

Big Tobacco Gambles the American Gaming Association's Credibility*October 2003*

Big tobacco targeted the American Gaming Association (AGA) in reaction to the Occupational Safety and Health Administration's (OSHA) 1994 proposal to protect public health by making all workplaces, including casinos, smokefree. Interpreting OSHA's proposed rule-making as a threat to cigarette sales and smoking's social acceptability, the tobacco industry sought to ally with another well-financed industry, gambling, and selected the AGA – an association whose stated objective is to promote a better image and understanding of the gaming industry to the public, elected officials, and the media – as an ideal candidate to incorporate into its “ventilation” plan in 1995. As the following will illustrate, the tobacco industry has successfully influenced the AGA, using the association to undermine smokefree air legislation.

PURPORTED COMMON INTERESTS

- ❖ A 1994 letter drafted by the gaming industry to the Seattle – King County Department of Public Health threatened, ***“Please keep in mind that there are always unforeseen consequences that result from any action. I would ask that you resist the temptation to interfere with the market place.... The food and beverage industry is already drowning under the effects of government mandates. The drunk driving laws, minimum wage increases, and mandated health care, are just a few of the recent government regulations that our industry is being forced to cope with.”*** (Ron Porter, Tobacco Institute collection, Bates No. TNWL0005764)
- ❖ In March of 1996, R. J. Reynolds Senior Director of Public Affairs Robert Meyne wrote to Frank Fahrenkopf with hopes to recruit the AGA President and CEO, as well as a former Tobacco Institute lobbyist, to oppose OSHA's smokefree indoor air proposal. Meyne writes, ***“R. J. Reynolds and the American Gaming Association have a common interest in this issue. Our [RJR] position is that smoking policies in a casino, or any other business, should be developed by its owners and managers.... R. J. Reynolds is prepared to offer any assistance we can to you, your board, and members.”*** (Robert Meyne, R.J. Reynolds, Bates No. 517112687-2688) ***“We would encourage the American Gaming Association to be watchful of government efforts to ban smoking, and take a stand in opposition to them.... Please let us know how we can help.”*** (Robert Meyne, R. J. Reynolds, Bates No. 514462597)
- ❖ In 1996, internal documents show that one of R. J. Reynolds's stated goals was to ***“coordinate participation of RJR staff and consultants in planning and conducting a seminar to demonstrate how casino operators can effectively address issues related to ETS [environmental tobacco smoke] without losing business.”*** (Robert Meyne, R. J. Reynolds, Bates No. 522904788)
- ❖ In 1997, a Philip Morris draft budget increased its 1998 “special projects” budget from \$5.1 million to \$8.9 million attributing the ***“increase due to greater focus on Hospitality & IAQ [indoor air quality] Programs.”*** (“Worldwide Regulatory Affairs: 1998 Original Budget vs. 1997 Original Budget”, Philip Morris, Bates No. 2074769071-9072) An internal Philip Morris email in November 1997

stated, “[W]e are going to capitalize on the Gaming/ Hotel-Motel convention in Las Vegas to try to gain support from as many in this industry sector as we can for the resolution.... Additionally, we will inventory our relationships with the Gaming [big]-wigs and see what meetings we can set up. Apparently, RJR has a relationship with Fahrenkopf from the American Gaming Association. John, please advice if you find an internal relationship, otherwise, [we] can reach out to RJR to see if we can set up a Fahrenkopf/Carlton meeting. [We] will also be looking to see what other connections we have in the industry.” (Janice McDaniel, Philip Morris, Bates No. 2078199370A)

- ❖ Philip Morris internal documents from 1998 addressed the gambling industry’s ambivalence toward “accommodation”: *“[The AGA] is a powerful lobby whose political contributions are large, particularly in Nevada, Illinois, and New Jersey.... Efforts by the gaming industry, as a whole, to counter indoor air quality standards have not been strong.... Research indicates that at present, the gaming industry does not feel threatened by the OSHA regulations. The AGA has not formally addressed the issue and has not yet developed a division of department to create an industry position.... Some sources have noted that an accommodation program will only become a reality if the casinos are under direct threat from OSHA.... Initial steps in developing an industry-wide accommodation policy would assist in preempting any regulatory pressures. However, without a developed industry position and a strong coalition of operators and ally groups, the industry could very well face a costly, drawn-out contest.”* (“Situation Analysis: The Gaming Industry and Accommodation at a Glance,” Philip Morris, Bates No. 2072148493-8498)
- ❖ A 1998 Philip Morris internal report entitled “Situation Analysis: The Gaming Industry and Accommodation at a Glance” outlined, *“Casino Gaming is considered a ‘sensation-seeking’ activity and is growing in popularity as a national entertainment pastime. Recent surveys studying travelers who gamble indicate that this leisure industry pastime is appealing to a rapidly- expanding cross-section of Americans.... While anti-smoking legislation has affected many areas of the hospitality industry, casino gaming has not yet experienced these kinds of smoking restrictions. In 1996, a loose-knit coalition by the casino operators was formed to effectively deal with the American Society of Heating, Refrigerating and Heating [Air Conditioning] Engineers (ASHRAE) guidelines.... Presently, the American Gaming Association (AGA) has not formed a department or task force to formally study the issue.”* (“Situation Analysis: The Gaming Industry and Accommodation at a Glance,” Philip Morris, Bates No. 2072148493-8498)

CREATING A “VENT”

- ❖ In 1996 R. J. Reynolds produced a document entitled “Potential Impact of Smoking Bans on the Gaming Industry Prepared for the American Gaming Association,” intended to influence the AGA to oppose smokefree efforts. The RJR document attributed *“the controversy surrounding ETS [environmental tobacco smoke] ... [to] inadequate ventilation or a harmful buildup of fungi and bacteria. Studies have consistently shown that taking some simple steps to better maintain indoor ventilation can relieve complaints in most situations ... Managers can meet the needs of customers without establishing ‘official’ smoking policies. It may be sufficient to establish separate*

smoking and nonsmoking sections ... Minor modifications to HVAC systems may be the answer in other instances.” (R.J. Reynolds collection, Bates No. 514462524-2529)\

- ❖ A 1998 Philip Morris “Media Relations Plan” strategized HVAC (Heating, Ventilating and Air Conditioning) stories to *“pitch [and] place”* to the casino industry in order to create an HVAC demand: *“Highlight and reinforce with a gaming/casino publication new construction craze in Vegas, highlighting the role of HVAC in all new casino and hotel construction.... HVAC could be positioned as a prerequisite for a successful casino, and accommodation the rule for the gaming industry. While we do not need to create the business argument for casino owners and operators, the news hook of new construction in Vegas presents a valuable opportunity for exposure and awareness of reasonable options.”* (“Media Relations Plan, Places”, Philip Morris, Bates No. 2072909429-9444)

ROLLING THE DICE WITH BIG TOBACCO

- ❖ In addition to being founder, President and CEO of the AGA, Frank Fahrenkopf was also a Tobacco Institute lobbyist from 1975 to, at least, 1984 and keynote speaker at Tobacco Institute meetings in the 1980’s. (“Nevada State Journal”, Philip Morris collection, Bates No. 2025027427; “Updated Action Plan on intro. Res. 1158-84,” Philip Morris collection, Bates No. 2025851211; Samuel Chilcote, Tobacco Institute, Bates No. 517001342)
- ❖ Since 1996, the Nevada Resort Association and Elia Sterling -- President of Theodor Sterling Associates, the AGA’s consultant on indoor air quality, and the recipient of over \$287,000 tobacco industry *“special project”* dollars – have collectively lobbied and petitioned the American Society of Heating, Refrigerating and Air Conditioning Engineers (ASHRAE) to adopt the tobacco industry’s ventilation strategy as an alternative to protective, smokefree indoor air standards. (Glantz SA 2020.06 The Cigarette Papers (1996) pp. 301); “Philip Morris USA, Voucher”, Bates No. 2063653946) Philip Morris internal documents outlined the necessary *“people components”* and *“building components”* to compile its ideal ASHRAE casino ventilation committee. In addition, Philip Morris offered free consulting to the AGA on how to comment on ASHRAE documents. (Andy Persily, “Revisions to Standard 62: Creating a New Standard for Indoor Air”, Philip Morris, Bates No. 2065514496-4507) Since the late 1990s, the AGA, Sterling, and Philip Morris’s HCIAQ have launched a full-fledged campaign against ASHRAE to petition for a separate, ventilation standard for casinos: *“We are petitioning ASHRAE to create a separate Standard Project Committee to develop ventilation standards specifically for the Hospitality Industry.”* (www.americangaming.org/casino_entertainment/federal_update/) In 2001, AGA lobbyist Steve Barringer, accompanied by Sterling said, *“We [Barringer and Sterling] were told they [ASHRAE] had very little time, and we talked longer than they wanted us to. Nobody on the committee was sympathetic or receptive to what we had to say.’ Barringer said he told the committee it did not have enough members from the casino and hospitality industry, and a separate panel should be formed to consider the industry’s needs.”* (Philip Morris collection, Bates No. 2083488637A) To date, the AGA and Sterling continue to lobby and petition ASHRAE to tailor their indoor air quality standards away from the interests of public health and toward the interests of Big Tobacco.

- ❖ A 1997 internal email between Philip Morris executives informed: ***“I do have a relationship with Fahrenkopf of the American Gaming Association (AGA).... I have met with him on two separate occasions concerning the ASHRAE project.... I made a presentation to twenty high level executives from about twenty properties in Las Vegas. The presentation was very well received and resulted in a very good initiative by the AGA in the submission of comments on ASHRAE Standard 62R.... I also know several vendors of HVAC equipment who also work closely with the Casino Industry.”*** (Mayada Logue, Philip Morris collection, Bates No. 2070292704)

- ❖ Philip Morris organized and funded the Hospitality Coalition on Indoor Air Quality (HCIAQ), a front group to carry its ventilation message, in 1999, of which the AGA is a partner. HCIAQ is comprised of representatives of tobacco industry-allied organizations in the hospitality and ventilation fields. Internal documents from 1999 show the tobacco giant hired Black, Kelley, Scruggs and Healey, a Washington, D.C. based public affairs subsidiary of its public relations firm Burson-Marsteller, to organize and recruit members for the HCIAQ. Philip Morris gave the coalition at least \$250,000 in seed money, internal documents show. (Elizabeth Culley, Philip Morris, Bates No. 2072395494)

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