

DAILY NEWS CLIPS

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DONOVAN'S CAMPAIGN FINANCE DIRECTOR FIRED AFTER ARREST; CAMPAIGN MANAGER FIRED, TOO

By Edmund H. Mahony and Jon Lender
Hartford Courant
May 31, 2012

Braddock Charged With Trying To Conceal Source Of Contributions

Federal authorities have charged the finance director for state House Speaker Chris Donovan's congressional campaign with trying to hide campaign contributions of about \$20,000, following an FBI undercover investigation of alleged influence-buying at the state Capitol.

Robert Braddock Jr., 33, the campaign employee, was arrested Wednesday. The questionable contributions were made in connection with efforts to kill legislation that would have imposed new fees and taxes on certain kinds of tobacco retailers, according to the arrest warrant affidavit.

The investigation looked into whether Donovan knew anything of the alleged misconduct or had any involvement in it, sources said.

Braddock has been terminated, Donovan said in a statement Thursday evening. Donovan also fired his campaign manager, Josh Nassi, sources said. Nassi worked for Donovan in the House Democrats' caucus until he recently switched over to the campaign payroll. He could not be reached for comment Thursday night.

Donovan did not make himself available on the telephone.
U.S. Attorney David B. Fein said the investigation is continuing.

Although Braddock is clearly identified by his position and name in investigative documents that federal authorities have made public, Donovan is not.

Braddock is described in the affidavit as finance director for "Public Official Number 1," who is a candidate for the U.S. House of Representatives from the state's 5th Congressional District and who is a current member of the state House of Representatives.

Public records show that Braddock has been working for Donovan for about \$3,800 a month.

Donovan is the Democrats' convention-endorsed candidate for Congress in the 5th District. He faces an Aug. 14 primary for his party's nomination against Democratic challengers Elizabeth Esty and Dan Roberti. Federal agents went undercover to pursue the investigation.

They have talked to as many as 12 Democratic and Republican legislators, as well as legislative aides. One top Democrat interviewed was House Majority Leader Brendan Sharkey of Hamden. House Republican Leader Lawrence Cafero of Norwalk and a House Republican legislative aide, John Healey, also were interviewed and were told they were not targets, sources said.

Donovan issued a statement shortly before 5:30 p.m. Thursday, saying: "I am cooperating fully with the investigation, which is on-going, as is my campaign."

The statement continued: "The campaign employees allegedly involved have been terminated, and the leadership of the campaign has changed. Tom Swan is joining the campaign, as campaign manager, effective immediately." Swan is executive director of the Connecticut Citizen Action Group.

Malloy: 'Despicable'

Gov. Dannel P. Malloy commended federal authorities "for their diligence in the investigation and the speed in which they've taken action." He said "these allegations are despicable" and said Donovan should explain what has happened.

"While I am encouraged that the Speaker is cooperating with the investigation, his position requires that he give our residents a full explanation of what he knows," Malloy said. "Allegations like this not only damage a campaign or a candidate, they also undermine citizens' belief in their government's ability to carry out its responsibilities."

"These are very serious allegations that we expect will be thoroughly investigated," said Jeb Fain, spokesman for Esty, one of Donovan's two Democratic rivals.

"We're finding out about this right now, just as everyone else is, but clearly these are very serious and disturbing allegations," said Mary Moran, spokeswoman for Roberti, the other Democratic primary candidate. "Attempting to hide a person's contributions to a campaign for Congress needs to be thoroughly investigated."

Republican candidates in the 5th District also weighed in.

"If the allegations are true and the Speaker knew about this activity, I think that would render him unfit as a candidate. If he was not aware of this activity, it calls into question his role as the candidate," said state Sen. Andrew Roraback, R-Goshen, the party-endorsed candidate in the four-way, Aug. 14 GOP primary for the district nomination.

"This could be another in a series of ethical lapses by Donovan's campaign," said Chris Cooper, spokesman for Mark Greenberg, another primary contender. "These are very serious charges, and at the very least they speak to the issue of judgment and character." Cooper cited Donovan's acceptance of donations from lobbyists who had bills pending before the legislature during its recently concluded 2012 session; he said the contributions were questionable although legal.

"One-party rule breeds political corruption," said Justin Bernier, another GOP 5th District primary contender. "If these allegations are true, it's another reason for voters to break the Democratic monopoly in Connecticut and go back to two-party rule in our state."

Chris Healy, a senior adviser for the other Republican primary candidate, Lisa Wilson-Foley, said not enough is known about the investigation, and "we don't feel we're in a position to comment on it."

'Conduit' Contributors

Fein, the top federal prosecutor in the state, and Kimberly Mertz, who leads the FBI office in Connecticut, said Braddock was charged with conspiracy to conceal the source of contributions to the campaign of a candidate for the U.S. House of Representatives.

The complaint alleges that Braddock conspired with others to accept conduit campaign contributions, which are contributions made by one person in the name of another person. It is a violation of federal campaign finance law for any person to knowingly accept a contribution made by one person in another's name.

The purpose of the conduit contributions allegedly was to conceal that those actually providing the money had an interest in tax and licensing legislation that was introduced this year in the General Assembly, where Donovan holds considerable influence as House speaker.

The legislation introduced would have deemed "roll-your-own" smoke shop owners to be tobacco manufacturers under Connecticut law, a designation that would have subjected them to a substantial increase in licensing fees and taxes. The legislature's finance committee voted in favor of the bill on April 3.

Potential enactment of the roll-your-own taxes and fees prompted Braddock and two co-conspirators to arrange a \$10,000 payment in April to the Donovan campaign, consisting of four \$2,500 checks issued in the names of conduit contributors, according to information the FBI collected through recorded telephone calls and meetings involving undercover agents.

Phone Transcript

The arrest warrant affidavit reports that one or more members of Donovan's campaign staff discussed the conduit payments as early as April 3, the day of the favorable committee vote on the tax and fee legislation. In the April 3 conversation, one of the unidentified co-conspirators called an FBI agent who was posing as an investor in a roll-your-own shop. The conspirator said he had set up a meeting on the following Wednesday. The undercover agent promised to increase the initial payment from \$5,000 to \$10,000.

"You know," the undercover operative said. "We'll bump it from five to ten ... and that, that should hopefully, you know get us over that finish line."

In May, federal authorities said a co-conspirator who helped arrange the initial payment was recorded saying that he and unidentified others were prepared to contribute a second \$10,000 if the roll-your-own legislation was defeated. One of the parties to the conversations, according to the arrest warrant affidavit, was another co-conspirator who is identified only as an aide to the campaign.

The bill died on May 9 when the legislative session ended without either house calling for a vote.

The second \$10,000 payment, made on May 14, consisted of three checks in the names of conduit contributors payable to the campaign and a fourth check from a conduit contributor to a political party that is not identified in the affidavit.

There were at least two foul-ups in the payment process, the affidavit says.

One of the checks in the first \$10,000 payment was returned for insufficient funds, according to a recorded conversation between two co-conspirators.

"What's up?" one of the conspirators asked.

"Not much man," the other replied. "...one of the, ah, checks ... ah, bounced."

Braddock was told later by a co-conspirator one of the checks in the second payment was in the form of a bank check provided by an actual, roll-your-own tobacco shop owner. Braddock arranged for the check not to be deposited into the campaign's bank account, according to the affidavit.

On May 16, 2012, the co-conspirator and an aide to the campaign met at a restaurant in Southington, the affidavit says. At that meeting, the co-conspirator provided the aide with a replacement \$2,500 check in the name of a different conduit contributor who was not affiliated with any roll-your-own shops, federal prosecutors said.

'Good Investment'

A day earlier, Braddock and an unidentified co-conspirator had a phone conversation about both the value and faults of the people they were dealing with. According to a transcript provided by federal authorities, the co-conspirator told Braddock: "Like I said, you know, it was a very good investment for us to kill that bill. And they want to stay friends for a long time."

Fein, the U.S. attorney, said that in Braddock's role as campaign finance director, it is alleged that he conspired to conceal the source of campaign contributions to the campaign of a candidate for Congress.

"The U.S. Attorney's Office and the FBI are committed to investigating and prosecuting illegal behavior that corrupts our political process," Fein said. "This investigation is ongoing."

Fein said the investigation included numerous recorded conversations, as well as an FBI special agent acting in an undercover capacity.

The charge of conspiracy to conceal campaign contributions carries a maximum term of five years and a fine of up to \$250,000.

Legislative Democrats who control the House and Senate have been talking about the possibility of reviving the roll-your-own tax bill in a June 12 special legislative session.

Donovan has yet to say whether he would have anything to do with the issue, or if he will relinquish his speaker's duties during the special session in light of the arrest of his campaign staff member.

The bill was pushed by state tax officials after a February Superior Court ruling that roll-your-own tobacco shops are not cigarette manufacturers. State Attorney General George Jepsen had gone to court last year on behalf of state Revenue Services Commissioner Kevin Sullivan, seeking an injunction against Tracey's Smoke Shop and Tobacco LLC for the alleged illegal manufacture of cigarettes at its stores in Norwalk and Orange.

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CAMPAIGN AIDE'S ARREST SHIFTS CONNECTICUT RACE

Joseph de Avila
Wall Street Journal
May 31, 2012

Federal prosecutors said Thursday that a campaign aide to Connecticut congressional candidate Christopher Donovan was arrested and charged with concealing the sources of political contributions.

Robert Braddock Jr. was arrested Wednesday and released on a \$100,000 bond, according to the U.S. attorney's office in Connecticut. He faces up to five years in prison and a fine of as much as \$250,000.

Mr. Braddock, 33 years old, is the finance director for the congressional campaign of Mr. Donovan, a Democrat who is speaker of the Connecticut House of Representatives. Mr. Braddock couldn't be reached to comment.

The arrest has upended the race to succeed Rep. Chris Murphy in the state's fifth congressional district. Mr. Donovan, a 19-year veteran of the state Legislature, was considered the Democratic front-runner.

"I am cooperating fully with the investigation, which is ongoing, as is my campaign," Mr. Donovan said in a statement. "The campaign employees allegedly involved have been terminated, and the leadership of the campaign has changed. Tom Swan is joining the campaign, as campaign manager, effective immediately."

The investigation included several recorded conversations between Mr. Braddock, his unnamed co-conspirators and undercover federal agents. The investigation is still under way, federal prosecutors said.

Mr. Braddock is identified in an affidavit released by law-enforcement officials as finance director for "Public Official Number 1." Mr. Donovan wasn't named in the affidavit and hasn't been accused of wrongdoing. Mr. Braddock conspired with others to accept campaign contributions made by one person in the name of another person, law-enforcement officials said. The complaint alleges that straw donors were arranged to hide the fact that the actual contributors were individuals opposed to a state legislative bill.

The bill would have classified owners of so-called Roll-Your-Own smoke shops as tobacco manufacturers, which would have resulted in new licensing fees and tax increases. The bill never came up for a vote in the House or Senate before the end of this year's legislative session on May 9. There is no allegation that Mr. Donovan, who

has considerable control over which bills come up for a vote in the House, killed the bill on behalf of Roll-Your-Own smoke shop owners.

Mr. Braddock and co-conspirators arranged several campaign and political-party contributions totaling \$20,000 throughout the months of April and May, law-enforcement officials said. The checks were written in the names of conduit contributors, or people who made campaign contributions in the names of the others, officials said.

Mr. Braddock's arrest is a political setback for Mr. Donovan who won the state's Democratic Party endorsement in the congressional race just two weeks ago. The Democratic primary is scheduled for Aug. 14. His primary opponents are Elizabeth Esty and Dan Roberti.

"These allegations are despicable," said Gov. Dannel Malloy, a Democrat, in a statement. "While I am encouraged that the Speaker is cooperating with the investigation, his position requires that he give our residents a full explanation of what he knows."

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FEDS ARREST DONOVAN CAMPAIGN AIDE

By LeAnne Gendreau and Jeff Saperstone

NBC Connecticut

June 1, 2012

House Speaker Chris Donovan has fired his finance director and his campaign manager.

The finance director for the U.S. Congressional campaign of state House Speaker Chris Donovan was arrested on Wednesday, accused of conspiracy to conceal the source of contributions to the U.S. House of Representatives meant to influence voting on roll your own cigarette legislation.

Robert Braddock Jr., 33, of Meriden, was charged in a federal criminal complaint with conspiracy to conceal the source of contributions to the Donovan's congressional campaign.

"We're fully cooperating with the investigation, which is ongoing, as is my campaign," Donovan told NBC Connecticut in a brief interview Thursday evening. "The staffers involved have been terminated."

Donovan said his campaign manager had been fired, along with Braddock.

"Tom Swan is joining the campaign, as campaign manager, effective immediately," he said in an earlier statement.

Asked if he was questioned by the Feds, Donovan said, no and walked away.

"These allegations are despicable," Gov. Dannel Malloy said. "While I am encouraged that the Speaker is cooperating with the investigation, his position requires that he give our residents a full explanation of what he knows."

The complaint alleges that Braddock conspired with other people to accept campaign contributions made by one person in the name of another person, which violates federal campaign finance, according to the U.S. Department of Justice.

During the investigation, several conversations were recorded and FBI Special Agents went undercover.

According to the Justice Department, the purpose was to conceal that they were to finance an interest in legislation introduced in the state General Assembly during the 2012 legislative session that would have deemed Roll-Your-Own smoke shop owners to be tobacco manufacturers under Connecticut law, which would have subjected shop owners to a substantial licensing fee and tax increase.

The General Assembly's Joint Committee on Finance, Revenue and Bonding voted in favor of the bill, Senate Bill 357, on April 3, 2012.

The criminal complaint alleges that the potential that that bill would be enacted prompted Braddock and people referred to as "co-conspirators" to arrange a payment of \$10,000 to the campaign, which consisted of four \$2,500 checks in the names of conduit contributors.

The complaint states that an initial \$10,000 in campaign contributions was made early in May and an additional \$10,000 payment would come upon the defeat of the Roll-Your-Own legislation. On May 9, 2012, when the legislative session ended, and the legislation had not been called for a vote by either chamber of the General Assembly and that second \$10,000 payment was received, according to the affidavit.

However, when a "co-conspirator" told Braddock that one of the contributions was in the form of a bank check provided by one of the Roll-Your-Own shop owners, Braddock arranged for the check not to be deposited into the campaign's bank account, met with the co-conspirator and an aide to the campaign at a restaurant in Southington and arranged for a replacement \$2,500 check in the name of a different conduit contributor who was not affiliated with any Roll-Your-Own shops, according to the U.S. Department of Justice.

"In his role as campaign finance director, it is alleged that this defendant conspired to conceal the source of campaign contributions to the campaign of a candidate for Congress," stated U.S. Attorney Fein. "The U.S. Attorney's Office and the FBI are committed to investigating and prosecuting illegal behavior that corrupts our political process. This investigation is ongoing."

Braddock appeared in court and was released on a \$100,000 bond.

His lawyer said Braddock is innocent.

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SOURCE: CHRIS DONOVAN A FOCUS OF FEDERAL PROBE

By Tom Cleary and Ken Dixon
Connecticut Post
May 31, 2012

House Speaker Christopher G. Donovan and his campaign staff are now the focus of the federal investigation that resulted in charges against his congressional campaign's finance director, a source familiar with the case said.

The influence-peddling investigation rocked the Capitol Thursday, as several legislators were interviewed by the FBI and Donovan's once-smooth path to Congress appeared in potential jeopardy.

FBI agents Thursday arrested Robert Braddock Jr., 33, of Meriden, the finance director for Donovan's 5th Congressional District campaign, and charged him with concealing campaign contributions.

The investigation, which used undercover agents and tape-recorded phone calls, initially is focusing on \$10,000 in allegedly covert campaign contributions. Authorities say those donations were funneled through Braddock in a deal to scuttle a proposed roll-your-own-tobacco bill that would have taxed some smoke shop owners. The bill never made it to the Legislature for a vote.

An affidavit filed in federal court by FBI Special Agent William B. Aldenberg alleges that Braddock conspired with at least three other people in receiving four \$2,500 checks given in the names of individuals who did not furnish the money. One of the conspirators recorded several phone calls for the FBI. As many as six people are believed to be targeted by the probe, according to the source.

U.S. Attorney David Fein would only acknowledge that the investigation is continuing.

However, the source close to the case said the investigation is digging deeper into actions on other bills and whether Donovan had knowledge of these actions.

"As the House speaker, the buck stops with him as to which bills come up for a vote," a source said. "The feds may have a problem with the way he was doing business."

In a statement released by his office, Donovan said, "I am cooperating fully with the investigation, which is ongoing, as is my campaign. The campaign employees allegedly involved have been terminated, and the leadership of the campaign has changed. Tom Swan is joining the campaign, as campaign manager, effective immediately."

Joshua Nassi, a former House lawyer who left his job to become Donovan's campaign manager, also was fired Thursday.

Gov. Dannel P. Malloy, while saying he was encouraged by Donovan's pledge to cooperate with investigators, also called on the House speaker to "give our residents a full explanation of what he knows."

"Allegations like this not only damage a campaign or a candidate, they also undermine citizens' belief in their government's ability to carry out its responsibilities," Malloy said in a statement in which he called the alleged activities "despicable."

Braddock appeared before U.S. Magistrate Judge Donna Martinez at the federal courthouse in Hartford and was released on \$100,000 bond. She set a June 21 date for a hearing but also advised Braddock that often the federal government takes the case to a federal grand jury and seeks an indictment before then.

Frank Riccio II, Braddock's lawyer, said his client intends to plead not guilty to any charge. The charge of conspiracy to conceal campaign contributions carries a maximum term of five years in prison and a fine of up to \$250,000.

It is expected that federal authorities will begin serving subpoenas within the next few days. The cooperating conspirator is likely to testify and the taped telephone conversations are expected to be played to the grand jury within the next few weeks.

The complaint alleges that in a phone conversation between a Donovan aide and the person who set up the original payment to Donovan's campaign in a conduit's name, the co-conspirator promised additional money if the roll-your-own tobacco legislation failed.

"It is a violation of federal campaign finance law for any person to knowingly accept a contribution made by one person in the name of another person," Thomas Carson, a spokesperson for Fein, said in a news release.

Donovan, identified in the complaint only as "Public Official No. 1," has been endorsed by the state Democratic Party in his run for the 5th Congressional District seat being vacated by fellow Democrat Chris Murphy. He will be facing former state Rep. Elizabeth Esty and Dan Roberti in a Democratic primary Aug. 14.

The investigation is likely to transform a congressional race where the retiring House speaker previously was seen as a clear favorite.

"These are very serious allegations that we expect will be thoroughly investigated," said Jeb Fain, a spokesperson for Esty.

On May 14, a \$10,000 payment was made to the Donovan campaign in the form of three \$2,500 conduit contributions and one \$2,500 conduit contribution to the Democratic Party, the federal complaint states.

When Braddock learned a day later that one of the contributions was made in the form of a bank check provided by a roll-your-own shop owner, he kept the check from being deposited into the campaign's bank account, according to the complaint.

He then sent an aide to meet with the co-conspirator, and the aide was given a replacement check in the name of another entity not affiliated with the shops.

State Democratic Party Chairwoman Nancy DiNardo said Thursday night that the party will return the \$2,500 to the donor.

House Minority Leader Lawrence F. Cafero Jr., R-Norwalk was one of about a dozen legislative leaders interviewed Thursday by the FBI in its Meriden office. He noted that the roll-your-own tobacco bill originated in the Senate, not the House, where Donovan is finishing his fourth year as speaker.

"It's very upsetting," said the veteran lawmaker and lawyer. He described the indictment as reading like a movie script. "I never discussed it with the speaker."

Others interviewed by the FBI included House Majority Leader Brendan Sharkey, D-Hamden; Senate President Pro Tempore Donald E. Williams Jr., D-Brooklyn; Senate Majority Leader Martin M. Looney, D-New Haven; and

the two co-chairwomen of the legislative Finance Committee, Sen. Eileen M. Daily, D-Westbrook, and Rep. Patricia M. Widlitz, D-Guilford.

Originally published here: <http://www.ctpost.com/news/article/Source-Chris-Donovan-a-focus-of-federal-probe-3599571.php#ixzz1wXzeOuS6>

CHRIS DONOVAN CAMPAIGN'S FINANCE DIRECTOR ARRESTED

By Associated Press and WTIC Staff

WTIC 1080 – CBS Connecticut

May 31, 2012

The finance director of Connecticut House Speaker Christopher Donovan's campaign for Congress has been charged with conspiring with others to conceal the source of \$20,000 in campaign contributions.

Federal prosecutors on Thursday announced that 33-year-old Robert Braddock Jr. of Meriden was charged Wednesday in an alleged conspiracy to accept "conduit" campaign contributions, which are donations made by one person in the name of another person.

Authorities say Braddock is finance director for a congressional candidate they won't name, but Donovan's campaign records show Braddock works for him.

Prosecutors allege Braddock and unnamed co-conspirators arranged two \$10,000 payments, each broken up into \$2500 donations, and funneled through four other contributors to Donovan's campaign for the 5th District seat in connection with proposed legislation this year.

Federal authorities recorded phone conversations, as they conducted an apparent sting operation, in which an undercover agent posed as a smoke shop owner who wanted to make illegal campaign contributions to House speaker Donovan's congressional campaign.

In one conversation, an unnamed conspirator said "Last time one of these [expletive] drug addicts bounced a check, even though we put the [expletive] money right in their hand."

Braddock said he would stay on top of it.

The conspirator said "I don't want to look like an idiot in front of my future congressman."

He was referring to Donovan.

Frank J. Riccio II, Braddock's lawyer, said his client is innocent and the evidence will prove it.

"I am cooperating fully with the investigation, which is on-going, as is my campaign," Donovan said in a written statement from his campaign. "The campaign employees allegedly involved have been terminated, and the leadership of the campaign has changed.

"Tom Swan is joining the campaign, as campaign manager, effective immediately," Donovan wrote.

Swan is the executive director of the Connecticut Citizen Action Group. He previously worked as campaign manager for Ned Lamont, in a failed 2006 senate bid.

“The buck stops with the candidate,” said 5th District Republican Congressional Candidate Andrew Roraback.

Roraback said he wants to know if the Democratic candidate knew about the activity.

“The candidate has a responsibility to make sure that people who are working to raise funds are always doing so consistent with both the letter and the spirit of the law.”

Roraback said he does not know why the roll-your-own bill never came up for a vote in the House.

“The speaker exercises absolute control over the calendar in the House of Representatives,” Roraback said. “If the speaker does not wish for a bill to be called, the bill is not called [for a vote].”

As the top Senate Republican on the Finance Committee which handled the roll-your-own tobacco bill, Roraback opposed the measure. He says he never asked for — and never received — any campaign contributions connected to the bill.

“These are very serious allegations that we expect will be thoroughly investigated,” said rival Democratic fifth district candidate Elizabeth Esty Campaign spokesperson Jeb Fain.

Donovan didn’t immediately return a message. A phone number for Braddock wasn’t immediately available.

Originally published here: <http://connecticut.cbslocal.com/2012/05/31/chris-donovan-campaigns-finance-director-arrested/>

HOUSE SPEAKER, CANDIDATE SHOULD SPEAK UP ON AIDE’S ARREST

By Editorial Staff

Hartford Courant (CT)

May 31, 2012

Christopher Donovan: Did the House leader know about the alleged influence-buying taking place virtually under his nose?

State House Speaker Chris Donovan's congressional campaign and his high station in the General Assembly both hang by a thread.

The sensational arrest of his campaign finance director, Robert Braddock Jr., for allegedly trying to hide contributions of dirty money to the speaker's campaign for Connecticut's 5th District U.S. House seat may have finished Mr. Donovan as a political force.

The speaker didn't help himself with a weak, tight-lipped initial public response to the jaw-dropping scandal as it went public. He fired Mr. Braddock, of course. What else could he do?

But all he could manage by way of explanation was, "I am cooperating fully with the investigation, which is ongoing, as is my campaign." After that statement, he was unavailable for questions. That's hardly sufficient to persuade anyone that he was unaware of what the arrest warrant affidavit describes as sleazy influence-buying taking place virtually under his nose.

He left it to Gov. Dannel P. Malloy to get directly to the heart of the matter. "These allegations are despicable," Mr. Malloy said, adding that Mr. Donovan's position "requires that he give our residents a full explanation of what he knows. Allegations like this not only damage a campaign or a candidate, they also undermine citizens' belief in their government's ability to carry out its responsibilities."

Mr. Donovan needs to tell the people of Connecticut exactly what he knew about Mr. Braddock's alleged filthy fund-raising schemes and when he knew it. Was he aware of or surprised by the amounts of the so-called conduit campaign contributions that were coming in? Who did he think was making the contributions? Did he take no interest in his campaign war chest? Is it reasonable to believe that a staff member would undertake such a daring fund-raising scheme without his boss's knowledge?

The U.S. attorney's complaint against Mr. Braddock alleged that he conspired with others to accept some \$20,000 in conduit contributions to Mr. Donovan's congressional campaign. Conduit contributions are made by one person in the name of another. It is against federal law for anyone to accept such a contribution.

In this case, the government alleges that the people who actually made the contributions to Mr. Donovan's campaign were opposed to legislation that would have imposed a significant licensing fee and higher taxes on "roll-your-own" smoke shops in Connecticut. The bill was approved by a committee but was never voted on by the House or Senate.

What did you know, Mr. Speaker? Speak up!

Originally published here: <http://www.courant.com/news/opinion/editorials/hc-ed-speaker-donovan-in-danger-from-scandal-20120531,0,7341646.story>

DONOVAN AIDE ARRESTED BY FEDS

By Eileen McNamara
Cheshire Patch (CT)
May 31, 2012

House Speaker's finance director charged with hiding campaign contributions

Federal agents have arrested the finance director for Connecticut Speaker of the House Christopher Donovan.

Robert Braddock, 33, of Meriden, was charged Wednesday by federal prosecutors with concealing the source of some campaign contributions to "the campaign of a candidate for the United States House of Representatives." Donovan is running for the 5th District seat.

Braddock appeared before U.S. Judge Donna F. Martinez in Hartford and was released Wednesday on a \$100,000 bond.

A spokesman for the U.S. Attorney's office said he could not comment on the identity of the candidate. A press release issued by the office said the candidate is someone who is both currently serving in the state House and seeking election to congress.

The Hartford Courant, reports in this blog that it is Donovan.

A spokesman for Donovan did not return a request for comment today.

David B. Fein, the U.S. attorney for Connecticut, and Kimberly K. Mertz, special agent in charge of the FBI, announced Braddock's arrest today.

The complaint alleges that Braddock conspired with others to accept so-called "conduit campaign contributions," donations made by one person in the name of another. It is a violation of federal campaign finance law for any person to knowingly accept a contribution made by one person in the name of another person.

The purpose of the conduit contributions alleged in the complaint was to conceal that the individuals who were actually financing the payments had an interest in legislation that was introduced in the Connecticut General Assembly during the 2012 legislative session, according to a press release issued by Fein.

The legislation introduced would have deemed roll-your-own smoke shop owners to be tobacco manufacturers under Connecticut law, a designation that would have subjected these shop owners to a substantial licensing fee and tax increase. The legislature's Joint Committee on Finance, Revenue and Bonding voted in favor of the bill in April.

The criminal complaint alleges that the potential enactment of that bill prompted Braddock and his co-conspirators to arrange a payment of \$10,000 to the campaign, which consisted of four \$2,500 checks in the names of conduit contributors.

In early May 2012, the complaint alleges that a co-conspirator who had helped to arrange the initial \$10,000 in campaign contributions stated in a series of recorded telephone calls with another co-conspirator, who was an aide to the campaign, that he and others were prepared to make an additional \$10,000 payment following the defeat of the Roll-Your-Own legislation. On May 9, 2012, the legislative session ended, and the legislation had not been called for a vote by either chamber of the General Assembly.

Several days later, on May 14, the complaint alleges, the co-conspirator delivered a \$10,000 payment to the campaign in the form of three \$2,500 conduit contributions made payable to the campaign, and one \$2,500 conduit contribution made payable to a political party. After Braddock was informed by the co-conspirator the next day that one of the contributions was in the form of a bank check provided by one of the Roll-Your-Own shop owners, Braddock arranged for the check not to be deposited into the campaign's bank account. On May 16, the co-conspirator and an aide to the campaign met at a restaurant in Southington. At that meeting, the co-conspirator provided the aide with a replacement \$2,500 check in the name of a different conduit contributor who was not affiliated with any Roll-Your-Own shops.

"In his role as campaign finance director, it is alleged that this defendant conspired to conceal the source of campaign contributions to the campaign of a candidate for Congress," Fein said in a release today. "The U.S. Attorney's Office and the FBI are committed to investigating and prosecuting illegal behavior that corrupts our political process. This investigation is ongoing."

“This arrest represents the FBI’s commitment to the citizens of Connecticut that we will thoroughly investigate allegations of public corruption,” stated FBI Special Agent in Charge Mertz. “Combating corruption at all levels is the FBI’s top criminal priority.”

The investigation of this matter has included numerous recorded conversations, as well as undercover FBI special agents.

The charge of conspiracy to conceal campaign contributions carries a maximum term of five years and a fine of up to \$250,000.

Fein stressed that a complaint is only a charge and is not evidence of guilt. Charges are only allegations, and each defendant is presumed innocent unless and until proven guilty beyond a reasonable doubt.

Statement by House Speaker and 5th District Candidate Christopher Donovan updated 6 p.m.:

"I am cooperating fully with the investigation, which is on-going, as is my campaign.

"The campaign employees allegedly involved have been terminated, and the leadership of the campaign has changed. Tom Swan is joining the campaign, as campaign manager, effective immediately."

Originally published here: <http://cheshire.patch.com/articles/donovan-aide-arrested-by-feds>

OBSCURE BILL AT CENTER OF INFLUENCE-PEDDLING PROBE

By Ken Dixon
Connecticut Post
May 31, 2012

The state legislation that's at the heart of a federal investigation into Speaker of the House Christopher G. Donovan's congressional campaign never even made it to a vote.

But it's nearly a sure bet to win approval in the June 12 special session authorizing the budget that takes effect July 1.

In fact, it was a Senate bill that did not originate in the House, which Donovan controls. Federal investigators believe opposition to it was an enticement that members of Donovan's campaign staff offered to potential campaign contributors.

Kevin B. Sullivan, the former leader of the state Senate who is now commissioner of the Department of Revenue Services, said Thursday that the so-called roll-your-own bill was submitted in attempt to generate about \$3.4 million in additional annual revenue.

It would create a new tax on cigarettes that are made by consumers using rolling machines at about 15 small businesses statewide.

The legislation was also an effort to bring the state in line with anti-smoking efforts that other states involved in the historic 1998 multibillion-dollar settlement with the tobacco industry have adopted. Sullivan said he and Attorney General George C. Jepsen were concerned the state had to commit to further discouragement of smoking or put the settlement in jeopardy.

As the session grew closer to its May 9 adjournment deadline, the bill, which was never the subject of a public hearing, became a target of Republican amendments aimed at revising the budget.

Senate President Pro Tempore Donald E. Williams Jr. and Senate Majority Leader Martin M. Looney were unavailable for comment about the measure Thursday night.

But their spokesman, Adam Joseph, confirmed the FBI interviewed the men Thursday. He said they never had any communications with Donovan on the bill but intended to bring the measure for debate in the last week of the session.

However, a thorny Republican amendment was attached to the bill that would have prompted a long debate.

"In the interest of moving Senate business along, we did not raise the bill," Joseph said.

Senate Minority Leader John McKinney, R-Fairfield, who said Thursday that he was not questioned by FBI agents, said in an interview that the bill could have been brought to the Senate on May 9.

Referring to the Senate transcript of May 8, he pointed out that the controversial GOP amendment was voted down; the roll-your-own legislation could have gone forward after the amendment failed.

Traci Scalzi, the owner of smoke shops in Norwalk and Orange who has a rolling machine for customers, said she knew nothing about an alleged effort to contribute to the speaker's congressional campaign. Scalzi spent several days during the session at the Capitol lobbying legislators to oppose the roll-your-own bill.

"I'm appalled somebody would even think of doing something like that. I really don't know who, why or if it's even true, in fact," Scalzi said. "Everything I do is by the book. I'm upset this even came about. I've been working really hard to try and save my store."

Scalzi said she did attempt to contact Donovan to urge him to oppose the legislation but never heard back from the speaker.

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WOMAN AT HEART OF ROLL-YOUR-OWN CONTROVERSY SAYS KNOWS NOTHING OF DONOVAN SCANDAL

By Brian Lockhart
Connecticut Post Blog
May 31, 2012

In the final days of the 2012 legislative session Traci Scalzi was a familiar face inside the Capitol in Hartford.

Scalzi, owner of roll-your-own cigarette shops in Norwalk and Orange, was personally lobbying any legislator who'd listen to kill a proposal that would increase the taxes and fees paid by her and around 15 similar tobacco stores in Connecticut.

Compared with all of the other business taking place in the General Assembly this year, it was a pretty minor bill that received some coverage from the media, including our Hearst newspapers.

Now the legislation is at the heart of an alleged scandal involving the finance director for state House Speaker Chris Donovan's, D-Meriden, Congressional bid.

Robert Braddock Jr., 33, of Meriden, is accused of conspiring with others to take conduit campaign contributions, which are made by one person in the name of another person, federal authorities said in a news release. Those contributions allegedly came from folks interested in killing the roll-your-own bill.

Reached this afternoon Scalzi was shocked. She said she knew nothing about the matter.

"I'm appalled somebody would even think of doing something like that. I really don't know who, why or if it's even true, in fact," Scalzi said. "Everything I do is by the book. I'm upset this even came about. I've been working really hard to try and save my store."

Scalzi said she did attempt to contact Donovan to urge him to oppose the legislation but never heard back from the Speaker.

Originally published here: <http://blog.ctnews.com/politics/2012/05/31/woman-at-heart-of-roll-your-own-controversy-says-knows-nothing-of-donovan-scandal/>

ARLINGTON TOBACCO EXPRESS FACES UNCERTAIN FUTURE IN WAKE OF TAX LAW

By Kirk Boxleitner
Arlington Times (WA)
May 31, 2012

Jill Murphy, owner of the Tobacco Express roll-your-own cigarette store in Arlington, is wondering whether her business will last the summer.

On May 9, Gov. Chris Gregoire signed into law a bill that will tax loose tobacco sold at such stores at the same rate as prepackaged cigarettes, which takes effect July 1.

Joe Baba, a tobacco distributor for Washington state who co-owns multiple roll-your-own cigarette stores in the area with his wife Kari, is considering legal action against the state.

"Like so many small business-owners throughout the state, I am still very disappointed that the legislature and the Governor would move forward with a bill written by Big Tobacco companies to make it nearly impossible for an independent tobacco shop like mine to survive," Kari McKibben-Baba said. "As of right now, we are evaluating our legal options and will determine an appropriate course of action."

Murphy is simply continuing to run her business and hope for the best, since she sees little else that she can do.

"I've heard some of my customers say that it won't be worth it," Murphy said of the price hikes that they anticipate will result from the tax. "Others have said that it doesn't matter, because of how much they love the product. We've got a lot of customer loyalty, but I don't know whether that's going to be enough to keep us going. Even with our repeat customers, we're already riding a fine margin and just barely hanging in there as it is."

While Baba estimated that a \$39 carton of roll-your-own cigarettes from his store would see their cost to customers jump by about \$20, state revenue officials have estimated that the average price of a carton of roll-your-own cigarettes would be \$67.60, which is only \$3 less than the average price of a carton of state-taxed, prepackaged cigarettes.

"I don't know what to tell my customers," Murphy said. "I know some other roll-your-own stores have already raised their prices, but we haven't. There's no way for us to pay for this on the back end. We're on the fence right now, but this could push us off."

Murphy expects to have a better sense of where her business stands by July 1, the effective date of the law, which will also be the first anniversary of when she opened Arlington Tobacco Express.

"I quit my other job and gave up my insurance to start the Tobacco Express," Murphy said. "I've given a lot of my free time to make it work. We're none of us rich people. My customers and I are all working people. They come to us because they want to save some money."

The Babas have a website devoted to the tobacco legislation at <http://legislature.tobacco-joes.com>.

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Note: A similar article by the same author was published in the Marysville Globe:
<http://www.maryvilleglobe.com/business/156102495.html>

POLL SUGGESTS CLOSE ELECTION FOR CALIF. TOBACCO TAX

By Jim Christie

Reuters

May 31, 2012

A California ballot measure that proposes adding a \$1 tax to a pack of cigarettes holds a tenuous eight-point lead in a Field Poll survey with less than a week to go to election day.

Survey results released on Thursday showed 50 percent of likely voters backing the June 5 ballot measure and 42 opposed and 8 percent undecided.

Field Poll Director Mark DiCamillo said the findings suggest Proposition 29 could see support shrink in coming days, which would mirror two prior ballot battles over increasing tobacco taxes in the most populous U.S. state.

"With an eight-point lead it has a better than even chance of passage but it's going to be a close election," DiCamillo said.

The Field Poll survey's findings are in line with results of a recent survey by the Public Policy Institute of California. It found 53 percent of likely voters saying they will vote for the measure, 42 percent saying they will vote against it and 5 percent undecided.

In March, a survey by the institute found 67 percent of likely voters in support of Proposition 29, suggesting an advertising blitz by the tobacco industry has successfully raised concerns about the measure among voters.

They overwhelmingly support the idea of raising tobacco taxes but advertising has raised doubts about who would oversee revenue raised by Proposition 29, how it would be spent and whether it would stay in California.

The measure would raise California's tax on a pack of cigarettes to \$1.87 to fund medical research into tobacco-related illnesses and programs to prevent tobacco use.

The money would be overseen by a nine-member committee that includes three University of California chancellors, three cancer research institute directors, one physician affiliated with an academic medical center and two members of disease advocacy groups that focus on tobacco-related illnesses.

The Field Poll survey's findings likewise suggest heavy industry spending on television and other advertising has eroded support for the measure.

"The current Field Poll shows that voters who had already sent in a mail ballot or were planning to do so before Election Day support Prop. 29 by a ten-point margin (51 percent to 41 percent). However, support narrows to just five points among those intending to vote at their voting precinct on June 5," the survey's report said.

"This suggests that the weight of campaign advertising and late decision-making is narrowing the yes side advantage and could have additional effects before all the votes are cast," the report said.

DiCamillo noted that California voters in 2006 rejected a ballot measure proposing a \$2.60 tax increase to a pack of cigarettes by 52 percent to 48 percent - after the measure held substantial early leads in polls.

California voters last approved a measure to increase the state's tobacco tax in 1998, and only narrowly by 51 percent to 49 percent. A Field Poll survey a week ahead of that election found the measure with a nine-point lead, down from a 22-point lead in earlier polls.

The Field Poll conducted its latest survey from May 21 through May 29. Its findings are based on responses from 608 likely voters in the June election who were interviewed in English and Spanish over landline telephones or mobile phones.

The survey's maximum sampling error estimates for results based on its sample of likely voters is plus or minus 4.1 percentage points at the 95 percent confidence level.

Originally published here: <http://www.reuters.com/article/2012/05/31/us-california-tobaccotax-poll-idUSBRE84U0ZL20120531>

MERCURY NEWS EDITORIAL: DON'T FALL FOR BIG TOBACCO; VOTE YES ON PROPOSITION 29

By Editorial Board
Mercury News (CA)
May 31, 2012

You think al-Qaida's a killer? It has nothing on Big Tobacco: More than 1,000 Americans die every single day from tobacco-related illnesses.

Yet, amazingly, polls show Californians are falling for one of the sleaziest advertising campaigns in state history, courtesy of R.J. Reynolds and Philip Morris. Voters might actually reject Proposition 29, which would increase the tax on a cigarettes by \$1 per pack.

Don't let it happen. The proposition will prevent 228,000 young people from becoming addicts and cause 118,000 adults to quit smoking, based on experience from other cigarette tax increases across the nation, and it will save billions in public health costs. Even if you believe the bogus assertions that the tax revenue will be wasted, just charging the tax will dramatically improve California's public health and its finances.

In March, before Big Tobacco went to work, 67 percent of voters said they favored Proposition 29, and 30 percent opposed it. But a Public Policy Institute of California poll released last week showed only 53 percent of likely voters supporting the measure and 42 percent opposed.

Wake up, voters.

The cynical opposition to Proposition 29 argues that it will create another "Big Bureaucracy" in California to allocate the tax revenue to cancer and other public health research. But administrative costs will be limited by law to 2 percent of revenues collected, a low operating margin. And that \$14 million cost is about a third of the \$40 million tobacco companies are spending to defeat the measure. That's how certain they are that it will cut into the roughly \$6 billion a year in revenue they rake in from the state's 3.8 million smokers.

Big Tobacco is blowing smoke at California voters. Snuff them out Tuesday by voting yes on Proposition 29.

Originally published here: http://www.mercurynews.com/opinion/ci_20752037/mercury-news-editorial-dont-fall-big-tobacco-vote

STATE TO LOSE MONEY AFTER CIGARETTE TAX HIKE

WJBD Radio –Salem, Illinois
May 31, 2012

State Senator Dale Righter says retailers that provide roll your own cigarette services will be put out of business thanks to provisions in the proposal to raise cigarette taxes. "Your legislation will now require people who use roll your own machines that they can use them if they have fire-safe tubes. This will put retailers who use this out of business. This is more than doubling the tax on these cigarettes that these retailers sell", said Righter.

Republicans say taxing people is not the way to tackle the state's Medicaid problem. They urge Democrats to deal with the issue by making necessary cuts, not by looking for ways to generate more money. The additional tax is expected to bring in about 700-million dollars after the state receives matching money from the federal government. The bill now heads to Governor Quinn, who supports the proposal.

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DOES THE SHADOW OF BIG TOBACCO LOOM BEHIND THE RECENT SEIZURE OF MOHAWK CIGARETTES?

By Gale Courey Toensing
Indian Country
June 1, 2012

In the summer of 2011, the Altria Group, the biggest of the Big Tobacco companies and the parent company of Philip Morris USA, released a "white paper" that urged New York State to clamp down on tax-free cigarettes manufactured on Indian land. The paper, replete with references to news reports, statutes and case law, was one more feint in a long line of efforts by Big Tobacco to get the federal and state governments to crack down on its competition—sovereign Indian nations and small tobacco manufacturers.

Native American Manufactured Cigarettes Sold to Nontribal Members Are Fully Subject to New York's Tax, Distribution, and Other Tobacco Laws was issued about a year after New York's Department of Taxation and Finance (DTF) amended the state's cigarette tax law in early 2010 to force Indian tobacco businesses to collect state taxes by requiring all cigarettes sold to reservations to have an affixed \$4.35 cigarette stamp. Prior to the new tax law and the passage that spring of the Prevent All Cigarette Trafficking Act, which stopped the shipment of cigarettes through the mail, Indian tobacco businesses could order unstamped, untaxed cigarettes to sell on the Internet or to customers who travelled to reservations to buy their tax-free smokes. Indian nations won a court injunction against the new tax law, but last summer the injunction was lifted and the law implemented. The nations responded by announcing they would no longer buy the famous brand cigarettes manufactured by Philip Morris (Altria), Reynolds-American and Lorillard. Instead they would manufacture and sell their own brands of cigarettes.

With imposed taxes in place and the hugely successful Indian cigarette mail order business knocked out, next Altria turned its attention to Native-manufactured cigarettes. "The sale and distribution of Native American brands to nontribal members are fully within the State's power to tax, regulate and enforce," Altria declared in its white paper. "There is no immunity for sales of Native American cigarettes to non-Indians or to members of other tribes. Any such exemption from the enforcement of the 2010 Tax Law amendment would not only be unprecedented and unsupported by the law, but would threaten to turn a significant public policy

accomplishment into a setback.” Altria even warned that failure to clamp down on untaxed Indian-made cigarettes risked “potential civil unrest.”

Six months later, law enforcement agents in the state began stopping trucks near the St. Regis Mohawk Tribe’s territory and seizing cargoes of Native-manufactured cigarettes that are licensed and taxed by the federal and tribal governments. The cigarettes were being transported to New York State reservations in other states.

The first seizure was in January, 2012, when HCI Distribution, a company owned by the Winnebago Tribe of Nebraska, purchased 26,160 cartons of Signal brand cigarettes and cigars and 72 bags of Signal brand pipe tobacco on the St. Regis Mohawk Tribe’s reservation, according to court documents relating to a lawsuit filed after the seizure. Those products, worth more than \$2 million, were manufactured by Ohserase Manufacturing, LLC, a federally licensed manufacturer organized under St. Regis Mohawk Tribe laws and were owned by its citizens. Border Patrol officers pulled the truck over, then handed the matter over to the New York state police, who broke open the seal on the cargo doors of the semi-trailer transport truck without a warrant, court papers say. The driver was detained for hours and then released, but the cigarettes were taken off to state police barracks, where they remain as of the end of May.

The incident has generated a lawsuit in New York Supreme Court in St. Lawrence County by HCI Distribution against the New York State Police, St. Lawrence. County District Attorney Nicole M. Duvé, who directed the seizure, her assistant John Becker, and state police officials. The lawsuit was filed New York Supreme Court in the St. Lawrence County. HCI wants its cigarettes back. “The State’s seizure and ongoing retention of HCI’s property threatens HCI with the loss of its business,” HCI attorneys wrote in the lawsuit. Because even if HCI wins the lawsuit, by that time the return of \$2 million worth of stale cigarettes would be a hollow victory. Five more trucks carrying federal- and tribal-licensed cigarettes manufactured on Mohawk land were stopped and their contents seized over the next four months. Four of the trucks were destined for Indian territories outside New York State; the fifth was headed for a reservation on Long Island.

While no smoking gun has yet emerged connecting Altria’s “white paper” to the cigarette seizures, Indian attorneys say there’s plenty of reason to believe Altria has been pressuring state officials to act against the Native-manufactured cigarettes. “It would not surprise me at all,” says Joe Messineo, an attorney with the firm of Frederick Peebles & Morgan representing HCI Distribution in the lawsuit against Duvé. Last year, Big Tobacco was directly involved in writing measures in the Nebraska law that targeted the Indian tobacco economy in that state, Messineo said. “We have public records from the attorney general’s office in Nebraska that clearly show they not only have contact with Big Tobacco but that Big Tobacco gives its approval on laws. We have emails between a staff attorney in the AG’s office and a Big Tobacco attorney that say, ‘Hey, what do you think of this law?’ and the Big Tobacco attorney saying, ‘Why don’t you add this here or change that there.’”

The proposed “revisions” to Nebraska law included restricting the number of tax-exempt cigarettes that could be sold to tribal members on reservations; requiring tribes to prepay state excise taxes on cigarettes sold to tribal members, then seek reimbursement from the state; requiring escrow payments for tribally taxed sales; creating a “do-not-sell list” for any tribe that exercised its right of sovereign immunity; and prohibiting anyone from buying or selling products, including raw materials and manufacturing machinery, to any tribe on the list. HCI managed to derail some of the most harmful proposed revisions by exposing Philip Morris’s role in writing the legislation.

A spokeswoman in New York Attorney General Eric T. Schneiderman’s office declined to say what involvement, if any, the attorney general had in initiating, coordinating, communicating or advising Duvé or other district

attorneys regarding the seizures. The attorney general's spokeswoman also declined to comment about any communications between her office and representatives of Altria Group/Philip Morris.

Altria and its subsidiary Philip Morris have long been interested in knocking the American Indian tobacco business out of the market, particularly in New York State, where astronomical state taxes created a fertile ground for the Seneca Nation and other Indian nations to develop a robust tax-free tobacco economy in the mid-1990s. Altria makes no secret of its efforts to influence legislation on both federal and state levels. In 2008, for example, Philip Morris spokesman David Sutton told Indian Country Today that the giant tobacco company wrote a bill that New York Assemblyman William Magee introduced into the Assembly that summer to force Indian retailers to collect taxes on cigarettes they sell to non-Indian customers on sovereign tribal land. That bill failed, but its concept was revived in a 2010 amendment that passed.

Sutton was at it again in March, 2010, when the Senate passed the Prevent All Cigarette Trafficking Act, a piece of legislation Philip Morris had pushed—and some say had a hand at writing—for years. “Philip Morris USA is proud to support the PACT Act,” Sutton said. “The sale of untaxed and under taxed cigarettes and smokeless tobacco products remotely—via the Internet, mail or phone—harms legitimate wholesale and retail businesses, consumers and government budgets.” At the time, Indian businesses handled around 95 percent of the mail order tobacco industry.

Altria has also spent big bucks on anti-Indian cigarette ads. In May 2010, for example, Altria Client Services paid for a full-page ad in upstate New York newspapers on behalf of area stores that were unhappy with Oneida Indian Nation's sales of tax-free cigarettes: “The state loses revenue. Retailers lose sales. Their employees could even lose jobs. And it adds to the burden on hard-working taxpayers.”

This latest skirmish in the Indian Tobacco Wars plays out against the backdrop of the 1998 Master Settlement Agreement (MSA), in which Philip Morris USA and other large tobacco companies (participating manufacturers—PMs) agreed to pay \$246 billion to states, including New York, to settle lawsuits brought by the attorneys general of 46 states to recover billions of dollars in costs associated with treating smoking-related illnesses.

The MSA requires participating states to enact and enforce a “qualifying escrow statute,” which requires cigarette manufacturers that didn't sign the MSA (known as non-participating manufacturers—NPMs) to make annual escrow deposits of funds based on “units sold”—the number of cigarettes for which the state collects taxes. The escrow statute protects Big Tobacco from competition by forcing the NPMs to increase the price of their cigarettes so that they don't have a cost advantage over the participating manufacturers who make annual MSA payments. But there are dozens of Native manufacturers that didn't sign the MSA and are not required to make escrow payments because the cigarettes they sell don't fall within the definition of “units sold”—they don't have tax stamps affixed to them.

Furthermore, a provision of the MSA says that if Big Tobacco loses market share, it can withhold MSA payments to the states, putting the states in the conflicted position of needing Big Tobacco to keep its market share in order for the state to get its full annual MSA payment. The states and tobacco companies currently are in arbitration over payments of more than \$5 billion that Big Tobacco has withheld since 2006, claiming the states haven't done the “diligent enforcement” required by the MSA to stop small rival cigarette companies that didn't sign the settlement from undercutting them on prices. Tribal nations had no role in the MSA, but since Big Tobacco is losing market share and can't go after other manufacturers who signed on to the MSA, Messineo says it's going after small and tribal companies instead. In urging New York State to clamp down on untaxed, Native-made cigarettes Altria argues in its “white paper” that tribes should be treated as if they were small cigarette companies rather than sovereign nations with inherent and treaty rights to trade on their land.

“It’s not hard to figure out why all this stuff is happening,” Messineo says. If the states manage to force Indian manufacturers to pay taxes via tax stamps on their cigarettes, they would have to make escrow payments on all cigarettes sold on Indian reservations or they could not lawfully sell their cigarettes. “It’s a perfect alliance between the state and Big Tobacco. The state protects Big Tobacco’s market share, they get the MSA payments and the extra tax revenues, and all they have to do is put some Indians out of business,” he adds.

A puzzling factor in the recent raids around Mohawk territory is that the cigarette seizures are at odds with a directive from the Department of Taxation and Finance to the state police written in July 2011 that outlines “possible scenario’s [sic] involving the movement of untaxed cigarettes in NYS (either premium alone, premium and native American or just native American) and when we could seize and/or charge.” The email instructs the state police not to seize shipments when Native Americans transport untaxed Native-manufactured cigarettes between reservations in New York State or to reservations outside of the state. When Native Americans transport Native-made smokes from a reservation outside of New York to a reservation inside, the email instructs police, “Don’t seize at this time. This may be the first type of Native American cigarettes that we seize.”

Assistant St. Lawrence County District Attorney John Becker, who is named as a respondent in HCI’s lawsuit, told the Times Union that the tax department memo is irrelevant. “[T]he District Attorney is not bound by the decisions of the (Department of Taxation and Finance), nor does this office need the consent, permission or participation of the DTF to prosecute cigarette smuggling,” he said.

Lorraine White, a former elected chief of the St. Regis Mohawk Tribe and the attorney for a driver who was arrested with a million Native-made cigarettes in another raid, questions both the timing and motive behind the recent cigarette seizures. “The big question, in light of that memo, is why is state government aggressively attacking Mohawk businesses now—businesses that are federally licensed and have been engaged in this type of business for years without interference, knowing full well that these seizures could completely cripple, if not destroy, the businesses of Native manufacturers located on the reservation?”

Both White and Messineo argue that there is no legal basis for seizing cigarettes manufactured on Indian territory in transit through New York to another Indian reservation. “The state is arguing that if you’re in New York State you have to pay New York State tax,” White says. “Does that hold true when you have Wal-Mart shipping products from Pennsylvania through New York State to Vermont? I don’t think so.”

Messineo speculates that the recent seizures around Mohawk territory are a test-case for wider action by the state government. “I don’t know what goes on in the smoky back rooms of New York government,” he says, “but the state has its pitchman, actually pitch-woman, in the district attorney for St. Lawrence County. My guess is they’ll see how far the county can push this and if the county is successful, then they’ll start doing some more statewide enforcement. They don’t want to get egg on their face and bring some case that the court laughs at and says, ‘You guys are out of your mind.’ So I guess they’re just letting the county do it first.”

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TOBACCO COMPANIES MIRED IN LEGISLATION AND TAXES

MSN Money
May 31, 2012

Cigarette makers fight back with lobbying efforts and smokeless products

Tobacco companies are finding it difficult to endure the slew of proposed legislation and increased taxation slapped against them worldwide. They are already plagued with high levels of taxation as they are increasingly blamed for soaring healthcare-related costs.

The proposed tax hike on cigarettes in California, if passed, would see the excise taxes rising to \$1.87 per cigarette pack. Public figures like Lance Armstrong have pledged their support for the proposed tax hike.

To oppose the increase in excise tax, tobacco companies, led by Altria Group (MO 0.00%) and Reynolds American Inc (RAI 0.00%), have spent more than \$40 million on lobbying. Altria alone has put in more than \$27 million.

We have a \$32.60 price estimate for Altria, which is in line with the current market price.

Internationally, New Zealand plans to become the first smoke-free country by increasing the tobacco taxes by 40% over the next four years, with an increase of 10% each year. Smoking rates are down from 30% in 1986 to around 20% currently, and the country plans to kick out tobacco consumption by 2025.

Altria recently introduced a new product called Verve -- a chewable, spit-free, oral product that contains nicotine but no tobacco -- in select U.S. markets. The move is in line with the company's policy of developing lower risk, smokeless products.

The company has even entered into an agreement with Okono, an affiliate of Fertin Pharma, to develop innovative non-combustible nicotine-containing products. Smokeless tobacco products are generally perceived to be less harmful than cigarettes and attract lower excise duties. However, even the smokeless tobacco products have come under the scanner of late with a key advisory to the U.S. Food and Drug Administration (FDA) suggesting that tobacco companies have no sufficient evidence to prove that these products are any less harmful than cigarettes.

Philip Morris International (PM 0.00%), however, is relatively shielded as most of the proposed legislation against the tobacco industry is in the developed world. Asia-Pacific overtook Europe as the highest revenue-generating region for the company in 2011. Regulations are still lax in developing economies and, unlike their western counterparts, demand for cigarettes is growing. Note that the company only operates outside the U.S.

In Australia, tobacco companies including Philip Morris International are already embroiled in a legal battle with the government over a law that mandates plain packaging of cigarettes. Both Australia and New Zealand aren't the biggest markets for Philip Morris International. However, if these proposed taxes and legislation were to trickle to more important markets such as Indonesia, Japan or South Korea, we could see some downside to our price estimate.

We have a \$99 price estimate for Philip Morris International, which is more than 15% above current market price.

Originally published here: <http://money.msn.com/top-stocks/post.aspx?post=ca4c855f-5bca-43bd-907a-eb9982e5e98f>

