



# **RIISING FROM THE ASHES: BIG TOBACCO'S GROWING POLITICAL CLOUT IN NEW YORK**

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A POLICY PAPER BY THE  
NEW YORK PUBLIC INTEREST RESEARCH GROUP

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## **Acknowledgements**

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The New York Public Interest Research Group (NYPIRG) is a nonpartisan, not-for-profit organization whose mission is to affect policy reforms while training New Yorkers to be citizen advocates.

NYPIRG's full-time staff works with citizens, produces studies on a wide array of topics, coordinates state campaigns, engages in public education efforts and lobbies public officials.

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## **RISING FROM THE ASHES: BIG TOBACCO'S GROWING CLOUT IN NEW YORK STATE SUMMARY**

The report's key findings included:

- **The tobacco industry spent as much in the first six months of 2013 as it had in 2011 and 2012 combined, spending over \$7 million on lobbying during that period.** By far and away, Altria (formerly known as Philip Morris) was the biggest spender. Altria spent over \$4 million lobbying and over \$300,000 in campaign donations.
- **In addition to its lobbying in New York City, the tobacco industry was involved in local health initiatives in the cities of Binghamton and Buffalo as well as the counties of Albany, Columbia, Madison and Suffolk.**
- **The tobacco lobby employed 27 lobbying firms from 2011 through the first half of 2013.** The firm that was paid the most by the tobacco industry was Ostroff, Hiffa & Associates. The main principal in that firm was a top staffer to former Governor Mario Cuomo. The tobacco lobby gave almost \$900,000 to "Save Our Stores," which acted as a front group to lead the tobacco industry's opposition to the Bloomberg proposals. Ironically one firm, Nixon Peabody, represented both a tobacco company *and* Roswell Park Cancer Institute in 2011 and 2012. Another, Brown & Weinraub, represented tobacco interests as well as Montefiore Medical Center during 2011 and 2012.
- **The New York State Democratic Committee broke its promise to not accept donations from the tobacco industry.** In 2000, the State Democratic Committee pledged not to accept tobacco donations. It is clear that they have reneged on that promise by accepting tobacco donations.
- **New York State Senate Republicans remain the largest beneficiaries of the tobacco industry's campaign donations.** Senate Republicans are the biggest beneficiaries of the tobacco lobby's largess.

In light of the fact that the tobacco industry has been found to have violated the nation's racketeering laws, NYPIRG called for:

- Both political parties must reject donations from the tobacco industry.
- Firms must refuse to represent the industry in the same manner as they would refuse to represent organized crime. Health interests must ensure that their lobbyists do not represent the tobacco industry.
- State lawmakers should take actions to show their independence from the tobacco lobby by: (1) boosting state spending on tobacco control; and (2) restricting the sale of flavored tobacco products.
- Localities must continue to put in place restrictions on the tobacco industry's advertising designed to entice children to use these deadly products.

## RISING FROM THE ASHES: BIG TOBACCO'S GROWING CLOUT IN NEW YORK STATE

*“The evidence in this case clearly establishes that Defendants have not ceased engaging in unlawful activity.... For example, most Defendants continue to fraudulently deny the adverse health effects of secondhand smoke which they recognized internally; all Defendants continue to market “low tar” cigarettes to consumers seeking to reduce their health risks or quit; all Defendants continue to fraudulently deny that they manipulate the nicotine delivery of their cigarettes in order to create and sustain addiction; some Defendants continue to deny that they market to youth in publications with significant youth readership and with imagery that targets youth; and some Defendants continue to suppress and conceal information which might undermine their public or litigation position.... Their continuing conduct misleads consumers in order to maximize Defendants’ revenues by recruiting new smokers (the majority of whom are under the age of 18), preventing current smokers from quitting, and thereby sustaining the industry.”*

***U.S. District Court Judge Gladys Kessler in her decision finding that the tobacco industry had violated the nation’s racketeering law<sup>1</sup>***

It wasn’t long ago when it seemed that the tobacco lobby’s stranglehold over New York policymaking was finally broken. In addition to federal court decisions, state actions were being taken. During the years of the Pataki Administration, the state raised its tobacco tax, enacted one of the nation’s most sweeping restrictions on smoking in public places and in work environments; and put in place a first-in-the-nation “fire safe” cigarette standard, which required that unused, but lit, cigarettes extinguish instead of smoldering. Every state as well as many nations, including Canada, the European Union, Australia and South Africa, has since adopted the identical standard established by New York.<sup>2</sup> The Spitzer Administration bolstered funding for the state’s tobacco control efforts helping it rise to the 5<sup>th</sup> most well-resourced program in the nation. In the Paterson Administration, New York raised its tobacco tax rate to the highest in the nation.

Policymaking in New York City played a critical role in leading the charge. Early in his term, former New York City Mayor Michael Bloomberg championed a cigarette tax increase and a ban on smoking in essentially all indoor areas, which was the impetus that helped spark action in Albany. The City’s ongoing efforts to reduce the carnage caused by tobacco use helped drive down its smoking and lung cancer rates.<sup>3</sup>

Meanwhile, the New York State Department of Health implemented a robustly-funded, evidence-based, anti-smoking campaign. As tobacco use continued to cause avoidable misery, addiction, disease and early deaths, the smoking rate among adults and children fell to

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<sup>1</sup> *United States Of America, v. Philip Morris, et al.*, United States District Court for the District Of Columbia, Civil Action No. 99-2496 (GK). 2006

<sup>2</sup> National Fire Protection Association, see: <http://www.nfpa.org/safety-information/for-consumers/causes/smoking/coalition-for-fire-safe-cigarettes/states-that-have-passed-fire-safe-cigarette-laws>; World Health Organization, see: [http://cdrwww.who.int/fctc/guidelines/adopted/Selected\\_sources\\_information.pdf](http://cdrwww.who.int/fctc/guidelines/adopted/Selected_sources_information.pdf).

<sup>3</sup> American Cancer Society, “The Cancer Burden in New York State,” 2012.

unprecedented lows. New York seemed poised to have secured a historic public health achievement that saved thousands of lives and reduced strains on our healthcare delivery system.

These successes were almost entirely the result of active policymaking. Unlike many other health scourges, diseases caused by smoking are triggered solely by the use of a human-made product. Thus, public health interventions need to be focused on the industry that makes enormous profits from the production of this unnecessary and lethal product.

Of course, the approach of restricting the use of tobacco products in order to eliminate the misery these products cause is not a new concept. Under Mario Cuomo's Administration in the 1980s, the first steps were taken to protect the public's health through passage of the state's first Clean Indoor Air Act, which restricted smoking in most workplaces. However, with the end of the Cuomo Administration in 1994, the tobacco lobby's clout became more powerful.

The New York policymaking environment changed for the better in 1999, when startling revelations came to light that the tobacco lobby had broken state ethics laws, using its largesse to shower then-Governor Pataki, his top staff and scores of other lawmakers with illegal gifts.

It was the illegal gifts from Philip Morris's lobbyist and its secret financial support of then-Governor Pataki's trip to Hungary that was the primary basis for the ethics scandal that created the environment for passage of New York's many public health measures.

While the tobacco lobby was punished with the largest fines ever imposed by the state Commission on Lobbying, public officials also looked to take public measures to reduce their relationship with the industry. From 2000 through 2008, New York policymakers took major steps—banning smoking in all public and workplaces, raising tobacco taxes, mandating that all cigarettes had to meet fire safety standards—that made New York the nation's leader in protecting the public's health.

Since that time however, the tobacco lobby rebuilt its strength. As this report will show, the tobacco industry's political operation has strengthened and boasts of having employed 27 lobbying firms across the state, including some prestigious ones that ironically also represent health care interests. One firm includes among its staff former Speaker of the Assembly Mel Miller and former U.S. Senator Alfonse D'Amato. In a largely successful effort to block recent health measures in New York City, the tobacco industry last year funded the advocacy of a front group, "Save Our Stores," to the tune of nearly one million dollars.

Not surprisingly, the growing political clout of the tobacco lobby has paid off. Funding for the state's tobacco control program has been slashed by half and now ranks 21<sup>st</sup> in the nation in terms of adequacy. No new significant tobacco control measures have been enacted by the current Cuomo Administration during its three years and none is proposed for the fourth year of the governor's term. Even the Bloomberg Administration saw its most ambitious tobacco control measure defeated in the City Council in 2013.

*And so, a sad chapter continues in New York State.*

As will be seen later, the costs from tobacco use to New York is enormous: Tens of thousands of New Yorkers' lives are shortened due to tobacco use, health care systems must absorb the additional costs of treating tobacco users, and billions of tax dollars are expended to cover the medical costs of treating tobacco users who receive coverage through government programs. And these costs are avoidable, we know how to curb this menace, it only takes the political will to take on the tobacco lobby.

This report is an effort to document the resurgent power of the tobacco lobby within New York State. Our hope is that by pulling back the curtain on the impact of the tobacco lobby in New York, the public will better understand why so little has been done in recent years to combat the tobacco plague. Such knowledge can then generate a public outcry that will create an environment in which the governor, lawmakers and local officials will once again feel compelling pressure to protect the health of New Yorkers and enact sound, meaningful health policies.

## **FINDINGS:**

Our review of New York State's campaign finance and lobby reporting has found the following:

**Finding: The tobacco industry spent as much in the first six months of 2013 as it had in 2011 and 2012 combined, spending over \$7 million on lobbying during that period.** The industry's lobbying was focused primarily on its largely successful efforts to block the former Bloomberg Administration's latest public health initiatives. Moreover, the state slashed funding for the state's tobacco control efforts and blocked legislation to restrict the sale of flavored tobacco products.

**Finding: While not clear what role it played, tobacco lobbying filings show that it was involved in the state's cigarette fire safety program. It was during this time that the state quietly mothballed its enforcement powers, undermining its ability to test cigarette fire safety standards, a program relied on by the rest of the nation.** In 2010, then-governor David Paterson reorganized state government to create a Division of Homeland Security and Emergency Services, consolidating the state Office of Fire Prevention and Control and the State Police into a single agency.<sup>4</sup> The Office of Fire Prevention and Control, headed up by the state Fire Administrator, was until then an office within the Department of State. The Office of Fire Prevention and Control was in charge of overseeing implementation, compliance and enforcement of the state's landmark cigarette fire safety law, enacted in 2000 and effective June 2004.

Unfortunately, the reorganization law failed to transfer to the Office of Fire Prevention and Control the authority to fully oversee the state's landmark cigarette fire safety law;<sup>5</sup> including enforcing the law to ensure products being sold met the state's reduced ignition propensity standard.

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<sup>4</sup> *Paterson Announced Agency Mergers, Consolidations to Save Money*, ABC WKBW TV Internet, June 18, 2010, ABC, accessed at [www.wkbw.com/archive/96657609.html](http://www.wkbw.com/archive/96657609.html).

<sup>5</sup> Executive Law section 156-c.



As it turns out, the failure to authorize the Office of Fire Prevention and Control to enforce the cigarette safety law endangered not only New York residents and emergency responders, but also those in other states that relied on New York’s comparatively well-resourced cigarette fire safety program to act as *de facto* national regulator in the absence of a national law.

Despite this glaring omission in the transference of key Office of Fire Prevention and Control powers when it moved from Department of State to the new Division of Homeland Security and Emergency Services, Governor Cuomo failed to address this in his first two years in office and only got around to correcting this omission in mid-2013, when it was signed into as part of a package of amendments to various state laws concerning public safety and emergency preparedness.<sup>6</sup>

Thus for some three years, New York—and other states that rely on our activity in this area—had no cop walking the beat to ensure that tobacco companies were complying with the fire safety standards required under the first-anywhere law.<sup>7</sup> The tobacco industry was the prime business beneficiary of this glaring oversight in the transfer of agency authority.<sup>8</sup>

We find it hard to believe that the tobacco industry was not involved. Altria’s lobbying reports list that it was involved in “reduced cigarette ignition propensity issues” during this time period. We believe that such advocacy was directed at this issue.

In addition, the tobacco lobby also focused on state legislation. It successfully beat back a proposal to restrict the sale of flavored tobacco products. The bill was killed in the state Senate.

**Finding: The tobacco lobby reported that it was involved in opposing health initiatives in New York City, Albany County, the City of Buffalo, City of Binghamton, Columbia County, Madison County, and Suffolk County.** As mentioned earlier, the tobacco lobby fought to block former Mayor Bloomberg’s health initiatives, but it appears it was also deeply involved in debates of Albany County’s ban on the sale of tobacco products in pharmacies, the City of Buffalo’s restriction on tobacco advertising at the point of sale, as well as Suffolk County’s efforts to do the same. All three proposals have not been enacted.

**Finding: The tobacco lobby employed 27 lobbying firms from 2011 through the first half of 2013.** These lobbying firms include Park Strategies, which employs former U.S. Senator Alphonse D’Amato and former Assembly Speaker Mel Miller. The firm Greenberg, Traurig represents a large number of health interests including the New York Health Plan Association (insurers who have to cover the enormous medical costs of treating tobacco-caused diseases), while the firm Brown & Weinraub lobbies on behalf of a number of health interests, including Montefiore Medical Center, which lobbied for tobacco interests in 2011 and 2012. Most notable among the firms is Nixon Peabody, which while representing Altria (formerly Philip Morris), has

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<sup>6</sup> Chapter 101, Laws of 2013, Governor’s Program Bill # 13, S.5787 (Ball)/A.7971 (Engelbright), signed July 11, 2013.

<sup>7</sup> The state likely was able to husband the millions of dollars in monies that would otherwise might been spent on the cigarette fire safety monitoring and testing program.

<sup>8</sup> The cigarette fire safety law requires that records of compliance testing be kept by manufactures for three years—roughly the amount of time that the Office of Fire Prevention and Control was without enforcement powers. Executive Law section 156-c (7).

also represented several health care interests, including Roswell Park Cancer Institute in 2011 and 2012.

One note about the role of influential lawyers in protecting the tobacco industry's efforts to ruin the lives of too many New Yorkers. As noted by U.S. District Court Judge Kessler in her decision:

*Finally, a word must be said about the role of lawyers in this fifty-year history of deceiving smokers, potential smokers, and the American public about the hazards of smoking and second hand smoke, and the addictiveness of nicotine. At every stage, lawyers played an absolutely central role in the creation and perpetuation of the Enterprise and the implementation of its fraudulent schemes. They devised and coordinated both national and international strategy; they directed scientists as to what research they should and should not undertake; they vetted scientific research papers and reports as well as public relations materials to ensure that the interests of the Enterprise would be protected; they identified "friendly" scientific witnesses, subsidized them with grants from the Center for Tobacco Research and the Center for Indoor Air Research, paid them enormous fees, and often hid the relationship between those witnesses and the industry; and they devised and carried out document destruction policies and took shelter behind baseless assertions of the attorney client privilege.*

*What a sad and disquieting chapter in the history of an honorable and often courageous profession.<sup>9</sup>*

**Finding: The New York State Democratic Committee broke its promise to not accept donations from the tobacco industry.** In the mid-1990s, the state Democratic Party—in reaction to the growing public outrage over the tactics of the tobacco lobby—kicked the habit of accepting campaign money from the tobacco industry. That promise has been broken. According to this analysis, the state party accepted \$45,000 from tobacco companies in 2011-2013.

It is important to note here that the Democratic Assembly Campaign Committee also made that promise—one that it continues to keep to this day. Senate Democrats, on the other hand, never made any such a promise and continue to accept money from this rogue industry.

**Finding: New York State Senate Republicans remain the largest beneficiaries of the tobacco industry's campaign donations.** The State Senate Republicans never promised to kick its habit and continues to accept tens of thousands of dollars in campaign donations and plays a key role in blocking important tobacco control legislation.

## **RECOMMENDATIONS:**

New York must once again reclaim its national leadership as the place where meaningful steps are being taken and progress consistently is made to reduce the devastation caused by tobacco use. In the same way as they refuse contributions from organized crime, political parties and all

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<sup>9</sup> *United States Of America, v. Philip Morris, et al.*, United States District Court For The District Of Columbia, Civil Action No. 99-2496 (GK). 2006



candidates for office should publicly kick the addiction to tobacco money—an industry which has been convicted of racketeering in federal court. Lobbying firms should refuse to represent an unethical and murderous industry—and if not, health clients should refuse to hire firms that do business with them. Lastly and most importantly, lawmakers must take steps to enhance the public’s health by dramatically bolstering funding of the state’s tobacco control program, restricting the sale of flavored tobacco products, and curtailing the industry’s point-of-sale marketing practices.

The public will know soon whether its democratically elected representatives prioritize health, or if New York has once again become “Marlboro Country.”

First, lawmakers should take steps to illustrate their independence of the tobacco lobby:

**Recommendation:** Both major political parties, as well as candidates for public office, should publicly refuse to accept tobacco donations. The Democratic Assembly Campaign Committee has done it, others should as well.

**Recommendation:** Lobby firms in New York should refuse to represent the tobacco industry. The tobacco companies are a rogue operation and have repeatedly deceived and lied to the public and government officials. Let the industry lobby on its own, without the “cover” of respected lobbyists representing their “clients.” They have been found guilty of violating federal and state laws, including the federal racketeering law. No firm should represent interests that have been criticized in federal court for violating the nation’s racketeering law.

In addition, public officials should take steps to reassure the public that the clout of the tobacco industry is not driving New York’s health policies:

**Recommendation:** New York State must take steps to reinvest in its tobacco control program. Legislation has been introduced<sup>10</sup> that will increase funding over time until New York State reaches the levels recommended by the U.S. Centers for Disease Control and Prevention.

**Recommendation:** New York State should restrict the sale of flavored tobacco products. The sale of -flavored tobacco products—with such an obvious appeal to minors—underscores just how brazenly the tobacco industry markets its products to children. In 2009, the federal government banned the sale of flavored cigarettes due to this concern. Later that year, the City of New York expanded that restriction to the sale of other non-cigarette flavored products. The State of New York should follow suit. Legislation has been introduced—and passed the state Assembly—to restrict such sales.<sup>11</sup>

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<sup>10</sup> See New York State Assembly bill 7426 and New York State Senate bill 5462.

<sup>11</sup> See New York State Assembly bill 1179 and New York State Senate bill 5686.

## RISING FROM THE ASHES: BIG TOBACCO'S LOBBYING SPENDING, 2011-2013

After years of losing in the state legislative arena, the tobacco lobby has substantially boosted its lobbying efforts, largely directed at blocking the Bloomberg Administration's tobacco control proposals. And it paid off. Other than raising the minimum age for legally purchasing tobacco from 18 to 21<sup>12</sup> and boosting New York City programs to curtail illegal tobacco sales—neither of which significantly affects the industry's bottom line—the tobacco lobby was successful in blocking the more far reaching proposals to limit the industry's advertising of its products at the point at which consumers make purchases.<sup>13</sup>

The industry was also extremely successful in Albany. The proposal to restrict the sale of flavored tobacco products—the appeal of which is largely directed to children—was beaten back in the state Senate, while the Cuomo Administration continued state efforts to defund and dismantle the state's successful tobacco control program.

Year	Total Spent on Lobbying in NY <sup>14</sup>
2011	\$1,781,046.00
2012	\$1,716,276.00
2013	\$3,577,322.00
<b>Total</b>	<b>\$7,074,644.00</b>

## RISING FROM THE ASHES: TOBACCO SPENDING BY COMPANY 2011-2013

As seen below, lobby spending by Altria (formerly known as Philip Morris) dwarfs the spending of other tobacco interests. According to state data, Altria spent over \$4 million in its efforts to block public health reforms in New York.<sup>15</sup>

<sup>12</sup> According to the U.S. Surgeon General, nearly 90 percent of smokers start *before* the age of 18. In our view, raising the minimum age to 21 will do virtually nothing to change that dynamic. For U.S. Surgeon General discussion on this point, "Preventing Tobacco Use Among Youth and Young Adults," see: [www.surgeongeneral.gov/library/reports/preventing-youth-tobacco-use/factsheet.html](http://www.surgeongeneral.gov/library/reports/preventing-youth-tobacco-use/factsheet.html).

<sup>13</sup> New York City Council Intro 250-A (2013).

<sup>14</sup> Based on Lobby Client Disclosures available at <http://jcope.ny.gov/datasets/datasets.html>.

<sup>15</sup> Altria's client report references an \$800,000 payment to Save Our Stores. If this payment were double-counted – i.e., if this money was included in the totals reflected in Save Our Stores' client reports – then Save Our Stores should have filed a source of outside funding disclosure statement, which they did not. Additionally, Altria would have reported it as an expense, not a lobbying contract. We thus assume that this money was not double-counted, but it is possible that \$800,000 in Altria's total was effectively the same money reported by Save Our Stores.

Year	Tobacco Interest	3rd Party and Subtotals	Total Spent Lobbying
2013	Altria		1,578,704
2012	Altria		406,624
2012	Altria		425,303
2011	Altria		631,922
2011	Altria		420,737
2013	DCI Group Az, LLC	Altria	108,500
2012	DCI Group Az, LLC	Altria	96,000
2012	Clf Group Az, LLC	Altria	96,000
2011	DCI Group Az, LLC	Altria	82,177
2011	DCI Group Az, LLC	Altria	96,000
2013	Multistate Associates Inc.	Altria	10,000
2012	Multistate Associates Inc.	Altria	12,000
2011	Multistate Associates Inc.	Altria	64,500
2011	Multistate Associates Inc.	Altria	24,000
		<b>Subtotal Altria</b>	<b>4,052,467</b>
2013	Save Our Stores, Inc.		819,615
2013	Goddard Global LLC	Save Our Stores	731,563
2013	Lorillard Inc.		58,350
2012	Lorillard Inc.		116,407
2011	Lorillard Inc.		14,400
		<b>Subtotal Lorillard</b>	<b>189,157</b>
2013	National Association Of Tobacco Outlets		2,025
2013	Rai Services Company		198,865
2012	Rai Services Company		191,327
2012	Rai Services Company		191,265
2011	Rai Services Company		176,760
2011	Rai Services Company		183,550
		<b>Subtotal Rai (fka Reynolds)</b>	<b>941,767</b>
2013	Tobacconist Association		30,000
2012	Tobacconist Association		30,000
2012	Tobacconist Association		30,000
2011	Tobacconist Association		30,000
2011	Tobacconist Association		5,000
		<b>Subtotal Tobacconist</b>	<b>125,000</b>
2013	Top Tobacco, LP		13,200
2012	Top Tobacco, LP		31,350
2012	Top Tobacco, LP		37,500
		<b>Subtotal Top</b>	<b>82,050</b>
2013	Cigar Association		26,500
2012	Cigar Association		27,000
2012	Cigar Association		25,500
2011	Cigar Association		26,500
2011	Cigar Association		25,500
		<b>Subtotal Cigar</b>	<b>131,000</b>
		<b>OVERALL TOTAL</b>	<b>7,074,644</b>

## RISING FROM THE ASHES: THE BIG TOBACCO'S LOBBYISTS IN NEW YORK

The tobacco industry's appeals are enhanced by its hiring of an army of lobbyists to advance its deadly policy agenda. As seen below, the industry retained 27 firms to represent its interests in New York. In some cases, the industry hired firms with access to the highest levels of state government. One firm, Park Strategies, employs former U.S. Senator D'Amato, who is not only a major player in the Republican Party but has deep roots inside the Democratic Party as well. When former Governor Paterson chose Kristen Gillibrand to fill New York's open U.S. Senate seat, Mr. D'Amato was credited with helping her secure that position.

Mr. D'Amato was supportive of then-Attorney General Andrew Cuomo's run for governor.<sup>16</sup> His involvement helped grant him unusual access to the governor and it was widely reported that he met privately with the governor last summer.<sup>17</sup> Other firms are well notorious for their dual representation of health interests and the tobacco industry, despite the devastation the industry causes on the public's health. The one most notable example of this conflict is the firm of Nixon Peabody LLP, which represented Altria as well as Roswell Park Cancer Institute in 2011 and 2012.

Contract lobbyist name <sup>18</sup>	Spending
Bolton St. Johns, LLC (Client Rai Services)	\$171,254.00
Boltz, John J. Consulting (Client Altria)	\$349,116.00
Brown & Weinraub, PLLC (Client Rai Services)	\$98,880.00
Capitol Group, LLC (Client Tobacconist Association Of NYS (Meara Avella Dickinson)	\$10,477.00
Capitol Public Strategies LLC (Client Altria Client Services Inc. (DCI Group Az LLC)	\$214,500.00
Carson, Martin (Client Lorillard)	\$33,150.00
Connective Strategies LLC (Client Altria)	\$13,500.00
Connelly McLaughlin & Woloz (Client Altria)	\$99,000.00
Cordo & Company, LLC (Cigar Assoc)	\$129,074.00
Davidoff Hutcher & Citron LLP (Client National Tobacco Co)	\$124,929.00
DCI Group Az, L.L.C. (Client Altria)	\$619,689.00
Elk Street Group, LLC (The) (Client Top Tobacco)	\$13,424.00
Featherstonhaugh, Wiley & Clyne, LLP (Client Altria)	\$180,688.00
Forum Strategies & Communications (Client Altria)	\$217,858.00
Gotham Government Relations (Client Tobacconist Assoc Of NYS)	\$98,518.00
Greenberg Traurig, LLP (Client Lorillard)	\$162,894.00
Harris, Steven W., LLC (Client Rai Services)	\$194,333.00
Jem Associates NY, LLC (Client Rai Services)	\$30,000.00
Marsh, Wassermann & McHugh, LLC (Client Top Tobacco)	\$70,248.00
Masiello, Martucci, Calabrese And Associates (Client Altria)	\$70,000.00
McCormack, Jr., R. Christopher (Client Rai Services)	\$386,000.00
Meara Avella Dickinson (Client Tobacconist Assoc)	\$31,014.00
Meara, Brian R. Public Relations, Inc. (Client Altria)	\$157,037.00
Nixon Peabody, LLP (Client Altria (Multistate Associates)	\$30,000.00
Ostroff, Hiffa & Associates, Inc. (Client Altria)	\$414,555.00
Park Strategies, LLC (Clients Altria, Rai Services)	\$53,642.00
Save Our Stores, Inc.	\$819,615.00
Schnell, William A. & Associates, Inc. (Client Altria)	\$10,628.00

<sup>16</sup> Dicker, F. "Cuomo Is Life of Rival Party, *N.Y. Post*, see: <http://nypost.com/2009/03/19/cuomo-is-life-of-the-rival-party/>.

<sup>17</sup> According to Governor Cuomo's schedule, he has met personally with Mr. D'Amato. Most recently, it has been reported that the Governor met with him on the evening of July 10<sup>th</sup>. See: <http://blog.timesunion.com/capitol/archives/195217/cuomo-releases-june-july-schedules/>. The firm has recently hired one of the Governor staff, who worked for the governor when he was Attorney General. See: <http://blog.timesunion.com/capitol/archives/191558/ex-cuomo-aide-scarlett-joins-damatoss-firm/>.

<sup>18</sup> Based on Registered Lobbyist Disclosures available at <http://jcope.ny.gov/datasets/datasets.html>.

## RISING FROM THE ASHES: CAMPAIGN CONTRIBUTIONS IN NEW YORK, 2011-2013

Another way in which the tobacco industry wields power is through its generous distribution of campaign checks. As seen below, the single largest beneficiary of the industry's largesse is the New York State Senate Republican Campaign Committee. As stated earlier, it was the Senate Republicans who recently killed legislation that would have restricted the sale of flavored tobacco products in New York.<sup>19</sup> Powerful members of the Senate leadership—Senators Klein and Libous—are also notable recipients of tobacco contributions.

Also, the New York State Democratic Committee, which had previously stated publicly that it refuses to accept donations from the tobacco industry,<sup>20</sup> now accepts that support. Assembly Democrats have maintained their pledge to refuse tobacco money.

Donor	Amount	Date	Recipient <sup>21</sup>
Altria Client Services	50,000.00	19-Oct-12	NYS Senate Republican Campaign Committee - Housekeeping
<b>Altria Client Services</b>	<b>15,000.00</b>	<b>23-May-13</b>	<b>New York State Democratic Committee (Housekeeping)</b>
Altria Client Services	10,000.00	1-Jun-12	New York Republican State Committee - Housekeeping
Altria Client Services	10,000.00	11-Oct-11	New York Republican State Committee - Housekeeping
<b>Altria Client Services</b>	<b>10,000.00</b>	<b>7-Sep-11</b>	<b>New York State Democratic Committee (Housekeeping)</b>
<b>Altria Client Services</b>	<b>10,000.00</b>	<b>24-Oct-12</b>	<b>New York State Democratic Committee (Housekeeping)</b>
Altria Client Services	10,000.00	16-Jun-11	NYS Senate Republican Campaign Committee - Housekeeping
Altria Client Services	10,000.00	5-Oct-12	NYS Senate Republican Campaign Committee - Housekeeping
Altria Client Services	9,000.00	30-Sep-11	NYS Senate Republican Campaign Committee - Housekeeping
Altria Client Services	7,500.00	17-Oct-12	Erie County Republican Committee-Housekeeping
Altria Client Services	7,500.00	11-Oct-12	Republican Assembly Campaign Committee - Housekeeping
Altria Client Services	6,500.00	24-Aug-12	NYS Senate Republican Campaign Committee - Housekeeping
Altria Client Services	6,000.00	28-Jul-11	Broome County Republican Committee (BCRC)
Altria Client Services	6,000.00	20-Jul-11	Rockville Centre Republican Club Housekeeping Account
Altria Client Services	5,000.00	3-Oct-12	Democratic Senate Campaign Committee - Housekeeping
Altria Client Services	5,000.00	12-Oct-11	Democratic Senate Campaign Committee - Housekeeping
<b>Altria Client Services</b>	<b>5,000.00</b>	<b>10-Nov-11</b>	<b>New York State Democratic Committee (Housekeeping)</b>
<b>Altria Client Services</b>	<b>5,000.00</b>	<b>24-Oct-12</b>	<b>New York State Democratic Committee (Housekeeping)</b>
Altria Client Services	5,000.00	31-May-13	NYS Senate Republican Campaign Committee - Housekeeping
Altria Client Services	5,000.00	31-May-12	NYS Senate Republican Campaign Committee - Housekeeping
Altria Client Services	5,000.00	10-Oct-12	Suffolk County Democratic Committee
Altria Client Services	5,000.00	11-May-11	Republican Assembly Campaign Committee - Housekeeping
Altria Client Services	4,500.00	17-May-11	Suffolk County Republican Committee- Housekeeping Acct
Altria Client Services	4,500.00	22-Jul-11	Republican Assembly Campaign Committee - Housekeeping
Altria Client Services	4,000.00	9-Jun-11	Monroe County Democratic Committee
Altria Client Services	4,000.00	22-Aug-13	Monroe County Democratic Committee
Altria Client Services	4,000.00	16-Oct-12	Monroe County Democratic Committee
Altria Client Services	4,000.00	16-Nov-11	Erie County Republican Committee-Housekeeping
Altria Client Services	4,000.00	4-Nov-11	NYS Senate Republican Campaign Committee - Housekeeping
Altria Client Services	4,000.00	1-Feb-11	NYS Senate Republican Campaign Committee - Housekeeping
Altria Client Services	3,600.00	24-Sep-12	Bronx Democratic County Committee - Housekeeping
Altria Client Services	3,500.00	14-Nov-11	Erie County Democratic Committee-Housekeeping
Altria Client Services	3,500.00	12-Oct-12	Onondaga County Republican Committee Housekeeping

<sup>19</sup> Senate bill 5686 (Ritchie). Assembly bill 1179-A (Paulin) passed that house with overwhelming bipartisan support, 104-32.

<sup>20</sup> Kibbe, D., "Group wants end to tobacco contributions," *The Daily Star*, 1/28/2000.

<sup>21</sup> Based on donations reported with the New York State Board of Elections

Altria Client Services	3,500.00	12-Jan-12	Albany County Democratic Committee
Altria Client Services	3,000.00	1-Jul-13	Suffolk County Republican Committee- Housekeeping Acct
Altria Client Services	3,000.00	5-Nov-12	Monroe County Republican Housekeeping Committee
Altria Client Services	3,000.00	17-Nov-11	Monroe County Republican Housekeeping Committee
Altria Client Services	2,500.00	8-Jun-12	Suffolk County Republican Committee- Housekeeping Acct
Altria Client Services	2,500.00	18-Oct-12	Rockville Centre Republican Club Housekeeping Account
Altria Client Services	2,500.00	29-Aug-13	Suffolk County Democratic Committee
Altria Client Services	2,500.00	4-Nov-11	Republican Assembly Campaign Committee - Housekeeping
Altria Client Services	2,500.00	3-Oct-12	Republican Assembly Campaign Committee - Housekeeping
Altria Client Services	2,500.00	8-Oct-12	WRCC Housekeeping (Westchester Reps)
Altria Client Services	2,000.00	25-Jan-12	New York State Conservative Party (Conference Account)
Altria Client Services	2,000.00	28-Aug-12	Conservative Party NYS (Headquarters Account)
Altria Client Services	2,000.00	12-Oct-12	Onondaga County Republican Committee Housekeeping
Altria Client Services	2,000.00	18-Oct-12	Rockville Centre Republican Club Housekeeping Account
Altria Client Services	2,000.00	27-Sep-12	WRCC Housekeeping (Westchester Reps)
Altria Client Services	1,500.00	14-Nov-13	Suffolk County Democratic Committee
Altria Client Services	1,500.00	27-Dec-12	Republican Assembly Campaign Committee - Housekeeping
Altria Client Services	1,400.00	23-Aug-12	Republican Assembly Campaign Committee – Housekeeping
Altria Client Services	1,000.00	5-Aug-11	Conservative Party NYS (Headquarters Account)
Altria Client Services	500	4-Nov-11	Republican Assembly Campaign Committee – Housekeeping
Altria Client Services	500	22-Jul-11	Republican Assembly Campaign Committee – Housekeeping
Altria Client Services	500	23-Aug-12	Republican Assembly Campaign Committee – Housekeeping
Altria Client Services	1,000.00	30-Sep-11	NYS Senate Republican Campaign Committee - Housekeeping
Altria Client Services	500	27-May-11	Conservative Party NYS (Headquarters Account)
Altria Client Svc	2,500.00	4-Jun-12	Suffolk County Conservative Chairman's Club
Altria Client Svc Inc	2,500.00	19-Jun-13	Suffolk County Conservative Chairman's Club
Altria Development	26	12-Oct-11	Nassau County Democratic Committee Operating Account
<b>Altria Subtotal</b>	<b>\$302,026.00</b>		
Cigar Assn. Of America	1,500.00	16-May-12	Friends Of Senator Libous Committee (2010)
Cigar Assn. Of America	1,000.00	5-May-11	Friends Of Senator Libous Committee (2010)
Cigar Assn. Of America	5,000.00	31-May-13	Jeff Klein For New York
Cigar Vault Emporium	250	17-Sep-12	Andrew Lanza For Staten Island
Lorillard Tobacco Co	600	22-Aug-11	Convenience Pac
Lorillard Tobacco Co	5,000.00	2-Nov-12	NYS Senate Republican Campaign Committee
Rai Services Co.	2,000.00	5-May-11	Friends Of Senator Libous Committee (2010)
Rai Services Co.	1,500.00	14-Jun-13	Friends Of Senator Libous Committee (2010)
Rai Services Company	3,500.00	15-Oct-12	Friends Of Senator Libous Committee (2010)
Rai Services Company	1,500.00	29-May-12	Friends Of Senator Libous Committee (2010)
Rai Services Company	1,000.00	14-Jun-13	NYS Senate Republican Campaign Committee
Rj Reynolds Tobacco	190	26-Jul-12	Convenience PAC
Rj Reynolds Tobacco	100	5-Aug-11	Convenience PAC
Rj Reynolds Tobacco	310	26-Jul-12	Convenience PAC
<b>Total Donations</b>	<b>\$325,476.00</b>		



## BACKGROUND: THE HUMAN COST OF TOBACCO USE IN NEW YORK

Tobacco use kills more than 23,600 New Yorkers every year, more than any other cause of preventable death.<sup>22</sup> Nearly one in every five deaths is attributable to tobacco use, while more than half a million New Yorkers currently suffer from a chronic illness such as cancer, cardiovascular disease or chronic obstructive pulmonary disease that was caused by smoking.<sup>23</sup> Unless current trends shift, it is likely that more than 389,000 children currently under the age of 18 and now living in New York will eventually die prematurely from diseases caused by tobacco—diseases that can easily be prevented.<sup>24</sup>

Tobacco is a source of considerable revenue to New York State and its local governments, generating roughly \$2 billion annually.<sup>25</sup> Unfortunately, it is accompanied by even greater costs.

The U.S. Centers for Disease Control & Prevention (CDC) estimates that New Yorkers spend **\$10.4 billion** annually on direct medical care to treat smoking caused illness.<sup>26</sup> These costs are concentrated at the two ends of the life span: nursing home expenses incurred by patients with tobacco-related lung and cardiovascular diseases, and low birth weight babies born to mothers who smoke during pregnancy, which includes \$5.4 billion in expenses spent on tobacco-related Medicaid costs.<sup>27</sup> Together, the state and its county governments pay half of these Medicaid costs, with the federal government providing the remainder. Thus, New York taxpayers pay upwards of **\$2.7 billion** to care for Medicaid patients with tobacco-related illnesses.

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<sup>22</sup> U.S. Centers for Disease Control and Prevention, Best Practices for Comprehensive Tobacco Control Programs – 2014, January 2014, p. 110. See:

[http://www.cdc.gov/tobacco/stateandcommunity/best\\_practices/pdfs/2014/comprehensive.pdf](http://www.cdc.gov/tobacco/stateandcommunity/best_practices/pdfs/2014/comprehensive.pdf).

<sup>23</sup> Hyland A, Vena C, Bauer, J et al: “Cigarette-attributable Morbidity in the United States”. Presented at The Society for Research on Nicotine and Tobacco Meeting, Savannah, Georgia, February, 2002.

<sup>24</sup> U.S. Centers for Disease Control and Prevention, *State Data Highlights Report*, 2006.

[http://www.cdc.gov/tobacco/data\\_statistics/state\\_data/data\\_highlights/2006/pdfs/dataHighlights06rev.pdf](http://www.cdc.gov/tobacco/data_statistics/state_data/data_highlights/2006/pdfs/dataHighlights06rev.pdf).

<sup>25</sup> New York State Division of the Budget, calculation combines tax revenues and monies for the Master Settlement Agreement, see:

<http://publications.budget.ny.gov/eBudget1314/economicRevenueOutlook/economicRevenueOutlook.pdf>.

<sup>26</sup> U.S. Centers for Disease Control and Prevention, Best Practices for Comprehensive Tobacco Control Programs – 2014, January 2014, p. 110. See:

[http://www.cdc.gov/tobacco/stateandcommunity/best\\_practices/pdfs/2014/comprehensive.pdf](http://www.cdc.gov/tobacco/stateandcommunity/best_practices/pdfs/2014/comprehensive.pdf).

<sup>27</sup> U.S. Centers for Disease Control and Prevention, *State Data Highlights Report*, 2006.

## THE FATE OF RECENT TOBACCO CONTROL POLICY INITIATIVES

**The State's Tobacco Control Program:** The New York State Tobacco Control Program (“TCP”) was established in 2000 to help direct revenues from the Master Settlement Agreement to health programs. The TCP’s programmatic work is based on evidence-based strategies from the U.S. Centers for Disease Control and Prevention (CDC). The Tobacco Control Program uses the CDC’s evidence-based interventions to reduce illness, disability and death caused by tobacco use and secondhand smoke exposure, working to help adults to quit and preventing kids from starting the deadly habit. Funding for the program has been as much as \$85 million annually. However, over the past few years, New York has systematically slashed its support by over 50 percent. Last year, Governor Cuomo reduced state support again. In 2014, the governor budgeted \$39.3 million for tobacco control.

**Restricting the sale of flavored tobacco products:** This legislation restricts the sale of flavored tobacco products, such as cigars, chewing tobacco, snuff, and rolling papers, to adult-only tobacco shops. Despite the federal ban on flavored cigarettes, flavored cigars and smokeless tobacco products continue to attract new young, users. New York City enacted such a restriction, the state should too. This legislation has repeatedly passed the Assembly with overwhelming bipartisan support. The bill has been stalled in the Senate.

### **New York City’s proposals in 2013:**

- Intro 250-A, raises the minimum age for purchasing tobacco products to 21 years. Research shows that nearly 90 percent of all smokers start before the age of 18.<sup>28</sup> There is virtually no evidence that raising the age will do more than increase the number of underage smokers.
- Intro 1020, requires that “power walls” and other tobacco product displays be placed out of plain sight. This legislation would have had a dramatic effect on the tobacco industry. Since the industry’s ability to advertise has been severely limited, it is only at the point-of-sale where tobacco companies have their greatest advertising impact. This legislation was defeated in the City Council.
- Intro 1021, works to reduce tobacco tax evasion, reduces tobacco industry discounting, and creates a price floor for cigarette packs and little cigars. This legislation was approved by the City Council.

**City of Buffalo legislation:** The “Responsible Tobacco Retailing Act,” would require Buffalo businesses who sell tobacco products to obtain an annual license from the city. The license fee of \$1,000 per tobacco line sold would then be passed onto tobacco companies. The retailing act would also limit the number of tobacco ads within stores. The proposal has not been approved.

**Suffolk County legislation:** Intro Res No 1100-2011 would have limited tobacco advertisements at the point of sale in retailers. This proposal has not been approved.

**Albany County, the city of Binghamton,<sup>29</sup> Columbia and Madison Counties:** It is hard to know which local laws were being debated, but our review leads us to conclude that the industry was interested in legislation that would have banned the sale of tobacco products in pharmacies.

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<sup>28</sup> U.S. Surgeon General, “Preventing Tobacco Use Among Youth and Young Adults,” see: <http://www.surgeongeneral.gov/library/reports/preventing-youth-tobacco-use/factsheet.html>.

<sup>29</sup> Altria’s lobbying reports listed the “county of Binghamton” as the locality it lobbied. We listed it as the city.