn on oath, deposes and states:

1. I am a Group Vice President, Marlboro and New Products, for Philip Morris Incorporated ("Philip Morris"). I submit this declaration in support of Philip Morris' Motion for a Protective Order Regarding Marketing Documents. The facts stated below are known to me of my own personal knowledge and, if called upon as a witness, I would and could testify competently to them.

2. Philip Morris' marketing department, which has responsibility for advertising, promotion, marketing and market research functions within the company, comprises more than 150 employees located at Philip Morris' corporate headquarters in New York City

3. I have worked in Philip Morris' marketing department for more than ten years, and have been in my current position for approximately the last four years I am very familiar with the department's organization, and with many of the types of documents routinely maintained by the department over the years.

4. In terms of its organization, the marketing department falls within the larger marketing and sales department, which is headed by an Executive Vice President. Below that position are two Senior Vice Presidents, one Group Vice President and four Vice Presidents in the marketing area. Five individuals with the title of Category Director and nine individuals with the title of Director report to the Vice Presidents in the marketing area. Below the Director level are approximately 125 lower-level employees with titles such as Brand Manager, Assistant Brand Manager, etc.

5. Virtually all employees within the marketing department maintain a set of active files. Moreover, many of them have sent inactive files to storage in an offsite warehouse. The warehouse also houses many of the files of individuals who were, but no longer are, employed in Philip Morris' marketing department. In the ordinary course, when an employee leaves the marketing department (or the company), his or her files are transferred to a successor, or sent to storage.

6. Within Philip Morris, marketing strategies and objectives must be approved at the middle- or top-management level (by Directors, Vice Presidents

or their superiors). Lower level managers implement such strategies and objectives, and may be involved in their development. Nevertheless, it remains the case that marketing strategies and objectives are not adopted without approval by a person with the title of Director or Vice President.

7. As a consequence of the department's structure, documents setting forth the marketing strategies and objectives adopted by the company are reasonably likely to be found in the files of those at or above the Director level. While copies of such documents may appear in the files of lower level employees as well, it would be unlikely for such documents not to appear in the files of a Director or Vice President.

8. I understand that the Plaintiffs in this action have requested the production of all documents relating to the advertising and/or promotion of Virginia Slims cigarettes. Virginia Slims was introduced in 1968, and there exist huge volumes of documents "relating to" the advertising and promotion of that brand throughout the ensuing 28 years. Based on my own experience with cigarette brand advertising, most of those documents are of a routine type.

9. I understand that the Plaintiffs have requested all documents "to or from or referring or relating to" Leo Burnett Co., Inc. that "refer or relate to the advertising, marketing or promotion of cigarettes." Leo Burnett Co., Inc. is a company that has served as Philip Morris' principal outside advertising agency for more than forty years. Virtually all of the communications between Philip Morris and Leo Burnett refer or relate to the advertising, marketing or promotion of cigarettes. Philip Morris' active and inactive files contain hundreds of thousands (or millions) of pages of such material regarding time lines, production, placement and distribution, most of them routine communications between client and agency.

10. I understand that Plaintiffs have requested documents relating or referring to "the advertising, marketing or promotion of cigarettes to persons age 18 or under (or children, adolescents or young adults.)" Philip Morris does not advertise, market or promote cigarettes to non-smokers, or to persons below the legal age to purchase cigarettes.

FURTHER AFFIANT SAITH NOT.

Subscribed and sworn to before
me this 22nd day of April, 1996.

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Notary Public