

UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY

UNITED STATES OF AMERICA	:	
	:	
v.	:	<b>CRIMINAL COMPLAINT</b>
	:	
XIAO Z. QI,	:	Claire C. Cecchi
ZHI H. LIN,	:	
RONG CHEN,	:	Mag. No. 07-
SONG D. XU, and	:	
YU WANG	:	

I, the undersigned complainant, being duly sworn, state the following is true and correct to the best of my knowledge and belief. From at least in or around May 2004 through in or around March 2007, in the District of New Jersey and elsewhere, the defendants XIAO Z. QI, ZHI H. LIN, RONG CHEN, SONG D. XU, and YU WANG did:

knowingly and willfully conspire and agree with each other and others to ship, transport, receive, possess, sell, distribute, and purchase and cause the shipment, transportation, receipt, possession, sale, distribution and purchase, of contraband cigarettes, as that term is defined in Title 18, United States Code, Section 2341(2), which bore no evidence of the payment of the applicable State cigarette taxes for the State of New Jersey, contrary to Title 18, United States Code, Section 2342, in violation of Title 18, United States Code, Section 371.

I further state that I am a Postal Inspector with the United States Postal Inspection Service, and that this complaint is based on the following facts:

SEE ATTACHMENT A

continued on the attached page and made a part hereof.

\_\_\_\_\_  
Richard T. Lennon, Postal Inspector  
United States Postal Inspection Service

Sworn to before me and subscribed in my presence,

April 11, 2007, at Newark, New Jersey

HONORABLE CLAIRE C. CECCHI

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ATTACHMENT A

I, Richard T. Lennon, a Postal Inspector with the United States Postal Inspection Service, following an investigation and discussions with other law enforcement officers, am aware of the following facts:

1. Beginning in at least May 2004 through in or around March 2007, defendants XIAO Z. QI, ZHI H. LIN, RONG CHEN, SONG D. XU and YU WANG have conspired with each other and with others to purchase more than \$4.5 million in contraband cigarettes and then resell those cigarettes for significant profits to restaurants, retailers and others in or around New Jersey.

2. Based on the amount of money paid for those tax-free cigarettes, there is probable cause to believe that defendants purchased at least 150,000 cartons or 30 million cigarettes, well in excess of the statutory limit.

3. By trafficking in contraband cigarettes, defendants have defrauded the State of New Jersey of sales taxes in the amount of at least \$3 million.

BACKGROUND

4. At all times relevant to this Complaint:

(a) The term “contraband cigarettes” was a statutorily defined term, which, prior to March 9, 2006, meant a quantity of more than 60,000 cigarettes that bore no evidence of the payment of the sales tax of the state in which the cigarettes were found, if such state required the placement of a stamp, impression or other indication to be placed on packages of cigarettes to evidence the payment of cigarette taxes. On or about March 9, 2006, Congress reduced the quantity necessary to violate the law to more than 10,000 cigarettes.

(b) The amount of 60,000 cigarettes translated to 300 cartons of cigarettes, where a carton contained 10 packages of cigarettes and a package contained 20 cigarettes. Likewise, 10,000 cigarettes translated to 50 cartons of cigarettes, where a carton contained 10 packages of cigarettes and a package contained 20 cigarettes.

(c) The State of New Jersey imposed a sales tax on the sale of cigarettes and required a cigarette “tax stamp” to be placed on all cigarette packages sold in the State. The responsibility for placing tax stamps on cigarette packages fell on cigarette manufacturers or licensed cigarette stamping agents, and the cost of such tax generally was included in the price of the cigarette package when it was sold to the retailer and later to the cigarette smoker.

5. Based upon my investigation, training and experience, and that of other law enforcement officers with whom I have spoken, I know that Native American owned or affiliated companies on Native American reservations in the State of New York were able to

obtain cigarettes from distributors without payment of New York State cigarette taxes if, among other things, the cigarettes were sold on the reservation to tribal members for their personal consumption. It is illegal, however, for individuals to purchase untaxed cigarettes from Native American entities for resale off of the reservation or to non-tribal members.

6. Records maintained by the State of New Jersey reveal that no sales taxes were paid by any of the defendants on these cigarette purchases and that none of the defendants was authorized or licensed by the State of New Jersey to purchase or sell tax-free cigarettes in the State of New Jersey.

### MANNER AND MEANS OF THE CONSPIRACY

Among the manner and means employed by defendants to carry out the conspiracy and to effect its unlawful objects were the following:

7. At all times relevant to this Complaint, defendants purchased tax-free cigarettes from discount cigarette distributors located outside the State of New Jersey. Those distributors operated a significant portion of their business over the internet, and most of them claimed to be affiliated with certain Native American tribes located in the State of New York.

8. Specifically, between in or around May 2004 and in or around May 2006, defendants received approximately 1,500 parcels of tax-free cigarettes via the U.S. mail and common carriers from various discount cigarette distributors, most of which claimed to be affiliated with Native American tribes. Similarly, between in or around June 2006 and in or around March 2007, defendants traveled to New York to obtain tax-free cigarettes from discount cigarette distributors.

9. The cigarettes obtained via the mail and in person in New York by the defendants usually were packaged in medium or large-sized cardboard boxes. Based on my investigation and experience, and that of other law enforcement officers with whom I have spoken, I know that the large-sized boxes were generally consistent in size and shape with a master case of cigarettes, which typically holds approximately 60 cartons of cigarettes. I also know that the medium-sized boxes were generally consistent in size and shape with a half case of cigarettes, which typically holds approximately 30 cartons.

10. Defendants utilized various self-storage facilities and other locations to store contraband cigarettes for later distribution. In addition, defendants typically transported boxes of cigarettes encased in large, black plastic bags to conceal or disguise the nature of the contents of the boxes.

11. After obtaining tax-free cigarettes, defendants would resell them to restaurants, retailers or directly to cigarette smokers. Federal agents also have learned that some of those restaurants and retailers, in turn, would resell those cigarettes to other retailers or directly to cigarette smokers.

### OVERT ACTS

In furtherance of the conspiracy and to effect its unlawful object, the defendants and others committed and caused to be committed the following overt acts, among others:

12. On or about October 13, 2005, defendant ZHI H. LIN rented a storage unit at a self-storage facility in North Bergen, New Jersey.

13. On or about February 13, 2006, defendant SONG D. XU picked up five, large C.O.D. boxes at a United States Post Office in Newark, New Jersey, which were shipped by a discount cigarette distributor that claimed to be affiliated with a Native American tribe located in New York.

14. On or about February 13, 2006, after receiving the boxes discussed above, defendant SONG D. XU brought them with the help of defendant RONG CHEN into their restaurant in Newark, New Jersey.

15. On or about February 13, 2006, SONG D. XU exited his restaurant in Newark, New Jersey, with a box encased in a large, black plastic bag and delivered it to a Chinese restaurant in Plainfield, New Jersey.

16. On or about March 11, 2006, defendant XIAO Z. QI accepted 20 C.O.D. boxes from a U.S. letter carrier at the residence he shared with defendant ZHI H. LIN in West New York, New Jersey. Such boxes were shipped by a discount cigarette distributor that claimed to be affiliated with a Native American tribe located in New York.

17. On or about April 13, 2006, defendants ZHI H. LIN and XIAO Z. QI accepted four large boxes from a U.S. postal letter carrier, which were shipped by a discount cigarette distributor that claimed to be affiliated with a Native American tribe located in New York.

18. On or about April 13, 2006, after receiving the boxes described above, defendants XIAO Z. QI and ZHI H. LIN unloaded the boxes into a self-storage facility in North Bergen, New Jersey.

19. On or about June 22, 2006, defendants XIAO Z. QI and SONG D. XU met at a self-storage facility in New York with an individual associated with a discount cigarette distributor that claimed to be affiliated with a Native American tribe located in New York.

20. On or about June 22, 2006, immediately after the meeting described above, defendant XIAO Z. QI unloaded several boxes encased in large, black plastic bags into his storage unit in North Bergen, New Jersey.

21. On or about August 3, 2006, defendant XIAO Z. QI delivered boxes of cigarettes to YU WANG at WANG'S restaurant in Newark, New Jersey.

22. On or about September 21, 2006, in Newark, New Jersey, defendant YU WANG possessed numerous cartons of unstamped and untaxed cigarettes for resale at his restaurant in Newark, New Jersey.

23. On or about November 3, 2006, defendant ZHI H. LIN rented another storage unit at a self-storage facility in Secaucus, New Jersey.

24. On or about January 7, 2007, in Newark, New Jersey, defendants RONG CHEN and SONG D. XU possessed numerous cartons of unstamped and untaxed cigarettes for resale at their restaurant in Newark, New Jersey.

25. On or about March 15, 2007, defendant XIAO Z. QI delivered boxes of cigarettes encased in a large, black plastic bag to a Chinese restaurant in Jersey City, New Jersey.

26. On or about March 15, 2007, defendant XIAO Z. QI delivered boxes of cigarettes encased in large, black plastic bags to YU WANG at WANG'S restaurant in Newark, New Jersey.