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**MAYOR BLOOMBERG AND CORPORATION COUNSEL CARDOZO SUE TO STOP  
ILLEGAL CIGARETTE SALES AT EIGHT LONG ISLAND INDIAN SMOKE SHOPS THAT  
HAVE COST NEW YORK TAXPAYERS \$720 MILLION IN LOST REVENUE**

*Indian Reservations are Tax Exempt for Personal Use Only – But Sales Data Correspond to Every  
Man, Woman, and Child in Tribe Smoking 19,200 Cigarettes Each and Every Day*

*As City Tightens Budgets and Debates Rescinding Property Tax Cut, City's Lost Tax Revenue Would  
Pay One Year's Salary, Benefits and Training for 2,700 Police Officers or 2,800 Firefighters or 3,000  
Teachers*

Mayor Michael R. Bloomberg and Corporation Counsel Michael A. Cardozo announced today that the City of New York filed a complaint in the Federal District Court for the Eastern District of New York against eight Long Island businesses located on the Poospatuck Indian reservation in Mastic, Long Island, for illegally selling massive quantities of cigarettes on which State and City taxes have not been paid, in violation of the Federal Contraband Cigarette Trafficking Act and State law. An investigation has documented sales by these reservation businesses of nearly 24 million cartons of contraband cigarettes since 2004. While residents of Indian Reservations are permitted to buy cigarettes tax-free for personal use, the sales numbers translate to every resident of this reservation, including babies, each smoking 19,200 cigarettes every single day. The tax losses from the sales by these eight businesses alone amount to \$525 million in State taxes and up to an additional \$195 million for the City, and the total losses to City and State taxpayers from fraudulent cigarette sales on Indian reservations total over \$1 billion a year. Later this week the City is expected to file papers seeking a preliminary injunction that, if granted, would bring an immediate halt to the illegal sales by the eight businesses. The Mayor and the Corporation Counsel were joined by the City's Finance Commissioner Martha E. Stark and the Commissioner of the Health Department Thomas R. Frieden in City Hall's Blue Room.

"Last week, we announced half a billion dollars in reductions to this year's budget and another billion dollar in reductions for next year," said Mayor Bloomberg. "We've done a good job of saving surpluses for tough times and cutting costs, but we owe it to taxpayers to be just as tough on the tax collection side. As we all pull together to do more with less, it's just grossly unfair to hardworking taxpayers to leave hundreds of millions of dollars of tax revenue on the table uncollected."

"This suit further demonstrates the City's commitment to curtail illegal cigarette trafficking," said Corporation Counsel Michel A. Cardozo of the New York City Law Department. "Mayor Bloomberg has made it a top priority to end the bootlegging of cigarettes into the City, which

(more)

undermines our revenues and our health programs.” As another example of the City’s efforts, the Corporation Counsel pointed to a related legal action in which the City is seeking to enjoin cigarette wholesalers from providing reservation retailers like those in the present suit with supplies of unstamped cigarettes. Judge Carol B. Amon of the Federal District Court for the Eastern District of New York recently ruled that cigarette wholesalers are potentially liable for violations of the Contraband Cigarette Trafficking Act for such sales. *See City of New York v. Milhelm Attea & Bros., Inc.*, 2008 U.S. Dist. LEXIS 35465 (E.D.N.Y. 2008). In addition, earlier this month the Second Circuit Court of Appeals overruled a lower court and allowed four civil RICO (Racketeer Influenced and Corrupt Organizations Act) cases brought by the City against numerous out-of-state Internet cigarette retailers to move forward. The cases are based on alleged mail and wire fraud connected to the defendants’ failure to file federally required tax documentation. *See City of New York v. Smokes-Spirits.com, Inc.*, 2008. U.S. App. LEXIS 18930 (2<sup>nd</sup> Cir. 2008).

Native Americans are permitted by law to purchase and possess unstamped cigarettes on which taxes have not been pre-paid, but only for personal use or re-sale on the reservation to other tribe members. The defendants in today’s suit purchase cigarettes under the guise that they are for personal use on the reservation, but then illegally sell the cigarettes to the public in sales that are subject to taxation. According to the United States Census Bureau, the Poospatuck Reservation has a population of 279 people. If all of the 960 packs of cigarettes containing a total of 19,200 cigarettes sold there each day were for personal use on the reservation, every reservation resident would have to smoke more than 13 cigarettes every minute 24 hours a day, seven days a week.

Across New York, some \$1 billion a year in cigarette taxes are left uncollected because of the State’s failure to enforce its tax laws on cigarettes sold on Indian reservations. The \$195 million that New York City lost from these eight smoke shops alone could have paid for the modernization of a public hospital, or a year’s salary and benefits for 2,675 new NYPD police officers, 2,848 new FDNY firefighters, 3,324 new sanitation workers, or 3,073 new teachers. It’s also nearly equivalent to three-quarters of the annual operating budget of the Parks Department.

Today’s lawsuit, seeks to halt the businesses and their operators from continuing the longstanding, illegal sale of millions of cartons of “unstamped” cigarettes on which State and City taxes have not been paid. The defendant businesses sell in bulk to cigarette bootleggers, who truck the cigarettes into the City on a daily basis. Undercover investigators found that the businesses willingly sell bulk quantities of cigarettes knowing that the cigarettes will be trafficked into the City – and even assist traffickers in avoiding detection by law enforcement.

“We respect the right of Native Americans to sell cigarettes to reservation residents tax free,” said Finance Commissioner Martha Stark. “However, reservations must collect tax for non-members or provide us with information so we can collect taxes.”

The Federal Contraband Cigarette Trafficking Act, *18 U.S.C. § 2341*, makes it a felony – and also gives rise to civil liability – for selling cigarettes without tax stamps in States where the cigarettes are subject to tax. The New York Cigarette Marketing Standards Act also gives rise to civil liability for selling cigarettes without including amounts for all taxes required by law. Cigarettes sold by Native Americans to the public are taxable and by law must bear tax stamps in New York. Defendants violate both statutes, as a result of which the City is empowered to seek both injunctive relief and damages.

The cigarette bootlegging from the Poospatuck Reservation was revealed recently by the conviction of one of the present defendants, Rodney Morrison, owner of the Peace Pipe Smoke Shop, on federal racketeering charges for cigarette trafficking. The businesses are extraordinarily lucrative, with court records showing the Peace Pipe Smoke Shop grossed \$36 million in the first half of 2006.

The current lawsuit is part of a comprehensive effort by the Bloomberg Administration to halt all forms of cigarette bootlegging into the City and limit the health impacts of smoking. “When people evade cigarette taxes, they cheat society and they increase their risk of death from smoking,” said Health & Mental Hygiene Commissioner Dr. Thomas R. Frieden. Finance Commissioner Stark also noted that bootlegging injures the businesses of those retailers who are abiding by the law.

The 18 defendants are located on the Poospatuck Indian Reservation (also called the Unkechauge Indian Reservation) are:

- Golden Feather Smoke Shop, Inc., Mastic, NY and Brooklyn, NY
- Kimo Smoke Shop, Inc., Mastic, NY and Lake Ronkonkoma, NY
- Smoke and Rolls, Inc. Mastic, NY
- Shawn Morrison Owner/operator of Golden Feather, Smoke & Rolls and Kimo
- Kiana Morrison Owner/operator of Golden Feather, Smoke & Rolls and Kimo
- Monique’s Smoke Shop Mastic, NY
- Jessey Watkins Owner/operator of Monique’s Smoke Shop
- Ernestine Watkins Owner/operator of Monique’s Smoke Shop
- Wayne Harris Owner/operator of Monique’s Smoke Shop
- Peace Pipe Smoke Shop Mastic, NY
- Rodney Morrison, Sr. Owner/Operator of Peace Pipe
- Charlotte Morrison Owner/Operator of Peace Pipe
- Red Dot & Feather Smoke Shop, Inc. Mastic, NY
- Raymond Hart Owner/Operator of Red Dot
- Smoking Arrow Smoke Shop Mastic, NY
- Denise Paschall Owner/Operator of Smoking Arrow
- Tony D. Phillips Operator of Smoking Arrow
- TDM, Inc. Mastic, NY
- Thomasina Mack Owner/Operator of TDM

Law Department attorneys Eric Proshansky, Gail Rubin and William Miller are leading the litigation. The New York City Law Department acts as legal counsel for the Mayor, elected officials, the City and its agencies.

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