

**STATE OF VERMONT**

SUPERIOR COURT  
Washington Unit

CIVIL DIVISION  
Docket No. \_\_\_\_\_

State of Vermont,	)
Plaintiff	)
	)
v.	)
	)
Michael R. Tome, d/b/a	)
Cheapsmokesbymail.com and	)
Tobacco By Mail	)
Defendant	)

**COMPLAINT**

Plaintiff, State of Vermont, by and through Attorney General William H. Sorrell,  
alleges as follows:

**Introduction**

1. This is a civil action brought by the State of Vermont, by and through Attorney General William H. Sorrell, to enforce Vermont's ban on mail-order and Internet sales and delivery of tobacco products, the Consumer Fraud Act, and fire-safe cigarettes law.

**Jurisdiction and Venue**

2. The Court has subject matter jurisdiction over this matter pursuant to 4 V.S.A. § 113.

3. The Court has personal jurisdiction over Defendant because Defendant transacts business within the state, and acts giving rise to this cause of action occurred within this state.

4. Venue is proper pursuant to 9 V.S.A. § 2458(a), because some of the business conducted by Defendant occurred in Washington County.

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### **Parties**

5. Plaintiff, State of Vermont, by and through Attorney General William H. Sorrell, is charged, *inter alia*, with enforcement of the Vermont Consumer Fraud Act, 9 V.S.A §§ 2451-2466, Vermont's ban on mail-order and Internet sales and deliveries of tobacco products, 7 V.S.A. § 1010, and Vermont's fire-safe cigarettes law, 20 V.S.A. § 2757.
6. Defendant, Michael R. Tome, owns and/or operates the interactive website cheapsmokesbymail.com.
7. Defendant, Michael R. Tome, maintains a physical facility at 331 Center Street, Salamanca, NY 14779.
8. Defendant, Michael R. Tome, is an online retailer of tobacco products and conducts business in many locations, including in the state of Vermont.
9. Defendant, Michael R. Tome, is registered with the Cattaraugus County Clerk's Office in the state of New York doing business as Tobacco By Mail.

### **Facts**

10. Defendant, alone or acting in concert with others, sold tobacco products via cheapsmokesbymail.com to a Vermont consumer on or about April 22, 2010.
11. Defendant, alone or acting in concert with others, caused tobacco products ordered on cheapsmokesbymail.com to be shipped to a Vermont consumer on or about April 27, 2010.

### **Count One**

12. Plaintiff incorporates and re-alleges paragraphs 5 through 11 above.
13. Defendant's conduct alleged above violates 7 V.S.A. § 1010(b) which states: "No person shall cause cigarettes, roll-your-own tobacco, little cigars, or snuff, ordered or

purchased by mail or through a computer network, telephonic network, or other electronic network, to be shipped to anyone other than a licensed wholesale dealer, distributor, or retail dealer in this state.”

**Count Two**

14. Plaintiff incorporates and re-alleges paragraphs 5 through 13 above.

15. A person who violates 7 V.S.A. § 1010 engages in an unfair or deceptive trade practice in violation of Vermont’s Consumer Fraud Act, 9 V.S.A. §§ 2451-2466.

16. The acts and practices engaged in and employed by Defendant as alleged herein are unfair or deceptive acts or practices affecting the conduct of trade and commerce in Vermont, in violation of the Vermont Consumer Fraud Act 9 V.S.A. §§ 2451-2466.

**Count Three**

17. Plaintiff incorporates and re-alleges paragraphs 5 through 16 above.

18. The tobacco products (cigarettes) that Defendant sold and caused to be shipped to a Vermont consumer on April 27, 2010, were not marked as having met the fire-safe standards required by Vermont law.

19. Defendant’s conduct violates Vermont’s fire-safe cigarettes law, 20 V.S.A. § 2757.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff prays that this Court enter an Order:

A. Issuing a permanent injunction prohibiting Defendant, his agents, employees, and all other persons and entities, corporate or otherwise, in concert or participation with any of them from further violating 7 V.S.A. § 1010(b),

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B. Issuing a permanent injunction prohibiting Defendant, his agents, employees, and all other persons and entities, corporate or otherwise, in concert or participation with any of them from engaging in unfair or deceptive conduct in violation of 9 V.S.A. §§ 2451-2466,

C. Issuing a permanent injunction prohibiting Defendant, his agents, employees, and all other persons and entities, corporate or otherwise, in concert or participation with any of them from further violating 20 V.S.A. § 2757,

D. Imposing the maximum penalty allowed under 7 V.S.A. § 1010(d)(2),

E. Imposing the maximum penalty allowed under 9 V.S.A. § 2458(b)(1),

F. Imposing the maximum penalty allowed under 20 V.S.A. § 2757(g)(1),

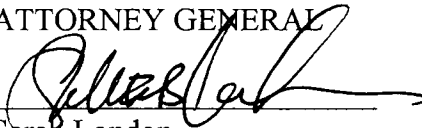
G. Awarding attorneys fees and costs of the prosecution and investigation of this action as allowed under 7 V.S.A. § 1010(d)(4), 9 V.S.A. § 2458(b)(3), and 20 V.S.A. § 2757(g),

H. Granting any further relief as the Court deems equitable and proper.

Date: July 26, 2010

STATE OF VERMONT  
WILLIAM H. SORRELL  
ATTORNEY GENERAL

By:

  
\_\_\_\_\_  
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