



# Department of Justice

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Eastern District of California

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## Two Indictments in California Tobacco-tax Fraud

SACRAMENTO, Calif. — United States Attorney Lawrence G. Brown announced today that a grand jury returned indictments in two separate investigations involving fraud against the State of California with respect to payment of the excise tax on tobacco products.

One indictment charges Jawid WAHIDI, 32, of Los Angeles, with multiple counts of mail fraud in connection with his operation of a tobacco distributorship called LMS International Inc.

The second indictment charges two brothers, MUHAMMAD INAYAT, 34, and MUHAMMAD SAEED MALIK, 33, both of Chicago, with multiple counts of mail fraud and conspiracy to commit mail fraud in connection with their operation of a tobacco distributorship called ISA CHICAGO WHOLESALE INC. (ISA). The corporate entity of ISA was also charged in the same indictment. INAYAT and MALIK are accused of running multiple schemes from Illinois to defraud the State of California of millions of dollars of tobacco excise tax. WAHIDI is accused of operating an unrelated scheme for the same purpose.

Both cases are the product of an investigation by the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), California Attorney General's Office, California Board of Equalization (BOE), and, in the case of ISA, the Illinois Department of Revenue.

According to Assistant United States Attorney R. Steven Lapham and California Deputy Attorney General Peter Williams, who are prosecuting both cases, INAYAT and MALIK are suspected of conspiring with others (not yet indicted) in a scheme to evade an estimated \$650,000 in excise tax owed to the State of California from the sale of "other tobacco products" or OTP.

"These arrests come at a time when the State of California is in dire economic straits. ATF is pleased to work with our partners in the Board of Equalization to bring those responsible for loss in revenue to the State to justice," said ATF's Special Agent In Charge Stephen C. Herkins.

"Funds due to the State instead went into the pockets of a few individuals, and provided them an unfair advantage against law-abiding businesses," said United States Attorney Brown.

Licensed tobacco distributors in California are required by state law to accurately report the amount of their purchases of untaxed OTP and to pay the excise tax on that product when they sell it within the state. OTP consists of tobacco products other than cigarettes, such as cigars, chewing tobacco, and leaf tobacco. Licensed distributors are also required to keep records reflecting the purchase and sale of their OTP. Individuals who do not have a tobacco distributor's license are prohibited from the possession of untaxed tobacco products. Because the

California excise tax for OTP is more than 45 percent of the wholesale cost, a large profit margin exists for individuals or companies who can illegally evade paying it.

The indictment in the ISA case charges that ISA shipped untaxed OTP to a co-conspirator in California, attempting to conceal the true nature of the shipment. For example, ISA sent the OTP to different names and addresses in order to hide the true purchaser of the product and covered the palletized shipments in black plastic wrapping so that inspectors or shippers would not be able to easily ascertain the contents of the pallets. After a state search warrant was served on ISA in 2008, ISA started shipping its product under the name of IIC, in a further attempt to disguise its illegal activities.

In the LMS case, Jawid “Joey” WAHIDI is accused of operating a scheme to defraud the State of California of approximately \$800,000. WAHIDI purchased untaxed OTP from both in-state and out-of-state distributors. WAHIDI then filed fraudulent tax returns that either omitted or under-reported his taxable distributions within the state. WAHIDI conspired with both his suppliers and his customers, falsifying or destroying invoices that would accurately reflect the amount of OTP being distributed. He attempted to run an all-cash business, both encouraging his customers to pay in cash and paying for his own purchases in kind, again to avoid creating any documents that could be used as evidence of the purchase or sale of OTP.

All the defendants either made fraudulent reports or caused fraudulent reports to be made to BOE in furtherance of their conspiracy to avoid excise tax.

MALIK and WAHIDI are in custody. MALIK was arrested on Monday, September 9, 2009, at approximately 9:30 a.m. at his business in Chicago. WAHIDI was arrested today, at approximately 11:00 a.m. at his business in Los Angeles.

If convicted, each defendant faces a potential prison sentence in excess of 20 years, and substantial fines. The actual sentence will be determined at the discretion of the court after consideration of the Federal Sentencing Guidelines, which take into account a number of variables and any applicable statutory sentencing factors.

The charges are only allegations and the defendants are presumed innocent until and unless proven guilty beyond a reasonable doubt.

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