

# Liggett Group Inc.

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Law Department

June 8, 1983

## PRIVILEGED AND CONFIDENTIAL

### MEMORANDUM TO FILE

SUBJECT: Committee of Counsel Meeting of 5.18.83  
Offices of The Tobacco Institute, Washington, D. C.

The undersigned, together with J. H. Greer, attended the meeting of the Committee of Counsel held at the offices of The Tobacco Institute in Washington, D. C. on 5.18.83. Present and attending were the following:

Stevens (Presiding):	Lorillard
Cherry:	Lorillard
Greer:	Liggett
Murray:	Liggett
Decker:	Webster & Sheffield
Witt:	RJR
Finnegan:	Jacob, Medinger, et al
Henson:	American
Bezanson:	Chadbourne, Parke, et al
Brown:	Chadbourne, Parke, et al
Chapin:	U. S. Tobacco
Shinn:	Shook, Hardy & Bacon
Wall:	Shook, Hardy & Bacon
Kornegay:	Tobacco Institute
Chilcote:	Tobacco Institute
Ehrensfield:	PM
Holtzman:	PM
Newman:	PM

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The agenda items which were considered and discussed and the action or actions taken with respect to each are as follows:

1. Warning Notice Legislation and Related Matters.

Discussion of this item focused upon a then scheduled meeting for 5.26.83 between Dr. Edward N. Brandt, Jr., Assistant Secretary of HHS, and Kornegay of TI. This meeting was scheduled in view of the 6.15.83 date calendared by Senator Hatch for a mark-up of the pending labeling bill absent some agreement between the industry and HHS as to a mutually acceptable revised Warning Notice. After considerable discussion by and among those in attendance, it was agreed that the industry would authorize representatives of The Tobacco Institute to submit for consideration by Dr. Brandt up to four (4) separate proposed warnings, the first and fourth choices being the two proposed Warning Notices agreed to by the Executive Committee and incorporated in the Privileged and Confidential 10.1.82 draft bill, with the second and third choices being variations of the 1982 cigarette package warning required in Britain. The exact wording of the four (4) proposed Warning Notices - listed in order of preference - is appended hereto.

Note: Per telephone conference between Kornegay of the TI and the undersigned on Wednesday, 6.8.83, Kornegay reported that he, along with others from the TI, had just concluded a 58 minute conference with Dr. Brandt, Kornegay advising and informing Brandt that the industry rejected in unequivocal fashion the two (2) proposed Warnings as set forth in Brandt's letter to Kornegay forwarded under date of 6.2.83. No suggested revision had been offered by the TI in the initial meeting between Kornegay and Brandt of 5.26.83, Kornegay taking the position in such first meeting that the industry was satisfied with the existing Warning and that no revision was needed. At the conference by and between TI and Brandt held this date, Kornegay submitted to Brandt the first as well as the second revisions of the four (4) revised Warnings agreed to by counsel at the 5.18.83 Committee of Counsel meeting. Brandt has assured Kornegay that he would respond to the two (2) proposed revisions as submitted by Kornegay by the end of Thursday, 6.9.83, so that a decision can be made by the several companies in advance of the 6.15.83 date calendared by Senator Hatch for a mark-up of the pending labeling bill.

2. Self-Extinguishing Cigarette Legislation.

A. Federal

Rupp reported concerning his meeting with Senator Moakley



B. State

Rupp reported as to self-extinguishing legislation pending in the several state legislatures, with difficult situations existing in Oregon and California and New York. Rupp was optimistic as to the industry prevailing in Oregon, but the situation remains uncertain in California as well as in New York. Rupp to keep all informed.

3. S. 126; H. R. 1696 - Tobacco Addiction.

Discussion of the proposed Amendment to the Drug Abuse Act led by Chilcote, Stevens and Shinn, with Shinn pointing out the down-side risk in contributing any material to an addiction study if the addiction study culminates in a conclusion or conclusions unfavorable to the industry. Discussion of this item concluded upon Stevens appointing a sub-committee comprised of Witt of RJR, Sirridge of Shook, Hardy, Newman of PM, Decker of W&S and Chilcote of TI, with a report due by this sub-committee at the 8.24.83 scheduled meeting of the Committee of Counsel.

4. CAB - Smoking on Aircraft - TI Comments on Proposed Rule.

Text of proposed rule has not as yet been finalized by the CAB, and Temko suggests that no action be taken until such proposed rule has been finalized and is available for review and critique.

5. CTR Tax Credit.

Discussion limited to Witt's report to the effect that RJR has decided not to pursue any plan for pass-through tax credits; Chapin of U. S. Tobacco reports that U. S. Tobacco is taking such credits.

6. Sampling Legislation; Sampling Code.

Witt reported to the group, advising that the Philadelphia situation is in abeyance at the present.

Rupp then reported to the group as to an inquiry by the New York legislature as to how the industry intends to police and enforce "smokers-only" sampling, with a decision being made that the TI, through C&B, is to draft an amendment to the Code of Cigarette Sampling Practices so as to require 1) a prominent notice on any sampling box to the effect that such samples are for distribution to "smokers only", and 2) statements by sampling personnel to the effect that distribution of samples are intended for "smokers only".

7. Smoking in the Workplace - Legal Task Force for Certain Proceedings.

Discussion centered upon an inquiry by Rupp as to the position to be taken by the TI in response to various and sundry proposals and efforts made by anti-smoking forces, especially efforts to prevail upon private-industry employers to adopt rules and regulations prohibiting or limiting smoking by employees. The decision was made that Chilcote of the TI is to present to the Committee of Counsel at its next regularly scheduled meeting a suggested proposal of a position to be adopted by the TI, with the TI, during the interim, to deal with each and every situation on an ad hoc basis.

8. LS, Inc. - Update.

Decker of W&S and Finnegan of Jacob, Medinger, et al reported as to the current operations of LS, Inc., LS, Inc. having become operational as of 4.16.83.

9. ASHRAE/BOCA - Update.

Newman of PM, along with Rupp of C&B, reported to the group. No new substantive developments as of 5.18.83.

10. Ingredients/HHS - Update.

Temko of C&B reported on this item. Temko advised to the effect that nothing of substance is new, and no word has been received from HHS to alter the status quo. A decision was made by the several in attendance to the effect that Temko was to compile a list of the names of scientific personnel previously furnished to the TI by the several companies and to distribute such list, with Temko to collect and assemble from the several companies - to the extent that the companies are willing to provide such - information concerning ingredients and the names of one or more of the technical personnel to whom Temko can direct inquiries, subject to prior clearance by the respective companies' General Counsel.

11. Rylander Symposium and Other Meetings - Report.

Shinn reported to the effect that the Rylander written report is expected some time during the Fall of 1983, and it is anticipated that such will be published in a European journal. This report is to address and focus upon respiratory conditions and the relationship of such to the smoking of tobacco products.

12. Special Projects - As Required.

to \$20,000 quarterly, such payment previously having been \$45,000 quarterly.

13. S. 44 Federal Product Liability Bill - Update.

Temko reported to the group that Senator Packwood has announced his willingness to schedule a mark-up of the bill anytime after 6.1.83. Temko further advised that the situation continues in a fluid status as of 5.18.83, with trial counsel groups being among the most active supporters of the proposed legislation.

14. Asbestos Legislation - Update.

It was reported that Fred Panzer of the TI has compiled all of the relevant material concerning proposed asbestos legislation and it appears in the TI reports of 4.25.83 and 4.27.83.

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Non-Agenda Items

(1) Finnegan reported to the group as to the efforts made by RJR to effect a New Jersey legislative repeal of the Bashada decision which held, as a matter of law, that the traditional "state of the art" defense is no longer available as a defense in a product-liability case in the State of New Jersey.

(2) Stevens read to the group a 4.12.83 letter received from the North Carolina Pesticides Group, with discussion centering upon the question of the liability exposure to the several companies resulting from potential claims which might be asserted by test-smokers. No contribution to the discussion of this item by Liggett representatives for reason that Liggett does not participate in this undertaking. Discussion of this item concluded without any decision being made.

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Meeting adjourned at 3:25 o'clock P.M. Next meeting of Committee of Counsel scheduled for 6.22.83 in NYC.

JSM, III:hb

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