

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA, :  
 :  
 Plaintiff, :  
 :  
 v. : Civil Action No. 99-2496 (GK)  
 :  
 PHILIP MORRIS USA INC., :  
 f/k/a PHILIP MORRIS INC., :  
 et al., :  
 :  
 Defendants. :

**ORDER #904**

Upon consideration of the United States' Motion for Sanctions Against BATCo and Motion for Reconsideration of its Motion in Limine Precluding BATCo from Introducing at Trial Evidence on the Subject Matters Specified in Order No. 341 for Which it Failed to Produce a Knowledgeable 30(b)(6) Witness, BATCo's Opposition, the United States' Reply, and the entire record herein, it is hereby

**ORDERED** that the United States' Motion for Sanctions Against BATCo is **granted**; and it is further

**ORDERED** that within 30 days of the date of this Order, BATCo shall pay a monetary sanction of \$250,000 to the Court's Registry; and it is further

**ORDERED** that within 30 days of the date of this Order, counsel for BATCo shall by \$10,015.33 to the United States as reimbursement

for the costs associated with the Rule 30(b)(6) deposition of Alison Kay Kinnard, taken July 24, 2003; and it is further

**ORDERED** that the United States' Motion for Reconsideration of its Motion in Limine Precluding BATCo from Introducing at Trial Evidence on the Subject Matters Specified in Order No. 341 for Which it Failed to Produce a Knowledgeable 30(b)(6) Witness is **granted**; and it is further

**ORDERED** that BATCo is precluded from introducing at trial any evidence or making any arguments relating to the publically available portions of the Foyle Memorandum and any document management practices or procedures described therein; and it is further

**ORDERED** that BATCo is precluded from introducing at trial any evidence or making any arguments relating to the document management issues addressed in the McCabe decision, specifically including any consideration, decision, policy, practice or procedure concerning the destruction, editing or management of documents at BATCo or any affiliate of BATCo, in Australia or elsewhere, for the purpose of avoiding discovery of such documents in United States litigation or preventing the public from learning the true effects of smoking.

March 28, 2005

\_\_\_\_\_  
/s/

Gladys Kessler  
United States District Judge

**Copies via ECF to all  
counsel record**