

other acknowledged associations combined together account for only a minor fraction of the total burden of head and neck cancer, that is correct isn't it?

A. Yes.

Q. And you would also agree that if cancer is found to be associated with more than one risk factor it is likely that has interacted with the other risk factors to produce the final result, correct? 5

A. It may. I don't know if one could say likely, it depends on the risk factor. Some may, some not, it depends on the mechanism. It is certainly possible. 10

Q. You and Professor Schwartz have travelled all the way here from the United States to testify, as you have done, to say that in your view Mrs Sharp's cancer was not caused by or contributed to by environmental tobacco smoke, is that correct? 15

A. That's correct.

Q. On that issue of the health effects of environmental tobacco smoke you, professor, are well and truly in bed with the Tobacco Industry; true or false? 20

OBJECTION. ALLOWED. 25

A. I don't know if I'd say I was in bed with the Tobacco Industry.

Q. Do you not understand what I mean by that expression? 30

A. Yes, I'm not sure what you mean by that expression.

Q. What do you think I mean by it?

OBJECTION. QUESTION REJECTED. 35

Q. I will explain to you what I mean. You have had a long and lucrative association with the Tobacco Industry, true or false?

A. I have consulted with the Tobacco Industry over the years. 40

Q. It has been a long association, hasn't it?

A. Dating back from about the mid 1980s to about 1995 or so. 45

Q. Over 10 years?

A. Yes.

Q. And it has been lucrative for you? 50

A. It has been productive of income for our consulting business.

Q. So we can be clear on this, do you agree or not that you have made a lot of money out of the Tobacco Industry? 55

A. We have made a, a fair amount of money out of the Tobacco Industry.

Q. How much do you think?

A. I have no idea.

Q. I will attempt to remind you or clarify your recollection in a moment. When you talk about "we" are you talking about you and Professor Schwartz? 3

A. I'm talking about the consulting practice that we have had which has also involved two universities.

Q. Yes, your consulting practice, this International Centre for Toxicology, that is not associated with any university is it? 10

A. It is. The International Centre for Toxicology in Medicine has a formal affiliation with Georgetown University Medical Centre. 15

Q. Would Professor Schwartz be aware of that formal association?

A. Yes.

OBJECTION 20

DEAKIN: The witness said "affiliation" my friend transcribed that into "association". I don't think much turns on it, but it ought not to be misrepresented. 25

SEMMLER: Q. You are telling this jury that your Centre for Toxicology has a formal association with a university, is that what you are saying?

A. We have a formal affiliation agreement with Georgetown University. We previously also had a formal affiliation agreement with George Washington University when I was based there. 30

Q. And your centre currently has such a formal affiliation agreement, is that what you are saying? 35

A. Yes.

Q. What is the nature of the agreement?

A. At the present time the nature of that agreement involves the operation of the programme of, in environmental and occupational toxicology, which I'm the director of it, at Georgetown through an affiliation agreement with our centre. 40

Q. What does the agreement mean in effect? 45

A. The agreement provides for me to run a programme there.

Q. Which programme?

A. The programme on environmental and occupational toxicology and for interaction between the Centre and the university in terms of certain training programmes and clinical programmes. 50

Q. Have you ever given evidence which you believed to be contrary to the interests of the tobacco smoke? 55

A. I don't recall, I may have.

Q. I'm sorry?

A. I don't recall, I suspect I have.

Q. It doesn't stick in your mind does it, any occasion like that? Does it?

A. I mean, I have given evidence with the opinion that active smoking was the cause of disease in a patient.

Q. I see. We will come to that. What view did you have in 1990 about whether active smoking causes lung cancer?

A. Active smoking is a cause of lung cancer.

Q. I'm not asking you that, I'm asking you what view you had in 1990 as to whether smoking causes lung cancer?

A. That was my view in 1990.

Q. Was it?

A. Yes.

Q. You gave evidence at a Federal Court hearing brought in a case brought by the Australian Federation of Consumer Organisations against the Tobacco Institute of Australia, didn't you?

A. Yes.

Q. And you gave evidence in that hearing before Justice Morling in 1990, didn't you?

A. That's correct.

Q. And a judgment was given in February 1991, wasn't it?

A. I don't know when the judgment was given but--

Q. And you expressed the view, on your oath, in that hearing that:

"It has not been proven scientifically that mainstream smoke causes lung cancer in active smokers."

Correct?

A. I don't recall that view.

Q. You deny that you expressed that view?

A. Yes.

Q. You do?

A. I don't recall expressing that view.

Q. I will come back to that. And you well know that that view is contrary to scientific knowledge that has been recognised for, that has been available for decades that smoking causes lung cancer?

A. Yes.

Q. You know that that is the case, don't you?

A. Yes.

Q. That was well known to be the case in 1990, wasn't it?

A. Yes.

Q. If Professor Schwartz were to have testified at page 1100 of the transcript in answer to a question:

"This so-called International Centre for Toxicology and Medicine is not associated with any university is it?"

A. No."

5

That would have been a false answer, would it?

10

A. I think he is mistaken. That is, because there is a formal affiliation.

Q. I see. And how long has he been a proprietor of this International Centre for Toxicology?

15

A. Since 1996 I believe.

Q. Do you agree with this proposition: The Tobacco Industry, as part of a global strategy, assembled a group of scientists throughout the world and in the United States to cast doubt upon suggestions being made in the United States in the 1980s that environmental tobacco smoke was dangerous to human health.

20

OBJECTION

25

DEAKIN: I think it is probably covered by your Honour's earlier rulings on this topic, but I object to this line of questioning.

30

QUESTION ALLOWED

SEMMLER: Q. Do you agree with that proposition or not?

A. Yes.

35

Q. You do?

A. Yes.

Q. You know that that is what the Tobacco Industry internationally was doing back in the eighties?

40

A. Yes.

Q. And you were one of a group of scientists who became part of the scientific team in the United States, correct?

45

A. I gave scientific presentations on behalf of the industry, yes.

Q. No, professor, listen to my question please and tell me whether you agree with it or not. You became part of what was described as the scientific witness team for the Tobacco Industry in the United States in the eighties, true or false?

50

A. That's true.

Q. Why did you answer the question when I asked it with an answer, "Oh, I gave some evidence"?

55

A. I didn't quite - no reason particularly.

Q. You well know that you were part of the team when you gave that answer, didn't you?

A. I didn't really quite know what you meant by "the team".

Q. And the Tobacco Industry paid you a lot of money to do literature searches on environmental tobacco smoke issues, true or false? 5

A. They paid us a considerable sum to do that, yes.

Q. How much?

A. I don't recall. 10

Q. And they paid you a lot of money to set up conferences which they sponsored?

A. I, the only conference that I'm aware of that we, and I had very little to do with it, that they were setting up was the Georgetown conference. 15

Q. That is the one that your colleague, Professor Schwartz, had something to do with, correct? 20

A. Yes.

Q. And you well know that that had to be abandoned because he didn't notify some of the distinguished people invited to give presentations there, that it was partly sponsored by the Tobacco Industry? 25

A. I don't believe that is correct.

OBJECTION.

WITNESS: It was abandoned, but I don't believe he neglected to inform anybody. 30

SEMLER: Q. Have you ever neglected to notify anybody of your connections with the Tobacco Industry on occasions when you have given evidence about the environmental effects of passive smoking? 35

A. Not that I'm aware of.

Q. (Approached). Do you remember giving evidence to an organisation called EPS SAB Review Draft: Respiratory Health Effects of Passive Smoking? 40

A. Yes.

Q. And do you remember that you had to write Mr Flack, the Assistant Staff Director of the Scientific Advisory Board of the US Environmental Protection Agency a letter on 8 July 1992? 45

A. We chose to do that because, in submitting the written submissions, notice of our affiliation was inadvertently left out. 50

Q. You now recall that you did in fact fail to tell somebody when you were giving evidence about passive smoking, that you were connected with the Tobacco Industry, do you recall that now? 55

A. I'm sure you are correct but I can't recall that now.

Q. What you said in the letter was:

"I note that in our haste to comply with the deadline we inadvertently neglected to clearly indicate that we are both consultants to the Tobacco Institute and that our submission was made at the request and expense of the Tobacco Institute."

A. Yes, that's correct.

Q. That is what you said in 1992?

A. Yes.

Q. Have there been any other occasions, now that you think about it, where you failed to notify to the relevant Government authority in the United States or elsewhere that you were giving evidence paid for and on behalf of the Tobacco Industry?

A. Not that I can recall.

Q. When you became one of this so-called scientific witness team for the Tobacco Industry, you travelled all around the United States giving evidence to various enquiries on behalf of the Tobacco Industry, correct?

A. I travelled to a number of places in the United States, yes.

Q. When you say "a number of places", how many do you think it was?

A. I don't recall.

Q. Could I assist your memory? In 1986, how many places do you think you went on behalf of the Tobacco Industry to give evidence about the effects of environmental tobacco smoke?

A. I don't recall.

Q. Could I approach the witness? Do you remember that on January 7, 1986 you attended a state or local legislative hearing at Anaheim in California?

A. I don't remember the date but I recall being in Anaheim, yes.

Q. And do you remember in, on 4 February you attended on behalf of the Tobacco Industry at Lansing, is that Minnesota?

A. Michigan.

Q. 4 February, the same year?

A. Again, I don't recall the date but I recall being in Lansing Michigan.

Q. On 13 February at Salt Lake City?

A. I don't recall Salt Lake City, that may have been cancelled, but I honestly don't recall.

Q. 26 February at Boston, Massachusetts?

A. Yes.

- Q. These are all Government hearings about the effect of tobacco smoke, correct?
- A. They were state or local legislative hearings, yes.
- Q. 8 March 1986 you attended such a hearing at Hartford, Connecticut on behalf of the of the Tobacco Industry? 5
- A. I believe that is correct.
- Q. 12 March, Concord, New Hampshire? 10
- A. Correct.
- Q. On 26 March, again Concord New Hampshire?
- A. Possibly, I don't recall two trips to Concord, but it is possible. 15
- Q. 21 March, Washington DC?
- A. I don't recall specifically, but it is possible.
- Q. 3 April, Philadelphia PA? 20
- A. I believe that is correct.
- Q. 15 April, Cleveland Ohio; correct?
- A. That is correct.
- Q. You attended some national legislative hearings on the effects of tobacco smoke, environmental tobacco smoke, didn't you? 25
- A. I did.
- Q. On 12 June you attended at such a hearing in relation to some, I think some bills being put forward by people named Scheuer and Ritter in Washington DC? 30
- A. I don't believe specifically, those are the name of congressmen so it is possible I did attend and present those legislative hearings. 35
- Q. 25 July in the same year you attended the Sanitation Committee of the New York State Public Health Council to give evidence about your views concerning the environmental tobacco smoke paid for and on behalf of the Tobacco Industry, didn't you? 40
- A. Again, I don't recall the date and I don't specifically recall that, but I'm sure it occurred.
- Q. 1987 you continued this odyssey around the United States giving evidence paid for by the Tobacco Industry, correct? 45
- A. Correct.
- Q. On 21 and 22 January 1987 you attended in at local or state legislative hearings in Burlington Vermont? 50
- A. That is correct.
- Q. You gave evidence there about your views on behalf of the Tobacco Industry?
- A. Yes. 55
- Q. You were flying around first class, weren't you?
- A. It depended, some of those connections weren't first

class connections.

Q. The best class on the plane?

A. Sometimes the only class.

Q. You attended what are described as "public relations appearances" in that same year, can you remember that? 5

A. I don't believe I'm listed on those.

Q. You are quite correct, it was Dr Schwartz. It is my mistake, professor. Another local or legislative hearing where you gave evidence was February 18, Montpelier Vermont? 10

A. Again I can't attest to the date, but I probably did at some point.

Q. And on April 9, 1987 back in Washington, correct? 15

A. Possible, I can't recall that specifically.

Q. And the Tobacco Industry, are you aware whether they gave you a score, you relative to the other witnesses, a score in terms of your credibility at these meetings? 20

A. Not that I'm aware of, not that I know.

Q. You don't know that you were given a score of 12 and Professor Schwartz was given a score of 9? 25

A. Is 12 better than 9?

Q. I assume it is, professor?

A. I have no idea, they never shared that with me. 30

Q. Do you remember going to a meeting organized by the Tobacco Industry in February, February 29 and 1 March in Washington of 1988?

A. I don't remember specifically. I did go to meetings but, are you talking about a scientific meeting? 35

Q. No, I'm not. Could I refresh your memory? It was described as an SWT ACVA get-together. Does that jog your memory?

A. No. 40

Q. SWT you well know was the description used by the Tobacco Industry for the scientific witness team, correct?

A. I will accept it was, I have not heard that terminology. 45

Q. You didn't know that?

A. No, I didn't use that terminology.

Q. And the ACVA, what was that?

A. I have no idea. 50

Q. Wasn't that some kind of an air, indoor air assessment organization?

A. ACVA? 55

Q. Yes?

A. I have not heard of that term.

Q. Have you heard of an organisation called Healthy Buildings International?

A. Yes.

Q. What is that organisation?

5

OBJECTION. QUESTION ALLOWED.

Q. What is that organisation, professor?

A. Healthy Buildings International is a company, I know they have in the United States, there is also a company here in Australia, that does evaluations of indoor air, industrial hygiene evaluations.

10

Q. On behalf of the Tobacco Industry, correct?

A. I believe, I don't know for certain but it is my understanding they have other clients as well, but they have done work for the Tobacco Industry.

15

Q. But they liaise, to your knowledge, very closely with the Tobacco Industry?

20

A. I have no first-hand knowledge of that.

Q. Because you know that they give a lot of reports which are sympathetic to the Tobacco Industry's views on the effects of environmental tobacco smoke. You know that, don't you?

25

A. I have seen reports they have given that, that could be so--

Q. Construed?

30

A. Construed, but I don't know all the work they do.

Q. But you are well aware, aren't you, that back in the eighties at least in the United States, the predecessor of Healthy Buildings International used to attend some of these conferences that you used to attend, organised by the Tobacco Industry.

35

OBJECTION

40

HIS HONOUR: Mr Semmler, we are getting a fair way--

SEMMLER: It all goes to credit and I still have a number of matters I wish to pursue.

45

QUESTION ALLOWED.

WITNESS: Allowed, your Honour?

50

HIS HONOUR: I have allowed it.

WITNESS: I recall being, some of the principals or employees of that organisation being at some of the presentations, presenting at some of the presentations that I presented at.

55

SEMMLER: Just have a look at this document. See if it helps your memory a bit about this meeting I'm suggesting

that you took part in, organised by the Tobacco Industry in late February, early March of 1988. Does that help?

A. I'm afraid not. I don't recall being at that meeting.

Q. I would suggest to you that this was a meeting, a get-together between the scientific witness team and this predecessor of Healthy Buildings International, a day and a half session at the Tobacco Institute headquarters. Does that help you?

A. No.

Q. There was to be first of all a two hour brief by a firm called Ogilvie & Mather, heard of them?

A. No.

Q. You don't know that they are a large international advertising agency?

A. I'm afraid not.

Q. That was a session to be given to, and was in fact given to expert witnesses such as yourself who were part of this SWT, scientific witness team, on ways to improve delivery of testimony. Do you remember that?

A. No, I don't.

Q. Do you deny that you have ever been to a seminar where there have been experts from the advertising field who have tutored you about ways to give, ways to improve the delivery of your testimony?

A. I have not personally participated.

Q. You haven't?

A. No.

Q. Have you ever had any tutoring in that regard?

A. No.

Q. Have you ever been to a conference where that has been done?

A. No.

DEAKIN: I object to any further reference to this document or its contents. It has simply not been established as having any connection with this witness.

SEMMLER: I will endeavour to do it.

Q. Do you see on this document if says that at this meeting there was going to be a report on new scientific developments since the IAGA meeting, from Phil Witorsch?

A. Yes.

Q. Are you Phil Witorsch?

A. I am.

Q. You don't remember going to that meeting and giving that report on so-called new scientific developments?

A. It may have been their desire that I do that, but I

don't recall that I did.

Q. You don't remember that on the agenda were ways to piggyback truth/appearances with legislative and other needs, remember that.

5

OBJECTION.

DEAKIN: Unless it can be connected to the witness it ought not be subject to further--

10

QUESTION ALLOWED

- SEMMLER: Q. Can I just ask you some more questions about how much money you have received over the years from the tobacco industry. Do you remember presenting a scientific paper on confounding variables in the epidemiologic studies investigating the respiratory system at the IAT meeting in Montreaux, that's in Switzerland, I think, which was to be published in the journal Indoor Environment in August 1991. Do you remember that? 5
- A. I remember the paper, I remember we presented it. I say we because my brother was a co-author, I forget which one of us presented it, and it was ultimately published. 10
- Q. Do you remember how much you got paid for that?
- A. I don't.
- Q. Could I refresh your recollection. Was it \$56,553 US for that paper? 15
- A. I could not say.
- Q. It could have been that much, couldn't it?
- A. It could have been, yes. 20
- Q. Do you remember giving a so-called scientific paper on the evidence surrounding the alleged association between ETS exposure and respiratory disease in children?
- A. Yes. 25
- Q. Remember that?
- A. Yes.
- Q. And do you remember how much you got paid for that? 30
- A. I don't.
- Q. Could it have been \$67,070 US?
- A. I think those two papers were given together. I would think that perhaps one of those figures would apply to both, but I don't honestly recall. 35
- Q. But you were, you would agree, paid large amounts of money for individual papers that you presented at these various conferences. Do you agree with that? 40
- A. Paid for the preparation of the papers and expense.
- Q. Figures like \$50,000 and \$60,000 for one paper?
- A. That would include travel expenses. 45
- Q. We will come to travel expenses in a moment. Do you remember that you wrote some letters or you assisted in the writing of letters to the editor of the American Journal of Epidemiology on the John et al paper, a paper published by an academic named John and others concerning ETS and childhood cancer? Do you remember that? You wrote some letters to the editor of a journal about somebody else's research? 50
- A. That's very common. I have written letters, many people write letters to the editor. I recall writing letters to the editor. I don't specifically recall what that paper is, but certainly it is probable that I did write a letter. 55

- Q. You have done it a lot on behalf of the tobacco industry, haven't you?
- A. I have done it on a number of occasions.
- Q. You have done it with the express purpose of trying to create controversy about other people's research? 5
- A. I have done it when I have disagreed with the conclusions of other people.
- Q. And on that occasion in respect of that letter that you wrote you received \$13,820 US, didn't you, from the tobacco industry? 10
- A. I think you are misinterpreting that. They talk about letters by three people. If I understand, this is what they have budgeted for the three. 15
- Q. It refers to three people and it says at the end "(Witorsch letter accepted)"?
- A. But I believe there were individual letters, and for some reason mine was accepted. I think that's what they are talking about. 20
- Q. There were three letters, yours was accepted, and the sum of \$13,820 US was paid in respect of these letters to the editor of a magazine about somebody else's research. Is that correct or not? 25
- A. That's what it says there. I don't recall that.
- Q. You do recall that you have been paid large amounts of money by the tobacco industry simply to write letters to journals trying to contradict what is said in other people's research; correct? 30
- A. A letter to the editor is a legitimate scientific publication, and yes, and I have prepared such letters. 35
- Q. And you have been paid a lot of money for doing so?
- A. I have been paid for doing so, yes.
- Q. Have you ever written to a journal in New Zealand about somebody else's research or comments on environmental tobacco smoke? 40
- A. I believe I did.
- Q. When was that?
- A. I don't recall, probably ten years ago or so. 45
- Q. Why did you bother to write to a journal in New Zealand, the New Zealand Medical Journal about this?
- A. Well, the New Zealand Medical Journal is read in the United States. 50
- Q. What, you were worried that people might get the wrong impression?
- A. No, there was a relevant article that I disagreed with the conclusions of the author. 55
- Q. Did you get paid for that by the Tobacco Institute?
- A. I don't recall.

Q. You could have?

A. I could have.

Q. You write a letter and then you send off your invoice, or how does it come about?

A. It would vary, I think. If requested to review a paper and if I am comfortable writing a letter I would do that and then bill them for the time involved. 5

Q. What, would you ask them in advance whether they were prepared to pay these large amounts of money for these letters that you chose to write? 10

A. More often it would be they would ask that I do that if I am comfortable doing that, and it was understood that they were prepared to pay for my time. 15

Q. When you made this contribution to the New Zealand Medical Journal you didn't make any reference in that contribution to the fact that you were a consultant to the Tobacco Institute, did you? 20

A. Such a reference would have been contained in the cover letter to the editor.

Q. You are saying that you did make such a reference, are you? 25

A. I would have, I believe, in the cover letter. Whether that was published or not I don't know.

Q. Do you remember you gave some evidence on 24 April 1990 in the case I referred you to earlier, brought by the Australian Federation of Consumer Organisations against the Australian Tobacco Institute? Do you remember that? 30

A. I don't remember the date, but I remember giving evidence.

Q. You gave a lot of evidence on behalf of the Tobacco Institute of Australia, didn't you? 35

A. I gave - I don't know what a lot of evidence is. I testified for, as I recall, a period of one or two days.

Q. Would you agree with this, that when you were referred to this letter to the New Zealand journal, when it was put to you you made no reference in that document to your consultancy role with the Tobacco Institute, your answer was, on oath, "That is right. It was not appropriate or necessary to do it in that capacity." 40 45

A. Apparently that's what I did say then and, yes, so I--

Q. Well, which answer was false? The answer you have given here in court or the answer you gave in 1990? 50

OBJECTION. TO BE REPHRASED.

Q. Which of them was true?

A. To the best - I mean this is closer in time, the document you have shown me is closer in time. It is probable that my recollection that there was such acknowledgment currently was incorrect and that would 55

appear to be, we are talking about more than ten years ago.

Q. So what you told Justice Morling's hearing was true, that you didn't acknowledge in your letter to the New Zealand Medical Journal your connection with the tobacco industry, and what you have said in court here today is not true, if that is not objectionable? 5

A. My recollection today was inaccurate.

Q. You have travelled not only all around the United States but you have travelled all around the world on behalf of the tobacco industry, haven't you? 10

A. I have travelled to a number of places around the world, yes, sir.

Q. Can you tell us, share with us what international journeys you have made? 15

A. I have presented papers, sponsored by the tobacco industry, in Korea. I have travelled to Indonesia, as I recall Malaysia, New Zealand. I don't believe I have travelled to Europe on behalf of - yes, I'm sorry, the trip to Montreaux, which was a scientific meeting. 20

Q. Montreaux in Switzerland?

A. Switzerland, Australia. 25

Q. Yes, we have heard about that.

A. And there are probably others, but that's what I can recall of them at the moment. 30

Q. Can I refresh your memory. You have been to South Africa as well, haven't you?

A. Yes, I have, thank you.

Q. You went there in relation to a review of the Tobacco Control Act that was being conducted down there? 35

A. I honestly don't remember the legislation. It was in conjunction with legislation, in conjunction with a meeting that I participated in with the health minister. 40

Q. And you gave some evidence there on behalf of the tobacco industry, didn't you?

A. Yes, I did.

Q. You didn't mention Sri Lanka, did you? 45

A. I had for gotten about Sri Lanka.

Q. You went to Sri Lanka, all expenses paid, on behalf of the Tobacco Institute, didn't you?

A. Yes. 50

Q. Japan, you never mentioned that country?

A. That's because I didn't go to Japan.

Q. Your colleague, Professor Schwartz, got that particular trip; is that right? 55

A. I believe he went to Japan.

- Q. Did you go to India?
A. Yes. I spent one day in India.
- Q. Did you go to Guatemala?
A. Yes. 5
- Q. Both on behalf of the tobacco industry?
A. Yes.
- Q. When you went to Guatemala you sent them a bill for \$7,048, didn't you? 10
A. I don't recall the amount, but if you have such a bill I'm sure it is correct.
- Q. You sent Covington & Burling, the attorneys for the Tobacco Institute, a bill for preparing for and participating in meetings in Guatemala, \$7,048; is that right? 15
A. That's correct. That would have included expenses, and actually, for the record, I believe Covington & Burling were not representing the tobacco institute, they were representing Philip Morris. 20
- Q. Did you go to Buenos Aires in 1995?
A. Yes. 25
- Q. You forgot about that when I asked you about where you had been?
A. Yes. Just a minute, I don't recall if Buenos Aires was on behalf of the tobacco industry. 30
- Q. Do you know a man named Charles Lister of Covington & Burling?
A. Yes. 35
- Q. He is one of their attorneys, isn't he?
A. Yes.
- Q. And Covington & Burling are the attorneys for the Tobacco Institute, aren't they? 40
A. I believe they represent - they did represent the Tobacco Institute. I believe they also represent Philip Morris and possibly BAT.
- Q. You wrote to him in May 1995 about this Buenos Aires meeting and about the fee arrangements, didn't you? 45
A. If you have such a letter I assume you did.
- Q. I suggest to you you wanted to clarify the financial arrangements "so there is no misunderstanding down the line". I suggest to you that you told him you currently charged \$275 per hour or \$2,200 per day for work that you do for Covington & Burling, but for this conference you would expect to charge for one day for the conference, two days for travel, one day for preparation for a total of four days. If there is a follow up meeting in Sao Paulo you would charge an additional day, you would expect to fly first class and be reimbursed for other out-of-pocket and 55

meeting expenses. Do you remember that?

A. That's correct, yes.

Q. You came out here earlier than the AFCCO case, didn't you, earlier than the 1993 AFCCO hearing, the Federation of Consumer Organisations, didn't you? 5

A. I was out here on a prior occasion.

Q. On behalf of Philip Morris International to talk at some seminars that they organised here and in Melbourne; correct? 10

A. That's correct.

Q. And when you came out, incidentally, did you travel with a Mr Rupp? 15

A. I don't recall if we travelled together, but Mr Rupp, as I recall, was at those functions.

Q. He was what?

A. He was there as well, yes. 20

Q. Who is Mr Rupp?

A. John Rupp is a partner in Covington & Burling.

Q. He is a partner in the attorneys for the Tobacco Institute? 25

A. Yes.

Q. And in the course of your international peregrinations you used to regularly travel, I won't suggest a plane load, but as part of a large team of people from the Tobacco Institute? 30

A. Actually the Tobacco Institute was never involved as far as I know in the international activities. I would not infrequently travel on the same flight with Mr Rupp, depending on the arrangements. I would sometimes travel with someone else, but most of the time I travelled as an individual. 35

Q. In any event, professor, when you came out on that occasion on behalf of Philip Morris International you gave talks at seminars in Sydney and Melbourne and you cited all what you regarded as the pertinent studies on environmental tobacco smoke and you pointed out their weaknesses, didn't you? 40

A. I don't recall the details, but basically what I did was give a scientific presentation on the state of the science involving environmental tobacco smoke, and that would include critiquing the relevant studies. 45

Q. And the seminars that you had in 1987 in Australia included presentations to Australian journalists representing all major Australian newspapers and newspaper and television interviews. True or false? 50

A. I believe that's correct.

Q. You went out of your way to talk to the media about what you thought were the deficiencies in the evidence about environmental tobacco smoke on behalf of the tobacco 55

- industry. Is that true?
A. I gave what I believe was a balanced presentation of the state of the science regarding environmental tobacco smoke and its health effects at the request and on behalf of the tobacco industry. 5
- Q. Have you ever heard the expression being in bed with somebody?
A. Yes.
- Q. Do you think you have been in bed with the tobacco industry? 10
A. No.
- Q. On that occasion in 1987 when you came out here you gave not only presentations to the media but presentations to little groups of possibly affected people, such as airline employees; is that right? 15
A. I don't recall all the groups that were organised, but there were a number of groups that I gave the same presentations to. 20
- Q. Employer groups?
A. I couldn't say.
- Q. Legal people? 25
A. Probably, but I don't know for sure.
- Q. Restaurant owners?
A. I couldn't say. 30
- Q. And then you went on from here, the group moved on to Hong Kong and did similar things there. Is that right?
A. That's correct. 35
- Q. Do you remember how much you got paid for all of that?
A. I don't.
- Q. How long were you away?
A. Probably it was a week, but I don't recall specifically. 40
- Q. Do you know a Mr Robertson?
A. Yes.
- Q. Gray Robertson? 45
A. Yes.
- Q. He was back in 1987 the chief executive officer of ACVA Atlantic Inc; is that right?
A. I don't recall ACVA Atlantic Inc. He was the chief executive officer of Healthy Buildings International in the US. That may have been the predecessor, I don't recall. 50
- Q. Mr Robertson, who was associated with Healthy Buildings International, he travelled out with you, didn't he, to these ETS seminars in Australia and Hong Kong in 1987? 55
A. I don't recall specifically. He travelled with me to some seminars. He may have been at the ones in Australia, I

don't recall.

Q. You know that what Healthy Buildings International does is to measure or purport to measure environmental tobacco smoke levels in buildings where it is said that there could be some risk to the people who have to inhale the air in those buildings. You know that, don't you? 5

A. It is my understanding that - I mean I don't know everything that they do. It is my understanding that they are one of a number of firms that make measurements of various indoor air pollutants, including components of environmental tobacco smoke as well as other things. 10

Q. And you know that one of their major clients is the tobacco industry, don't you? 15

A. I know they do a lot of work for the tobacco industry. I have no idea of their client list.

Q. Mr Robertson, I would suggest to you, came out with you and Mr John Rupp on this tour you made of South-East Asia, including Australia, in 1987. Is that true or false, professor? 20

A. Based on this that would appear to be correct.

LUNCHEON ADJOURNMENT 25

Q. Just going back to this suggested link that you testified about concerning the relationship between cancers of the head and neck and the problem in the stomach, what was it called again? 30

A. Atrophic gastritis.

Q. One of the articles that you finally made available to me earlier this morning on this subject was by Morag Chisolm MD. Remember that? 35

A. Yes.

Q. In April 1974. Are you familiar with that article? 40

A. I read it.

Q. That was one of the articles that I think you said you had regard to in reaching your views that you have given the jury. Is that right? 45

A. That's correct, yes.

Q. That article dealt with the Paterson-Kelly syndrome, didn't it? 45

A. I believe so. May I pull my copy out?

Q. By all means. 50

A. Yes, I have the article.

Q. Could you just turn, please, to page 150? 55

A. You are talking about the Chisolm article?

Q. Yes.

A. Chisolm article is 215 to 219.