

NEW YORK POST, FRIDAY, MAY 17, 1996

NEW YORK POST

America's oldest continuously published daily newspaper

Anti-smoking skulduggery

Imagine this scenario: A scientist who claims to have discovered that cigarette smoking poses no danger to human health is about to testify on behalf of the tobacco industry. Suddenly it's revealed that he is secretly receiving a salary from tobacco lawyers. It also emerges that the same lawyers have bought the researcher a house and have co-signed two car loans for him. In his defense, the scientist insists that, except for the salary, it's all just a loan.

Question: How would the media likely react? A huge brouhaha — to say the least.

The scientist's research, whatever its actual merits, would be buried under a mudslide of derision. The tobacco industry would be roundly condemned on ethical grounds for attempting to buy a witness.

Now let's change a few details. Say the scientist is a "whistleblower" who asserts that the tobacco industry is fully aware that cigarette smoking is lethal and has worked to conceal this fact for decades. The lawyers providing the salary and "loans," rather than working for the tobacco industry, are in fact spearheading the campaign against it.

There you have the chain of events that actually unfolded recently in a Louisville, Ky., courtroom. Yet the near-silence surrounding the incident has been deafening.

USA Today, one of the few papers to run the story on Page One, reported that Merrell Williams, a former paralegal for a law firm representing Brown & Williamson Tobacco Corp., received a \$109,000 mortgage and other financial rewards. Williams had made internal corporate documents available to attorneys suing the tobacco companies.

His benefactor was lawyer Richard Scruggs — one of the tobacco industry's

leading opponents.

Scruggs insists he didn't "buy" any documents. Perhaps not. But unless he has entered the banking business, it is unclear why Scruggs would provide Williams with such substantial "loans." Moreover, how are reasonable people to interpret Williams' "salary"?

This is not the first time Scruggs has been involved with a subsidized whistleblower: He also represented former Brown & Williamson executive Jeffrey Wigand. CBS News promised to pay the latter's legal fees in the event Brown & Williamson sued Wigand for breaching his contract's confidentiality clause during a widely reported appearance on "60 Minutes."

CBS lawyers, fearing that the offer to pay Wigand's legal costs could be interpreted as an inducement to break the contract, initially scotched the segment. After the substance of Wigand's charges hit the newspapers, his interview was eventually aired.

Meanwhile, the anti-tobacco forces also suffered an embarrassment when a former Philip Morris employee recanted testimony he had given to the Food and Drug Administration (FDA).

Jerome Rivers, a former manufacturing supervisor for the conglomerate, withdrew his claim that Philip Morris routinely measures and adjusts nicotine levels. (The FDA hoped to use this "evidence" to justify regulating tobacco as a drug.)

Critics incessantly portray the tobacco industry as amoral, even though its "crime" consists in selling a legal product that millions of Americans enjoy. After these shenanigans, it is clear that when the subject of ethics comes up, some of tobacco's foes would do well to take a careful look in the mirror.

2073706710