

**Before the  
Bureau of Alcohol, Tobacco, Firearms, and Explosives**

**PREVENTING AN EXPANSION OF CONTRABAND CIGARETTE TRAFFICKING**

In the Matter of	)	
	)	
Implementation of the USA PATRIOT	)	
Improvement and Reauthorization Act	)	
of 2005 Regarding Trafficking in	)	
Contraband Cigarettes or Smokeless	)	
Tobacco (2006R-1P);	)	Docket No. ATF 22P
Notice of proposed rulemaking	)	
	)	

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The Center for Regulatory Effectiveness  
1601 Connecticut Avenue, NW  
Washington, DC 20009  
202.265.2383  
[www.TheCRE.com](http://www.TheCRE.com)

## PREVENTING AN EXPANSION OF CONTRABAND CIGARETTE TRAFFICKING

The Center for Regulatory Effectiveness (“CRE”) appreciates this opportunity to comment on the Bureau of Alcohol, Tobacco, Firearms, and Explosives’ (“ATF’s”) Notice of Proposed Rulemaking (“NPRM”) to counter the smuggling and sale of contraband cigarettes and smokeless tobacco. The NPRM makes an important contribution to the broader public debate on the illicit trade in tobacco products by highlighting the diverse threats to public health and national security stemming from contraband cigarettes.

In their NPRM, ATF highlights three critical problems that result from cigarette smuggling:

1. **Funding Terrorism.** ATF explains that they and allied law enforcement agencies have “have established links” between cigarette smuggling and “international terrorist groups, including Hezbollah and al Qaeda.” The NPRM discusses how the funds diverted from governments to criminal organizations through the contraband cigarette trade are used to finance threats to American lives and security. As the NPRM explains,

*The trafficking of contraband cigarettes is a worldwide problem. Billions of dollars of tax revenue are lost by all levels of government throughout the world due to the smuggling of cigarettes. Much of the illicit profit gained by organized crime and terrorist groups is used in furtherance of their criminal enterprises. [Emphasis added]*

2. **Human Health Hazards.** The NPRM explains that the counterfeit cigarettes pose serious health dangers over and above the normal health risks posed by smoking,

*The trafficking in counterfeit and contraband tobacco products also poses a serious health risk to our society. There are no standards of production in counterfeit product. This allows for such things as biological or chemical contamination of the product.*

3. **Underage Smoking.** Illegal cigarette trafficking makes it easier for children to smoke. As ATF notes, “contraband cigarettes are more likely to be sold to underage persons than legitimate product.”

CRE recommends to ATF a two-step approach to minimizing the illegal trade in tobacco products:

1. **Enact the Proposed Rule.** CRE strongly endorses the proposed regulatory language and encourages its swift adoption; and
2. **Oppose the Creation of New Opportunities for Cigarette Smugglers.** The US Food and Drug Administration (“FDA”) is considering banning menthol cigarettes. If enacted, a ban

would create enormous demand for contraband menthol cigarettes, a product preferred by over 18 million people, or one-third of adult cigarette smokers.<sup>1</sup>

### **FDA's Duty to Consider the Creation of Demand for Contraband Tobacco When Deciding Whether to Ban Menthol Cigarettes**

Sec. 907 of the Family Smoking Prevention and Tobacco Control Act (Pub. L. 111-31 or "Act") provides HHS/FDA with the authority to set standards for cigarettes. One of the potential standards under consideration is banning menthol cigarettes. In making decisions on standards, FDA is directed to consider factors including:

1. The recommendations of the Tobacco Products Scientific Advisory Committee ("TPSAC") established by the Act; and
2. The impact a ban would have on the demand for contraband cigarettes. Specifically, the Act states that,

*The Secretary shall consider all other information submitted in connection with a proposed standard, including information concerning the countervailing effects of the tobacco product standard on the health of adolescent tobacco users, adult tobacco users, or nontobacco users, such as the creation of a significant demand for contraband or other tobacco products that do not meet the requirements of this chapter and the significance of such demand.*

[Emphasis added]

Thus, FDA is charged with considering:

1. The effect a menthol cigarette ban would have on demand for contraband cigarettes; and
2. What the impact of a menthol-ban induced demand for contraband cigarettes would be on the issues discussed by ATF in this proposed rulemaking such as human health hazards, underage smoking and financing of criminal gangs.

### **ATF's Duty to Advise FDA on Contraband Cigarettes**

ATF is the agency with the greatest understanding of the dynamics of contraband market and of the dangers to Americans from illicit cigarette trafficking. Moreover, ATF is the law enforcement agency with lead responsibility for enforcing the Contraband Cigarette Trafficking Act, as amended ("CCTA").

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<sup>1</sup> Ralph S. Caraballo, PhD, MPH, Epidemiology Branch Chief, CDC Office on Smoking and Health, before FDA Tobacco Products Scientific Advisory Committee, March 30, 2010.

Thus, it is incumbent on ATF to provide FDA with information and recommendations regarding the contraband cigarette issue since the extensive new trafficking opportunities resulting from a menthol ban would adversely affect ATF's ability to enforce the CCTA.

### **Banning Menthol Cigarettes Would Massively Increase the Contraband Market**

Virtually the entire US market for contraband cigarettes is driven by either 1) the tax differential between low tax states/tribal areas and high tax states; or 2) the cost differential between untaxed imported cigarettes (real or counterfeit) and legitimate products. A ban on menthol cigarettes would fundamentally change the market dynamics since the only way smokers could obtain menthol cigarettes, irrespective of price, would be through illegal transactions. Availability, not cost savings, would fuel the black market for cigarettes.

Since about 18 million adults smoke menthol cigarettes, even if only a small share of menthol smokers continued to seek their favorite products, there would be a new demand for contraband cigarettes from millions of customers. This demand would fuel tremendous growth in the transnational criminal organizations experienced in bringing cigarettes into the United States. The demand for menthol cigarettes would, of course, substantially increase the revenues of these criminal networks.

Moreover, by effectively placing menthol cigarettes in the same category as narcotics, a ban would provide an entire new market and product category for the hyper-violent criminal gangs which already bring illegal substances into the US.

Guillermo Valdes, Mexico's chief of National Intelligence, recently estimated that 28,000 people had died in that country's drug-related violence since 2006.<sup>2</sup> This estimate does not include the corresponding death toll from drug-related violence in the rest of Latin America and in the United States.

Moreover, the harm from contraband cigarette trafficking manifests itself in many types of violence. An article published last year in the *Broward-Palm Beach New Times* detailed how a relatively small terrorist group, the Real IRA, used profits from Florida-based contraband cigarette smuggling operation to finance the murders of two British soldiers. The article also noted that cigarette smuggling rings with "proven connections" to Hezbollah, the Iraqi Kurdistan Workers Party and "North Korean weapons runners" have been broken up in the last several years.

With respect to increases in smuggling, the article states that "[n]umerous studies have shown that tax hikes inevitably lead to increased cigarette smuggling." A senior official with the enforcement arm of Florida's Division of Alcoholic Beverages and Tobacco was quoted as saying that, as a result of a \$1/pack increase in taxes, "we're going to see a big surge in cigarette smuggling." The article is attached as Appendix A.

A ban is equivalent to an infinite tax. Thus, if FDA were to ban menthol cigarettes, the impact on smuggling would be enormous.

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<sup>2</sup> <http://www.bbc.co.uk/news/world-latin-america-10681249>.

How much would crime increase as a result of menthol cigarette trafficking? How many people would be harmed as a result of additionally enriched international criminal organizations? What increased national security challenges would the federal government face as a result of terrorist organizations gaining a major new revenue source from menthol cigarette smuggling? These are questions the FDA needs to consider before enacting a ban – questions on which ATF is able to provide insights.

### **FDA Needs to Know that Counterfeit Cigarettes Pose Additional Health Risks**

ATF recognizes that counterfeit cigarettes are not made to the same standards as cigarettes approved for sale in the United States. As ATF explained in a Tobacco Diversion Fact Sheet:

*While all cigarettes are dangerous and cause disease, it has been reported that counterfeit cigarettes had 75 percent more tar, 28 percent more nicotine and about 63 percent more carbon monoxide than genuine cigarettes. Furthermore, many are even contaminated with sand and other packaging materials such as bits of plastic.*

*Since these are illegally manufactured and imported cigarettes, consumers do not know what ingredients are used to manufacture these cigarettes. Counterfeit cigarettes pose a significant health risk to consumers because of this reason.<sup>3</sup>*  
[Emphasis added]

ATF also noted that “trade of counterfeit tobacco products is also a rapidly growing global problem.” If FDA were to ban menthol cigarettes, the growth in counterfeit cigarettes, and the associated additional health risks, would increase.

One of the Purposes of the Act was to provide FDA “with the authority to regulate the levels of tar, nicotine, and other harmful components of tobacco products....” Any policies which result in an increased supply of cigarettes not manufactured according to legal requirements would be contrary to the purpose and intent of the Act.

The FDA’s decision on menthol cigarettes should be informed by ATF’s understanding of the increased health risk posed by counterfeit cigarettes as well as by the current and potentially increased prevalence of counterfeit cigarettes.

### **Contraband Cigarettes Undermine FDA’s Youth Anti-Smoking Efforts**

Preventing underage persons from having access to cigarettes is a cornerstone of federal tobacco policy. The very first Finding in the Act is that the “use of tobacco products by the Nation’s children is a pediatric disease of considerable proportions that results in new generations of tobacco-dependent children and

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<sup>3</sup> <http://www.atf.gov/publications/factsheets/factsheet-tobacco-diversion.html>

adults.” Thus, it is essential that FDA not take any actions which would inadvertently increase the availability of cigarettes to minors.

ATF recognized in their NPRM that contraband cigarettes are more likely to be sold to underage smokers than are lawful cigarettes. The ATF statement is not in dispute. The link between contraband cigarettes and underage access to tobacco is well established. For example, the article “Contraband cigarettes becoming a national norm” published in CMAJ [Canadian Medical Association Journal] stated, “[i]llicit cigarettes are also more easily obtained by underage smokers.”<sup>4</sup>

Accordingly, ATF should advise FDA regarding the link between contraband cigarettes and youth access to tobacco products.

### RECOMMENDATIONS

ATF should pursue its mission against contraband tobacco products by promulgating its proposed rule and:

- ▶ Advising FDA with respect to:
  1. Potential increases in the contraband cigarette market that would result from a ban on menthol cigarettes;
  2. Funding of terrorist and other criminal organizations by contraband cigarette profits;
  3. The increased health hazards associated with counterfeit cigarettes; and
  4. How contraband cigarettes increase youth access to tobacco.
- ▶ Recommending to FDA that they not ban menthol cigarettes.

ATF should send their advice regarding a potential ban on menthol cigarettes to:

- |   |  |
|---|--|
| <ul style="list-style-type: none"><li>▶ Lawrence R. Deyton, MSPH, MD<br/>Director, Center for Tobacco Products<br/>US Food and Drug Administration<br/>9200 Corporate Boulevard<br/>Rockville, MD 20850</li></ul> | <ul style="list-style-type: none"><li>▶ Jonathan M. Samet, M.D., M.S.<br/>Chair, Tobacco Products Scientific Advisory<br/>Committee<br/>Keck School of Medicine<br/>University of Southern California, Los Angeles<br/>Norris Comprehensive Cancer Center<br/>1441 Eastlake Avenue, Room 4436, MS 44<br/>Los Angeles, California 90089</li></ul> |
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<sup>4</sup> McLaughlin, P., “Contraband cigarettes becoming a national norm,” CMAJ, May 22, 2007, p. 1567.

## APPENDIX A

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# South Florida Cigarette Smuggling Funds Terrorism

By Tim Elfrink

published: July 02, 2009

Their bags were packed. Their farewells had been said.

Like the rest of the British 38th Regiment Royal Engineers, Mark Quinsey and Patrick Azimkar had shed their jeans and T-shirts for the sand and olive camouflage they'd wear during the next six months in Afghanistan.

All around the barracks in Antrim, Northern Ireland, soldiers threw green canvas bags into huge piles and made last-minute phone calls to family. In just a few hours, they would depart for Helmand Province, a remote desert enclave besieged by the Taliban.

It would be the first combat tour for both Quinsey and Azimkar. They were ready to go — but first, they wanted to enjoy one last night of civilization. So they called Domino's Pizza to deliver one last hot meal.

About 9:40 p.m., two Domino's deliverymen showed up at the front gate at the base in Antrim, a town of 20,000 about 22 miles west of Belfast. Quinsey and Azimkar walked outside into the damp, cold March night to meet them. As they approached a two-story brick guard tower, two sentries waved and opened the metal gate topped with razor wire that separated the barracks from the road outside. In the wet driveway, just past a chainlink fence, two Domino's deliverymen leaned on their cars, a red Mazda and a souped-up blue sports car with a spoiler.

The two young soldiers said hello and handed over the cash.

Then, with an abrupt whip crack, a *pop pop pop* ripped through the night air. Bullets rained on the driveway, slapping off asphalt. Dozens stung Quinsey and Azimkar and knocked the deliverymen and guards off their feet.



Mark Quinsey, 23, and Patrick Azimkar, 21, were killed in March by the Real IRA.



Joaquin "Jack" Garcia at the FBI Academy in 1980.

The two gunmen stopped firing. Sudden silence descended as they leapt from a green car. M16s in hand, they sprinted to the men moaning on the ground, leveled their rifles at the two young soldiers bleeding on the pavement, and fired.

The gunmen returned to the car and peeled off to the west. More than 60 spent casings lay smoking among the bodies.

In less than five minutes, the brutal attack left Quinsey and Azimkar dead, the two pizza deliverymen and a pair of guards clinging to life, and the historic 1998 peace agreement between Irish Catholics and Protestants imperiled.

The bullets rang out thousands of miles away, but investigators now believe the assault had its origin in an anonymous cargo ship docked at a bustling South Florida port.

A gray-haired 57-year-old Cutler Bay man with no criminal history named Roman Vidal sold millions of cigarettes that had been smuggled to Dublin criminals who funded the terrorist group that killed Quinsey and Azimkar, investigators say. The charges are just the latest link between black-market U.S. smokes and violent terrorist groups around the world.

It's the first cigarette smuggling case in Florida with explicit ties to a terrorist organization, but at least four major rings around the country have been busted in the past seven years with proven connections to Hezbollah, the Iraqi Kurdistan Workers Party, and North Korean weapons runners. A four-month-long *New Times* review of court filings and interviews with investigators reveals exactly why smuggling smokes may be the best racket for America's enemies.

Underground cigarettes provide huge profits at low risk: a perfect paradigm for violent gangs. The U.S. Bureau of Alcohol, Tobacco, and Firearms estimates that states lose more than \$5 billion in taxes every year to sales of black-market smokes. And those caught in the act face only a maximum five-year federal sentence and sometimes get less.

Globally, black-market smokes now rival drugs as the most profitable underground product. A recent project by the Center for Public Integrity found that governments worldwide lose up to \$50 billion every year in tax revenue. One in every ten cigarettes is sold underground.



**Colin Duffy of the Real IRA was arrested as ringleader of the attacks on the barracks**



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Today, federal investigators are working 300 open cigarette smuggling cases nationwide, including several in South Florida. State officials have busted almost 30 smuggling rings in the Sunshine State during the past year. And with cigarette taxes about to increase 300 percent next month, investigators expect the trade to explode.

For the average smoker, those under-the-table, tax-free packs might seem like a bargain. But as the recent history of cigarette smuggling vividly illustrates, when you buy black-market smokes, you never know whose paycheck you're signing.

### **The Florida Connection**

On January 9, 2006, everything was going according to plan for Roman Vidal. He wore his graying hair combed straight back into a puffy cloud and had a long, weathered face and square glasses.

That morning, the latest shipment from Panama arrived right on time — 730 cases containing 7.3 million cigarettes were inside a 15-meter metal shipping container stacked among hundreds of others on a freighter at the Port of Miami.

As usual, Vidal had already been in touch with his contact in Spain. Funds had been wired from a Portuguese bank into his account. The contacts in Dublin were ready for the shipment of smokes.

But first, Vidal had work to do. After picking up the cigarettes and storing them in a warehouse, he drove to Floors Today, a strip-mall storefront in Kendall. There he bought a few hundred cases of cheap wood flooring.

Later that week, he headed back to the port and with the help of a friend — who would net a cut of the profits — he reloaded the cigarettes into a new shipping container, then piled wood flooring carefully on top of the smokes.

Vidal's friend worked for a freight forwarding company. He wrote up a bill of lading, the document U.S. Customs uses to track shipments, showing that the box contained nothing more than a few hundred cases of wood.

A few weeks later, the container arrived in Dublin. Vidal shelled out \$2,900 in taxes on the flooring. Another \$2.1 million in taxes — the tariff due on all those cigarettes stuffed under the floorboards — went unpaid.

The next major shipment arrived two years later, on February 6, 2008. The 15-meter container arrived in the Port of Miami on a freighter from Panama. This time, 600 cases with 6 million cigarettes were inside. Later that day, Vidal visited a Miami Home Depot and bought \$2,000 worth of building insulation. Then he covered the cigarettes with insulation.

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With the cigarettes hidden, Vidal shipped the container to Felixstowe, a major port in southeastern England. Another \$2.1 million in taxes went uncollected on the concealed cigs. More cash from the Portuguese bank flowed into Vidal's account.

According to a recently released federal indictment, the Cutler Bay man had established this smooth operation through years of travel to Panama and coordination with his European contacts. But what he didn't know was that these two shipments were different.

Vidal's friend at the freight forwarding company had flipped and was cooperating with a federal agent. His calls to Spain had been tapped. His bank accounts had been tagged. And his shipments had been seized in Dublin and Felixstowe by waiting agents of the European Anti-Fraud Office.

The investigation continued for another year before U.S. Immigration and Customs Enforcement nabbed Vidal this past February 19, about four years after he had started shipping black-market cigarettes from Panama through the Port of Miami to criminal gangs in Europe. Investigators say they found Vidal working "in concert with a criminal organization that has associates operating in Spain, Ireland and... the Southern District of Florida," according to the indictment.

The investigation turned up an even more disturbing connection. The gang, they said, was a wing of the Real IRA — a splinter terrorist group that killed Quinsey and Azimkar outside their barracks.

After his arrest, Vidal paid \$5,000 in bond and was confined to his Cutler Bay home. The feds charged him with conspiracy, mail fraud, and smuggling goods from the United States. He pleaded not guilty and requested a public defender.

His house, a spacious salmon-pink ranch with a wide semicircular front driveway, is surrounded by palms. It sits on SW 184th Lane in Cutler Bay inside a labyrinthine suburb near Galloway Road. On a recent weeknight, a white Ford Bronco was parked in the driveway. High shrubs surrounded by a tall wooden fence filled his backyard. Large homes stretched down the unlit, quiet street. Several looked poorly cared for, but Vidal's place was impeccable.

He and his wife, Delia, bought the house in 2003 for \$270,000, according to county records. But neighbors remember them living there only for the past year or so. No one on the block had ever had a conversation with him.

"He really keeps to himself," said Tom Dean, a 44-year-old stonemason who lives next door.

When *New Times* visited, Vidal swung open his heavy front door after a few knocks. His gray mane framed his long face. His eyes and teeth were yellowed, as if he'd smoked quite a few of the cigarettes he allegedly funneled through the Port of Miami.

"OK, I'll talk," he said quietly, taking a reporter's business card and staring at it for a moment. "But not now. I'm very busy tonight."

With that, he shut the door. He never called back.

### **The Irish Connection**

If federal investigators are correct about Vidal's ties to a splinter group of the Irish Republican Army, he's far from the first South Florida connection to Northern Ireland's violent struggle.

In fact, Miami and Broward have had as many IRA-connected busts in the past 25 years as any region in the country outside New York and Boston. Federal agents in recent years have busted attempts to buy a Stinger missile, export explosive detonators, and smuggle dozens of guns from Florida to Ireland.

"No one here is surprised by connections between the IRA and American underworld figures," says Mick Fealty, a Belfast native who lives in England and writes about Northern Ireland's politics. "That's been the modus operandi of these groups for quite some time."

The first major case — and one of the most significant ever prosecuted against IRA operations in the United States — started in 1989 in a smoky Riviera Beach pub called the Chateau Bar. A 33-year-old Irish expat named Kevin McKinley liked to get drunk there with his friends.

Like many Irish immigrants, McKinley never truly left behind "The Troubles" of his homeland; the 400-year conflict between British-aligned Protestants and Irish-aligned Catholics was part of his upbringing.

McKinley liked to spend his hours at the Chateau Bar bragging about his plans to get guns to the IRA, the group that was then fighting for Northern Ireland's independence.

One night in the winter of '89, he met two men who said they could help. They showed him Polaroids of a stolen Stinger missile — a 35-pound rocket capable of shooting down airplanes.

McKinley soon invited an IRA weapons expert named Joseph Martin McColgan to South Florida. On the cool evening of January 12, 1990, McColgan jumped into a car idling outside a Denny's Restaurant in Riviera Beach. He wanted to see the goods. A cool \$50,000 in cash had been locked into a safe-deposit box for the men with the missile.

After entering a West Palm Beach warehouse, the IRA expert was handed the 50-inch Stinger. Then he did the unexpected. He grabbed it and bolted. He tried to stuff it into his trunk, but it wouldn't fit. So McColgan heaved the rocket into the passenger seat, jumped in, and peeled out of the parking lot.

He didn't know that the men selling the Stinger were undercover FBI agents. Nor did the weapons expert notice that the Stinger's warhead had been removed. Lawmen arrested McColgan before he reached the street. McKinley and three of his drinking buddies were collared moments later, hiding out amid a rainbow of stained glass in a North Palm Beach shop called Irish Leaded Lamps.

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McKinley and McColgan each got 51 months in federal prison.

Two years later, police arrested two natives of Northern Ireland for their accused role in a plot to send 2,900 explosives detonators to the Provisional IRA. John Lynch, then 42 and living in Sebastian, and William Kelly, a 54-year-old West Palm Beach resident, were accused of working with McKinley to buy detonators. The men were later acquitted of the charges when a judge ruled the evidence circumstantial.

In April 1999, Florida police busted a huge IRA gun-running scheme in Broward County. A pretty Boca Raton stockbroker named Siobhan Browne; her boyfriend, Anthony Smythe; and an IRA operative named Conor Claxton were buying weapons for the IRA at South Florida gun shows. They hid the weapons in packages of toys and VCRs and mailed them to Ireland. But Browne spelled her own demise by buying five guns at one show. Soon the ATF was onto her scheme.

After her arrest, Browne told police that Irish nationalists had been gunrunning out of South Florida for years. More than 50 IRA volunteers in the area helped the cause, she said. And when FBI agents stormed Claxton's hotel room, he offered them defiant and prescient last words of freedom: "You didn't get all of us."

Much has changed since then, though. The Irish government signed a peace agreement with the IRA that brought many members of the terrorist group into the government. It marginalized some nationalists, who formed a new group to continue fighting the British. They called themselves the Real IRA. That's the group that Vidal allegedly sought to aid and that gunned down Quinsey and Azimkar.

Jim Gregory isn't surprised at the story of Vidal's smuggling. He grew up Catholic in County Armagh in Northern Ireland. He still remembers graduating from high school and being told "there's no work for Catholics here."

Today he splits his time between his homeland and Fort Lauderdale, where he owns Maguire's Hill 16 pub near downtown Fort Lauderdale. The peace agreement dramatically transformed Ireland for the better, he says. But the conflicts aren't likely to end soon. And South Florida's ties to it all probably won't disappear. "Times have changed, and they can't handle it," Gregory says. "They're all sick fucking people."

## **Smokes for Terror**

Joaquin "Jack" Garcia had no idea how lucrative cigarette smuggling had become until he was pulled headfirst into one of the biggest smuggling rings in history.

Garcia was born in Havana in 1952. His father, Manuel, was an official in the Cuban Treasury Department, and his mother sang opera until Fidel Castro's revolution swept the island. In 1959, Manuel fled Cuba to New York. He worked three jobs to save enough to pay his family's way to Miami

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when Jack was 9 years old. The Garcias later moved to New York City. Young Jack eventually grew into a six-foot-four, 250-pound football star.

Inspired by the Al Pacino flick *Serpico*, which described a rogue undercover agent infiltrating the Mob, Garcia applied to join the FBI after college. With his thick New York accent, huge frame, and slick dark hair, Garcia could imitate an Italian mobster better than anyone in the agency. He quickly found his niche infiltrating East Coast mobs, working almost entirely undercover.

In 1999, Garcia was called to Atlantic City to help Lou Calvarese — a hefty agent with a long undercover FBI résumé. Calvarese introduced him to May and Charles Liu, a Los Angeles Chinese-American couple with an incredible operation.

Though most smuggling operations involve actual commercial cigarettes, the Lius contracted with four factories in China that produced quality knockoffs of Marlboros, Camels, and other major brands. The Chinese factories could produce 10 million cigarettes for only about \$125,000. In the United States, 10 million cigarettes would cost about \$2 million. The Lius paid customs workers in China to ignore the shipments out of Beijing and then snuck the containers through the busy ports of Los Angeles and Long Beach.

“It was just amazing profit,” Garcia says today. “If you looked at the packaging, it was identical to the real deal. You could tell the difference if you smoked one, but they were otherwise perfect copies.”

At that time, U.S. Customs had been seizing the Lius’ cargo at the Port of Los Angeles with increasing regularity. The couple was eager to find a cleaner way to smuggle the smokes into America. That’s where Garcia came in. He gained weight, greased his hair back, and posed as an emissary from the Italian Mob. Garcia told the Lius he knew a dirty customs official in New Jersey who would guarantee their cigarettes made it through in exchange for \$60,000 per container.

“They thought we were wise guys, no questions asked,” Garcia says. “May took an instant liking to me.”

That meeting was just the beginning of a massive six-year operation. Garcia would eventually infiltrate the highest levels of the Lius’ international smuggling network, a staggering chain involving nearly 100 people in China, the United States, and Canada. Garcia eventually learned that the operation had ties to North Korean weapons smugglers.

Before he and Calvarese sprang a final trap on the Chinese gang, two other major cases tying cigarette smuggling to international terrorism unfolded in the United States.

One involved two Lebanese-Americans, Mohamad Hammoud and his brother, Chawki. By exploiting differences in state tax between North Carolina, where they lived, and Michigan, where they sold cigarettes, the pair raised nearly \$8 million for Hezbollah. In 2002, a federal jury convicted them under a 1996 law banning material support to terrorist groups. “That case opened a lot of eyes to the links

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between cigarettes and terror groups,” says Sharon Melzer, a professor at American University who studies the role of black-market smokes in funding terrorists.

In a second 2002 case, the European Union filed suit in New York against R.J. Reynolds, the North Carolina firm that makes Camels, Winstons, Dorals, and Kools. The allegation: Company executives collaborated with criminal mobs to smuggle cigarettes into Eastern Europe and Iraq — in the process funding the Iraq-based Kurdistan Workers Party (abbreviated PKK because of its Kurdish name). The PKK is a listed terrorist organization that wants an independent Kurdish nation in southern Turkey and has killed nearly 6,000 civilians since 1984.

The scheme, according to the suit, continued from 1992 well into 2003, when America again declared war on Iraq. The lawsuit is still being argued in court today.

By the time the suit against Reynolds was filed, Garcia and his partners were closing in on the Lius’ cigarette smuggling operation. The FBI had set up two stings, one in California and one in New York, titled “Smoking Dragon” and “Royal Charm.” Garcia had won the couple’s trust. Their operation was staggeringly profitable — they’d clear more than \$1 million on each shipment successfully smuggled into the States.

But Garcia and Calvarese had begun to realize that the Lius’ ambitions lay beyond bringing cigarettes into the United States. With Garcia’s prodding, the couple promised to arrange shipments of counterfeit Rolexes, Gucci and Versace products, and “supernotes” — North Korean-made \$100 bills nearly impossible to prove as fakes. They also casually mentioned that their connections could bring loads of North Korean weapons into the United States.

“This group could get anything through our borders,” Calvarese says. “Anything.”

In July 2004, Calvarese traveled to the remote Thai island of Phuket to meet with the Lius’ weapons contact. He promised to deliver \$1 million in supernotes, as well as 1,200 AK-47s, 75 antitank rockets, 50 rocket launchers, and 100 machine guns from North Korea.

The FBI decided it was time to bring down the gang. In August 2005, Garcia and Calvarese told the Lius that Calvarese was getting married. They mailed invitations to all the smuggling chain’s top bosses, who’d begun to think of their “Italian Mob” connections as good friends after six years of fruitful partnership.

When the smugglers piled into limos outside the Trump Taj Mahal Casino Resort in Atlantic City, the “drivers” — FBI agents in disguise — arrested everyone inside. Across the country and in Canada, the feds picked up 59 suspects in 11 cities. It was the largest cigarette smuggling bust in history.

“Cigarettes are just a tremendous black market,” says Garcia, who recently published a book about his time in the FBI. “People who smoke need them, and if you open up a way to offer them decent prices,

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you've got a gold mine. This isn't going to be the last time you see this kind of giant operation. Not by a long shot."

### **Sunshine State Smuggling**

Wearing a neatly pressed dark suit, Roman Vidal walks out of a courtroom into the huge atrium in the middle of the Wilkie D. Ferguson Federal Courthouse in downtown Miami.

He joins his wife, Delia, on a bench with near-panoramic views of Biscayne Bay through the windows. But the two stare at their feet, quietly awaiting a public defender.

It's April 14, and Judge Alan S. Gold has just granted a delay of the trial. Federal prosecutors say they need more time to translate the reams of taped conversations between Vidal and his contacts in Spain and Panama. The first hearings have been rescheduled for late July.

Vidal has been charged with four counts of fraud and smuggling — but not under the 1996 statute forbidding material support of terrorism. That's probably because prosecutors would have to demonstrate that Vidal knew that his European partners were using the black-market cigarettes to support the Real IRA.

"It's extraordinarily difficult to prove those links. That's why we've really only seen one successful prosecution under that law," says Melzer, the American University professor, referring to the Hammoud case in North Carolina.

But it seems likely that Vidal will not be the last accused cigarette smuggler to face a hearing in South Florida. Numerous studies have shown that tax hikes inevitably lead to increased cigarette smuggling.

Starting July 1, Florida will impose a \$1-per-pack increase on cigarettes on top of the current 33-cent tax. For wholesalers in particular, quadrupling the tax could be profound. Distributors must have a bond for their products. A small wholesaler whose bond cost \$350,000 in June will have to pay \$1 million in July.

The tax increase will put Florida over the median U.S. state tax of \$1 per pack. And it will make our taxes the highest in the Southeast. Alabama and Georgia collect less than 50 cents per pack — and South Carolina charges only 7 cents. Miami and Fort Lauderdale also have two of the busiest ports in the United States, with thousands of tons of daily cargo from Latin American nations like Panama — where dirt-cheap cigarettes are sold.

"You can assume, based on history in other states, that we're going to see a big surge in cigarette smuggling," says Maj. Carol Owsiany, who runs the southern region of the state's Division of Alcoholic Beverages and Tobacco enforcement wing. Owsiany says her officers have closed 28 cigarette smuggling cases since last July — including seizing a shipment worth \$217,000 in Miami that had been illegally delivered from North Carolina.

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Inevitably, many smugglers will be connected to organized crime. “These are always structured, organized operations,” says Phil Awe, who runs a division of ATF in Washington, D.C., that targets cigarette smugglers. “You have to have a source, a wholesaler, a shipping network, a warehouser, and a retailer. It’s not a mom-and-pop deal.”

The U.S. Contraband Cigarette Trafficking Act, passed in 1978, imposes a maximum five-year term in prison for the crime. So gangs have little disincentive to smuggle cigarettes. And some of those gangs are likely to be connected to more violent activities, Awe says. “We have more than enough evidence historically that this is a criminal activity closely tied to terrorism,” he says.

As for the Irish terrorists connected to South Florida’s latest cigarette smuggling case, the Real IRA scored a major coup with the attack on the Massareene Barracks. But the attack’s ringleader, a 41-year-old named Colin Duffy, was arrested soon after the assault. Sinn Fein and other formerly radical Irish unionist parties loudly decried the attack. And Irish voters declined to derail the peace process in a nationwide election held in June.

### **Still, the Real IRA is regarded as a serious threat.**

“There’s probably a group of 20 to 40 hard-core supporters left, and they’re continuing their efforts to enhance their terrorist capabilities,” says Tom Brady, a reporter at the *Irish Independent* newspaper who covers the group. “The attack brought home the fact that these groups are still capable of real, devastating violence.”

Patrick Azimkar and Mark Quinsey were buried by friends and family in March and hailed as heroes around the United Kingdom.

“He was my best mate,” says Limahl Cottrell in an email interview. Cottrell grew up with Quinsey in Birmingham and started a Facebook group in his memory. He says Quinsey would have been proud to die in uniform — even if it wasn’t on the battlefield he was expecting. “He was due to fly out to Afghanistan only a few hours after his death... He was really looking forward to getting out there.”

Azimkar’s cousin, Nezire Dervish, says the attack devastated the young soldier’s family. “The way he died was a sudden shock and just pure evil,” Dervish says. “In our hearts, he lives on as a hero.”