

EXHIBIT 1



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Transcript of James Figlar, Ph.D.

Date: June 3, 2022

Case: RAI Strategic Holdings, Inc. -v- Altria Client Services, LLC, et al.

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Transcript of James Figlar, Ph.D.
Conducted on June 3, 2022

<p>1 IN THE UNITED STATES DISTRICT COURT</p> <p>2 FOR THE EASTERN DISTRICT OF VIRGINIA</p> <p>3 Alexandria Division</p> <p>4 RAI STRATEGIC HOLDINGS, :</p> <p>5 INC. and R.J. REYNOLDS :</p> <p>6 VAPOR COMPANY, :</p> <p>7 Plaintiffs/ :</p> <p>8 Counterclaim Defendants, : Case No.</p> <p>9 v. : 1:20-cv-00393-LO-TCB</p> <p>10 ALTRIA CLIENT SERVICES LLC; :</p> <p>11 PHILIP MORRIS USA INC.; and :</p> <p>12 PHILIP MORRIS PRODUCTS S.A., :</p> <p>13 Defendants/ :</p> <p>14 Counterclaim Plaintiffs. :</p> <p>15</p> <p>16 CONFIDENTIAL</p> <p>17 VIDEOTAPED DEPOSITION of JAMES FIGLAR, Ph.D.</p> <p>18 Friday, June 3, 2022</p> <p>19 6:54 a.m. CST</p> <p>20 Job No.: 450979</p> <p>21 Pages: 1 - 175</p> <p>22 Reported By: Michelle M. Yohler, CSR, RMR, CRR</p>	<p>1 A P P E A R A N C E S</p> <p>2 ON BEHALF OF RAI STRATEGIC HOLDINGS, INC. and</p> <p>3 R.J. REYNOLDS VAPOR COMPANY:</p> <p>4 MR. MICHAEL S. QUINLAN</p> <p>5 JONES DAY</p> <p>6 901 Lakeside Avenue</p> <p>7 Cleveland, Ohio 44114-1190</p> <p>8 216.586.3939</p> <p>9 msquinlan@jonesday.com</p> <p>10</p> <p>11 ON BEHALF OF ALTRIA CLIENT SERVICES LLC; PHILIP</p> <p>12 MORRIS USA INC.; and PHILIP MORRIS PRODUCTS S.A.:</p> <p>13 MR. CLEMENT NAPLES</p> <p>14 LATHAM & WATKINS, LLP</p> <p>15 1271 Avenue of the Americas</p> <p>16 New York, New York 10020</p> <p>17 212.906.1200</p> <p>18 clement.naples@lw.com</p> <p>19</p> <p>20</p> <p>21</p> <p>22 (Continued)</p>
<p>1 Remote videotaped 30(b)(6) deposition of RAI</p> <p>2 STRATEGIC HOLDINGS, INC., and R.J. REYNOLDS VAPOR</p> <p>3 COMPANY by JAMES FIGLAR, Ph.D., held remotely</p> <p>4 pursuant to notice before Michelle M. Yohler, CSR,</p> <p>5 RMR, CRR, a certified shorthand reporter,</p> <p>6 CSR No. 84-4531.</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p>	<p>1 A P P E A R A N C E S C O N T I N U E D</p> <p>2</p> <p>3</p> <p>4 ALSO PRESENT:</p> <p>5 Mr. Michael Pietanza, Technician</p> <p>6 RJ Buckler, Videographer</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p>

5

1 EXAMINATIONS

2

3 WITNESS PAGE

4 JAMES FIGLAR, PH.D.

5 By Mr. Naples..... 7

6 By Mr. Quinlan..... 164

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10 EXHIBITS

11 * None Marked *

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1 THE VIDEOGRAPHER: The court reporter

2 today is Michelle Yohler representing Planet

3 Depos.

4 Would the court reporter please swear in

5 the witness.

6 (WHEREUPON, the witness was duly sworn.)

7 JAMES FIGLAR, Ph.D.,

8 called as a witness herein, having been first duly

9 sworn, was examined and testified as follows:

10 EXAMINATION

11 BY MR. NAPLES:

12 Q Good afternoon for you, Dr. Figlar, is

13 that right?

14 A That is correct.

15 Q You're still --

16 A Good morning to you all.

17 Q So you're still in Italy?

18 A Correct.

19 Q Can you tell me precisely when you retired

20 from Philip Morris?

21 A I never --

22 MR. QUINLAN: Objection --

6

1 PROCEEDINGS

2 (Technician read-on.)

3 THE VIDEOGRAPHER: Here begins Recording

4 Number 1 in the videotaped deposition of Dr. James

5 Figlar in the matter of RAI Strategic Holdings,

6 Inc., et al., versus Altria Client Services LLC,

7 et al., held in the United States District Court

8 for the Eastern District of Virginia, Alexandria

9 Division, Case Number 1:20-cv-00393-LO-TCB.

10 Today's date is June 3rd, 2022. The time

11 on the video monitor is 6:54 a.m. Central U.S.

12 Time.

13 The videographer today is RJ Buckler,

14 CLVS, representing Planet Depos.

15 This video deposition is taking place

16 remotely via Zoom.

17 Would counsel please voice-identify

18 themselves and state whom they represent.

19 MR. NAPLES: Clement Naples for Philip

20 Morris/Altria plaintiffs from Latham & Watkins.

21 MR. QUINLAN: Mike Quinlan from Jones Day

22 on behalf of Reynolds.

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1 BY THE WITNESS:

2 A I never retired from Philip Morris.

3 BY MR. NAPLES:

4 Q Let me reask the question.

5 Can you tell me precisely when you retired

6 from Reynolds?

7 A In essence, the last day of December 2020.

8 I guess my official date was maybe the second day

9 of January 2021, but basically the end of the year

10 2020.

11 Q Okay. And since you've retired, have you

12 continued to work for Reynolds?

13 MR. QUINLAN: Object to form.

14 BY THE WITNESS:

15 A For the purposes of this litigation that

16 began before my retirement and I agreed to be the

17 corporate representative for Reynolds for this

18 litigation, I have maintained a type of employment

19 for the sake of this case. So in that sense, yes.

20 But am I receiving regular compensation from

21 Reynolds? No, it's separate and apart solely for

22 this litigation.

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1 none of the Alto products had been cleared by the
 2 FDA, correct?
 3 **A Alto? No. We had -- the day that I**
 4 **retired, there were no -- no vapor products or**
 5 **e-cigarette products had been cleared by the**
 6 **agency in total --**
 7 Q Right.
 8 **A -- they hadn't -- they hadn't authorized**
 9 **anything.**
 10 Q So as of the date you retired, certainly
 11 the -- the Solo, the Vibe, the Ciro, and the Alto,
 12 none of those had been cleared by the FDA,
 13 correct?
 14 **A The day that I -- that's correct.**
 15 Q And you learned that they had
 16 been -- cleared at least, the Solo, the Vibe, and
 17 the Ciro -- after you retired; is that right?
 18 **A Correct.**
 19 Q And you said the Alto is still not
 20 cleared, correct?
 21 **A Alto is still in scientific review is my**
 22 **understanding.**

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1 Q Okay. And you said that for the Solo,
 2 Ciro, and Vibe, the tobacco flavors have been
 3 cleared --
 4 **A They have.**
 5 Q -- isn't that right?
 6 **A That's correct.**
 7 Q But the menthol flavors have not been
 8 cleared?
 9 **A They had -- they are still in review. So**
 10 **they haven't been denied; they are in -- they're**
 11 **still under review.**
 12 Q Do you know why the menthol flavors are
 13 still in review for the Vuse PMTAs?
 14 **A Yeah, we --**
 15 MR. QUINLAN: Object to form.
 16 BY THE WITNESS:
 17 **A -- talked a little bit about -- we talked**
 18 **a little bit about that. I mean, I don't -- I'm**
 19 **not -- I don't work for the FDA, and I never have,**
 20 **but my understanding is the FDA is reviewing**
 21 **menthol in total for tobacco products. So that**
 22 **would include everything -- right? -- burn-down**

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cigarettes, smokeless products, vapor products.
 2 **So they -- I think the -- our thinking is**
 3 **the agency wants to make an overall decision on**
 4 **menthol products as it regards -- as it applies to**
 5 **tobacco products in total, and so we think they're**
 6 **going to probably make that decision, and then**
 7 **either move to deny or accept the menthol portions**
 8 **of those applications.**
 9 **BY MR. NAPLES:**
 10 Q And what's your understanding of what the
 11 FDA's concern is about menthol products?
 12 MR. QUINLAN: Object to form.
 13 BY THE WITNESS:
 14 **A Well, I mean, there certainly -- there**
 15 **have been scientific questions and calls from**
 16 **legislatures and public health groups that -- that**
 17 **menthol is potentially more harmful than -- than**
 18 **non-menthol products.**
 19 **Now, from a scientific perspective, I'm --**
 20 **my opinion is the science doesn't justify that,**
 21 **but, nonetheless, it is up to the agency to**
 22 **wrestle with those questions. And they're going**

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1 to have to come to a decision about whether or not
 2 **they think it's appropriate or not appropriate to**
 3 **have menthol in those products.**
 4 **We can offer up our opinion, we can talk**
 5 **about the science, but ultimately it's going to be**
 6 **up to the FDA at this point to make decisions on**
 7 **menthol.**
 8 **BY MR. NAPLES:**
 9 Q Is it your opinion that menthol is equally
 10 as safe as non-menthol tobacco products?
 11 **A Yeah, I mean, my --**
 12 MR. QUINLAN: Object to form.
 13 BY THE WITNESS:
 14 **A My understanding of the science is menthol**
 15 **products are no more dangerous than non-menthol**
 16 **products. They're no more -- in my opinion,**
 17 **they're no more addictive than non-menthol**
 18 **products. They do offer a different taste**
 19 **profile.**
 20 **But, nonetheless, there are others in the**
 21 **scientific community that don't agree with that.**
 22 **And there is a lot of science that's been**

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