

DAILY NEWS CLIPS

May 16, 2012

BIG TOBACCO WINS FIRE MARSHALS AS ALLIES IN FLAME RETARDANT PUSH

By Patricia Callahan and Sam Roe
Chicago Tribune

Cigarette-makers had man on the inside of key fire-safety group

The problem facing cigarette manufacturers decades ago involved tragic deaths and bad publicity, but it had nothing to do with cancer. It had to do with house fires.

Smoldering cigarettes were sparking fires and killing people. And tobacco executives didn't care for one obvious solution: create a "fire-safe" cigarette, one less likely to start a blaze.

The industry insisted it couldn't make a fire-safe cigarette that would still appeal to smokers and instead promoted flame retardant furniture — shifting attention to the couches and chairs that were going up in flames.

But executives realized they lacked credibility, especially when burn victims and firefighters were pushing for changes to cigarettes.

So Big Tobacco launched an aggressive and cunning campaign to "neutralize" firefighting organizations and persuade these far more trusted groups to adopt tobacco's cause as their own. The industry poured millions of dollars into the effort, doling out grants to fire groups and hiring consultants to court them.

These strategic investments endeared cigarette executives to groups they called their "fire service friends."

"To give us clout, to give us power, to give us credibility, to give us leverage, to give us access where we don't ordinarily have access ourselves — those are the kinds of things that we're looking for," a Philip Morris executive told his peers in a 1984 training session on this strategy.

The tobacco industry's biggest prize? The National Association of State Fire Marshals, which represented the No. 1 fire officials in each state.

A former tobacco executive, Peter Sparber, helped organize the group, then steered its national agenda. He shaped its requests for federal rules requiring flame retardant furniture and fed the marshals

tobacco's arguments for why altering furniture was a more effective way to prevent fires than altering cigarettes.

For years, the tobacco industry paid Sparber for what the marshals mistakenly thought was volunteer work.

The Tribune discovered details about Big Tobacco's secretive campaign buried among the 13 million documents cigarette executives made public after settling lawsuits that recouped the cost of treating sick smokers. These internal memos, speeches and strategic plans reveal the surprising and influential role of Big Tobacco in the buildup of toxic chemicals in American furniture.

This clever manipulation set the stage for a similar campaign of distortion and misdirection by the chemical industry that continues to this day.

Andrew McGuire, a burn survivor and MacArthur "genius grant" winner, said Sparber and the National Association of State Fire Marshals for years were his nemeses as he has pushed for fire-safe cigarettes, which would stop burning when not being smoked. McGuire came up against them again when he battled for reductions in the amount of flame retardant chemicals in Americans' homes.

"He played them like a Stradivarius," McGuire said of Sparber's relationship with the fire marshals.

A founding member of the fire marshals group disputes that they were unduly influenced, but he said he regrets that the organization accepted tobacco's money.

"There is no way you can explain to the public that taking money from the tobacco industry is a good thing," said Tom Brace, who served as a marshal in Minnesota and Washington state. "And had I to do that over again, I would not do that."

Brace and the fire marshals group often were at odds with colleagues in the firefighting community who worked to scale back the use of certain flame retardants after studies showed they can make smoke more toxic.

The fire marshals organization continued promoting flame retardant products even after it was clear that the chemicals inside were escaping, settling in dust and winding up in the bodies of babies and adults worldwide.

The marshals continued even after flame retardants were linked to cancer, neurological deficits, developmental problems and impaired fertility.

And they continued even after government scientists showed that flame retardants in household furniture were not protecting Americans from fire in any meaningful way.

Wooing the marshals

With the top executives of the largest U.S. cigarette companies gathered in a New York ballroom, Charles Powers rose to report that their trade group's multimillion-dollar investment in the firefighting community was paying off nicely.

It was October 1989, and the CEOs behind Marlboro, Camel and other major brands were in a closed-door meeting of the executive committee of the Tobacco Institute, the trade group that fought legislation that could hurt their business.

Powers noted that many fire officials who once were hostile were endorsing industry positions in key federal and state legislative battles over fire-safe cigarettes. The strategy by the Tobacco Institute of winning over these officials, including some state fire marshals, with grants and schmoozing was working.

"Though our assistance is 'no strings attached' for everyone, it is no accident that the fire service officials most interested in our educational materials are also the fire service leaders whom we have approached for endorsements," said Powers, a top executive at the Tobacco Institute.

He boasted: "Many of our former adversaries in the fire service defend us, support us and carry forth our federal legislation as their own."

Much of that success can be attributed to the fact that Big Tobacco had planted an inside man within the firefighting community.

A former Tobacco Institute vice president, Peter Sparber had spent years at the trade group doling out money to firefighting groups. He left to open his own lobbying and public affairs firm in the late 1980s but retained the Tobacco Institute as a major client.

This arm's-length relationship — working for Big Tobacco but having a business card that said "Sparber and Associates Inc." — allowed him to infiltrate an organization of public officials that became what the Tobacco Institute later called "the most politically potent group" in the firefighting community: the nation's state fire marshals.

These taxpayer-funded employees, typically appointed by governors, had a low profile nationally until Sparber came along. In 1989, Sparber helped organize the National Association of State Fire Marshals and volunteered to be the group's legislative consultant. The fire marshals put him on their executive board.

Sparber became so crucial to the fire marshals that they listed him on their association letterhead and for more than a decade shared a Washington office with him.

One of the marshals' first official acts was to endorse a tobacco-backed federal bill that called for yet another study of fire-safe cigarettes rather than a competing bill that would have quickly required cigarettes to change.

Like his tobacco industry patrons, Sparber worked to prevent a mandate for fire-safe cigarettes by shifting the focus to furniture.

For years, Sparber promoted an obscure California state rule on furniture flammability, one that manufacturers met by adding flame retardant chemicals to the foam in sofas and easy chairs.

California regulators had enacted the rule in 1975 out of frustration that too many residents were dying in fires caused by cigarettes. State and federal lawmakers had tried unsuccessfully since the 1920s to enact fire-safe cigarette requirements, so California regulators instead sought to fireproof the world around the cigarette.

With Sparber's help, the fire marshals in 1992 sought federal rules for flame retardant furniture, and Sparber went on to represent the marshals in years of meetings with the U.S. Consumer Product Safety Commission. His expense reports show that for several years he was billing the Tobacco Institute \$200 an hour for his work with the marshals, including time he spent on the marshals' petition for flame retardant furniture.

Sparber reported to the institute on the fire marshals' key activities and even passed along their internal documents. Tobacco Institute President Samuel Chilcote Jr., in turn, sent detailed memos to the CEOs of cigarette companies about the marshals' activities.

Chilcote declined to comment to the Tribune, saying he couldn't recall what happened so long ago.

Brace, a founder of the fire marshals group, said he knew Sparber was a former Tobacco Institute executive. But Brace said he didn't know in the association's early days that the institute was paying Sparber for his work with the marshals and didn't know that Sparber funneled so many of the marshals' internal documents to the cigarette industry.

Nevertheless, Brace said the marshals made their own decisions.

"The inference that the state fire marshals sitting around the table are easily led by this Svengali — there were arguments back and forth of what we should get involved in," Brace said in an interview. "We had some hot debates. But the characterization that Sparber led us out of the wilderness, I don't see it."

But records in tobacco executives' files show that Sparber helped set the fire marshals' agenda, suggesting who should speak at a key conference, which consultants they should retain and why they should oppose aggressive fire-safe cigarette requirements.

He also assisted the fire marshals with fundraising, nudging tobacco colleagues to contribute to the group.

Too close for comfort

Assisting Sparber was an old fan: Karen Deppa.

Deppa had solidified Sparber's reputation in the world of spin when, in a previous job as a journalist, she penned a glowing profile of Sparber for a magazine aimed at trade association executives. The story described him as a master of crisis management whom others could emulate, noting the deft way he had positioned smoking as a fundamental freedom and cast doubt on studies documenting the health hazards of smoking.

"I go home to my family every night, and not once have I felt uncomfortable about facing them over anything I've done at work," Sparber said in that article.

Within a year of the publication, the Tobacco Institute hired Deppa and made her the coordinator of its fire program. Records show she frequently signed off on Sparber's hourly billings for his work with the marshals.

Deppa ensured the Tobacco Institute pampered the marshals — faced with lean state budgets — with perks at the group's conferences, including bottles of wine, a hospitality suite and free mountain bike rentals, records show. She pressed the institute to fund a media-training seminar for the marshals, suggesting this would make them more confident speakers as they publicly discussed fire-safe cigarettes and other issues.

The fire marshals wound up using tobacco's talking points in the industry's protracted delay game.

When leaders of the marshals association addressed federal regulators, they would say they supported the concept of a national fire-safe cigarette requirement. But in the next breath, the marshals would nitpick the test methods federal scientists created to determine which cigarettes were less likely to cause fires.

Tobacco executives loathed those tests. Publicly, they argued that the tests failed to replicate "real world" conditions. Privately, they feared the tests would pave the way for laws that would force them to alter cigarettes — products that made them billions of dollars each year — in ways that their customers wouldn't like, records show. Some prototypes had an unpleasant taste or were difficult to smoke.

An internal R.J. Reynolds Tobacco Co. report noted that the lack of a standard test method had served to delay the adoption of fire-safe cigarette bills in 12 states.

The marshals' criticisms of the details of the tests were straight from Big Tobacco's playbook. This wasn't a coincidence. Questioned by a government scientist at a meeting of the federal panel crafting the tests, one marshal acknowledged that Sparber had briefed him on the issues, records show.

"They learned very quickly from their puppet masters how to craft the arguments to seem reasonable but cause delay," recalled McGuire, the burn survivor, who was a member of the panel and was at that meeting.

David Sutton, a spokesman for Philip Morris USA, rejected the notion that his company and the fire marshals worked together to delay fire-safe cigarette rules. For more than a decade, he said, the company worked hard to develop marketable cigarettes that were more likely to extinguish on their own.

Philip Morris collaborated with the marshals on flame retardant furniture standards in the early 1990s, he said, because the company believed those might present "a potentially more effective alternative for improved fire safety."

By 1993, records show, the fire marshals were so vehemently opposed to fire-safe cigarette test proposals — and so financially and philosophically connected to the cigarette industry — that a top Philip Morris lobbyist told the Tobacco Institute she feared that the marshals had actually become a liability. Records show she told colleagues she thought the National Association of State Fire Marshals was "tainted."

The lobbyist worried that "the relationship of the industry — especially Philip Morris — to the National Association of State Fire Marshals (NASFM) may eventually be disclosed publicly." She suggested to the Tobacco Institute that the fire marshals stop discussing fire-safe cigarettes and focus solely on furniture flammability standards.

But the industry didn't sever ties, in part because other cigarette executives thought they needed the marshals to counter fire-service groups that were pushing for fire-safe cigarette laws, records show.

A key prong in R.J. Reynolds' 1996 strategic plan to fight these laws was the marshals' petition to the Consumer Product Safety Commission for flame retardant furniture rules. A handwritten note on the first page directs an R.J. Reynolds employee to file the plan under "Fire Safe Sparber."

The plan used italics to hammer home the urgency of focusing on the furniture fueling fires, not the cigarettes igniting them: "In 1996, fire officials must keep the pressure on the Commission to focus on the fuels rather than ignition sources."

Playing 'hardball'

The fire marshals' actions helped Big Tobacco fend off fire-safe requirements for years. But the delays couldn't go on forever.

The Tobacco Institute shut down in 1999, a requirement of the multibillion-dollar court settlement between the industry and state attorneys general. Not long after that, states succeeded in passing rules requiring fire-safe cigarettes, so tobacco no longer had an incentive to promote flame retardant furniture.

But by then Sparber had found new clients with problems of their own: chemical manufacturers.

With each passing year, health concerns were growing as the most commonly used types of flame retardants were discovered in human breast milk and blood.

As Sparber worked to preserve and even expand the market for flame retardants, the fire marshals were again at his side. So was Deppa, whom he had hired from the Tobacco Institute.

So intertwined were Sparber, the chemical companies and the fire marshals that even Sparber couldn't always differentiate where the agendas diverged.

For instance, one of Sparber's clients as a lobbyist was the Bromine Science and Environmental Forum, an international trade group representing large manufacturers of flame retardants. Sparber revealed to federal regulators in 1999 that although the forum was paying his company's fees, the chemical group's goals for fire prevention were so aligned with those of the fire marshals association that he often lobbied for both groups on the same matters.

Chemtura Corp., Albemarle Corp. and ICL Industrial Products — the three largest companies that fund the bromine forum — declined to answer questions about their relationships with Sparber or the fire marshals. Chemtura and Albemarle said their flame retardants are safe and effectively protect people and property from fires.

Brace, the former marshal, confirmed that his association became "heavily involved" with the flame retardant trade group and supported its agenda. He said he worked with the forum because of his desire to save lives, and he was leery of studies that linked the chemicals to health problems.

The bromine group, Brace said, paid for him to go to Japan, Korea and Taiwan, where he urged electronics manufacturers to add flame retardants to the plastic exteriors of computer monitors and televisions. The marshals later pushed for worldwide standards requiring that the plastic casings of electronics resist a candle flame and posted Internet videos comparing name-brand computer monitors that went up in flames with those that didn't.

John Dean, the fire marshals' president from 2006 to 2008, said that during his time the marshals were not being swayed by chemical companies and did not focus solely on flame retardants. "The fire marshals were concerned about preventing fires, and we didn't really care how they did it," said Dean, a retired state fire marshal from Maine.

But the marshals did press for national furniture flammability rules that would have increased the use of flame retardant foam in the U.S., even though federal scientists had concluded that this type of chemically treated foam didn't provide any meaningful protection in fires.

To sway legislators and opponents, the marshals and Sparber characterized couches and easy chairs as dangers to society, sometimes referring to the foam inside cushions as "solid gasoline."

While Sparber was a registered lobbyist for Chemtura and its predecessor, Great Lakes Chemical Corp., the fire marshals asked federal regulators to require warning labels on furniture made with non-fire-retardant foam and sought a "hazardous material" designation for this type of foam.

In 2007, Sparber emailed executives at Chemtura and Albemarle about his efforts to get furniture stores declared "hazardous occupancies," a classification usually reserved for locations handling gasoline and other highly combustible materials.

Such a designation, Sparber wrote, "threatens to shut down any number of retailers," limit the number of sofas they could store or force them to install extensive sprinkler systems.

"Literally," he wrote, "a single sectional couch might exceed the limit."

The goal, Sparber wrote, was to make furniture manufacturers and retailers fear these "obviously draconian consequences" and thereby support strict flammability standards or face the wrath of code enforcement officials.

"This is hardball of the first order," Sparber wrote.

While these rules weren't adopted, the intimidating message hit a nerve with the industries Sparber threatened. Joseph Gerard, a retired furniture industry lobbyist, said he recalls Sparber sending him an inches-thick binder filled with copies of the same Associated Press story clipped from newspapers across the country. The story blamed the death of a South Carolina teenager on sofas that lacked flame retardants and quoted a fire marshal about the need for the chemicals.

Gerard said of Sparber: "His way of operating was so offensive, it just tore at me."

To the fire marshals, though, Sparber was a hero. The National Association of State Fire Marshals gave him its Hall of Fame award in 2008.

Sparber and Deppa declined to comment for this story.

Jim Narva, the fire marshals' current executive director, said Sparber has not represented the group for "a number of years" and that he took over Sparber's Washington office in 2008 or 2009.

"It's history," Narva said.

The marshals' policy statement on flame retardants, which hasn't been updated since 2008, says products that exist to fight fires should not be banned unless there is "significant evidence" that they cause harm or until other methods of fire protection are found to replace them.

Narva, who declined to answer detailed questions, said the fire marshals are not currently involved with flame retardant issues.

But the marshals' industry ties remain strong.

Deppa left Sparber and Associates in 2008 and, according to the marshals' website, became the group's "liaison to US government agencies and their staffs."

The marshals just last year helped defeat a crucial bill in California that would have reduced flame retardants in products nationwide. The association's president at the time wrote a letter opposing the legislation. A lobbyist for the Citizens for Fire Safety Institute, a front group for the largest makers of flame retardants, read excerpts of the letter at the hearing where the bill was voted down.

And who remains a financial sponsor of the fire marshals, with its logo on the group's home page?

Chemtura, one of the world's largest producers of flame retardants.

Originally published here: <http://www.chicagotribune.com/news/watchdog/flames/ct-met-flames-tobacco-20120508,0,3332088.story>