

# Whistleblower files lawsuit against tobacco foundation

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The Foundation for a Smoke-Free World exploited and violated its status as a tax-exempt non-profit in promoting Big Tobacco's harmful messaging to teenagers and coordinating strategies with those for-profit companies, a former employee has disclosed.

Lourdes Liz, a former marketing director at the non-profit Foundation, in a lawsuit filed January 13 in the U.S. District Court for the Southern District of New York alleges that the Foundation "is engaging in activities designed to increase the profits of and do the bidding of the tobacco industry, namely Phillip Morris International (PMI) and its former parent company, Altria Group, Inc".

"The Foundation tries to portray itself as an independent organisation attempting to reduce the consumption of products produced by Big Tobacco," Ms Liz said in her statement of claim.

"This, however, is a mere smokescreen, and the Foundation has become well known as a tool of PMI and Altria, used to peddle their products (particularly vaping products) and push their message from behind a facade of seemingly respectable, supposedly independent science and public health research and policy."

Ms Liz says her employment was unlawfully terminated for raising concerns about the apparent violations of the Foundation's tax-exempt status by taking cues from and acting in lockstep with Big Tobacco.

The whistleblower retaliation lawsuit was filed on her behalf by her attorney, Wigdor LLP.

Lawrence Pearson, a partner at Wigdor LLP, said in a statement that the Foundation for a Smoke-Free World's alleged activities at the direction of and in close coordination with Big Tobacco in violation of its status as a tax-exempt, non-profit organisation represent a serious threat to public health.

"We look forward to holding the Foundation accountable for its alleged attempts to shamelessly silence Ms Liz after she made it clear that she would not support Big Tobacco's pro-teen-vaping agenda."

The Foundation for a Smoke-free World (FSFW) is yet to file a response.

**'Collaborating with Big Tobacco'**

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Altria is the world's largest producer and marketer of tobacco, cigarettes, and related products, and PMI's current partner in marketing and sales of IQOS, a heated tobacco and vape product manufactured in the United States.

Last month, PREMIUM TIMES reported how the tobacco industry is **hiding under the Foundation** to target a younger generation of smokers, in clear violation of the World Health Organisation's Framework Convention for Tobacco Control (WHO-FCTC)'s Article 5.3. Established as a not-for-profit organisation in September 2017, the FSFW said it has a mission of "solving the global health crisis and ending smoking in this generation."

PMI initially pledged to, starting from 2018, support the Foundation with \$80 million annually over 12 years. Later, the tobacco company **amended its funding** pledge to FSFW thus: \$80 million for 2018 and 2019; \$45 million in 2020; \$40 in 2021; and \$35 million from 2022 to 2029.

Ms Liz worked for the Foundation as a Director of Digital and Social Media from February 2018 through February 2020.

As an employee, she says she made legally protected complaints about the Foundation's efforts to promote the use and/or downplay the health risks of e-cigarettes by teenagers and adolescents (who are not legally old enough to use such products in New York and many other states).

She alleges that she was subjected to a sustained campaign of retaliation for raising concerns about the organisation's efforts to skirt its legal obligations to act independently from its financial backers, as well as complaining to management about the Foundation's promotion of a pro-vaping message to teens in contravention of its stated mission and to the detriment of public health.

"The Foundation engaged in such activities under the pretext of 'harm reduction,' that is, purportedly pointing them towards 'safer' alternatives to cigarette smoking. The Foundation did this despite the highly addictive nature of and dangerous levels of nicotine and other harmful ingredients in these products," the former employee said.

Ms Liz says she was shocked by how the Foundation was doing the bidding of PMI and Altria and was furthering "PMI's goal of creating a new generation of tobacco and nicotine users".

"For instance, just weeks into her employment, Ms Liz learned that the Foundation's President, Derek Yach, in conjunction with the advertising firm Ogilvy, proposed an advertising concept that used Instagram influencers and personalities who performed vaping and e-cigarette related tricks (such as blowing circular 'vape' bubbles after inhaling from an e-cigarette) – an advertising idea clearly targeted at teenagers and adolescents that promoted a pro-vaping, and, therefore, pro-PMI and Altria, message that vaping was a healthier alternative to smoking cigarettes."

Ogilvy has a **well-documented history** of working with the tobacco industry since the 1950s. Since 2017, it has had a multi-million dollar contract with FSFW.

In the summer of 2018, Ms Liz complained about why the Foundation was sponsoring the Conrad Challenge, run by the Conrad Foundation, an organisation that supports a children's STEM-based education initiative, in connection with smoke-free challenges in certain target markets.

She said this event sponsorship, which seemed to target teenagers and adolescents, also appeared 'misdirected' based on the Foundation's mission.

Ms Liz says she was alarmed to learn that the Foundation planned to fly the United States-based Conrad Challenge contest winners to Catania, Italy, to visit the Foundation's Centre of Excellence there, whose Founder and Director, Riccardo Polosa, had previously accepted a €1 million grant from PMI to investigate PMI's heated tobacco products.

It was clear to Ms Liz that that was yet another attempt by the Foundation to further align itself and its messaging with PMI by propagating a pro-vaping message aimed at teens under the thin pretext of a 'harm reduction' discussion.

Earlier, in the spring of that year, Ms Liz said she noticed PMI had published a sustainability report documenting its efforts in Malawi aimed at encouraging the diversification of crops beyond tobacco, such as maize and soybeans.

This report, she says, completely mirrored and sounded identical to the Foundation's own 'Agricultural Transformation Initiative.' Also, in September 2018, the Foundation announced its partnership with a Malawi-based grant relationship with the Palladium Group, three weeks after PMI had also announced it was working with the group.

"This was a blatant example of the Foundation's collusion with the tobacco industry, in contravention of its purportedly independent, non-profit tax-exempt status," she says. In late August 2018, Ms Liz said she received an email from Mr Yach, where he referenced a meeting he had with representatives from Altria in which Altria praised the Foundation's apparent efforts to downplay the harmfulness of nicotine and urged the Foundation's advertising agency, Ogilvy, to push these efforts further.

"Mr Yach's email not only confirmed that he, the Foundation's President, was holding strategy sessions with the Big Tobacco industry, but that he was willing to take the tobacco industry's direction about the Foundation's own efforts, spending, and messaging, which was unquestionably violative of the Foundation's legal obligations as a 501(c)(3) tax-exempt organization," Ms Liz says.

## **Alleged victimisation and dismissal**

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Then, in October 2018, Ms Liz raised concerns when the Foundation directed her to attend a teen marketing conference, as well as a meeting with an organisation called DoSomething.org, whose purpose is to motivate youth to make positive social changes.

Ms Liz says she was troubled that none of the Foundation's executives seemed to offer a rationale for why the Foundation should participate in these meetings, nor could they explain how attending would support the Foundation's stated goals and missions.

Rather, she says, it appeared that the goal of marketing and making the Foundation visible to teenagers was more in line with the interests of PMI and Altria in promoting their purportedly 'less harmful' smoking products, such as e-cigarettes.

Subsequently, in the fall of 2018, after Ms Liz's manager departed the Foundation, Ms Liz said she was passed over for promotion into her former manager's role – a role that she was more than qualified to assume – in favour of an employee “more junior to her and far less qualified and experienced, but who had not spoken out against the Foundation's questionable relationship with Big Tobacco corporations”.

Over the next year-plus, she says was subjected to a sustained campaign of further retaliation, which included being systematically stripped of her duties and responsibilities, and being issued baseless performance warning and write-ups in order to create a paper trail to justify further adverse employment actions.

During this time, Ms Liz said the Foundation “made it clear that she was persona non grata for having complained, repeatedly, about its efforts to dupe the public and the Internal Revenue Service (“IRS”) by acting as and claiming to be a non-profit, while promoting a pro-tobacco industry agenda and pushing a pro-vaping message at teens too young to even legally use the products, harming the public's health in the process”.

On February 27, 2020, the Foundation terminated Ms Liz's employment.

Now, Ms Liz is seeking redress for and the recovery of damages arising from the Foundation's “unlawful retaliatory conduct in response to her protected whistleblower activities”.