

CMA REDACTION DOCUMENTS

VOLUME 4

37096 - 37464

11/22/76 (CMA 12581-12582 and 37097 - 37132) - CMA Board of Directors Meeting Minutes.

CMA concealed the Report of its director of Government Relations (37100 and 37112-118), describing the "important new laws" passed at the end of the 1976 second legislative session, including:

"The Toxic Substances Control Act (PL 94-469), finally became the law after five years of deliberation and controversy, thus establishing Federal controls over the manufacturer, distribution and use of chemicals." (CMA 37112), discussing bills which didn't pass but which were "likely to surface again," including: "A bill to provide stricter regulations of lobbying...; Common Cause is a strong advocate, while Nader groups and the AFL-CIO supported only the House version..."

CMA concealed the "apprehension" of "business" that "dues paid to trade associations by corporate members could be subject to public disclosure under some concepts."

CMA concealed its discussion of the failure of the Clean Act Amendments whose filibuster Senator Muskie blamed on the auto industry. The CMA concealed its discussion of "Industrial Reorganization," the so-called "Hart Bill" whose sponsors and which "singles out chemicals manufacturing and other industry for possible breakup, creates a special commission to make divestiture investigations and a special court to compel dismantling." (CMA 37113).

CMA concealed its having reported the failure of bills which would have provided for "the outlawing of corporate bribes to foreign officials" and proposals "to create a new consumer protection agency," expand the FTC, etc. (CMA 37114).

CMA observes that Jimmy Carter had been "an anti-establishment candidate for nearly two years" but that "Jimmy Carter now IS the establishment." (CMA 37114). CMA says Carter "is now confronted with the dilemma of some delicacy: How to begin to direct and to motivate the people and the mechanisms he as so recently and soundly castigated." (CMA 37115).

The CMA concealed its discussion of "congressional leaders who" have "obviously enjoyed the independence and status which the years of confrontation [during the 'stalemate government' of Presidents Nixon and Ford] have produced." (CMA 37115). *These legislators simply "covet their independence of action" and consider their "important role" as being nothing more than "punishing one President" or "making his successor appear ineffectual..."*

Longtime Carter watchers point out that "he adopted a tough, no compromise attitude towards the Georgia legislature during his term as Governor." (CMA 37115). CMA concealed its belief that "the incoming President...would apparently retain the present non-degradation concepts of the Clean Air Act" and "has called for stricter enforcement of water pollution control laws and evidently will oppose efforts to weaken Federal Water Pollution Control Act." (CMA 37116).

CMA concealed the report of its Chemical Packaging Committee (and its existence) (CMA 37119-123): "Times have changed! Just a few years ago, chemical packaging engineers might be concentrating on the steel thickness of a drum for solvents..." etc., but "today, he must also know about the Transportation Safety Act of 1974, consolidation of DOT Regulations... **and, looking to the future, regulations on solid waste disposal and carcinogens.**" And why have times changed so? "We believe the most important factor is the concern on the part of both private and public sectors for greater safety in the packaging, transportation, and distribution of hazardous materials."

CMA concealed its discussion of DOT recognition of "cost/benefit" which DOT "considers in any reviews of package regulation changes. Packaging is seen as a cost item in our industry." (CMA 37120).

The CMA concealed the fact its Packaging Committee "together with the Transportation Equipment and Transportation and Distribution Committees, sponsored a symposium on Hazardous Materials Regulations with over 1100 attendees from all concerned shipper and carriers groups..." Other evidence indicates the CMA's preference for regulation by DOT. CMA concealed "DOT has already indicated that they have under-development regulations applying to the proper packaging and transportation of health products such as carcinogens, mutagens and teratogens." (CMA 37122).

CMA concealed its Chemical Packaging Committees' reference to its "**responsibility**...to assist the chemical industry to meet all legal requirements while maintaining a low-risk position in transportation with proper

cost/benefit consideration. And we intend to make known the position or industry on legislative and regulatory matters." (CMA 37122).

Consistent with its systematic redaction of similar reports which CMA, despite repeated orders of the court thinks it has a right to "redact" as "non-responsive" or "unlikely to lead to the discovery of relevant evidence, here again CMA conceals the Public Relations Committees' report to the Board of Directors. Indeed, the very existence of the Public Relations Committee was systematically concealed by CMA until at least September 1996.

Plaintiffs allege that the "scientific" efforts conducted by the CMA were only part and parcel of its overall Public Relations efforts: CMA redacted as irrelevant the goal of its Board of Directors for the previous year (one of two):

"That we should establish closer relationships with other functional areas of CMA so a more meaningful contribution to the industry total **Communications** could be made. These things have been done. ***The assaults on the chemical industry by media and government in the past twelve months have made it imperative.***" (CMA 37124).

There is a reference to its Chemical Regulations Advisory Committee's (CRAC's) "opportunity to participate in Dr. Heckert's SPECIAL COMMITTEE ON TOXIC LEGISLATION" which CMA says "demonstrated what can be accomplished through interaction of functions when proper leadership is provided." [I don't know what this means exactly though. We do know now that the beginning of this Committee (whose existence was concealed by CMA) began "about eighteen months ago" and this would have been around the time of the Tenneco/SPI "jurisdictional dispute" which MCA in the spring of 1975.]

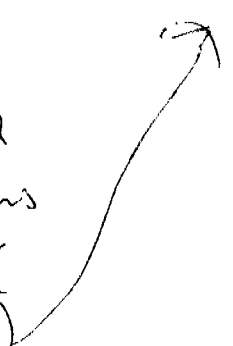
It was "about eighteen months ago" that the "Public Relation Committee stepped up its practice of meeting with the leadership of certain other functional committees, particularly Government Relations, Technical and Legal Advisory." The Technical Group would have included the Vinyl Panel and the link to the vinyl panel and it begins with Tenneco, who shared the SPI's similar MCA Technical Committee.

The plaintiffs allege that the CMA's "scientific" and other public relations activities are intertwined. CMA has redacted this statement as "proof that joint committee action can get things done...: ...What we have found is that we can work together - that we have a common purpose and pursuit. We have agreed upon issues that should be the greatest concern of the association [referring to the CMA generally and the "joint committees" such as those discussed here.]" ***These are human health and the***

Functional

Public
Relations
Committee (11/22/76)

~~PR~~
Chemical
Regulatory
Advisory
Committee
(RAC)



Technical
Committee
Govt Relations

environment, and the increasing government constraints which he wrote industry management of its resources.

CMA concealed specific references to liaisons between its Public Relations Committee and its Air Quality Committee, its Occupational Health Committee, its Government Relations Committee, as well as its Legal Advisory and Chemical Relations Advisory Committee. (CMA 37124).

CMA concealed that "the Air Quality Committee, for example, will provide facts on what the chemical industry has done about air pollution, and provide the industry position on current legislative and regulatory matters in active collaboration with the Public Relations Committee." This document makes it clear that "members of the [Technical] Task Force which serves as coordinators of the [public relations] project, recruit the best possible spokesman from MCA's membership and arrange platforms in leading cities where maximum exposure to our point of view can be gained..." ect. (CMA 37125).

Air Quality
Committee

"Each speaker [in accordance with this plan for "joint committee action" with the Public Relations Committee] would develop his topic in his own way, **weaving in the MCA-developed material at will.**" The type of spokesman we have in mind are you gentlemen, the directors of MCA, supported by other chief executive officers not present today. (CMA 37125).

The CMA concealed its discussion of the advantages of its plan to interject the Public Relations Committee into **actively resolve** with other committees: "The short range [advantage] is obvious—to gain some badly needed statements of the chemical industry point of view in various media. The longer range advantage will be gained as we found as we build **up this corps of spokesman. MCA has a constant need for industry experts who can provide statements and can make appearances on relevantly short notice...**" CMA concealed its expressed need for the industry to provide "news media" with **'the other sides' position** when the story [relating to, say, air quality, etc.] is breaking."

The CMA concealed its goal as to provide, a-la-carte, experts to furnish **"the other sides"** position anytime there is a **"whole sordid story"** to tell which the chemical industry needs to come up with an "other side" to with all the assistance of the CMA's Public Relations Committee. (CMA 37125).

CMA concealed that its leading environmental Journal "ChemEcology" was, in fact, the creature of the CMA's Public Relations Committee, whose express purpose was to "expand further its coverage of member companies

success stories in the areas of environment and toxic substances." (CMA 37126).

CMA concealed the existence of its "three-times-a-year CHEMICAL ISSUES AND COMMENTARY" which is described as a **"survey of member companies"** by the **CMA's Public Relations Committee** in order **"to identify emerging issues."**

This "practice goes back to 1973, when we began polling people participating in MCA activities in six companies and the professional staff of MCA..." but has "now grown to nineteen companies and MCA with over 400 respondents." MCA has consistently concealed all references to and any documents generated as the result of the surveys. It is not unrealistic to expect that such surveys of "emerging issues", especially in the 1973-74 era, would contain responsive information.

Consistent with its systematic practice, CMA concealed the CMA Staff Report which includes a Report from the Chairman of MCA's Occupational Health Committee that the director of OSHA had recently told him ***OSHA "would welcome industry input early in the development of any proposed standard.... Information desired includes toxicological work place exposure data on chemicals to be regulated, which would become part of the pertinent record."*** (CMA 37131)

CMA concealed references to CMA Sponsored TSCA seminars, CMA sponsorship of "a Symposium entitled "The Approaching Toxic Era" in Houston, November 11th, (CMA 37132).

"MCA made public additional toxicological data relating to the safety of Acrylonitrile Monomer on November 9th as a result of feeding liquid Acrylonitrile to pregnant rats.

In a case like this one, in which plaintiffs have put the CMA's activities regard SD-56 front and center, CMA has redacted relevant references to MCA's having "suspended circulation of eight chemical safety data sheets pending their revision to incorporate present knowledge regarding properties, characteristics and handling" and its promise to reissue them someday. During this time, and years to come, the CMA continue to "sit on" SD-56, despite its promise for a revision as early as February 1974. This revision was provided only after the very type of tumors MCA and its European counterparts (the Chemical Industries Association or "CIA") had been secretly inducing at low doses for years in animals was reported in a cluster of humans at BFG's Louisville PVC Plant, upsetting the Vinyl Industries fine plans.

1/11/77 (CMA 12583-12584 and 37133-37170) - CMA Board of Directors Meeting Minutes.

Again, CMA concealed the agenda for its meeting, including both irrelevant and relevant matter pertaining to its Chemical Relations Advisory Committee (CRAC), its Industrial Relations Advisory Committee (IRAC), and its Legal Advisory Committee(LAC).

In fact, although CMA has produced at least three prior versions of the document found at CMA 37134, and after stipulating that these minutes weren't confidential years ago, and after never having previously asserted any claim or privilege whatsoever with the regard to this document, and after having been ordered unequivocally to produce this document in its entirety at the very latest by the time of the last Case Master meeting, CMA has redacted a portion of a page two pages behind it (CMA 37136), as "privileged." By reference to the (previously concealed) agenda, is it possible to at least guess that this material probably relates to the Legal Advisory Committee portion of the Board of Director's report which CMA was ordered to produce in its entirety months if not years ago because it is a part of the minutes CMA has been gradually revealing with the maximum recalcitrance it can bring to bear and was finally very clearly **ordered** to produce in its entirety-in no specific terms. CMA's last minute redaction is contempt, pure and simple.

The CMA concealed its discussion of "Corporate Government Regulations"-effect on innovation and its expressed desire "without questioning governmental regulation per se to impose **the least possible burden in accomplishing reasonable objectives.**" CMA considered soliciting "industry-wide documentation" of this purported phenomena (this "adverse effect on innovation" phenomena) in the interest of being persuasive..." and the Board of Director (Mr. Krumrei) was to submit a memorandum on the subject to the Executive Committee. (CMA 37137).

As usual, CMA concealed all the information on its Financial position including information that will allow one to see the total amount spent on CMA's entire Technical Panel was a mere \$493,836, less than what it spent on Public and Government relations combined, and that vinyl final chloride research received only a small small fraction of its funds.

CMA further concealed the existence of the "plastic scoop" or its financial package. (CMA 37140)

CMA concealed its survey of member companies to obtain "sound data on chemical manufacturing industry operating costs and investment relating to environmental management" which MCA says was "similar to

1/11/77
IRAC

Industrial
Relations
Advisory Council
Legal Advisory
Committee

that used in 1965" and enabled "direct comparisons with similar information obtained in previous MCA environmental surveys "conducted in 1962, 1967, 1972, and 1975." Such data "has provided MCA with factual information useful in the growing public debate over costs/benefits. (CMA 37142-37144).

CMA concealed the report of its Food, Drug and Cosmetic Chemicals Committee (CMA 37152-153) discussing the U.S. Supreme Court decision and U.S. v. Park holding that "a corporate executive could be prosecuted under the criminal provisions of the Food, Drug, and Cosmetic Act for product adulteration, irrespective of his personal ignorance of the situation causing the adulteration and however remote his involvement in that situation." The case is described as imposing "**absolute criminal liability** based merely upon the responsibility of the individual corporate officers for certain areas of activity." (CMA 37151).

CMA concealed the report from its Industrial Advisory Committee that industry might expect "**increased future activity" in areas relating to "occupational safety** and equal employment opportunity. Whether you have unions or not, your employees are becoming aware of their rights in these areas. If you have **unions**, many are **building technical staffs** in the safety, hygiene and health fields the way their locals have audited the safety of our work places. Several companies in our industry have experienced employee **health crises** in the last year, with **resulting** employee and **public relations problems**. We must be prepared to devote more management time and resources to avoid further employee **anxieties** about the safety of their work locations..." so "public relations" avoiding "employee anxieties" is the only stated response to the "health crises" referred to here.

"Under the best of circumstances, those of us with unions can expect to hear more about health and safety in future negotiations. Unions are impatient with OSHA, indeed, the Oil, Chemical, and Atomic Workers is suing OSHA. We should expect that this impatience will result in a more direct approach with employers, including demands for Safety Committees with authority, of Union Safety Consultants at our plants and higher visibility for such union - oriented medical consultants such as Dr. Irving Selikoff..." (CMA 37155).

CMA concealed its characterization of OSHA at the time Morton Corn took office: "**The perception of OSHA by the public, government, and industry at the time was highly unflattering. Morton Corn has not yet succeeded in reversing, that view but is determined to do so...**" "In short, Morton Corn is making OSHA a new and different kind of organization..." which is describes as being "on a more professional level." (CMA 37159)

CMA concealed its "contact with the International Labor Organization(ILO) through the International Chemicals Employer Labor Relations Committee, which is in effect with the need for "caucus for ILO purposes of chemical employers throughout the world."

CMA concealed its "problematical" concern as to whether the U.S. "will remain in the ILO" at all anymore. It reports that the "Chamber of Commerce, which represents U.S. management in the ILO, has taken the position that so long as we are members, we should be fully active, particularly in seeking needed reforms. This appears to be proper position for MCA to maintain."

CMA concealed CRAC's solicitation of thirty-five trade organizations requesting "that MCA assume the role of coordinator in communicating with the EPA in respect of regulations implanting the TSCA." (CMA 37168).

CMA apparently deleted exhibit F (37163-167) in its entirety, which consisted of the report of the CMA Legal Advisory Committee Report. (CMA 37137).

2/8/77 (CMA 12585-12587 and 37171-37202) - CMA Board of Directors Meeting Minutes.

CMA concealed its establishment of a "Toxic Substance's contact responsible for receiving..." from CRAC, specifically a document of a type CMA systematically concealed entitled "Toxic Substances Management Memo" (CMA 37175).

CMA concealed its proposed program on the OSHA regulation of Benzene (CMA 37181-185) and its position on the Toxic Substances Control Act (CMA 37185) which includes references to the CMA's "consolidation and organization of other available data for presentation to OSHA, which is meant to apply primarily to epidemiology studies carried out in various companies, but not publicized from a concern that they did not represent a large enough base. Adding them together may provide a more convincing picture. Again, it was felt that outside expertise should be sought to "consolidate the information." (CMA 37182). This study turns out to have been conducted by Otto Wong and EHA or ENSR if I'm not mistaken. This may indicate that reanalysis of the existing but unpublished studies was the goal at the outset.

CMA concealed its boasting over the success of its CRAC in influencing EPA policy, including EPA's "dropping its proposal that impurities acceptance be reported with annual production volumes." (CMA 37191).

As usual, CMA concealed the report of its Government Relations Committee, which includes a hilarious recollection of how easy CMA used to keep bills off the Senate floor by having the Legislator it controlled just leave town to "tend to my cows" when "pressure got too great."

"I'm not saying this was the way to run the government, but it was the time when businessmen had more influence in Congress than they have today. **But that day went out with one man, one vote drive that took place more than a decade ago, [the Civil Rights Movement]**, and for a variety of other reasons"!

CMA also "redacted its biased recollection of the history of the evolution of union influence, the influence of television on **"selecting and influencing members of Congress**, as well as the rise of public interests groups, " including the Washington offices of several large companies following World War II: "In the last two decades, trade associations have become as much of Washington growth phenomena as government itself." (CMA 37194).

CMA redacted its complaints that it "lacks...grass roots voice" and that many Congress members are telling CMA that "opinions from the corporate board room no longer carry the weight they once did. **In the vernacular of Capital Hill, they ask us: 'How many votes have you got?'**" The speaker analogizes the tally on election day to the Corporate Managers "bottom-line on your corporate financial statement."

What CMA concealed by concealing the origins of its "grass roots voice on Capital Hill": CMA marshaled two "resources that presently are largely untapped by business - **employees and stock holders**" who should receive **"an understanding of the kind of governmental climate that exists for preservation of private enterprise, and an understanding of how that personal welfare relates to that of a corporation..."** ect. (CMA 37195).

The concealed portions of this document contemplates the **"mobilization" of employees and stockholders** of CMA members. (CMA 37196).

LAPI

CMA concealed the activities of its Labels and Precautionary Information Committee (or, "LAPI") (37199-200) including its discussion of coordination of efforts with the CIA of Britain, testimony before a Congressional Sub-committee with oversight responsibilities for OSHA with resulting "opportunity to influence Congressional thinking..." and "wrestling with the problem of labeling for current chronic hazards, problems involving carcinogenicity, mutasenicity, teragenicity, hepatotoxicity, and the difficult

interface between suspected carcinogenicity and test animals versus proven carcinogenicity."

CMA concealed the appointment of a sub-committee (including members of at least three defendants) to "prepare recommendations in this critical area." The activities of this committee were systematically concealed by CMA.

CMA concealed its publication by the same Dr. Gaffey who is not only an epidemiologist who originally studied the vinyl industry in the 1970's and who subsequently **chaired** the Vinyl Chloride Research Coordinator, after being employed by Monsanto. Gaffey reported: "Regulatory agencies often use the findings of the epidemiology studies when they make decisions and issue guidelines. **The kinds of epidemiology studies, however, as well as the data they require in their scope of usefulness,** are sometimes not well understood. CMA concealed that upon recommendation of the Occupational Health Committee MCA engaged Dr. R. Gaffe to write an explanatory article in technical language on Occupational Epidemiology" which had been printed as a four-page booklet entitled A Brief Overview of Occupational Epidemiology. Dr. Gaffey "was with Equitable Environmental Health, Inc.[EEH], when engaged to write the article" but is now at Stanford Research Institute. (CMA 37202). EEH was working on the vinyl data when this was being recorded by the CMA Board. CMA subsequently concealed other references to this same paper.

3/8/77 (CMA 12588-12589 and 37203-37260) - CMA Board of Directors Meeting Minutes.

CMA concealed its Board of Director's "Resolution on Public Interest Law firms" (CMA 37206 and 37212-213). This resolution expressly endorses the very official sounding "National Legal Center for the Public Interest" which MCA says is **dedicated to "traditional concepts of private property and competition meritocracy."** The concealed portions of these minutes show that these "Against-the-Public-Interest law firms were formed as Industry's specific response to the creation of true "Public Interest law firms such as Ralph Nader's Public Citizen Litigation Group," National Resources Defense Council, and the Sierra Club Legal Defense Fund **"employing 300 full-time lawyers" with budgets exceeding \$10,000,000 a year.** The Pacific Legal Foundation (PLF) was established in 1973, in Sacramento, CA, to counteract the activities of the above firms by supporting the free enterprise system and traditional concepts of private property and competition. It has had many successes.

The National Legal Center for the Public Interest was established in Washington, D.C., in 1975 with "four principle objectives:" (1) To help

establish independent regional legal foundations dedicated to a balanced view of the role of law in achieving economic and social progress [i.e. against it]; (2) To research national legal issues from a litigation point of view and develop strategies to achieve the Foundations' objectives...; (3) To act as a resource center regional litigation foundations' in obtaining qualified researchers and experts..."; and (4) To identify legislative, administrative and juridical trends likely to result in future litigation."

Under the auspices of the MLCCPI, many other regional foundations have been organized, patterned after the forerunner PLF. "These foundations will support in the Courts the **tenets of free enterprise which nobody else appears to be doing in the area of public interest law.**"

CMA concealed the Legal Advisory Committee's endorsement of the activities of these organizations and adoption of an attached resolution of endorsement.

CMA, who can't seem to find the secrecy agreements its solicited and other relevant documents, concealed the existence of its Technical Information Retrieval Committee with Gulf Oil Chemicals Corporation as Vice Chairman. (CMA 37214).

CMA concealed its Staff Report concerning MCA testimony before the National Advisory Committee on Occupational Safety and Health (NACOSH) "on regulations on worker exposure to suspected chemical carcinogens" proposed by OSHA with areas of particular concern including: "For one, OSHA is considering only inherent toxic properties and ignoring dosage, duration and time of exposure in interaction with other substances" and urging NACOSH "to deliberate at great length" over a definition of a carcinogen..." (CMA 37216).

The CMA concealed its "go slow" approach to FDA regulations for good laboratory practices. (CMA 37216). The continuous mechanism of the Technical Publications Program had resulted in the recent suspension from circulation of five Chemical Safety Data Sheets on trichloro-ethylene, perchloroethylene, dimethyl sulfate, acrylonitrile and naphthalene since the first notification of suspensions in November, 1976, and that its Chemical Safety Data Sheets on arsenic, tryoxide, chlorine, morihydride, zirconium, and afnium powder have been withdrawn permanently. The CMA concealed its seminar on corporate readiness for compliance with TOSCA attended by approximately 500. (CMA 37217).

4/12/77 - (CMA 12590-12592 and 37219-37260) - MCA Board of Directors Meeting Minutes.

Technical
Information
Review
Committee

CMA concealed existence and activities of its various committees, including its Air Quality Committee, its Government Relations Committees, and its Political Action Committee:

"Dr. Barnes spoke of his company's experience relating to 1500 of their employees participating in seven Political Action Committees distributed regionally around the country. He expressed the opinion that this had been a successful effort in support of the free enterprise system, and offered to furnish others with information on Dow's approach" to PACS. (CMA 37222).

CMA concealed the report of its Air Quality Committee including the observation that "we are on strong technical ground in saying that oxidant is relatively insensitive to changes in hydrocarbons and that hydrocarbons can not be controlled sufficiently in most places to obtain the oxidant standard. Los Angeles is a prime example."

MCA concealed that it had "been most active in testifying, writing and visiting Congressmen and meeting with their staffs to seek all the amendments proposed in Mr. Polzer's testimony." (CMA 37240).

The CMA concealed its discussion of the EPA Study of Synthetic Organic Chemical Industry and CMA's coordination with SOCMA with regard to a total of about forty chemicals: "EPA states that synthetic organic chemicals contributed 10% of the total hydrocarbon emissions from stationary sources. They state that control hinges primarily on proper plant design and operation that will require a depth of knowledge by EPA of our operations that is unprecedented."

CMA concealed its discussion of "strong criticism against EPA" by the EDF that benzene was a significant hazard and carcinogen, resulting in the "emergency" which resulted in the development of "a special MCA task group to handle this item alone." **However, "since this is a single product, response to EPA is being made on an individual company basis** [as if MCA were not coordinating this]. Eleven MCA member companies were participating. (CMA 37241).

The CMA concealed the existence of the Foster D. Snell, Inc. Hydrocarbon Control Cost Study and resulting questionnaire it was funding: "We've never attempted anything to this depth before, but then, we've never faced \$5-\$15 billion investment costs for control of a single class of pollution before..." **The study was "an eye-opener" and "will show we discharge a greater tonnage of hydrocarbon than we thought; that we do not have a good estimate on emissions on a number of sources; that likely the majority of our total poundage emissions derive from only a fraction of**

Political
Action
Committee

GRU

AQC

our total sources." The CMA has determined that information such as this is not likely to lead to discoverable evidence in this case, indicating either redactors of deliberate disregard the court's denial of CMA's motion to squash the 1442 deposition to which these documents were produced in response, and disregard of plaintiff's pleadings and discovery. (CMA 37241).

CMA concealed the way its Air Quality Committee ordered up a "Scientific" Committee requiring "medical epidemiology input" as if it were a pizza. "EPA is revising the six existing air qualities standards and will be adding new ones. Our Committee will need medical epidemiology input if we are to react.. Unless you object, my intention of a nucleus medical of representation from your companies to determine the feasibility of a rebuttal. A second item needing medical input is an advice on the concentrations of the community environment that are considered safe for all of our chemicals. The current procedure is to use the OSHA standards and arbitrarily take a percentage of them and call this safe for the public. We will have to do better than this for benzene, achrylnitride and eventually all the rest. We would plan to use your aforementioned Medical Representatives to guide committees in this crucial area also.

The third item is that relatively little attention has been paid by control agencies to our emissions during start-up and shut-downs, emergency releases, and fugitive losses. Various estimates indicate that they may be as large as our normal emissions and control agencies are starting to note this." (CMA 37242). This is relevant and should not have been concealed.

Compare CMA 12592 with, say, 37240-242. The redacted material makes sense and the material CMA chose to produce, in the context it chose to produce it, only created more questions than it answered. Plaintiffs do not point to this as a particularly "egregious" deletion. On the other hand, it is as good as an example as any of the CMA's abuse of its right to redact relevant information.

CMA concealed the reference to the Board "adding a General Counsel to the MCA staff. Despite the strength of the present staff support, we welcome this and, being pushy, hope the time will come when the environmental lawyer is also hired." (CMA 37243).

In a similar vein, CMA concealed its Water Resources Committees' references to the quality of the "legal services to environmental committees: "In which the Committee wished to point out that for some time, the Water Resources Committee has been concerned about the uncertainty and irregularity of the legal counsel it received in the course of its business. It is particularly important that an attorney familiar with Environmental Law

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Reserves
Committee

review comments that are prepared by an EPA Technical Committee for submittal to CMA in response to regulatory proposals are in discussion of EPA's program strategies. Several years ago, in an attempt to provide such service, the MCA Board authorized the establishment of the Joint Subcommittee of the Environment Law (JSEL)..." ...However, other demand member companies' attorneys time, this does not resolve the problem..." (CMA 37252).

CMA concealed the concern of its Water Resources Committee with a level of funding for its scientific studies (they are practically begging for \$15,000.)

CMA concealed its description of the EPA administrator Russell Train as having "a strong environmentalist leaning which affected agency policy, although in vain by the recognition of economic realities by others in the Ford and Nixon administrations. We fear that there may not be an equal restraining influence on President Carter..." (CMA 37255).

CMA concealed its Staffs Report's boasting of the "conspicuous role" it played in responding to EPA's Strategy Document "Assessment and Control of Chemical Problems" at a public meeting attended by 400 participants, nearly all representatives of industry, in Washington, on March 22-23." (CMA 37256).

CMA concealed that "MCA has emphasized again the chemical industry's long-standing position that some provisions of the Clean Air Act of 1970 are 'rapidly leading our nation to untimely and overly restrictive limitations on industrial strength.'

George Polzer again presented the association views before a Congressional unit, this time on March 11th, to members of the Subcommittee of Environment on the Health State and Foreign Commerce Committee..." Considering amendments to the Clean Air Act of 1970. George Polzer has presented testimony "before the Senate in February." [Who is this George Polzer, who has "presented the associations' views" on the amendments to the CAA of 1970?] (CMA 37257).

MCA "expressed concern...that *naming* certain contaminants in the bill effectively judges the need for controls and that 'all elements of doubt will be resolved in favor of control, whether or not hearings and studies demonstrate an affirmative need for them.'" (CMA 37257).

CMA endorsed the TSCA language "will not cause or significantly contribute an unreasonable risk to public health" ..."regarding zero risk and risks/benefit." CMA says its members account for "less than 1/8th of the

problem" (caused by hydrocarbon emissions) as opposed to "motor vehicles and fuel marketing." A "two percent additional investment by 1990" would not be intolerable." (CMA 37258).

CMA doesn't support the "Rooney Amendment" which places "primarily responsibility on the state for granting variances for expansion or new construction in areas where the national standard is being exceeded" because MCA felt "the amendment could be interpreted as requiring trade-offs." (CMA 37258).

CMA announced on April 5th, supplementing its 2/17/77 testimony before the NAC on OSHA, "the Chemical Industry is dedicated to protecting its workers from known hazards." On the other hand, we hold that occupational cancer "is not the major public health spectre some have suggested." "Cancer is a complex subject," we pointed out. "Qualified experts see the subject in perspective, and through perspective we believe the problem and its reduction can be addressed properly." (CMA 37258).

CMA wants "a committee of cancer experts" to study the "available facts" and "scientific/medical guidelines for use by OSHA in this area" composed of members from academia, industry, labor, toxicology groups and government.

CMA opposed generally applicable Regulations and wants its panel of "qualified experts." "**Each chemical must be addressed on a case-by-case basis.**" (CMA 37258).

The third thing the CMA recommended that OSHA include in "a new proposal for guidelines regulating carcinogens in the work place" was the use of "performance rather than specific routes to desired performance," i.e. performance standards. (CMA 37258).

CMA concealed MCA's support for "OSHA's 'ABC' Plan for Work Place Safety" which would use incentives on grade "B" companies and concentrate their enforcement efforts on grade "A" companies, consisting of those found to have ineffective programs." (CMA 37259).

5/10/77 - (CMA 12593-12594 and 37262-37296) - MCA Board of Directors Meeting Minutes.

CMA concealed TSCA implantation Richard E. Heckert, the Senior Advisor to the Executive Committee on TSCA. Heckert was to meet with EPA administrator Costle to discuss the "tendency to over-regulate ...as well

as to emphasize the limited availability of testing facilities to conduct toxicological evaluation." (CMA 37265).

CMA concealed their report of their director on Government Relations. (CMA 37265 and 37276-285): "Heated battles...took place in both House and Senate over rules which will apply to the expansion of industrial facilities in areas where air quality does not meet national health standards." CMA refers to its "effort to set aside the EPA 'trade off policy,' a broadly supported business effort...mounted in both committees" of the House and Senate which were considering those rules. (CMA 37283).

"Concern was expressed by subcommittee members (Senate Commerce Subcommittee on Science) that Costle has not requested sufficient funding to properly administer the law..." In his request to the appropriation authorizations on EPA (29 million for 1978 and 50 million for 1979), prior to having left his position in the EPA, the previous EPA Administrator Tran has asked for 52 million for 1978 instead of 29 million. (CMA 37284).

CMA discusses the proposed amendment to TSCA to establish Toxic Substances Injury Assistance Act whose sponsor (Senator Griffin) feels "...that the Federal and State levels of governments should respond to chemical contamination as much as they do in cases of natural disasters. However, Costle in the Environmental Organization supported a concept of involving funds contributed by the manufacturers." CMA does not say whether it opposed or supported this legislature. (CMA 37284).

The Insurance Committee reported to the board that "to put it simply, The Liability Market is in a state of utter chaos..." CMA suggests "giving serious consideration to assuming more of the risks, coupled with 'in-house' risk management discipline procedures to control losses. The name of the game continues to be loss prevention." (CMA 37286).

The chairman of the Insurance Committee says he is "hopeful that CMA will be able to influence legislature to the benefit of the chemical industry" with regard to product liability "legislative reform" activities. (CMA 37287)

The CMA refers to its "finalization of a Loss Data Bank" which the Insurance Committee has been creating for the last five years and which contain "statistics and pertinent information on property losses." ...Under stewardship of MCA to provide uniformity of reporting in confidentiality... (CMA 37287).

CMA concealed its staff report, including the reference to its principle concern: "Improved definition and interpretation of air quality standards, limits on industrious expansion in areas failing to obtain health standards, no-growth implications of federally-enforced policy of non-deterioration, and relief from certain flexible statutory compliance deadlines." The Bentsen Amendment would allow exceptions in non-attainment areas "under certain conditions." (CMA 37295). The CMA learns that OSHA has announced a one ppm ETS, down 10 eight-hour TWA, lowering the ceiling from 25 to 5 ppm eliminating "the peak level of 50 ppm for a 15 minute period during the eight-hour day" under the prior standard. (CMA 37295). Dr. Bingham promised work on developing a permanent standard which would be complete in six months. (CMA 37295).

CMA concealed that it "arranged 56 television interviews and 72 radios interviews with 16 member companies' representatives at this American Women in Radio and Television Convention..." and "interviewed ten industry representatives," and sent 1000 copies "of these interviews...to extension home economists around the country for use on their local radio program..." with "the number of interviews... up 31% over 1976..." (CMA 37295). Ninety-three percent of the 600 people attending the American Women in Radio and Television Convention "visited MCA's suite...Convention attendees in our suite was the most popular of all." (CMA 37295). Tu ?

CMA concealed its discussion of "suggestion made some months ago that consideration be given to merging SOCMA (Society of Organic's Chemicals Manufacturer Association), identified in plaintiffs discovery into MCA. This matter having been studied jointly by the MCA Executive Committee and SOCMA Board, a merger has been abandoned for the present. Instead, closer liaisons is to be maintained through cross-visitation meetings of the official bodies of the two organizations." (CMA 37265). William J. Driver discussed his meeting with a CEFIC Delegation ("European Council of Chemicals Manufacturers Federations") and discussions included "governmental regulation of air and water pollution control and toxic substances..." (CMA 37266).

CMA again concealed any reference to its environmental management survey, here, in fact, the response to the request for the survey information has been "disappointing" with only 89 companies submitting data which compared to 130 "in a similar survey two years ago" [in which survey results have also been concealed]. (CMA 37266).

CMA concealed its discussion of "OSHA Cancer Policy Proposal" and MCA's having written the NAS on OSH "urging the establishment of a

Review Committee of cancer experts from academia, government, labor, toxicology, and industry groups..."

6/8/77 - (CMA 12595-12596 and 37298-37307) - MCA Board of Directors Meeting Minutes.

CMA concealed the meeting schedule of its Board of Directors of 1977-78, which refers to meetings every month except July and August with all meetings taking place in Washington, D.C., except three in exotic locations. (CMA 37300). CMA concealed its liaison with SOCMA and the fact that the E.P. Blanchard, the President of SOCMA, was in attendance in the meeting and that the CMA's George F. Polzer reported on his attendance at recent SOCMA board meetings and having "responded enthusiastically, saying that closer liaisons should identify opportunities for complimentary action and that he would be pleased to continue to represent MCA and fostering this relationship." (CMA 37300).

CMA concealed the fact that virtually all its "non-budgeted funds and meetings" involved vinyl chloride or other chlorinated hydrocarbon research (with a few exceptions, like phosgene, fluorocarbons, and benzene.) (CMA 37303). The second version (July, 1996) or CMA 12596)

MCA moved to intervene in the API's suit requesting review of OSHA's ETS for benzene issued April 29th. (CMA 37307).

9/13/77 (CMA 12597-12598 and 37309-37332)- MCA Board of Directors Meeting Minutes.

CMA concealed its policy on lobbying reform (CMA 37311 and 37320) which "would require substantial changes in reporting, record keeping and disclosures in funding sources in such a manner as to raise serious questions for trade associations and their members." (CMA 37320). The CMA wants to make sure that any new legislature at least it is limited to Congress and not to the Executive Branch or "grass-roots" lobbying activities and specifically that it "not require the compulsory disclosure of trade association membership and dues information..." (CMA 37320). [Of course, CMA would budget huge amounts of money to various public relations and scientific efforts as well as direct lobbying activities.]

CMA concealed the existence of its Chemical Regulation Advisory Committee(CRAC), Industrial Relations Advisory Committee, Insurance Committee, and Public Relations Committee (CMA 37319). This is not an isolated incident. The CMA consistently concealed every reference to these committees and their activities throughout the documents it produced in this case.

The CMA concealed the report of its Government Relations Committee (CMA 37321-326), including its reference to proposed labor reform bills, "LOBBYING REFORM BILLS, WHICH COULD SHARPLY AFFECT THE BUSINESS COMMUNITY..." (emphasis in the original, for once)

CMA concealed its **alliance with the NAM** and the **United States Chamber of Commerce** in "rallying to seek enactment of legislation which would correct the inadequacies of the present **lobbying** laws without placing the reasonable constraints and burdensome requirements on organizations and individuals wishing to communicate with members of Congress..." The CMA "active role in this effort..." etc. (CMA 37323).

The CMA concealed the fact that the president (here, William J. Driver) of the CMA may himself "approve" studies which are "conducted under the subscribed special projects program being administrated by MCA." Here, no VCM related project was discussed (although an EDC project is discussed); However, because of the systematic manner CMA redacted relevant information which would allow a reader to understand the context of "unredacted information," until one reads CMA 37327 (or any similar staff report), you'd never know the MCA president approved the Vinyl Project, which this at least implies. All such information revealing this type of relevant information as to how "Special Projects Programs" such as the MCA administered Vinyl Projects operate was systematically concealed by the CMA throughout the course of its production in this case.

The CMA concealed its President's report of CMA's refinement of its "views on confidentiality as this issue is involved in Section 8" of TSCA and its reference to a "task force composed of members of the Chemical Regulations Advisory and Technical Information Retrieval Committees (CRAC)" which would address the confidentiality" issues, including simply using "total volume of production" as an "acceptable" method of "inventory reporting," etc.

CMA concealed its having told the EPA considering inadequate methodology used to develop the preliminary list that will be used to develop the first priority list of fifty substances to be scrutinized under the Toxic Substance Control Act," etc. (CMA 37331).

10/11/77 (CMA 12599-12600) - MCA Board of Directors Meeting Minutes.

CMA also concealed that Dr. Bingham, Assistant Secretary for Occupational Safety and Health, Department of Labor, would speak at the Chemical Forum on 11/1/77 at Washington Hilton. (CMA 37355)

Dr. Eula Bingham "will address the next MCA Chemical Forum" (11/1/77) CMA recognized that OSHA activities "are of a continuing interest to the chemical industry, and Dr. Bingham's appearance especially timely in view of OSHA's recently proposed generic standards for carcinogenicity..." published in the Federal Registry on October 4th. (CMA 37350).

CMA concealed the Staff Report of its president. (CMA 37351-355).

CMA concealed its submission of a "long document" to OSHA on 9/22/77 stating, "that there is no substantial evidence of record to support the proposed conclusion that the health and safety of employees will be enhanced by changing the Benzene standard from 10 ppm/25 ppm to 1ppm/5 ppm" and that there is "no evidence that leukemia has resulted from exposure to benzene at the current concentration limits.." The regulation is described as representing "an intolerable misallocation of economic resources" which "would not improve safety in the work place, but would merely *elevate* a declaration of *policy to a position superior to a scientific evidence* which Congress has determined to be the primary basis for the formulation of the standard." (CMA 37352).

CMA concealed MCA's having "protested to the Environmental Protection Agency the *efforts to limit the emissions of vinyl chloride even further are unreasonable*" and refers specifically to a letter written by Driver [also not produced to my knowledge] to EPA on 9/22/77 stating "that member companies have grave concerns about EPA's zero risks/zero emission approach to regulation, seeing it as an apparent departure from the intent of Congress for reasonably acting on the Clean Act Amendments of 1977" and further that "*there is no compelling evidence to act now*" anyway. (CMA 37352).

"CMA (who defeated Jurisdiction in a vinyl chloride conspiracy case in Louisiana a few years later) reports that more than 150 people took part in MCA's annual 'workshop on safety and health in the chemical industry' in New Orleans last month." (CMA 37354).

11/21/77 (CMA 12601-12602 and 37356-37383) - CMA Board of Directors Meeting Minutes.

CMA concealed the participation of SOCMA (E.P. Blanchard, E.I. du Pont de Nemours & Company at CMA board meetings). (CMC 37358).

CMA concealed the proposed Rules of Organization and Procedure for the Chemical Regulations Advisory Committee (CRAC). (CMA 37359).

Although CMA agreed that these minutes were not confidential years ago, it continues to defy the court's orders not to redact "irrelevant" or "relevant" information from responsive documents, here, a large section of the discussion of the Technical and Functional Committee reports it received [and which are not attached (and which CMA has not produced anyway)], including Technical Committees on such matters as Air Quality, Chemical Packaging, Education Activities, Government Relations, Insurance, Labels and Precautionary Information, etc. (CMA 37359-360).

CMA concealed its discussion of its "Risks/Benefit Analysis" which **"highlighted carcinogenicity as the crucial current problem relating to risk/benefit analysis, with resolution of *the threshold concept* being vital for understanding."** (CMA 37361).

CMA concealed the fact that what later came to be known as the **AMERICAN INDUSTRIAL HEALTH COUNCIL (AIHC)** began its existence as an "Inter-Industry Task Group for a Rational Cancer Policy" and that the chairman of this committee was on the CMA Board of Directors. (CMA 37362).

The purpose of AIHC is to "bring rationality to OSHA regulations concerning cancer."

The activities of the AIHC are specifically identified as being the result of "a joint effort with MCA, SOCMA and other trade associations as well as numerous individual companies and various industries participating."

SOCMA provided staff support, and the firm Cleary, Gottlieb, Steen, Apersand, and Hamilton have been retained as legal council.

The CMA concealed the "cooperative and constructive relationship with OSHA" reported stressing this following his discussion of a visit he made to OSHA Administrator Dr. Bingham. (CMA 37362).

The AIHC was charged "to develop a list of suspected commercial carcinogens" as well as "information that will assist a company to assess the impact of regulatory action on its own operations, and information that will help companies to prepare to testify." (CMA 37362).

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CMA concealed the report its Board of Directors received from 104 member companies responding to surveys which indicated Product Liability "to be a problem in respect to chemical manufacturing.." but **"was not shown to be a major one"** as it is the case for machinery manufacturers or those engaged in supplying consumer products." (CMA 37362).

"The Committee is reserving judgment on Workmen's Compensation Law as the sole remedy since that surely would be very expensive." (CMA 37362). This implies several things about the adequacies of the existing tort and women's compensation systems. This is a recognition of Industry's undercompensation of injured or diseased workers, no matter which implications you choose to imply. It is relevant.

CMA concealed that its Board of Directors received reports from CIIT (Chemical Industry Institute of Toxicology), here represented by "Mr. Fleming," its Chairman, who introduced Dr. Goldberg, CIIT's president "who spoke of the Institute's objectives and progress in toxicological testing of widely distributed basic chemicals, research and test methods in interpretation of data, and training of toxicologists" and that all this toxicology testing was **"being supported by 29 companies with a three-year commitment (1978-80) totaling 20 million dollars"** and building a staff of 75. (CMA 37363). Plaintiffs discovery, the various Court orders, and plaintiffs' subpoena clearly and specifically requested information with regard to contacts between CMA and CIIT. CMA elsewhere concealed its *creation* of CIIT.

CMA concealed that, except for a well-budgeted industry wide Benzene Study, the entire budget for CMA Research relates to vinyl or plastics of some sort (BCM, VDC, Styrene, Acrylonitrile, Trichlorethylene, EDC, Chlorbenzene, Epichlorohydrin, Phthalate Esters, Epoxy Resins, and Titanium Dioxide. (CMA 12602 and CMA 37366).

CMA also concealed the entire "Plastic's Group Financial Package" (CMA 37366). It was systematic. It concealed the source of finances for the suppressed 1969 MCA Confidential Acroosteolysis Report from the University of Michigan, etc.

CMA concealed the Rules of Organization and Procedure of CRAC (CMA 37368-372) which coordinated the activities of various CMA panels CMA knew plaintiffs knew about.

However, CMA knew plaintiffs did not know about the Chemical Relations Advisory Committee of the CMA (CRAC) whose stated purposes included advising the board "concerning the testing and regulatory control of chemicals at the point of manufacture" identified with potential hazards to

health and the environment..." and to "formulate and advocate chemical industry positions... cooperate with other MCA committees, and promote exchange of information within the chemical industry, with trade and professional associations, and with all levels of government regarding good practices in controlling chemical hazards. (CMA 37368).

CMA concealed that membership in CRAC was limited to candidates whose "duties for his employer... include formulation of policies and direction of programs related to toxic substances control through research, quality control, product development, occupational environmental safety or allied functions." (CMA 37368).

CMA concealed the existence of the "General Principles Applicable to the Structure and Operations of Committee" documents which "prescribe" the "responsibilities" of the Secretary, the MCA Staff Representative assigned to each CMA committee, etc. (CMA 37370). CMA, to its knowledge, still has not produced these "General Principles" documents and, in fact, has systematically concealed the existence of the organizational structure in which any pertinent CMA activities might have occurred. The original date of this still missing document appears to have been March 12, 1963, with subsequent amendments (CMA 37372).

CMA concealed the report of its Government Relations Committee (CMA 37374-379), including discussions of TSCA amendments with "MCA activity in this area... under way in the **Legal Advisory Subgroup**" of CRAC and that "CRAC intends to prepare a position paper for use on the Hill." (CMA 37376).

CMA concealed the existence of its Washington Environmental Coordinating Committee, here, being informed of problems CRAC had with proposed TSCA amendments (CMA 37376).

CMA concealed its Staff Report (CMA 37380-383), including its expectation that OSHA would "issue its Permanent Standard some time between Thanksgiving and middle of December" for benzene CMA concealed its awareness that EPA, regulating benzene under Section 112 of the Air Quality Control Act, had issued three documents on Ambient Air Distribution of Emissions and Risks to Human Health (CMA 37380).

CMA concealed its agreements with the Franklin Institute Research Laboratories (FIRL) "to provide MCA information necessary for updating Safety Data Sheets and determining whether, in a particular instance [for example, SD-56, which despite industry pledge to reissue in 1974 would never see the light of day], a Safety Data Sheet would be temporarily withdrawn from distribution pending revision..." (CMA 37381)

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The CMA concealed its recognition that there is only "approximately 100 chemicals we have published a safety data sheet" to begin with. (CMA 37381).

CMA concealed the existence of a "Plastics Waste Management" document it describes as having been first "published in 1970" and another on "Flammability Testing of Polymers" whose date is not given. (CMA 37381)

CMA concealed very relevant information pertaining to its knowledge and understanding of legal requirement for "notification of substantial risks under Section 8 (e)" of TSCA [this is directly relevant to the Buse Audit of IBT discussed at the emergency session of the VCRC in 1980 where Ed Frost discussed CMA lawyers having "gone through the files" of CMA following discussion of document which "might sink the CMA."]

CMA's position, as the concealed portion reveals it expressed to EPA, was that Section 8 (e) of TSCA will cause inefficient over reporting [!] of information to the agency and cause serious internal difficulties for the chemical industry..."

Unlike the ridiculous prediction of "inefficient over reporting," what this case shows occurs sometimes is actually fraudulent under reporting. So it is true in a sense that TSCA did in fact create "serious internal difficulties for the chemical industry..." which, at least in the case of vinyl, was resolved "internally" through knowing violation of TSCA 8 (e) provisions. But this is only as only a small part of its "internal difficulties" the Vinyl Industry had in complying with the law or any requirement that it report significant or true information with regard to VCM toxicity to anyone. (CMA 37382).

1/10/78 (CMA 12603-12604 and 37385-37404) - MCA Board of Directors Meeting Minutes.

CMA concealed its introduction of Mr. Frost "who joined the association's staff as General Council on January 9, 1978." Other concealed information indicates this means he became a vice-president as well. The activities of Mr. Frost were relevant to this litigation and CMA knew it long before it started producing documents.

CMA concealed the Board of Directors' consideration of "Public Attitude Toward the Chemical Industry" in which a consultant discussed *"findings of a deteriorated public attitude toward chemicals and chemical*

manufacturers which he related principally to concerns about health."
(CMA 37386).

CMA concealed both the existence and the activities of its special committee on Product Liability and continues to remain in contempt the court's order that it produce unredacted copies of these documents. **The same survey of MCA members, which showed product liability was not a problem for the chemical industry, was also concealed in previous documents** (e.g., board minutes 11/21/77 at CMA 37362).

Now, CMA continues to conceal information in these Minutes which they stipulated were not confidential years ago. ***CMA is still redacting (even in its most recent production) information on the patently impossible grounds that portions of the information in these admittedly non-confidential documents are somehow "privileged";*** This continued concealment is also inconsistent with every previous ruling of the Court privileged statements in CMA disseminated Minutes. Not one privilege claim with regard to CMA Meeting Minutes has been upheld and CMA's continued "redacted" of these documents can only be considered in direct contempt of the court's prior orders. (CMA 37387).

Consistent with its prior pattern, CMA concealed that it, using "commitments from 63 companies" was bankrolling the AIHC to the tune \$1,081,000 *just leading up* to the "OSHA proposal for generic regulation of carcinogens" (CMA 37388). Mr. Berker "urged all testimony of the hearings in the belief that it will add significantly to the impact of written statements."

CMA has still not produced relevant **reports** from its Technical and Functional Committees (CMA 37388-389) which "were **distributed in advance with the tentative agenda**" The most recent versions of the CMA minutes (September, 1996) is not preceded by a copy of the agenda (see, for example, the agenda for the previous board meeting for 11/21/77.) (CMA 37356).

Whereas much relevant information has been found in the reports of the MCA Technical and Functional Committees, including some of these, such as the Occupational Health Committee. The absence of these committee reports corresponds with their distribution along with the agenda.

The documents sent to Committee Members in advance of the meeting (instead of distributed at the meeting) have not been produced as far as the plaintiffs are aware. In fact, these reports are incorporated into the Minutes in the exactly the same way they are when the Reports are attached to the minutes.

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CMA has perhaps seized on the fact that "summaries of recent meetings of the following committees were distributed ***in advance with the tentative agenda***" as some sort of excuse to conceal them. (CMA 37388. Also see evidence of similar concealment within 11/21/77 board meeting minutes at CMA 37360, etc.)

CMA concealed the board's approval of "continuation of a multi-component study of vinyl chloride at the University of Louisville." (CMA 37404)

"Other likely reform items would permit deduction of only 50% of cost of business-related meals and eliminate deductibility country club dues paid by an employer." (CMA 37397).

2/14/78 (CMA 12605-12606 and 37406-37443) - MCA Board of Directors Meeting Minutes.

MCA concealed the **appointment of E. B. Frost as an MCA Vice President**: "Mr. Driver's appointment of Mr. Frost (General Counsel) as a Vice President of the association was approved." (CMA 37407).

CMA concealed the Special Review Committee report and all references to his report (CMA 37407-408 and Exhibit B: CMA 37415-37439)

"on three prior occasions-1957, 1962, and 1968, Board level examinations of the objectives, structure, and program of the Association have been conducted by formal study to assist MCA's fitness and performance with respect to services and effective action on industries behalf..." (CMA 37415).

Observations included that "because of overwhelming legislative, regulatory, and society pressures, MCA staff backup, particularly for the Technical and Functional Committee work, is often hampered by lack of decisive responsiveness and timely support." (CMA 37415).

"Although in some instances there is a specific ***need*** for review by council, there is a tendency to request counsel to review and make recommendations ***rather than first develop technical information*** and recommend positions for presentation to an agency or legislative body, resulting in delay of needed evaluation." (CMA 37416).

CMA concealed reference to the strong feelings "some members of the MCA" have about "a more aggressive advocacy role" for this CMA "especially regarding regulation and questions". (CMA 37416).

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CMA concealed the changes in its committee structure effective 6/1/78, which, if accomplished, consolidated:

(1) The previous Air Quality, Solid Waste Management, and Water Resources Committees into a new "Environmental Management Committee; (2) The previous Labels and Precautionary Information, Occupational Health, Safety and Fire Protection Committees consolidated into a single Occupational and Health Committee; (3) Chemical Packaging, Transportation and Distribution, Transportation Equipment Committees, consolidated into a single "Distribution" committee; (4) The dissolution of the "Public Relations" and "Education Activities" committees, with their previous functions to be conducted " within staff on a maintenance basis and with Executive Committee for special PR projects..."; (5) The dissolution of the "Legal Advisory" Committee which, similarly, would "continue through MCA in House General Council and designated Executive Committee Member's Corporate Staffs"; (6) The Industrial Relations Advisory Committee was discontinued and the Plastics Committee was finally discontinued. (CMA 37418).

Especially, considering the courts long-expressed desire that CMA, and other defendants, provide their information, primarily, through production of documents, CMA has consistently concealed this sort of relevant, almost essential information relating to its CMA committee structure and operation as part of its larger attempts to conceal relevant evidence in this case. (CMA 37417-418).

All Technical and Functional Committees appointments, including the chairman, go through the Executive Committee, on the recommendation of the president. From the Executive Committee, each Technical and Functional Committee appointment goes to the Board for ratification. (CMA 37418).

CMA concealed that the CMA Vinyl Panel's membership which often exceeded "fifteen in number" was, again, an exception to MCA/CMA's general rule and must have been determined by the Executive Committee to be an advisable exception. (CMA 37418).

This document says that the term of individual committee members was to be limited to three years! (CMA 37419). With one-third of the membership rotated annually." (CMA 37419). These rules weren't followed! The MCA's own rules aren't relevant?

Despite the clarity of plaintiffs allegations and the clear relevance of MCA modification of its "Advocacy Role" as a result of Board action to allow increased advocacy on TSCA, (CMA 37420 and 37422), these

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documents clearly show CMA's intention to step up its advocacy efforts. "MCA should take an active role in implantation process of TSCA" which EPA was to shortly undertake.

CMA concealed the existence of CRAC which monitored CMA's Technical Committees, and was created "in furtherance of this [advocacy] role." ("Furtherance of this role, a newly constituted Chemical Regulations Advisory Committee [CRAC], is to be primarily concerned with the development of regulations implementing TSCA" and to "assist" EPA in its implementation of TSCA.

Although MCA claims to stand by its previous "policy" (followed only when it suited them) to avoid "questions involving a particular... chemical substance," things have changed now and: *"Nevertheless, should a proposed regulation involve a precedent-setting or first-impression principle, or for other special reasons, may be important for MCA to take a position."*

MCA concealed its official position that "MCA advocacy does not restrict the independence of MCA member companies," which is relevant because it is a lie. Lies go to credibility. MCA advocacy does, in fact, restrict the independence of MCA member companies and documents produced in this case prove it. (CMA 37422).

The CMA concealed its reference to the "sharp rebuke" which the house "handed the administration, Ralph Nader, and Congressional leadership" by voting down the proposed Consumer Protection Agencies Bill which would create a separate department of consumer advocacy in proceedings before other agencies, and empowered to appeal agency regulatory decisions. (CMA 37426). This bill had been before Congress in one form or another for eight years. A similar bill passed the House during the Ford administration by 344 to 44.

The reason for this "turnaround" is stated to have been "the massive lobbying effort in opposition which was mounted by the business community" as well as "evidence of a backlash resentment against Ralph Nader and his tactics, wherein he was sharply critical of Congressmen who are undecided, and especially so when they happened to be former allies." (CMA 37426).

CMA concealed the relevant activities of, the existence of its "Legislative Communication Programs," including the reference to the survey of 107 responding companies showing 2,381,079 employees, 4,598,338 stock holders, 391,013 retirees, etc., (CMA 37431) and discusses "specific efforts" various employers were or weren't making

"to inform employees, stockholders, and retirees about pending legislative issues and the potential impact on the company." (CMA 37432).

Lobbying activities are described in great detail (CMA 37429-439), including references to Company organization of PAC's, "computer data banks or other retrieval systems which might be useful tools in Grass Root Communication Programs..." etc. (CMA 37438).

CMA concealed its Staff Report (CMA 37440-443), including the CMA President's having written OSHA that **the "proposed OSHA standard on the identification of chemical substances would place this incredible burden on all U.S. industry and the U.S. public."** (CMA 37440).

CMA gave EPA preliminary information from Foster D. Snell, the study of the emissions from facilities producing or using benzene, which is reported to have been "approximately one-half of those reported to the Advisory Committee in the Stanford Research Institute study." (CMA 37441).

"The Guide for the Preparation of Safety Data Sheets is now available in a new edition, its sixth revision," despite the relevance of SD-56 to plaintiffs allegations and discovery, subpoenas, etc., all copies of this Guide, other similar guides and even all references to it were concealed by CMA. (CMA 37442).

Consistent with prior practice, CMA concealed information showing that the AIHC was the child of industry and that its "proposed '**alternatives**' concerning regulation of carcinogens appear to be receiving serious consideration..." by OSHA and labor. (CMA 37409).

CMA has again concealed the reports of the Technical and Functional Committees which "were distributed in advance of the tentative agenda..." (CMA 37410).

3/16/78 - (CMA 12607-12608 and 37445-37464) - MCA Board Meeting Minutes.

Consistent with its systematic practice, CMA concealed its discussion of the AIHC and its large budget: "Originally AIHC's purposed solely to the OSHA proposal for generic regulations carcinogen. A poll of its supporting companies has approved **broadening the scope to apply to carcinogens in the work place which regulatory body is involved.**" (Amended 4/11/78 replacing the phrase "carcinogen in the work place" with "generic cancer policies.") (CMA 37447).

CMA concealed the report of its Government Relations Committee (CMA 37447 and 37454-460), including discussion of the "Chemical Injury Indemnity Program" discussed at the TSCA hearings and MCA appearances on panels, etc.

CMA concealed its staff report (CMA 37461-464) discussing MCA's appearance at hearings on the proposed Generic Carcinogen Regulations.

CMA concealed references to CRAC's having developed TSCA workshops (CMA 37463) and CMA's intervention in the API's appeal of the OSHA benzene standard (CMA 37462).

CMA concealed its reference to its submission of "**a final report of an epidemiological study of the mortality of workers and workers employed in the production of vinyl chloride and its polymers**". The report covers the investigations from June 15, 1973 through December, 1977. The research covers 10,173 workers from 37 plants and the contractor indicated that 9,677 of these 95.1% were traced." (CMA 37462).

CMA concealed its support of a soon to be very "influential tax-exempt organization" called the American Council on Science and Health [ACSH] founded by Dr. Elizabeth M. Wheelan, "author of 'Panic in the Pantry' and other books which take a reasoned approach to chemicals and to be risk/benefit concept..."

It seems, the conscientious scientists at ACSH "fifteen at present, are deeply concerned that emotion is replacing science in governmental and public decisions and are pledged to speak out when fallacy or emotion replaces fact in their specialties. ACSH is being pinched for funds, but in the interest of **independence and credibility** will not accept support from any chemical company or any company in which could even remotely be concerned with the aims of the council." However, CMA concealed that Dr. Wheelan "would be happy to hear from you" if "you [a member of the board of directors of the Chemical Manufacturers Association] are interested in the work of the Council and know of possible sources of funds, such as foundations..." (CMA 37464).