



NEW YORK CITY LAW DEPARTMENT  
OFFICE OF THE CORPORATION COUNSEL

Press Release

Michael A. Cardozo, *Corporation Counsel*

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## NEW YORK CITY ANNOUNCES SETTLEMENT WITH FEDEX GROUND OVER CIGARETTE DELIVERIES

### ***CITY AND FEDEX GROUND PACKAGE SYSTEM INC. RESOLVE DISPUTE OVER PAST DELIVERIES OF UNTAXED CIGARETTES INTO NEW YORK CITY***

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New York, New York, March 15, 2013 – Finance Commissioner David Frankel and Corporation Counsel Michael A. Cardozo announced today that FedEx Ground Package System Inc. has agreed to pay \$2.4 million to resolve the City's claim that it improperly delivered untaxed cigarettes to City consumers. FedEx Ground also agreed to cooperate with any future investigations of shippers who attempt to use its services to deliver untaxed cigarettes.

FedEx Ground's delivery of untaxed cigarettes was uncovered during the City's investigation of a Kentucky-based cigarette seller known as "CigarettesDirect2U.com" (also known as "CD2U"), which accepted mail, telephone, and Internet orders for cigarettes and shipped them nationwide between 2005 and 2009. CD2U was shut down by the federal Bureau of Alcohol, Tobacco, Firearms & Explosives (ATF) in December 2009 for violating multiple federal statutes governing tobacco sales.

Finance Commissioner David Frankel said of the settlement, "As this investigation shows, the City attacks cigarette tax evasion on all fronts. Our job is to level the playing field for those who do the right thing and go after cigarette sellers who try to cheat our residents out of the tax dollars used to fund vital services. I want to thank Corporation Counsel Michael Cardozo and his team, as well Sheriff Edgar Domenech and the Office of the Sheriff for their unyielding efforts to crack down on the illegal cigarette trade."

Corporation Counsel Michael A. Cardozo said, "We are pleased that FedEx Ground has chosen to resolve these claims without the effort and expense of litigation, and we appreciate its cooperative approach. We will continue our aggressive efforts to stamp out illegal cigarettes in the City, which will help reduce the number of smokers and ensure that appropriate taxes are paid. I also extend the City's thanks to the Bureau of Alcohol, Tobacco, Firearms & Explosives and its Louisville Office for superb efforts in assisting the City's case against CigarettesDirect2U.com."

Health Commissioner Dr. Thomas Farley said, "Though we have made great strides in curbing smoking rates, it is still the leading cause of preventable premature death in New York City. Taxes are the single most effective way to reduce smoking, and I applaud the Law Department's efforts to keep illegal cigarettes out of New York City."

The City's investigation was based on records obtained from ATF and determined that between 2006 and 2009, CigarettesDirect2U.com used FedEx Ground to deliver approximately 70 tons of cigarettes into the City. Common carriers can violate the federal Contraband Cigarette Trafficking Act (CCTA) by delivering

untaxed cigarettes.

The City's lawsuit against CigarettesDirect2U.com, its owners, suppliers, and customers was brought under the CCTA and the Racketeer Influenced and Corrupt Organizations Act (RICO), to recover damages for the City's entire tax loss. The case is continuing in the Federal District Court for the Southern District of New York before Judge Katherine B. Forrest.

The present settlement is the latest in a comprehensive effort by the City to eliminate untaxed cigarette sales. Through a series of innovative lawsuits brought under the CCTA and RICO, the City has forced the closure of numerous businesses engaged in tax-evasive cigarette sales.

So-called "delivery-sales," in which interstate cigarette sellers freely shipped cigarettes into states and localities without payment of taxes, are now regulated by the federal Prevent All Cigarette Trafficking (PACT) Act, which requires pre-payment of state and local taxes on cigarettes, imposes certain reporting and age-verification requirements, and prohibits the mailing of tobacco products through the Postal Service.

The New York City Law Department is one of the oldest, largest and most dynamic law offices in the world. Tracing its roots back to the 1600's, the Department's 650-plus lawyers handle more than 80,000 cases and transactions each year in 17 separate 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 attorneys represent the City on a vast array of civil litigation, legislative and legal issues and in the prosecution of juvenile delinquency matters. For more information, please visit [nyc.gov/law](http://nyc.gov/law).

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