



## **NEW YORK CITY CORPORATION COUNSEL ANNOUNCES NEW LAWSUIT AGAINST TAX-EVADING CIGARETTE “DELIVERY SELLER” AND ITS DELIVERY SERVICE**

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

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New York, March 22, 2013 – 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 yesterday, names upstate New York businesses Wolfpack Tobacco, Cloud and Company, and Allegany Sales and Marketing, and their owners, Philip and Heidi Jimerson (collectively, “the Wolfpack Defendants”), along with the Wolfpack Defendants' delivery service, PM Delivery and its operators, Michael Jones and John Powers.

“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 Cardozo. “Businesses that flout the law harm public health and evade taxes used to pay for vital public services. They can expect future enforcement measures, and as past experience has proven, we are often successful in these efforts.”

“Whether it is in stores, on the Internet, over the phone or through the mail—we will continue to snuff out illegal cigarette activity wherever we find it,” said Finance Commissioner David Frankel. “Companies like this put legitimate businesses at a tremendous disadvantage, put the public's health at risk, and cheat our residents out of tax revenue. 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.”

As described by the City's complaint, the Wolfpack Defendants encourage City residents to order “tax-free” cigarettes by mail or telephone. PM Delivery then arranges for deliveries of the non-tax-paid cigarettes into the City.

The lawsuit charges the Wolfpack Defendants with violations of the federal Contraband Cigarette Trafficking Act (CCTA), the federal anti-racketeering statute known as the Racketeer Influenced Corrupt Organizations Act (RICO), and the New York State Cigarette Marketing Standards Act (CMSA) by engaging in repeated sales of cigarettes to City residents on which State and City taxes have not been paid. The suit also alleges the Wolfpack Defendants violated the Prevent All Cigarette Trafficking (PACT) Act by making sales and deliveries of cigarettes into the City without filing reports with tax authorities,

using age verification practices, abiding by weight limits, and applying mandatory labeling. PM Delivery is named as a knowing violator of the CCTA and as a participant and conspirator in the RICO violations.

Investigations by the New York City Department of Finance Sheriff's Office showed that cigarettes sold by the Wolfpack Defendants and delivered into the City do not bear State or City tax stamps, violating the federal CCTA and RICO, as well as the state CMSA. The scheme has evaded at least \$690,000 in City taxes and \$2.3 million in State taxes since December 2010 alone—only a fraction of the amount evaded since the Wolfpack Defendants began selling non-tax-paid cigarettes in 2002. The sales and deliveries also violated the PACT Act, which subjects violators to stiff penalties, because the Wolfpack defendants did not report the sales to the City tax authorities, use proper age-verification practices, comply with weight limits on cigarette shipments, or apply proper labeling.

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 the defendants' unlawful activities.

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