

Big Tobacco Buys a Round for the National Licensed Beverage Association*October 2003*

Since the 1970's, the tobacco industry has used "accommodation" as a tactic to prevent effective smokefree air policies that protect public. To the tobacco industry, smokefree policies protecting the public from exposure to secondhand smoke are equated with a decline in cigarette sales and in the social acceptability of smoking. Confronted with an emerging smokefree movement that rapidly began to build up steam, Big Tobacco targeted the hospitality industry and, more specifically, the National Licensed Beverage Association (NLBA) – the largest trade association in its respective industry – as a key third party to publicly oppose smokefree policies in workplaces. As the following will illustrate, Big Tobacco has successfully influenced the NLBA, using the trade association to promote its "accommodation" programs and challenge smokefree air legislation.

NURSING "ACCOMMODATION"

- ❖ In 1971, the Tobacco Institute allocated over \$25,000 of its annual budget for tobacco product placement, advertisements and articles in the National Licensed Beverage Association's newsletters and NLBA related events. Later that year, The Tobacco Institute authorized that \$19,059* be paid to "The National Licensed Beverage Association News" in monthly installments. The Tobacco Institute's *"[a]greed objectives [were] to inform the public that there is a significant scientific controversy about smoking and health.... To inform the industry's customers of the industry's view of the controversy, to offset the constant presentations of the views of the adversaries of smoking.... Information gained from the above sources and elsewhere has been reported regularly in past months to hundreds of executives in member companies, to industry suppliers and related trade associations."* ("1971 Tobacco Institute Budget Requests, Public Relations Projects", The Tobacco Institute, Bates No. 680241729-1751; "The Tobacco Institute, Bates No. TIMN263401) In an internal memo entitled "Defending Tobacco," the Tobacco Institute reported, *"[R]ecognizing another community of interest in state legislation and regulation, TI [Tobacco Institute] purchased space for regular smoking health messages in the Newsletter of the National Licensed Beverage Association.... This will be repeated in 1975."* ("Defending Tobacco", The Tobacco Institute, Bates No. CORTI0002973-2986)
- ❖ A 1993 Philip Morris internal document read, *"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....[W]e create coalitions of third party sources to help carry our baggage on issues."* (Tina Walls, Philip Morris, Bates No. 2024023252-3264)
- ❖ *"The Accommodation Program serves as link between PM [Philip Morris] and the hospitality industry. Our [Philip Morris] ability to interact effectively with the hospitality industry is critical to our ultimate objective, which is to maintain the ability for our customers to enjoy our products in public venues such as restaurants, hotels, bowling*

centers, and shopping malls. This relationship becomes even more important as legislative threats continue to mount at local, state, and federal levels.... In this effort, the hospitality industry is our greatest potential ally.... Therefore, it is critical to the outcome of the debate that the industry carries the flag.... We [Philip Morris] need to tap into this sentiment to make our issue one that the industry is focused on and considers worth fighting for. Getting on the inside of the industry is not easy for us, given that for the most part, we do not have a business relationship. For the most part, they are not our customers or our suppliers. Unlike our sister companies, we do not, by nature, have any regular contact with the industry.” (Philip Morris, Bates No. 2045517337-7338)

- ❖ Philip Morris began actively indoctrinating the NLBA as a front group to speak against smokefree workplaces around 1994. The Occupational Safety and Health Administration’s (OSHA) tentative proposal to regulate smoking in the workplace met immediate opposition from the tobacco industry. Philip Morris succeeded in its “Accommodation Program’s” objective of *“partnering with the hospitality industry to prevent pending[smoking] bans and overturn existing [smoking] bans ... [by] giving a voice to educate the industry about the economic impact of smoking bans and legislative threats.”* (Philip Morris, Bates No. 2045517316) As a result, the NLBA President James Simpson, III interpreted the OSHA regulation as *“[making] radical changes in American lifestyles.... If we are forced to alter our business environment so that large numbers of current customers can no longer relax and enjoy our smoke in the air, than face the stifling pure air of the unemployment office.”* (James C. Simpson, III, National Licensed Beverage Association, Philip Morris collection, Bates No. 2075445418) His successor, Debra Leach reinforced, *“Simply stated, we believe that bans are not a realistic solution to resolve the controversy over smoking in bars.”* (Debra Leach, National Beverage Association, Philip Morris collection, Bates No. 2064996432)
- ❖ R. J. Reynolds (RJR) explained its goal to expand into the hospitality industry in 1996: *“Expand hospitality industry coalition building efforts with emphasis on National Restaurant Association and National Licensed Beverage Association (NLBA). Specific goal accommodation of smokers and non-smokers.... Participate in major conventions, conferences, meetings, etc., of NRA, and NLBA – includes distribution of information on peaceful coexistence program and sponsorship of events which give RJR recognition as a significant corporate supporter.”* (John Singleton, R. J. Reynolds, Bates No. 522904788)

DILUTING THE FACTS

- ❖ *“Use research and public opinion polls to create a foundation that solidly provides the information and consensus to advance accommodation.... Extend the reach of The Accommodation Program by utilizing the resources and clout of PM USA [Philip Morris].... Increase demand for accommodation and awareness of The Program among the public and opinion leaders ... businesses ... PM USA consumers.... Create model markets of accommodation by introducing The Program to targeted markets.”* (Philip Morris, Bates No. 2044316712)
- ❖ In 1996, the NLBA hired Roper Starch to conduct a survey of 1,300 restaurant and bar owners to measure their speculations of how clean indoor air would affect business. It was an *“unrestricted research grant from Philip Morris [that] made it possible.”** The NLBA

refused to disclose the amount of the grant, stating, ***“We do not disclose our sponsorship’s financial arrangements as a matter of policy.”***^{**} The NLBA proceeded to use the Roper survey’s results to substantiate and justify their opposition to OSHA’s tentative smokefree workplace proposal. Based on anecdotal predictions and perceptions, the NLBA’s platform relied on the notion that the regulation ***“would be a costly nightmare for any small business owners.”***^{*} Small business owners would be at a loss if indoor air were to go smokefree, the NLBA asserted; ***“NLBA believes the Roper data confirms our belief that OSHA’s Indoor Air Quality rules would be a catastrophe for thousands of small bars and restaurants. We strongly believe ... there is no need for government interference. Workers who want a smokefree environment have no trouble finding such a workplace.”***^{*} The NLBA continued, ***“If an employee does not agree with a business owner’s policy, they are free to seek other employment options.”***^{**} (Debra Leach, National Beverage Association, Philip Morris collection, Bates No. 2071796227-6231; ^{**} Philip Morris, Bates No. 2078794495-4496)

- ❖ In 1997, Philip Morris strategized ways to promote its ventilation alternative to the hospitality industry: ***“Create demand for ventilation among the biz.... Create awareness in HVAC [heating, ventilation, and air conditioning] community that business opportunities exist in the hospitality industry and that there is a demand for ventilation solutions.... Supply is needed.... Create social acceptability of smoking.... Industry take charge, NLBA.... Show rollbacks.... Pop[ular] opinion.... Real life hardships/Economics from the employee.”*** (“Media Relations Plan, Accommodation”, Philip Morris collection, Bates No. 2072291988-1989)
- ❖ In 1997, Philip Morris designated \$100,000 of its 1998 budget for ***“economic impact analysis on hospitality.”*** (“Worldwide Regulatory Affairs Department, 1998 OB Preparations”, Phillip Morris, Bates No. 2074769068-9117) In 1998, a second Roper Starch/Omnibus Survey was conducted, again funded by Philip Morris with the blatantly stated purpose to disclaim the validity of smokefree policies: ***“Philip Morris believes there are reasonable options to accommodate ... both non-smokers and smokers in public places.... [A] recent survey by Roper Starch, sponsored by NLBA for atmospherePLUS and commissioned by Philip Morris shows that the majority of adult Americans support this view.... Accommodation works. Smoking bans do not.”*** (“atmospherePLUS Final Suggested Messages For PM USA”, Philip Morris, Bates No. 2072259000)
- ❖ A draft document written by Philip Morris but later released on NLBA letterhead read, ***“AtmospherePLUS is a licensed beverage industry initiative to address smoking issues in bars through ventilation options. According to a 1998 NLBA survey, one of the leading business issues facing our industry today is smoking bans and one needs only look as far as California to understand why there is a need on the part of the industry to take immediate action and work to proactively address the issue.”*** (Philip Morris, Bates No. 2078794494)
- ❖ In July 1998, Philip Morris’s media relations plan outlined tactics to create demand for ventilation with bar owners by placing manufactured scare stories in the media via paid consultants. The plan recommended, ***“The use of by-lined articles, case studies and editorials allow targeted publications to accept our sources as ‘experts’ in the supply field. Regardless of the HVAC consultant, if the information is substantive and not an endorsement for a specific product or program, editors typically accept a level of specialized knowledge that they cannot furnish themselves ... [and] leverage articles and***

case studies to create the demand among consumers for options.... The NLBA has already expressed interest.” (Philip Morris, for its “Places: Media Relations Plan” Bates No. 2078223887-3889)

PICKING UP THE NLBA’S TAB

- ❖ In 1997, Philip Morris planned on spending \$46,137 to include 14 states in its “NLBA Campaign 2000 Budget.” The company noted, **“Budget is for one (1) membership mailing only. It is estimated that each new affiliate will make three (3) recruitment mailings within the first 12-month period.”** (“NLBA Campaign 2000 Budget”, Philip Morris, Bates No. 2065224638)
- ❖ A Philip Morris 1998 planning budget allocated over \$2 million for outreach to the hospitality industry and for the promotion of ventilation. In this document, Philip Morris budgeted \$286,700 in HVAC communications, as well as \$230,000 for national and state hospitality sponsorships. (“1998 Planning Budget”, Philip Morris collection, Bates No. 2072177741-7742)
- ❖ The NLBA has become a talking head for the tobacco industry. At the January 1998 NLBA Conference in Las Vegas, to which Philip Morris contributed \$40,000, NLBA officers and lobbyists repeated the mantra, **“No Smoking, No Business.”** One of the conference’s keynote speakers, Ira Blumenthal from the Tobacco Institute, presented a **“big idea”** for the NLBA members – **“the need to build strategic alliances and partnerships.... Success is correlative to the size of your rolodex.”** (“NLBA Conference Report”, Philip Morris collection, Bates No. 2070809602-6011)
- ❖ Philip Morris’s Miller Brewing Company spent over \$20,000 to sponsor the 2000 Annual NLBA Convention, making the tobacco company a “Top Shelf Sponsor” of the event and buying Philip Morris’s **“[C]ompany name and logo on each convention registration mailer distributed to our [NLBA] over 15,000 retail members.... Individual flyer for your company’s sponsored event included in convention packet.... Full company name and color logo placed on NLBA’s convention web page with link to sponsor’s web site.”** (“Annual NLBA Convention, Opportunities for Sponsorship”, Philip Morris collection, Bates No. 2072258821)

TYING ONE ON WITH BIG TOBACCO

- ❖ Philip Morris’s stated objective for atmospherePLUS was to **“drive momentum for accommodation vs. bans and to motivate bar/tavern owners to employ Indoor Air Quality principles and invest in ventilation technology, in order to create a comfortable environment for non-smokers and smokers.... Strategy 1 [is to] [b]uild a national industry coalition to drive momentum for accommodation vs. bans and build awareness of ventilation solutions.... [The] National Licensed Beverage Association [is a] Direct link with 16,000 bars nationwide, strong relationship with PM [Philip Morris], [and] local Chapter network.”** (“atmospherePLUS: A Program for the National Licensed Beverage Association and the Licensed Beverage Industry, Philip Morris, Bates No. 2065072166-2184)
- ❖ AtmospherePLUS was created and commissioned by Philip Morris and marketed as **“a program for the National Licensed Beverage Association”** to be **“launched at major industry events, beginning with the NLBA Convention in January, 1999.”** (Philip Morris, Bates No. 2065072166-2176) However, in a March 1999 Philip Morris internal draft regarding the **“suggested messages/ Q & A for the NLBA [on atmospherePLUS]”**, it is suggested that the

NLBA credit itself as *“spearheading this effort [with the introduction of its atmospherePLUS program].... We are fortunate that Philip Morris has agreed to serve as our initial sponsor for this initiative and is lending financial and hands on support.”* (Philip Morris, Bates No. 2078794493-4497) On July 27, 1999, NLBA Executive Director Debra Leach drafted a press release stating, *“atmospherePLUS is spearheaded by the NLBA.... Sponsors of the initiative include ... Options, Philip Morris.”* (“NLBA Announces Industry-Wide Education Initiative to Protect Business Owner Choice”, Philip Morris collection, Bates No. 2075195272)

- ❖ Although the atmospherePLUS program promotes *“enhanc[ing] indoor air quality through ventilation,”* a promotional brochure’s fine-print reads: *“atmospherePLUS does not purport to address health effects attributed to smoking.”* (National Licensed Beverage Association. *AtmospherePLUS: How Ventilation Can Improve Customer Comfort and Profitability* (Brochure). Alexandria, VA: national Licensed Beverage Association, [2000])
- ❖ A Philip Morris internal document discussed the media plan to launch its Options program: *“Creating [f]ertile [g]round [b]efore the Options [l]aunch.... While the issue of accommodation and public place smoking is important to business owners and industry leaders, we have seen that the subject does not generate a great deal of mainstream media interest, and limited interest among hospitality trades.... A major focus of the 2000 media plan is to show that the \$350 billion hospitality industry is proactive in accommodating customer preferences. We want to demonstrate that the industry is making itself heard on accommodation.... Delivering a strong message from the hospitality leadership to the trades through a series of editorial boards with hospitality, HVAC and Options leadership, will create a more fertile environment to support the launch of Options.... To lay the ground work for the launch, we recommend, identifying industry leaders who can deliver the accommodation message to hospitality trade publications.... Industry leadership who could deliver the options message:... Deb Leach [NLBA] ... Rick Berman [American Beverage Institute].... This team of industry leaders would be prepared with key messages and trained to deliver those messages.”* (Philip Morris, Bates No. 2085579948)
- ❖ On September 28, 1999, the NLBA invited Honeywell to be a member of its Red Ribbon Partner Program. An NLBA press release disclosed that, in making Honeywell a Red Ribbon Partner, *“Honeywell will be offering NLBA members discounts on commercial air cleaners. Honeywell has also become an Allied Member of the association and has signed on as a sponsor of the [NLBA’s] atmospherePLUS program.”* Honeywell is one of Philip Morris’s heating, ventilation, and air-conditioning consulting firms. (National Licensed Beverage Association, Philip Morris collection, Bates No. 2072258897)
- ❖ Scott Robert of Honeywell, one of the sponsors of atmospherePLUS, commented; *“This is a great opportunity for Honeywell to partner with the licensed beverage industry by providing valuable products and programs that allow the industry to better service its own needs.”* (“NLBA Announces Industry-Wide Education Initiative to Protect Business Owner Choice,” Philip Morris collection, Bates No. 2075195273)
- ❖ A [letter from Honeywell](#) responded to the question *“Will filtering eliminate all health hazards known to occur with exposure to environmental tobacco smoke?”* by stating, *“Honeywell has not in the past and does not make health hazard claims.”* Philip Morris’s

program, Options, has a disclaimer on its web site, as well, “*Options, Philip Morris, does not purport to address health effects attributed to environmental tobacco smoke.*”

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