

EMMANUEL TCHIVIDJAN (CLERK): Thanks Henry and thank you all for coming. This is going to be a great evening. Before I introduce the panel let me just say that we're not going to push the metaphor of the trial too far in order not to encumber the discussion. This discussion is about PR and its critics. Mr. Finn, David Finn, the founder and chairman of Ruder Finn always said we should engage our critics, that our clients should engage their critics. That's what we're doing tonight I hope as the beginning of a conversation for the PR industry. Let me introduce our panel.

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Judge: Randy Cohen

Defense Counsel: Michael Schubert

Prosecutor: Paul Holmes

Witness for the prosecution: Fran Hawthorne

Witness for the prosecution: Delbert Spurlock

Witness for the defense: Steve Cody

Witness for the defense: Jacqueline Brevard

Foreman of the jury: Douglas Simon (hair, funny looking)

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RANDY COHEN (JUDGE) : I was very gratified that you applauded the column and it hurt my feelings the as you didn't applaud Late Night, but that's, you know – built I have to tell Dave.

My first duty here is to read the charges, we're going to go with this metaphor until we'll all sick of it which I think might be now. But it's not binding in any way, I remind you it is just a charge and if it turns out that the charge is upheld and that public relations is found to be loathsome, you are not actually bound to resign your jobs.

Here's the proposition: PR professionals practice deception, are not transparent and do not offer a valuable service to their clients or to society. The was at one point some discussion about including sheep stealing, but that's been cut. So – P.R. professionals practice deception or not, are not transparent and do not offer a valuable service to their clients or to society. And we'd like to begin with a show of hands ...

MAN: (sitting on defense side, second row gray hair curly): Excuse me Randy, your honor, just one quick thing, is it possible to take those charges separately and a vote on do we practice deception as PR practitioners, not transparent, provide a valuable service and provide value to society, because I think those are different questions.

RANDY COHEN: Paul can make his case any way he wants.

PAUL HOLMES (PROSECUTOR): Your honor, I would prefer for the charges to remain as one because I believe that if we are practicing a lack of transparency in so doing we are providing a disservice to our clients and to society. I would argue that good public relations advice requires transparency, honesty, integrity. If we're not offering that then we're cheating our clients just as much as we're cheating society.

RANDY COHEN: I take that as a no, and I'm going to uphold that. but I would like to begin with having you vote on this amorphous collection of charges. How many of you agree with the charges as read. Show of hands please.

(prosecutor raises hand, others are off screen)

Wow, how self serving. I've been promised a self-lacerating crowd. I'm slightly disappointed in all of you, but as your therapist I feel pretty good about this. So maybe 4 of you will agree with these charges and the rest will not. Now with the rather daunting task of persuading you how wrong the rest of you are, Paul?

PAUL HOLMES: As you can imagine, given my resume, I sit before you this evening more in sorrow than in anger. I believe having covered the public relations industry for more than 25 years that when public relations is practiced the right way, it does an immense service to society. I would argue that public relations, the encouragement of open debate, the expression of opinion is not only a First Amendment right but an unmitigated good. But I would argue that there is an enemy of public relations. I would argue that this enemy is the opposite of public relations, it's something that I and many other people call spin, and it is something that is practiced by far too many of the firms that call themselves P.R. agencies and if you'll forgive me I would imagine it's something that is practiced by many of the people in this room on occasion. I believe that when we practice spin rather than public relations, when we try to do something that is essentially transactional to persuade somebody to vote a particular way by a particular product rather than focusing on the necessity of building a relationship with those people, we cheat not only the consumers, the employees, the communities with which we communicate, but also our clients in whose long term interest a genuine relationship undoubtedly is. I am not suggesting that everyone in this room is overtly openly dishonest. I suspect that the number of outright bold faced lies that are told by public relations people is relatively small, but I believe that we are all guilty of certain sins which in my book are just as egregious. We are guilty of hyperbole, we are guilty of deception and misleading, we are guilty of sins of omission and sins of non-transparency, and we are guilty far too often of intellectual dishonesty. There will be a prolonged debate, and many of my witnesses will be much more articulate on this case than I am, but I don't think any of us needs to look very far to see these sins being practiced in our profession. The last time I appeared in front of this group it was as a judge in a case against BP. BP I would argue was guilty of a complete over-promising and a complete green-washing in an attempt to present itself as more ethical and more environmentally friendly than it really was. I have seen in the course of my career many examples of paid spokespeople appearing on television and print without any kind of indication that they were working for a company or a public relations firm. That kind of lack of transparency I believe rests entirely with you and your clients. I don't think you can trust the media to be that transparent. In fact, I would argue that in the social media age, public relations people have to be held to a much higher standard of ethics than the media are held to. I see relatively recently front groups being set up by one of the leading agencies in our business, working for the Washington Redskins, setting up a site called, misleadingly in its title, RedskinFact.org in an attempt to defend the indefensible, without any indication anywhere on the site the Washington Redskins or the P.R. firm in question were involved. I see organizations like Exxon running mealy mouthed acknowledgements of the

existence of global warming on their websites while funding groups like (ALEC) that continue to fight against the obvious facts of global warming, and against the possibility of America or any other country doing anything about it. And I would argue more than anything else, we continue to privilege investors and shareholders and company management over other stakeholders, which I believe is an egregious sin in a profession that ought to be about balancing the needs of every stakeholder that an organization has – its employees, its communities, its shareholders, its consumers, its regulators and so on. And finally I would make the case that in the social media age, we need to operate to an even higher standard than before. The fact of the matter is that a lot of the communications we disseminate today are disintermediated. We no longer go through the media. We go directly to consumers, and I believe that imposes an added burden on us to be even more ethical. When you're communicating with a journalist there is at least a mutual understanding that some sort of game is being played, that P.R. people are trying to get as much past the gatekeeper as they can, and that the journalist in his or her gatekeeper role is there to make sure that doesn't happen. Consumers, communities, the rest of the world, is not aware of that game, and that means that when you communicate with them you have to be even more honest, and that frankly is not what I see. As social media becomes more important, there are examples of sock puppetry, people pretending to be ordinary consumers when they are paid spokespeople. There are examples of organizations that will shut down their site and turn off any kind of dialogue the moment the first critical comment appears. That lack of transparency, that lack of honesty, is the big problem that our industry faces and unless we can persuade people that what we're doing is honest, authentic, credible and true, our value to our clients and to society will be precisely zero. Thank you.

(audience applause)

RANDY: If I understand your case, the enterprise itself is actually quite noble, so there's a kind of idealized public relations as I believe was practiced in ancient Athens, from which the field has descended, and the current practices are largely loathsome. Michael, you have the daunting task of trying to muster a defense against that charge.

MICHAEL SCHUBERT (DEFENSE ATTORNEY): First of all I just want to say how honored I am to be sitting on this panel.

RANDY: There's a no kissing up rule, so.... I have to enforce that.

MICHAEL: Our judge is someone I have, I think I probably read every one of your columns, so I have to pay you royalties. Paul is someone I've always thought has been a great advocate for what public relations does and what public relations can do. And I actually agree with many, many things that you just said about what the goal of public relations is, what public relations should be doing, can be doing and that if we don't drive a true transparent, open and honest conversation we're not doing our job and we're not bringing value to our clients or to the world. Where I disagree is your notion that we're not doing it. And I don't mean that there aren't exceptions, that there aren't fringe groups and individuals – both on the company side and on the public relations side – who are up there and decide that spin is what it's about, and nothing else. But, you know, those aren't the P.R. professionals that I know, in the P.R. industry that I know.

When I look around this room I don't think that I'm looking at a bunch of people that are here to practice spin. I think that's why they're here tonight, I think that's why public relations firms belong to organizations like the PRSA and the PR Council and others, why a lot of work has gone on. You mentioned some very specific examples. You talk about spokespeople being hired and not representing that they come from companies. We're going to have two witnesses here tonight who come from health care companies, one who covers health care, one who comes from a health care company, excuse me and I know that there's a lot of history in the pharmaceutical world about spokespeople. And I work with a lot of pharmaceutical companies and I know nobody would allow a spokesperson from the company side or the P.R. side without stepping out and saying I am a paid spokesperson first. If that's happening – that may have happened years ago and has been corrected, because we're in an industry that cares about righting themselves – or if it's happening, it's not happening in the companies and in the agency work that I see. I just want to say what I DO think that the public relations industry is about is that we're here to help give our clients a voice. That voice, yes, should be an honest one, a transparent one, but you know, every client deserves every company, every person that's going out there, deserves their voice, okay? And that voice will be judged in the court of public opinion. That's what the world of social media gives us. So does everyone have to agree with everything a client says? Does that make it somehow untransparent or dishonest because you're helping message a point of view or a voice? No. That's a moral obligation to do our job, which his to help bring a company or a brand's point of view to the public in an honest and transparent way, and then the public will sit and debate. And the truth of the matter is that I think public relations firms as an industry, and certainly companies, are more regulated in terms of what they have to do to be honest than the bloggers and the commentators and even some of the journalists today who will argue and fight them. So we have to look at how we have that conversation and the role that public relations plays within it. I do agree with something that you said which is that it's our obligation, our moral obligation as public relations professionals, to counsel our clients, to work with our clients to be honest, to be transparent. I think we do that and if we don't do that it's going to come back to bite us and anybody who believes otherwise is fooled, I mean, because when it has happened, when those outside elements have happened, it's come back to bite them. And it's going to continue to come back to bite them. So I think that as an industry, our only success is to be that way, and I think that you'll see in reality that we are. And the last thing – two other points. So we're going to hear from two witnesses today. One of them is an ethics professional. She has years of working within a company and then working outside of companies to understand and talk about what it means to be ethical. And it'll be really interesting to hear your point of view on the role of public relations in terms of ethics. And we have a P.R. professional who is going to address the broader issue of how the industry trains itself and monitors itself to make sure that we're being ethical and responsible in all kinds of ways. And the last point I want to make is to this charge that the public relations industry is somehow not here to offer valuable service to clients or to society. I don't know anybody in P.R. who doesn't care about working for a great company and doing great things and I don't know anybody who comes to work with the idea of, I'm going to just push a product that's going to hurt people or lie about a reputation to help a stock price or push an advocacy cause. And I think that we are in the business of trying to do that – I think our clients are in the business of trying to do that, and the public relations professionals I know that when they advise their clients, that what they're doing is wrong and their clients say

no, resign their clients and that's the kind of industry I think we work in and that's the kind of industry I'm proud to be a part of.

(applause)

RANDY: Thank you. Michael I believe has made the – the public relations is largely staffed by angelic features except for a few bad apples defense. It's now incumbent on you to question your witnesses to prove how nonsensical that assertion is.

PAUL: I think Michael and I both agree on what the platonic ideal of public relations ought to look like. What we disagree upon is the extent to which the industry is currently living up to that ideal. I suspect that my witnesses, both of whom have been on the receiving end of some of the practices that I discussed earlier, will be able to cast some light on this. And we turn first to Fran Hawthorne. This is not going to be an interrogation. I'm going to allow Fran to make her case for the prosecution.

FRAN HAWTHORNE (WITNESS FOR THE PROSECUTION): Thank you Paul and society and all. I'm conscious that I'm here as your guest and you are all human beings, so you know [ia] is coming, you're all probably all very nice people. But guys, your job is exactly what Paul said, to play a game with me. Your job is to try and get me to write nice things about your company, your client, whoever employs you. We all know this, okay? Your job is to steer me away in any way possible from any bad news, information. OK, that's, I mean that's your job. You are not supposed to be transparent. So why are we pretending. You don't actually help your client – I mean, I doubt, I really doubt, no offense guys, but I really doubt that anybody – it's just hard to be human – to sit there and take the long term view and say: if I come right up front now and say we lied about these clinical trial results and we gave fake information to the FDA, down the road, that reporter and all these other reporters will believe me and our reputation will be enhanced 20 years from now after I've been fired. You know, it doesn't work that way. Rarely do you folks outright lie and say in fact that you made a \$3 million profit last year when you had \$3 million loss, because it's too easy to prove that even before social media. But you indeed practice deception. You lie by omission, by not telling, not volunteering the bad news and if I don't phrase the question just right. By the little things like: the CEO would really like to talk to you, and we're going to make time, I'm really trying, he's so busy, his schedule, and so are all the EVPs and the senior VPs, everybody is so busy for the next 6 months but, we're really going to try to fit you in – when the real answer is: no, the CEO will never talk to you because your magazine is too small and the CEO only talks to the Wall Street Journal and The New York Times. Or no, they're not going to talk to you because it's a touchy issue, or whatever. And I'm just wasting my time calling you and calling you. I mean, I'm not naming names tonight because the names I would name are not here to defend themselves....

RANDY: I'm afraid I have to ask you to name names.

FRAN: I'm not naming names. It just happens for example, this story I'm doing for The New York Times wherein, from day one, the P.R. person from this company promised I'll get you a client to give you a real example, I'm not just going to give you our in-house expert to discuss the theory. You'll get a client, absolutely, you'll get a real life example. Which is very vital for

The Times, for this kind of feature. And you know, strung me along and strung me along and strung me along, and I shouldn't have believed him, you know, and then comes the interview with the big in-house expert, and I go OK, great, same thing the five other experts I've already talked to have said, OK. And how about that client? Oh, that won't be possible. So Mr. P.R. person, ju8st when did you know that wasn't going to be possible, and when did you being lying to me that you would get me this client. And this happens every time, over and over. So whether you call it sins of misdirections and sins of omission, those kinds of things, we reporters have to be sharp. We have to ask the exact question and we have to keep pushing, and we still might not get answers. I mean, then there's the Apples and the Trader Joes and you know they're' never going to talk to you. OK, I mean, that's actually easier. You call up Trader Joe's, hello, I'd like to talk to the CEO. No, we never do interviews. Thank you, ok, fine, you haven't wasted any time. I don't know why they HAVE a P.R. department but –

RANDY: I'm afraid we have certain time constraints. If you don't mind my summing up – the charge and it's quite a serious one you've leveled against your colleagues is they've wasted...

FRAN:they're not my colleagues. Excuse me.

RANDY: ... and your colleagues...

FRAN: ... no, no, they're not MY colleagues.

RANDY: Against this roomful of people who will be beating you up outside, is that they're accused, and this is pretty serious, of wasting some of your time, of not being as ...

FRAN: ... well that...

RANDY: ... [ia] as you like, but we have time constraints so I have to allow the defense to counter this with...

PAUL: You're trivializing what was really a fairly

RANDY: I would have thought crystallizing, but

MICHAEL: It's not just a question of wasting time, it's a question of you're upset that you didn't get to speak to the CEO.

FRAN: It's a question of you guys not telling the truth, actually.

MICHAEL: Oh, so you're blaming the P.R. agency if the CEO suddenly cancels...

FRAN: I'm blaming the P.R. agency for a) lying about access – but that's the least of it. Also trying to direct me away from the truth, trying to cover up, trying to push the good story without putting all the real, putting the whole context of the bad news – but I'm also saying I get it, that's your job. OK, that's what you bought into.

RANDY: I'm sorry, we're having some cross examination and we'll certainly allow the prosecution that privilege too, but we should hear...

MICHAEL: So I'm going to turn to Jackie who actually has worked at a pharmaceutical company, Merck, as the chief ethics officer. And why don't you take a little time to talk about the role of ethics, and why don't you respond to the transparency in terms of pharmaceutical companies talking to health care reporters.

JACQUELINE BREVARD (WITNESS FOR THE DEFENSE): Thank you. Do I have to do something... is it on? Great. So can you hear me ok? Is it on? OK. I'll be happy to respond to the allegations that have been spewed out from across the other side of the room here. And yes, I have worked for a very strong company, a very admirable company, a pharmaceutical company called Merck. For 30 years I've worked there. Half of my career I was the international counsel and the other half of my career I was the chief ethics and compliance officer. So you're probably wondering well what does a chief ethics and compliance officer do. What I did in my 15 years as chief ethics and compliance officer was to support the company's values, the company's ethics and values, and to look after the company's culture, their reputation, and to make sure that business was conducted in a manner that was consistent with the company's values in order to protect their reputation. So with that in mind, my responsibilities were global and widespread, covered every inch of the organization, all of the operations, because at the end of the day, ethics permeates everything, including public relations, including the communications organizations. So I worked very closely with these people to make certain that our standards were upheld. So I can speak for at least one company in this country that cares about ethics and values, including public relations messaging and communications. And I will give you an example. It's very unfortunately, because I will not deny that there are indeed bad apples. But there were no bad apples in my organization. The example that I will use is that we looked after making certain that when information went out, it was fair and balanced. And as I said, the first half of my career I was a lawyer, and one of my responsibilities was to review promotional literature. And of course when you're marketing a product you want to sell the product. People want to make all kinds of representations about how wonderful that product is, and how effective that product is. However, we had standards. And our P.R. people helped us uphold those standards. We had to provide a minimum of four pieces of information – indications, contraindications, warnings and precautions – that's called "fair and balanced," advertising, communications, whatever. If you look at our code of conduct, you can go online right now and pull up the Merck code of conduct and it will talk about honest communications. And we lived up to the words in that code of conduct, because I made sure, as chief ethics and compliance officer, I made sure that we lived up to those, to the words in the code of conduct. And there are other organizations, countrywide and even globally, who have comprehensive ethics and compliance programs, and those people are equally as concerned about living up to standards and protecting the company's values and reputation. So there are many other examples that I can give you. I don't know if I still, if I can continue, if I...

RANDY: I'd like to give Paul a chance to turn everything you've said into ashes at your feet.

PAUL: Well, I would like to make the case that the word that you kept coming back to over and over again is in fact the problem that we have when it comes to ethical, genuinely ethical communications, and that's the word "compliance." The first thing is that I do think that calling a witness that operates in a highly regulated environment, where it is in fact punishable by law to

be deceptive, is probably a case of putting your best foot forward. But I would also argue that I have seen time and time again within the pharmaceutical industry people who took that compliance mindset that you're so proud of and said to themselves, how far can we go without breaking the law, how far can we go without getting a nasty letter from the FDA.

JACKIE: Am I going to be able to respond?

RANDY: Yes, you can respond. At this very second.

PAUL: ... and so I, I'm sorry, I don't know how many years you spent at Merck. Is it your testimony here today that in the time you spent at Merck there was never one letter from the FDA suggesting that your marketing practices or your communications had stepped over the line?

JACKIE: You didn't hear me say that.

PAUL: No I didn't, and I would like to.

RANDY: Let's go ahead...

JACKIE: May I respond?

RANDY: Yes, you may. In fact you must.

PAUL: Or she could get up and walk out.

RANDY: You haven't seen our security.

JACKIE: Let's go back to – you kept emphasizing compliance, but if you recall I kept emphasizing ethics, and there's a very big difference. They're closely associated but they're very difference. Compliance is the letter of the law. Compliance are the regulations, the legislation, the rules, the policies. Ethics goes way beyond that. Ethics goes beyond the law. The law is the minimum standard. Just because something is legal doesn't make it ethical. Now, I was appointed chief ethics officer in 1995. We were leading edge, before people were even talking about ethics. Even the government, the United States Sentencing Commission amended its 1991 guidelines in 2004. And only in 2004 did they begin to talk about ethics in culture, because they realized that from 1991 when those guidelines were promulgated, talking about compliance, they realized that that wasn't changing anything, because when you focus on compliance, you have a bunch of people running around, they've memorized what the rule is and they spend all of their time and energy trying to get around the law, the rule. If you talk about ethics and culture, and you train people on what you really care about, how you want them to conduct business, how you want to be viewed by your stakeholders, how you want to be perceived, how you want your employees to be engaged with your organization – if you talk about ethics and values, people don't have to memorize the rule because they understand what result you're trying to achieve. So what we talked about was, yes, results are important but what's more important is how you achieve those results. That's ethics.

PAUL: I asked a simple question and [ia] get an answer.

RANDY: Well, I can't compel her to give you a clear answer. I can point out that people in fact might have...

PAUL: You might suggest to the jury that the fact that she did NOT give a clear answer to my question, is [ia] suggested it.

RANDY: I'd like to insert one point, because we're running terribly behind and we have other witnesses to get to, but in fact people actually did think about ethics before 1995. I believe Socrates, just to name one. But on to your next witness.

PAUL: Yes, thank you very much indeed. Our next witness, someone else who has been on the receiving end of I suspect at least one deceptive practice, Delbert Spurlock.

DELBERT SPURLOCK (WITNESS FOR THE PROSECUTION):

DELBERT SPURLOCK: Thank you Mr. Prosecutor. I want to identify myself with your opening statement. I thought it was extraordinary. I take issue with only one portion of it, and that is your identification of what you described as spin. My experience tells me that the concept of spin is a rather (diminimous) kind of a characterization of what has been going on, and as a matter of fact, you correctly described what was going on, and I think it is infinitely more monstrous, infinitely more damaging to the public interest than the characterization of spin. My - Emmanuel went through a nice, long recitation of where I've been in my life, and it's basically been in public service, education and a few years around journalism. I characterize myself right now as being a civics teacher, a learning civics teacher, because we have abandoned the understanding of our civic environment in our school systems, and in our public discourse. There IS no significant discussion within our media about the concept of the public interest. And if one looks at the characterization of what public relations represents, I have never seen any cogent, understandable reasonable explanation that did not include recourse to the public interest as an essential ingredient of the practice of the profession. So the insidiousness and broad breadth of what the profession has been engaged in for, my experience for over 40 years in public service, is something diametrically opposed to the concept of the construction ethical content within the processes of public relations. Let me give you an example, somewhat mundane I suppose, but nevertheless understandable for people beyond the expertise in this room. Public relations is a monolith, it is not simply an individualized operation of good conduct, good practice, individual ethics, the effectuation of Marquis de Queensbury kinds of rules among yourselves regarding the competition for business. Public relations to me as it impacts on the civil structure of our country is an extraordinarily deceptive practice. It divides Americans from themselves. It is deceptive in ways which are very subtle. Let me give you an example that I think as I said would maybe resonate with people beyond this room. We think of, and it has propagated throughout the media, that Washington is the problem with our society. The fact of the matter is New York is the problem with our society. New York is a failed state. New York is the center of world commerce and world commerce is not distributed rationally, fairly, among the people of the country or the world. New York is the center of world finance. We know where world finance took us and has taken us and continues to take us. New York is the center of world diplomacy and it has been the

springboard to war in our time. And holding it all together is the fact that New York is the center of world communications. You are all part of that milieu, you are an integral part of it. The destruction of mainstream journalistic endeavor, I believe, is part of a public relations effort. I believe it has succeeded beyond the wildest imagination of those who established it in the first place.

RANDY: I think you want to out on that line, because that's killer. And because – I don't mean to cut you off, but we're perilously close, and the destruction of journalism – that's good. You want to turn that into just shards of illogic?

MICHAEL: I'm still having a hard time following it actually.

RANDY: Or, call your next witness, because you're on the clock, my friend.

MICHAEL: I'm on the clock. So you're saying P.R. is responsible for the destruction of journalism.

DELBERT: Oh, I think without question the nature of the attacks on journalistic integrity and the discovery and dissemination of fact has been a public relations industrial goal.

MICHAEL: Can you give me an example, because it's not in the public relations industry that I know of.

DELBERT: Fox News.

RANDY: I thought we were talking about journalism.

MICHAEL: OK. So – sorry about that – so speaking of the public relations industry and the public relations trade, we have here someone who comes from the public relations industry and can talk a little bit about all that we do to make sure that we're NOT doing that and that we're respecting the role of journalism and the role of transparency and honesty.

STEVE CODY: First, let me correct Mr. Spurlock. New Jersey is the failure in our society, not New York. Number two, with all due respect and present company excluded, I think this is akin to the pot calling the kettle black because nowhere has there been more of a confusion between church and state and editorial and advertising than in media. And I think as far as polarizing this country, I would point the finger at the media. But I'm here to defend MY industry and the fine people in this room. And first off, I want to say that I am very proud of my industry, I'm very proud of our profession, I'm very proud to show up every single day and represent my clients because I happen to work for a great public relations firm, I happen to belong to a great council of public relations firms, I happen to be a member of the Arthur W. Page Society which wrote a breakthrough paper called "The Transparent Corporation" which really was pioneering in terms of setting a code of ethics, as has been the PRSA. What I would say is the as is the case in ALL industries there ARE some bad eggs, some rotten apples if you will. Certainly, I would say we are less a monolith than we are a Balkanized state, in that the best and the brightest organizations DO adhere to codes of ethics, and I do believe that where there are not chief ethics officers we've seen pioneers like, with the title of chief communications

officer, who've assumed the responsibility of being the conscience of the organization. So, has every chief communications officer done his or her job? Probably not. Has every journalist? Probably not. But I'm here to tell you that the reason THESE people show up to work every day and the reason I show up to work every day is because I care about the clients I represent, I care about advocating for products and services and organizations that are conducting business the right way. And if they aren't conducting the right way, I walk away from that piece of business. And any good agency would walk away from that business. So I would argue there are exceptions to every rule, but I remain proud to be part of this industry.

RANDY: Thank you.

PAUL: Could you provide us with an example of a client that you walked away from recently?

STEVE: We're not allowed to name names here, but I have walked away from countless clients because

RANDY: You're allowed to name names here.

STEVE: ...well...

RANDY: In fact, I would rather you name names here rather than innuendo..

STEVE: There was this gentleman who authored a column called the ethicist who hired us..... no.....

RANDY: I wouldn't work for that guy!

STEVE: We've walked away from countless clients, Paul, that have asked us to do something that we felt was simply unethical, whether it was a cover-up, whether it was to lie – whatever it was we have walked away from them. All great agencies have.

DELBERT: Was that – I'm sorry, I'm usurping my...

PAUL: That's ok, go ahead.

RANDY: I'll allow it. I've always wanted to say that.

PAUL: My deputy prosecutor here would like that.

RANDY: I'll allow it.

DELBERT: Was the client that you walked away from represented by another member of the public relations industry?

STEVE: No sir.

DELBERT: So they went bare back?

PAUL: ...[ia] account after you had used it?

STEVE: To be honest with you, we washed our hands of that account and I have no idea what they ended up doing from a representative...

RANDY: I'm not sure I'll allow that as logical though. That's like saying well if I don't do it someone else will, therefore, are you saying that he should have kept the client, because someone will take it? Or that because some other actor will act immorally, that makes HIS actions immoral.

PAUL: No, I believe the implication is if some other firm was willing to take it on, then that rather demonstrates that within this industry, there are people who are quite prepared to do unethical

MICHAEL: Because there are people within the industry that are prepared to do unethical things, that doesn't make the entire industry unethical.

PAUL: Well, and because there are people within the industry who are prepare to behave ethically does not make the entire industry ethical. Steve's nobility is irrelevant.

STEVE: Well, I appreciate that, and I would appreciate the title Sir Steve, if that's ok with you Paul. But again, exceptions to every rule. But I do think so many of us adhere to the code of ethics of the PRSA, the Council of P.R. Firms, Arthur W. Page Society – all of the best firms have these very serious training programs that are in place. We take this very, very seriously, Paul, and I think because bad news leads, you're going with bad news, so a few bad apples spoil the bunch in your mind.

MICHAEL: I'm with the media.

PAUL: When was the last time you saw a firm expelled from any of those organizations because it transgressed those ethical rules?

STEVE: I honestly can't answer that question.

PAUL: Do you believe that the fact that there are I would suspect zero examples of that suggests that we are all perfect, or that our trade associations are allowing for one reason or another – and I'll ask Michael the same question because he's the defense counsel here – do you think that's because we're all 100% perfect or do you think that it's because we are allowing as many bad apples as we are comfortable allowing?

MICHAEL: I think it doesn't have to be an A or B, just like ethics isn't a black or white subject. And I can tell you from my experience at my agency, we have a chief ethics officer, Emmanuel. We have an ethics committee. We meet to discuss ethical issues. We listen to all sides. We talk about them. We put them in the open. When we have clients asking us to do things that some people think aren't the right thing to do, some people (think) are the right thing to do, we have a conversation about it, we make sure all points of view are heard and understood so that everyone feels comfortable and then we make those kinds of decisions. And yes we have not

taken and resigned numerous clients because of ethical questions and those clients have often gone on to other clients. Sometimes someone comes to us, we won't do it, many clients won't do it, and you know what? That actually moves the bar on what that client is going to ask for. But what I'm saying is that nobody is perfect. I don't think that we're putting people on trial here for perfect, or you know, being total criminals. I think it's a gray area, and you have to constantly work to do the right thing and that's what we ask people to strive to do.

RANDY: I can comment on you both to make your closing statements before we open it up to questions. You have the prerogative.

PAUL: So, the interesting thing about this is that I believe the prosecution and the defense have quite a bit of common ground. I think we both believe that there is a practice of public relations which is authentic and honest and transparent and dialogue-based, AND that operates in the public interest. The difference between us is the extent to which we think the industry as a whole isn't living up to that ideal. Michael suggested in his opening remarks that nobody goes into public relations to be a liar, that nobody goes into public relations thinking boy, I'm going to get out there and manipulate the media and be dishonest and de-position my opponents and just say the great things about my client without any regard for the truth. And I agree with that. I don't think people go into business assuming that they are going to poison children in (Bhopal) India or allow an automobile to remain on the road long after it's been proven that that automobile is fatal to several of its drivers. I don't think anybody goes into business thinking that's what's going to happen. I think that what happens in business and in public relations is that once you find yourself in a certain kind of situation, you are called upon to demonstrate moral courage, and that all too often people in the public relations profession fail to demonstrate that courage. And what happens I suspect more often than not is a series of small compromises. The first thing that happens is that you're asked to put out the press release that says, you and the executive vice president in your company parted ways by mutual consent. It's a phrase I have seen in literally hundreds of press releases. It is ALWAYS, ALWAYS a lie. It's a lie. It's dishonest. If you have never put out a press release with those words in it, congratulations. I would say that you are holding yourself to a higher standard than many of your people. The next compromise you make: oh, I don't know, you put out a survey that you put into the field knowing that the questions were loaded one way or the other. Maybe it's a silly survey, maybe it's a survey that says 'more Americans would like to have their cell phone by their bed than have sex.' It's a trivial kind of question – you ask the question in exactly the right way to get the answer you wanted and turned it into a pretty crappy press release. Maybe you exaggerated something, maybe you said 'we've gone beyond petroleum' when you knew in reality that none of the internal practices of your organization, none of the way in which you compensated your employees had changed at all. Maybe you said, our vehicles are perfectly safe when everybody in your organization knew that they were rolling over. That kind of slippery slope happens all the time. And I would suggest that there are a great many public relations people who, if they haven't gotten to the bottom of that slope, have occasionally allowed themselves to descend it just a little bit. The question it seems to me before you right now is – are you so smug and complacent that you think that there's enough of that, or not too much of that in our industry? Or do you want to get better? Do you want this industry to hold itself to a higher ethical standard? And unlike Fran, and I hesitate to disagree with one of my own witnesses, unlike Fran, I think

that public relations people not only can but MUST make the argument to their client that recalling the product before it blows up and becomes a national scandal is good practice. Not just good public relations practice, but good business practice. And the number of P.R. people who have the courage and the respect of management to be able to do that, and the courage and the self respect to walk away from the client if the client refuses to do that, may be higher than some of us think, but it's not enough. It's not high enough. As an industry, if we don't hold ourselves to that standard, if we don't try to get better, if we are not going to sit here and say, we're good enough, then you know, we have to move forward. I've been doing this for 25 years. I would have made the same case 25 years ago that I'm making today. There simply has not been the kind of progress that Michael and Steve and Jacqueline believe that there has been. Thank you very much.

RANDY: Michael, closing statements?

(audience applause)

MICHAEL: So I do think that Paul and I agree about a lot of things and I think that there's a couple places where we disagree. One of them, I think Paul has a confusion between public relations people and lawyers, and what I mean by that is when somebody writes that press release that says, having been on the said of watching those press releases get developed, that this executive vice president is leaving because of mutual consent – that was a lawyer who wrote that, that wasn't the public relations person, because a public relations person wouldn't let that happen. And when there is ...

PAUL: They DO let it happen.

MICHAEL: You don't – the public relations person doesn't have the final say, the public relations person can bring counsel, can fight, can make their voice heard, but at the end of the day, you don't have final say. You really don't. And having been there, arguing for the right thing to do and hearing the lawyer say, you can't say this and you can't say that, I think that's a reality and you should understand that as somebody who is an expert, Paul, in the public relations industry. The other thing that I think is really important is the notion of getting better, as Paul had said. And I think that's the test. When we do something wrong, do we get better or don't we get better, and I argue that we DO get better. When a company goes out and there is a problem, not an intentional problem but they learn there is a problem and they're advised by a public relations firm how to do that, I hope that the next time around they'll know better and that they do better. And sometimes good comes out of it. I know this is considered a shining example, but when Johnson and Johnson had Tylenol bottles tampered with, the result of that was as a part of their public relations strategy was not only to be transparent and honest and ask forgiveness about it but was to remediate the problem and the result of that was that we got stronger more tamper-resistant on medicines going forward. And so actually because of public relations strategy a very good thing happened. And I think that over time we see this, that when companies do things that are wrong, public relations is not there advocating that we hide it and cover it up. Public relations professionals are there saying how do we work on this and how do we make it better the next time so we're not in this position. And in that sense I think that the

public relations industry is an industry that is striving to do better, is constantly doing better, and because companies, because lawyers, because the media sometimes doesn't always (be there) and because you can't be perfect all the time isn't a reason to say that the public relations industry is, in these words, "practicers of deception, not transparent and do not offer service (or clients) to society." I think they have on many, many occasions and are doing more so and more so, thanks in many ways to your good work leading and driving where the public relations industry should go.

(applause)

RANDY: Questions from the jury and from Mr. Simon.

DOUGLAS SIMON (FOREMAN): Thank you everyone, I also want to commend your honor, the prosecutor, defense attorney and the witnesses. It's been phenomenal. And now we the jury get to speak back and share some of the comments and questions that have been coming through over the transom. One that was received – Fran, you spoke that journalists see this as a game. So if that's true, and clearly it seems to be true to you, does that mean that some of public relations behavior that should be judged is in response to your say lack of search for the truth but rather a "game" that you're playing.

FRAN: Actually I was picking up on Paul's sentence where he said: it's a game and both sides know we're playing it. We journalists are not perfect. Oh yeah, we get lazy and we don't dig hard enough. Guilty, absolutely. Me and all of my colleagues. But I can't speak for why Paul used the metaphor of a game, but that's not what I had in mind. The game I was talking about is the one wherein I ask you a question and I know that you're going to answer like a politician, the way YOU want to answer, and you're going to try to direct me the way you want to direct me, and I'm going to try to push you that way to get this piece of information you don't want me to get, you know – that's what I saw as the game.

PAUL: If you would allow me to give my definition...

DOUGLAS: That would be Randy's call actually, not mine.

RANDY: Go ahead.

DOUGLAS. It is my feeling that in this context, the court of public opinion as exemplified by - the tension between journalists and public relations people operates very similar to a court of law, which is to say that both parties have an agenda, both parties have their own spin that they want to put on a story. The journalist's spin may be a political or philosophical spin, it may be a spin in favor of controversy over lack of controversy. Those are narratives that play extremely well. It may be a spin in favor of click bait. But you understand going on whether you're a journalist or P.R. person that there is a game being played, that there is an adversarial nature to the conversation. What I think is happening is that we've gotten so used to that as an industry that when we communicate directly with consumers, we try to – trick is not necessarily the word I'm looking for – but spin is as good a synonym as any – we try to spin the consumer the same

way we would try to spin the journalist and I believe it is a much more serious ethical violation to do that to a consumer than it is to do that to a journalist.

RANDY: If I could interrupt for one second and just reject everything you've just said and here's why. I think you've created a false equivalency between the journalist and the P.R. person. That the P.R. person has a built in conflict of interests. They necessarily must serve the interest and the point of view of their client. The journalist is not opposed to that. The journalist is doing something quite different. The journalist's only commitment is to the truth. ...

(laughter from Paul)

RANDY:whether or not it's done successfully.

PAUL: Oh that's sweet.

RANDY: Lower case. That's lower case. The journalist has no financial stake, the journalist's paycheck doesn't depend on whether or not Merck produces an effective product. The journalist is just trying to tell the story of that – you know, the good journalist as opposed to the good P.R. person – the journalist is not on the other side. It's not an adversary system in that sense. Journalistic practice, as ethically practiced, is to get to the truth as YOU see it, which will not be the way anyone else sees it, but as YOU see it. you do not have a stake in the story. The P.R. person necessarily has a stake in the story. And to make them equivalent is just, it defies logic. Thank you.

DOUGLAS: Another question that came in was, Paul, we don't need to pour a bucket of ice water on your testimony as well as that of the prosecution witnesses, but could there possibly be some testimony from the defense witnesses about campaigns, like that for ALS, which has raised millions of dollars to help cure an intractable illness. I know, it took the life of one of my college friends and another friend who's going through that now. As well as a second part: could there be any testimony about effects by P.R. practitioners in the industry to actually change behavior of their clients before they go through these bad practices. Is there a preventive P.R. ... maybe Steve...

STEVE: I can speak to one campaign that we handled which was in the – after, if you will, after the Ford Firestone settlement, we were hired by the 50 states attorneys general to handle a consumer education campaign aimed at educating young men about their driving habits. Young men were found to be the leading people behind the wheel of SUVs that would roll over and crash and burn. And we did both pre- and post- research that showed that we had a remarkable effect in educating young men about the roles and responsibilities they had when they sat behind that big SUV. That's just one of many campaigns, many great public relations firms have launched that have moved the needle in terms of consumer awareness and education.

MICHAEL: If I could add to that, there are a number – not only whether for causes where they're directly for companies – so one of the very first public relations programs I ever was involved with was a program called the Glad Bagathon, which was a program run by Glad Plastic Bags and what they did is they started, obviously, to address some of their own

challenges because they were producing plastic, to do environmental cleanups. And they started a program where they gave bags away to do cleanups in parks, for volunteers across the country, and that became the largest volunteer program; It was over, all 50 states participated as it grew, and then what happened after 10 or 15 years of doing the Glad Bagathon Program, it became so beautiful that they handed it over and they made it an NGO which was 'Keep America Beautiful.' So Keep America Beautiful is an organization that's active today that's doing great things for the environment that came out of a public relations program from a company that made plastic bags. That's a good thing. And I can list work that Mark has done with River (Blindness?), I could – bringing AIDS to the public consciousness, there are enormous good works that have come out of public relations programs that have made a huge difference in the world.

PAUL: Many of them, by the way, for big corporate clients that wanted to be more profitable, create more jobs...

MICHAEL: ... absolutely ...

PAUL: ... and sell more products.

MICHAEL: Absolutely.

PAUL: I think it's a very dangerous idea that we should say all the public relations that is done for...

MICHAEL: ...that's why I brought ...

PAUL: ... groups that we subjectively agree with – Keep America Beautiful or whatever – are noble.

MICHAEL: But that didn't stop (them). It started with Glad Bags.

PAUL: My point is you can do unethical work for ethical causes and you can do ethical work for clients that many – I mean it's quite possible to represent the tobacco industry ethically. You can communicate entirely honestly on behalf of the tobacco industry.

MICHAEL: And the tobacco industry is...

PAUL:and you can communicate entirely unethically on behalf of the American Cancer Society.

RANDY: Well, it depends on how narrowly you define ethics. If you're defining it only as business practices, yes that's so, you can be an honest slave dealer and at the slavery block you always give people the correct change...

PAUL: That's a really [ia] analogy.

RANDY: I don't think so. I don't think so. Unless you question the fundamental transaction that you're actually involved in which is the slave trade itself, it doesn't MATTER how ethical your business practice is.

PAUL: There's something fundamentally unethical about owning slaves. There's nothing fundamentally unethical about smoking a cigarette.

RANDY: No, but there's something fundamentally unethical about selling a toxic product that kills 400,000 people a year.

PAUL: Is it unethical...

RANDY: Yes, it's unethical. If that isn't unethical what is?

PAUL: Is it unethical to sell....

RANDY:to sell toxic products. Really? Are you really going to ...

PAUL: Is it unethical to sell (skis)?

RANDY: Is there any, I'm not demanding – yes, it's ethical to sell skis. Is there any injury ancillary to the activity, of course there is, that's fine. But there's...

PAUL: So people have no right to make their own decisions?

RANDY: People have no right – once you shift it to a consumer question you've already cheated the question. The question isn't whether someone has the right to buy. The question is whether someone has the right to sell it. It's that, you know, you have no right to sell tainted meat here in America. We have food and drug laws. You have no right to sell a product that is, when used as directed, [ia] – the death rate is 400,000 a year, you're really defending this ?!

PAUL: You're and ethicist. There is a difference between selling tainted meat and selling cigarettes, yes..

RANDY: Yes, that's right, because when you...

PAUL: .. because when somebody buys meat they have a reasonable expectation that that meat will not kill them. When they buy a cigarette they know full well that that cigarette could kill them, they make the choice to do so.

RANDY: No. This is a false notion of free choice that's built in a completely false assumption about how decisions are actually made. Is there a psychologist in the house when we need one. There's not free choice. People are not spending hundreds of millions of dollars to advertise because they think a free choice will be freely made by free thinkers. People's behavior is subject to all sorts of influences. Again..

PAUL: I could argue that there is an ethical case to be made that what you are doing is infantilizing people. You are taking away their agency

RANDY: Fire codes? Speed limits? You don't like speed limits? That takes away their agency.

PAUL: Absolutely because that harms other people .

RANDY: Fire codes? You can't build a kerosene-soaked...

PAUL: What I'm talking about here is the right for people to do things for themselves.

RANDY: No. That's what YOU'RE talking about here. What I'm talking about here is the right to sell a product , that to knowingly sell a product that use as directed is fatal. It's toxic. We know this. And the death rate to justify 400,000 a year. You see this as a free choice question? I see this as a question from the producer's side not from the consumer's side, and that it is a P.R. trick to shift it to a consumer question rather than a producer's question.

PAUL: Thank you [ia]

RANDY: If I may..

DOUGLAS: Go ahead Michael.

MICHAEL: I just want to inject one point because I come from a company that when the surgeon general came out with its warning and it was determined even before the surgeon general came out with this warning but when it started to be explored that cigarettes really were harmful to your health many, many years ago, we resigned all our cigarettes accounts and would not promote cigarette smoking to people because even if they knew it was bad, you could, P.R., you could be promoting selling something and getting people to do something that was not good for them and we didn't want to be part of that.

DOUGLAS: We actually had 2 other questions, Randy. Did you want to say one other thing?

RANDY: Other questions?

DOUGLAS: We do and we've got them from audience members. First was to show – obviously an audience made up of P.R. people you would expect that the questions might be a little bit unbalanced but in fairness there was a question for Paul that I thought he might want to address, and the question was: Paul, would you rather have your cell phone by the side of your bed or have sex? We're waiting, and is there a difference?

(audience laughter)

PAUL: The only thing I use my cell phone for is music. I don't take calls, I don't really care, and I'm not listening to music when I'm in bed.

DOUGLAS: I didn't know where he was going with that, but I'm glad he went that way! We did have an audience question which talked about, is it correct, from P.R. people, is it unethical to just walk away from a client without exposing them if you know there's been malpractice at the organization that you were representing? That was a question to the panel, to you, to anyone who wants to take that, which I thought was very interesting.

(inaudible comment from unidentified panel member)

RANDY: ... because it's really hard.

(laughter)

DELBERT: I have a query in response to that.

RANDY: No, no. I was hoping somebody would....

DELBERT: Alright, pose the question again.

DOUGLAS: The question was is it ethical behavior to walk away from a client that you're aware of is going through malpractice, doing something immoral, illegal, without exposing them?

DELBERT: My feeling is this, that the industry does not speak through individual acts in the civic space that the American people are subjected to. It speaks in a macro sense.

RANDY: You're not going to answer this question, are you?

DELBERT: Yes I am. The issue for me and Michael's question about the identification of the test – the test for me is whether or not this industry could put together a strategic plan for the public interest.

RANDY: I'm going to have to cut you off here for one second. Because *I* want to answer this question.

MICHAEL: I want to hear what the ethicist has to say about this.

RANDY: These are 'duty to report questions,' So you're aware of the wrongdoing, of this hypothetical client – client comes to you they want to do a terrible thing, it's puppy soup and it's not soup for puppies if you know what I mean. And so you say no, it's appalling what you're contemplating, I can't possibly work for you. That's the first step. But then do you have a duty to report that they're actually stealing the puppies, they're doing very unkind things to the puppies, and here are the guidelines I use: that by law you nearly NEVER have a duty to report in America, except for a certain very extreme case. Pediatricians, doctors and school teachers have an affirmative duty to report suspected cases of child abuse. But beyond that an ordinary citizen doesn't. Like if you know somebody robbed a liquor store you have to legal duty to report that. Whether you have a moral duty is another question, and here are the guidelines I find very, very useful, is if that activity represents a serious, imminent threat to another person, ongoing, then you MUST come forward.. yes, and puppies. Yes, animals have moral standing by me. So if the wrongdoing that your client....

PAUL: [ia]

RANDY: Well I hate that! ...that the client is doing something that represents an imminent serious threat to other people, then you DO have a duty to come forward. You're a compliance officer and you're a trained lawyer. Would you buy that?

JACKIE: Well, the position that we used to take was really not a legal position, it was more, again, harking back to the company's values. So we would make a decision – all kinds of things came to our attention about all kinds of people, employed by the company, contractors, whoever they were, there were certainly things – if somebody was downloading pornography onto their laptop and it included child pornography they were reported.

RANDY: Yeah, but that's... that's law, but in the tougher case, your company is in jeopardy, is in legal jeopardy once that stuff's on that computer. So that's – you're in a very....

JACKIE: But not everything was a violation of law that was reported. We made decisions...

RANDY: Have you ever reported anyone.

JACKIE: Absolutely.

RANDY: OK.

DOUGLAS: Randy, one last quick question from the gentleman in the audience back there. We had a couple more but they want to wrap it up.

AUDIENCE MEMBER: I'll make it really quick then. I was going to defend Miss Brevard because you had a lot of things I wanted to defend when you were speaking. I'll skip that then. So unfortunately I'm leaving you. Sorry. But in terms of the journalism truth thing, I think we're taking that kind of lightly. I think for the most part, 1) I'm not a journalist nor should I really care, but I think there really are a lot of journalists who still search for the truth and are still very good, so I think we shouldn't really be – I'm speaking now as an ethicist now, I think we're laughing at that and we shouldn't be, especially given light of some of the recent things that have been going on around the world. There are good journalists out there. In addition to that, saying that no one gets called out for bad P.R. tactics is wrong. I've worked for a few of them. I will DEFINITELY not mention names, and they HAVE been called out. If you want to see me after, you're more than welcome to, Mr. Holmes, but I am, if you want to see me after about people who HAVE been called out...

PAUL: I don't believe I suggested that no one gets called out.

AUDIENCE MEMBER: I think you seem to suggested that very few people get called out.

RANDY: I have to cut you off because, for the crime of making a statement in the form of a question , ooohh, we have 2 minutes before they I think physically throw us out of the room.

DOUGLAS: Physically throw us out, that's right.

RANDY: So they need the room at 8:00 apparently there's some sort of debauchery planned that would sink beneath anyone's notion of ethical conduct. I want to thank the witnesses for the defense, the witnesses for the prosecution, Paul and Michael. Thank you all for coming.

HENRY FEINTUCK: And then we want to thank – this does conclude the mock tribunal of the P.R. profession. We hope you enjoyed it, found it thought provoking. The webcast will be archived online at PRSANY.org. our thanks again to our partners in the event. (

UNIDENTIFIED PANEL MEMBER: Wasn't there a last ...

DOUGLAS: Do we have one minute to do the final vote?

HENRY: One second (list of sponsors read). And thanks to the host, Suny Global Center. Randy?

RANDY: Actually, just one last shot at the final vote. If you all still have some faint recollection of the proposition, I believe it's all P.R. people are going to straight to hell as I recall it. Four of you agreed with that in the beginning. How many will endorse that proposition? Ahhh, you've won some over, a testament to Paul. But not all that many, a testament to Mike.

HENRY: Thank you again for participating and we challenge you all to be ethical P.R. practitioners. [END]