

# THE MAN WHO KNEW TOO MUCH

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## Features

### THE MAN WHO KNEW TOO MUCH

Angrily, painfully, Jeffrey Wigand emerged from the sealed world of Big Tobacco to confront the nation's third-largest cigarette company, Brown & Williamson. Hailed as a hero by anti-smoking forces and vilified by the tobacco industry, Wigand is at the center of an epic multibillion-dollar struggle that reaches from Capitol Hill to the hallowed journalistic halls of CBS's *60 Minutes*. MARIE BRENNER investigates

May 1996 [Marie Brenner](#)

## I. THE WITNESS

"I am a whistle-blower," he says. "I am notorious. It is a kind of infamy doing what I am doing, isn't that what they say?"

It was never Jeffrey Wigand's ambition to become a central figure in the great social chronicle of the tobacco wars. By his own description, Wigand is a linear thinker, a plodder. On January 30, when he and I arrange to meet at the sports bar at the Hyatt

Regency in Louisville, he is in the first phase of understanding that he has entered a particular American nightmare where his life will no longer be his to control. His lawyer will later call this period "hell week." Wigand has recently learned of a vicious campaign orchestrated against him, and is trying to document all aspects of his past. "How would you feel if you had to reconstruct every moment of your life?" he asks me, tense with anxiety. He is deluged with requests for interviews. TV vans are often set up at DuPont Manual, the magnet high school where he now teaches. In two days Wigand, the former head of research and development (R&D) at the Brown & Williamson Tobacco Corp., will be on the front page of *The Wall Street Journal* for the second time in a week. Five days from now, he will be on *60 Minutes*.

Wigand is trapped in a war between the government and its attempts to regulate the \$50 billion tobacco industry and the tobacco companies themselves, which insist that the government has no place in their affairs. Wigand is under a temporary restraining order from a Kentucky state judge not to speak of his experiences at Brown & Williamson (B&W). He is mired in a swamp of charges and countercharges hurled at him by his former employer, the third-largest tobacco company in the nation, the manufacturer of Kool, Viceroy, and Capri cigarettes.



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In the bar, Wigand sits with his security man, Doug Sykes, a former Secret Service agent. Wigand is worn out, a fighter on the ropes. He has reached that moment when he understands that circumstances are catapulting him into history, and he is frightened, off his moorings. He wears silver-rimmed aviator glasses, which he takes off frequently to rub his eyes. Although he has been on the *CBS Evening News* twice in the last five days, no

one in the bar recognizes him. Wigand is 53. He has coarse silver hair, a small nose, and a fighter's thick neck from his days as a black belt in judo. There is a wary quality in his face, a mysterious darkness that reminds me of photographs of the writer John Irving. Wigand wears the same clothes I have seen him in for some days— jeans and a red plaid flannel shirt, his basic wardrobe for a \$30,000-a-year job teaching chemistry and Japanese.

In front of us, on a large screen, a basketball game is in progress. "They kept me up until two A.M. last night. Just when I thought I was going to get some sleep, the investigators called me at midnight. At six A.M. I was gotten up again by someone from *60 Minutes* telling me that I should relax. How am I supposed to relax?" Wigand stares at the TV screen. "You are becoming a national figure," I say. Wigand suddenly sputters with rage. "I am a national figure instead of having a family. O.K.? I am going to lose economically and I am going to lose my family. They are going to use the trump cards on me."

I follow Wigand out of the Hyatt and down the street to a restaurant called Kunz's. A light snow is falling. By this time, Jeff Wigand and I have spent several days together, and I am accustomed to his outbursts. A form of moral outrage seems to have driven him from B&W, and he is often irascible and sometimes, on personal matters, relentlessly negative: "What does your brother think?" "Ask him." "Is your wife a good mother?" "Ask her." His expression hardens; he retreats into an inner zone.

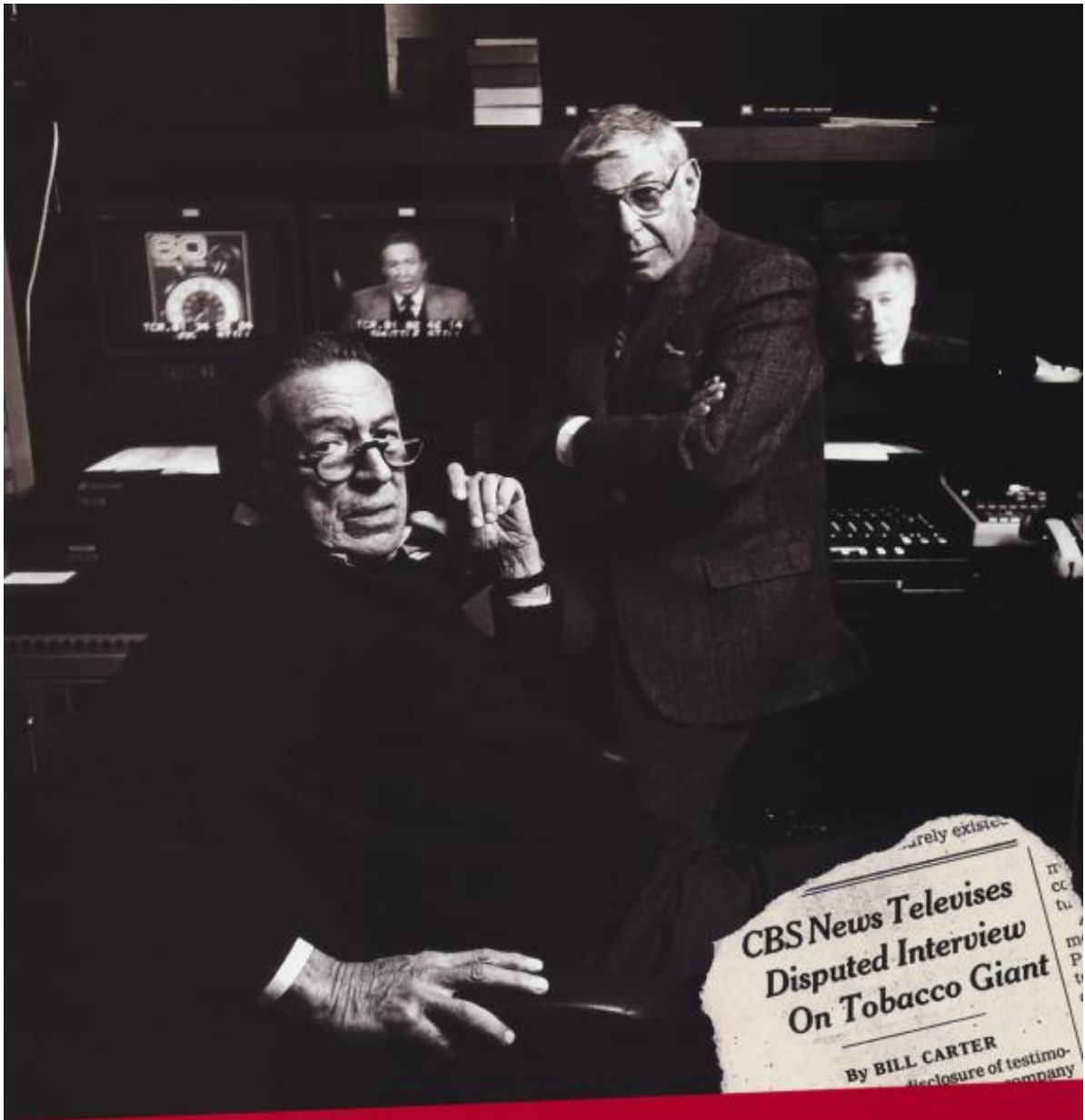
"When you were in your 30s, how did you think your life was going to turn out?" I ask him. Wigand is no longer belligerent. His voice is quiet, modulated. "I thought I would be very successful. Affluent. I started at \$20,000 a year and wound up at \$300,000 a year. That was pretty nice."

"I am going to lose economically and I am going to lose my family They are going to use the trump cards on me."

All through dinner, Wigand keeps his cellular phone on the table. It rings as we are having coffee. He explodes in anger into the receiver: "Why do you want to know where I am? What do you want? What do you mean, what am I doing? It's 10 o'clock at night. . . . What do you need to connect with me for? I am not a trained dog. You are going to have to explain to me what you are doing and why you are doing it so / can participate." Wigand narrows his eyes and shakes his head at me as if to signal that he is talking to a fool. He is beyond snappish now. I realize that he is speaking to one of his legal investigators, who has been putting in 16-hour days on his behalf, mounting a counterattack against his accusers. "You can't just drop into Louisville and have me drop what I am doing. No, you can't! I AM NOT LISTENING. O.K.? FINE. YOU TELL HIM TO FIND SOMEBODY ELSE."

Wigand slams the telephone on the table. "Everyone on the legal team is pissed off because I am in Louisville. You know what the team can do! If he was going to come down today, why didn't he tell me he was coming?" We walk out of Kunz's and trudge back through the snow toward the Hyatt. Across from the hotel is the B&W Tower, where

Wigand used to be a figure of prestige, a vice president with a wardrobe of crisp white shirts and dark suits. "I am sick of it. Sick of hiding in a hotel and living like an animal. I want to go home," he says with desperation in his voice.



*Mike Wallace and executive producer Don Hewitt of 60 Minutes fought over airing Wigand's story.*

Jeffrey Wigand and I met at an anti-smoking-awards ceremony in New York on January 18. Wigand was receiving an honorarium of \$5,000, and former surgeon general C. Everett Koop was going to introduce him. Wigand radiated glumness, an unsettling affect for a man who was in New York to be honored along with such other anti-smoking activists as California congressman Henry Waxman and Victor Crawford, the former Tobacco Institute lobbyist, who died soon after of throat cancer. "I am not sure I should be here," Wigand told me moments after we met. "Something terrible has happened to me. Brown & Williamson has gotten private records from the Louisville courthouse. A local TV reporter has come to my school to ask about my marriage. They are trying to ruin my life. When I get back to Louisville, I may not have a job. A public-relations man in

New York named John Scanlon is trying to smear me. I have five sets of lawyers who are representing me, and no one can agree on a strategy." Then he said, without any special emphasis, "If they are successful in ruining my credibility, no other whistle-blower will ever come out of tobacco and do what I have done." One hour later he was on the stage accepting his award and giving a halting history of his conflict with B&W. "My children have received death threats, my reputation and character have been attacked systematically in an organized smear campaign," he said, his voice breaking.

When I saw Jeffrey Wigand for the first time in Louisville, he was at the end of one crisis and the beginning of another. We had been scheduled to meet for our first formal interview that evening, and I waited for him to call me. Out of necessity, Wigand has become a man of secret telephone numbers and relayed phone messages; there is an atmosphere of conspiracy around any meeting with him, with tense instructions and harried intermediaries. On my voice mail in the hotel, the messages grew increasingly dramatic. "This is Dr. Wigand's security man. He will call you at four P.M." "Marie, this is Dr. Wigand. Some problems have developed. I am not sure I can have dinner." At one point I picked up the telephone. "How are you?" I asked. "Let's put it this way: I've had better days." Then: "The F.B.I. is coming to check out a death threat." Later: "My wife, Lucretia, wants me to leave the house. I am trying not to be served with papers." Finally: "I don't have a place to go."

By the time Wigand decided to move temporarily into the Hyatt, it was 10:30 P.M. I walked downstairs and knocked on his door. I was surprised by the change in his appearance in just one week. He leaned against the TV on the wall, diminished and badly shaken. "I have lost my family. I don't know what I am going to do," he said.

He had hurriedly packed a few shirts; he was missing even the lesson plans for his classes the next day at the high school. Before coming to the Hyatt, Wigand had broken down at home in the presence of an F.B.I. agent who had come to investigate a death threat and a bullet that had been placed in the Wigands' mailbox the night before. Wigand said his wife told him, "You have put us all in danger, and I want you out of the house."

Over the next two weeks, he would hide in Room 1108 at the Hyatt, registered under another name. On January 26, his second night in exile, I joined him to watch himself as the lead story on the *CBS Evening News*. Wigand was fraught, particularly sour with one of his lawyers, Todd Thompson, when he walked into the room. "Don't you say hello to me, Jeff?" he asked. "I am angry at the world," Wigand answered. He was sitting at a small table. On his shirt was a button that read: IF YOU THINK EDUCATION IS EXPENSIVE, TRY IGNORANCE. "I have no idea where my wallet and diary are!" he said. "Why should she have my assets? Why should I continue to pay her expenses?"

That same day *The Wall Street Journal* had published a front-page, 3,300-word story with an extract from a lengthy deposition Wigand had given in late November about his experiences at B&W. The deposition would be used in a massive lawsuit filed by Michael Moore, the attorney general of Mississippi, against the major American tobacco

companies. Wigand is a key witness in a singular legal attempt by seven states to seek reimbursement of Medicaid expenses resulting from smoking-related illnesses. Each year, 425,000 Americans die of such illnesses; through tax money that goes to Medicaid, the general population pays for a significant portion of the billions of dollars of health costs. If the state attorneys general, with an assist from Jeffrey Wigand, were to succeed in proving that cigarettes are addictive, the cigarette companies could be forced into settling the hundreds of thousands of plaintiff actions that would result. A number of the lawyers representing the states are working on contingency—in some cases hoping to earn fees of 33 percent—and recently *The Wall Street Journal* raised the question "Should state governments be getting into bed with the contingency fee bar?"

Wigand is tentatively scheduled to testify late this spring. In his deposition, Wigand had talked about the dangers of a number of additives in cigarettes and pipe tobacco, the addictive properties of nicotine, and the alleged attempts at B&W to camouflage such information. *The Wall Street Journal* rested on the bed, as did a copy of the most recent death threat Wigand had received: "We want you to know that we have not forgotten you or your little brats. If you think we are going to let you ruin our lives, you are in for a big surprise! You cannot keep the bodyguards forever, asshole."

Wigand looked up to see his own face on TV. Mike Wallace was interviewing him.

WALLACE: Last August we talked with Jeffrey Wigand, previously the \$300,000 research chief at Brown & Williamson. He is the highest-ranking executive ever to reveal what goes on behind the scenes at the highest level of a tobacco company.

WIGAND: We're in a nicotine-delivery business.

WALLACE: And that's what cigarettes are for?

WIGAND: Most certainly. It's a delivery device for nicotine.

The telephone rang. It was Wigand's father, and Wigand told him he was on CBS. There was no pleasure in his voice. Suddenly, a copy of the death threat I had just read was on the screen. Wigand shouted, "How the hell did they get that? Don't I have any privacy at all?"

That night we had dinner at the revolving restaurant at the top of the Hyatt. As we sat down at the table, Wigand looked out the window. "I don't believe this," he said. "We are directly across from the Brown & Williamson Tower." I could see fluorescent light glowing on a single floor in the otherwise darkened building. "What is that?" I asked. "That's the 18th floor. The legal department. That is where they all are working, trying to destroy my life."

The restaurant revolves slowly, and each time the B&W Tower came into view, Wigand would grimace. "Look at that," he said. "They are still there, and they will be there tomorrow and they will be there on Sunday. . . . You can't schmooze with these guys. You kick them in the balls. You don't maim them. Don't take prisoners."

The anti-tobacco forces depict Jeffrey Wigand as a portrait in courage, a Marlon Brando taking on the powers in *On the Waterfront*. The pro-tobacco lobbies have been equally vociferous in their campaign to turn Wigand into a demon, a Mark Fuhrman who could cause potentially devastating cases against the tobacco industry to dissolve over issues that have little to do with the dangers of smoking. According to New York public-relations man John Scanlon, who was hired by B&W's law firm to help discredit Wigand, "Wigand is a habitual liar, a bad, bad guy." It was Scanlon's assignment to disseminate a wide range of damaging charges against Wigand, such as shoplifting, fraud, and spousal abuse. Scanlon himself, along with B&W, is now the subject of an unprecedented Justice Department investigation for possible intimidation of a witness. For First Amendment specialist James Goodale, the charges and countercharges B&W has attempted to level against Wigand represent "the most important press issue since the Pentagon Papers." Goodale, who represented *The New York Times* during that period, said, "You counteract these tactics by a courageous press and big balls."

The B&W executives appear to be convinced that they can break Wigand by a steady drumbeat of harassment and litigation, but they underestimate the stubborn nature of his character and the depth of his rage at what he says he observed as their employee. A part of his motivation is the need for personal vindication: Wigand is not proud that he was once attracted to the situation he came to find intolerable. According to Wigand's brother James, a Richmond, Virginia, endocrinologist, "If they think they can intimidate and threaten him, they have picked on the wrong person!"

It has become a dramatic convention to project onto whistle-blowers our need for heroism, when revenge and anger are often what drive them. There is a powerful temptation to see Jeffrey Wigand as a symbol: the little guy against the cartel, a good man caught in a vise. However, Wigand defies easy categorization. As a personality, he is prickly, isolated, and fragile—"peculiar as hell" in Mike Wallace's phrase—but there seems to be little doubt about the quality of his scientific information. Wigand is the most sophisticated source who has ever come forward from the tobacco industry, a fact which has motivated B&W to mount a multimillion-dollar campaign to destroy him. National reporters arrive in Louisville daily with questions for Wigand: How lethal are tobacco additives such as coumarin? What did B&W officials know and when? And what does it feel like, Dr. Wigand, to lose your wife and children and have every aspect of your personal life up for grabs and interpretation in the middle of a smear?

When Jeffrey Wigand tells the story of his life, he does not begin with his childhood. Instead, he starts with the events surrounding his forced exit from B&W and doesn't veer too far from that theme. For most of his life, Wigand defined himself as a man of science, but a scientist in the ethos of middle management, "a workaholic," and a hard-driving businessman. He is a corporate Everyman, part of a world of subsidiaries and spin-offs, golf on weekends and rides on the company plane. He uses phrases right out of the lexicon of business—"game plan," "troubleshooter." He was "director of corporate development at Pfizer," then a "general manager and marketing director" at Union

Carbide in Japan. Later, as a senior vice president of marketing at Technicon Instruments, he was responsible for "a state-of-the-art plant" that "optimized" the "manufacturing facility" for biological compounds.

The son of a mechanical engineer, Jeffrey Wigand grew up in a strict Catholic home in the Bronx, the oldest of five children. When he was a teenager, the family moved to Pleasant Valley, a town in upstate New York near Poughkeepsie. Wigand's father stressed independence and insisted that his sons help build their new house. Wigand had to control his anger at his parents' strictness. According to James, their mother was "a cold individual" who had little understanding of children. "I am sure my father will kill me if he reads this," James said, "but I felt that my parents believed that children were more to be tolerated. I always had the feeling how much was being done for us, how much we owed for this opportunity!"

A gifted chemistry and biology student, Jeff flourished in the quiet atmosphere of the science labs and hoped to study medicine. As a freshman at Dutchess Community College, he ran cross-country track and "worked as a scrub nurse at Vassar Brothers Hospital," James recalled. Then he suddenly announced to his parents that he was dropping out of college and joining the air force. "It was a rebellion to get away," James said. "My mother just about freaked out. . . . But if you make someone so suppressed, the anger kind of builds up."

It was 1961. Wigand was sent to Misawa, an American air base in Japan, where he ran an operating room. "I got hooked on the language and on martial arts," he said. He volunteered as an English teacher at a Catholic orphanage. He was sent briefly to Vietnam, he told me, although he brushed off the experience: "It was 1963, and nothing was going on." I wondered at the defensive tone in his voice. Later B&W would challenge whether he had been in Vietnam at all. (According to one investigator, he was there for about a month.)

It was obvious to Wallace and Bergman that an attempt was being made to ruin Wigand's reputation.

When he came back to the States, he wrote a master's thesis on vitamin B12 and later earned a doctorate in biochemistry at the State University of New York at Buffalo. He was offered a \$20,000-a-year job with the Boehringer Mannheim Corporation, a German health-care company. In 1970, at a judo class, Wigand met Linda, his first wife, a legal secretary from Eden, New York. Seven months after they married, in 1971, Linda developed multiple sclerosis. At the time, Wigand was still working for Boehringer Mannheim in New York, but he moved on to Pfizer and then was recruited for a lucrative position at Union Carbide. He was to form a subsidiary to test medical equipment in clinical trials in Japan. He was 34 years old, fluent in Japanese, basking in his new status.

Wigand is proud of his time at Union Carbide—"I was right at the top," he said—but Linda grew progressively weaker. "Jeff searched the world for specialists," recalled Conrad Kotrady, a Salt Lake City doctor who has known him since graduate school. "He



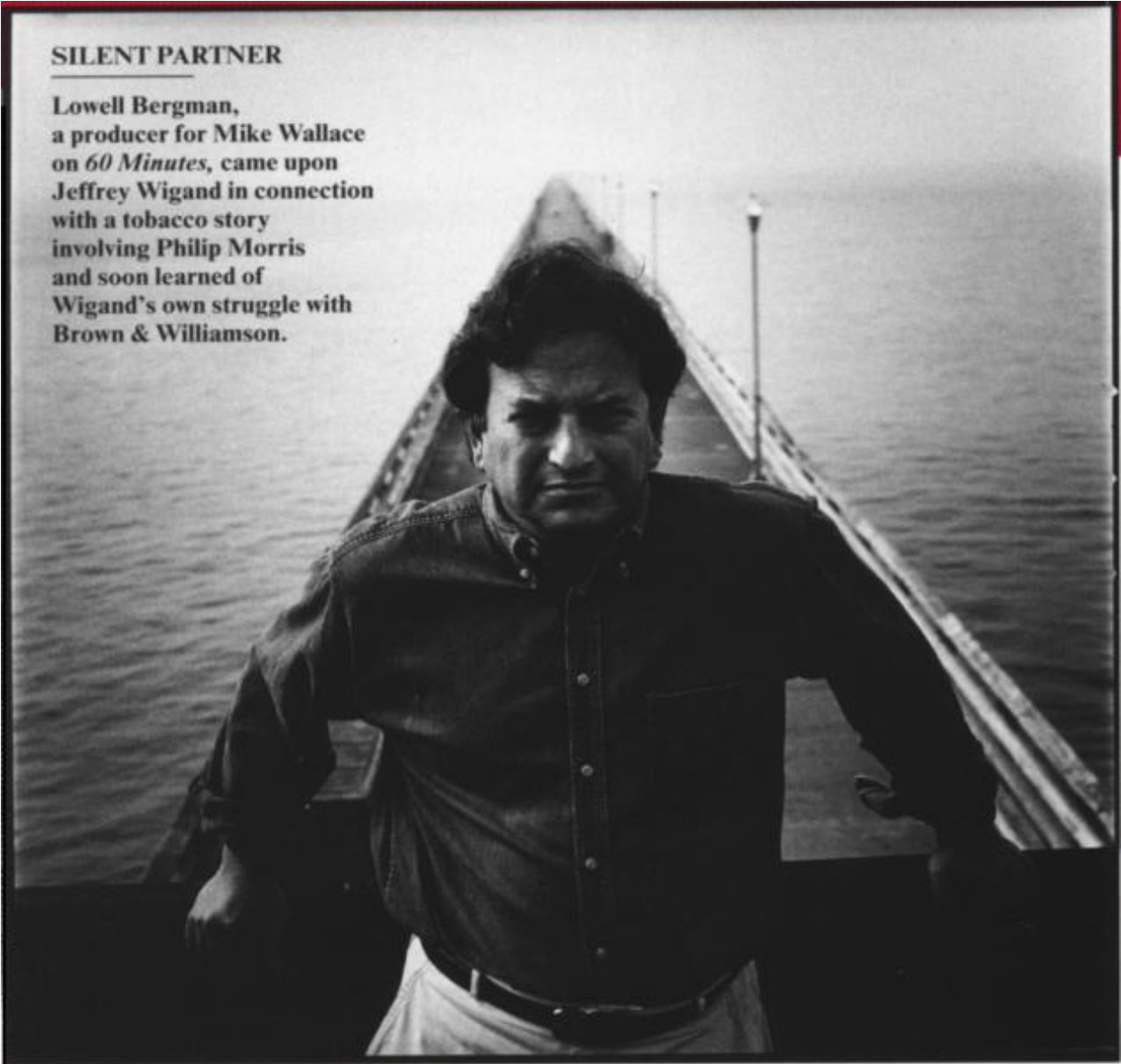
attacked the problem as if it were an assignment, but then her condition became increasingly difficult for him." Wigand burrowed into his work, withdrawing from the agony of watching his wife disintegrate physically. In 1973 their daughter, Gretchen, was born.

Wigand has a quality his brother recalled as a kind of personal shutdown—an ability to close off his emotions when things get difficult. As Linda's condition worsened, Wigand distanced himself from her and his baby. "I really did not have a marriage," he told me. "If I said I didn't play around, I would be lying. Linda came back to the States, and something happened in my parents' house. She went home to Buffalo." Several years passed before he saw her or his daughter again, and eventually the marriage unraveled. Linda's parents believed that Wigand had abandoned their daughter, one friend recalled. "I thought Linda was dead," Wigand said quickly. "That's what a friend said." Wigand made little attempt to communicate with his daughter. It is Kotrady's belief that Wigand did not want to upset her by taking her away from a stable home with loving grandparents.

Wigand met his second wife, Lucretia, in 1981 at a sales conference at Ortho Diagnostic Systems, a subsidiary of Johnson & Johnson, where he was a director of marketing. She was a sales rep. He was, he later remembered, attracted to her cool demeanor and willowy good looks. Lucretia had spent part of her childhood in Louisville, the daughter of two doctors who separated when she was eight. Lucretia's mother, at one time on the staff of the National Cancer Institute, used to tease Jeff about Lucretia's expensive tastes. They married in 1986.

## SILENT PARTNER

Lowell Bergman, a producer for Mike Wallace on *60 Minutes*, came upon Jeffrey Wigand in connection with a tobacco story involving Philip Morris and soon learned of Wigand's own struggle with Brown & Williamson.



*SILENT PARTNER* Lowell Bergman, a producer for Mike Wallace on *60 Minutes*, came upon Jeffrey Wigand in connection with a tobacco story involving Philip Morris and soon learned of Wigand's own struggle with Brown & Williamson.

Soon Wigand moved on to a grander position as a senior vice president at Technicon, responsible for marketing blood-testing equipment. Wigand was filled with ideas, but he was often testy. Bob Karlson, his mentor at Ortho, recalled pulling on his ear at meetings to tell Wigand to pipe down when he got out of hand. "I have a very bad problem—saying what's on my mind," Wigand told me. "I don't take too much crap from anybody."

He was a perfectionist who kept a file of correspondence with businesses he dealt with whose products were flawed. In one instance, he returned some hardware to a catalogue company. In another, he demanded reimbursement for a cleaning bill for water-damaged items. Later this file would be detailed and used against him as evidence in B&W's private investigation, suggesting that he had committed fraud. Wigand had a tendency not to share information, even with Lucretia. On the day before her 30th birthday, Wigand called her from the office: "My friends and I are coming home to

celebrate." Later that afternoon, Lucretia used his car to go for a pizza. "All of his office was in the backseat." She recalled asking, "Is there something you want to tell me?" As it happened, some of Technicon's upper-management team, including Wigand, had been dismissed. In 1987 he was made president of a small medical-equipment company called Biosonics in Fort Washington, Pennsylvania. Wigand recalled a power struggle with the owner of the company, who recently wrote an article in *Philadelphia Forum* about his experiences with Wigand, accusing him of having bullied female employees and in one instance of having shined a light on his subordinates while he was asking about a company matter. Wigand denies both charges.

For one year Jeff Wigand did consulting work. He finally decided to pursue his dream of being a doctor, but Lucretia convinced him he was too old. Then he approached a headhunter, who asked if he would consider working for Brown & Williamson, the tobacco company. Lucretia was puzzled by the offer: "I said, 'Why do they want you? You know nothing about tobacco. You had—what?—17 years of health care.' It did not make sense."

From his first meetings with Alan Heard, the head of R&D for BAT Industries (formerly British American Tobacco), the conglomerate with \$3 billion in annual profits that owns B&W, Wigand shut his eyes and ignored the Faustian arrangement. Heard said he wanted to develop a new cigarette to compete with Premier, a product made by the R. J. Reynolds Tobacco Company (RJR) which had little tar. The appeal was seductive for a man who prided himself on his research skills, and Wigand's title would be impressive: head of R&D. He would soon be paid more than he had ever earned in his life—\$300,000 a year. His department would have a budget of more than \$30 million and a staff of 243. Shortly after he began the interviews, Wigand took up smoking. He later said, "I was buying the routine. I wanted to understand the science of how it made you feel."

From the beginning, Lucretia encouraged the move to Louisville. Since her parents' divorce, her father had remarried a couple of times. Along with his medical practice, he owned tobacco land. A move back to Louisville with Wigand in an important position in that industry would probably impress Lucretia's father and might draw the family closer together. Besides, she had just had a baby, and she believed that life in Louisville would be a boon for a child. "I thought if I made big bucks she would be happy," Wigand told me.

When Wigand told his brother he was going to work for a tobacco conglomerate, James said, "You've got to be kidding." But Wigand was optimistic. "I thought I would have an opportunity to make a difference and work on a safer cigarette. I talked to a lot of my friends from college. They said, 'You know, you're never going to be able to come back. You can't go from tobacco back into health care.'"

┆ Palladino and Sutherland are the Nick and Nora Charles of modern criminal investigation.

## II. THE FIRM

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From Wigand's first days at B&W, it was apparent to him that there was a contradiction in his situation. On his good days he believed he was helping the world. On the other days he was a guy with a family who earned a large salary. He had a feisty, urban, go-getter personality in an unusual city; Louisville was a Velveeta town, clannish and sophisticated, once ruled by old families such as the Bingham publishing dynasty. At B&W, Wigand's intensity and uncongenial personality grated on many of his southern colleagues. Wigand believed that he was there to shake up the ossified atmosphere. Three months after he was hired, RJR withdrew Premier from the market because the taste was unpleasant, acrid, and synthetic. Had Wigand been shrewder, he might have thought that he was now in a trap. There was no real reason for a non-tobacco man to remain at the company. But he attempted to keep his contrarian nature under wraps. He went to company parties, and Lucretia volunteered to help at the Hard Scruffle steeplechase, a charity event. It is conceivable that B&W had sized Wigand up psychologically. He surely appeared to be highly ambitious, money-hungry, a potential captive to the firm.

In Louisville, the Wigands bought a two-story, red brick house in a pleasant suburb. There was an *allee* of trees in the middle of the road, giving a sense of affluence. Wigand had two offices at B&W, one at the R&D laboratory and one in the office tower. When he toured the lab for the first time, he was startled, he told me, to observe how antiquated it seemed. "The place looked like a high-school chemistry lab from the 1950s with all sorts of old-fashioned smoking machines. There was no fundamental science being done." There was neither a toxicologist nor a physicist on staff, a fact which Wigand found very unsettling. How, he thought, could you be serious about studying the health aspects of tobacco or fire safety without the proper experts? According to documents that later wound up in the University of California at San Francisco library, even in the 1960s research had been done for B&W which tobacco activists say proved that cigarettes were addictive and caused cancer. However, Wigand says he did not learn of those studies until he left the company.

Shortly after Wigand was hired, he was sent to an orientation session on tobacco-litigation matters at Shook, Hardy & Bacon, a Kansas City law firm that specializes in defending lawsuits for the industry. The firm is reputed to have its own in-house scientists and tobacco researchers. Shook, Hardy & Bacon and B&W lawyers were aware of the dangers that the company's research could pose in a lawsuit. B&W lawyers had devised an ingenious method for avoiding discovery of sensitive information: have it "shipped offshore"— a practice one attorney referred to as "document management." It was the suggestion of Kendrick Wells, an attorney in B&W's legal department, that staff be told that this effort was "to remove deadwood," and that no one "should make any notes, memos or lists." Wigand later testified that another law firm, Covington & Burling, sometimes edited scientific information on additives.

Nine months after Wigand went to work, he attended a meeting of BAT scientists in Vancouver, British Columbia. The top R&D executives from BAT'S worldwide tobacco subsidiaries were there to discuss health matters and the possibility of a nicotine substitute. There was a feeling of excitement among the scientists that they could reduce

health risks for smokers. By then Wigand had grown used to the euphemisms of his new industry. He understood that "increased biological activity" in reports was code for cancer and other diseases. At the meeting, Wigand would later testify, roughly 15 pages of minutes were taken by Ray Thornton, a British scientist. A copy was sent to Wigand, who circulated copies to upper management.

Soon after that, Wigand says, he was called into Kendrick Wells's office and asked to sign off on a 3-page synopsis of the minutes—a reduction of about 12 pages. In a recent deposition Wells testified that Raymond Pritchard, the then C.E.O. of the company, had assigned Wigand to produce a revised set of minutes.

Within the industry, BAT is known as "the tough guy" for its ferocious litigation strategy. As a foreign corporation it has never enjoyed quite as much political influence as the American tobacco companies, which donate vast sums of money to organizations as diverse as the African-American political caucuses, the Whitney Museum, and the political-action committees of dozens of candidates, especially Bob Dole. In the late 1970s the Federal Trade Commission (F.T.C.) investigated the advertising practices of all the tobacco companies. In a nonpublic report later read at a congressional-committee meeting, B&W's Viceroy cigarette was mentioned for a proposed test-marketing campaign that appeared to target minors. Several years later, a CBS anchorman in Chicago, Walter Jacobson, broadcast a segment about the report. B&W sued CBS, which paid a \$3 million judgment after the case went all the way to the Supreme Court. B&W also clashed with RJR and Philip Morris over Barclay cigarettes and a false-advertising charge brought by the F.T.C. In 1987, B&W withdrew from the Tobacco Institute, an American tobacco lobbying group, for several years.

Although B&W employed 500 people in Louisville, Wigand chafed at the bunker mentality. "It was an incestuous society," he said. "Wherever you went—to dinners, to parties—the B&W people all stayed together. They never mixed." Many of the executives smoked, although in private they often talked about the risks. "Their whole corporate philosophy was 'Shit flows downhill.' You get paid very well. You have lots of nice benefits." Later he recalled, "I didn't trust anyone at B&W. I was a different animal."

Wigand felt that the scientific data at B&W was Stone Age, as he later told a friend. He brought new computers into the R&D facility and hired a physicist and a toxicologist. He worked on reverse engineering on Marlboros, attempting to discern their unique properties; he studied fire safety and ignition propensity.

After Vancouver, Wigand continued to push for more information. He began to hear mysterious names at company dinners—"Ariel" and "Hippo." "I did not drink at all then—only Diet Pepsi—and I would ask, 'What is that?' And suddenly people would clam up." As the head of R&D at B&W, he should logically have been aware of every aspect of the company's research. "There were essentially two research-and-development departments. They did the work on nicotine overseas." Wigand says he did not discover that Ariel and Hippo were research studies on health-related issues conducted in the 1970s at BAT in Switzerland until he read thousands of pages of documents taken from a

law firm in downtown Louisville by a concerned paralegal named Merrell Williams, a Faulknerian personality with a doctorate in drama. "My perspective was like night and day," Wigand told me. "It was like being aware and not being aware. You look back on things that happened when you were present and you say, 'Hell, they knew about that all along.'"

Wigand began to keep an extensive scientific diary, both in his computer and in a red leather book. "I kept it day by day, month by month. I saw two faces, the outside face and the inside face. It bothered me. I didn't know the diary was going to be valuable." In one early entry, Wigand recalled, he recorded a promise made to him that he would be able to hire "a scientific and medical advisory committee." "Then, all of a sudden—poof! — it's gone."

Wigand's scientific ethics had been shaped during his years working for Johnson & Johnson; he admired particularly the stringent standards enforced by C.E.O. James Burke during the recall of shipments of Tylenol after a poisoning scare in 1982. At first he believed that Ray Pritchard was a man of honor like Burke. At lunch from time to time, he complained in private to Pritchard about Thomas Sandefur, then the company president. Wigand had come to believe that his safe-cigarette project was being canceled. He told *60 Minutes* that he had gone to ask Sandefur about it and that Sandefur had been harsh: "I don't want to hear any more discussion about a safer cigarette. . . . We pursue a safer cigarette, it would put us at extreme exposure with every other product." (On *60 Minutes*, B&W said this was false.)

Wigand made no secret of his lack of respect for Sandefur: "I wouldn't consider them all intellectual titans. Sandefur used to beat on me for using big words. I never found anybody as stupid as Sandefur in terms of his ability to read or communicate. . . . In terms of his understanding something and his intellectual capacity, Sandefur was just like a farm boy."

According to Wigand, Sandefur had a particular interest in B&W's manufacture of snuff. There were problems with bacterial fermentation, Wigand told me. "They could never get it fermented correctly. They could not get a consistent taste or particle size. They could not understand the tactility of soil bacteria and how it worked on the natural flora. What was the effect of ammonia to flora? Most moist snuff deteriorates after packaging. If you could find a way to sterilize it, you would slow up bacterial fermentation and have a safer product. No one had done this for four years."

Snuff was a critical product for B&W, Wigand said, because it is "start-up stuff for kids. . . . It was Sandefur's baby. You have to look at the age somebody starts smoking. If you don't get them before they are 18 or 20, you never get them." (Thomas Sandefur declined to make any comment for this article.)



*SUPERSLEUTHS* San Francisco-based private investigators Jack Palladino and his wife, Sandra Sutherland, were hired by Wigand's lawyer Richard Scruggs to mount a counterattack to the P.R. campaign being waged against Wigand. "This is a war," declared Palladino.

According to *The Journal of the American Medical Association*, 3 million Americans under the age of 18 consume one billion packs of cigarettes and 26 million containers of snuff every year. For a cigarette company, the potential for profits from these sales—illegal in all 50 states—is immense, more than \$200 million a year.

Wigand came to feel increasingly that there was "no sense of responsibility" on the subject of teenagers and smoking. He was disturbed by a report that on the average children begin to smoke at 14. He was surprised, he told me, by Sandefur's lack of interest in such matters, and he grew visibly testy. "I used to come home tied in a knot. My kids would say to me, 'Hey, Daddy, do you kill people?' I didn't like some of the things I saw. I felt uncomfortable. I felt dirty.

"The last year and a half I was there, Brown & Williamson used to keep me isolated. How did they know I was trouble? I was asking some pretty difficult questions: How come

there was no research file? . . . When they drink, they talk. I know a lot. My diary will reflect those meetings. I was not Thomas Sandefur's fair-haired boy."

He withdrew into a stolid isolation. Lucretia knew something was wrong, she later told me. When she asked him how things were going at the office, he would say, "Fine." If she pressed him, he would answer, "That's work, and I leave that at the office." His need to control his emotions caused him frequently to lose his temper at home, Lucretia remembered.

There was also a major additional problem at home, a hole in the center of his life. His older daughter with Lucretia had serious medical problems. According to Wigand, "Rachel was not diagnosed correctly from birth. Both specialists and general practitioners, including Lucretia's father, unequivocally stated that Rachel did not have any problem, even after substantive testing. I finally sought out a respected adult urologist who made the diagnosis of spina bifida. This required spinal surgery." In a rage, Wigand threatened to sue the doctors who had not diagnosed her earlier. It is Wigand's opinion that his father-in-law never forgave him. (Neither Lucretia nor her father would comment on this subject.)

At work he grew increasingly vocal. After 1991, B&W's evaluations of him contained new corporate euphemisms. Wigand had "a difficulty in communication." He was becoming, as he later described it, a problem for Sandefur by sounding off at meetings. For Wigand, the critical moment occurred when he read a report from the National Toxicology Program. The subject was coumarin, an additive that had been shown to have a carcinogenic property which caused tumors in rats and mice. The makeup of coumarin was close to that of a compound found in rat poison, but until 1992 no one understood the possible dangers. The new report described its carcinogenic effect. When Wigand read this in late 1992, his first reaction was "We have got to get this stuff out of the pipe tobacco." One of B&W's products was Sir Walter Raleigh. Wigand told *60 Minutes* that when he went to a meeting with Sandefur, Sandefur told him that removing it would impact sales. Wigand got the impression that Sandefur would do nothing immediately to alter the product, so he sought out his toxicologist, Scott Appleton. Wigand says he asked him to write a memo backing him up, but Appleton refused, perhaps afraid for his job. (Appleton declined to comment.)

The relationship between CBS and Laurence Tisch's tobacco company, Lorillard, became a vexing problem for the news division.

Driven by anger now, Wigand says, he determined to examine what happens when other additives are burned. He focused on glycerol, an additive used to keep the tobacco in cigarettes moist. He was involved in discussions about the nicotine patch and studied a genetically engineered, high-nicotine Brazilian tobacco called Y-I.

Wigand also began attending meetings of a commission on fire safety in cigarettes in Washington. He observed Andrew McGuire, an expert on burn trauma from San Francisco, who had won a MacArthur grant following his campaign for fire-retardant



clothing for children. The commission met approximately 40 times and had four R&D scientists from tobacco companies as members, including Alexander W. Spears, the future head of Lorillard. As far as McGuire knew, B&W was not represented. "I would look out and I would see all these men in suits listening to our discussions. I assumed that they were tobacco-company lawyers, monitoring what we were doing," McGuire said. Wigand had several conversations about his experiments with additives with other tobacco men attending the meetings, but he never met McGuire.

In the summer of 1992, Earl Kohnhorst, a senior executive at B&W, called Wigand into his office. Wigand considered him a friend, and had urged him to stop smoking—as Wigand had. According to a memo Kohnhorst later wrote, the meeting was not friendly. Wigand apparently learned he was on notice, and Kohnhorst is said to have implied that he was difficult to work with and was talking too much.

Wigand says that his anger made it impossible for him to censor himself; he had come to believe his worth as a scientist was being violated by his association with the tobacco company. He also believed that the other scientists in the company would share his values. Wigand was determined to be on the record with his research on additives. He recalled writing a memo for the files on the dangers of coumarin. He felt, he later said, that he was being diligent. In January 1993, it was announced that Thomas Sandefur, Wigand's nemesis, had been named C.E.O. of B&W. On March 24, Wigand was fired and escorted from the building. He has testified that B&W never returned his scientific diary.

### III. THE JOURNALIST AND THE WHISTLE-BLOWER

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In the early spring of 1993, Lowell Bergman, an award-winning news producer at *60 Minutes*, found a crate of papers on the front steps of his house in Berkeley, California. Bergman's specialty at CBS was investigative reporting; he possessed a Rolodex of peerless snitches, C.I.A. operatives, and corporate informants. The grandson of one of the first female leaders of the International Ladies Garment Workers Union, Bergman had a bemused, compassionate nature. He was close to 50 and had come to understand that life was a series of murky compromises. At the University of California at San Diego, he had studied with the political philosopher Herbert Marcuse and lived in a commune. Bergman's wife, Sharon Tiller, was a *Frontline* producer, and they had five grown sons between them.

Bergman often received anonymous letters and sealed court documents in his mailbox; it did not surprise him in the least, he told me, to find the box of papers on his porch. As always, Bergman was developing several pieces for Mike Wallace, the correspondent he worked with almost exclusively. They were close friends and confidants, but they argued ferociously and intimately, like a father and son. "Lowell can drive me crazy," Wallace told me. "Lowell would like to be the producer, the reporter, the correspondent, and the head of CBS News." Screaming messages and six A.M. phone calls were their standard operating techniques, but they shared a passion for corporate intrigue, and together had helped break the Iraq-gate bank scandal in 1992 and examine the accusations of

child abuse at the McMartin Pre-School in Los Angeles in 1986. Shortly after the mysterious papers appeared on his steps, Bergman won a Peabody Award for a program on cocaine trafficking in the C.I.A.

At *60 Minutes*, the on-air personalities were involved in six or seven stories at the same time and took a deserved share of the credit for the show's singular productions, but the staff was well aware that the producers actually did the backbreaking reporting. In most cases, the producers had complete freedom to develop stories, and it was they, not the correspondents, who were in hotel rooms in Third World countries at all hours bringing along reluctant sources. Later, the correspondents stepped in. Only rarely did correspondents know the explicit details of stories other teams were developing.

When Bergman received the box of papers, he took a look at the hundreds of pages of material. "They were a shambles," he recalled, "but clearly from a nonpublic file." The papers were very technical and came from the Philip Morris company. The phrase "ignition propensity" was repeated often in them. "I had never heard that phrase before," Bergman said. He called his friend Andrew McGuire, the only person he knew who had ever studied tobacco and fire. "Do you know anyone who can make sense of these papers for me?" Bergman asked. "I might have just the guy," McGuire said.

After being fired by B&W, Jeffrey Wigand remained optimistic for some time, Lucretia recalled. He came close to finding a lucrative job through a headhunter in Chicago. He gave as references Alan Heard and Ray Pritchard. He was surprised not to be hired immediately by another corporation, and soon he began to worry. He reportedly groused about his severance package to a friend at B&W, who repeated his remarks to his former boss. Several months later, Wigand learned that B&W was suing him for breach of contract. According to the suit, his medical benefits would be taken from him, a display of corporate hardball which would subsequently rebound. "If Brown & Williamson had just left me alone, I probably would have gone away. I would have gotten a new job," Wigand said. He reluctantly signed an onerous, lifelong confidentiality agreement so stringent that he could be in violation if he discussed anything about the corporation. Wigand felt trapped, and he did not know what to do.

When I spoke with Lucretia Wigand in Louisville, she used an unusual phrase, "skeletons in the closet," to describe her fear of what would happen if Jeff went public with his experiences at B&W. "What do you mean, 'skeletons in the closet'?" I asked. In repose, Lucretia is elegant and steely. She looked at her divorce lawyer, Steven Kriegshaber, who shook his head as if to warn her not to speak. "The so-called spousal abuse— you were worried about that?" I asked. "Sure," she said softly.

Alcohol and rage are at the center of what happened on a bad night in the Wigand marriage in October 1994. The tension in the family had become overwhelming while Wigand was negotiating the punitive confidentiality agreement. Since Rachel had been diagnosed with spina bifida, the marriage had suffered enormous strain. "I felt that during Lucretia's pregnancy with Rachel she somewhat over-abused alcohol," Wigand said. "She drinks quite heavily." (Lucretia denies this.) Wigand himself had at one time

been a drinker, but he had stopped when he felt out of control. After he was fired, he told me, it was not surprising that he began to drink again. Lucretia, he said, was "stunned" when she heard that he had once again lost a job. She raged that he had not told even her of his growing unhappiness in the company. She was frightened that he would lose any claim to their medical package.

Wigand recalled her mood as sometimes dismissive and unsympathetic. There are contradictory versions of the evening. According to Wigand, Lucretia "hit me in the back with a wooden coat hanger and ran upstairs into the bedroom." Furious, he chased her and then called the police. According to Lucretia, "Because of the amount he drank, he does not remember most of the evening. ... I tried to leave. He took my keys away and was grabbing me. ... I picked up the phone to dial 911. He ripped the cord out of the wall. He smashed my nose with the palm of his hand. The kids were screaming, I was screaming. I ran down the hall and picked up another phone and dialed 911. Jeff left the house before the police arrived." Whatever happened that night, Lucretia and Jeffrey Wigand both blame B&W for placing an unbearable strain on their marriage, and say that this episode played no part in their later divorce. Soon after, according to a lawyer close to the case, Wigand became concerned enough about his drinking that he checked into a clinic for four days of evaluation—which would later, in a 500-page dossier of allegations about his character, be reported as two weeks of hospitalization for treatment for anger.

Through an intermediary in the government, Wigand reached out tentatively to Andrew McGuire, whom he had observed in Washington. McGuire got a phone call: would he speak to a former R&D executive? McGuire was intrigued. A tobacco-industry witness could be invaluable to him, since he was then pressing Congress to regulate fire safety. "I don't know if this guy is for real," the government official told McGuire, "but here is his home number. Call him." Wigand's voice on the phone was so strained and wary that McGuire wondered if he might not be a tobacco-industry spy. Nevertheless, he passed his name along to Lowell Bergman.

For weeks Bergman tried to get Wigand on the telephone. Each time a woman answered, and she would tell him, "He is not home." Finally she said, "He doesn't want to talk to you." Bergman had become fascinated by the court papers involving Philip Morris, and was convinced he needed this particular chemist to make sense of them. He wanted a scientist, not an anti-tobacco advocate. In February 1994, he decided to go to Louisville. "I did the old 'call him at midnight' maneuver. He answered the phone and I said, 'If you are curious to meet me, I'll be sitting in the lobby at the Seelbach Hotel tomorrow at 11 A.M.'"

At 11 A.M. a gray-haired man in a windbreaker appeared and said, "Are you Lowell?" Bergman looked up to see a portrait of middle-aged anxiety. "I said to him, 'Let's go have a coffee.' "

It was the beginning of an extraordinary relationship. Bergman's presence in Wigand's life would eventually inspire him to come forward as a whistle-blower. For Bergman,

Wigand would become a source who needed unusual protection and hand-holding— a fact which would ultimately jeopardize his position at CBS. "As a person, the guy I met had been raped and violated," Bergman said. Wigand told Bergman that he was suffering a "moral crisis." He said that he had always considered himself a scientist, and he called the type of research that went on at B&W "a display of craft."

"O.K.," Bergman recalled saying after their first day together, " You can't talk to me about Brown & Williamson because of your severance agreement, but I have a problem. Can you analyze these documents for me?" He looked at two pages and said, 'Wow!' " After reading a few more pages about fire experiments, Wigand exclaimed, "Hey, they are way ahead of where we were."

| Scruggs said of the campaign against Wigand, "There is no bigger lie than a half-truth."

Wigand agreed to examine the Philip Morris papers for Bergman. He was to be paid like any other corporate consultant, about \$1,000 a day. "I was bothered. Everything I had seen at the joint-venture meetings said it was not technologically feasible," he later told me. "I was pissed off! They had a fire-safe-product study on the shelf in 1986 and 1987, and they knew it!" (A spokesman for Philip Morris says the company has been unsuccessful in this so far but continues to do research.)

Wigand flew to New York for a day to attend a screening of a version of the projected program at CBS. At the end of March, CBS broadcast an expose of the Hamlet project, which involved a fire-safe cigarette developed at Philip Morris. "I was angry when I saw it," said Wigand. "They knew all along it was possible to develop a fire-safe cigarette, and they even gave it a code name: Hamlet. Get it? 'To burn or not to burn.'"

At the end of the *60 Minutes* episode, Mike Wallace questioned on-camera a Philip Morris executive who had announced that his company was filing a \$10 billion lawsuit against ABC for a *Day One* broadcast about alleged manipulation of nicotine levels in its cigarettes. ABC had problems: one of them was a source nicknamed Deep Cough, who was an executive at RJR. If Deep Cough's identity was to be kept a secret, she could not testify in a libel suit.

In April 1994, Henry Waxman, the California congressman, was holding public hearings on tobacco in Washington. Wigand watched the live coverage on C-SPAN of the testimony of top executives of the seven largest tobacco companies. He was in his den with Lucretia when he watched Andrew Tisch, the chairman of Lorillard, testify, "I believe nicotine is not addictive." Then he heard Thomas Sandefur say the same thing. Wigand was furious. "I realized they were all liars. They lied with a straight face. Sandefur was arrogant! And that really irked me." Wigand, however, was hamstrung; he had the threat of a lawsuit hanging over his head. He could not criticize Sandefur publicly or his child might lose her medical insurance.

After Wigand started working as a confidential expert for CBS, his name began to circulate in anti-tobacco circles. He was soon called by the Food and Drug Administration.

Would he consider advising F.D.A. experts on cigarette chemistry? His identity would be protected. For Wigand, the invitation to Washington was a major step toward regaining his self-respect. By the time F.D.A. commissioner David Kessler appeared before Congress in June 1994, he had reportedly been tutored by Wigand on ammonia additives and nicotine-impact boosting.

Wigand was invaluable; he even helped the F.D.A. circumvent a standard tobacco-industry tactic—"document dumping." If a company is subpoenaed for documents related to nicotine studies, it is common in the industry to respond "by driving a tractor-trailer to Washington and leaving 10 tons of documents at your door," according to a close associate of the F.D.A. In this case, perhaps with an assist from Wigand, the F.D.A. was able to ask B&W for specific papers.

That month, Wigand said, he received a threatening phone call. "Leave or else you'll find your kids hurt," the caller said. Wigand called Bergman in a panic. "I thought it could be a crank call," Bergman told me. "I knew Wigand was in a great quandary. He was bound up because of his contracts and yet he was filled with moral outrage." Bergman had been through this before with whistleblowers. He even had a name for Wigand's mental state: "transition time." He remained patient and faxed amusing drawings to Wigand's children.

Soon Wigand told Bergman another death threat had come. Wigand was becoming distracted, unable to concentrate. He had started to drink again. "I used to come home and drink three fingers of booze every night," he told me. One day when he had his two young daughters in the car, he stopped to buy a bottle of liquor. "I am no goddamned angel. I can't hide what happened. I had one of those big jackets with the big pockets. Instead of getting a basket, I grabbed it and put it in my pocket. And then I realized I didn't have cash. And I said, 'Wait a minute,' and I ran out. And then somebody came running after me. They said, 'Somebody has been stealing in here before.' The truth of the matter is that I had the bottle in my pocket. Was it hidden? No. Was it exposed? Yes. My children, Rachel and Nikki, were in the car. I had \$300 in cash in the car. I said, 'I have money. Look.' I made sure that I showed the cop the money. Was it intentional? It was two days after the death threat. I wasn't thinking. Why would I want to steal a \$10 bottle of booze? Give me a break. The whole thing was dismissed without adjudication. You can be arrested and charged with a lot of things in your life. Did you know that even Thomas Sandefur was once arrested and pleaded guilty on a D.W.I.?"

Wigand did not tell Bergman about the episode, but Bergman sensed that something was very wrong. He worried about Wigand's state of mind. He was at the beginning of a long dance to create a sense of trust in his source, who he felt had an incredible story to tell. "Other whistleblowers had come out of the tobacco industry to tell what they knew, but Wigand was singular. As an explorer, I felt, Wigand was Christopher Columbus," Bergman told me. "The bottom line is that this was a man with significant information, but it wasn't just that he had to worry about the obvious, which is Brown & Williamson crushing him, but he had to worry about what would happen in his personal life."

A lawyer from the Justice Department went to Louisville in April to take Wigand's

deposition on cigarette ignition. Privately, he complained that the lawyer did not ask the right questions. He also worried about his signed agreement with B&W and claims he took its legal department's advice to stick to the company line. He testified that there was no possibility of developing a safe cigarette and that, as far as he knew, B&W had never committed fraud—testimony that would later be used to challenge his credibility. By this time Wigand had become a shadow expert on the tobacco industry. He was hired by ABC's law firm Wilmer, Cutler & Pickering to give technical advice in the \$10 billion lawsuit Philip Morris had filed against ABC.

Wigand continued to tell Bergman that he could not talk about B&W until his severance package was completed, in March 1995. Wigand did not tell Bergman that he had signed a confidentiality agreement, but several of Bergman's finest pieces had been with sources who had been bound by such contracts. "The idea of somebody having a confidentiality agreement didn't even occur to me as a problem! That was my job, to get people to talk!"



*STATE'S MEN* Mississippi attorney general Michael Moore and Richard Scruggs (with aviator glasses)—who is one of the chief lawyers representing Mississippi against the tobacco companies and who is also Jeffrey Wigand's lawyer—stand beside Scruggs's private jet.

In January 1995, Wigand began teaching school, much to Lucretia's surprise. He was making one-tenth the salary he had made at B&W, but he seemed quite happy. Meanwhile, Bergman had been feeling the heat from New York. Mike Wallace was getting antsy: "For God's sake, Lowell, when are you going to get this guy on tape?" In March, Bergman met with Wigand and his wife at a French restaurant in Louisville. If Jeff went on-camera, Lucretia asked, what would they do if they got sued? Bergman said, "There may be anti-tobacco lawyers who would agree to represent you for free. But we don't even know yet if there is a story." Was there anything new to say on *60 Minutes*? Bergman next sent his associate producer to Louisville to do a preliminary interview with Wigand. She called Bergman after the interview and mentioned that Wigand had given her a copy of his B&W settlement agreement with the confidentiality clause. "He needs a lawyer," Bergman said.

Wigand took up smoking. "I wanted to understand the science of how it made you feel."

In June 1994, *The New York Times* had run long articles based on thousands of pages taken from B&W—the cache of papers copied at a Louisville law office by Merrell Williams. Only in July 1995 did the University of California and tobacco expert Stanton Glantz put the documents on the Internet after successfully fighting off a serious lawsuit brought by B&W.

According to Bergman, "It took Jeff a long time to come out and decide that he wanted to tell his story. He used to say, 'Lowell, I want to do this, but I need support. I need my wife there. We can't do it yet, because Lucretia is not there.'" Wigand had continued to keep secrets from her: In May, the Wigands had come to New York as guests of *60 Minutes*. It was obvious to Bergman that Wigand had not told Lucretia that he intended to be interviewed. "He expected me to explain it to her," Bergman told me. All summer long Wigand debated about his public role, and Lucretia grew increasingly panicky. Meanwhile, he continued to advise Wilmer, Cutler & Pickering regarding Philip Morris's suit against ABC. He was even asked to testify for ABC if the case should go to court. Bergman read his name on a wire-service story. "I called him and went ballistic! I said, 'Do you understand that B&W will now go to court to keep you from testifying? Soon every news outlet in America will be calling you.'" Bergman had begun to corroborate Wigand's story from the taped interview he had made; he knew that the Merrell Williams B&W documents supported Wigand's assertions about addiction, disease, and the role of various individuals. "I wasn't doing a personality profile. I wanted to find out what he knew that was different."

In July, Bergman began to get concerned. "I could see right up front that Jeff was going to wind up testifying. Philip Morris knew about him, the Justice Department knew about him, and so did the F.D.A. I called up Ephraim [Margolin, a lawyer friend who was advising Wigand by this time] and said, 'Your client may wind up with a court order not to

speak. Let's get the guy's story on-camera and lock it up!' Ephraim had my verbal understanding that we wouldn't run it until he was ready. Jeff was worried about homesteading his house in case he lost a breach-of-contract suit. He showed up in New York and said, 'Ephraim wants you to write him a note.' So I did." The note stated that CBS would not run the interview without Wigand's permission, and that they would reconsider the matter on September 3. It was a harmless exercise, Mike Wallace later told me he believed, intended to keep a source happy and calm.

Bergman told me, "I knew it was going to take months to check out what he had to say. And I thought, Fuck! If he is going to testify in the ABC case, then it will be out there on Court TV in October. We have their key witness, and we can run his story in October or November. I had already yelled and screamed about him listing his name. He was playing his control-freak games. I said, 'Great, you want to trust these people at ABC. What about this talk about ABC settling the lawsuit with Philip Morris?' I told him, 'The difference between ABC and CBS is that I will raise holy fucking hell if anything happens at CBS.' "

On September 12, Mike Wallace was asked to attend a meeting with Ellen Kaden, the CBS general counsel, Bergman, then president of CBS News Eric Ober, *60 Minutes* executive producer Don Hewitt, and Phil Scheffler, Hewitt's second-in-command. "I think we have a problem," Kaden said, and used the phrase "tortious interference," which she said involved persuading someone to break a contract with another party. Because Wigand had a confidentiality agreement with B&W, she said, CBS could be "at a grave, grave risk." She was proposing something unprecedented in the history of CBS News—stopping an important story in midstream for fear of a lawsuit that hadn't been threatened. Someone at the meeting voiced concern about an aspect of the story that showed Andrew Tisch, the chairman of Lorillard and the son of CBS chairman Laurence Tisch, with Thomas Sandefur swearing before Congress that nicotine was not addictive. "How do you expect us to go on the air with a piece that might put the chairman's son in jail?" someone said. Hewitt, by disposition noisy and opinionated, was muted, as were Ober and Wallace. Hewitt later recalled that he had had no intention of "playing cards with a stacked deck." He advanced none of the First Amendment arguments considered routine, such as: How could you have a confidentiality agreement when there were thousands of pages of supporting documents on the Internet? And Hewitt made no offer to press the issue with his boss, Larry Tisch. Bergman, who was on his way to London to interview BAT executives, was told to cancel the trip.

Don Hewitt's relationship with Larry Tisch soured after Tisch got control of CBS in 1986. "I am not proud of it anymore, but Mike Wallace, Walter Cronkite, and I were the cheerleaders for Larry buying the network," he said. "The night Tisch bought CBS, we were all up at our friend Mollie Parnis's slapping him on the back." A week later, Hewitt went to see him. "I said, 'Larry, we have been pretty good friends, and I need a favor.' I said, 'You have handed me all of this money. Tell me what to do with it. Lead me to a



good financial adviser. Who knows better than you?' I got the brushoff. Later I heard he said, 'I not only pay that son of a bitch all that money—now he wants free business advice!'"

The relationship between Hewitt and Tisch, who are both 73, grew icy, according to Hewitt, when Tisch realized that he could have no editorial influence on *60 Minutes*—an assertion Tisch denies. In fact, the two men shared certain personality quirks: Hewitt was as voluble as Tisch and, like his new boss, had a desire for respectability. Hewitt's peppery letters and messages were famous in the city, as was Tisch's pose of modest conviviality. A few years after Tisch became C.E.O., *60 Minutes* produced a searing report on the American Israel Public Affairs Committee that Tisch didn't like. "He stopped talking to me at that point," Hewitt recalled. "I went to a reception that Warren Phillips [publisher of *The Wall Street Journal*] had at the River House, a room full of people like Punch Sulzberger and Kay Graham. I walked in and said to Larry, 'Hey, boss, how are you?' He said, 'Don't you "Hey, boss" me.' He turned his back and walked away! We next did a story on Temple Mount in which we say that the Jerusalem police got out of hand, and somebody tells me that when Larry was asked about it his answer was 'Don't ask me. Ask Horowitz and Wallach, the two self-hating Jews who changed their names.' . . . We were the most profitable broadcast in the history of television. The fucker got out of here with all that money only because we kept his company afloat." According to Tisch, "This is nonsense! Jesus! This poor fellow has a complex. So many things have been attributed to me that I never said. What would I care what Don Hewitt's last name was originally?"

In the midst of the furor over the Temple Mount piece, Hewitt said to Tisch, "Larry, you are, in effect, our publisher. It is up to you to defend us." Tisch answered, "I am not your publisher and I have no intention of being your publisher." "That episode with Temple Mount unsettled Larry," a close friend of his recalled. "He had no idea that as the new proprietor of CBS News he had to respect his news division and their editorial judgment."

After Tisch took over CBS, the news division was stripped of a good deal of its power and reputation. At a time when ABC was expanding its news operation, Tisch cut the CBS budget drastically. He sold off the lucrative CBS record company, refused to invest in cable, and was outbid on broadcast rights to the N.F.L. football games that were the lead-in to *60 Minutes*. "You have to understand," a friend of Tisch's told me, "Larry likes money. Money is a game for him!"

The relationship between CBS and Tisch's tobacco company, Lorillard, became a vexing problem for the news division. According to someone who knows Tisch well, when he bought Lorillard, in 1968, he viewed it only as a potential investment. "Years ago, the Tisch family was not afraid of liability. If he had asked his technical people, 'Am I in any danger?' he would have gotten the typical answer back: 'You can't prove anything in a liability case since the surgeon general forced the companies to put a warning on the packs.'" Tisch could not have forecast then the sweeping change in tort litigation, the possibility of immense jury awards. There was no imagining in 1968 how medical costs

would soar in a few years. "None of this was on the horizon," Tisch told me. "I couldn't tell you today whether or not I would have bought Lorillard 30 years ago. . . . There is no clearcut proof about addiction. I am not a scientist. I never smoked. I take a drink, but am I an addict? Liability suits? This is all pure speculation. I hate it when people tell me what I have been thinking."

Lorillard became an immense cash bonanza for the Loews Corporation—the parent company controlled by Tisch and his brother, Robert—earning approximately \$700 million a year. For several of Tisch's friends, a key to his personality can be found in the controversy that tore apart New York University Medical Center in 1989. Tisch was the chairman of the university's board of trustees, and it was believed that he would give a substantial gift. He announced that he and his brother would donate \$30 million but with one proviso: the hospital would have to be renamed in their honor—a proposal which caused an outcry in the press. "Naming a hospital after tobacco men is just too ironic," Dr. William Cahan, a prominent surgeon at Sloan-Kettering, said in May 1989. "Around town, the University Hospital is becoming known as Lorillard General." But the hospital board gave in to Tisch's demand. According to Tisch, "There was not a great deal of negative feeling. I only received one or two letters about it. I thought the family was doing the right thing."

Lowell Bergman arrived at the Wigands' red brick house late in the afternoon on September 15. He was deeply concerned about the New York meeting and its ominous implications. His inner radar told him something was way off in the CBS decision, but he was a corporate employee. If he stormed out in a rage of protest, Wigand would be left unprotected. In the wake of ABC's recent settlement in the Philip Morris suit, Wigand felt doubly vulnerable and exposed, because his name was on the witness list. He said, "They're going to sue me, and I don't have any money." During dinner that night, Bergman received a phone call from Jonathan Sternberg, a CBS lawyer. "Leave that house right now," he told him.

At the end of September, Bergman spent a long weekend cutting a version of the B&W expose. "I wanted to show Mike, Don, and Eric Ober exactly what it was CBS News wanted to kill." Bergman screened it for the three men that Monday. He recalled, "Hewitt was jumping up and down, yelling, 'Pulitzer Prize!'"

Soon after, Bergman ran into Phil Scheffler in the hall. The show's managing editor looked somber. "All he said to me was 'Stop!' in a loud, booming voice," referring to Bergman's reporting on Wigand.

In the research files of Nexis, the information-retrieval service, there are 220 newspaper and magazine stories that have mentioned "tortious interference" since CBS News made the decision not to allow the Wigand segment to go on the air. It is commonly believed that Tisch, who was in the midst of talks with Westinghouse concerning a merger with CBS, would not entertain the possibility of the threat of a tobacco-company lawsuit. Tisch had witnessed personally the consequences of tortious interference. In 1983 he had been brought onto the board of Getty Oil by Gordon Getty. Several months later he and

Getty toasted a bid from Pennzoil to acquire Getty—a bid that would later be topped by Texaco. Pennzoil sued in a famous case in which Tisch testified, but Texaco was forced into temporary bankruptcy when Pennzoil won a record-breaking settlement. Still, Tisch denies that this experience had anything to do with the CBS decision. "What I went through had nothing to do with the B&W episode. I read about it in the paper, the same way you did," Tisch told me.

It was not widely known that a complex financial deal was going on at Lorillard about the time Bergman was trying to salvage the Wigand interview. At the end of 1994, the Federal Trade Commission had ruled that B&W had to sell off six of its discount, or value-brand, cigarettes—Montclair, Malibu, Crown's, Special 10's, Riviera, and Bull Durham—for anti-trust reasons. Lorillard was a logical buyer because, although it controlled close to 8 percent of the tobacco market with brands such as Kent, Newport, and True, it was decidedly weak in the area of discount cigarettes. The potential acquisition of Montclair and the other brands would round out the Lorillard product line and increase cigarette sales by more than five billion units. While the acquisition was being studied inside Lorillard, Westinghouse was negotiating for a merger with CBS, and speculation within *60 Minutes* was focused on the effect a possible lawsuit would have on the merger.

By mid-October, the Liggett Group believed it was the high bidder for the B&W cigarettes, according to a source close to the case. Just before the deal was ready to close, the general counsel for Liggett suddenly could not get the B&W lawyers on the telephone. He was stunned when he discovered that B&W had sold the cigarette brands to Lorillard. George Lowy, an attorney who represented B&W in the divestiture, has said, "Lorillard's deal was financially superior." Liggett is considering bringing legal action against B&W. The F.T.C. filing on the sale is unusual; some nine pages have been blanked out. The price of purchase and number of bidders are deleted. The deal was announced in late November, three weeks after *60 Minutes* killed its original story. But Tisch recently told me, "I don't know anything about it. I have nothing to do with Lorillard. I was spending my full time at CBS." Ironically, it is possible that the suit Liggett may bring would be for tortious interference.

In November, no one at *60 Minutes* was aware of the shuffle that was going on behind the scenes with the B&W brands. "I knew all kinds of litigation was possible," Bergman told me. "I kept saying to people, 'You are making news decisions in a corporate atmosphere where there is no appetite for this kind of story. There is possible perjury on the part of the son of the owner at the same time that the owner is trying to sell an asset at a premium price where the consequences of the story might affect the stock price. Think how history might record this!'"

By brushing against Big Tobacco, Tisch, Wigand, Bergman, Hewitt, and Wallace were all soon lost in a thicket of hidden dangers. Wigand was still oblivious to the gathering perplexities and the corporate forces arrayed against him. As far as Wigand was concerned, said Bergman, "I was the face of *60 Minutes*. I was there holding his hand when his wife freaked out." As for Bergman, he had worked for a year and a half to bring

in one of the most important stories of his career, and by doing so he had put his employer and his future in jeopardy. Hewitt and Wallace were millionaires many times over, yet their public acquiescence to CBS's reluctance to air their story threatened to tarnish their distinguished careers.

"In the end, I made the call to Wigand to tell him that management had made the decision to kill the show," Mike Wallace told me. "Lowell did not have the heart to do it." Bergman was distraught: "My work depends on my word. We had never indicated to Jeff that there would be any problem." The decision to kill the segment, Wallace said, marked "the first time in 28 years that Don and I saw something differently." Hewitt, according to *60 Minutes* sources, was attempting both to please the authorities and to act like a newsman, a position that became known as "the Hewitt straddle" in the office. However angry Wallace was, he told friends he was too old to quit on principle, and he did not understand why Hewitt was siding with management.

Hewitt called a meeting of the staff. "This is not a First Amendment issue," he said, but several people in the room strongly disagreed with him. "General counsel believes we have broken the law." Suddenly Mike Wallace burst in and screamed at Hewitt, "I understand you have just said we should not have pursued the story!"—which Hewitt had not in fact said. "Who told you that? If that is what you think, I am quitting!" Hewitt said and stormed out of the room.

In November, Hewitt decided to run a version of the B&W story without a Wigand interview. Wallace prepared a news piece for the Friday before the show was to run. It was Wallace's intention to broadcast management's decision, but when he saw the show, he realized his work had been cut by the CBS lawyers. In the hall he confronted Ellen Kaden. "Did you tell Larry Tisch about the Wigand interview? Is that why the piece was killed?" Kaden denied it. Wallace was relentless. "It doesn't make sense. You are his general counsel. Why would you not have told him?" Wallace later recalled that Kaden started to cry, a story she has denied. Kaden had sought advice from an outside counsel, First Amendment specialist Cameron DeVore, but she refused to show Wallace any of the memos he had written her. One former CBS executive surmised that no one at CBS management was willing to take responsibility for killing the Wigand interview, and Kaden was left to take the fall.

Hewitt told a *New York Times* reporter that the new version was "better, I think, than what we had before." When an Associated Press reporter called Bergman for comment, Bergman told him angrily, "The versions are apples and oranges." Wallace was enraged when he read a *Times* editorial accusing the program of betraying the legacy of Edward R. Murrow. "I don't know if things will ever go back to normal," one correspondent said. "The fact is," Wallace told me, "that Don and I had a difference of opinion about whether we should or should not push to get this thing on the air. It turned bloody and icy from time to time."

Except for Wallace, not one correspondent picked up the telephone to call Bergman. Wallace and Morley Safer were raging at each other. Safer even issued a statement to

the press attacking Wallace and Bergman for making an agreement with Wigand. The feud at *60 Minutes* offered a rare view inside the psychodynamics of TV news. "It became poisonous and contagious, with many people wanting to hang Lowell," CBS producer George Crile said. In a fit of pique, Don Hewitt told several staffers to distance themselves from Bergman. Soon a reaction developed within the office. The staff felt as if it were living in a Potemkin village. Their very integrity rested on their ability to tell a story accurately, despite confidentiality agreements. Ellen Kaden would later tell friends that she was furious that Wigand's identity had been leaked to the *Daily News*. She blamed *60 Minutes* for it and for the attacks against her in the press. It was Kaden's belief that she was only doing her job, trying to prevent CBS from entering the nightmare of tobacco litigation that ABC had endured. She later recalled learning of the million pages of red paper that Philip Morris had delivered to ABC—the color red could not be photocopied—and noted with alarm that a Virginia judge had ruled that this was not an abusive tactic.

There will be a third act, and Jeff Wigand will be unmasked," John Scanlon told me.

In Washington for an interview with President Clinton in mid-December, five *60 Minutes* correspondents rehearsed in a hotel room. Everyone agreed on areas and questions, but when the president arrived, the reporters started shouting as if it were a free-for-all. Mike Wallace demanded of one, "Why did you steal all of my lines?" The issue was Clinton, but the undercurrent was lethal, a shared understanding that tobacco and all its implications were driving them apart. Soon after, the news of the CBS sale to Westinghouse was announced. Larry Tisch's Loews Corporation made nearly \$1 billion on the sale. CBS general counsel Ellen Kaden made close to \$5 million. And Eric Ober would receive around \$4 million from severance and stock options.

'At Christmastime, I was disinvited from going to Lucretia's father's place," said Wigand. The debacle at *60 Minutes* was all that was needed to make their marriage collapse. A few weeks earlier, in late November, Wigand was leaving school when he noticed a car coming at him across the parking lot. "I thought it was the end," he later told me. In fact, it was another subpoena from B&W, demanding that he appear in court for violating his confidentiality agreement. Soon after, he flew to Mississippi to give a deposition in the state's case. "Are you aware that when you get back to Kentucky you could very well go to jail?" his lawyer Ephraim Margolin, a criminal-defense expert, reportedly asked him. "I better think about this," Wigand said. That afternoon Wigand was very late arriving at the one-room courthouse in Pascagoula. Approximately 15 lawyers from the tobacco companies were waiting, betting that he would not show up. Wigand took some time to make up his mind. "Fuck it. Let's do it," he finally said to Margolin. It was the real beginning of his new life, but Wigand worried about Lucretia. "She didn't understand what I was doing. All she cared about was that it disrupted her economic system."

'We were a quiet little company before all this happened," an executive for B&W's Kool brand tells me on a plane ride to Louisville. "Then we wound up on page one." I ask him the standard question in Tobacco Land: "Do you want your children to smoke?" He

responds irritably, "I see where you are going with this. You are going to say that an unnamed Kool spokesman doesn't want his daughter to smoke. ... I think tobacco has been singled out unfairly."



*COMPANY-LINE MAN Kendrick Wells, a B&W attorney, denied that the minutes of a health-related meeting in Vancouver were improperly altered.*

#### IV. THE ATTACK

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In late November, the litigator Stanley Arkin, one of more than a dozen lawyers working for B&W to head off the Justice Department's investigation into the tobacco industry, recommended that B&W hire public-relations man John Scanlon and Terry Lenzner, the former Watergate deputy counsel who is the head of Investigative Group Inc., a firm that specializes in legal work for corporate takeovers. Since his days as a liberal Republican lawyer, Lenzner has traveled philosophically from being someone who out of principle forced the Nixon administration to fire him to being an ambitious investigator in his 50s who would like to compete with Jules Kroll, a leader in the field. Like Arkin, Lenzner is attracted to the game of big-time corporate litigation, but, according to several former partners, his business has suffered recently. Lenzner's assignment was to prepare a lengthy dossier that B&W could use to torpedo Wigand's reputation with Jimmie Warren, the innovative Justice Department prosecutor running the investigation into the tobacco executives at Central Justice, the elite unit of the Justice Department which monitors national policies. "Wigand is the major witness against them in the federal grand jury in both Washington and New York," John Scanlon told me.

Scanlon and Arkin had worked together before. In 1989 they volunteered to help Covenant House, a shelter for teenage runaways in New York, defend Father Bruce Ritter, the director, against sexual- and financial-misconduct allegations—an ironic assignment for Scanlon, who at one time had wanted to be a priest. As part of the public-relations campaign, Covenant House held a press conference in which confidential information about Ritter's 26-year-old male accuser was made public—a classic destroy-the-accuser technique. According to *Newsday*, the ploy backfired, however, in a groundswell of revulsion from New York social workers and resulted in more than five other boys' coming forward to make similar accusations against Father Ritter.

Scanlon is the foremost practitioner of what he calls "guerrilla P.R." For columnist Murray Kempton, Scanlon is this generation's Roy Cohn—"a man proud of his infamies." During the McCarthy period, Roy Cohn was considered a master of the art of using false statements and exaggerations to impugn someone's reputation. As a young man, Scanlon was a passionate defender of left-wing causes, as far from the ethics of Cohn as it is possible to get. As he has gotten older, he has developed expensive tastes; he owns a million-dollar house in the Hamptons and another retreat in Ireland. Twenty years ago he began to build a business in corporate public relations. At first Scanlon's campaigns were a model of corporate responsibility: he helped create the gentle Mobil ads in the lower corner of *The New York Times's* op-ed page in the 1970s. His fees have always been high—he now charges \$350 an hour—but his clients became increasingly controversial. He represented both Philip Morris and Lorillard in the landmark case of the late Rose Cipollone, whose husband sued, arguing that her death had been related to cigarette smoking.

Scanlon's friends do not pass judgment publicly on his clients, although in private many are strongly critical. "Loyalty is the vice of the New York establishment," columnist Liz Smith explained. For some reporters, Scanlon is an unreliable apologist. For others he is a bon vivant whose motivations are not so different from Jeffrey Wigand's when he signed up to work for B&W. (Scanlon has acted as a consultant for this magazine, but is on a mutually agreed-upon leave of absence because of his relationship with B&W.)

Scanlon is part of the social network of prominent New Yorkers with country houses in the Hamptons. He occasionally hops a ride on a helicopter owned by financier Pete Peterson; the other passengers are Don Hewitt and his wife, Marilyn Berger. Very often on Sunday mornings, Scanlon, Peterson, and Hewitt have met for a catch-up conversation at the Candy Kitchen, a restaurant in Bridgehampton. Scanlon's clients find this access attractive.

B&W's campaign against Wigand surfaced in late December, when a *Washington Post* reporter phoned the office of Richard Scruggs in Pascagoula, Mississippi, and asked for a comment on Wigand's alleged history of spousal abuse and shoplifting as well as on his contradictory statements regarding fire safety and cigarettes. Scruggs, a law-school classmate of Michael Moore, the attorney general of Mississippi, made a fortune as an architect of the plaintiffs' suit against the asbestos companies in 1991. He flies a Lear jet

and has an estate in Pascagoula near his childhood home. As one of the chief lawyers representing Mississippi's case against the tobacco companies, he has taken an interest in Wigand as a bonus witness and has become his personal lawyer, working pro bono at the invitation of Ephraim Margolin. Scruggs met Wigand in late October. "I was astonished when he told me his story," he recalled. Until he heard from *The Washington Post*, he told me, "I had never been engaged in a case involving a smear."

From Key West, Scruggs called Wigand, who was in Washington at the Justice Department. "Jeff was very, very upset," Scruggs recalled. On the telephone, Wigand gave Scruggs his account of the "abuse" and "shoplifting" episodes, but still Scruggs realized that he had a potential catastrophe on his hands. There was nothing that would be admissible in a court, but Scruggs dreaded the sound bite "Wigand is a wife beater" and knew it could potentially scare off the Justice Department. "There is no bigger lie than a half-truth," he later told me. Scruggs knew Wigand had few close friends, and was concerned about his growing isolation. Wigand had shut himself in his bedroom for 16 hours. He believed he would lose his job because of *The Washington Post*. Later, Scruggs would say, "Jeff was despondent. I was worried he would unravel, and I didn't know what to do."

In New York, it was obvious to Mike Wallace and Lowell Bergman that a calculated attempt was being made to ruin Wigand's reputation. Over the Christmas holidays, Scanlon took Don Hewitt aside at a party at the writer Avery Corman's and told him that Wigand was "a bad guy." Hewitt and Scanlon were not just longtime friends; Scanlon had advised CBS during the libel case brought against the network and Mike Wallace by General William Westmoreland in 1985. For weeks on the helicopter, Scanlon bombarded Hewitt and the Petersons with allegations against Wigand—he was a shoplifter, a wife beater. Hewitt was at first strongly influenced by Scanlon, he later recalled. "I hear that Wigand is a bad guy," Hewitt told Wallace. Scanlon had temporarily succeeded in diverting the story of B&W to a narrative about Wigand's personality. Months earlier, Bergman had run a crime check on Wigand, but since he had not been convicted of anything, neither incident had shown up on the computer. In January, Scanlon visited Wallace at *60 Minutes*. "He sat in my office and told me, 'Mike, don't worry—B&W is not going to sue you,'" Wallace recalled. "That is when I knew John was working for them." Wallace and Bergman motivated Hewitt by stoking his competitive streak. "*Dateline* is going to put Wigand on the air, and he is our guy," Wallace recalled telling Hewitt. "How can we let our guy appear on NBC?"

Scanlon made a blunder by overplaying his hand. Hewitt's and Wallace's sense of fair play was aroused. They are known for never allowing their personal histories to get in the way of a story, but after weeks of Scanlon's hammering at Wigand's credibility, his strategy backfired completely, Hewitt later told me. Once, on the helicopter, Hewitt had told him, "John, you are full of shit." Hewitt later remarked, "What I should have said to him was 'Look, John, if you want to go out and work for tobacco companies defending people's right to smoke, more power to you. The next time someone calls you and asks you to break a guy's legs, tell them to hire a capo.'" By mid-January, Hewitt had made up



his mind that Scanlon's campaign against Wigand had to be part of any coming *60 Minutes* report. "Mike and I never even discussed whether or not we should report it," Hewitt said.

|"I used to come home tied in a knot. My kids would say 'Hey Daddy do you kill people?'"

"John was feeding me stuff all the time," Hewitt later told me. "He called me and told me the man was on a watch list at the liquor store. ... He sent me two depositions done by Wigand. One of them, to the best of my knowledge, was under lock and key and sealed. ... I kept egging him on. He was my pipeline to Brown & Williamson."

One night in January, I telephoned Scanlon at his house in Sag Harbor. "What can you tell me about Wigand?" I asked. Scanlon mentioned the contradictions in Wigand's testimony about firesafe cigarettes, then warmed to his theme: Wigand, he said, "had been arrested for wife beating" and had been "shoplifting for a long period of time." He continued, "And then there's about 25 instances which he filed . . . insurance claims on lost luggage and hotel rooms broken into. . . . He's got a very, very shaky record." It seemed obvious that he was recalling the details of a written memo, although at that time I did not know of the 500-page dossier.

"Who has dug this up?" I asked. "Terry Lenzner's group?"

"Yes," he said. "They're the investigators for B&W. ... I have been hired to do what I always do, which is to try to find out what the story is and broker the story, and I'm convinced that without a single iota of doubt he is a liar."

I asked Scanlon if he had ever met Wigand or posed these allegations to him. "No. I've read his testimony. I don't have to ask him the questions." Scanlon paused. "You know, I have seen tape in which he says that he was an Olympic wrestler and a Vietnam fighter pilot." I asked him if I could see the tape. "Only off the record, and we wouldn't want it tied to us. We would have to have that firm agreement," he said. I said I could not enter into such an arrangement. "We may not be able to talk, then, because what they are trying to say is that this is a smear campaign, and it is not a smear campaign." I said I was troubled by the implications of our conversation, the way the people who had compiled the allegations about Wigand were disseminating them to destroy his credibility. "Of course they are," Scanlon said. "I mean, he is an incredible witness. Why wouldn't they? I mean, if you had somebody testifying against you, and you knew they weren't credible, what would *you* do?"

## V. THE COUNTERATTACK

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The investigator Jack Palladino met Wigand at his house on the Colonel Anderson Parkway. In the world of hardball litigation, Palladino and his wife, Sandra Sutherland, are the Nick and Nora Charles of modern criminal investigation. Palladino wears \$2,000 suits and splashy Balenciaga ties and speaks with a rapid-fire polish that hints of his childhood in Boston. At one time Palladino wanted to be a psychiatrist, and he has a

persuasive narrative gift. Sutherland is the daughter of an Australian academic; her strength as an investigator is an intuitive sense of when something is amiss. They operate from the former I. Magnin mansion in San Francisco; they investigated the People's Temple in Jonestown in the 1980s and ran the counterattack against American Express's 1988 attempt to smear the banker Edmond Safra. They worked as well for the Clinton campaign in 1992, investigating accusations of Clinton's infidelities. The irony was that the couple usually work for Stanley Arkin, but this time they were on the other side. "I think Arkin would explain our working for Wigand as my 60s radical sympathies," Palladino said.

He was hired by Richard Scruggs to mount a counterattack, to disprove the charges in the dossier that B&W had hired Scanlon to disseminate to reporters. Palladino and his staff of seven investigators had to move quickly. An anonymous tip had already been sent to Joe Ward of the Louisville *Courier-Journal* and to Doug Proffitt, a TV personality in Louisville who specializes in tabloid investigations. The letter to Ward had a "gossipy tone," Ward told me, and said that Wigand had beat up his wife. Ward immediately suspected that it had come from the tobacco industry, and he chose to investigate further. Ward told me that even the police report had no context that he was comfortable with. Doug Proffitt, however, was less concerned. On the evening he was preparing a report on Wigand's marital problems, I telephoned him. He sounded elated that he had a scoop. "I got an anonymous tip which I'm sure came from the tobacco industry. . . . There's a side of this man that has never been told before."

Palladino met Wigand after Proffitt had aired his report. He was surprised, he told me later, that Wigand asked him to explain to his 22-year-old daughter, Gretchen, the circumstances of the case, exactly how much was at stake. "He was in a paradoxical situation. At a time when the anti-tobacco forces wanted to make him a hero, he had isolated himself from everyone, including his own family," Palladino said. "Lock up all these papers and diaries before someone steals them," Palladino told him when he visited his home office. When Palladino relayed to Wigand the charges about him being detailed in phone calls to reporters, Wigand responded angrily, "What kind of bullshit is this?" Once Palladino realized what was happening to Wigand, he instructed his entire staff to put aside whatever they were working on and check every aspect of Wigand's past. "This is a war," Palladino said.

When Wigand meets me in the Hyatt coffee shop on Saturday morning, January 27, he is carrying a stack of newspapers. The testimony from his deposition against B&W is page-one news for *The Courier-Journal*, *The Lexington Herald-Leader*, and *The New York Times*. "You were on CNN this morning, Jeff," his security man says. "I bet you never thought, growing up on Bruckner Boulevard, that you would wind up on page one of the *Times*," I say. "That is bullshit," he says. "I don't care about front pages."

I am flying with Wigand to New York, where he will be interviewed again for *60 Minutes*. "Wallace and Hewitt outed me, all right?" he says angrily—a reference to the fact that his identity was leaked to the New York *Daily News*—as we walk toward the Hyatt parking

garage. "And I intend to tell Mike what I think of him on the air." ("We are mystified that he thinks that," Wallace later said.) In the hotel driveway, as we wait in the car for the security man to join us, Wigand sees a man crossing quickly in front of us. "Holy shit, there is Kendrick Wells!" he yells. It is eight A.M., and Wells, B&W's assistant general counsel for product litigation, is heading toward the company tower. "What in the world could they be doing so early on a Saturday?" Wigand asks nervously as we leave for the airport.

As Wigand and I were having dinner at the Hyatt the night before, the B&W lawyers apparently made a decision to attempt to counteract the publication of parts of the leaked deposition in *The Wall Street Journal*. Someone on the B&W legal team suggested that their entire 500-page confidential dossier be sent immediately to the *Journal's* reporter, Suein Hwang. That would turn out to be a disastrous strategic error. No one at B&W had checked the accuracy of Lenzner's report, titled *The Misconduct of Jeffrey S. Wigand Available in the Public Record*. The list of allegations is dense and for most reporters immediately suspect. On the Sunday that Wigand taped at *60 Minutes*, Palladino met with Suein Hwang for seven hours, going over every charge in the report. "We didn't leave the Empire Diner until the early hours of the morning," Palladino later recalled. "The *Journal* editors decided they would investigate every allegation. When I got back to the hotel, I faxed my office: 'Drop everything and work on these charges.' "

The summary is divided into categories—Unlawful Activity; Possible False or Fraudulent Claims for Stolen, Lost or Damaged Property; Lies on Wigand's Resumes; Wigand's Lies About His Residence; Wigand's Lies Under Oath; Other Lies by Wigand; Mental Illness. The document is a smorgasbord of allegations, large and small. "On November 18, 1991, Wigand wrote to Coast Cutlery Company and returned an allegedly damaged knife for repair." "On March 19, 1992, Wigand wrote to Coach for Business requesting credit to his American Express card for two returned items." More serious for the Justice Department, the contradictions in his testimony on fire-safe cigarettes are detailed, which Wigand explains by the fact that time elapsed between his testimony in Washington, while he was still under a severance agreement with B&W, and what he was able to say about fire safety after analyzing the Hamlet-project papers.

In Washington, even President Clinton has started to grapple with the problem of Jeffrey Wigand. Does he reach out and embrace him as he did the late Tobacco Institute lobbyist Victor Crawford? At the moment, Clinton is battle-weary, according to one source close to him. He has survived the controversy surrounding David Kessler, the vigorous head of the F.D.A., an inside battle in which Health and Human Services Secretary Donna Shalala and White House Deputy Chief of Staff Harold Ickes lined up for Kessler, and Patrick Griffin, the president's liaison to Congress, and Erskine Bowles, a deputy chief of staff, questioned Clinton's continued support of Kessler. Griffin pointed out that Kessler would bring down on Clinton the possible loss of four tobacco states—Kentucky, Virginia, and the Carolinas—and the enmity of the tobacco lobbies. Last year B&W hired the Whitewater special prosecutor, Kenneth Starr, to represent the company in its losing fight to prevent dissemination of the Merrell Williams documents. Recently a

top White House official called the hiring of Kenneth Starr "a travesty" because of the possibility of conflict of interest in investigating the president as he attempts to regulate the tobacco industry.

If Clinton were to embrace Wigand, it would signal that the Justice Department had no reservations about his credibility, but as yet there has been no clear signal from Washington. David Kessler would not be interviewed for *60 Minutes* concerning his relationship with Wigand, perhaps because the F.D.A. is careful to appear neutral as it attempts to change the laws and force tobacco to be regulated as a drug.

In New York we go to dinner at a Japanese restaurant with Jack Palladino. Wigand sits in a tatami room and orders baby eel in fluent Japanese. Palladino tells him, "You are a very important man at this moment. You have got to get out of Louisville. You should be at a major foundation that is doing tobacco research." For Palladino, there is little about Wigand that reminds him of Edmond Safra, the banker—and the client of Stanley Arkin—he worked for who was also the victim of a smear. Safra was motivated by a sense of moral outrage, Palladino tells me, whereas Wigand's level of tension is a sign of pure fear. At dinner, he is without defenses. He says, "The only thing I have is my teaching. I will not give it up. I owe the kids." In the car on the way back to the hotel, Wigand is irritable. "I feel I am being corralled by these guys."

Wigand is tired in New York, and complains of chest pains. It is his intention to get a physical, including an EKG. He checks into the Shelburne, a modest hotel at 37th Street, although *60 Minutes* has offered to put him up at the more posh Essex House, on Central Park South. "Do you know what it would be like if I were there with them?" he says. "They would be down my throat every second."

Wigand is scheduled for his second *60 Minutes* interview Sunday afternoon. In the morning he calls me and says, "I have to have a Save the Children tie. This is what this whole thing is about—smoking and kids. Where can I get one?" His tone is intense, serious. "I won't go on the air without it," he says. I meet Wigand in his room at the Shelburne. Palladino has already arrived, and paces back and forth trying to boost Wigand's sense of himself before he is filmed. "You are a man who is trying to tell the truth. They are trying to ruin your life. It is your story. You have to tell it the way you see it." Palladino coaches Wigand on TV technique: "Don't use too many nouns or proper names. Don't be too technical. What you want is for them—the TV audience—to suddenly look up from their cheese puffs and say, 'He is telling the truth.'" "I am a scientist," Wigand responds churlishly. "That is how I speak." "Yes," says Palladino, "but consider it this way: you are getting a chance to tell your story in front of an audience." While Palladino speaks, Wigand puts on a fresh shirt and takes a Save the Children tie from a Bloomingdale's box. He knots it while looking in the mirror and then visibly relaxes. "O.K., Jack," he says. "I feel better now."

"It's simple," Palladino says. "Just tell the truth. That is all you have."

On one occasion in Louisville, I go to see the B&W public-relations man Joe Helewicz, a

former reporter for the Baltimore *Sun*. I am brought to a reception area, a large room filled with smoke. On several tables there are containers of B&W cigarettes, Kools and Capris. Near me a salesman from Pitney Bowes smokes a Kool and says, "I am supposed to be quitting, but I like coming here, because the cigarettes are free." After some time I am taken up to the 18th floor to wait for Helewicz. This is the inner sanctum of the B&W legal department, the floor that was lit until midnight five days earlier. The tension is palpable; men in suits are huddled in several corner offices. I am shown to an empty office to wait. *The Wall Street Journal* has scheduled an expose of the Wigand investigation for the next day's paper. The publication of the B&W deposition excerpt in the *Journal* has also lifted any restriction on CBS—now owned by Westinghouse—to air its long-delayed report. In private, the new CBS News president, Andrew Heyward, tells Wallace that the story is "a priority." In New York, Bergman is scrambling with a CBS crew, freed at last by Ellen Kaden to complete a process he began in 1994. The crew has waited outside Scanlon's apartment building to ambush him. Scanlon stood in the snow and said, "Wigand is a habitual liar." Earlier, he had shouted at Bergman on the telephone, "You guys are going to hose me."

While I wait for Helewicz, I review my notes from a dinner I had with Wigand the night before. Wigand had been to see a divorce lawyer that afternoon, a fact that would be known 12 hours later at B&W headquarters.

From a window I look down at the exact table where Wigand and I had dinner in the Hyatt's revolving restaurant. Suddenly I hear loud voices coming from Room 1821, then occupied by John Kiser, a B&W lawyer:

"Things have been a little hectic here."

"We need a divorce specialist ..."

"Wigand said no to child support."

"Let's do it all!"

"This will be blazed in the streets and the back alleys!"

"It has nothing to do with the law books!"

Sometime later I see Joe Helewicz. Within moments of our meeting, he tells me that, as far as he is concerned, Wigand is a liar and cheats at golf. "He's a paid mercenary," he says. "Is he talking to any other media besides CBS?" I do not answer, and he continues. "Why? Because they're not paying him. I don't know why you and a lot of others don't see it. Our business is out of favor. It's not politically correct. If somebody stands up to the tobacco business, they're a hero. Forget about the other side of the story."

I read to Helewicz parts of the conversation I have just overheard and ask him if that language does not indicate a smear or unethical corporate behavior. "You picked up part of a conversation, and that's a characterization of a campaign, because you picked up a

couple of sentences out of context!" he says, but he refuses to allow me to interview the lawyer whose office the conversation was held in. "I would take issue with the word 'smear' when what you are doing is putting out fact about a person who is lying about you and making vast allegations."

Japanese class begins at eight A.M. in Room 312 at DuPont Manual in downtown Louisville. Wigand teaches a group of 32 students, who sit quietly after the bell and the Pledge of Allegiance on a closed-circuit TV. Wigand is adamant about not wanting to talk to his students about what he is going through. "I happen to love teaching," he says, "and I don't want to concern them." "*Hajime masu!*" he tells them. "Let's begin! We are going to do some *sumi* today—calligraphy. How many of you brought brushes?" In front of his class, Jeff Wigand is transformed. He is open and generous, and the class responds with noisy delight. At the end of the session, Wigand's students surround him at a small table as he dips a special Japanese brush into calligraphy ink. "The maneuver is very loose, all from the shoulder—you have to relax to do it right," he says. "It is about *flow*." His shoulder loosens, and his hand begins moving the brush across a page. He makes a small box, a long line, a special dot, a flourish. "You see this symbol in Japanese restaurants. Does anyone know what it is? This is known as 'happiness forever,'" he tells them. "It is all a matter of control."

Soon after *The Wall Street Journal* published its front-page article harshly skeptical of the 500-page dossier, Wigand moved into a two-bedroom apartment in Louisville. "I will feel better when I have my things around me," he said. He was particularly concerned about his computer, which contained one version of his B&W scientific diary. During a routine F.B.I. investigation of his most recent death threat, Wigand grew outraged that his privacy was being invaded. He had words with one agent, who reacted by obtaining a search warrant and impounding his computer, telling lawyers close to the case that Wigand was "a suspect" in the matter, although there was no evidence of any kind to suggest that Wigand had sent himself a death threat.

"They are not going to leave me alone," Wigand told me in early February. It was the day after the most recent episode—a break-in at the office of Joe Mobley, his divorce lawyer. "There have been a few fireworks," Mobley told me. "Four days after my employment, I did have a 'toss,' as they say in the vernacular. Nothing was taken, but the contents of my desk were thrown all over the floor." For Palladino, the break-in was "clearly a message." The clue, he said, was unmistakable: a pile of burned matches near the door.

"You have put us all in danger" Wigand said his wife told him. "I want you out of the house."

According to *The American Lawyer*, there are now nearly 200 law firms working on more than 25 major tobacco cases, and Wigand could be an expert witness in all of them. His testimony has been sought for five ongoing investigations in the Justice Department. Wigand's lawyers announced in early February that he is countersuing B&W for invading his privacy, and he has charged that B&W abused the legal process by seeking to block his testimony. Like a Mob witness, Wigand has entered a shadowland of litigation. For

investigators and lawyers, he has lost his former identity and is now referred to as "the client": "I am having dinner with the client." "The client has to be in New York for a meeting." There was recently a bomb threat at DuPont Manual.

There is no question that Wigand's presence in the middle of the tobacco wars is an accident, without grand design. "I just wanted to get the story out," he told Lowell Bergman after the *60 Minutes* segment aired. It is possible that his testimony could cause several former C.E.O.'s to be indicted for perjury, including Thomas Sandefur and Andrew Tisch. "I can't give you 25 reasons why I did it," he told me recently, but since Wigand appeared in the arena, there has been a revolution in tobacco history. Over St. Patrick's Day weekend, he was back in New York, far more sanguine than he had been in late January. That week Richard Scruggs had negotiated a remarkable settlement with the Liggett Group, which, in an unprecedented move, broke ranks with the other four U.S. tobacco giants and agreed to settle the states' claims and to accept proposed F.D.A. marketing regulations. The Liggett breakthrough was the inspiration of majority shareholder Bennett LeBow, a Wall Street buccaneer who, in alliance with corporate raider Carl Icahn, is hoping to take over RJR Nabisco. Liggett's settlement created a selling frenzy on Wall Street, and Philip Morris's stock plunged 16 percent in five days. Big Tobacco was suddenly like South Africa in the 1980s, as the giant structure started to crack. In March three more whistle-blowers came forward—former employees of Philip Morris. Shortly before Scruggs began negotiating with LeBow's lawyers, Ian Uydess, a scientist, was in Washington at the F.D.A. alleging in a 24-page affidavit that Philip Morris had routinely adjusted nicotine levels. Meanwhile, *The Courier-Journal* reported that of the seven top executives who testified before Congress in 1994 that nicotine was nonaddictive, only one remains in place. Recently, Governor Kirk Fordice of Mississippi has gone to court to try to stop his own attorney general, Michael Moore, from pursuing anti-tobacco litigation, implying he was opportunistic, a captive of plaintiffs' lawyers.

While Scruggs was fielding calls about the Liggett settlement, Wigand learned that the drawers in his home office had been jimmed open and his 1993 diary had vanished. Wigand was in New York to meet with Scruggs and Margolin to discuss an unusual tort suit—the intentional infliction of emotional harm—they are considering filing against John Scanlon and others involved in the B&W dossier. Scanlon, meanwhile, soldiered on for B&W. "There will be a third act, and Jeff Wigand will be unmasked," he told me. Ellen Kaden remained angry; she could not see that she had set off a historic process by being concerned about tortious interference. In Washington, D.C., at the end of March, a U.S. district judge seemed to override the Kentucky restraining order by granting an emergency order allowing Wigand to testify before a federal grand jury without briefing B&W first.

Wigand reached a point where nothing surprised him anymore, so he hardly reacted when he looked across the dining room at the Essex House and noticed Ian Uydess, the tall, balding new whistle-blower from Philip Morris, having breakfast. The two men nodded at each other—Uydess had once applied to Wigand for a job—but they avoided a

direct conversation, perhaps in order to prevent any suggestion of conspiracy. Later, Uydess told me that he believed his own role was relatively minor, and that Wigand was the person "with real courage."

"None of this would have happened without Jeff and Merrell Williams," Scruggs told me. "In early November it looked like Big Tobacco had silenced the press. Now who knows what will happen?" At Hatsuhana, a smart Japanese restaurant in midtown Manhattan, Scruggs toasted Wigand. "You are an important man. I salute you." Wigand smiled, but his response was muted. I thought of a remark he had made to me on a plane in January: "I wish I could see the horizon." When we got to New York that day, there was a driving rain, with gales of wind. Wigand and I ran through the parking lot to a car. He was suddenly released, laughing convulsively. "Maybe this is a sign," he told me.

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