

VII. REPORTS OF STANDING COMMITTEES (Continued)

A. Academic Council (Continued)

- John Oakley, Chair

4. Proposed Academic Senate Statement to the UC Regents on Research Funding Sources (action)

At its September 20, 2006, meeting, at the request of the Lieutenant Governor Cruz Bustamante, and *ex-officio* Regent, the UC Board of Regents discussed whether to prohibit the University or its employees from accepting research funding from the tobacco industry (see below, [Regents Item RE-78](#)). In a 1,682-page opinion issued on August 17, 2006, as amended September 8, 2006, Judge Gladys Kessler of the United States District Court of the District of Columbia ruled after a trial to the court that the major tobacco companies had violated the Racketeer Influenced and Corrupt Organizations Act (RICO)¹ by engaging in a decades-long campaign to hide the dangers of tobacco and smoking.²

The Chairman of the Board of Regents, Gerald Parsky, requested input from the Academic Senate as to whether this legal finding provides an appropriate basis for instituting a university ban on accepting funding from the tobacco industry or agencies acting on behalf of the tobacco industry.

At its September 27, 2006, meeting, the Academic Council considered the Regents' request in light of the *Resolution of the Academic Senate On Research Funding Sources*, adopted by the Academic Assembly on May 11, 2005, which states in part that: "the principles of academic freedom and the policies of the University of California require that individual faculty members be free to accept or refuse research support from any source consistent with their individual judgment and conscience and with University policy. Therefore, a unit of the University may not refuse to process, accept, or administer a research award based on the source of the funds; nor may such a unit encumber a faculty member's ability to solicit or accept awards based on the source of the funds, except as directed by the UC Board of Regents" (see below for full text of the [Resolution](#)).

¹ The Racketeer Influenced and Corrupt Organizations Act (RICO), 18 U.S.C. §§ 1961-1968, prohibits individuals or entities from engaging in racketeering activity associated with an "enterprise," which includes corporations, partnerships and other legal entities and associations. The RICO statute also makes it illegal for individuals or entities to profit from a pattern of racketeering activity, and allows for the confiscation and seizure of such ill-gotten gains.

² *United States v. Philip Morris USA, Inc.*, U.S.D.C.D.C. Civ No. 99-2496, Aug. 17, 2006.
<http://www.dcd.uscourts.gov/opinions/2006/Kessler/1999-CV-2496~16:3:44~9-8-2006-a.pdf>

By a vote of 12 in favor, 5 against, with one abstention, the Academic Council approved the following statement to be brought before the Academic Assembly and, if approved, to be transmitted to the UC Regents:

The Academic Council instructs the Chair of the Council to advise the President that grave issues of academic freedom would be raised if The Regents were to deviate from the principle that no unit of the University, whether by faculty vote or administrative decision, has the authority to prevent a faculty member from accepting external research funding based solely on the source of the funds. Policies such as the faculty code of conduct are already in place on all campuses to uphold the highest standards and integrity of research. The Academic Council believes that Regental intervention on the basis of assumptions about the moral or political standing of the donor is unwarranted.

ACTION REQUESTED: Approval of the Academic Council Statement on Research Funding sources for transmittal to the UC Board of Regents.

Background

At its July 21, 2004, meeting, the Academic Council adopted a Resolution on Restrictions on Research Funding Sources. Then, in October of 2004, the Academic Council, in response to concerns raised by some faculty members regarding both the content of the resolution and the need for broader consultation on the issues it addresses, sent the Resolution out for full Senate review and consideration of whether it should stand as written and adopted, or should be amended or rescinded. Formal responses from all nine Divisions and from six standing committees of the Assembly showed a preponderance of support for the resolution in principle. Based on those formal comments and recommendations, the Academic Council adopted an amended version of the *[Resolution on Restrictions on Research Funding Sources](#)*, which was, on May 11, 2005, adopted by the Academic Assembly as the *[Resolution of the Academic Senate on Research Funding Sources](#)*.