

July 9, 2021

Via Email

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Dear Assistant Special Agent in Charge Mims,

Our firm is outside counsel to the City of Chicago in a lawsuit against Westforth Sports, Inc. (“Westforth”), filed in the Circuit Court of Cook County, Illinois (Case No. 2021CH01987). In that capacity and on behalf of the City of Chicago, we write to share our concerns about Westforth, a licensed firearms dealer (license no. 4-35-089-01-7B-37399) located in Gary, Indiana.

Westforth has for years been the single largest out-of-state supplier of crime guns recovered by the Chicago Police Department, accounting for at least 856 crime guns traced between 2009 and 2016.¹ More recently, a striking proportion of federal straw purchasing prosecutions² in the Northern District of Indiana involve gun sales at Westforth. Specifically, Westforth’s guns are the basis for 44%—nearly half—of the federal straw purchasing cases filed between December 2014 and April 2021 in northern Indiana (where Westforth is located), with the bulk of these involving sales in the last three years. These prosecutions alone account for at least 180 gun sales to at least 40 separate people later charged with a federal crime.³ Many of these guns end up in Chicago.

It is clear from the public filings in these cases that there is substantial—if not overwhelming—evidence that Westforth is selling firearms to people that it knows are engaged in straw purchasing, and that it knows are dealing firearms without a federal license. This is plain from the way many straw purchasers do business at the store—for example, by buying handguns in large volumes (either all at once, or in a condensed timeframe), by buying multiples of the same and near-duplicate firearms, by paying all in cash, and by staggering purchases to avoid detection by authorities. It is also confirmed by information from another source identified during our investigation, which corroborates non-public details of at least one transaction in which Westforth employees knowingly sold to a straw purchaser.

¹ City of Chicago, TRACING THE GUNS: THE IMPACT OF ILLEGAL GUNS ON VIOLENCE IN CHICAGO, at 6 (May 27, 2014). <https://www.chicagobusiness.com/Assets/downloads/20151102-Tracing-Guns.pdf>, (515 crime guns traced to Westforth between 2009 and 2013); City of Chicago, GUN TRACE REPORT, at 20 (2017), <https://www.chicago.gov/content/dam/city/depts/mayor/Press%20Room/Press%20Releases/2017/October/GTR2017.pdf> (341 crime guns traced to Westforth between 2013 and 2016).

² Specifically, individuals charged with making false statements in connection with the acquisition of firearms in violation of 18 U.S.C. §§ 922(a)(6) and/or 924(a)(1)(A).

³ A complete list of these prosecutions is attached as Exhibit A.

This evidence establishes that that transaction, and the others like it, constitute willful violations of the Gun Control Act. Accordingly, we ask that ATF open an investigation and—based on the evidence outlined below—revoke Westforth’s license to deal firearms. We are available to meet with your office to present the evidence discussed herein in detail, and to discuss the steps that ATF is taking to address the public safety threat that Westforth’s unlawful behavior poses to Chicago.

Westforth has engaged in a pattern of selling firearms to straw purchasers and traffickers

Westforth’s role as a repeat player behind Indiana straw purchasing prosecutions is not the result of bad luck or coincidence or location. It is the natural and predictable outcome of a business model in which store employees deliberately ignore obvious signs of illegal behavior and sell firearms to people that they know are really buying for others.

For example, between February 18 and August 8, 2020, Westforth sold an accused trafficker named Darryl Ivery Jr. 19 handguns over the course of 14 separate transactions.⁴ This volume alone told Westforth employees that Ivery was not buying for himself, but was instead trafficking firearms to others. And Ivery’s purchases were suspicious for other reasons, as well. At the beginning, Ivery bought multiple guns in each transaction, a red flag that he was buying in bulk for resale.⁵ But starting in May 2020 with the purchase of his tenth handgun at Westforth Sports, Ivery began buying single guns at intervals generally just long enough to avoid triggering reporting requirements.⁶ This buying pattern indicates that Ivery was not only trafficking in handguns, but also trying to avoid detection by authorities.

What is more, at least seven of Ivery’s guns were recovered and traced with extremely short times-to-crime—including five guns recovered within a month of sale and one recovered just five days after purchase.⁷ While public filings do not specify whether these guns were sold by Westforth or another FFL, they raise the possibility that Westforth may have sold firearms to Ivery *after* receiving a trace request on a gun sold to him only days before. If so, this would be unmistakable confirmation that Ivery was buying guns in order to traffic them to criminals.

At the very same time as it was selling to Ivery, Westforth was also selling in bulk to a second trafficker, Kadeem Fryer. Ultimately, Westforth sold nineteen guns to Fryer over the course of thirteen transactions between March 28 and July 8, 2020.⁸ Not only was Fryer buying

⁴ Complaint at ¶5, *United States v. Ivery*, No. 2:20-cr-00138 (N.D. Ind. Aug. 26, 2020), ECF No. 1 (listing firearm purchases). Over the same time period, Ivery also bought an additional seven guns from two other gun stores, Deb’s Gun Range and Cabela’s, both in Hammond, Indiana. *See id.*

⁵ *See id.*; *see also* ATF, *Reporting Multiple Firearm Sales*, ATF.GOV (April 16, 2021), <https://www.atf.gov/firearms/reporting-multiple-firearms-sales> (“If one or more firearms recovered from a crime are part of a multiple purchase, this could be an indicator of potential firearms trafficking.”).

⁶ *See id.*; *see also* 27 C.F.R. 478.126a.

⁷ *See id.* ¶4 (describing recoveries with times-to-crime of 448, 83, 27, 22, 12, 12, and 5 days). At least one of these firearms was recovered in connection with a shooting. *See id.*

⁸ *See* Complaint at ¶6, *United States v. Fryer*, No. 2:20-cr-00114 (N.D. Ind. Aug. 17, 2020), ECF No. 1. On February 12, 2021, Fryer pled guilty to one of 22 counts of making material false statements in the acquisition of a

handguns in commercial quantities like Ivery, he also bought numerous handguns in duplicate and triplicate, including three Glock 33Gen4s, two Glock 21s and a 21Gen4, a Glock 31 and a 31Gen4, a Glock 22 and a 22Gen4, and two ATI Omni Hybrid AR-style rifles.⁹ Westforth’s employees knew from these large-volume and duplicative purchases that Fryer—like Ivery—was not a bona fide purchaser but was instead buying guns for resale to others.¹⁰

Westforth had sold large volumes of duplicate and near-duplicate Glock handguns to other traffickers before. In one egregious example from May 2018, Westforth sold five Glocks to a trafficker named Levar Reynolds in a single transaction—four of which were nearly identical.¹¹ Our investigation has corroborated several non-public details of this sale, including accessories and ammunition purchased alongside these firearms, a discount that Westforth extended to Reynolds for buying in bulk, and the fact that Westforth employees knew that Reynolds was buying for others. Just a day after Westforth transferred these guns to Reynolds, Chicago police recovered two of them from a prohibited person along with large quantities of drugs; one gun had been outfitted with a laser sight.¹²

These sales are part of a pattern in which Westforth sold firearms to individuals that it knew from the circumstances were engaged in straw purchasing and/or unlicensed dealing. Yet Westforth ignored these clear indicia of illegal behavior, and deliberately avoided taking actions that would have confirmed that it could not proceed with these sales. But whether these buyers told Westforth explicitly that they were trafficking is irrelevant, because the store knew from the circumstances that these straw purchasers were not the actual buyers of its guns. *See Shawano Gun & Loan, LLC v. Hughes*, 650 F.3d 1070 (7th Cir. 2011) (affirming license revocation where store “had reason to believe that the purchaser was purchasing the firearm for another person” based on circumstances of transaction).

By proceeding in the face of that knowledge time and time again, Westforth repeatedly violated numerous provisions of the Gun Control Act and its implementing regulations, including, *e.g.*, 18 U.S.C. § 922(m) (knowingly making a false entry in, failing to make an appropriate entry in, or failing to properly maintain required records), 18 U.S.C. § 924(a)(1)(A) (knowingly making a false statement or representation concerning information to be kept in the records of an FFL), 27 C.F.R. 478.21 (failure to furnish information on ATF forms in accordance with instructions), 27 C.F.R. 478.124(c) (failure to ensure accurate completion of ATF Form 4473 prior to transfer of a firearm), and 27 C.F.R. 478.125(e) (failure to accurately record disposition of firearms to non-licensee).

firearm in violation of Title 18, United States Code, Section 922(a)(6). *See* Minute Entry, *United States v. Fryer*, No. 2:20-cr-00114 (N.D. Ind. Feb. 12, 2021), ECF No. 26.

⁹ *See id.*

¹⁰ As of August 2020, law enforcement had recovered three firearms that Fryer had purchased at unspecified FFLs and traced at least two of them—with times to crime of 90 and 53 days. Complaint at ¶12, *United States v. Fryer*, No. 2:20-cr-00114 (N.D. Ind. Aug. 17, 2020), ECF No. 1.

¹¹ *See* Complaint at ¶ 3, *United States v. Reynolds*, No. 2:20-cr-00125 (N.D. Ind. Aug. 31, 2020), ECF No. 1 (describing purchase of five handguns, including a pair of .40 caliber Glock 23s, and a pair of .40 caliber Glock 23gen4s).

¹² *See id.* at ¶¶ 10–11.

Westforth's lengthy compliance history indicates that these violations are willful

Westforth is not naïve about its obligation to refuse sales to people that it knows are straw purchasers. To the contrary, during a 2012 recall inspection ATF Industry Operations Investigators specifically “advised Earl and [name redacted] Westforth that when the dealer knows or has reason to believe that the person completing the Form 4473 is not the actual buyer of the firearm(s), the dealer must STOP the transaction.”¹³ ATF gave Westforth this warning after finding that Westforth had “transferred firearms to a straw purchaser after NICS denied transactions to associates of the straw purchaser.”¹⁴

To ensure that Westforth harbored no misconceptions about the law, ATF's Acting Director of Industry Operations then held a formal warning conference in June 2013 at which ATF instructed Westforth to “put safeguards in place to prevent future straw purchases” and cautioned that “future violations, repeat or otherwise, could be viewed as willful and may result in revocation of your license.”¹⁵

At Westforth's next compliance inspection in 2014, ATF officials reviewed and discussed Westforth's procedures for identifying and stopping transactions with straw purchasers. As part of this discussion, ATF IOIs “reiterated the importance of employees gaining information on the purchase from the customers [sic] and asking questions that will help ensure that straw purchases do not take place.”¹⁶

In March 2017 a store employee contacted ATF to report that Westforth had transferred a firearm to an unlicensed individual without first verifying the transferee's identity or conducting a background check.¹⁷ ATF then inspected Westforth and found that it had committed five violations, including failure to properly complete ATF Form 4473, failure to conduct a NICS check before transferring a firearm, and failure to verify the identity of a transferee.¹⁸ Each of these was a repeat violation.¹⁹ Once again, ATF issued Westforth a warning letter cautioning that future violations could be viewed as willful and result in the revocation of Westforth's license.²⁰

At the conclusion of each compliance inspection, ATF officials reviewed applicable regulations with Westforth's president, meaning that Earl Westforth has been trained on the business' legal obligations on at least nine separate occasions, signing an affirmation each time

¹³ ATF, Firearms Inspection Report, 21 (Feb. 22, 2013).

¹⁴ *Id.* at 20.

¹⁵ Warning Letter from Acting Director of Industry Operations to Earl Westforth (June 26, 2013).

¹⁶ ATF, Firearms Inspection Report, 10 (Mar. 31, 2014).

¹⁷ *See* Letter from Thomas E. Arnold, Director of Industry Operations to Earl Westforth (Mar. 22, 2017).

¹⁸ *See* ATF, Firearms Inspection Report, 10–13 (July 31, 2017).

¹⁹ *See id.*

²⁰ Warning Letter from Area Supervisor, Merrillville Area Office, to Earl Westforth (Aug. 3, 2017).

acknowledging receipt.²¹ These comprehensive reviews cover, among other topics, straw purchases, acquisition and disposition records, ATF Form 4473 transaction records, customer identification documents, and reporting obligations for multiple sales.

ATF has also provided remedial training to Westforth's employees in connection with its inspections in 2013 and 2017. ATF trained Westforth employees on the identification and prevention of straw purchases, as well as on the regulations pertaining to ATF Form 4473, acquisition and disposition recordkeeping, and reporting obligations for multiple handgun sales.²²

In sum, Westforth is a sophisticated licensee whose long compliance history has left it well aware of its obligation under federal law to prevent straw purchases at its gun counter. Clear and convincing evidence establishes that Westforth's continued accommodation of obvious straw purchasing in spite of these warnings can only be characterized as willful. These actions support our request that ATF immediately undertake a comprehensive investigation of Westforth and take action to prevent further violations.

Sincerely,

/s/ Eric Tirschwell

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²¹ According to ATF records, Earl Westforth has signed Acknowledgement of Federal Firearms Regulations forms on the following nine occasions: June 26, 2017, March 25, 2014, February 5, 2013, December 8, 2011, August 20, 2010, May 5, 2009, October 27, 2006, January 23, 2002, and September 19, 2000.

²² ATF, Firearms Inspection Report 10 (July 31, 2017) (describing training conducted on June 26, 2017 and listing attendees); *see also* ATF, Assignment and Report, dated April 16, 2013 (describing training conducted on March 19, 2013).

Exhibit A

**Northern District of Indiana Straw Purchasing Prosecutions involving Westforth Guns
December 2014 – April 2021**

- *United States v. Walter Richardson*,
Case No. 2:14-cr-00127
- *United States v. James Magee et al.*,
Case No. 2:14-cr-00128
- *United States v. Mark Perez*,
Case No. 2:15-cr-00017
- *United States v. Richard Rowe et al.*,
Case No. 2:15-cr-00019
- *United States v. Floyd Jones III*,
Case No. 2:15-cr-00040
- *United States v. Aaron L. Green*,
Case No. 2:15-cr-00105
- *United States v. Tashanda L. Okoe et al.*,
Case No. 2:15-cr-00113
- *United States v. Ruby Shearry*,
Case No. 2:16-cr-00086
- *United States v. Carlo Chambers*,
Case No. 3:17-cr-00040
- *United States v. Paul Fowlkes*,
Case No. 2:17-cr-00042
- *United States v. Phillip Harvey*,
Case No. 2:17-cr-00151
- *United States v. James Green*,
Case No. 2:18-cr-00043
- *United States v. Robert Collins*,
Case No. 2:18-cr-00104
- *United States v. Marc Lewandowski*,
Case No. 2:18-cr-00107
- *United States v. Dakota L. McCeader*,
Case No. 2:18-cr-00146
- *United States v. Tinisha Hardy*,
Case No. 2:18-cr-00147
- *United States v. Blake Blakemore*,
Case No. 2:19-cr-00037
- *United States v. Channel Murphy*,
Case No. 2:19-cr-00061
- *United States v. Briana Williams- Heard*,
Case No. 3:20-cr-00079
- *United States v. Patricia Bonds*,
Case No. 2:19-cr-00105
- *United States v. Adrienne D. Bean*,
Case No. 2:20-cr-00019
- *United States v. Marqwan Blasingame*,
Case No. 2:20-cr-00026
- *United States v. Kyle Jackson*,
Case No. 2:20-cr-00056
- *United States v. Michael T. Potter Jr.*,
Case No. 2:20-cr-00107
- *United States v. Cassie Wilson*,
Case No. 2:20-cr-00110
- *United States v. Mayhalia Johnson*,
Case No. 2:20-cr-00113
- *United States v. Kadeem Fryer*,
Case No. 2:20-cr-00114
- *United States v. David R. Valentine*,
Case No. 2:20-cr-00117
- *United States v. Levar Reynolds*,
Case No. 2:20-cr-00125
- *United States v. Darryl Ivery Jr.*,
Case No. 2:20-cr-00138
- *United States v. Cherisse L. Mitchell*,
Case No. 2:20-cr-00139
- *United States v. Terrance P. Hubbard Jr.*,
Case No. 2:20-cr-00169

- *United States v. Brianna Schleicher*,
Case No. 2:20-cr-00181
- *United States v. Dawn Carden et al.*,
Case No. 2:20-cr-00186
- *United States v. Florastine Duncan*,
Case No. 2:21-cr-00027
- *United States v. Tanyanika L. Conaway*,
Case No. 2:21-cr-00028
- *United States v. Taniya M. Williams*,
Case No. 2:21-cr-00029
- *United States v. Raelynn J. Kuykendall*,
Case No. 2:21-cr-00030
- *United States v. Timothy H. Kuykendall, Jr.*,
Case No. 2:21-cr-00031
- *United States v. Caitlyn R. Moore*,
Case No. 2:21-cr-00032
- *United States v. Delmar Johnson*,
Case No. 2:21-cr-00037