

# The ACLU's Tobacco Addiction



CHRIS MULLEN

Nadine Strossen, president of the American Civil Liberties Union, sent me an "invitation" to join recently. "For seventy-eight years, the ACLU, supported exclusively by caring, concerned people like you, has been the nation's staunch defender of the Bill of Rights and freedom," she wrote. Sadly, however, her description of who "exclusively" funds the ACLU is a falsity, which her underlining compounds. Unless, of course, tobacco companies are "caring, concerned people."

In 1987, the ACLU's executive director, Ira Glasser, began to solicit Philip Morris for annual grants without first consulting his board of directors, he admitted to me in an October 1992 interview. By that time, the leading cigarette manufacturer had given the tax-exempt ACLU Foundation \$500,000. Second-ranking R.J.

Reynolds also contributed, but Glasser refused to tell me how much.

How Strossen could not have known of the ACLU's financial dependence on tobacco is hard to imagine. She was sitting beside Glasser and me when he revealed the Philip Morris and R.J. Reynolds grants. In July 1993, moreover, leading news organizations—including *The Washington Post*, *The New York Times*, and Reuters—publicized the grants in stories based on a report I'd done, "Allies: The ACLU and the Tobacco Industry." Yet the ACLU still maintains the fiction that Strossen knew nothing of the contributions. "Nadine . . . is not involved with the accounting procedures of the ACLU," membership liaison Rita Buland wrote on September 25 to an inquiring ACLU member, Stanley E. Cohen.

The envelope containing Strossen's solicitation to me bore the return address of her board of directors. It was they, she wrote, who had "asked me to extend this invitation." Many of the directors are out-

standing lawyers. Had they actually vetted a text implicitly characterizing the two biggest cigarette manufacturers as "caring, concerned people"? And would a law professor—which Strossen is—not distinguish flesh-and-blood persons from paper corporate persons? Some time ago, I asked Strossen about the ACLU's tobacco subsidies. She didn't respond. That was predictable, since she'd ignored my previous queries, handing them off to Glasser.

While the 1993 news stories emphasized Philip Morris's grants, "Allies" made other revelations. One was that the ACLU had never told its membership—not in its quarterly newsletter, not in fundraising letters—of its continuing solicitation and acceptance of tobacco money. Nor had it revealed its sustained lobbying—alongside the tobacco industry—against proposed legislation barring tobacco advertising.

Even so, tobacco money accounted for less than half of 1 percent of the national ACLU's general revenues. This fact led

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me, in "Allies," to treat possible financial impropriety as a nonissue and to assume that all tobacco money went into ACLU general revenues. But I was upset to discover that I had inadvertently misled people. I found this out when I read John Fahs's little-noticed book, *Cigarette Confidential*, published in late 1996.

According to Fahs, a former ACLU employee, Philip Morris and R.J. Reynolds had given the ACLU and/or its Foundation in excess of \$900,000 and ACLU affiliates "hundreds of thousands of dollars more." In ACLU internal documents he'd copied while an employee, Fahs revealed that Philip Morris had earmarked every penny of its tobacco grants for the Task Force on Civil Liberties in the Workplace. It's not evident from the name, but this arm of the ACLU has battled for smokers' rights on the job while doing nothing to protect nonsmokers from the hazards of second-hand smoke.

Task force director Lewis Maltby once pointedly reminded Glasser in writing that the "fundamental position" of the ACLU is that every person "has a right to personal autonomy which entitles us to live as we choose so long as we do not infringe the rights of others."

Nevertheless, the ACLU disregarded the rights of people who suffer from second-hand smoke and kept hustling for tobacco dollars. According to Fahs, "Maltby

traveled to North Carolina for extensive meetings with five top executives from RJR to ascertain what the firm's priorities were with regard to lobbying for smokers' rights and how the ACLU could best coordinate its efforts to address those priorities." Fahs also wrote that Philip Morris's "in-house advertising and graphic arts department designed, wrote copy for, produced, and sent out an entire direct-mail campaign concerning smokers' rights that used the ACLU name and logo."

When ACLU employees in Manhattan protested that environmental tobacco smoke was infringing their rights, administrator Linda Gustafson said she would research "the causal relationship between ETS [environmental tobacco smoke] and cancer and other serious health effects on nonsmokers." Tellingly, she sought the facts not from, say, the Food and Drug Administration or the Environmental Protection Agency, but from the industry's lobbying outfit, the Tobacco Institute.

After reading *Cigarette Confidential*, I decided to write an article about the ACLU's tobacco ties, using that book as a prime source. In his book, Fahs wrote that Ramona Ripston, executive director of the ACLU of Southern California, objected to the ACLU's solicitation of tobacco money. In a letter to Glasser, she had denounced the "internal conflict of interest in accepting money from cigarette compa-

nies and then aggressively advocating on their behalf." She likened the situation to one in which the ACLU would take money from a marketer of harmful children's toys and then defend that marketer's "right to publicize the product." Fahs said Glasser sent a letter back to Ripston and "reiterated his line about no strings being attached to the money received." According to Fahs, Glasser added: "I am disturbed about the demonization of companies like Philip Morris."

Stephen Gillers is a director of the New York Civil Liberties Union, a legal ethicist, and a professor at New York University Law School. He told me he believes that "acceptance of large amounts of money from any single contributor can . . . be perceived to influence ACLU decisions regarding positions it might take that can affect that contributor."

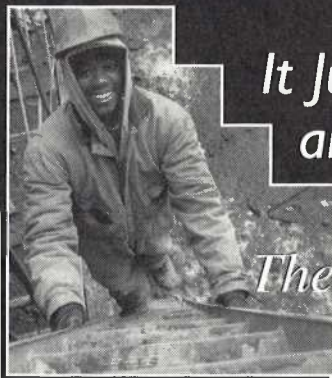
I sent written queries to Strossen and offered to interview her. She never responded, but I finally heard from Glasser. Rather than address the queries, he attacked my journalistic integrity and said my questions incorporated "false and misleading" charges lacking "any basis in fact." He went on to warn that publication of an article recycling the questions would lead the ACLU to "appropriately respond at that time." I took this as a laughable threat of libel; he denied it was.

In any event, I wrote the article for the Spring 1998 issue of *Nieman Reports*, the quarterly published by the Nieman Foundation at Harvard University. The article included this quote from Melvin Wulf, who was the ACLU's legal director from 1962 to 1977 and who had argued ten cases for the ACLU in the Supreme Court: "The justification that the [tobacco] money is used to support workplace rights is a sham. There is no constitutional right to pollute the atmosphere and threaten the health of others." Wulf condemned the tobacco connection because it "threatens the basic integrity of the ACLU. . . . The ACLU's mission is being corrupted by the attraction of easy money from an industry whose ethical values are themselves notoriously corrupt and which is responsible for the death annually of 350,000 to 400,000 persons in the U.S. alone."

Glasser responded with another personal attack. The Summer issue carried his letter and my reply.

While the ACLU's executive director was denouncing me, its president was hailing me in her invitation, albeit impersonally, as a "Dear Friend of Freedom." Indeed, thanks to mailing lists, she did so five times, most recently in mid-October. But each praising salutation was followed by her claim that only people—"caring, concerned people"—fund the ACLU.

Which is about as believable as Linda Tripp's claim that she is "an average American . . . vilified for taking the path of truth." ■



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