

McLane Acquitted of Criminal Conspiracy

Missoula, Montana, 1997

Government's Case Goes Up-in-Smoke

A Federal jury in Montana has acquitted McLane Company, Inc., a wholly owned subsidiary of Wal-Mart, of criminal conspiracy charges surrounding the smuggling of cigarettes by Native Americans into the State of Washington, which has one of the highest cigarette taxes in the country, from Montana, which has one of the lowest taxes.

Federal prosecutors had accused McLane employees of agreeing to sell cigarettes to Native Americans on a reservation in Montana, even though they knew that these untaxed cigarettes were going to be resold to other Native Americans in Washington, violating Federal law.

The government's case centered on the testimony of Tina Marie Walton, the Native American who had purchased the cigarettes from McLane and who had been given a favorable plea bargain arrangement in exchange for her testimony. The government had recommended a reduced sentence for Tina Marie as a way of attempting to create the first leg of a conspiratorial triangle involving Tina Marie in Montana, other Native Americans in Washington who bought the cigarettes from her, and McLane, the wholesaler who supplied the untaxed cigarettes.

Tina Marie testified that McLane knew about her dealings with Native Americans in Washington. The government argued that the company had to have known about the smuggling because of the large number of cigarettes being sold to the reservation, only a small percentage of which could be purchased on the reservation. The government also pointed out that large amounts of cash used to pay for the cigarettes had been delivered to McLane officials by Native Americans who live in Washington and who the government claimed were Tina Marie's co-conspirators. These individuals had been severed from the case and were to be tried later in Washington.

Challenging Tina Marie's testimony directly, McLane employees testified that they had no knowledge and no reason to believe that Tina Marie was re-selling the cigarettes. They had always dealt in cash with Tina Marie and believed that the individuals who had delivered the cash to the company's office in Tacoma were simply messengers from Tina Marie. The company had filed every mandated report on sales to Tina Marie with the states of Montana and Washington, both of which knew about the quantity of cigarettes being sold to the reservation.

The jury deliberated for a day and a half before returning a verdict of not guilty.

Litigation Strategies provided jury research and strategic consultation for the defense team which included Campbell Zachry of Jenkins and Gilchrist in Dallas, Texas and James Goetz of Goetz, Madden and Dunn in Bozeman, Montana.



- Strategic Research
- Witness Preparation
- Demonstrative Exhibits



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