

# AFFIDAVIT

I, Corporal Donald F. Devine Jr., on oath do depose and say that:

I am a member of the Rhode Island State Police and have been continuously employed in this capacity for the past (17) years. I am presently assigned to the Intelligence/Narcotics Unit and have been so for the past five years. I am engaged in the investigation of all types of criminal matters, which violate the General Laws of the State of Rhode Island.

During the month of June 2003, information was received that the Narragansett Indians were planning on opening a smoke shop on their reservation land on South County Trail in the Town of Charlestown. The Indians planned on selling non-taxable cigarette's in all different varieties.

The Attorney Generals office was consulted and Mr. James Lee, Chief of the Attorney Generals Criminal Division advised that members of the Narragansett Indian Tribe are not exempt from Rhode Island laws whether they are operating on Sovereign land or not.

Mr. David J. Thomas, Principle Revenue Agent for the Rhode Island Division of Taxation advised that the tribe would need to obtain a permit to make retail sales and a cigarette dealer's license. In addition to obtaining the license/permits, individuals selling cigarettes must obtain the necessary stamps for the product by reporting the importation of the cigarettes into the State of Rhode Island within 24 hours of being imported.

Information was received that the Seneca Indian Tribe from New York is supplying the Narragansett's and incurring the initial start up costs. During the first weekend in June 2003 vehicles with State of New York registrations were seen backed up to the trailer. Individuals were observed loading boxes inside the tan trailer with a sign on the roof advertising "Narragansett Smoke Shop."

Tribal leaders of the Narragansett Indians have been advised through negotiations with the Governors Office and the Attorney Generals Department that they cannot open a smoke shop without the proper permits and they cannot sell non-taxable cigarettes.

*State Permit in New York*

On Saturday July 12, 2003, at approximately 10:00 AM, members of the Charlestown Police Department advised troopers from the State Police Hope Valley Barracks that it was believed the Indians had opened the store and were selling cigarettes. A neon sign in the window of the trailer proclaimed "OPEN" and there were several cars in the parking lot and vehicles were parked along the roadway on South County Trail, Charlestown.

Trooper Jeffrey Clark from the Hope Valley Barracks responded to the area. Trooper Clark confirmed that the store was open for business and signs along the road advertised different brands of cigarettes and prices. Trooper Clark requested to see the sales permit from Narragansett Indian Chief Matthew Thomas who stated to Trooper Clark "we don't need them, this is federal property and I would appreciate it if you would get your state car off our property."

*100-1302*

At approximately 3:00 PM, your affiant acting in an undercover capacity responded along with David J. Thomas, Rhode Island Division of Taxation to the smoke shop on Route 2, South County Trail, Charlestown. Mr. Thomas and your affiant purchased 2 cartons of cigarettes. A carton of Marlboro filter cigarettes was purchased for \$24.99 and a carton of Seneca cigarettes were purchased for \$9.99. No taxes were recorded for the two cartons and a receipt was received from the cash register which looked to contain several hundred dollars in United States Currency. There also was no PERMIT TO MAKE SALE AT RETAIL posted on the wall or observed anywhere inside of the trailer. There also appeared to be approximately 250 to 300 cartons of brand name cigarettes stacked up against a wall. A small room in the rear of the trailer appeared to be the stockroom and contained approximately 500 cartons of different brand name cigarettes. There also were 8 workers inside of the trailer and all appeared to be Narragansett Indians. Your affiant was advised that the business would open at 10:00 AM and closed at 7:00 PM.

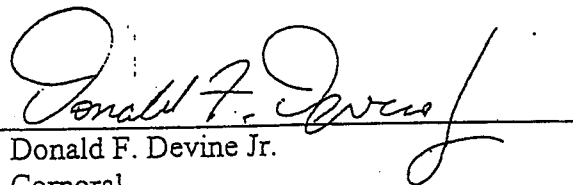
Your affiant and Mr. Thomas left the area. Mr. Thomas checked both cartons of cigarettes, which were sealed and never opened. No tax stamps were affixed to the cigarettes, which is a clear violation of Rhode Island General Laws.

Mr. Thomas advised that the Division of Taxation sell tax stamps to wholesalers for \$1.50 a pack. A 7% sales tax is then imposed on the total price. The carton of Marlboro would sell in a legitimate store for approximately \$48.00 or \$49.00 dollars.

Mr. Thomas also advised that the following Rhode Island General Laws is being violated by the selling of untaxed cigarettes. Rhode Island General Laws 44-19-1 annual permits required-retail business subject to sales tax. Rhode Island General Laws 44-20-2 distributors and dealers license required. Rhode Island General Laws 44-20-12 taxes on Cigarettes imposed. Rhode Island General Laws 44-20-36 purchase of unstamped cigarettes, seizure and forfeiture of cigarettes under Rhode Island General Laws 44-20-37.

Based on your affiants investigation and all information contained herein, your affiant prays that a search warrant be issued for the Narragansett Indian Smoke Shop, which is located opposite 4510 South County Trail, Charlestown, Rhode Island. Building and property described as a tan aluminum trailer, approximately 25 feet in length, 2 front gray doors, wooden ramp, wooden stairs and a large sign on the roof proclaiming NARRAGANSETT SMOKE SHOP. There was no street number listed for the property.

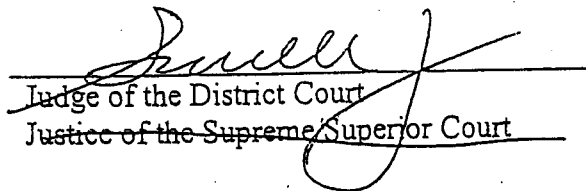
Your affiant also requests to seize any and all cartons of cigarettes, United States Currency that has been derived from the illegal sale of un-taxed cigarettes, paperwork, items, computers or documents showing ownership of possession or control of the premises.



Donald F. Devine Jr.  
Corporal  
Rhode Island State Police

In Cranston this 12<sup>th</sup> day of July, 2007 before me personally came

DET Corporal DONALD DEVINE JR and made oath to the truth of the foregoing.

  
Judge of the District Court  
Justice of the Supreme/Superior Court

# RHODE ISLAND STATE POLICE

## OPERATIONAL PLAN

CASE # Narragansett Smoke Shop  
V03-4206

DATE: July 14, 2003

TYPE OF RAID: Search Warrant/Controlled Buy/Reverse Sting Operation/Other

Describe: Court-Authorized Search Warrant

LOCATION: (Street, City, Town, Floor)  
Narragansett Smoke Shop, Route 2, Charlestown, RI

DESCRIPTION: (Entrance, Exits)  
Tan aluminum trailer, approximately 25 ft. in length with two front gray doors.

TARGETS: 1.  
(Name, Description) 2.  
3.

CHILDREN/ANIMALS:  
None known

VEHICLES:  
N/A

HIGH RISK FACTORS: (See Risk Assessment Survey)  
Members of the Narragansett Indian Tribe may resist. Members of the Tribal Police carry firearms.

ASSIGNED MEMBERS: Major Leyden, Insp. Treml, Captains Messier, O'Donnell, Lts. Virgilio, Blessing, Leyden, Swanberg, Labossiere, Sgt. Demers, MacKisey, Palmer, Cpls. Newberg, Olszewski, Altimari, Lefebvre, Lemont, Dets. Barry, Philbin, Reilly, A'Vant, Sanzi, A. Kershaw, Barney, D. Dougherty, Casey, Shepherd, M. Kershaw, J. Dougherty, Bell, Trps. Debeau, Ranes, Lebeau, Moriarty, L'Heureux, Dandeneau, Gibbs, Gilson, Medeiros

PARTICIPATING AGENCIES: Charlestown Police Department



# CONTINGENCY PLANS

## SHOTS FIRED PRIOR TO ENTRY

➤ React to threat

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

## OFFICER DOWN - INTERIOR OR EXTERIOR

➤ React to threat

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

## HOSTAGE SITUATION

➤ React to threat

- [REDACTED]
- [REDACTED]
- [REDACTED]

## TACTICAL CONCERNS

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]