

July 19, 2012

ORIGINAL FILED

UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY

JUL 19 2012

PATTY SHWARTZ  
U.S. MAG. JUDGE

UNITED STATES OF AMERICA : **CRIMINAL COMPLAINT**

v. :  
: Mag No. 12-3101 (PS)

RICKY LE :  
YAZHOU WU aka George :  
JIA YONGMING aka David :  
JOHNNY CHAN KOON HA aka Tony :

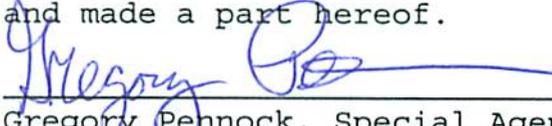
I, the undersigned complainant, being duly sworn, state the following is true and correct to the best of my knowledge and belief.

SEE ATTACHMENT A

I further state that I am a Special Agent, and that this complaint is based on the following facts:

SEE ATTACHMENT B

continued on the attached page and made a part hereof.

  
 Gregory Pennock, Special Agent  
 Federal Bureau of Investigations

Sworn to before me and subscribed in my presence,  
July, 2012 at Newark, New Jersey

Honorable Patty Shwartz  
United States Magistrate Judge

  
 Signature of Judicial Officer

ATTACHMENT A

From beginning in or about May 2009, and continuing through in or about May 2011, in the District of New Jersey and the Central District of California, and elsewhere, defendants, RICKY LE, YAZHOU WU, JIA YONGMING and JOHNNY CHAN KOON HA did knowingly and intentionally conspire and agree to ship, transport, receive, possess, sell, distribute and purchase contraband cigarettes, which bore no evidence of the payment of applicable state cigarette tax in the state where such cigarettes are found, namely California, contrary to Title 18, United States Code, Section 2342(a).

## ATTACHMENT B

I am a Special Agent (hereinafter "Your Affiant") with the Federal Bureau of Investigation. My office is located in Northfield, New Jersey. I have knowledge of the facts set forth herein through my personal participation in this investigation and through oral and written reports of other federal and local law enforcement officers. Where statements of others are set forth herein they are related in substance and in part. Since this Complaint is being submitted for a limited purpose I have not set forth every fact that I know or that other investigators know concerning this investigation. I have only set forth those facts that I believe are sufficient to establish that probable cause exists to believe the defendants have committed the offenses set forth in the Attachment. Where I assert that an event took place on a particular date, I am asserting that it took place on or about the date alleged.

### Introduction

At all times relevant to this complaint:

1. The term "Contraband Cigarettes" is a statutorily defined term which means a quantity in excess of 10,000 cigarettes which bear no evidence of the payment of applicable State cigarette taxes in the State where such cigarettes are found, if such State requires a stamp, impression or other indication to be placed on packages or other containers of cigarettes to evidence payment of cigarette taxes.

2. States have the concurrent authority and jurisdiction to enact and enforce cigarette tax laws, to provide for the confiscation of cigarettes and other property seized for violations of such laws, and for the administration of such laws, including the imposition of cigarette tax rates. For example, from May 2009 through May, 2011, the State tax on cigarettes sold in California was \$0.87 per pack.

3. Most States, in order to evidence the payment of applicable State cigarette taxes in the State where such cigarettes are found, require a stamp, impression, or other indication to be placed on packages or other containers of cigarettes. California required such a tax stamp.

4. The brand name cigarettes "Marlboro" and "Marlboro Lights" are cigarettes manufactured in the United States, and elsewhere, by Phillip Morris USA and other Phillip Morris companies. Marlboro trademarks are owned for use in the United States by Philip Morris USA Inc, which is a wholly-owned subsidiary of Altria Group, Inc. Philip Morris International owns the Marlboro trademarks outside the USA.

5. A "Bill of Lading" refers to a document that a transportation company possesses, acknowledging that it has received goods, which temporarily serves as the title to the goods during the transport of the merchandise.

6. As used in this Complaint, the term "Container" is a reference to a large metal box, which typically has two sizes; one size is approximately 20 feet in length, while the other is approximately 40 feet in length. Both are used to transport bulk cargo on board ships, as well as on tractor-trailer trucks.

7. As used in this Complaint, the term "Case" or "Master case" of cigarettes generally describes a case of Contraband Cigarettes which contains fifty (50) cartons of cigarettes; the term "Carton" of cigarettes describes a carton which contains ten (10) packages; the term "Package or Pack" of cigarettes describes a package which contains twenty (20) individual cigarettes. Therefore, one case of Contraband Cigarettes typically contains approximately 10,000 individual cigarettes.

8. In the instant case, the total number of contraband cigarette packs transported was 2.3 million. If the state tax for a contraband pack of cigarettes was \$0.87, then the total amount of state tax for California avoided is in excess of approximately \$2 million.

9. It was part of the investigation that certain FBI agents (hereinafter UCEs) acted in an undercover capacity in order to interact directly with the defendants and others who were responsible for the transporting contraband cigarettes into the United States from China, into the ports of New Jersey\New York and, thereafter, to California.

MANNER AND MEANS

10. It was a part of the conspiracy that the defendants, and other conspirators, were responsible for paying a "handling fee" or "commission" to the aforesaid undercover agents to assure that the contraband cigarettes, coming into US, would pass through customs in the New Jersey\New York ports without any apparent inspection by the Department of Homeland Security; thereafter to be transferred to a temporary warehouse in southern New Jersey, and ultimately to be delivered to drop off locations, and storage facilities, in California.

[DELIVERY ONE] August 28, 2009: 374 Cases of Contraband Cigarettes

11. On or about August 28, 2009, it was a part of the conspiracy to transport, receive, possess, sell, distribute and purchase contraband cigarettes that defendants YAZHOU WU, aka George, and RICKY LE, met with UCEs who delivered 374 cases of contraband cigarettes, in a street exchange, in South El Monte, CA. During the delivery, Defendant RICKY LE opened a case of contraband cigarettes and inspected its contents. It was apparent from the inspection of the product that the cigarettes did not carry any stamps\mark reflecting the payment of any state of federal tax. At the conclusion of the delivery, Defendant RICKY LE again inspected a second case of contraband cigarettes. Surveillance photos were taken of both defendants during the delivery process. The defendants were also the subjects of a recorded conversation with the UCEs. Upon conclusion of the delivery, the defendants paid the UCEs \$25,000 in U.S. currency; the agreed upon fee for moving the contraband cigarettes through Customs in New Jersey\New York, and then on to California.

12. One UCE inquired of defendant RICKY LE if he would be seeking future delivery of the same "product", meaning contraband cigarettes, or would there perhaps be other products like counterfeit Nike shoes or jeans. Defendant LE indicated he intended to continue importing the contraband cigarettes for the foreseeable future. The UCE then advised the next shipment, expected to carry over 1000 cases of contraband cigarettes in a 40ft container, would require an increase in the handling fee from \$25,000 to \$55,000, which would include shipping and handling. That fee increase was agreed upon by Le and his coconspirator.

**[DELIVERY TWO] February 2, 2010: 1041 Cases of Contraband Cigarettes**

13. On or about February 2, 2010, it was a part of the conspiracy to transport, receive, possess, sell, distribute and purchase contraband cigarettes that defendant JIA YONGMING, aka David met with UCEs, who delivered 1041 cases of contraband cigarettes to a designated storage facility in City of Industry, CA. Defendant JIA YONGMING remained present for the delivery. He arranged for workers to assist him in off-loading the 1041 cases. Photos of defendant JIA YONGMING were taken by surveillance agents at the time the cigarettes were delivered. The contraband nature of the cigarettes was addressed by the UCE during a recorded conversation with defendant YONGMING. During the off loading process, one of the counterfeit cigarette cases opened up. Defendant JIA YONGMING took the open case and placed it in his personal SUV minivan to prevent the warehouse workers from viewing the contraband nature of its contents.

At the conclusion of the delivery, defendant JIA YONGMING paid the UCE \$45,000 in U.S. currency; the agreed upon fee for moving the contraband cigarettes through Customs in New Jersey\New York and then on to California.

Coconspirators RICKY LE and YAZHOU WU, present for Delivery One, were also observed across from the entrance to the delivery site. Surveillance agents observed that they subsequently met up with defendant JIA YONGMING and followed him to a storage locker where the cases of cigarettes were again off-loaded. It is apparent that the three identified conspirators were acting in concert regarding the movement of the contraband cigarettes.

**[DELIVERY THREE] August 4, 2010: 1068 Cases of Contraband Cigarettes**

14. On or about August 4, 2010, it was part of the conspiracy to transport, receive, possess, sell, distribute and purchase contraband cigarettes that defendant JOHNNY CHAN KOON HA, aka Tony, met with UCEs, who delivered 1068 cases of contraband cigarettes to a designated warehouse in El Monte, CA. Defendant JOHNNY CHAN KOON HA was present for the delivery and arranged for workers to assist him in off-loading the cases.

During a recorded conversation, the contraband nature of the cigarettes was discussed by the UCE with defendant JOHNNY CHAN KOON HA. Photos of defendant JOHNNY CHAN KOON HA were taken by surveillance agents at the time the cigarettes were delivered. At the conclusion of the delivery defendant JOHNNY CHAN KOON HA paid the UCE \$55,000 in U.S. currency; the agreed upon fee for moving the contraband cigarettes through Customs in New Jersey\New York and then on to California.

Coconspirator YAZHOU WU was again observed sitting in a van just outside the warehouse facility, as the cigarettes were being off-loaded. Coconspirator WU was present for the first two deliveries.

**[Delivery Four] November 16, 2010: 1066 Cases of Contraband Cigarettes**

15. On or about November 16, 2010 it was a part of the conspiracy to transport, receive, possess, sell, distribute and purchase contraband cigarettes that defendant JIA YONGMING aka David, met with UCEs, who delivered 1066 cases of contraband cigarettes to a designated warehouse in Commerce, CA. Defendant YONGMING was present for the second delivery as well. He was photographed by surveillance agents during delivery of the cigarettes. In a conversation recorded during delivery, the contraband nature of the cigarettes was addressed by the UCE with defendant YONGMING. At the conclusion of the delivery defendant JIA YONGMING paid the UCE \$55,000 in U.S. currency; the agreed upon fee for moving the contraband cigarettes through Customs in New York\New Jersey and then on to California.

**[Delivery Five] February 17, 2011: 1070 Cases of Contraband Cigarettes**

16. On or about February 17, 2011, it was a part of the conspiracy to transport, receive, possess, sell, distribute and purchase contraband cigarettes that defendant JIA YONGMING, aka David, met with UCEs who delivered 1070 cases of contraband cigarettes to a designated warehouse in Commerce, CA. Defendant JIA YONGMING was photographed by surveillance agents during delivery of the cigarettes. The contraband nature of the cigarettes was addressed by the UCE in a recorded conversation with defendant YONGMING. At the time of the delivery defendant JIA YONGMING possessed \$48,000 in U.S. currency; the agreed upon fee [minus a small adjustment for cases withheld] for moving the

contraband cigarettes through Customs in New York\New Jersey and then on to California.

17. On or about February 17, 2011, law enforcement officers from the Los Angeles Sheriff's Department executed a search warrant and seized from defendant JIA YONGMING the aforementioned 1070 cases of contraband cigarettes, as well as the aforementioned \$48,000 in U.S. currency.

#### Overt Acts

18. In furtherance of the conspiracy, and to effect the object thereof, the defendants and their co-conspirators committed and cause to be committed the following overt acts, among others, in the District of New Jersey and elsewhere:

a. On or about July 10, 2009, approximately 374 cases of contraband cigarettes were delivered by federal agents from the New York\New Jersey ports to a warehouse in southern New Jersey;

b. On or about August 28, 2009, defendants YAZHOU WU aka "George" and RICKY LE, in El Monte, California, accepted delivery of 374 cases of contraband cigarettes from UCEs;

c. On or about December 29, 2009, approximately 1070 cases of contraband cigarettes were delivered by federal agents from Port Newark to a warehouse in southern New Jersey;

d. On or about February 2, 2010 defendant JIA YONGMING, in City of Industry, CA., accepted delivery of 1041 cases of contraband cigarettes from UCEs;

e. On or about July 08, 2010, approximately 1070 cases of contraband cigarettes were delivered by federal agents from Port Newark to a warehouse in southern New Jersey;

f. On or about August 4, 2010, defendant JOHNNY CHAN KOON HA, in El Monte, CA., accepted delivery of 1068 cases of contraband cigarettes from UCEs;

g. On or about October 18, 2010, approximately 1066 cases of contraband cigarettes were delivered by federal agents from Port Newark to a warehouse in southern New Jersey;

h. On or about November 16, 2010, defendant JIA YONGMING,

in Commerce, CA., accepted delivery of 1066 cases of contraband cigarettes from UCEs;

i. On or about December 07, 2010, approximately 1080 cases of contraband cigarettes were delivered by federal agents from Port Newark to a warehouse in southern New Jersey;

j. On or about February 17, 2011, defendant JIA YONGMING, in Commerce, CA., accepted delivery of 1070 cases of contraband cigarettes from UCEs.

In violation of Title 18, United States Code, 371.