

ORIGINAL FILED  
FEB 10 2012  
WILLIAM T. WALSH, CLERK

UNITED STATES DISTRICT COURT

for the  
District of New Jersey

United States of America )

v. )

JOSE G. FORTUNA )

Case No.

12-2021 (JS)

Defendant(s)

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of 09/2010 through 02/02/2012 in the county of New Jersey and elsewhere in the District of New Jersey, the defendant(s) violated:

Code Section

Offense Description

18 U.S.C. § 2342(a), 18 U.S.C. §§ 1956 and 1957

Knowingly and intentionally combine, conspire, confederate, and agree with each other and others both known and unknown to knowingly ship, transport, receive, possess, sell, distribute and purchase contraband cigarettes; see Attachment A.

This criminal complaint is based on these facts:

See Attachment B

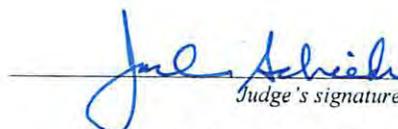
Continued on the attached sheet.

  
Complainant's signature

William Campbell, Special Agent  
Printed name and title

Sworn to before me and signed in my presence.

Date: 02/10/2012

  
Judge's signature

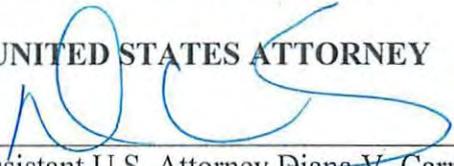
City and state: Camden, New Jersey

Hon. Joel Schneider, U.S. Magistrate Judge  
Printed name and title

**CONTENTS APPROVED**

**UNITED STATES ATTORNEY**

By:

  
Assistant U.S. Attorney Diana V. Carrig

Date: February 10, 2012

**ATTACHMENT A**  
**COUNT 1 – CONSPIRACY TO TRAFFIC IN CONTRABAND CIGARETTES**  
**(18 U.S.C. § 371)**

1. From in or about September 2010, through on or about February 2, 2012, in the District of New Jersey, and elsewhere, the defendants

MELIDO FORTUNA,  
JOSE G. FORTUNA,  
Wael KHASHARMEH,  
MUHAMMAD SHAFIQUE,  
MOHAMMAD RAFIQ,  
KAMRAN KHALID, AND  
MOE LNU,

did knowingly and intentionally combine, conspire, confederate, and agree with each other and others both known and unknown to knowingly ship, transport, receive, possess, sell, distribute and purchase contraband cigarettes, as that term is defined in Title 18, United States Code, Section 2341, to wit: a quantity of more than 10,000 cigarettes, which bore no evidence of the payment of the applicable New Jersey State Cigarette Excise Taxes, contrary to Title 18, United States Code, Section 2342(a).

**The Object of the Conspiracy**

2. It was the object of the conspiracy to purchase contraband cigarettes, that is, cigarettes which did not bear the New Jersey State Cigarette Excise tax stamp or cigarettes which bore a counterfeit New Jersey tax stamp, and sell those cigarettes at a profit, while evading the New Jersey State Cigarette Excise Taxes.

**Means & Methods**

3. It was part of the conspiracy that during the period from in or about September 2010 and continuing through February 2, 2012, the defendants, acting individually and in concert with each other and with others, purchased contraband cigarettes from a confidential

informant ( hereinafter "CI-1") and two undercover law enforcement officers (hereinafter "UC-2" and "UC-3"), as summarized in the below listed table.

4. It was further part of the conspiracy that the defendants sold those contraband cigarettes at various retail stores owned and operated by the defendants, including but not limited to:
  - a. The store of Jose G. Fortuna, Paulsboro Supermarket and Deli, 1100 North Delaware Avenue, Paulsboro, New Jersey; and
  - b. The store of Wael Khasharmeh, AMW Supermarket 136 West Broadway, Salem, New Jersey; and
  - c. The store of Muhammad Shafique, Get & Go, 128 Main Street, Pleasantville, New Jersey.
5. It was further part of the conspiracy that the defendants sold those contraband cigarettes to others who owned and or operated retail stores.
6. It was further part of the conspiracy that some of the monies defendants obtained from selling the contraband cigarettes was used to purchase additional contraband cigarettes.
7. In furtherance of the conspiracy and to effect its unlawful object, defendants and others, committed, and caused to be committed, the following overt acts in the District of New Jersey and elsewhere, including but not limited to the following:

**Overt Acts**

8. On or about the dates listed in the table below, the defendants purchased contraband cigarettes in the amounts listed in the table below from CI-1 and/or UC-2 and UC-3 for the stated amounts of money. In doing so, the defendants failed to pay the New Jersey State Cigarette Excise Tax of \$27.00 per carton of cigarettes. Unless otherwise indicated, the cigarettes purchased by defendants did not bear any tax stamps.

<b>DATE</b>	<b>AMOUNT OF CIGARETTES</b>	<b>PAYMENT RECEIVED</b>	<b>NJ TAX EVADED</b>	<b>PURCHASERS/ PARTICIPANTS</b>
9/27/10	120 cartons	\$5,200	\$3,240	CI-1 to Wael Khasharmeh
10/5/10	90 cartons	\$3,750	\$2,430	CI-1 to Wael Khasharmeh
10/19/10	130 cartons	\$5,270	\$3,510	CI-1 to Wael Khasharmeh
11/16/10	120 cartons	\$5,055	\$3,240	CI-1 to Wael Khasharmeh
12/7/10	120 cartons	\$5,055	\$3,240	CI-1 to Wael Khasharmeh
3/4/11	135 cartons	\$5,940	\$3,645	CI-1 to Wael Khasharmeh
3/24/11	40 cartons	\$1,800	\$1,080	CI-1 to Wael Khasharmeh
4/7/11	160 cartons	\$7,200	\$4,320	CI-1 to Wael Khasharmeh
4/7/11	100 cartons	\$4,500	\$2,700	UC-2 to Jose G. Fortuna
4/14/11	150 cartons	\$6,410	\$4,050	UC-2 to Wael Khasharmeh
04/14/11	150 cartons	\$6,750	\$4,050	UC-2 to "Moe" LNU
4/28/11	235 cartons	\$10,345	\$6,345	UC-2 to Wael Khasharmeh
4/28/11	100 cartons	\$4,500	\$2,700	UC-2 to Jose G. Fortuna
5/6/11	340 cartons	\$15,229	\$9,180	UC-2 to Wael Khasharmeh
5/12/11	200 cartons	\$8,300	\$5,400	UC-2 to Wael Khasharmeh
5/12/11	180 cartons	\$8,100	\$4,860	UC-2 to "Moe" LNU
5/20/11	150 cartons	\$6,747	\$4,050	UC-2 to Wael Khasharmeh
5/20/11	100 cartons	\$4,500	\$2,700	UC-2 to Jose G. Fortuna
6/3/11	345 cartons	\$15,525	\$9,315	UC-2 to Wael Khasharmeh
6/3/11	100 cartons	\$4,500	\$2,700	UC-2 to Jose D. Fortuna
6/10/11	200 cartons (170 stamped)	\$9,400	\$5,400	UC-2 to Wael Khasharmeh
6/10/11	1140 cartons	\$48,400	\$30,780	UC-2 and UC-3 to Muhammad Shafique, Mohammad Rafiq, and Kamran Khalid
6/15/11	180 cartons	\$7,920	\$4,860	UC-2 and UC-3 to Wael Khasharmeh
6/15/11	1260 cartons	\$55,440	\$34,020	UC-2 and UC-3 to Muhammad Shafique, Mohammad Rafiq, Kamran Khalid

<b>DATE</b>	<b>AMOUNT OF CIGARETTES</b>	<b>PAYMENT RECEIVED</b>	<b>NJ TAX EVADED</b>	<b>PURCHASERS/ PARTICIPANTS</b>
6/20/11	1710 cartons (120 stamped)	\$75,240	\$46,170	UC-2 and UC-3 to Muhammad Shafique, Mohammad Rafiq, Kamran Khalid
6/24/11	210 cartons	\$9,040	\$5,670	UC-2 and UC-3 Wael Khasharmeh
6/24/11	550 cartons	\$24,750	\$14,850	UC-2 and UC-3 to Jose G. Fortuna Melido Fortuna
6/24/11	1640 cartons	\$71,808	\$44,280	UC-2 and UC-3 to Muhammad Shafique, Mohammad Rafiq
6/30/11	168 cartons	\$7,077	\$4,536	UC-2 and UC-3 to Wael Khasharmeh
6/30/11	1920 cartons (30 stamped)	\$84,270	\$51,840	UC-2 and UC-3 to Muhammad Shafique, Mohammad Rafiq
6/30/11	790 cartons	\$35,360	\$21,330	UC-2 and UC-3 to Jose G. Fortuna, Melido Fortuna
7/11/11	1230 cartons	\$54,120	\$33,210	UC-2 and UC-3 to Jose G. Fortuna, Melido Fortuna
7/11/11	3600 cartons	\$162,440 (including a \$36,000 check; and \$24,000 cashier's check)	\$97,200	UC-2 and UC-3 to Muhammad Shafique, Mohammad Rafiq, Kamran Khalid
7/11/11	330 cartons	\$14,000	\$8,910	UC-2 and UC-3 to Wael Khasharmeh
7/15/11	2670 cartons and a sample sheet of 240 counterfeit NJ Tax Stamps	\$117,180	\$72,738 (\$72,090 cigarettes, \$648 stamps)	UC-2 and UC-3 to Jose G. Fortuna, Melido Fortuna
7/15/11	5040 cartons	\$208,560 (including a \$58,000 cashier's check; and \$84,260 check)	\$136,080	UC-2 and UC-3 to Muhammad Shafique, Mohammad Rafiq, Kamran Khalid
8/1/11	6000 cartons (stamped)	\$276,100	\$162,000	UC-2 and UC-3 to Melido Fortuna
8/9/11	6000	\$261,000	\$162,000	UC-2 and UC-3 to Melido Fortuna
8/9/11	7170 cartons	\$316,730.00 (including checks for \$50,000 and \$65,800)	\$193,590	UC-2 and UC-3 to Muhammad Shafique, Mohammad Rafiq, Kamran Khalid

DATE	AMOUNT OF CIGARETTES	PAYMENT RECEIVED	NJ TAX EVADED	PURCHASERS/ PARTICIPANTS
8/12/11	6810 cartons	\$270,000 (including checks for \$70,000 and \$76,526)	\$183,870	UC-2 and UC-3 to Muhammad Shafique, Mohammad Rafiq
8/12/11	330 cartons	\$15,310	\$8,910	UC-2 and UC-3 to Wael Khasharmeh
8/24/11	6,840 cartons	\$341,550 (including checks for \$92,000 and \$90,000 and payment for 750 cartons on 8/12/11)	\$184,680	UC-2 and UC-3 to Muhammad Shafique and Mohammad Rafiq
8/24/11	240 cartons	\$10,560	\$6,480	UC-2 and UC-3 to Wael Khasharmeh
8/24/11	7680 cartons (3660 stamped)	\$302,000 (owed \$50,920)	\$207,360	UC-2 and UC-3 to Jose G. Fortuna
8/30/11	4560 cartons	\$256,200 (including \$51,000 owed from the prior transaction)	\$123,120	UC-2 and UC-3 to Jose G. Fortuna and Melido Fortuna
8/30/11	540 cartons	\$26,145 (including \$240 owed from a prior transaction)	\$14,580	UC-2 and UC-3 to Wael Khasharmeh
8/30/11	9000 cartons	\$405,000 (including 3 checks for \$99,500 each)	\$243,000	UC-2 and UC-3 to Muhammad Shafique and Mohammad Rafiq
9/7/11	9060 cartons	\$407,040	\$244,620	UC-2 and UC-3 to Muhammad Shafique and Mohammad Rafiq
9/7/11	6360 cartons	\$286,200	\$171,720	UC-2 and UC-3 to Jose G. Fortuna and Melido Fortuna
9/7/11	480 cartons	\$10,000 (owed \$11,270)	\$12,960	UC-2 and UC-3 to Wael Khasharmeh
9/22/11	8610 cartons (2550 stamped)	\$392,550	\$232,470	UC-2 and UC-3 to Jose G. Fortuna and Melido Fortuna
9/22/11	1530 cartons (180 cartons stamped for "Moe" LNU)	\$36,820 (paid \$11,270 owed for 9/7/11 transaction; \$43,000 balance owed)	\$41,310	UC-2 and UC-3 to Wael Khasharmeh
9/22/11	9258 cartons (78 stamped)	\$170,036 (owed \$246,730)	\$249,966	UC-2 and UC-3 to Muhammad Shafique and Mohammad Rafiq

<b>DATE</b>	<b>AMOUNT OF CIGARETTES</b>	<b>PAYMENT RECEIVED</b>	<b>NJ TAX EVADED</b>	<b>PURCHASERS/ PARTICIPANTS</b>
11/22/11	6300 cartons	\$235,000 (owed \$48,500)	\$170,100	UC-2 and UC-3 to Jose G. Fortuna and Melido Fortuna
11/22/11	2160 cartons (240 stamped)	\$54,280 (paid \$43,000 owed from a prior transaction; \$85,710 balance owed)	\$58,320	UC-2 and UC-3 to Wael Khasharmeh
11/22/11	15,990 cartons (30 stamped)	\$110,910 (\$608,700 balance owed)	\$431,730	UC-2 and UC-3 to Muhammad Shafique and Mohammad Rafiq
11/30/11	4800 cartons (1020 stamped)	\$200,000 (paid \$48,500 from a prior transaction; \$65,520 balance owed)	\$129,600	UC-2 and UC-3 to Jose G. Fortuna and Melido Fortuna
11/30/11	360 cartons (90 stamped)	\$85,710 (paid \$85,710 balance from prior transaction; \$16,380 balance owed)	\$9,720	UC-2 and UC-3 to Wael Khasharmeh
11/30/11	180 cartons	\$341,800 (balance paid from prior transactions)	\$4,860	UC-2 and UC-3 to Muhammad Shafique and Mohammad Rafiq
12/7/11	330 cartons (60 stamped)	\$17,005 (paid \$16,380 owed from prior transaction; \$13,500 balance owed)	\$8,910	UC-2 and UC-3 to Wael Khasharmeh
12/7/11	5400 cartons	\$124,520 (paid \$65,520 from a prior transaction; \$184,000 balance owed)	\$145,800	UC-2 and UC-3 to Jose G. Fortuna and Melido Fortuna
12/7/11	8760 cartons	\$156,800 (paid \$37,000 from a prior transaction; \$274,400 balance owed)	\$236,520	UC-2 and UC-3 to Muhammad Shafique and Mohammad Rafiq
12/16/11	1260 cartons	\$164,935 (paid \$184,000 from prior transaction; \$75,765 balance owed)	\$34,020	UC-2 and UC-3 to Melido Fortuna

<b>DATE</b>	<b>AMOUNT OF CIGARETTES</b>	<b>PAYMENT RECEIVED</b>	<b>NJ TAX EVADED</b>	<b>PURCHASERS/ PARTICIPANTS</b>
12/16/11	9,000 cartons	\$157,000 (\$248,000 balance owed)	\$243,000	UC-2 and UC-3 to Muhammad Shafique and Mohammad Rafiq
12/16/11	570 cartons (30 stamped)	\$20,650 (\$13,150 in cash and a truck with an agreed upon value of \$7,500; \$18,215 balance owed)	\$15,390	UC-2 and UC-3 to Wael Khasharmeh
1/3/12	6300 cartons	\$307,700 (paid \$78,700 from a prior transaction)	\$170,100	UC-2 and UC-3 to Jose G. Fortuna and Melido Fortuna
1/3/12	570 cartons (60 stamped)	\$32,765 (paid \$18,215 from a prior transaction; \$11,220 balance owed)	\$15,390	UC-2 and UC-3 to Wael Khasharmeh
1/3/12	17,250 cartons (3420 stamped)	\$778,935 (\$141,035 cash and 3 checks in the amounts of \$215,000, \$212,000 and \$210,900)	\$465,750	UC-2 and UC-3 to Muhammad Shafique and Mohammad Rafiq
1/12/12	7380 cartons	\$386,600 (paid \$54,500 from a prior transaction)	\$199,260	UC-2 and UC-3 to Jose G. Fortuna
1/12/12	570 cartons (60 stamped)	\$20,645 (paid \$11,220 from a prior transaction; \$16,000 balance owed)	\$15,390	UC-2 and UC-3 to Wael Khasharmeh
1/12/12	9000 cartons	\$405,000 (\$176,384 cash; 2 checks in the amounts of \$90,300 and \$96,316; and a Mercedes Benz automobile with an agreed upon value of \$42,000)	\$243,000	UC-2 and UC-3 to Muhammad Shafique and Mohammad Rafiq
1/23/12	8520 cartons	\$449,100 (paid \$161,100 from a prior transaction; \$95,400 balance owed)	\$230,040	UC-2 and UC-3 to Jose G. Fortuna and Melido Fortuna

<b>DATE</b>	<b>AMOUNT OF CIGARETTES</b>	<b>PAYMENT RECEIVED</b>	<b>NJ TAX EVADED</b>	<b>PURCHASERS/ PARTICIPANTS</b>
1/23/12	660 cartons (60 stamped)	\$24,450 (paid \$16,000 from a prior transaction; \$21,370 balance owed)	\$17,820	UC-2 and UC-3 to Wael Khasharmeh
1/23/12	10,950 cartons (2730 stamped)	\$260,600 (\$218,500 balance owed)	\$295,650	UC-2 and UC-3 to Muhammad Shafique and Mohammad Rafiq
2/2/12	8880 cartons	\$345,000 (paid \$95,000 from a prior transaction; \$149,600 balance owed)	\$239,760	UC-2 and UC-3 to Jose G. Fortuna and Melido Fortuna
2/2/12	360 cartons	\$21,370 (\$16,200 balance owed)	\$9,720	UC-2 and UC-3 to Wael Khasharmeh
2/2/12	12120 cartons	\$81,000 (had a \$10,170 credit from a prior transaction; \$451,500 balance owed)	\$327,240	UC-2 and UC-3 to Muhammad Shafique and Mohammad Rafiq

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

**COUNT 2 – CONSPIRACY TO COMMIT MONEY LAUNDERING**  
**(18 U.S.C. § 1956(h))**

1. The allegations set forth in paragraphs 1 through 8 of Count 1 of this Complaint are realleged and incorporated herein.
2. From in or about June 2011 through on or about February 2, 2012, in Atlantic County, in the District of New Jersey, and elsewhere, the defendants

MUHAMMAD SHAFIQUE,  
MOHAMMAD RAFIQ, and  
KAMRAN KHALID

did knowingly conspire with others to engage in monetary transactions, namely, deposits, withdrawals, transfers and exchanges of U.S. currency and monetary instruments, through financial institutions affecting interstate commerce, in criminally derived property of a value greater than \$10,000 that was derived from specified unlawful activity, namely, the trafficking in contraband cigarettes, constituting a violation of Title 18, United States Code, Section 2342(a), contrary to Title 18, United States Code, Section 1957(a).

3. It was part of the conspiracy that Muhammad Shafique, Mohammad Rafiq, Kamran Khalid and their co-conspirators purchased large amounts of contraband cigarettes.
4. It was further part of the conspiracy that Muhammad Shafique, Mohammad Rafiq, Kamran Khalid and their co-conspirators sold the contraband cigarettes in Shafique's store, the Get & Go Supermarket, 128 Main Street, Pleasantville, New Jersey ("Get & Go"), and to other wholesale customers for large amounts of U.S. Currency.
5. It was further part of the conspiracy that Kamran Khalid worked in the Get & Go.
6. It was further part of the conspiracy that Muhammad Shafique, Mohammad Rafiq, Kamran Khalid and their co-conspirators deposited some of the U.S. Currency received from their sale of contraband cigarettes into a checking account at Bank of America, in the name of Get & Go,

Account Number \*\*\*\*\*3549 (the "Get & Go Account"). Many of these deposits were in amounts greater than \$10,000.

7. It was further part of the conspiracy that on or about October 7, 2011, Mohammad Shafique purchased the property at 128 Main Street, Pleasantville, New Jersey, which is the location of the Get & Go for approximately \$425,000 (Mortgage amount of \$276,250), using monies obtained by selling contraband cigarettes.
8. It was further part of the conspiracy that Muhammad Shafique, Mohammad Rafiq, Kamran Khalid and their co-conspirators paid for some of the contraband cigarettes by using cashier's checks purchased with monies from the Get & Go Account and with checks drawn upon the Get & Go Account.
9. By way of example, during the time period from on or about August 9, 2011 through on or about September 22, 2011, Muhammad Shafique, Mohammed Rafiq and Kamran Khalid purchased the following amounts of contraband cigarettes on the following dates with U.S. Currency and checks drawn on the Get & Go Account. During the same time period, Muhammad Shafique, Kamran Khalid and others made the below listed deposits of U.S. Currency into the Get & Go Account and/or the Undercover Bank Account within a few days of their purchase of contraband cigarettes.

<b>DATE</b>	<b>CIGARETTE PURCHASE</b>	<b>CORRESPONDING LARGE CASH DEPOSIT INTO G&amp;G ACCOUNT</b>
August 9, 2011	7,170 cartons for \$316,730 (\$200,930 cash; 2 G&G checks for \$50,000 & \$65,800	
August 10, 2011		\$120,004 deposited by Kamran Khalid
August 12, 2011	6,810 cartons for \$270,000 (\$123,474 cash; 2 checks for \$70,000 & \$76,526)	
August 15, 2011		\$145,422 deposited by Kamran Khalid
August 24, 2011	6,840 cartons for \$341,550 (\$159,550 cash;	

<b>DATE</b>	<b>CIGARETTE PURCHASE</b>	<b>CORRESPONDING LARGE CASH DEPOSIT INTO G&amp;G ACCOUNT</b>
	2 checks for \$92,000 & \$90,000)	
August 25, 2011		\$181,220 deposited by Kamran Khalid
August 30, 2011	9,000 cartons for \$405,000 (\$106,500 cash; 3 checks for \$99,500, \$99,500 & \$99,500)	( no audio/video for this transaction)
August 31, 2011		\$198,436 deposited by Kamran Khalid
September 2, 2011		\$142,500 & \$14,227 deposited by Kamran Khalid
September 7, 2011	9,060 cartons for \$407,040 (\$132,540 cash, the remainder to be paid at a later date)	
September 12, 2011		\$188,500 and \$86,000 directly deposited by Kamran Khalid into the ATF's Undercover Bank Account
		\$52,920 (\$40,000, \$5,720, \$5,200 & \$2,000) deposited by Muhammad Shafique
September 22, 2011	9,258 cartons for \$416,766 (\$170,036 cash, the remainder to be paid at a later date)	
September 26, 2011		\$187,845 cash deposited by Muhammad Shafique and another individual directly into the ATF's Undercover Bank Account
		\$141,300 (\$86,300 & \$55,000) in two transactions – one deposited by Muhammad Shafique and the other deposited by Shafique's wife, Kiran Shafique
September 28, 2011		\$58,885 (\$50,370 in cash and a \$8,515 check drawn on the G&G Account) deposited directly into the ATF's Undercover Bank Account

All in violation of Title 18, United States Code, Section 1956(h).

## FORFEITURE ALLEGATION

As the result of committing one or more of the money laundering offenses in violation of 18 U.S.C. §§ 1956 and 1957 alleged in Count 2 of this Criminal Complaint, defendant Muhammad Shafique shall forfeit to the United States pursuant to 18 U.S.C. § 982, all property, real and personal, involved in the money laundering offense and all property traceable to such property, including but not limited to the following:

All that lot or parcel of land, together with its buildings, appurtenances, improvements, fixtures, attachments and easements, located at 120-136 N. Main Street, Pleasantville, New Jersey 08232, more particularly described as: Lot number 25, Block number 128 on the Official Tax Map of the City of Pleasantville; and the cash value of the contents of account number xxxxxxxx3549 in the name of Get & Go, LLC, maintained at Bank of America.

If any of the above-described forfeitable property, as a result of any act or omission of the defendant(s):

- (1) cannot be located upon the exercise of due diligence;
- (2) has been transferred or sold to, or deposited with, a third person;
- (3) has been placed beyond the jurisdiction of the Court;
- (4) has been substantially diminished in value; or
- (5) has been commingled with other property which cannot be subdivided without difficulty;

it is the intent of the United States, pursuant to 18 U.S.C. § 982(b), to seek forfeiture of any other property of said defendant up to the value of the above forfeitable property.

All in violation of Title 18, United States Code, Sections 982, Title 18, United States Code, Sections 1956 and 1957.

## **ATTACHMENT B – Complaint Affidavit**

I, William Campbell, a Special Agent with the Bureau of Alcohol, Tobacco, Firearms and Explosives (“ATF”), have knowledge of the following facts based on my own investigation and upon conversations with other individuals involved in this investigation. I have not included all of the facts known to me in this affidavit, just those facts which I believe necessary to establish probable cause. Where statements of others are set forth in this Affidavit, they are set forth in substance and in part. In addition, where dates or amounts are set forth in this Affidavit, they are set forth as on or about.

### **CONCEPTS UNDERLYING CONTRABAND CIGARETTE TRAFFICKING**

1. A “cigarette” is defined in 18 U.S.C. § 2341(1) as “(A) any roll of tobacco wrapped in paper, or in any substance not containing tobacco; and (B) any roll of tobacco wrapped in any substance containing tobacco which, because of its appearance, the type of tobacco used in its filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette.”
2. Domestic cigarettes are normally packaged in packs; each pack usually contains twenty or twenty-five sticks of cigarettes. There are normally ten packs of twenty cigarettes to a carton. A carton is the largest unit provided for retail sale. Cartons are packaged either in half cases or “master” cases, known in the industry as “6M” and “12M” cases, respectively. A 6M case contains 6,000 individual cigarette sticks; a 12M case contains 12,000 individual cigarette sticks.
3. Every state in the United States imposes some tax (within a wide range) on the retail sale of cigarettes. The liability for these state taxes generally arises once the cigarettes enter the jurisdiction of the state. New Jersey, like all but two of these states, requires indicia of the cigarette tax to be affixed on each individual unit (pack) of cigarettes via a state tax stamp or imprint to demonstrate that the state tax has been paid.
4. Only cigarettes stamped with a New Jersey tax stamp are permitted to be sold in New Jersey to

retail customers. Cigarettes bearing stamps from any other state are contraband.

5. From on or about July 1, 2009 to the present, the New Jersey State Excise Tax is \$2.70 a pack or \$27.00/carton.
6. The term "contraband cigarettes" as defined in 18 U.S.C. § 2341(2), means "a quantity in excess of 10,000 cigarettes which bear no evidence of the payment of applicable State or local cigarette taxes in the State or locality where such cigarettes are found, if (as everywhere except North Carolina, North Dakota, Native American reservations and certain military installations) the State or local government requires [a tax stamp or indicia of tax payment] to be placed on the packages or other containers of cigarettes to evidence payment of cigarette taxes. . . ." Subject to narrow, specific exemptions, all cigarettes possessed by anyone in New Jersey other than a licensed New Jersey stamping agent must have a New Jersey tax stamp affixed to each pack of cigarettes in their possession, thereby demonstrating that the state's cigarette tax has been properly paid by the stamping agent.
7. Accordingly, a person who possesses in excess of 50 cartons of cigarettes without the appropriate state tax stamps is in violation of 18 U.S.C. § 2342. (20 cigarettes/pack x 10 packs/carton = 200 cigarettes/carton. 200 cigarettes/carton x 50 cartons = 10,000 cigarettes). Similarly, a person who possesses 1 case of cigarettes (12M) without the appropriate state tax stamps is in violation of 18 U.S.C. § 2342. (One 12 M case contains 12,000 cigarettes).
8. Illegal interstate trafficking in untaxed cigarettes deprives the states of millions of dollars in cigarette tax revenues. Recognizing that the range in state cigarette taxes creates a potential for interstate trafficking in cigarettes to avoid (a higher) state tax, the United States Congress enacted the Contraband Cigarette Trafficking Act, Title 18, United States Code, Section 2341 et seq., making it unlawful for any person, other than an "exempt person," described below, to ship,

transport, receive, possess, sell, distribute, or purchase “contraband cigarettes.”<sup>1</sup>

9. As described more fully herein, the cigarettes purchased during the course of this investigation did not have authentic New Jersey State Excise Tax stamps on them. Moreover, none of the defendants, nor their businesses, have been licensed cigarette stamping agents in New Jersey during the period under investigation. Instead, the defendants (and their businesses) were and are retail distributors who can legally purchase stamped (taxed) cigarettes only from certain wholesale distributors functioning as New Jersey’s stamping agents. As such, it is a violation of federal and New Jersey law for the defendants and/or their businesses to be in possession of untaxed (unstamped) cigarettes.
10. Like many states, New Jersey sets minimum wholesale per carton prices for cigarette sales to retailers and minimum retail prices for cigarette sales. For example, as of December 31, 2011, the minimum wholesale price per carton delivered in New Jersey for Newport cigarettes (which were the bulk of the cigarettes involved in this investigation) is \$72.98; and the minimum retail price for Newport cigarettes is \$78.26.

#### **SUMMARY OF THE INVESTIGATION**

11. Beginning in or about September 2010, law enforcement officers began investigating a counterfeit cigarette smuggling operation in New Jersey and New York. During the course of the investigation, law enforcement officers identified numerous individuals involved in the unlawful purchasing of unstamped cigarettes and/or cigarettes bearing fraudulent tax stamps, including but not limited to: Jose G. Fortuna, Melido Fortuna, Muhammad Shafique, Kamran Khalid, Mohammad Rafiq, Wael Khasharmeh, and Moe LNU.

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<sup>1</sup> An exempt person is classified generally as a cigarette manufacturer, export warehouse proprietor, customs bonded warehouse, common carrier, political subdivision, foreign trade zone, and/or licensed distributor authorized to account for and to pay the state-imposed tax and in compliance with all accounting and payment requirements.

12. During the course of the investigation from on or about September 2010 through February 2, 2012, law enforcement officers have sold approximately 253,741 cartons of cigarettes to the various individuals listed below, in return for approximately \$9,680,197. These sales of contraband cigarettes correspond to an approximate New Jersey Tax Loss of \$6,851,007. In addition, during the course of the investigation, law enforcement officers purchased approximately 240 unaffixed counterfeit New Jersey tax stamps. These purchases of counterfeit tax stamps correspond to an approximate New Jersey Tax Loss of \$648. When added together, there is a total New Jersey Tax Loss of approximately \$6,851,655.
13. The table below summarizes the approximate number of cartons and corresponding cost and tax loss attributed to each defendant during the course of the investigation from September 2010 through February 2, 2012. The numbers in this table hold each defendant responsible for the total number of cigarettes sold during each transaction the defendant attended. Accordingly, when one or more defendants participated in the same transaction, each target was attributed with the full number of cigarettes sold during this transaction.

<b>Target</b>	<b># of Cartons of Cigarettes</b>	<b>Amount Paid</b>	<b>N.J. Tax Loss</b>	<b>Dates</b>
Jose G. Fortuna	80,330 (64,970 w/ Melido Fortuna)	\$3,529,780 (\$2,827,680 w/Melido Fortuna)	\$2,169,558 (\$1,754,838 w/Melido Fortuna, including 240 counterfeit NJ State tax stamps valued at \$2.70/per stamp)	18 transaction from 9/10 through 2/12
Wael Khasharmeh	12,123	\$524,973	\$327,321	32 transactions from 9/10 through 2/12
"Moe" LNU	330	\$14,850	\$8,910	2 transactions from 4/11 through 5/11
Muhammad	147,698	\$4,908,559	\$3,987,846 (\$3,987,846	21 transactions from

<b>Target</b>	<b># of Cartons of Cigarettes</b>	<b>Amount Paid</b>	<b>N.J. Tax Loss</b>	<b>Dates</b>
Shafique	(147,698 w/Mohammad Rafiq)(19,920 w/ Mohammad Rafiq and Kamran Khalid)	(\$4,908,559 w/Mohammed Rafiq)(866,810 w/ Mohammad Rafiq and Kamran Khalid)	w/Mohammed Rafiq)(\$537,840 w/ Mohammad Rafiq and Kamran Khalid	6/11 through 1/12
Kamran Khalid	19,920 (all w/ Muhammad Shafique and Mohammad Rafiq	\$866,810 (all w/ Muhammad Shafique and Mohammad Rafiq	\$537,840 (all w/ Muhammad Shafique and Mohammad Rafiq	6 transactions from 6/11 through 8/11
Melido Fortuna	78,230 (64,970 w/Jose G. Fortuna)	\$3,529,715 (\$2,827,680 w/ Jose G. Fortuna)	\$2,112,858 (\$1,754,838 w/Jose G. Fortuna)(includes 240 counterfeit NJ State tax stamps valued at \$2.70/ea w/Melido Fortuna)	16 transactions from 6/11 through 2/12
Mohammad Rafiq	147,698 (all with Muhammad Shafique) (19,920 w/ Muhammad Shafique and Kamran Khalid)	\$4,908,559 (w/Muhammad Shafique) (\$866,810 w/Muhammad Shafique and Kamran Khalid	\$3,987,846 (w/Muhammad Shafique)(\$537,840 w/ Muhammad Shafique and Kamran Khalid)	21 transactions from 6/11 through 1/12

### THE INVESTIGATION

14. As detailed herein, two undercover law enforcement officers sold contraband cigarettes to the defendants. Except for three sales of contraband cigarettes on or about August 30, 2011, each of the contraband cigarette transactions were consensually monitored and recorded.

#### Wael Khasharmeh

15. In or about September 2010, Wael Khasharmeh contacted a confidential informant working for

the ATF (hereinafter "CI-1") and inquired about purchasing cigarettes.<sup>2</sup> Khasharmeh and CI-1 agreed to meet approximately one week later.

16. On or about September 27, 2010, CI-1 met with Khasharmeh in Pleasantville, NJ and sold Khasharmeh two cases of contraband Newport cigarettes for \$43.00 per carton. Between September 27, 2010 and March 4, 2011, CI-1 met with Khasharmeh on six occasions and sold Khasharmeh a total of 715 cartons of contraband cigarettes. All of those transactions, with the exception of the first, occurred at the **residence of Wael Khasharmeh, 1243 Mount Vernon Avenue, Gibbstown, New Jersey**. During each of the transactions at Khasharmeh's residence, the cigarettes were unloaded into Khasharmeh's residence.
17. In or about March 2011, CI-1 provided Wael Khasharmeh with the telephone number of an undercover officer (hereinafter "UC-2"), a purported cigarette smuggler from Virginia. Soon after, Khasharmeh contacted UC-2 and discussed the price of contraband cigarettes purported to be delivered from the State of Virginia. In addition, Khasharmeh admitted that he already had one source of cigarettes who delivered cigarettes from the State of Virginia.
18. Beginning on or about March 24, 2011, and continuing until an Undercover Warehouse was established in or about August 2011, UC-2 met with Khasharmeh at various locations in New Jersey for the purpose of selling contraband cigarettes to Khasharmeh. Thereafter, Khasharmeh continued to purchase cigarettes from UC-2 and another undercover law enforcement officer (hereinafter "UC-3") at the Undercover Warehouse.

Khasharmeh Introduced UC-2 to Jose G. Fortuna and Moe LNU

19. In or about April 2011, Khasharmeh introduced UC-2 to Jose G. Fortuna and an individual

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<sup>2</sup>At all times relevant to this investigation, CI-1 was working at the direction of law enforcement officers. The transactions conducted by CI-1 were recorded and the reliability of information provided by CI-1 was corroborated by the subsequent investigation, including but not limited to the numerous contraband cigarette transactions between defendants and the undercover law enforcement officers described herein

known as "Moe" LNU, both of whom were interested in purchasing contraband cigarettes from UC-2.

20. On two occasions, UC-2 met with Jose G. Fortuna at a supermarket owned by Jose G. Fortuna, the **Paulsboro Supermarket and Deli, 1100 North Delaware Avenue, Paulsboro, New Jersey**. During a third transaction, at the request of Jose G. Fortuna, another individual identified as Jose D. Fortuna (father of Jose G. Fortuna) met with UC-2 at the Paulsboro Supermarket and Deli to conduct the transaction. During each of the three transactions at the Paulsboro Supermarket and Deli, the cigarettes were transferred either into the Supermarket or a vehicle. In addition, either Jose G. Fortuna (son) or Jose D. Fortuna (father) paid UC-2 for the contraband cigarettes for each transaction from currency retrieved from behind the counter of the Paulsboro Supermarket and Deli.
21. Moe LNU made two purchases of contraband cigarettes (330 cases total) from UC-2 and UC-3 during the time period from April 2011 through May 2011. In addition, during several additional transactions, Wael Khashmeh told the UCs that a portion of the cases that Khasharmeh was purchasing were for Moe LNU.

Jose G. Fortuna Introduced the UCs to His Brother, Melido Fortuna

22. In or about June 2011, Jose G. Fortuna introduced the undercover officers to his brother, Melido Fortuna. Beginning in or about June 2011 and continuing through August 2011, UC-2 and UC-3 met with Jose G. Fortuna and/or Melido Fortuna approximately five times at **Melido Fortuna's residence, 1028 North 24<sup>th</sup> Street, Camden, New Jersey**. During at least two of the transactions, contraband cigarettes were loaded into the residence.

Wael Khasharmeh Introduced the UCs to Muhammad Shafique

23. In or about June 2011, Khasharmeh introduced UC-2 and UC-3 to Muhammad Shafique, the

owner of the “Get & Go” SuperMarket, 128 Main Street, Pleasantville, NJ. Between June and August 2011, UC-2 and UC-3 met with Shafique on six occasions. During each of those transactions, Shafique was accompanied by Mohammed Rafiq, whom Shafique referred to as his business partner in the cigarette smuggling business. Also present during most of those transactions was Shafique’s son, Kamran Khalid.

24. Kamran Khalid worked at the Get & Go Super Market, and frequently brought money for the transaction, counted money and assisted in the loading and unloading of cigarettes.

The Defendants Are Selling the Contraband Cigarettes At Their Stores and To Other Retailers

25. During numerous transactions, several of the defendants – including but not limited to Wael Khasharmeh, Moe LNU, Jose G. Fortuna, and Melido Fortuna – have had conversations with the UCs about reselling the contraband cigarettes to other retail distributors. In addition, at various times throughout the investigation some of the defendants, including Wael Khasharmeh, Muhammad Shafique, Mohammad Rafiq, Kamran Khalid, Jose G. Fortuna, and Melido Fortuna have participated in conversations with the UCs during which they talked about selling some of the contraband cigarettes in their respective stores.
26. For example, on or about June 24, 2011, during a purchase of cigarettes from UC-2 and UC-3, Jose G. Fortuna stated, in substance and in part, when paying UC-2 for 100 cartons of the 550 cartons he bought that day “this is for the hundred for my store.”
27. In addition, I have spoken with UC-2 about UC-2's observations at the Paulsboro Supermarket and Deli. UC-2 stated, in substance and in part, the following:
- a. UC-2 has been inside the Paulsboro Supermarket and Deli, 1100 North Delaware Avenue, Paulsboro, New Jersey in connection with the sales of contraband cigarettes; and
  - b. While inside the store, UC-2 saw the employees of the store sell cigarettes outside of a

pack, that is, “loose” cigarettes. Selling cigarettes on a one-by-one basis is illegal under New Jersey law.

28. Similarly, Wael Khasharmeh has made statements about selling the contraband cigarettes to others, and also out of his store. For example, on or about January 12, 2012, during the sale of contraband cigarettes to Wael Khasharmeh, Khasharmeh explained to UC-2 that he was likely to sell four particular cartons of Marlboro cigarettes in his store, because the cartons were damaged: “I should sell these in my store because they are all cracked.”
29. Muhammad Shafique has made similar statements. For example, on or about January 24, 2012, the day after purchasing cigarettes from UC-2 and UC-3, Shafique was arrested in New York with 68 cases of cigarettes in a truck. Subsequent to his arrest, Shafique was informed of his Miranda rights, waived them, and agreed to be interviewed. During the interview, Shafique stated the following, in substance and in part:
  - a. Shafique works at the Kalee Supermarket at 128 North Main Street, Pleasantville, New Jersey, for his son Kamran Khalid;
  - b. Shafique said he intended to sell the cigarettes in New Jersey to various New Jersey stores where the cigarettes are sold as “loosies” – three cigarettes for \$1; and
  - c. Shafique said that he bought the cigarettes for \$48/carton and sells them for \$50/carton.

The Defendants Have Conspired with Each Other and Others in their Cigarette Trafficking

30. During the course of this investigation, the various defendants have acknowledged to the UCs that they know each other, and continue to have dealings with each other pertaining to contraband cigarette trafficking.
31. As explained above, Wael Khasharmeh introduced the UCs to: Jose G. Fortuna, Moe LNU and Muhammad Shafique. From conversations with Khasharmeh and Shafique at different times,

the UCs learned that Shafique had originally agreed to pay Khasharmeh a brokerage fee of \$.50/carton for introducing Shafique to the UCs. Although both Shafique and Kharharmeh confirmed the payment of the fee for the first few transactions, during a transaction with Shafique, Rafiq and Khalid at the Get & Go on or about July 11, 2011, Shafique told the UCs that Shafique would not continue paying Khasharmeh \$.50/carton.

32. The relationship between Shafique and Khasharmeh worked both ways. For example, during a transaction with the UCs at the Get & Go on or about July 15, 2011, Shafique took possession of contraband cigarettes for Wael Kharsharmeh, who was unable to be present for the transaction that day.
33. As another example, during a transaction with Khasharmeh, Khasharmeh told the UCs that he has been doing business, meaning contraband cigarette sales, with the Fortuna family for years. During a transaction on or about November 18, 2011, Jose D. Fortuna paid \$43,000 to UC-2 on behalf of Wael Khasharmeh. Similarly, during a conversation during a transaction on or about February 9, 2012, with Jose G. Fortuna and Melido Fortuna, Jose told the UCs that he wanted 30 cartons of Marlboro cigarettes for Wael Khasharmeh. Jose added that Kharsharmeh calls Jose whenever the UCs are not around to buy Marlboros from Jose.
34. Finally, during numerous transactions with the UCs, Wael Khasharmeh has stated that he is continuing to purchase cigarettes for Moe LNU. Most recently, during a transaction with the UCs on or about February 9, 2012, Khasharmeh stated that Moe is only buying stamped cigarettes from Khasharmeh at this time, referring to the cigarettes that already bear a counterfeit New Jersey Excise tax stamp.

#### Use of the G&G Account

35. Muhammad Shafique maintains a checking account at Bank of America in the name of Get and

Go, Account No. \*\*\*\*\*3549 ("G&G Account"). During the course of this investigation, I have obtained and reviewed the records for the G&G Account during the period from in or about April 30, 2010 through on or about September 30, 2011. The bank records include Currency Transaction Reports ("CTRs"), which banks are required to file for all transactions of \$10,000 or greater. In making such CTRs, banks are required to identify the person(s) who conducts the transactions.

36. According to the Bank of America records, a signature card dated May 17, 2011 for the G&G Account, lists Muhammad Shafique as the owner of the Get & Go, and Shafique's son, Kamran Khalid, as the manager of the Get & Go. Both Shafique and Khalid have signatory authority for the G&G Account.
37. Muhammad Shafique used the G&G Account to facilitate his purchase and sale of contraband cigarettes. Specifically, Shafique purchased contraband cigarettes with U.S. currency, sold those cigarettes at the G&G Super Market and to customers in New Jersey and New York. Shafique made large cash deposits and withdrawals from that G&G Account in furtherance of the scheme to buy and sell contraband cigarettes. In addition, during the period from July 11, 2011 through January 12, 2012, Shafique paid for contraband cigarettes using two cashier's checks totaling \$82,000 purchased with funds from his G&G Account. During the same period, Shafique used 15 checks drawn on this G&G Account totaling \$1,651,602 to pay for contraband cigarettes purchased from the UCs.
38. On occasion, Shafique requested that the UCs not cash the G&G check for a few days while Shafique sold the untaxed cigarettes and replenished the funds in the G&G Account.
39. On or about July 16, 2011, Shafique told UC-2 that Shafique had deposited monies owed from the last cigarette transaction (July 15, 2011) into his business account. Shafique told UC-2 that

UC-2 could now cash the check that he provided during the transaction.

40. The bank records of the G&G Account establish the pattern of Shafique's use of the G&G Account to facilitate his unlawful trafficking in contraband cigarettes. Specifically, the records show that within a few days of making purchases of counterfeit cigarettes, Shafique or another person on his behalf, made large deposits of cash back into the G&G Account and, on several occasions, directly into the ATF's Undercover Bank Account. During a transaction on or about September 22, 2011, Muhammad Shafique told UC-2 that it was easier to put money directly into the UC's account (referring to undercover churning account) than it was to write a check.
41. In addition, at various times during the course of the investigation, Muhammad Rafiq has made large cash deposits into the Undercover Bank Account in payment for contraband cigarettes.
42. Based upon a mortgage document and deed, on or about October 7, 2011, Mohammad Shafique purchased the property at 128 Main Street, Pleasantville, New Jersey, which is the location of the Get & Go for approximately \$425,000, with a mortgage amount of approximately \$276,250.
43. Based upon the investigation, I believe that Shafique used some of the monies he obtained by selling contraband cigarettes to purchase the Get & Go property. For example, on or about December 12, 2011, during the sale of contraband cigarettes to Muhammad Shafique, the UC-2 and Muhammad Shafique talked about the fact that Shafique was able to purchase the building for his Get & Go Supermarket because of the money he had made from the cigarettes that he bought from the UCs:
  - a. UC-2: Yeah, what was the most cash you ever brought?"
  - b. Shafique: "The most cash I don't know. . . 180 I gave to the building."
  - c. UC-2: "That's not my problem."
  - d. Shafique: "That's your problem because you're my buddy. . . . You pay my

building.” (laughs).

- e. UC-2: “You know I paid for your building (points to the warehouse section) the smokes paid for that building.”
- f. Shafique (nodded in the affirmative): “Yeah. . . . That’s true.”

The Tables Contained in Attachment A Are Incorporated in This Affidavit

- 44. The investigation has revealed that each defendant committed the acts summarized in the tables included in Attachment A to this Complaint. Accordingly, the tables set forth in Attachment A are hereby incorporated herein as if set forth in full.
- 45. Each of the contraband cigarette transactions discussed in this Affidavit, including all of the tables in the Affidavit and Attachment A, were recorded by audio and/or video except the three sales of contraband cigarettes on August 30, 2011.
- 46. In addition, unless otherwise indicated in the tables contained in this Affidavit and Attachment A, all of the cigarettes sold to the defendants were unstamped – meaning that they did not bear a New Jersey State Excise Tax stamp. Cigarettes that were sold bearing a counterfeit NJ State Excise Tax stamp are denoted with an “S” – meaning, stamped – after the carton amount.
- 47. The “payment received amount” listed in the tables contained in this Affidavit and Attachment A is the amount received for the cigarettes during each transaction. During some of the transactions, the defendants did not pay the full amount for the cigarettes, and instead, made up the difference in subsequent transactions. Unless otherwise indicated, all transactions were conducted in U.S. Currency. During several of the transactions as indicated in the various tables, Muhammad Shafique paid for contraband cigarettes, in part, by bank cashier’s checks and/or checks drawn on his Get & Go Account at Bank of America, account # xxxxxxxx3549.
- 48. In addition, during three transactions, the following defendants paid for cigarettes with

automobiles and/or a gun:

- a. Wael Khasharmeh paid for \$500 worth of cigarettes with a Mossberg pistol grip shotgun, on or about December 7, 2011. During the transaction, Khasharmeh stated that he got the shotgun from Moe LNU;
  - b. Wael Khasharmeh paid for cigarettes with a Chevrolet Box Truck on or about December 16, 2011; and
  - c. Muhammad Shafique paid for cigarettes with a Mercedes Benz on or about January 12, 2012.
49. As listed in the tables, the "New Jersey Tax Evaded" was calculated by multiplying the number of cartons purchased by the New Jersey State Cigarette Excise Tax at the time of the sale. During the period covered in this Complaint, that is, from September 27, 2010 to the present, the New Jersey State Cigarette Excise Tax was \$27.00/carton.