

# Tierney smokes out tobacco lobby > Former Maine attorney general now a consultant

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WASHINGTON — With his telephone, fax machine, computer and an unyielding drive to challenge one of the nation's most entrenched industries, James Tierney hacks away at the tobacco companies' long-held claim that cigarette smoking is not addictive.

From his home in Lisbon Falls, Maine, the former Maine attorney general acts as a top consultant to 50 state attorneys general, particularly the 22 who have filed suit against the tobacco industry. Last week Tierney saw the first major dividend of his tobacco battle during a meeting of the National Association of Attorneys General in Washington.

Tierney pulled an agreement from the Liggett Group Inc. off the fax machine and handed it to the 22 other attorneys general. They inked the deal, and for the first time a major tobacco company, Liggett, admitted it knew cigarettes were addictive and caused cancer.

“We’re rolling these guys right now,” Tierney said this week in a telephone interview. “If you put something in the marketplace, you’re supposed to be honest.”

The state lawyers give Tierney a good chunk of the credit for their initial successes against the tobacco lobby. Tierney participated in every negotiation with Liggett, including a flurry of conference calls in the minutes before the deal was announced March 20.

“This issue, I believe, is the moral public policy issue of the ’90s,” said Tom Miller, attorney general of Iowa. “We sort of see Jim as the 51st attorney general.”

Four other major tobacco companies named in the states’ suit attacked the Liggett settlement, accusing its owner, Bennett LeBow, of trying to secure its company from potential damages. “The only ones who potentially benefit from LeBow’s latest shenanigans are plaintiffs’

lawyers,” Phillip Morris, R.J. Reynolds, Brown & Williamson and Lorillard said in a statement.

Tierney has set up an office of the future in his home, using high technology to keep in constant contact with his former colleagues.

When new information — such as a depositions, settlements or news clippings — comes across his desk, Tierney downloads the information onto his site on the World Wide Web, the State Tobacco Information Center.

With a phone call or two, Tierney can alert the entire group of lawyers working on the tobacco case, who access the information without any hassles. All within minutes, and all done by Tierney and a graduate assistant at Northeastern University in Boston.

“If there’s a ruling in Florida at 2 p.m.,” said Arizona Attorney General Grant Woods, “I can have it on my desk and in the hands of my judge [in Arizona] by the end of the day.”

His “virtual office” drastically cuts down on Tierney’s travel time.

“Traveling almost gets in the way,” he said. “I’m better off with my telephone and sitting in front of my computer.”

Work didn't always flow this easily to Tierney. In 1991, after ending his 10-year run as state attorney general, Tierney found himself out of work. The simplest thing to do, he figured, was to be a lobbyist.

But, deep down, that lifestyle never appealed to him. "The world is full of pro-labor congressmen who go to work for management," he said.

So he became a consultant, but carefully chose his employers. He advised prosecutors in the emerging democracies of Eastern Europe, and supervised national elections in Croatia and Albania. He served as special counsel in the investigation of the Pennsylvania Supreme Court, which was riddled with corruption in the early 1990s.

Tierney also began advising the association of attorneys general on everything from management techniques to interstate laws. By 1995, a handful of states had filed lawsuits against the tobacco companies, so other state lawyers asked Tierney to study the issue.

Tierney had never been an anti-tobacco crusader. His father, Charles, of Bangor, died at the age of 81 from lung-related disease. But Tierney doubts the disease had any link to smoking; his father had quit smoking more than 25 years before his death. Tierney does not smoke, nor does his wife or their five children.

But, as he began to study the tobacco issue, he saw it in a different light, as a consumer rights issue. According to Tierney's theory, cigarette makers have known for years that their product is dangerous, addictive and causes cancer. Yet the cigarette companies have never told their consumers about these dangers.

Tierney began advising large states to take on their own suits, and by last year 22 states had taken on the once-invincible tobacco industry. The state of Maine has not joined in the fray, a decision Tierney supports. He said the Maine attorney general's office has had major budget cutbacks this decade.

"If the state of Maine is going to do this, they're going to have to put up some resources," Tierney said.

In Iowa, attorney general Miller has two deputies working nearly full time on the tobacco lawsuit, as well as four private firms working on the state's behalf.

The lawsuits are asking for two rewards. The tobacco companies must refund states for all Medicaid funding used to treat low-income patients suffering from smoking-related diseases. Also, the cigarette

makers must refund buyers of all tobacco products for false advertising of their products.

Tierney stresses that the suits are not about money, but instead about the rights of consumers to have full information about their products. “These are legal violations,” Tierney said.

But, Miller conceded, even a relatively small state such as Iowa could stand to earn a windfall if they win outright in court. “It could well be in the \$50 to 100 million range per year,” Miller said.

The issue has cut across party lines, as a Republican attorney general like Woods has joined forces with Democrats Miller and Tierney.

Tobacco companies, however, blast Tierney and company for attempting to kill the cigarette industry and force thousands of workers onto the unemployment lines. They say the Liggett deal was propelled by that companies’ low profits.

“We suspect [Liggett] is simply brokering this deal in a desperate attempt to force one of the other cigarette manufacturers to take over his financially troubled and failing tobacco interests,” the tobacco companies said in their statement.

Woods, the Arizona attorney general, said the tobacco companies have reason to be running scared, with billions of dollars at stake. “If they split 50-50 on these cases, they’ll be out of business,” he said.

But Tierney said the issue is far from settled, as studies show that 3,000 children start smoking each day.

“We’re behind, we’re underfunded and we’re scrambling,” he said, adding, “They’re fighting like mad to keep the truth from coming out.”

For more information about the states’ battle against tobacco companies, visit the State Tobacco Information Center at:  
<http://www.stic.neu.edu>.