

**Response to Philip Scranton's  
Report On  
Deceit and Denial: The Deadly Politics of Industrial Pollution  
by  
David Rosner and Gerald Markowitz**

**Until I read Deceit and Denial I certainly believed that I had been an insider, had been well-informed about what had happened in the struggle to regulate vinyl chloride. How little I knew! How little I understood about industry efforts to manipulate the debate and influence the regulatory outcomes. For these classic cases, lead and vinyl chloride, this book tells much more than I knew, perhaps close to the whole story."**

Anthony Robbins, former Director of  
NIOSH, 1978-1981.<sup>1</sup>

**"The preeminent value of all intellectual communities is reasoned discourse – the continuous colloquy among historians of diverse points of view. A commitment to such discourse makes possible the fruitful exchange of views, opinion, and knowledge."**

"Statement on Standards of Professional Conduct,"  
American Historical Association<sup>2</sup>

*In Fall, 2002, our book, Deceit and Denial: The Deadly Politics of Industrial Pollution, was published jointly by the University of California Press and the Milbank Fund as one in a series that addressed a variety of aspects of health policy. Briefly, the book looked at questions regarding how two industries, the lead industry and the chemical industry, reacted when faced with information regarding the potential dangers of their products to human health during the twentieth century.*

*The book was unusual in a number of respects, including the fact that much of the chapters on the two primary cases were based on documents historians rarely if ever use in critical evaluations of corporate behavior. These documents included internal company correspondence, memos and minutes of meetings of both the lead and chemical industry trade associations and some of their member companies. This extensive cache of documents became available during the "Discovery" phase of various lawsuits against the Lead Industries Association (LIA) and the Manufacturing Chemists Association (MCA), (today renamed the American Chemistry Council), and some of their member companies.*

*We have testified as expert witnesses in these legal disputes because the historical record is critical in determining whether the lead and vinyl industries should be held accountable for harm to individuals and communities. The Attorney General of the State of Rhode Island has*

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<sup>1</sup> Anthony Robbins, [Review of Deceit and Denial: The Deadly Politics of Industrial Pollution](#), *Journal of Public Health Policy*, 24( 2003), 492-494.

<sup>2</sup> "Statement on Standards of Professional Conduct," American Historical Association, May, 2003.































that he was told: “Now, stick your head in here [polymerization vat]. That sweet smell you smell will be vinyl chloride, but it won’t hurt you.’ So we did.”<sup>22</sup>

Scranton argues (p. 14) that we were not justified in saying that company executives were upset with Viola’s findings that rats exposed to vinyl chloride monomer developed cancers at 5,000 ppm, far below the 30,000 ppm that Viola had reported a year earlier, and that the industry was hopeful that it would not prove applicable to humans. But at an MCA meeting there was discussion of the possible human significance of this data and later Wheeler of Union Carbide reported that “publication of Doctor Viola’s work in the U.S. could lead to serious problems with regard to the vinyl chloride monomer and resin industry.”<sup>23</sup> Further, Scranton charges that we ignored “significant information” that there were impurities in Viola’s vinyl chloride monomer that may have affected his results (Scranton, p. 14). But at a conference on vinyl chloride sponsored by the MCA and attended by representatives of some 24 companies, the minutes said: “Inasmuch as the material used by Dr. Viola was of undocumented composition, and variously noted to contain from 1 to 3 percent impurities, and whereas American commercial practice now may specify total organic impurities to as low as 100 ppm (99.99% assay), some, but not great confidence, was expressed that it could be shown that Dr. Viola’s results were attributable to the impurities in his sample.” (November 19, 1971) Thus, it is just not true, as Scranton claims, that MCA scientists “challenged Viola’s presumption of vinyl chloride causality.” (P. 15)

Also in this section, Scranton says that we violated historical standards because we did not quote Vernon Rose of NIOSH who praised B.F. Goodrich for its role in announcing and recognizing the angiosarcomas of the liver in its Louisville plant in January 1974. But when Rose praised the company, he did not know that Goodrich had earlier kept secret its knowledge that animals had been diagnosed with the exact same kind of rare cancer as the workers had died from. When, several months later, this information was revealed, there was no longer praise for the industry’s actions; in fact there was harsh criticism! Marcus Key, head administrator of NIOSH, recalled after hearing industry claim that it had been open and forthright with his agency in July, 1973, said that “at this [July, 1973] meeting there was no mention of angiosarcoma of the liver in humans or animals, no reference to production of liver tumors in animals by another Italian investigator, and no reference to Professor Cesare Maltoni by name.”<sup>24</sup>

Scranton also criticizes us for not quoting the business magazine, Fortune, which said “as of January, 1974 literally all the information linking vinyl chloride to cancer had been developed by the industry on its own initiative.” What Fortune either did not know or did not reveal was that the research was conducted in secret and was purposefully withheld from the government.

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<sup>22</sup> Deposition of Larry Phillips in the United States District Court for the Southern District of Illinois, Joyce Bogner, Plaintiff, vs. AIRCO et al., defendants, Case No. 01-CV-627DRH.

<sup>23</sup> Wheeler, “Manufacturing Chemists Association Occupational Health Committee – Vinyl Chloride Conference,” November 23, 1971.

<sup>24</sup> See, for example, Marcus Key [Administrator of NIOSH], Letter to Editor of Chemical and Engineering News, June 10, 1974.

Scranton argues that we “wrote with the benefit of hindsight, judging actors generations ago as if they should have had foreknowledge of research outcomes, as if they should have been able, in advance, to recognize which among various possible health and safety threats would prove to be substantive and which would prove to be illusory.” (Scranton, p.19) This is a complete misreading of the documents and our text. **He would like the reader to believe that WE are arguing that vinyl chloride monomer was linked to cancer when in fact, it was the industry representatives at the time who were worried that research showed that vinyl chloride monomer might be a human carcinogen. He would like the reader to believe that it is WE who project back on the historical actors the fear that this information would lead to regulatory action, lawsuits or other problems for the industry when, in fact, what we do in the book is show that it was industry representatives themselves who were concerned about these possibilities. We were not guilty of presentism, as Scranton would like readers to believe.**<sup>25</sup>

### **Scranton on “Good Science”**

**“All scientific work is incomplete.... All scientific work is liable to be upset or modified by advancing knowledge. That does not confer upon us a freedom to ignore the knowledge we already have, or to postpone the action that it appears to demand at a given time.” –Harriet Hardy<sup>26</sup>**

**Among the more disingenuous sections of Scranton’s analysis is his attempt to use the history and philosophy of science as a means of defending the industry’s decisions NOT to inform the government of its findings and suspicions about the carcinogenic effects of vinyl chloride monomer.** Not only does he misuse the work of others in trying to buttress his central argument that doing good science demanded that information be kept from the government, but he completely conflates a variety of issues. He argues that we “ignored the difference between information (e.g. rumors, first-stage research findings, individual’s opinions) and reliable scientific knowledge” in his attempt to explain why industry didn’t tell government officials about the Europeans’ finding of angiosarcomas in rats (Scranton, p. 4).

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<sup>25</sup> Scranton (p.8-9) imposes some “presentist” ideology of his own when he attacks Irving Selikoff, one of the leading historical figures for his work on asbestos. He makes irrelevant and beside the point comments that have nothing to do with our book or the chemical industry and serve merely to cast aspersions on the character of recognized experts of the period: In an attempt to discredit Selikoff, Scranton argues that we should have impugned his credibility because he may (or may not) have been accurate in his claims about the potential dangers of asbestos-related deaths! Apparently, we should have impugned him in his damning testimony on the dangers of VCM because Scranton thinks he was wrong on a totally unrelated matter. In his statement, Scranton leaves the reader to believe that we discuss Selikoff and asbestos on page 203, note 35 but if one bothers to turn to that page, one sees no such reference. Note 35 refers to Louis Beliczky, not Selikoff, and no where on that page is there a reference to asbestos. This is another gratuitous attempt to mislead the reader about what we say and what he invents.

<sup>26</sup> Quoted in Deceit and Denial, pp. 113.

This information was not “rumor,” or “individuals’ opinions.” Rather this was information upon which the industry revised its own research project. In addition, at the behest of Dow Chemical, the MCA asked the Europeans for permission to give this information to the government, seeing it as highly significant and relevant to the regulatory effort. Indeed, the representatives of industry themselves recognized that the denial of this information to the government “could be construed as an illegal conspiracy by industry.”<sup>27</sup> This type of evidence in the historical record is hardly conducive to Scranton’s depiction of it as “first-stage research findings” or “rumors” unworthy of mention to government officials.

Further, he quotes at length from Bauer and Polonyi with regard to what scientists should and should not publish: “To ask that every scientist publish every piece of data is to invite a flood of unsound, uninteresting garbage.” (Scranton, p18) He argues what we, in Deceit and Denial, “represented as immorality and illegality [actions that]... can be more adequately, persuasively, and at a minimum, alternatively be described as sound scientific practice. Demanding that preliminary results from the Maltoni study should have been instantly released was a claim that reinforced the ‘junk science’ that grabs headlines.” (Scranton, p.18)<sup>28</sup> This is nonsense. **The issue that Scranton avoids is whether or not data that the industry considered highly significant should have been consciously and deliberately kept from the government, despite the fact that the government had put out a call for any information regarding the dangers of vinyl chloride.**

- He conflates the difference between informing governmental regulators of findings and publishing scientific findings.
- He confuses the methodology and responsibilities of scientists with the interests of industry representatives, managers, spokespersons and lawyers.

It is impossible in a reasonable space to address every paragraph of Scranton’s arguments about science and scientists’ responsibilities. He criticizes us for saying that “where human lives are at stake, most researchers accept that they have an obligation to share knowledge about potential harm.” This is hardly a point in need of documentation which he demands. (It lacked, he says, “any reference to a source that would confirm or validate its assertions.”) (Scranton, p.20) Nor do we believe that it is necessary to define the terms “knowledge” and “potential harm” each of which, Scranton says, “demands precision.”

An example of Scranton’s argument follows:

“Surely in every medical research project, human health and human lives are implicated, but Markowitz did not discuss how he construed the sense of lives ‘at stake,’ how researchers at that time understood this term, and whether this referenced an immediate and universal hazard (like asphyxiation or catastrophic

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<sup>27</sup> : R.N. Wheeler, Union Carbide to Eisenhower, et. al, May 31, 1973 in MCA Papers

<sup>28</sup> We never accuse the industry of acting “illegally.” This characterization is contained in the industry’s own internal memos in which they worry that their actions “could be construed as evidence of an illegal conspiracy by industry if the information were not made public or at least made available to the government.” See: R.N. Wheeler, Union Carbide to Eisenhower, et. al, May 31, 1973 in MCA Papers.

heart failure through intense exposure to a deadly toxin ), or something longer-term and unevenly-distributed among those encountering the hazard. Markowitz failed to consider scientific variations like these and thus these assertions are simplistic and valueless as historical analysis.” (Scranton, p.21).

“At stake” were the lives of workers and consumers who were exposed to what the industry worried was a human carcinogen. At the very least, government regulators had the right to know what workers, consumers and the broad public might be facing.

**Professor Scranton does not acknowledge what is clear from the documents: that industry representatives in the early 1970s understood that this information should be shared with the government, even if they chose not to do so.**

“Producers acted rapidly,” he argues, “to explore the possible validity of ‘information’ so as to determine whether it could become scientific knowledge, the latter being solid enough to share with all parties – workers, government and the public at large” (Scranton, p.4). He says this as a way of explaining away the fact that the industry did not share with governmental regulators crucial information necessary to the regulatory efforts.

Scranton, (pps 16– 23) seeks to speak about areas where he is unprepared, first arguing that secrecy was essential for good science, then that openness was essential for good science. He also conflates telling regulators about troubling research findings about animals exposed to low levels of vinyl chloride monomer dying from a very rare cancer with publication of preliminary results in peer reviewed medical journals. As in the above example, Scranton misleads his reader by raising red herrings, distracting the reader from industry’s failure to inform government of troubling data.

In his discussion of the methodology of science Scranton exhibits a naïve and mistaken understanding of both the contemporary debates about the scientific method as well as of the responsibilities and obligations of the scientist. For example, to explain the fact that the chemical industry, despite its knowledge of the possible carcinogenicity of vinyl chloride, decided not to tell the government, Scranton argues about the “proper” scientific methods and obligations. Rather than observe that this decision not to tell the government was, at the very least, an ethical lapse, he seeks to explain it away by arguing that without “reliable knowledge” (Scranton, p.16) that vinyl chloride monomer was carcinogenic in animals at low doses, the industry was following “sound scientific practice” by keeping silent about its data and its suspicions (Scranton, p.18). He argues, “reports of preliminary data or initial findings **have no scientific value** [our emphasis] until they generate broader theories about the phenomena at hand, theories that incorporate and explain the details first-phase research has generated” (Scranton, pp.16-17). Despite the fact that there was near-universal anxiety among industry representatives that vinyl chloride monomer was the cause of angiosarcoma deaths in test animals, Scranton argues that, even if this were the case, the industry was **obliged** to keep silent about its suspicions!

Furthermore, Scranton seriously misrepresents our work. We argue that the industry had a responsibility to inform the government, not necessarily publish all of its findings. Scranton suggests that we are arguing that industry should have published all of its findings when, in fact, we argue simply that when asked by the government to tell them of information about the possible danger of a product industry should have let the officials know that their test animals were dying after being exposed to low levels of vinyl chloride monomer. By conflating “publication” with the responsibility to inform the government he misleads the reader in a haze of irrelevant arguments about the philosophy of science and knowledge itself. If scientists abided by Scranton’s argument that no preliminary results or theories should be revealed before they are confirmed, Watson and Crick’s analysis of the structure of the chromosome would have been delayed for years, we would still await the publication of Einstein’s theory of relativity, and the notion of Darwinian evolution would still not appear in evolutionary biology textbooks (since there is still contention about whether or not it is “true”). Few, if any, philosophers of science would ascribe to Scranton’s reading of the scientific method. It is disingenuous to claim that industry maintained its silence in order to attain better information in the name of good science. The simple fact is that *Good Science Does Not Equal Silence*. In fact, good science demands transparency and openness.

#### **Scranton then Goes on to Contradict Himself:**

A few pages later, after arguing that not only was silence necessary but actually in keeping with good practice, Scranton contradicts himself by arguing that good science results from open discussion of ideas, that it is a complex process in which proof of causation sometimes takes “years, even decades,”(Scranton, p.17) to accomplish and that truth is the result of consensus and community acceptance. He quotes and paraphrases Henry Bauer and Michael Polanyi who liken science to a “jigsaw puzzle” with each scientist building upon the work of others, sharing information in order to attain truth.(Scranton, p.18) Here, it would appear, he is arguing for transparency and openness –even publications of preliminary results – as a necessary element in scientific progress. We heartily agree with him. How can he argue, then, that the chemical industry’s decision to remain silent about the potential danger to workers was legitimate?

Scranton quotes Bauer and Polanyi as a way to explain industry’s delay in informing government of the suspicions of danger of VCM. Bauer and Polanyi are not making their point about the complexity of the process to justify silence but to justify the opposite – to argue for transparency and openness. The fact that science is a process of asking questions and science is always incomplete does not mean that we cannot act or move to protect the population from harms we suspect are there. In Scranton’s extended attempt (Scranton, 16-23) to put the best face on industry’s actions by quoting Bauer and Polanyi regarding publication of preliminary data, he misses what Harriet Hardy, the eminent occupational physician, observed in the 1960s: “All scientific work is incomplete.... All scientific work is liable to be upset or modified by advancing knowledge. That does not confer upon us a freedom to ignore the knowledge we already have, or to postpone the action that it appears to demand at a given time.”<sup>29</sup>

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<sup>29</sup> Quoted in Deceit and Denial, pp. 113.

- **Misrepresentation and Omission:**

Scranton misinterprets and ignores documents that would call into question the industry's own integrity. This is revealed in his discussion of the "Secrecy Agreement" that the American producers of vinyl chloride signed with their European counterparts. Rather than look at the extensive collection of internal industry documents that show the industry sought to mislead the federal government, he focuses on peripheral issues.

Briefly, in the fall of 1972, the European chemical company representatives informed American industry representatives that animal studies were showing that new cancers were developing among animals exposed to half the levels of VCM that the companies were recommending as safe for workers. The industry documents detail how the MCA member companies planned for a meeting in which they could appear to be forthcoming but would actually deny to government officials the information the National Institute of Occupational Safety and Health (NIOSH) had requested.<sup>30</sup> When the industry could not get the Europeans to release them from their "Secrecy Agreement" it had the choice of meeting their obligation to the United States government or abiding by their loyalty to their European counterparts. Our point is simply that the industry, understanding its obligation to inform the government, still chose not to tell the government. The discussion within the industry about this matter is instructive: it shows awareness within the industry that it should have let the government know; it shows how members agreed to collectively refuse to tell the government what they knew; and it shows that not a single company was willing to break with the industry as a whole to reveal the secret information to the government.

Yet, Scranton would have us believe that the internal discussions were a sign of the good faith of the industry. He argues that the industry had an obligation NOT to inform the government of its findings until its scientists had proven that vinyl chloride monomer was a carcinogen and that the moral qualms of industry representatives and internal discussions of their obligation to tell was as, or more, important than their decision to keep silent and to deceive.

Scranton would also have us believe that one of our sins was "to diminish the firms'" [i.e. the vinyl industry's] "open and cooperative" working relationship with the government. It is disingenuous to lead readers to believe that hiding information from the government is evidence of an "open and cooperative" relationship. On page 27, Scranton belabors our sentence, "Viola suggested, on the basis of his research, that a safer TLV would be 100 ppm, for he found that the 'danger of a toxic action of the monomer....'" His objection is that we used the word "suggested" saying instead that we should have used the word, "opinion." Further, Scranton says that we misrepresent the exchange by claiming that Viola's suggestion was based upon his own research. While Scranton attempts to obfuscate the situation by arguing about whether a "suggestion" is different from an "opinion" and whether Viola was there for any other reason than to make suggestions based upon something other than his research, we think it is clear that Viola

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<sup>30</sup> In a letter from the industry trade association to its members it is stated that the industry recognized that it had a "moral obligation" to inform the government, particularly since the government was asking for information about the dangers of vinyl chloride.

traveled from Europe to the MCA headquarters to give the MCA the benefit of his expertise based on his research.

Scranton also accuses us of the sins of misrepresentation and omission. He says that we omit the fact that Dr. John Creech did not believe that vinyl chloride caused AOL (p. 25). But our point was that Drs. McCormick and Wilson, the principal authors of the first draft of the article that was ultimately published by Goodrich, were convinced that vinyl chloride was the cause of AOL. But, significantly, when the revised article was published it omitted this idea that directly linked vinyl to AOL. Whatever Dr. Creech believed, he was the plant physician, and not the researchers with the primary responsibility for writing the article.

Scranton spends almost a page and a half (Scranton, pp. 25-27) criticizing our interpretation of V.K. Rowe's letter of May 12, 1959. He specifically chides us for claiming "that Rowe expected 'appreciable injury' to full-time workers, given the current 500 ppm TLV." He says, "This was an error, for the source did not mention workers, their exposures, or their likelihood of injury." Although Rowe was conducting research on animals, it is clear that the context of the letter was that "the Conference of Governmental Industrial Hygienists has for some time been recommending a maximum average of 500 ppm." Threshold Level Values were established for workers, not animals. Further, Rowe goes on to say that this number "Can not be relied upon to [sic] strongly when considering chronic exposures." Again, it is clear he is talking about workers. Rowe concludes the paragraph by saying that he is confident that "500 ppm is going to produce rather appreciable injury when inhaled 7 hours a day, five days a week for an extended period." We conclude that Rowe is talking about workers working in a plant 35 hours a week, not rats in cages. The very next sentence is that "this opinion is not ready for dissemination yet." Thus he is not talking about data for animals, but his opinion is focused, as might be expected, on what is harmful to workers. This is further confirmed by the fact that when Rowe does publish his data two years later he and the other authors recommended a TLV of 50 ppm – one-tenth the TLV and again clearly tied to worker safety. It is Scranton, not us, who misuses and misrepresents the evidence.

Scranton also argues that we misrepresent the minutes of the MCA's Ad Hoc Planning Group of December 14, 1971 where they describe the "concerns that should guide any decisions made on research protocols..." He writes that we misrepresent the document by using in our quotation the term "reassure the public" rather than the full term "reassure the public that polyvinyl chloride entails no risk for the user." He argues that the MCA was trying "to avoid confusion between vinyl chloride (hazardous) and polyvinyl chloride (not hazardous)." While this sounds perfectly innocent and again reflects Scranton's effort to depict industry actions in their best, most benign, light, his presentation of the material is misleading. In the early 1970s the industry did not know that polyvinyl chloride was "not hazardous." In fact, around this time, because it was discovered that vinyl chloride monomer was leaching out of polyvinyl chloride plastic liquor bottles, the FDA imposed a temporary ban on the use of polyvinyl chloride in liquor bottles. In fact, there is still a healthy debate over whether or not polyvinyl chloride in clear plastic food wrappings, when heated as in microwave ovens, leaches the monomer. Thus, the industry, by designing research to "reassure the public" about the

safety of consumer products rather than to pursue the question with an open mind, was planning a research protocol that was at best self-serving. Similarly, the claim by industry that the motive for their concern for workers' health rings false when we consider that the industry refused to present to the workforce the results of the European research and did not even refer to its own research honestly. We did omit the fourth "element" about "their need to establish the program under conditions that would provide industry with the means to guarantee the objectivity of the program and the validity of the experimental conditions." If the goal of the research was to "reassure the public" a "guarantee" of objectivity is at best self-serving.

- **Advocacy and Oversimplification:**

Scranton charges that our book includes "unsupported accusations and rhetorical excesses" (p. 31) and that Deceit and Denial does not "comply with ... key professional standards concerning responsible advocacy and respect for the complexity of history in real time and real conditions." (Scranton p. 31) **We are not advocates for any position other than the truth of what industry did. Our documentation is from the industry's own memos, minutes and correspondence, not from critics of the industry.** He charges that we offer "no evidence or evidence from a single enterprise to sustain rhetorical claims about 'the industry' as a whole." As an example of this he cites Markowitz's six page "Report to the Court" which is not a presentation of evidence, but a summary of the argument in Deceit and Denial. Specifically, he criticizes Markowitz' Report for "repeatedly criticiz[ing] the VCM/PVC producers for not having done several things 'forthrightly,'" and that in doing so Markowitz "did not define this term or the process it was supposed to reference, nor did he provide any examples of forthright behavior by any party." (Scranton, p. 31) The reader should understand that Scranton is not speaking of our book, but of a brief six-page summary that is attached to our fully referenced 309 page timeline that was presented to the court. What he chooses to criticize is the definition of the word "forthrightly," rather than the substance of the Report. That Scranton would continue to focus on our vocabulary and descriptive terms in Markowitz' six-page report to the court merely shows the shallowness of his analysis.

Scranton next devotes two paragraphs (Scranton, pp. 31-32) to our use of the term "terrifying" (Scranton, p.5). As we extensively document throughout the chapters, the industry, faced by the threat of government regulation or possibly a ban of one of its most profitable and extensively distributed products, acted in ways that we interpret as evidence of being terrified, or at least evidence of their being worried in the extreme. We hope that Scranton does not see industry's deception of the government as "normal" behavior. Our entire chapter is a discussion of the response of industry when it realized that millions, if not billions, of dollars were at stake if consumers believed that vinyl chloride products were possibly carcinogenic and if OSHA imposed strict exposure standards for workers in VCM plants. Scranton also quibbles with our use of the word "never," spending half a page on this word and more paragraphs describing how we fail to use "may have" rather than "have." With 300 references supporting our argument, we have some right to tell the broad story.

Scranton (p. 32), quotes the beginning of a paragraph where we place in context industry's attempt to make itself appear as if it were working "openly and cooperatively" with government. He spends almost two pages citing this statement to argue that we are only involved in "advocacy and oversimplification." He criticizes our first sentence: "Given that industry documents remained secret, there was no way to understand that the industry had acted to hide from the government information about vinyl as a carcinogen." Again, in order to excuse industry actions he reverts to the argument that nothing could really be proven about the carcinogenic nature of vinyl chloride monomer. As discussed earlier, he hides behind the inexactness of science, refusing to acknowledge that the industry understood the import of Maltoni's information and kept that information from the government, the workforce and the public. He criticizes our second sentence: "As a result, the companies could still pass themselves off as working openly and cooperatively with the government." He argues, disingenuously, that we "diminish the firms' open and cooperative working relationship with the government." He may see the hiding of information and the planning of deception as a sign of openness and cooperation, but we do not. He considers our third sentence: "It would take decades for researchers and lawyers to shed light on industry documents and to learn of the cover-ups, denials and lies." (D&D, p.198). Scranton says we have not presented the historical evidence to support this. We believe any reasonable reader will, if they consult our book, our timeline, the industry documents and this discussion, find ample historical evidence to support our claims.

To Scranton, this is "advocacy and oversimplification." But to Dr. Anthony Robbins, who was the Director of NIOSH from 1978 through 1981, our discussion provides evidence of industry activities that were not known to those intimately involved in the issue of vinyl chloride and hardly "advocacy and oversimplification." In a very positive review of our book in the Journal of Public Health Policy Robbins related that while at NIOSH, "I needed to be on top of the vinyl chloride issues. Until I read Deceit and Denial I certainly believed that I had been an insider, had been well-informed about what had happened in the struggle to regulate vinyl chloride. How little I knew! How little I understood about industry efforts to manipulate the debate and influence the regulatory outcomes. For these classic cases, lead and vinyl chloride, this book tells much more than I knew, perhaps close to the whole story."<sup>31</sup>

### **Inadequate Documentation**

This is one of the sillier accusations aimed at discrediting our book. Virtually all the reviews of Deceit and Denial comment on the superiority of the research. See, for example, the Reviews in American History (in which the book is praised as "virtually flawless"); the American Historical Review (in which the reviewer finds that our "access to private industry sources, which have long escaped the scrutiny of historians, provides a rich if very disturbing picture of internal politics and decision making at the corporate level"); reviews in Science, Business History Review, JAMA, The Lancet, New England Journal of Medicine, and numerous other journals which praise the research in this book.

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<sup>31</sup> Anthony Robbins, [Review of Deceit and Denial: The Deadly Politics of Industrial Pollution](#), Journal of Public Health Policy, 24(2003), 492-494.

Deceit and Denial has over 82 pages of endnotes for 306 pages of text. The two chapters critiqued by Scranton contain over 300 endnotes, many with multiple references.

Scranton (p.35) criticizes a reference in Markowitz' six page "Report to the Court" because it did not come from the document cited but came from another industry representative. He is correct that this was a mis-citation but, nonetheless, the point Dr. Markowitz was making is absolutely accurate and the quotation is absolutely correct. It should be noted that the quotation was from an internal memo from a representative who had attended the meeting in question and was summarizing the conclusions reached at the meeting. Scranton is correct that the industry group in question was not the MCA but it was the Vinyl Chloride Safety Association, another trade group that represented the subset of the chemical industry that specifically produced vinyl chloride. The members of this trade group were also members of the MCA. The important point about this document was that in private the companies admitted that acroosteolysis was "caused by repeated exposure to low concentrations of VCM (50 ppm)," a point they never revealed in public.<sup>32</sup>

It is impossible for us to respond to all the mistakes and misstatements that appear on nearly every page of Scranton's statement. Hence, we briefly review just a few of the errors Scranton makes on page 35 of his allegations as an example of the kind of mistakes he makes throughout his report. Here Scranton alleges that "in Chapter 6&7 of D&D, not only did Markowitz offer multiple assertions for which he provided no references to sources, but he also erred repeatedly when citing sources for other claims and arguments." (Scranton, p.35). Specifically, he says that "in discussing Americans' ambivalence about plastics, [Markowitz] cited a 1998 article by Ashish Aurora and Nathan Rosenberg, but nothing there cited refers to this issue." We are quoting two specific parts of the chapter (not an article) in that book that make exactly the point we make. The Aurora and Rosenberg citation is to this sentence in our book: plastics "were offered to the new middle class at a fraction of the costs of the 'real thing' yet they were still recognized as 'mere imitations.'" We are correct in our use of this reference.

Also on p. 35 he alleges that we "offered an extended quote then cited a document in which it did not appear." In fact, the quote is in the very document that is referenced of the second full paragraph of the second page of the document.

Also on p. 35 he alleges that we "referenced a person's activities to a document in which the person was not mentioned." The point of the footnote was not to reference an individual's activities, but to document that the industry had been effective in delaying EPA action in lowering the vinyl chloride ambient air standard.

Also on p. 35 he alleges that we "provided unsupported quotes on several occasions." He cites two such "occasions." In the first he says that the document, Lucille C. Henschel to the Vinyl Chloride Audit Task Group, did not contain the quote: "the study by IBT is scientifically unacceptable." In fact, the document, which includes the Final Report

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<sup>32</sup> W.J. Boyle, Monsanto to W.F. Gabel re Vinyl Chloride Safety Association, Nov. 10-12, 1971 Meeting summary.

of the Audit Task Group, has that exact quote on p. 3 under the heading Conclusions and Recommendations.” He also says that the quote, “foul play by IBT,” did not appear in the May 10, 1980 Bob West document cited. Even here he is wrong. It appears in the notes of the VCM Technical Panel Meeting of May 14, 1980 that is also cited in the same footnote. Both references were cited so readers could examine the two documents. Scranton repeatedly lectures us that “such sloppiness should not appear in work offered as historical scholarship” (Pp. 35-36) when in fact it is his sloppiness that characterizes his critique of these pages. We acknowledge that errors slip into even the most careful scholar’s work, and we have no doubt that some appear in Deceit and Denial, but in this case Scranton is just wrong about the errors that he has claimed to find in our book. This one page is indicative of the nature of Scranton’s report on behalf of corporate defendants.

Scranton continues to mislead and mis-state right up to the very last page and footnotes. He dismisses our observation that a published article differed substantially from the unpublished report upon which it was based, saying that we do not understand that published results are shorter and more concise than full reports. Our point is that the published report left out the critical pieces of information regarding the relationship between vinyl exposure and disease that had been present in the original report (Scranton, p. 42, footnote 5). We noted that the published article was provided to, and edited by, the chemical industry, which might help explain why the critical pieces of information about the dangers of VCM were left out. He ignores our point, arguing that we are naïve about the length of articles typically published in professional journals and that shorter published papers don’t have every piece of data presented in longer reports. By ignoring our observation about what was, and was not, in the final report, he leaves the reader believing that the critical piece of information was left out in deference to the length of the report and that journal editors, not the industry’s people, made the decision to cut out the critical observation.

Similarly, Scranton (pp. 35, 42) argues, in his text and footnotes, that we are sloppy in our referencing since we supposedly have an inaccurate URL for a transcript of an interview with Terry Yosie, the American Chemistry Council representative speaking on camera in an interview following the airing of the Bill Moyers’ special, “Trade Secrets.” He argues that we inaccurately paraphrase Yosie’s remarks. He says: “[n]othing in [Yosie’s] remarks, reproduced on that transcript, establishes a basis for Markowitz’ assertion that ‘representatives of industry today... claim that the past is irrelevant.’”(p. 42) Here is the exact quote from the last page of the transcript at the url <http://www.pbs.org/tradesecrets/transcript.html><sup>33</sup> and we ask the reader to decide whether or not our paraphrase is accurate:

Yosie: “I think you all know that what happened 40 years ago is no reflection of the kind of industry that we represent today.”

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<sup>33</sup> Lest we are accused of inaccurate referencing again, please note that this URL may connect to the Trade Secrets homepage rather than directly to the “transcripts.” Simply go to the bottom of the page and click on “transcript” and you will be connected to the URL noted above.

Yosie's statement can easily be read as an attempt to distance today's industry from its past, to claim that the chemical industry is not the same as it was then. We found the comment of interest since Yosie, (while representing the ACC, the industry's trade association) also holds a doctorate from Carnegie-Mellon in history. From the beginning to the end, Scranton is guilty of not following through on data, misrepresenting what we say to suit his own purposes, and avoiding unpleasant facts.

## **Professional Ethics**

Scranton overreaches in trying to depict our work as unscholarly and as violating professional standards. Throughout his discussion he characterizes us as "violating professional standards central to the historian's profession": we, he argues, "developed the conclusions supporting [our] advocacy position through inappropriately selective research, partial and distorted uses of sources, overvaluing sources' evidentiary weight, the rejection of contradictory evidence, rhetorical excesses, and an overarching rejection of the integrity necessary for professional expertise" (Scranton p. 40). Further, he asserts that we are unethical: "two serious ethical issues are entwined in Markowitz' use of sources and route to publication." First, he argues, that we "did not work through the documentary base accumulated by Plaintiff's counsel but rather that [we] asked for the 'types of documents [we] were interested in' which firm staffers selected and sent to [us]." (Scranton, p.39).

His accusation implies that we were "fed" documents by plaintiffs' attorneys. In fact, however, we spent more than three years sorting through primary materials. We spent several days in Lake Charles, Louisiana in the offices of the attorney then handling the case<sup>34</sup> where we were given unrestricted access to documents. In the course of our time there, we identified committees, technical task forces, executive files and minutes along with many other types of documents that we wanted to study. These committee minutes and other materials were sent to us en masse, as we requested. In the following months and years we continued to request specific sets of files and, in addition, the industry was required by the court to produce documents that it had withheld in whole or in part from plaintiffs' attorneys. Thus, the industry did not provide all of its documents at one time, but had to be compelled by the court to produce more documents as it became apparent that the industry was excising and redacting relevant materials. Throughout this whole process we continued to work through the original materials and to add to our timeline materials that came available to us. This was an extensive and rich archive that we sorted through. Just as in any research project of such a massive scale we may have missed some relevant documents. But, no documents have been presented to us that in any way alter the history we tell in Deceit and Denial. Furthermore, we have been open with the industry about our findings, providing them with the timeline in order to

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<sup>34</sup> At the time Billy Baggett Jr. was the lone attorney working on vinyl chloride. He had virtually abandoned all other cases. He was working out of a single family house in the center of Lake Charles, Louisiana with a small staff. The downstairs of the house was literally filled from floor to ceiling and in every room with hundreds of thousands of documents in binders and in boxes. Since that time in 1995 when we began visiting this archive and researching our book other law firms have joined the case on behalf of the plaintiffs.

obtain their feedback. We received no objections from industry with regard to the accuracy of the timeline or the quotations from materials in the documents that we present in the timeline. Finally, Dr. Markowitz has willingly appeared for five days of deposition in which he was questioned by industry lawyers.<sup>35</sup>

Contrary to Scranton's opinion, our research effort has been widely praised in the academic literature. In particular we have been praised for the range and thoroughness of our research as noted earlier. Without our research through thousands of industry documents this history would never have been uncovered. One need only consult our endnotes to appreciate the extraordinary effort that we undertook. But, further evidence of the massive work we performed is our 309 page timeline that abstracted and extracted short quotations from these thousands of documents. This timeline has proven useful for both plaintiffs' and defendants' attorneys alike in their efforts to identify materials never before studied by historians or lawyers for that matter. This timeline was critical in tracing industry activities and he is well-aware of its power, its accuracy and its substantive nature. Scranton's second accusation of ethical misconduct is that the review process "subverted confidential, objective refereeing of scholarly manuscripts (single- or double- blind) for this review was largely done 'among friends.'" (Scranton, p. 40). We would argue, in fact, that our manuscript was submitted for critical review to far more readers than is customary for the publication of academic books. Most manuscript are reviewed by two or three outside reviewers. Further, it is not at all uncommon for university presses to ask the authors themselves for suggested reviewers and in many cases reviewers are known to the authors. Our book was read and commented on by eight outside reviewers. As described earlier, these included well-respected historians, experts in industrial hygiene, the former head of the National Cancer Institute, the former chair of the Centers for Disease Control's Lead Advisory Committee, and the former head of the Louisiana Department of Environmental Quality. While we suggested the names of some acquainted with the vinyl chloride story and the history of industry and government, the Press and the Foundation, not us, picked the reviewers of the manuscript. Furthermore, the review process for Deceit and Denial was among the most intensive and rigorous events of our professional lives. All the reviewers were required to provide written reports on the manuscript as well as to attend a retreat with us, the editor from the press and the President of the foundation. For two days we discussed the manuscript and listened to critiques of our work in order to insure that our research and argument were as rigorous and accurate as possible. All the books in this series on health and policy published by the University of California Press and Milbank go through this review. We believe, in fact, that this process, far more rigorous than the usual review process for academic books, has resulted in a solidly researched and argued book, as reflected in the near-universal praise from academic reviewers in the scholarly journals.

Scranton concludes that our work "does not meet the standards the AHA and NCPH have established to define professional historical scholarship." (Scranton, p.40).

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<sup>35</sup> Many of the allegations made by Dr. Scranton were first raised by industry lawyers during this deposition.

We will leave such judgment to our colleagues in the historical profession, asking them to read our book and judge whether or not such an accusation is warranted. We feel no need to defend ourselves from Scranton's own assertion of moral superiority. We do feel it is important to point out, however, certain elemental aspects of the AHA guidelines. Although Scranton implies the existence of specific and immutable AHA and NCPH guidelines, in fact the guidelines for professional scholarship are very general and very short. While they are quite laudable, it is disingenuous to claim that they are anything other than a work in progress. They are not meant as a bludgeon with which to attack others' scholarship.

The AHA guidelines on scholarship include "standards of civility." "The preeminent value of all intellectual communities is reasoned discourse – the continuous colloquy among historians of diverse points of view. A commitment to such discourse makes possible the fruitful exchange of views, opinion, and knowledge." Our book is an attempt to engage in such a dialogue. We feel that **Scranton, in his 40 page single spaced report, transforms disagreement into an issue of integrity and ethics. Had he simply disagreed with our interpretation of documents the decision as to who is more accurate could have been left to colleagues (and, in this case, a jury) to decide. Instead, he attacked our integrity and ethics. This has the effect of cutting off scholarly discussion and debate and undermines any attempt to foster a "fruitful exchange of views, opinion, and knowledge."** The critical discussion of industrial history and occupational disease must not be cut short nor should historians be intimidated by the obfuscation and legalistic arguments characteristic of lawyers trying to win their case at all costs -- in dollars as well as professional reputations. We offer this response to Scranton's attack on our work both as a defense of our scholarship and reputations and a defense of the right of historians to pursue their work without fear of intimidation.