



NEW YORK CITY LAW DEPARTMENT  
OFFICE OF THE CORPORATION COUNSEL

Michael A. Cardozo, *Corporation Counsel*

Press Release

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*For Immediate Release*

## **NEW YORK CITY LAW DEPARTMENT ANNOUNCES NEW LAWSUIT AGAINST ONLINE CIGARETTE BUSINESS AND ITS DELIVERY SERVICE**

### ***UPSTATE BUSINESSES VIOLATE FEDERAL LAWS AGAINST REMOTE CIGARETTE SALES AND SALES OF NON-TAX-PAID CIGARETTES***

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New York, June 20, 2012 – Today New York City Corporation Counsel Michael A. Cardozo announced the latest lawsuit in the City's ongoing efforts against businesses that illegally evade City and State taxes on cigarette sales.

The City's lawsuit, filed in the Federal District Court for the Southern District of New York today, names two upstate New York businesses—Robert and Marcia Gordon (the "Gordons") and Regional Integrated Logistics, Inc., d/b/a Regional Parcel Services ("Regional Parcel Services"). As described by the City's complaint, the Gordons operate a website known as "All of Our Butts," which offers to sell City residents "tax-free" cigarettes. The site encourages City residents to order cigarettes by mail or telephone and use the delivery service "RPS [Regional Parcel Services] Ground," which then arranges for deliveries of the cigarettes into the City.

The lawsuit charges the Gordons with violations of the federal Contraband Cigarette Trafficking Act ("CCTA") and the Prevent All Cigarette Trafficking ("PACT") Act by making deliveries of cigarettes into the City without appropriate tax stamps and without complying with the federal regulations requiring reports to tax authorities and the use of age verification practices for cigarette deliveries. The suit also alleges the Gordons violated the federal anti-racketeering statute, known as the Racketeer Influenced Corrupt Organizations Act (or "RICO") statute by engaging in repeated sales of cigarettes on which State and City taxes have not been paid, and violated the New York State Cigarette Marketing Standards Act by virtue of the same conduct. Regional Parcel Services is named as a co-conspirator in the RICO violations and as a violator of the Contraband Cigarette Trafficking Act.

"The City has made clear through our previous lawsuits that illegal sales of cigarettes will not be tolerated in any form," said Corporation Counsel Michael A. Cardozo. "Businesses that flout the law injure the public health and evade taxes used to pay for vital public services. They can expect future enforcement actions directed against them."

"Illegal cigarettes are a serious threat to the legitimate small businesses that charge the appropriate tax to their customers," said Finance Commissioner David Frankel. "This administration is dedicated to stomping out illegal cigarettes and putting an end to companies offering to sell tax-free cigarettes to consumers."

"Businesses that enable cigarettes to be purchased tax-free hamper public health measures designed to discourage smoking, especially among minors," said Health Commissioner Dr. Thomas Farley. "Cigarette taxes and other tobacco control policies have helped bring New York City's smoking rate to an all-time low of 14 percent. However, smoking is still the leading cause of premature death in our city. This lawsuit continues to demonstrate that New York City will not tolerate businesses that undermine laws designed to save lives."

Investigations by the Office of the Sheriff of the New York City Department of Finance showed that sales by the "All of Our Butts" website are not reported to the City, and that proper age-verification practices are not in place, as required by the PACT Act. The sales also violate the federal Contraband Cigarette Trafficking Act, because the cigarettes sold and delivered into the City do not bear State or City tax stamps. The same sales violate State law and the federal racketeering statute, which makes it unlawful to use an organization to engage repeatedly in certain specified crimes, including cigarette trafficking.

In 2010, Robert Gordon brought a lawsuit against the United States, seeking to enjoin the PACT Act as unconstitutional. However, a federal court in the District of Columbia upheld as fully enforceable those provisions that the City alleges the Gordons are violating by sales to City residents. As a result of Gordon's lawsuit, the same court also enjoined enforcement of certain provisions of the PACT Act, a ruling now on appeal.

Sales of non-tax-stamped cigarettes deprive the State and City of millions of dollars in lost cigarette tax revenues, hurt law-abiding small businesses, and undercut public health measures designed to discourage smoking. The City's lawsuit against the defendants seeks an injunction to stop the defendants from continuing their illegal sales and deliveries into the City as well as compensation for the tax revenue lost by the City as a result of defendants' unlawful activities.

The New York City Law Department is one of the oldest, largest and most dynamic law offices in the world, ranking among the top largest law offices in New York City and one of the largest public law offices in the country. Tracing its roots back to the 1600's, the Department has an active caseload of 90,000 matters and transactions in 17 legal divisions. The Corporation Counsel heads the Law Department and acts as legal counsel for the Mayor, elected officials, the City and all its agencies. The Department's 650 attorneys represent the City on a vast array of civil litigation, legislative and legal issues and in the criminal prosecution of juveniles. For more information, please visit [www.nyc.gov/law](http://www.nyc.gov/law).

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