

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

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SENECA NATION OF INDIANS

Plaintiff,

Case No. 10-CV-687A

v.

DAVID PATERSON, Governor of the  
State of New York, JAMIE WOODWARD,  
Acting Commissioner, New York State  
Department of Taxation and Finance,  
WILLIAM COMISKEY, Deputy  
Commissioner, Office of Tax Enforcement,  
New York State Department of Taxation and  
Finance, JOHN MELVILLE, Acting  
Superintendent, New York State Police, each  
in his or her official capacity,

**DECLARATION OF  
JONATHAN B. TAYLOR  
IN SUPPORT OF  
PLAINTIFF'S MOTION  
FOR PRELIMINARY  
INJUNCTION**

Defendants.

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JONATHAN B. TAYLOR makes the following statement:

**I. QUALIFICATIONS**

1. I am President of the Taylor Policy Group, Inc., an economics and public policy consulting firm with offices in Sarasota, Florida.
2. I am also a Research Associate at the Harvard Project on American Indian Economic Development at the John F. Kennedy School of Government, Harvard University, and a Senior Policy Associate at the Native Nations Institute at the Udall Center for Studies in Public Policy, University of Arizona.
3. I hold an A.B. in Politics and a Master's in Public Policy, and I have specialized in the economics of American Indian development since conducting field graduate research in academic year 1991-2.
4. In the course of my prior work, I have analyzed the tobacco sector of the Seneca Nation economy, including its economic impact on Western New York and the operation of the Nation's minimum pricing regime.

5. The statements herein are my own and do not reflect the positions of the institutions with which I am affiliated.
6. My curriculum vitae is attached hereto as Appendix A.

## **II. PURPOSE OF ANALYSIS**

7. New York recently amended the law governing tobacco taxation (Laws of New York, Chapter 134, amending, *inter alia*, §471 of the tax law), and the State Department of Taxation and Finance (hereinafter the “Department”) recently issued emergency regulations (NYCRR §74.6, 74.7) and related taxpayer guidance (TSB-M-10(6)M, TSB-M-10(8)S) to implement that law.
8. I have been asked to analyze how these changes can reasonably be expected to affect the Seneca tobacco sector and thereby affect the citizens of the Seneca Nation.
9. In this declaration, I review the structure of the Seneca Nation tobacco economy and describe economically salient features of New York’s proposed tobacco quota systems.
10. I also review the economics of market-access regimes (quotas, tradable permits, etc.) and contrast New York’s emergency regulation with systems that have been developed in other contexts.
11. The documents I have relied upon are listed in Appendix B or cited in the text directly. In the process of preparing this declaration, I interviewed Robert Pierce, Executive Director of the Seneca Nation Import-Export Commission.
12. The analysis herein may be supplemented as additional time or information becomes available.

## **III. THE SENECA NATION TOBACCO SECTOR**

13. The Seneca Nation of Indians occupies five territories within its aboriginal homeland in Western New York: the Allegany, Cattaraugus, Oil Spring, Niagara Falls, and Buffalo Creek Territories.
14. While the Seneca Nation itself participates in the tobacco sector via four nation-owned Seneca One Stop convenience stores in Irving, Salamanca, and Cuba, NY, the Seneca Nation stands apart from most of the rest of Indian Country in being home to a vigorous, private, and Native-owned economy. By deliberate self-determined choice, Seneca Nation policies encourage private business activity, generally eschewing Seneca taxes on private business and adopting a judicious approach to regulation.
15. The tobacco economy is governed in significant part by an Import-Export Law which, among other things:
  - a. requires that tobacco sold on the territories be identified by a Seneca Nation stamp,

- b. establishes a modest administrative fee on tobacco imports,
  - c. licenses authorized importers of tobacco,
  - d. creates an Import-Export Commission with inspection and enforcement powers, and
  - e. authorizes enforcement of a minimum price.
16. A minimum pricing regime, enforced by the Import-Export Commission, has been in effect for tobacco products since December 2008. Minimum wholesale and retail markups are set for different brand or quality tiers and a minimum price sheet is set and adjusted periodically by legislation. Non-compliance with the price schedule can result in the revocation of a license and the consequent exclusion from the Seneca tobacco sector. Combined wholesale and retail markups range from four to nine dollars per carton.
17. While the Seneca Nation requires businesses to undergo a license application process that includes background checks, geographic checks (to ensure the businesses are on-territory), environmental reviews, and the like, the barriers to entry in the Seneca private sector are modest, and over time entrepreneurs have entered and exited the marketplace. The licensing process for stamping agents is much more extensive (covering issues such as proprietor net worth and warehouse security) because the stamps are linchpins to the Nation's import-export policy. I understand that the Import-Export Commission cooperates with other governments to guard against illegal cigarette trafficking.
18. The pro-business stance of Seneca Nation policy fosters competition and business opportunity. As of August 17, 2010 in the Seneca tobacco trade, there are twenty-eight Seneca-licensed tobacco wholesalers, fifteen of whom are authorized by the Nation to affix Seneca tobacco stamps. Of those twenty-eight, three are also federally licensed manufacturers, two of whom are Nation-licensed stamping agents. The Nation has 172 currently licensed tobacco retailers.

#### **IV. NEW YORK TOBACCO TAX POLICY**

19. The most economically salient feature of New York tobacco policy is very high taxation:
- a. Cigarette taxes statewide and in New York City are the highest in the US, and by substantial margins (see Exhibit C).
  - b. Inflation-adjusted New York State cigarette taxes have skyrocketed, more than trebling in the last twenty-six months (Exhibit D).
  - c. New York cigarette taxes have leapt ahead of neighboring states' taxes (Exhibit E).
  - d. The effective New York City cigarette tax averages about 100%. For many cheaper brands amounting to almost half the volume of cigarettes sold, New York State taxes exceed the pre-tax price of the pack (Confessore, 2010).

20. New York has proposed to constrain Seneca Nation access to tax-immune tobacco to a defined volume—a “probable demand”—via two mechanisms: an “Indian tax exemption coupon system” and a “prior approval system.”
21. In its emergency rule (NYCCRR §74.6), the Department set “probable demand” for the Seneca Nation at 168,600 packs of cigarettes per quarter for the twelve-month period beginning September 1, 2010 (§74.6(e)). Annually after that period, the Department will adjust its calculation to reflect changes in US consumption, Indian demography, and information the Nation provides about its official uses, sales to qualified Indians, etc.
22. Under the Indian tax exemption coupon system, the Seneca Nation could elect (on an annual basis) to receive quarterly batches of Indian tax-exempt coupons denominated in numbers of packs and totaling its “probable demand.” Such coupons would be presented to state-licensed wholesalers at the time the bearer purchased cigarettes bearing NY state stamps and would exempt the purchaser from paying the tax to the wholesaler for remittance to the state. The state-licensed wholesaler would then file a claim for a tax refund on all tax previously paid on cigarettes bearing the NY state stamps and sold to coupon-bearing qualified Indians (§74.6(b) and (c)). The Seneca Nation government would then be responsible for allocating coupons to itself and to reservation sellers (TSB-M-10(6)M, pp. 3-4).
23. If the Seneca Nation does not elect to participate in the Indian tax exemption coupon system by August 15<sup>th</sup> every year, the Department defaults to a “prior approval system.” Under this system, the Seneca Nation or a cigarette seller located on Seneca Territory may purchase NY-stamped packs up to the “probable demand” amount. State-licensed sellers must obtain approval from the Department before the sale or be in violation of NY tax law (§74.6(b) and (d)).
24. The Department’s prior approval for a tax-exempt sale under this default system will be granted by web-accessible software. Upon receipt of a purchase request from the Seneca Nation or a territory-based cigarette seller, a state-licensed wholesaler dealer registered with the Department’s *View/Report Indian Tax Exempt Cigarette Sales* system (hereinafter the “web approval system”) will enter a proposed quantity of tobacco for prior approval. If sufficient Seneca “probable demand” remains in the quarter, the computer will issue an authorization number for the tax-exempt sale and reduce the Seneca “probable demand” by the amount of the sale. Within forty-eight hours of the issuance of the authorization number, the wholesaler dealer must report into the web approval system the name, address, and invoice number for each buyer totaling the pre-approved, tax-exempt sale volume. Upon so reporting the sale, the wholesaler dealer will receive a confirmation number, without which it will be impossible to receive a refund on the stamped cigarettes. Any tobacco volume not reported sold within forty-eight hours reverts to the Seneca Nation’s quarterly allocation and is not tax-exempt (TSB-M-10(6)M, pp. 5-6).

## V. THE ECONOMICS OF NEW YORK'S MARKET-ACCESS RESTRICTIONS

25. New York's exorbitant taxes (per paragraph 19 and related exhibits) make tax-immune cigarettes valuable—that is, New York's taxes imbue Seneca tobacco with economic rent.<sup>1</sup>
26. New York seeks to allocate these rents under rudimentary substitutes for market mechanisms—mechanisms fraught with economic and policy flaws that will distort the operation of supply and demand in the Seneca economy and harm Seneca citizens and their government.
27. The imposition of a quota fundamentally alters the distribution of economic rents and is thereby a wealth re-distribution mechanism. This fact is as true for New York's allocation of “probable demand” as it is for, say, tradable allowances in carbon dioxide emissions or individual transfer quotas in protected fisheries.<sup>2</sup>
28. As such, quotas inherently distort the operation of supply and demand, creating deadweight losses to the economies in question—Seneca's included. Quotas further distort the behavior of market participants unless the mechanisms for allocating, monitoring, and enforcing the quotas are robust to the incentives to circumvent the system.
29. Neither the Indian tax exemption coupon nor the prior approval systems represent well-developed policy responses to the challenges of quota administration, and accordingly they threaten economic harm to Seneca Indians.
30. The Department's Indian tax exemption coupon system leaves the work of designing mechanisms to allocate, monitor, and enforce quota to the Seneca Nation. In so doing, the Department dictates to the Nation that it must implement a policy—and a politically and economically complicated one at that.
  - a. The Nation already has a self-determined, self-governing tobacco market access arrangement articulated in Seneca law and overseen by Commissioners, inspectors, and others.
  - b. That policy apparatus is not equipped to allocate scarce, rent-bearing market-access rights across nearly two hundred firms, and thousands of potential Seneca customers, not least because it was designed and established for different purposes: the oversight of free trade and the enforcement of pricing.
  - c. Quota allocations tend to be politically challenging to design and difficult to implement well.<sup>3</sup> Elected leaders and their constituents often reject quota

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<sup>1</sup> Economic rent is the value a good or service earns in the marketplace in excess of the opportunity cost of providing that good or service, including the cost of capital.

<sup>2</sup> See, e.g., Kopp (2007) on greenhouse gas emissions and Tietenberg (1992) on individual transfer quotas in fisheries.

<sup>3</sup> See, e.g., Stavins (1998) on the political economy of SO<sub>2</sub> emissions allowance trading.

auctions for transferring wealth to the government. An allocation based on historic market shares tends to be unadvisable because it freezes what would otherwise be dynamic market shares and impedes entry into and exit from the industry. A tradable coupon regime would be especially at risk of manipulation if the market were thinly traded, and so on. Thus, Seneca legislators, policymakers, and regulators would face numerous challenges in grafting a system for allocating New York's tax-exempt coupons for "probable demand" on top of their existing systems, institutions, and policies.

- d. Thus, the putative "Indian tax exemption coupon system" is not a reasonably tailored *system* in any sense of being, say, a minimally burdensome tax-free tobacco allocation mechanism robust to economic incentives. Rather, the "Indian tax exemption coupon system" is an abdication of quota allocation design and an override of Seneca self-determined policymaking.

31. If the Seneca Nation chooses not to elect to participate in the Indian tax exemption coupon system, the Department will default to a "prior approval system." The rudimentary construction of the Department's prior approval system makes it vulnerable in ways that can reasonably be expected to work to the significant economic detriment of Seneca individuals, firms, and government, be it through fraud, market friction, or market manipulation.

- a. The aggregate statewide incentives for defrauding the prior approval system will be strong: by the Department's year one "probable demand" calculation, two-and-half million packs of cigarettes will be immune from \$4.35 to \$5.85 in taxes each. Whether the fraud would take the form of hacking "probable demand" totals, entering fictitious personal information, colluding to corner all the quota, or any number of other imaginable workarounds, such manipulations would not only defraud New York but also the Seneca Nation and its citizens—notwithstanding the Nation's inability to design, construct, or reinforce the system.
- b. Even if the website successfully blocked hackers and verified the validity of names, addresses, and invoice numbers, the website alone cannot certify whether quota applicants are, for example, Seneca-licensed businesses in good standing selling on-territory within the dictates of the Seneca Nation Import-Export Law (*inter alia*). Seneca Indians may come to discover that *www.nystax.gov* allocates quota to criminals, non-Seneca territory residents, retailers suspended or banned from Seneca tobacco trade, or all of the above. Essentially the Department proposes to outsource the oversight of intra-Seneca tobacco trade to web software. What will happen to tax-free tobacco the Department allocates to wholesalers who cannot legally sell it on Seneca Territory? Will it be sold into the New York market? It will have New York stamps on it.
- c. Because the web approval system allocates quota on a first-come, first-served basis, Seneca Indians may also discover from quarter to quarter (or even from

48-hour period to 48-hour period) that their preferred brands (or even all brands) of tax-exempt tobacco have been allocated to sellers in a different neighborhood or territory or otherwise rendered inconvenient, costly, or inaccessible. In other words, the prior approval system will likely raise transactions costs on territory and thereby impede the flow of commerce.

- d. Seneca Indians may also discover from time to time that a predatory firm arrogated to itself all or most of a quarter's quota to withhold product from certain retailers to force them out of business in the hopes of raising prices after their exit.<sup>4</sup>
- e. Seneca Indians may likewise discover that access to tax-exempt tobacco has been commandeered by one (or a few) seller(s) who restrict sales or otherwise raise prices immediately to extract monopolistic (or oligopolistic) rents from Seneca Indians.
- f. Because any New York-licensed wholesaler could use the website, the benefits of such market power could accrue to non-Indian wholesalers, meaning that Seneca tobacco customers would be paying prices above competitive levels to non-Indians. Under such a scenario, Seneca Indians would be transferring economic rents to non-Native wholesalers—in essence, paying a private “quota tax”—on tobacco intended to be unencumbered by rent extraction.
- g. In the event that Seneca firms or individuals commandeered the quota, one (or a few) Seneca supplier(s) would raise intra-Seneca prices in contravention of the Nation's longstanding commitment to free entry and competition and to the detriment of Seneca customers.
- h. Because the aforementioned dynamics of predation, monopolization, and the like can have lasting and/or self-reinforcing effects (e.g., the long-term departure of firms from the marketplace), small weaknesses in the web approval system (e.g., an opening-day crash after participants flood the site) will make whatever distortionary effects arise from the quota allocation potentially very long-lived. What happens at the opening bell could lock in place for years.

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<sup>4</sup> While the Department may argue that the forty-eight hour expiration of quota precludes such hoarding, it would be trivially inexpensive to create sham transactions, *bona fide* warehousing arrangements, vertically integrated buyers, or other arrangements that would have the effect of withholding supply from the market without raising the alarms of the Department (or the Nation). More fundamentally, in the arms race between quota evasion and quota enforcement, the Department's monitoring and auditing capacities very likely will be impeded by, at least, fiscal constraints and information asymmetries, if not weak incentives and intergovernmental coordination challenges.

I DECLARE UNDER PENALTY OF PERJURY that the foregoing statements are true and correct.

DATED this 20<sup>th</sup> day of August, 2010 at Sarasota, Florida

/s/

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Jonathan B. Taylor



Taylor  
Exhibit A

## **JONATHAN B. TAYLOR**

THE TAYLOR POLICY GROUP, INC.  
1990 Main Street, Suite 750  
Sarasota, FL 34236  
941-309-5158

### **PROFESSIONAL EXPERIENCE**

The Taylor Policy Group, Inc, Cambridge, MA & Sarasota, FL  
*President*, 2003 - present

Provides public policy analysis, strategic advice, and economic research to Indian governments and consortia with expertise in natural resources, gaming, and economic development. Projects include socioeconomic impact assessment, enterprise feasibility analysis, institutional and constitutional assessment, public policy analysis, negotiation support, and tribal executive education.

Harvard Project on American Indian Economic Development, John F. Kennedy School of Government, Harvard University, Cambridge, MA  
*Research Associate*, 2005-present  
*Research Fellow*, 1998-2005  
*Research Analyst*, 1992-1998

Analyzes national and tribal policies related to self-governance and economic development. Supports Honoring Contributions in the Governance of Indian Nations—an awards program for excellence in Indian government.

The Udall Center for Studies in Public Policy, University of Arizona, Tucson AZ  
*Senior Policy Associate*, 2005- present  
*Senior Policy Scholar*, 1998-2005

Researches national, state, and tribal policies affecting Native American economic development, institutions of governance, and socioeconomic status.

Osage, LLC  
*Board Member*, 2008- present

Lexecon Inc, Cambridge, MA  
(Formerly The Economics Resource Group, Inc.)  
*Senior Consultant*, 1998 - 2003  
*Consultant*, 1992 - 1998

Directed Lexecon's services in support of Native American economic development, and provided institutional design and economic development support to Indian Tribes. Provided economic analysis with expertise in natural resource economics, gaming, and regulation.

Commission to Study the Potential Expansion of Legalized Gaming  
Commonwealth of Massachusetts  
*Commissioner*, 2002.

John F. Kennedy School of Government, Harvard University, Cambridge, MA  
*Teaching Assistant*, Microeconomics and Environmental and Natural Resource Economics, 1991-1992

Resources for the Future, Washington, DC  
*Economic Researcher*, 1991

The Selwyn School, Denton, TX  
*Teacher*, 1986-1990

## EDUCATION

Massachusetts Institute of Technology, Cambridge, MA  
Courses in graduate microeconomics (industrial organization), 1995-96

John F. Kennedy School of Government, Harvard University  
M.P.P., 1992  
Thesis: "Principles of Comprehensive Resource Management Planning and a Planning Process Prototype for the White Mountain Apache Tribe."

Princeton University  
A.B, Politics, 1986

## PUBLICATIONS AND RESEARCH

["Determinants of Development Success in the Native Nations of the United States."](#) (Cambridge and Tucson: Harvard Project on American Indian Economic Development and Native Nations Institute for Leadership, Management, and Policy, 2008).

"Economic Evidence on the Effects of the Indian Gaming Regulatory Act on Indians and Non-Indians," (with Katherine Spilde Contreras). In R. N. Clinton (Ed.), *Indian Country's winning hand: 20 years of IGRA*. Radisson Fort McDowell Resort & Casino, Scottsdale, Arizona Sandra Day O'Connor College of Law, Arizona State University.

"Managing the Boundary between Business and Politics: Strategies for Improving the Chances for Success in Tribally Owned Enterprises," (with Kenneth W. Grant II). In Jorgensen, M. R., ed., [Rebuilding Native nations: Strategies for governance and development](#) (pp. 175-196) (Tucson: University of Arizona Press, 2008).

[The State of the Native Nations: Conditions under U.S. Policies of Self-Determination](#), (with the Harvard Project on American Indian Economic Development, Joseph P. Kalt, Eric C. Henson, Catherine E. A. Curtis, Stephen Cornell, Kenneth W. Grant, Miriam R. Jorgensen, Andrew J. Lee, Harry W. Nelson). (New York: Oxford University Press, 2007).

*American Indians on Reservations: A Databook of Socioeconomic Change Between the 1990 and 2000 Censuses*, (with Joseph P. Kalt). (Cambridge, MA: The Harvard Project on American Indian Economic Development, 2005).

“Social and Economic Consequences of Indian Gaming in Oklahoma,” (with Kenneth W. Grant II and Katherine A. Spilde). *American Indian Culture and Research Journal* 28:2 (2004) 97-129.

“A Comparative Analysis of Tribal and Indigenous Community Enterprises,” (with Kenneth W. Grant II, Rodolfo Lopez, James Austin), (Cambridge, MA: Harvard University Native American Program, 2003).

“The National Evidence on the Socioeconomic Impacts of American Indian Gaming on Non-Indian Communities,” (with Matthew B. Krepps and Patrick Wang), (Cambridge, MA: Harvard Project on American Indian Economic Development, 2000).

“Nation Building Leadership, Governance, And Economic Policy: A New Strategic Approach For The Navajo Nation,” (with Kenneth W. Grant II), The Harvard Project on American Indian Economic Development, May 2001.

“Means-Testing Indian Governments: Taxing What Works,” (with Joseph P. Kalt), in Richard C. Monk, ed, *Taking Sides: Race and Ethnicity*, McGraw-Hill/Dushkin, 2001.

“The Peril of Quick Fixes in Indian Policy,” (with Kenneth W. Grant II), op-ed, *The Hartford Courant*, January 30, 2001.

“What determines economic development success? Evidence from Tribal and Individual Indian Enterprises,” (with Miriam Jorgensen) *Red Ink*, 8:2 (Spring 2000), 45-51.

“How the West Was Worked Over,” Review of *Nature’s Bounty: Historical and Modern Environmental Perspectives*, by Anthony N. Penna, *Northeastern University Magazine*, March 2000.

*Patterns of Indian Enterprise Success: A Statistical Analysis of Tribal and Individual Indian Enterprise Performance, A Report to the National Congress of American Indians*, (with Miriam R. Jorgensen), The Harvard Project on American Indian Economic Development, February 2000.

“Untangling the Determinants of Casino Authorization: An Analysis of State-Tribal Casino Compacting,” (with Matthew Krepps and Brian K. Bucks), *Gaming Law Review*, December 1998.

“Gaming: a tool tribes have the right to use,” (with Stephen Cornell), op-ed, *The Arizona Republic*, October 6, 1998.

“Self-Governance Compacting as Nation-Building: The Case of the Wampanoag Tribe of Gay Head (Aquinnah), Massachusetts,” (with Kenneth Grant and Philippe Jordi), *Sovereign Nations*, July/August 1998.

“Measures Against Tribes Are Counterproductive,” editorial (with Joseph P. Kalt), *Indian Country Today*, September 22-29, 1997.

“Oglala Sioux License Plates: A Tribal Manager Tries to Assert Tribal Sovereignty,” A Teaching Case Study in Tribal Management for Oglala Lakota College, July 1996.

“Mending the Sacred Hoop of the Lakota Nation: The Chief Big Foot Memorial Rides [*Si Tanka Wokiksuye Okolakiciye*],” A Teaching Case Study in Tribal Management for Oglala Lakota College, July 1996.

“Negotiating a Vision: Principles of Comprehensive Resource Planning and a Planning Process for the White Mountain Apache Tribe,” Harvard Project on American Indian Economic Development, Project Report 92-2, December 1992.

## **SELECTED OTHER REPORTS, TESTIMONY, AND PRESENTATIONS**

*The Economics of Seneca Tobacco Tax Immunity in New York*, October 21, 2009.

*The State of the Tohono O’Odham Nation: A review of socioeconomic conditions and change*, January 26, 2009.

[\*Economic Impact of the St. Regis Mohawk Tribe\*](#), 2008, October 20, 2009.

*The Seneca Nation Economy: Its Foundations, Size and Impact on New York State and the Western New York Region*, 2007, June 10, 2008.

[\*The Osage Nation Economy: Its Structure, Size, and Impact on Oklahoma in 2007\*](#), May 26, 2008.

*The San Manuel Band of Serrano Mission Indians, 2005: A Growing Economic Engine for San Bernardino County and California*, May 12, 2008.

[\*Native American Contracting Under Section 8\(a\) of the Small Business Act: Economic, Social, and Cultural Impacts\*](#), October 2007.

[Statement](#) to the United States House of Representatives, Committee on Natural Resources, Oversight Hearing on Diversifying Native Economies, September 19, 2007.

*The Seneca Nation Economy: Its Foundations, Size and Impact on New York State and the Western New York Region*, 2005, January 22, 2007.

[\*Indian Self-Government in Washington, Vol. II: The Character and Effects of the Indian Economy in Washington State\*](#), July 10, 2006.

Keynote Address, National Center for American Indian Enterprise Development, Reservation Economic Summit 2006, Las Vegas, NV, February 7, 2006.

“The Greenville Rancheria of Maidu Indians’ Proposal for a Red Bluff Casino: A Public Policy Analysis of Economic, Fiscal, and Social Effects Alleged by the Paskenta Band of Nomlaki Indians and the County of Tehama, California,” June 20, 2005.

[\*A Critique of Market and Economic Impacts of a Tribal Casino in Wayland Township, Michigan by the Anderson Economic Group\*](#), April 18, 2004.

“American Indian Economic Development,” Presentation to the Washington State House Committee on Economic Development, Agriculture and Trade, Olympia, WA, March 22, 2005.

[\*Indian Self-Government in Washington, Vol. I: Tribal Self-Government and Gaming Policy: The Outcomes for Indians and Washington State\*](#), February 14, 2005.

“Tribal-State Cooperation and Economic Development in Maine,” Presentation to the State-Tribal Relations Project of the National Congress of American Indians and the National Conference of State Legislatures, Augusta, ME, May 26, 2004.

Statement Before the Rhode Island Special House Commission to Study Gaming, March 7, 2003.

“Social and Economic Analysis of Tribal Government Gaming in Oklahoma,” (with Katherine A. Spilde and Kenneth W. Grant II), The Harvard Project on American Indian Economic Development, John F. Kennedy School of Government, Harvard University, July 1, 2002.

[“Public Policy Analysis of Indian Gaming in Massachusetts: A Report to the Government of the Wampanoag Tribe of Gay Head \(Aquinnah\),”](#) (with Joseph P. Kalt and Kenneth W. Grant II), Faculty Research Working Paper Series #RWP02-019, John F. Kennedy School of Government, Harvard University, May 13, 2002.

*United States District Court, Eastern District of Texas, Alabama-Coushatta Tribes of Texas v. State of Texas, et al.*; Expert Report, April 1, 2002; Oral Testimony, April 3, 2002.

“State and Tribal Interests in Indian Economic Diversification: The Case for Lifting State Sales Taxation from Quil Ceda Village,” (with Miriam Jorgensen, Kenneth Grant, and Christina Rader), April 18, 2002.

“An Analysis of the Economic Impacts of Pascua Yaqui Tribal Operations on the Arizona Economy,” (with Stephen Cornell and Laura Ledwith), prepared for the Native Nations Institute for Leadership, Management, and Policy, Udall Center for Studies in Public Policy, University of Arizona, February 2002.

“Talking Points Regarding Expected Socioeconomic Impacts of a Casino in Sullivan County New York,” prepared for Trading Cove New York, LLC, September 19, 2001.

“An Analysis of the Economic Impacts of Indian Gaming in the State of Arizona,” (with Stephen Cornell), prepared for the Arizona Indian Gaming Association, June 15, 2001.

“Sovereignty, Devolution, and the Future of Tribal-State Relations,” (with Stephen Cornell), paper presented at the National Congress of American Indians, Mid-Year Session, Juneau, AK, June 26, 2000.

“The Boyd Gaming Proposal’s Economic Projections for a West Warwick Casino Are Ambitious and As Yet Unsupported,” presentation before the Rhode Island General Assembly House Committee on Finance, April 28, 2000.

“The Costs, Benefits, and Public Policy Merits of the Proposed Western Navajo-Hopi Lake Powell Pipeline,” (with Joseph P. Kalt and Kenneth W. Grant II), December 22, 1999.

“A Public Policy Evaluation of the Arizona State Land Department’s Treatment of the Island Lands Trust Properties at Lake Havasu City,” (with Joseph P. Kalt and Matthew S. Hellman), August 16, 1999.

“Indian Gaming in Arizona: Social and Economic Impacts on the State of Arizona,” (with Kenneth W. Grant II, Miriam R. Jorgensen, and Matthew B. Krepps), June 4, 1999.

“Inconsistent Financial and Impact Projections in the Narragansett Casino Proposal for West Warwick,” (with Matthew B. Krepps), presentation before the Rhode Island General Assembly Finance Committee, May 12, 1999.

“Alaska Native Self-Governance Policy Reform: Toward Implementation of the Alaska Natives Commission Report,” (with Stephen Cornell, Kenneth Grant, Victor Fischer, and Thomas Morehouse), Discussion Document prepared for the Alaska Federation of Natives, August 1, 1998.

“American Indian Gaming Policy and Its Socio-Economic Effects: A Report to the National Gambling Impact Study Commission,” (with Stephen Cornell, Joseph Kalt, and Matthew Krepps), July 31, 1998.

“Economic and Socio-Economic Deficiencies in the Midwest Project Environmental Impact Statement,” given on behalf of The Hatchet Lake Band, Wollaston Post, Saskatchewan, before the Joint Federal-Provincial Panel on Uranium Mining Developments in Northern Saskatchewan, Saskatoon, Saskatchewan, May 29, 1996.

“Natural Resource Trade Restraints: Impact on Product Markets,” (with David Reishus), presented at the Western Economics Association Conference, July 6, 1995.

“The Investment Consequences of the Re-Regulation of Cable Television,” (with William M. Emmons III and Adam B. Jaffe), December 20, 1994.

“Avoided Cost Due Diligence Analysis of Northeast Energy Associates’ Bellingham Generation Facility,” (with Scott T. Jones and Henry Lee), October 29, 1993.

## **SELECTED CONSULTING EXPERIENCE**

### **Tulalip Tribes**

Performed a community impact study required by the tribe-state compact. Analyzed employment, vendor outlays, investment in off-reservation communities, and programs to revitalize culture, society, and environment (2010).

### **Penobscot Indian Nation Enterprises**

Advised the board of directors on matters of corporate governance. Conducted a corporate strategy retreat and taught business apprentices the essentials of valuation. Assisted owner in monitoring performance and managing the boundary between politics and business (2008-present).

### **St. Regis Mohawk Tribe**

Conducted a detailed economic impact study, including a review of employment, outlays, and investments made by the tribe. Showed that St. Regis was one of the top employers in its home region and a major exporter of goods and services (2009).

### **Island Enterprises, Squaxin Island Tribe**

Reviewed corporate charter and conducted board executive education on corporate governance, including a discussion of the relationship between management, board, and owner tribe (2009).

### **Tohono O’Odham Nation**

Analyzed tribal socioeconomic needs and status for a land-into-trust application to the federal

government. Assembled dozens of indicators of social, economic, and environmental conditions on the reservation and among the O'Odham people (2009).

A New England Indian Tribe

Educated elected leaders and a corporation development task force about the principles of corporate governance in tribally owned enterprises and facilitated construction of a corporate charter giving independent powers to a board of directors subject to tribal government oversight (2007).

Native American Contractors Association

Compared the economic, social, and cultural impacts of Section 8(a) of the Small Business Act on tribes and Alaska Native corporations with congressional policy aims of that section. Presented report and testimony to the United States House of Representatives, Committee on Natural Resources, September 19, 2007.

A New England Indian Tribe

Worked with tribal employees and a directors' task force to develop strategic approaches to budgeting. Helped develop a logic model template that oriented departments toward long-term strategic goals and focused tribal council attention on outcomes of tribal programs, not just inputs and outputs (2006-present).

US Small Business Administration

Served on an advisory panel for a project to design a tribal economic development self-diagnosis tool and drafted diagnosis elements related to governance (2006-8).

San Manuel Band of Serrano Mission Indians

Analyzed tribal enterprise and government payroll and purchasing to quantify tribal economic impact. Applied regional attendance and survey data to assess the net recapture of gambling expenditure from Nevada for the California economy (2006-7).

Seneca Nation of Indians

Conducted analysis of Seneca Nation government, enterprise, and private sector economic activity and evaluated net impacts to Western New York and New York generally of substantial exportation and import substitution by Seneca enterprises (2007).

A Great Lakes Region Indian Tribe

Educated elected leaders and an economic development task force about the principles of corporate governance in tribally owned enterprises and facilitated construction of a corporate charter giving independent powers to a board of directors subject to council oversight (2006).

Rincon Luiseño Band of Indians

Analyzed the economics of compact negotiation in California and its public policy effects, particularly on the Rincon Band. Submitted expert testimony in litigation (April 2006).

The Washington Indian Gaming Association

Assessed claims that Indian tribes were a net tax drain on the regional economy with a public policy analysis of American Indian sovereignty and self-determination and a statistical analysis of tax collections near reservations as Indian casinos were introduced. Analyzed socioeconomic effects of Indian gaming, on and off the reservations, documenting employment and spending patterns and program innovations by Native governments (2004-2006).

Maine Manufacturing Extension Partnership

Advised the Maine MEP regarding best practices of corporate governance in tribally owned enterprises.



Presented research on corporate governance to the tribes of Maine and advised tribes regarding enterprise governing documents (2005-2006).

Standing Rock Sioux Tribe

Provided prime consulting economist with analysis of discount and interest rates for use in a settlement claim against hydroelectric dam impoundments. Identified an internal inconsistency in the rates used by the General Accounting Office to reduce damage estimates (2005).

Match-E-Be-Nash-She-Wish (Gun Lake) Band of Pottawatomi

Assessed claims made in an economic forecast critical of a proposed casino in Allegan County, MI. Weighed evidence compiled by other researchers against forecasting assumptions, techniques, and conclusions (2005).

Greenville Rancheria of Maidu Indians

Analyzed claims of casino market saturation, public infrastructure inadequacy, and community harm. Compared market in question to a similarly situated market elsewhere, and evaluated the actions of market & government actors (2005)

A Northern Plains Tribe

Advised elected leadership and a mineral development committee on institutional structures of corporate governance that separate business from politics in a tribally owned corporation (2004-2005).

A Southwest Tribe

Researched existing and prospective competition in casino markets using customer loyalty and census data. By applying models of competitive effects, overturned internal conventional wisdom about threats and altered strategy (2004).

KPMG (Montreal)

Assisted in articulating treaty approaches that could be expected to lead toward financial autonomy and economic self-sufficiency for the First Nations of Mamuitun and Nutashkuan, Quebec (2004).

National Indian Gaming Association

Conducted a broad analysis of Census statistics comparing the socioeconomic status of reservation Indians in 1990 and 2000 with changes in the US at large across gaming and non-gaming tribes in the lower forty-eight states. (2004)

Colorado River Indian Tribes

Analyzed economic features of neighboring tax jurisdictions; assembled database of commercial, consensual, and other relations between the Tribes and establishments on the Reservation, and assessed economic incidence of proposed taxes. (2003-2004)

Swinomish Indian Tribal Community

Analyzed assumptions and public policy conclusions of a cost-benefit analysis assessing potential economic impacts of riparian buffers that would protect salmon habitat in Washington State. (2003)

An Indian Tribe

Conducted an evaluation of US Census undercounting on an Indian reservation. Examined Census data for internal consistency and gathered data from ancillary sources to assess consistency with reported census declines. (2002-2003)

#### The Northwest Indian Fisheries Commission

Examined the economics of natural resource valuation applicable to fish rights and protection policies for internal use by the consortium. Conducted economic literature review and prepared frameworks for continuing consortium analysis. (2002-2003)

#### An Indian Tribe

Assisted in the negotiation of a gas pipeline right-of-way renewal. Provided market analysis of company options and supported tribal negotiators. (2000-2002)

#### Little Traverse Bay Bands of Odawa Indians

Evaluated corporate governance and economic development institutions and conducted executive education for the Economic Development Commission. Provided a strategic review for the corporation. (2002)

#### Tulalip Tribes

Conducted a public finance assessment of Quil Ceda Village, a sub-tribal municipality. Demonstrated comparability between Quil Ceda and other Washington municipalities and showed the need for Quil Ceda to receive tax revenues from enterprises in the Village. (2002)

#### Wampanoag Tribe of Gay Head (Aquinnah)

Examined the effects of a proposed tribal casino in Southeastern Massachusetts. Examined two areas of specific concern to Massachusetts policymakers: competition with the Commonwealth's lottery and social change. (2002)

#### Alabama-Coushatta Tribes of Texas

Testified on the evidence regarding the current and likely future economic and social consequences of the Alabama-Coushatta Entertainment Center both on the citizens of Texas and on the citizens of the Alabama-Coushatta Tribes. (2002)

#### Harvard Project on American Indian Economic Development

Managed data gathering efforts and application of the REMI model to estimate the direct and indirect impacts of Indian gaming in Oklahoma. (2001-2)

#### The Osage Tribe

Conducted a strategic retreat for tribal elected leaders. (2001)

#### Trading Cove New York, LLC

Analyzed the correspondence between casino impact forecasts made by New York local governments and available relevant research. (2001)

#### Shivwits Band of Paiute Indians (Whiteing and Smith)

Provided valuation analysis and negotiation support in lease negotiations governing a cobalt and tungsten reprocessing facility on trust land. In the absence of reliable comparables, developed a framework that both tribe and tenant supported as the basis for negotiation. (2001)

#### An Indian Tribe

Analyzed the evolution of casino markets in the United States to predict the feasibility of a tribal facility. Derived a spatial market model of non-Indian casinos and applied it to the client tribe's regional context. Regional managers in the casino industry independently confirmed revenue projections. (2001)

**Arizona Indian Gaming Association**

In conjunction with the Udall Center for Studies in Public Policy, conducted a gross impact assessment of Indian casinos on the state of Arizona. (2001)

**White Mountain Apache Tribe (Brauchli & Brauchli)**

Executed a benefit transfer study to estimate the recreational value of in-stream riparian flows. Reviewed the economic literature on non-anadromous fishing benefits and provided estimates of benefit for incorporation into a cost-benefit analysis. (2001)

**The Assiniboine and Sioux Tribes of the Ft. Peck Indian Reservation**

Conducted a strategic review of tribal enterprise operations and structures and directed a strategic retreat for elected tribal leaders. Provided an analysis of enterprise structure and performance, and of tribal governing institutions. (2000-2001)

**Confederated Tribes of the Grand Ronde Community**

Conducted an executive education workshop and strategic retreat for tribal elected leaders. Brokered a strategic retreat for the Tribal Council and enterprise board to work out structural problems undermining performance. Recommended improvements to systems of corporate governance. (1999-2000)

**Te Ohu Kai Moana (Treaty of Waitangi Fisheries Commission) (Walters Williams & Co.)**

Documented the features of American Indian policy that foster economic development and evaluated treaty settlement distribution mechanisms in light of the North American experience with settlement agreements. (1999-2000)

**Hopi Tribe & Navajo Nation (Sonosky, Chambers, Sachse & Endreson)**

Wrote cost-benefit analysis of municipal water pipeline for presentation to Arizona congressional delegation. Calculated consumer surplus and economic development benefits, showing they exceeded costs of construction. (1999)

**Confederated Tribes of the Warm Springs Reservation (Karnopp, Petersen, Noteboom, Hansen, Arnett & Sayeg)**

Wrote chapter in application to Federal Energy Regulatory Commission for hydroelectric dam license. Conducted policy analysis, documented reservation economic development activities and social conditions and demonstrated that licensing the tribe to operate a hydroelectric dam would advance the purposes of the reservation. (1999)

**BP Amoco (Hinkle, Cox, Eaton, Coffield & Hensley)**

Analyzed gas royalty instruments; gathering, treatment, processing, and transportation markets; and federal and state taxation and regulation policy relating to natural gas development. Demonstrated the economic propriety and feasibility of determining the value of natural gas at the wellhead for the purposes of paying mineral royalty. (2000)

**Citizens' Island Bridge Company (New West Policy Group, LLC)**

Conducted economic review of Arizona School Trust leasing decisions in the Lake Havasu City region and compared them to the benefits that might accrue from an outright sale. (1999)

**Gila River Indian Community (GRIC)**

Authored the analysis of the social and economic impacts of Class III American Indian gaming on the State of Arizona for GRIC on behalf of seven gaming tribes in Arizona. Applied input-output model to tribal expenditure data; documented tribal investments in infrastructure and social well-being; and assessed claims in academic literature regarding social and fiscal impacts of Indian casino gaming. (1999)

Government of Canada, Department of Foreign Affairs and International Trade

Managed the analysis of trade in softwood lumber in the context of an arbitration proceeding under the Canada-US Softwood Lumber Agreement. Examined the effect of changes in British Columbia stumpage collections on the operation of a tariff-rate quota system. Analyzed pricing and shipping behavior of firms and assessed impact of stumpage changes on volumes harvested, produced, and exported. (1999)

Alaska Federation of Natives

Conducted review of governing regimes with *de facto* jurisdiction over Alaska Native Villages and made recommendations for improvement of self-governance on the basis of case studies of Native governments in Alaska and the lower forty-eight states. (1998)

The Oneida Tribe of Wisconsin, the Ho-Chunk Nation, the Sault Ste. Marie Tribe of Chippewa Indians, the Standing Rock Sioux Tribe, the Mohegan Tribe (Sonosky, Chambers, Sachse and Endreson)

Co-authored an analysis of a diverse sample of Indian casino gaming operations and their socio-economic effects which was presented to the National Gambling Impact Study Commission in public hearings. Documented on- and off-reservation impacts such as competition with retailers and eating and drinking establishments, the employment of Indian and non-Indian workers, and changes in welfare program participation rates. (1998)

Class I Railroad (Steptoe & Johnson)

Analyzed rail transportation markets in market dominance proceeding before the Surface Transportation Board. (1998)

Amoco Corporation (Modrall, Sperling, Roehl, Harris & Sisk)

Managed economic analysis of carbon dioxide royalty, transportation, and use markets in support of royalty litigation. Investigated vertical integration, user market structure, CO<sub>2</sub> seller incentives, historical pricing patterns and their effects on royalty levels (1997).

Wampanoag Tribe of Gay Head (Aquinnah)

Undertook strategic analysis of tribal decision-making capabilities within the context of existing federal policy of self-determination for tribes. Project focused on the capacity of the current tribal constitution to serve the Tribe and the impact of new federal legislation allowing tribal discretion over federal spending. (1997)

American Indian Tribe

Analyzed a joint venture proposal for a forest products facility facing volatile demand and a potentially crowded supply sector. Modeled the JV from the tribal perspective and recommended tribal action. (1997)

Yellowstone Pipe Line Company (Knight, Massar & Poore)

Managed project assessing economic impact of pipeline right-of-way easement contemplated by US Forest Service. Evaluated petroleum product transportation alternatives and effect on markets in the interior Northwest. (1997)

Fond du Lac Band of Chippewa Indians (Sonosky, Chambers, Sachse, and Endreson)

Managed analysis of Band standard of living in conjunction with treaty rights litigation. Assessed effects of gaming-derived expenditures and distributions on personal income and other indicators of social well-being. (1996-97)

**Hatchet Lake Band**

Conducted analysis of public policy merits of uranium mining in Band traditional lands. Submitted report to Joint Federal-Provincial Panel on Mining Developments in Northern Saskatchewan and joined Band leadership in negotiations with mining industry. (1996-97)

**Burlington Northern Railroad/Santa Fe Railroad (Mayer, Brown, & Platt)**

Performed economic analysis of the competitive effects of the merger between Union Pacific and Southern Pacific. Assessed the settlement agreement giving BN/SF trackage rights. Investigated claims of competitive harm to shippers, other railroads. Analyzed interaction of merger and Mexican railroad privatization. (1996)

**Boston Ventures Management**

Analyzed the effects of the FCC's cable television rate regulation on investment in the industry. Presented data on five flows of capital in the industry and assessed the policy merits and risks associated with price control and rate-of-return regulation of the sector. (1995)

**Yavapai-Prescott Tribe**

Determined the tax incidence of a state-imposed transaction fee on a hotel/conference center located on the Tribe's reservation. Showed that Tribe was an equity holder in the enterprise, and as such, bore the burden of the tax—a violation of Federal law and Indian policy. (1995)

**Attorney General of the State of Michigan**

Determined the competitive market rental value of oil and gas leases for leases determined to be taken by a State of Michigan natural resource conservation decision. Analysis required valuation in the absence of a market for leases during the taking. (1994-95)

**The Ho-Chunk Nation**

Assisted in implementation of a new constitution. Presented strategies to Nation concerning the transition from old government, and restructured the executive branch and General Council. (1994-95)

**Burlington Northern Railroad/Santa Fe Railroad (Steptoe & Johnson/Mayer, Brown, & Platt)**

Performed economic analysis of the competitive effects of this proposed merger. Assessed the value of service improvements to shippers. Investigated claims of competitive harm to large coal users. (1994-95)

**Government of British Columbia (Miller & Chevalier)**

Analyzed the core economic issues surrounding an international timber trade dispute. Investigated markets for British Columbian lumber and logs, assessing impacts of log-trade bans and modeling the propagation of price changes across geographic markets of heterogeneous goods. Critiqued methodologies for estimating countervailing duties. (1993-94)

**Intercontinental Energy Corporation**

Conducted a due diligence analysis of an independent power producer's relative market position. Analysis of the firm's power contracts and available evidence of arm's-length power transactions led ultimately to a successful bond issue. (1993)

Cheyenne River Sioux Tribe

Critiqued a cost-benefit analysis of the economic harms of dam construction. Analysis was submitted to Congress in pursuit of compensation for harms to the Tribe's subsistence economy. (1993)

Coalition of Non-Utility Generators

Conducted a broad policy analysis of Massachusetts' independent power producer policy. Assessed financial externalities on utilities and measured relative costs. (1992)

**PROFESSIONAL MEMBERSHIP**

American Economic Association.

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Exhibit B

### DOCUMENTS REVIEWED

Taxpayer Guidance Division, Office of Tax Policy Analysis, New York State Department of Taxation and Finance, Amendments to the tax law related to the sales of cigarettes on Indian reservations beginning September 1, 2010, TSB-M-10(6)M Cigarette Tax; TSB-M-10(8)S Sales Tax.

Bureau of Labor Statistics. (2010). Consumer Price Index, All Urban Consumers (CPI-U), US City Average. Retrieved August 17, 2010, from <ftp://ftp.bls.gov/pub/special.requests/cpi/cpiai.txt>

Confessore, N. (2010). Cigarette Tax Increased to Keep State Running. *The New York Times*.

Fleener, P. (2003). Cigarette taxes, black markets, and crime: lessons from New York's 50-year losing battle. *Policy Analysis* (468).

Seneca Nation of Indians' request to pass on the validity of the Department of Taxation and Finance's adoption of Emergency Rule 20 NYCCR §74.6 *In the matter of the request to pass on validity of rules by the Seneca Nation of Indians pursuant to SAPA §205, Seneca Nation of Indians, petitioner*.

Kopp, R. J. (2007). Allowance Allocation. *Resources for the Future Backgrounder*.

Laws of New York §470, 471, 471-e (2010).

Lindblom, E. (2010, August 3, 2010). State cigarette excise tax rates & rankings. Retrieved August 18, 2010, from <http://tobaccofreekids.org/research/factsheets/pdf/0097.pdf>

Moll, T. (2010). Declaration of Thomas Moll *Seneca Free Trade Association v. Eric Holder, et al.*

National Conference of State Legislatures. (2010). State Cigarette Excise Taxes: 2010. Retrieved August 18, 2010, from <http://www.ncsl.org/default.aspx?tabid=14349>

Orzechowski & Walker. (2009). *The tax burden on tobacco: historical compilation*, vol. 43, 2008. Arlington, VA: Orzechowski & Walker.

Porter, R. O. (2010). Declaration of Robert Odawi Porter in support of the Seneca Nation of Indians' motion for leave to file a brief Amicus Curiae *Red Earth LLC and Aaron Pierce v. United States of America and Eric H Holder, Jr. 10-CV530A and Seneca Free Trade Association v. Eric H. Holder, Jr., et al. 10-CV-550A*.

Sanden, G. (2009). Declaration of Gary Sanden *The City of New York vs. Milhelm Attea & Bros., Inc., et al. 06-CV-3620 (CBA)*.

Smirlock, D. (2010). Affirmation of Daniel Smirlock. *Day Wholesale, Inc. and Scott B. Maybee v. The State of New York, et al. 07668/2006*.



Smith, A. (2010, June 23, 2010). Get Ready for \$11-a-pack cigarettes. *CNN Money.com*  
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[http://money.cnn.com/2010/06/22/news/economy/cigarette\\_tax/index.htm](http://money.cnn.com/2010/06/22/news/economy/cigarette_tax/index.htm)

Stavins, R. N. (1998). What Can We Learn from the Grand Policy Experiment? Lessons from SO2 Allowance Trading. *Journal of Economic Perspectives*, 12(3), 69-88.

Tietenberg, T. H. (1992). *Environmental and natural resource economics* (3rd ed.). New York, NY: HarperCollins Publishers.

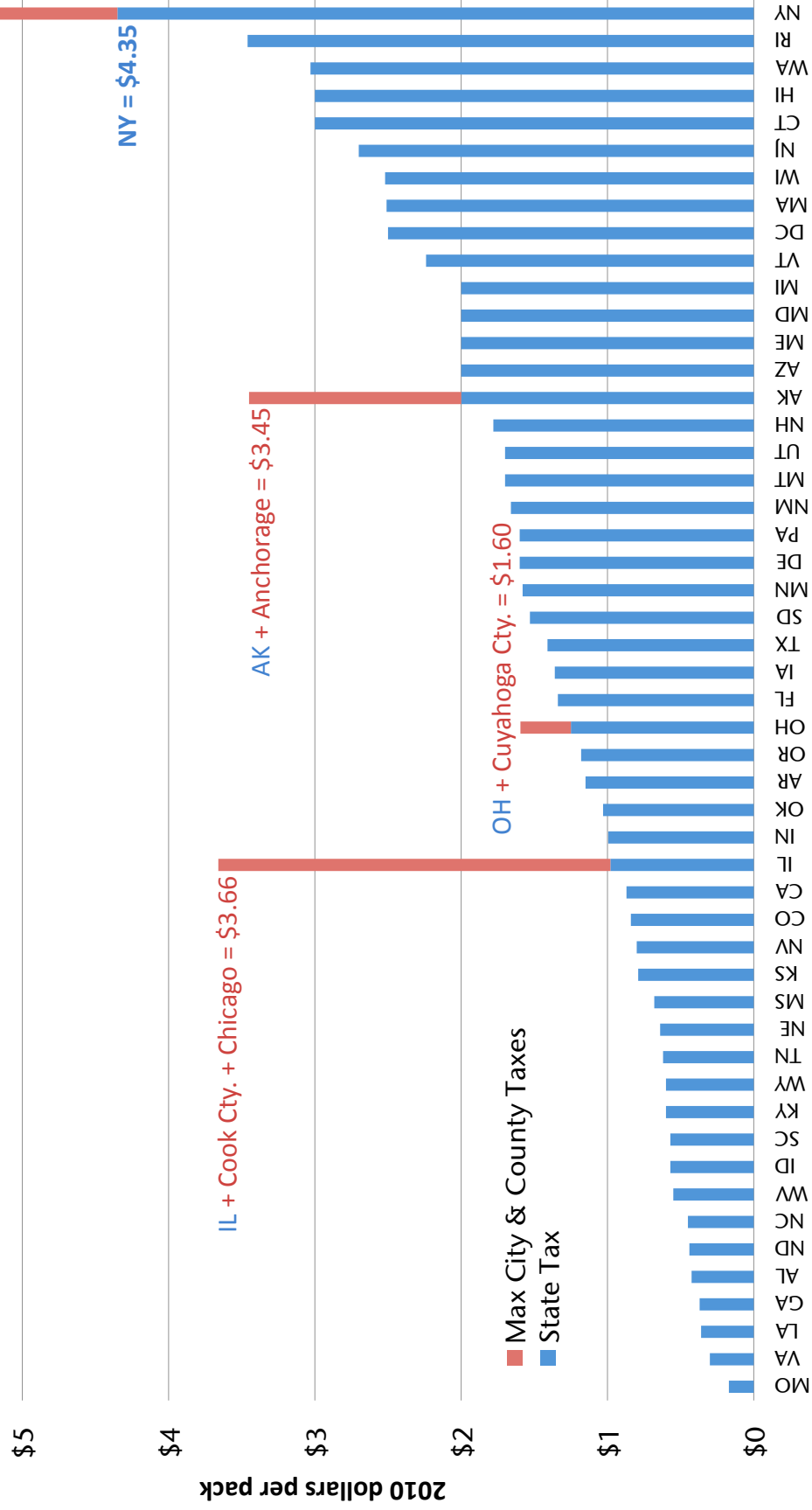
Woodward, J. (2010a). Affirmation of Jamie Woodward *Day Wholesale, Inc. and Scott B. Maybee v. The State of New York, et al.* 07668/2006.

Woodward, J. (2010b). Revised Affirmation of Jamie Woodward *Day Wholesale, Inc. and Scott B. Maybee v. The State of New York, et al.* 07668/2006.

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Exhibit C

# US State and Local Cigarette Taxes

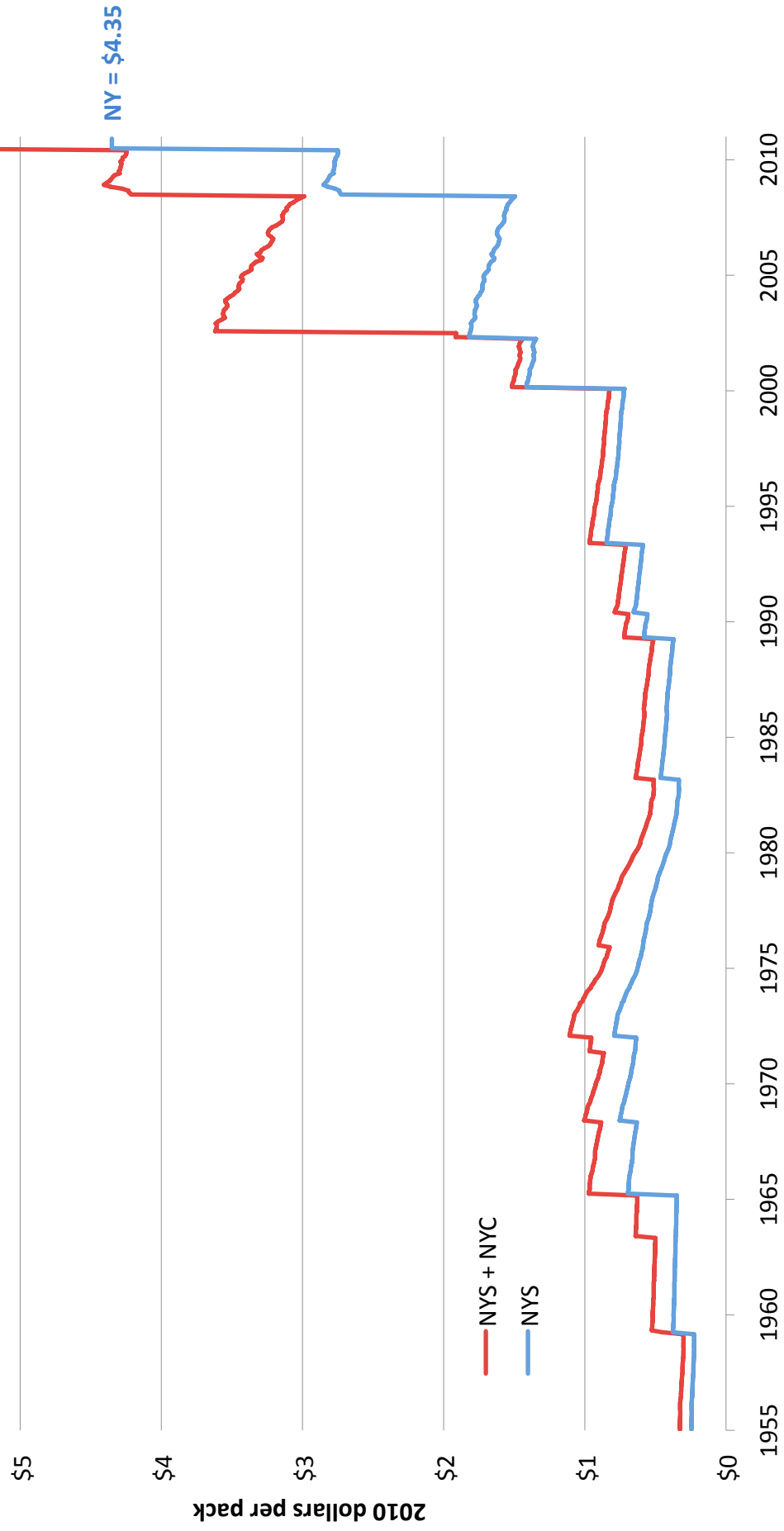
## July 1, 2010



Sources: Boonn, A. (2010); Lindblom, E. (2010).

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Exhibit D

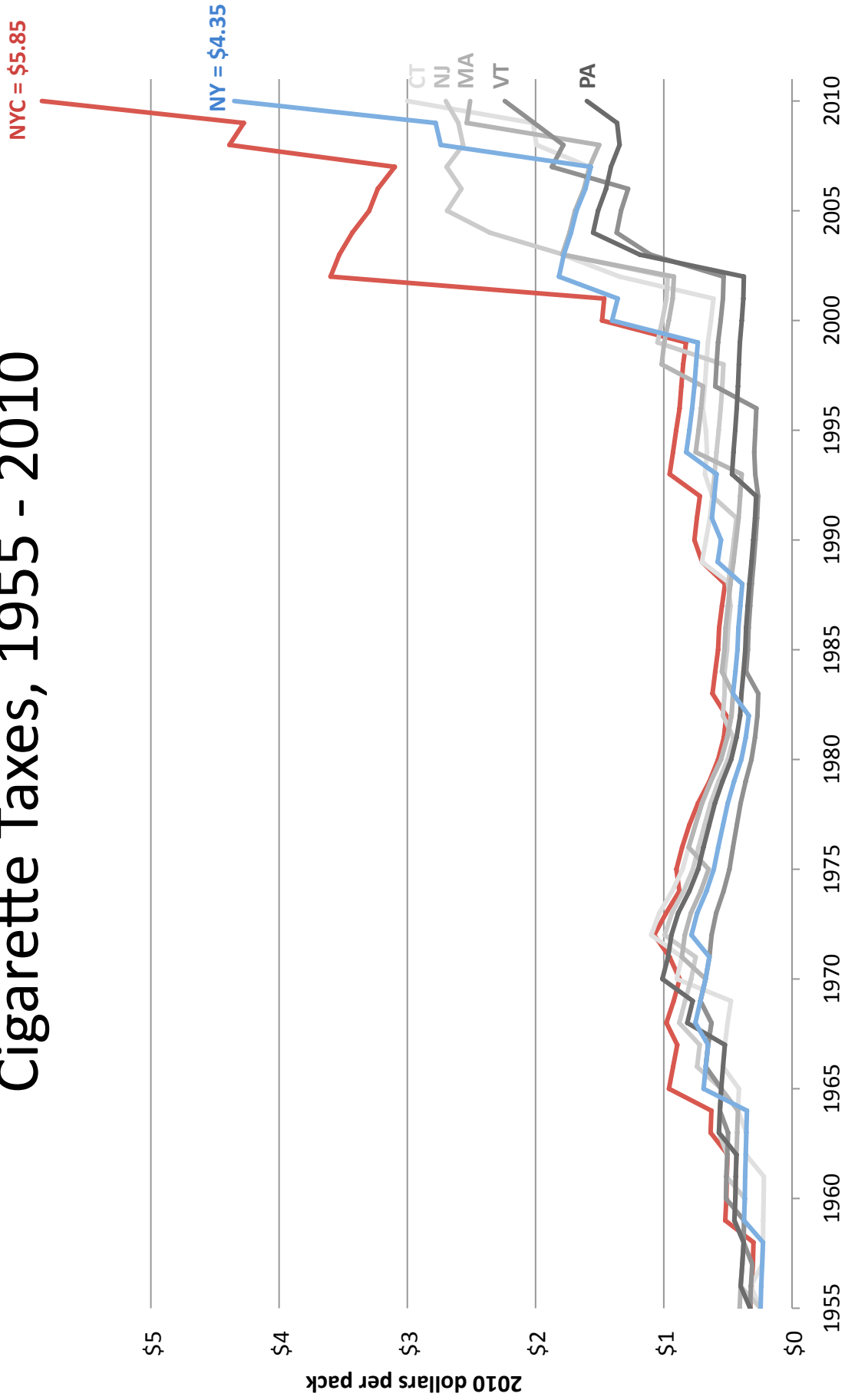
# New York State and New York City Cigarette Taxes, 1955 - 2010



Note: High- and low-tar cigarettes carried different taxes in NYC, depending upon tar content, from 6/1/71 to 12/31/75. The midpoint of maximum and minimum are represented here. Sources: Bureau of Labor Statistics. (2010); Fleenor, P. (2003); Orzechowski & Walker. (2009).

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Exhibit E

# New York State and Adjacent State Cigarette Taxes, 1955 - 2010



Sources: Bureau of Labor Statistics (2010); Fleenor, P. (2003); Lindblom, E. (2010); National Conference of State Legislatures (2010); Orzechowski & Walker (2009); Smith, A. (2010).