

STATE OF WISCONSIN,

Plaintiff,

v.

Case No. 2006-CF- 730

WISSAM MOHAMAD MEHDI,
(dob 6/25/1971)
1835 Division St # K1
East Troy, WI 53120

Defendant.

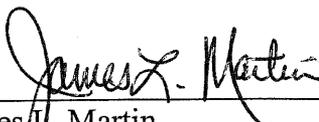
ARREST WARRANT

THE STATE OF WISCONSIN TO ANY LAW ENFORCEMENT OFFICER:

A Criminal Complaint, a copy of which is attached, having been filed with me accusing the defendant of committing the crimes of THEFT OF SALES TAX PROCEEDS, contrary to Wis. Stat. §§ 77.58, 7761(11), 943.20(1)(b), 943.20(3)(b), 971.36(3) and 939.05 (2001-2002) and TOBACCO PRODUCTS TAX EVASION, contrary to Wis. Stat. §§ 139.44(2), 139.76(1), 139.78(1) and 939.05 (2001-2002), and I having found that probable cause exists that the crimes were committed by the defendant.

You are, therefore, commanded to arrest the defendant and bring him before me, or, if I am not available, before some other judge of this county.

Dated this 30th day of March, 2006.


James L. Martin
Circuit Court Judge
Dane County, Wisconsin

CERTIFICATE OF SERVICE

STATE OF WISCONSIN)
) ss.
DANE COUNTY)

I do certify that by virtue of the within Warrant, I did on _____
at _____ a.m./p.m., arrest the defendant and informed him of the crime with which he is
charged.

Date

Signature of Authorized Personnel

Title

STATE OF WISCONSIN

CIRCUIT COURT
BRANCH _____

DANE COUNTY

STATE OF WISCONSIN,

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CRIMINAL COMPLAINT

Complainant, being duly sworn on oath, states as follows:

COUNT 1: THEFT OF SALES TAX PROCEEDS

Between October 1, 2002, and December 31, 2002, doing business at 2618 East Washington Avenue, City of Madison, Dane County, Wisconsin, and other locations in Racine, Rock and Milwaukee Counties, the above-named defendant, as a party to a crime, and doing business at that location and other locations throughout Milwaukee County, and being required by law to collect Wisconsin sales tax of five percent on the gross receipts from the sales made by said businesses and to deposit said sales taxes with the State of Wisconsin on a monthly basis and having possession of amount exceeding \$2500 in sales tax monies collected for the above period in trust for the State of Wisconsin pursuant to Wis. Stat. § 77.60(11) (1999-2000), the defendant did intentionally fail to pay over those tax monies to the State of Wisconsin at the time required by law, contrary to Wis. Stat. §§ 77.58, 77.60(11), 943.20(1)(b), 943.20(3)(b), 971.36(3), and 939.05 (2001-2002).

PENALTY AS TO COUNT 1: THEFT OF SALES TAX PROCEEDS

Upon conviction for this offense, a Class C felony, the maximum possible penalty is a term of imprisonment not to exceed fifteen years and a fine not to exceed \$10,000.

COUNTS 2: TOBACCO PRODUCTS TAX EVASION

Between October 1 and January 8, 2003, at 2618 East Washington Avenue, City of Madison, Dane County, Wisconsin, the above-named defendant did sell tobacco products upon which neither the excise tax imposed under § 139.76(1) nor the use tax imposed under § 139.78(1) had been remitted to the State of Wisconsin at the City of Madison, Dane County, Wisconsin, contrary to Wis. Stat. §§ 139.44(2), 139.76(1), 139.78(1) and 939.05 (2001-2002).

PENALTY AS TO COUNTS 2: TOBACCO PRODUCTS TAX EVASION

Upon conviction of this offense, a felony, the maximum possible penalty is a fine of not less \$1000 nor more than \$5000 or imprisonment for not less than ninety days or more than two years or both.

FACTUAL BASIS IN SUPPORT OF THE CRIMINAL COMPLAINT

1. Complainant states that the Wisconsin Department of Revenue (DOR) has employed him for the past twenty two years. During the last seventeen of which as a special agent charged with investigating persons suspected of committing tax crimes. Based upon his training and experience, he has familiarized himself with various provisions of the Wisconsin statutes and Wisconsin Administrative Code related to state taxation of individuals and businesses. He is familiar with the methods which legitimate business entities use to comply with their obligations under Wisconsin tax laws. Further, he has been involved in numerous investigations relating to violations of sales tax laws, income tax laws, corporate franchise tax laws, withholding tax laws, and taxes related to sales of tobacco products.

2. Based upon his training and experience, complainant states that the following conduct constitutes a crime under Wisconsin law:

- a. **Theft of Sales Tax Proceeds:** Complainant also knows that pursuant to Subchapter III of Chapter 77 of the Wisconsin Statutes, the State of Wisconsin imposes a five percent tax on a business' gross receipts from the sale of goods and services. Pursuant to Wis. Stat. § 77.52(1), the sale of cigarettes and tobacco products is subject to Wisconsin sales tax. Persons making retail sales of such products are required to have a seller's permit issued by the DOR, are required to file sales tax returns known as an ST-12 and remit sales taxes collected on these products. A business must have a separate seller's permit for each location where the business sells goods or services if each is owned by a separate legal entity. If the same legal entity operates more than one location, the gross sales of all such locations may be combined and reported on one sales tax return. Sales tax returns and sales tax remittances must be filed for each location separately unless the locations are owned by the same legal entity. Further, under § 77.58(1)(a), DOR

requires the monthly remittance of sales taxes collected if sales taxes exceed \$600 in any calendar quarter. In each application for the seller's permits, a corporation must estimate its monthly sales tax liability. Further, pursuant to § 77.60(11), whenever a person collects tax monies imposed under Chapter 77 from a consumer or purchaser, the person receives such tax monies as trust funds on behalf of the State of Wisconsin. In addition, § 943.20(1)(b) states that a trustee having possession or custody of money who retains possession of such money with intent to convert to his own use is guilty of theft.

- b. **Tobacco Products Tax Evasion.** A person engaged in the sale of tobacco products, which is all other tobacco items other than cigarettes, is required to obtain appropriate tobacco product permits. Further, a person licensed as a retailer is required to sell only tobacco products in which the excise tax has been collected and remitted to the DOR in an amount equal to twenty-five percent of manufacturer's list price on the tobacco product sold. Failure to sell only tobacco products on which the excise tax has been collected and remitted constitutes tax evasion, contrary to Wis. Stat. §§ 139.76(1) and 139.44(2).

3. Complainant states that Madison, Dane County, Wisconsin, is the seat of state government. Further, the DOR is a state agency and is headquartered within Dane County, Wisconsin. All state tax revenues collected and returns filed are ultimately remitted to the DOR. Complainant states that DOR Special Agent Mike Krisik has identified the above-named defendant through Wisconsin Department of Transportation (DOT) photos. In addition, during the course of DOR's investigation of the above-named defendant, special agents and other DOR employees had personal contacts with the defendant. Special Agent Jim Jenkins had personal contact with defendant during the course of this investigation. Complainant also checked Wisconsin DOT information which reflects DOT that in December 2005, DOT issued a driver's license to the defendant and that he reported his date of birth as June 25, 1971, and his current residence as 1835 Division St # K1, East Troy, Wisconsin 53120.

OWNERSHIP AND CONTROL OVER ENTITIES RELATED

4. Complainant states that in 2002 and 2003, he and other employees of the DOR conducted an investigation of several businesses involved with the sale of cigarette and tobacco products throughout the state of Wisconsin. They operated eleven stores in Milwaukee, Dane, Racine and Rock Counties. During the years 2001 and 2002, Ali Shanaa and his wife, Amy Shanaa, operated eleven tobacco stores in Wisconsin. Assem Chanaa, Ali Shanaa's brother assisted Ali Shanaa in the management of his stores.

5. Complainant states that he has reviewed records filed with the Wisconsin Department of Financial Institutions (DFI). DFI records reflect that in August 2002, Wissam Mehdi filed incorporation papers under the names Smoke Shop #1, Inc. through Smoke Shop #11, Inc. that had been operated at several locations by the Shanaa/Chanaa family. The Shanaa/Chanaa family purported to transfer ownership of these businesses to the defendant. The filings for each of these businesses reflect that Wissam Mehdi is the president.

Store Registration Name	Store Location
Smoke Shop #1, Inc.	1100 FOX RIVER PLZ BURLINGTON, WI 53105
Smoke Shop #2, Inc.	4698 S WHITNALL AVE ST FRANCIS, WI 53235
Smoke Shop #3, Inc.	10400 W SILVER SPRING DR MILWAUKEE, WI 53223
Smoke Shop #4, Inc.	8235 W BROWN DEER RD MILWAUKEE, WI 53223
Smoke Shop #5, Inc.	6234 N TEUTONIA AVE MILWAUKEE, WI 53209
Smoke Shop #6, Inc.	2711 S 108TH ST WEST ALLIS, WI 53227
Smoke Shop #7, Inc.	3869 S 27TH ST MILWAUKEE, WI 53221
Smoke Shop #8, Inc.	656 S PACKARD PLZ #215 CUDAHY, WI 53110
Smoke Shop #9, Inc.	108 E DAKOTA ST MILWAUKEE, WI 53221
Smoke Shop #10, Inc.	2900 DEERFIELD DR STE 1-F JANESVILLE, WI 53546
Smoke Shop #11, Inc.	2618 E WASHINGTON AVE MADISON, WI 53704

6. DOR Agent Krisik reports that Amy Shanaa applied for a retail cigarette/tobacco products license with the City of Madison Clerk on March, 1, 2002. City of Madison Clerk's office records reflect that Amy Shanaa held this license until September 13, 2002, when Wissam Mehdi filed an application and indicated that his estimated opening date at the Madison location was October 1, 2002. Additional records from the City of Janesville reflect that Wissam Mehdi also filed an application seeking a retail cigarette/tobacco license for the Janesville location (Tobacco Deals) on September 13, 2002.

7. While the Shanaa/Chanaa family appeared to have transferred complete control to the defendant, the Shanaa/Chanaa family apparently maintained some control over the operation of the business during the period defendant operated it. For example, in May 2003, complainant spoke with Mohammad Arif Ghaffer and Shariff Malik. They advised him that in February 2003, Assem Chanaa (whom complainant knows to be Ali Shanaa's brother through his investigation) approached them and offered to sell them the Tobacco Deals stores. After a period of negotiations, Ghaffer and Malik agreed to a price with Assem Chanaa. Ghaffer and Malik met at the office of attorney Othman Atta with Ali Shanaa, Assem Chanaa, and defendant. During this meeting, the defendant Mehdi signed papers transferring several Milwaukee County stores to Ghaffer and Malik. Assem Chanaa engaged in most of the negotiations.

8. Ali Shanaa and Assem Chanaa have pleaded guilty to theft of sales tax proceeds (two counts) and tobacco products tax evasion (two counts) in Milwaukee County Circuit Case Numbers 2005-CF-1984 and 1985 respectively. Based upon his investigation, the total amount of the theft occurring in 2001-2002 at the eleven locations exceeded \$800,000.

REVIEW OF FINANCIAL RECORDS FOR TOBACCO DEALS STORES

9. Complainant has also reviewed bank records for Wells Fargo as it relates to Smoke Shop #11, the successor business at Tobacco Deals of Madison, Wisconsin. That account was opened on October 8, 2002. Jennifer Kodet signed the signature card for the account as manager. On October 16, 2002, Wissam Mehdi executed a second certificate of authority as the owner and Kodet signed as the manager. During the period that defendant Wissam Mehdi was the purported store operator of the Madison store (September through December 2002), Mehdi did not file returns or make payments for September or December 2002. While payments were made with the October and November 2002 returns, complainant states that based upon his investigation, gross sales were underreported on the returns. As such, Mehdi did not pay the taxes that were due.

Month	Estimated Gross Sales	Total Sales Tax Obligation	Sales Tax Remitted	Tax Theft
October 2002	\$87,385	\$4806.18	\$1368.00	\$3438.18
November 2002	\$84,799	\$4663.98	\$1274.00	\$3389.98
December 2002	\$87,915	\$4835.35	00.0	\$4835.35
TOTALS		\$14,305.51	\$2642.00	\$11,663.51

10. Complainant states that he also examined records related to the store organized under the name Smoke Shop #10, Inc. and doing business as Tobacco Deals of Janesville, Wisconsin. Specifically, he reviewed a ledger provided to Agent Krisik by Abdulmahmood Bashir Eltyeb who claimed to be the local manager for the store in Janesville, Wisconsin. In addition, complainant also reviewed sales tax returns (ST-12) for the Janesville store, which were filed on a monthly basis with DOR. Complainant noted a large disparity between the sales documented in the notebook seized from store and what was reported on the ST-12s. Based upon his review of this data, he concluded that Tobacco Deals of Janesville failed to remit to the state sales tax proceeds in the following amounts: \$2461.17 for October 2002 sales, \$2357.63 for November 2002 sales, and \$3,729.48 for December 2002 sales.

11. Complainant has reviewed a variety of records for Smoke Shop #1-9 for the period from October 1, 2002, to December 31, 2002. These records include bank records showing deposits for each location, invoices showing the number of cigarettes applied to the various locations, cash register tapes and other sales records for some of the Smoke Shop locations, and any sales tax returns for these locations. Based upon his review of records for these locations, complainant determined the sales tax amount owed but not paid over to the state. The table below reflects unpaid sales tax obligations for each store during October 2002. Complainant

states that the defendant and others failed to remit additional sales tax money due to the state during November and December 2002. The stores closed in January 2003.

TABLE OF SALES TAX THEFT FOR STORES DURING OCTOBER 2002

Store Registration Name	SALES TAX LOSS
Smoke Shop #1, Inc. 1100 FOX RIVER PLZ BURLINGTON, WI 53105	\$2166.36
Smoke Shop # 2 4698 S WHITNALL AVE ST FRANCIS, WI 53235	\$3431.98
Smoke Shop #3, Inc. 10400 W SILVER SPRING DR MILWAUKEE, WI 53223	\$3164.12
Smoke Shop #4, Inc. 8235 W BROWN DEER RD MILWAUKEE, WI 53223	\$4131.11
Smoke Shop #5, Inc. 6234 N TEUTONIA AVE MILWAUKEE, WI 53209	\$4017.42
Smoke Shop #6, Inc. 2711 S 108TH ST WEST ALLIS, WI 53227	\$2909.94
Smoke Shop #7, Inc. 3869 S 27TH ST MILWAUKEE, WI 53221	\$3818.15
Smoke Shop #8, Inc. 656 S PACKARD PLZ #215 CUDAHY, WI 53110	\$2750.34
Smoke Shop #9, Inc. 108 E DAKOTA ST MILWAUKEE, WI 53221	\$2607.93
TOTAL	\$28,997.35

TOBACCO PRODUCTS TAX EVASION

12. Complainant also bases this portion of this complaint upon information obtained from Agent Krisik. Agent Krisik observed that, in addition to cigarettes, the Tobacco Deals stores (including the Madison store) also sold tobacco products (which are products containing tobacco other than cigarettes). Agent Krisik has indicated that the DOR Excise Office Audit has reviewed DOR records. Those records reflect that neither Ali nor Amy Shanaa, defendant or any of the stores under their control held permits to distribute tobacco products. DOR staff also advised Agent Krisik that based upon a review of the records, neither Ali nor Amy Shanaa, defendant or any of the stores under their control remitted excise taxes or use tax in lieu of excise

taxes for tobacco products. (Under Wis. Stat. § 139.78, a person who possesses tobacco products for which the excise tax is not paid is required to pay the use tax). In addition, Agent Krisik advises that no one filed returns for tobacco products.

13. Agent Krisik states that he or fellow agents observed evidence of tobacco product tax evasion at other locations. For example, on January 8, 2003, Agent Krisik went to the Tobacco Deals store location on East Washington in Madison, Wisconsin. Pursuant to his administrative inspection authority, Agent Krisik reports that he observed tobacco products in the store. He knew from his experience that no tobacco products are produced for resale in Wisconsin. Further, he examined records at the store associated with these tobacco products, including invoices. Based upon his examination of these invoices identifying tobacco products delivered to the Madison store, Agent Krisik observed that the businesses shipping the tobacco products to the Madison store lacked wholesale permits to distribute tobacco products in Wisconsin. Further, these businesses have not remitted excise taxes for the sale of tobacco products in Wisconsin. Nor have any of the entities associated with Shanaa or defendant remitted excise taxes for the sale of tobacco products at the Madison store. Agent Krisik and his fellow agents further counted a total of 135 units of tobacco products in the Madison store. Because each store is required to maintain records identifying the supplier of the tobacco products in the store, Agent Krisik discovered five invoices from out-of-state tobacco product vendors in the Madison store dated between April 23, 2002, and July 19, 2002. The total value of the invoices was \$725.34. Three invoices were from Cigarros Del Mundo and two were from MCD Distributors. Neither MCD nor Cigarros have permits to distribute tobacco products in Wisconsin. With respect to an examination of the eleven invoices at the Janesville store, Agent Krisik concluded that \$4086.36 in tobacco products came from suppliers that did not have permits to distribute tobacco products in Wisconsin.

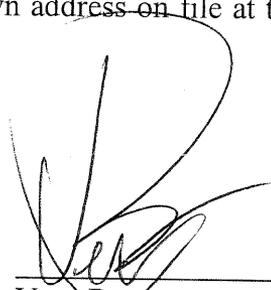
14. Agent Krisik reports that in addition to violations at the Madison store, he also reviewed reports from other agents who inspected two Milwaukee County area stores on January 8, 2003. Agents Rich Uhlig and Ted Seefeldt reported that during the course of a field investigation, they seized records from a tobacco retail outlet at 3869 South 27th Street in the City and County of Milwaukee, Wisconsin. Agent Krisik reviewed the records and determined the store had purchased \$8217.20 worth of untaxed tobacco products. Agent Krisik has advised complainant that he checked DOR records identifying tobacco product wholesalers who have purchased Wisconsin wholesale tobacco product permits. The store had acquired the tobacco from wholesalers who had not obtained a wholesale permit (tobacco products distributor permit) from the Wisconsin DOR. As such, Agent Krisik has concluded that the proper tobacco product taxes for those items had not been paid.

15. Agent Krisik reports that he also reviewed reports from other agents who inspected two Milwaukee County area stores on January 8, 2003. Agents King and Jurgella reported that during the course of a field investigation, they seized records from a tobacco retail outlet at 2711 South 108th Street, West Allis, County of Milwaukee, Wisconsin. Agent Krisik reviewed the records and found two invoices for untaxed cigar purchases. One purchase had been made from a company known as Great Discovery's, Inc. from Houston, Texas, for \$453.20. The other purchase was from CDM Distributors from Dania, Florida, for \$686.80. Both cigar purchases totaled \$1140. Agent Krisik indicated that he had personally reviewed the DOR's wholesale

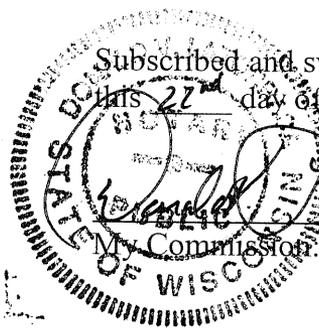
permittee list and neither one of those companies hold a Wisconsin wholesale permit; thus, the Wisconsin excise tax had not been paid.

16. Complainant is seeking an arrest warrant the defendant Mehdi. DOR investigators have attempted to contact him at his last known address on file at the Wisconsin Department of Transportation without success.

Dated this 22nd day of March, 2006.



Vern Barnes
Wisconsin Department of Revenue



Subscribed and sworn to before me
this 22nd day of March, 2006.

My Commission: permanent

APPROVED FOR FILING:



DONALD V. LATORRACA
Assistant Attorney General
Special Prosecutor for Dane County