

July 8, 2020

**Via Email**

Patrick Gorman  
Special Agent in Charge  
Bureau of Alcohol, Tobacco, Firearms and Explosives  
San Francisco Field Division  
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Dear Special Agent in Charge Gorman,

On behalf of Everytown for Gun Safety Support Fund, we write to share our concerns about ATF's issuance of a federal firearms manufacturing license to JA Industries LLC, a Nevada company run by Mr. Paul Jimenez.

Mr. Jimenez was the president and sole "responsible person" of Jimenez Arms, Inc., a firearms manufacturer in Henderson, Nevada that declared bankruptcy earlier this year. Publicly-available court documents and the ATF's own records provide substantial and compelling evidence that, during its decade and a half of operations, Jimenez Arms willfully and repeatedly violated the Gun Control Act (including mailing handguns over state lines to an unlicensed gun trafficker); permitted a prohibited individual to exercise control over the company through numerous oral agreements and repeatedly hid this from the ATF; was threatened with criminal prosecution by ATF for providing firearms to this same prohibited individual; and failed to pay more than \$1.3 million in federal and state taxes.

Given the clear and overwhelming evidence of a pattern of lawless behavior and repeated violations of the Gun Control Act by Jimenez Arms, we believe the ATF's decision to grant Mr. Jimenez a new federal firearms license was reckless and irresponsible. The Gun Control Act and its implementing regulations direct ATF to deny a license to an applicant who, among other things, (1) has willfully violated the Gun Control Act or its implementing regulations; or (2) has "willfully failed to disclose any material information required" or "made any false statement as to any material fact" in connection with the application. *See* 18 U.S.C. § 923(d)(1)(C),(D). Here, a review of just the universe of *publicly available* information relevant to Mr. Jimenez and Jimenez Arms shows that the ATF should have denied Mr. Jimenez's application for a new license to continue manufacturing and distributing firearms, and that its decision to grant that license presents a clear and present danger to public safety. It is also contrary to law.

We therefore urge ATF to immediately open an investigation and – based on the evidence outlined in further detail below – revoke Mr. Jimenez’s license. Simply put: How many more times will Mr. Jimenez need to break the law and make a mockery of the federal licensing process before the ATF finally acts to protect the public?

***Substantial evidence shows that Paul Jimenez permitted a prohibited individual to exercise control over Jimenez Arms and misrepresented this fact to the ATF, which makes any company run by Mr. Jimenez ineligible for a federal firearms license***

There is a substantial body of evidence showing that, while running Jimenez Arms, Mr. Jimenez misrepresented the ownership and control of the company to ATF, specifically the company’s ties to Bruce Jennings, a prohibited individual who formerly controlled Bryco Arms, Inc. (the predecessor to Jimenez Arms). Mr. Jimenez’s misrepresentations and material omissions in filings and statements to ATF should have precluded ATF from granting a federal firearms license to Mr. Jimenez’s new company, JA Industries.

Bryco Arm was a federal firearms manufacturer purportedly owned and operated by Janice Jennings. However, ATF documents demonstrate that the company was actually controlled by Janice Jennings’s former husband, Bruce Jennings.<sup>1</sup> Mr. Jennings was prohibited from controlling a federal firearms business due to his conviction for the misdemeanor crime of domestic violence.<sup>2</sup> For this reason, the company’s license was not renewed after 1999, and operated under a letter of continuing authority, while the ATF investigated the company for hidden ownership.<sup>3</sup> Ultimately, Bryco Arms filed for bankruptcy in 2003 after it was hit with a \$24 million judgment for a defectively designed pistol that rendered a seven-year-old boy quadriplegic after being unintentionally shot.<sup>4</sup>

Jimenez Arms began operations after purchasing Bryco Arms’ assets in bankruptcy. In 2003, Mr. Jimenez filed an application for a federal firearms manufacturing license using Bryco Arms’ California address and listing himself as the sole responsible person.<sup>5</sup> When ATF officers interviewed Paul Jimenez at the ATF Los Angeles Field Division Office on January 15, 2004, they asked him **“Will Bruce Jennings or any other member of the Jennings family have any role**

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<sup>1</sup> ATF, Summary and Recommendation, Attachment to Assignment and Report, dated Aug. 10, 2004; *see also* Email from ATF official with name redacted, Subject: “RE: BRYCO ARMS (BRUCE JENNINGS),” dated Aug. 30, 1999.

<sup>2</sup> Email from ATF official with name redacted, Subject: “RE: BRYCO ARMS (BRUCE JENNINGS),” dated Aug. 30, 1999; *Jennings v. Holder*, No. 10-CV-00530, 2010 U.S. Dist. LEXIS 91766, at \*1-5 (M.D. Fla. Sep. 3, 2010) (pertaining to Bruce Jennings’ ownership of B.L. Jennings, Inc., another federal firearms licensee, and the main distributor of Bryco Arms’ products).

<sup>3</sup> ATF, Summary and Recommendation, Attachment to Assignment and Report, dated Aug. 10, 2004; Email from ATF official with name redacted to Chief, National Licensing Center dated June 17, 2003.

<sup>4</sup> Fox Butterfield, *Fraud Alleged in Winning Bid for Gun Manufacturer*. N.Y. Times (Oct 22, 2004), <https://www.nytimes.com/2004/10/22/us/fraud-alleged-in-winning-bid-for-gun-manufacturer.html>.

<sup>5</sup> Application for License signed by Paul Jimenez, submitted Sept. 25, 2003 and approved July 9, 2004.

in the company or the licensed premises?” According to an ATF report, Paul Jimenez answered “No.”<sup>6</sup> But when, in June 2004, ATF investigators interviewed Paul Jimenez again, Bruce Jennings attended the interview, making clear that he had a stake in Jimenez Arms’ operations.<sup>7</sup> Bruce Jennings said he planned to sue ATF and any of its agents or inspectors who delayed Paul Jimenez’s licensing process and even remarked that ATF was “was costing him \$1,000.00 a day in expenses for Bryco, for not processing Mr. Jimenez’s application in a timely manner.”<sup>8</sup> This statement should have made clear to ATF that Bruce Jennings had some form of control over or ownership stake in Jimenez Arms. Nevertheless, in July 2004, ATF approved Jimenez Arms’ license.<sup>9</sup> In August 2004, an ATF official expressed skepticism that Paul Jimenez was the true owner of the new business, writing “It is also believed that Paul Jimenez is working for Bruce Jennings as well.”<sup>10</sup>

Mr. Jennings stated that he also planned to sue (b) (6) and that he planned to sue ATF and also any Agents/Inspectors who would delay the licensing process of Mr. Jimenez. Mr. Jennings also stated that ATF was costing him \$1,000.00 a day in expenses for Bryco, for not processing Mr. Jimenez’s application in a timely manner.

*Excerpt from ATF Inspector’s Report of Interview of Paul J. Jimenez,  
Owner of Jimenez Arms, dated June 24, 2004.*

In 2005, Paul Jimenez incorporated Jimenez Arms, Inc. in Nevada and submitted a new application for a license.<sup>11</sup> Jimenez Arms’ new application again listed Paul Jimenez as the sole responsible person.<sup>12</sup> On November 4, 2005, Paul Jimenez submitted a letter to ATF restating what he had already told them in conversation, that he was the sole shareholder for Jimenez Arms, Inc.<sup>13</sup> Later than month, the Director of Industry Operations of the Los Angeles Field Division put a hold on issuance or approval of a license, but, in July 2006, allowed the approval to proceed.<sup>14</sup> After an application inspection, ATF recommended the application for approval in July 2006.<sup>15</sup>

But directly contrary to Paul Jimenez’ statements to the ATF, clear evidence shows that Bruce Jennings and his family exercised control over Jimenez Arms. Court documents *filed by Paul Jimenez* in a civil suit with a member of the Jennings family attest to this control. In a motion to dismiss filed by Paul Jimenez in the case, he stated that the sole proprietorship he formed in

<sup>6</sup> ATF Inspector’s Report of Interview of Paul J. Jimenez, Owner of Jimenez Arms, dated January 15, 2004.

<sup>7</sup> ATF Inspector’s Report of Interview of Paul J. Jimenez, dated June 24, 2004.

<sup>8</sup> *Id.*

<sup>9</sup> Application for License signed by Paul Jimenez, submitted Sept. 25, 2003 and approved July 9, 2004.

<sup>10</sup> ATF, Summary and Recommendation, Attachment to Assignment and Report, dated Aug. 10, 2004.

<sup>11</sup> Application for Federal Firearms License, submitted Aug. 10, 2005 and approved July 25, 2006.

<sup>12</sup> *Id.*

<sup>13</sup> Letter from Paul Jimenez to ATF Investigator, RE: FFL Application for Jimenez Arms, Inc., dated Nov. 4, 2005.

<sup>14</sup> Email from Redacted to Redacted, Subject “Approval Recommended 9-88-07-00873,” dated July 12, 2006.

<sup>15</sup> *Id.*

2004 “began manufacturing and selling its products utilizing loans from distributorships owned by members of the Jennings family[.]”<sup>16</sup> And, according to the same document, between 2006 and 2007, Bruce and Lottie Jennings invested in Paul Jimenez’s sole proprietorship “via personal loans.”<sup>17</sup> Furthermore, in or around September 2006, Jimenez Arms entered into “an oral agreement” with Shining Star, a company owned by Janice Jennings – the ex-wife of Bruce Jennings.<sup>18</sup> Shining Star would issue “Purchase Orders” to Jimenez Arms, “in exchange for receiving regular shipments, as needed of Firearms from Jimenez Arms, Inc., to distribute for retail sale to consumers.”<sup>19</sup> According to Paul Jimenez, “K[imberly] Jennings, B[radley] Jennings, J[anice] Jennings and Shining Star acted together to demand that Jimenez Arms, Inc. provide Firearms to Shining Star.”<sup>20</sup> The filings make clear that Shining Star was the sole distributor of Jimenez Arms pistols and Paul Jimenez alleged that Janice Jennings attended shareholder meetings of Jimenez Arms.<sup>21</sup>

31. In or around September 2006, Shining Star and Jimenez Arms, Inc. entered into an oral agreement under which Shining Star would issue “Purchase Orders” to Jimenez Arms, Inc., whereby Shining Star would issue an up-front payment (the “Deposit”) to Jimenez Arms, Inc., in exchange for receiving regular shipments, as needed, of Firearms from Jimenez Arms, Inc., to distribute for retail sale to consumers..

***Excerpt from court filing on behalf of Paul Jimenez in Jimenez v. Jennings, dated May 9, 2016.***

Furthermore, “[i]n 2007, Mr. Jimenez entered into an oral agreement with Mr. Bruce Jennings under which the Kimberly K. Jennings Nevada Trust and Bradley A. Jennings Nevada Trust . . . would buy 66.6% of Jimenez Arms, Inc[.]”<sup>22</sup> It was Bruce Jennings who established the trusts.<sup>23</sup> ***In other words, even though Paul Jimenez told the ATF that neither Bruce Jennings,***

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<sup>16</sup> Defendant Paul Jimenez’s Motion to Dismiss Plaintiff’s Derivative Complaint Against Jimenez Arms, Inc. and to Dismiss Plaintiff’s Allegations of Fraud and Constructive Fraud by Defendant Paul Jimenez, *Jimenez v. Jennings*, No. A-16-730674-B, at 4 (Nev. Dist. Ct. Feb. 19, 2016).

<sup>17</sup> *Id.* at 5.

<sup>18</sup> Defendant Paul Jimenez’s Answer to Plaintiff’s Complaint; Counterclaim Against Plaintiff Kimberly K. Jennings; Cross-Complaint Against Gary Genske and Jimenez Arms, Inc.; and Third-Party Complaint against Shining Star Investments, LLC, and Janice Jennings, *Jimenez v. Jennings*, No. A-16-730674-B, at 6, 31-32 (Nev. Dist. Ct. May 9, 2016).

<sup>19</sup> *Id.* at 32.

<sup>20</sup> *Id.* at 32.

<sup>21</sup> *Id.* at 33.

<sup>22</sup> Defendant Paul Jimenez’s Motion to Dismiss Plaintiff’s Derivative Complaint Against Jimenez Arms, Inc. and to Dismiss Plaintiff’s Allegations of Fraud and Constructive Fraud by Defendant Paul Jimenez, *Jimenez v. Jennings*, No. A-16-730674-B, at 5 (Nev. Dist. Ct. Feb. 19, 2016).

<sup>23</sup> *Id.*

*nor any member of his family would have any role in the company, by 2007, they owned the majority stake of the company and were its sole distributors.*

In July 2008, Paul Jimenez notified ATF that Jimenez Arms had sold 1,000 shares each to two Nevada trusts, but never disclosed that this sale was made pursuant to an oral agreement with Bruce Jennings.<sup>24</sup>

Between 2006 and 2007, Bruce and Lottie Jennings (neither of whom are parties to this action) invested in Jimenez Arms DBA, via personal loans. In 2007, Mr. Jimenez entered into an oral agreement with Mr. Bruce Jennings under which the Kimberly K. Jennings Nevada Trust and Bradley A. Jennings Nevada Trust (hereinafter the “Jennings Trusts”) would buy 66.6% of Jimenez Arms, Inc., with the understanding that Jimenez Arms, Inc. would make distributions if it became lucrative and was able to do so in a way that would not be unduly detrimental to the corporation’s financial stability. (Bruce

***Excerpt from court filing on behalf of Paul Jimenez in Jimenez v. Jennings, dated Feb. 19, 2016.***

Publicly available documents also show that, in the following years, the Jennings family continued to exercise control over Jimenez Arms and share in the company’s profits. In 2013, Jimenez Arms entered into another oral agreement. This time the agreement was with JoJen, Inc., a company owned and operated by Bruce Jennings’s new wife, JoAnne Jennings.<sup>25</sup> Jimenez Arms agreed to pay \$1 million for JoJen’s assets, including equipment, inventory and customer and distributor list.<sup>26</sup> Around this time, Bruce Jennings was sentenced to ten years in prison for distributing child pornography.<sup>27</sup>

The circumstances described above should clearly disqualify any company run by Paul Jimenez from receiving a federal firearms license. In several instances, the evidence shows that

<sup>24</sup> Letter from Paul Jimenez to ATF Area Supervisor Clint Thompson, dated May 1, 2014 (quoting July 2008 letter). In 2017, during a compliance inspection, Paul Jimenez provided an ATF investigator with a signed document showing that the ownership of Jimenez Arms was now split between 2,000 shares owned by himself and 1,000 shares owned by a Nevada trust. Letter from Paul Jimenez to ATF Area Supervisor, dated October 18, 2017.

<sup>25</sup> Defendant Paul Jimenez’s Answer to Plaintiff’s Complaint; Counterclaim Against Plaintiff Kimberly K. Jennings; Cross-Complaint Against Gary Genske and Jimenez Arms, Inc.; and Third-Party Complaint against Shining Star Investments, LLC, and Janice Jennings, *Jimenez v. Jennings*, No. A-16-730674-B, at 33-34 (Nev. Dist. Ct. May 9, 2016).

<sup>26</sup> *Id.* Paul Jimenez later attempted to distance himself from this agreement.

<sup>27</sup> Press Release, *Owner of B.L. Jennings and Bryco Firearms Sentenced to More than 10 Years of Federal Pornography Charges*, Department of Justice, U.S. Attorney’s Office – Middle District of Florida (May 30, 2013), available at <https://www.justice.gov/usao-mdfl/pr/owner-bl-jennings-and-bryco-firearms-sentenced-more-10-years-federal-child-pornography>.

Mr. Jimenez made false statements and material omissions to ATF: he initially misrepresented the level of control Bruce Jennings and the Jennings family exercised over Jimenez Arms and then continued to fail to disclose to ATF relevant information about his business dealings with Bruce Jennings. The ATF should correct its action before history repeats itself; it should revoke JA Industries' federal firearms license under 18 U.S.C. § 923(e). *See XVP Sports, LLC v. Bangs*, No. 11-CV-00379, 2012 U.S. Dist. LEXIS 132446, at \*31-32 (E.D. Va. Sept. 17, 2012) (failure to list a responsible person, someone with direct or indirect influence over the applicant, on an application is a willful violation of ATF regulations); *see also* 18 U.S.C. § 924(a)(1)(A) (making it unlawful to “knowingly make any false statement or representation with respect to the information required by this chapter to be kept in the records of a person licensed under this chapter or in applying for any license . . .”).

***Substantial evidence shows that Jimenez Arms repeatedly and willfully violated the Gun Control Act, making JA Industries ineligible for to receive a federal firearms license because Mr. Jimenez is responsible for Jimenez Arms' violations.***

The substantial evidence of Paul Jimenez's violations of the Gun Control Act is not limited to Jimenez Arms' license applications and renewals. While Paul Jimenez ran Jimenez Arms, the company repeatedly failed to fulfill its basic obligations as a licensee. Over the years, ATF cited Jimenez Arms for numerous violations of the Gun Control Act and ATF regulations. And nowhere is the evidence of Jimenez Arms' disregard for federal law more on display than in his dealings with James Samuels, an accused Missouri gun trafficker to whom Jimenez Arms repeatedly shipped firearms under circumstances that evidence clear violations of numerous gun laws.

As early as May 2008, your agency sent Jimenez Arms a letter warning that it “faced potential prosecution” for providing firearms to a person “that it reasonably knew to be [] prohibited” from possessing them. That person was Bruce Jennings.<sup>28</sup> And in April 2012, the ATF cited Jimenez Arms for violations of federal firearms regulations for failing to keep accurate track of its inventory.<sup>29</sup>

During the 2012 compliance audit, an ATF inspector noted that “[w]ith regard to required [acquisition and disposition] records for [a] manufacturer of firearms, the license does not have any written controls in maintaining accurate records of acquisitions and dispositions of firearms.”<sup>30</sup> The inspector continued, “the entered acquisition and disposition entries are not verified nor reviewed. In addition, due to lack of internal audit procedures, the errors on [the] A&D record are never addressed . . . Based on violations disclosed and the lack of internal audit procedures, the internal controls regarding A&D recordkeeping procedures are deemed inadequate for business

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<sup>28</sup> Answer, *Jennings v. Mukasey*, 08-CV-00833, at 12 (M.D. Fla. Oct. 3, 2008).

<sup>29</sup> ATF, Firearms Inspection Report, 4 (Mar. 23, 2012).

<sup>30</sup> *Id.*

operations.”<sup>31</sup> Overall, the inspector found four categories of violations by Jimenez Arms: (i) 27 C.F.R. § 478.22(a)(3) (failing to maintain A&D records in compliance with ATF violations; (ii) 27 C.F.R. § 478.39a (failing to report the theft or loss of four firearms to ATF and local law enforcement; (iii) 27 C.F.R. § 478.123(a) (failing to timely record the acquisition of firearms; and (iv) 27 C.F.R. § 478.123(b) (failing to record the disposition of firearms). These violations resulted in a slap on the wrist – a warning letter and warning conference.

Maybe it is unsurprising the Jimenez Arms apparently felt free to continue violating the Gun Control Act in the wake of this 2012 audit. As alleged in two lawsuits filed in Kansas City, Missouri within the last year,<sup>32</sup> starting in November 2013, Jimenez Arms began selling guns to James Samuels, an unlicensed individual who called the factory and stated that he wanted to buy guns directly from the company.<sup>33</sup> Samuels claimed to work part-time at a gun store but did not himself have a federal license. Nevertheless, over the next two months, Jimenez Arms sold 16 guns to Samuels, which he paid for using his own credit card, and shipped them to a defunct FFL in Kansas City, Missouri.<sup>34</sup> One of these guns was recovered by the Kansas City, Missouri police in 2015 during the service of a domestic violence order of protection; another one was recovered in Chicago pursuant to a search warrant during which cocaine and marijuana were also seized. The rest of the guns may still be in public circulation.<sup>35</sup>

In 2014 and 2015, Jimenez arms mailed 11 guns *directly to Samuels’ home* after Samuels claimed that this was the FFL’s new address.<sup>36</sup> Putting aside that this could have been easily disproved by going on ATF’s E-Z Check tool; it simply is not credible that someone who had been in the firearms business for over three decades would have believed that these were legitimate gun sales. Even if Jimenez Arms staff somehow believed the preposterous idea James Samuels was a part-time gun store employee, using his own credit card to purchase the multiple identical guns and having them shipped to different addresses – there is no carveout in the Gun Control Act for an unlicensed gun store employee to be conducting an independent gun business.

In April 2015, Samuels called Jimenez Arms once again, stated that he “was now ordering through Blue Steel,” another FFL and ordered five more guns.<sup>37</sup> A Jimenez Arms employee later told ATF investigators that she had contacted Blue Steel at the time and that someone at the store

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<sup>31</sup> *Id.*

<sup>32</sup> The undersigned attorneys from Everytown Law are co-counsel for the plaintiffs in both of these lawsuits. While we appreciate that the allegations in these lawsuits as summarized herein have not yet been proven in a court of law, they are extremely serious and are based in significant part on findings from a criminal investigation conducted by your own agency that resulted in federal criminal prosecutions in Kansas City, MO.

<sup>33</sup> See Petition for Damages and Injunctive Relief, *Crawford, et al, v. Jimenez Arms, Inc., et al.*, No. 1916-CV17245, at 11-12 (Mo. Cir. Ct. June 24, 2019); Answer of Defendant Jimenez Arms, Inc., *Crawford, et al, v. Jimenez Arms, Inc., et al.*, No. 1916-CV17245, at 12 (Mo. Cir. Ct. Sept., 26, 2019).

<sup>34</sup> Crawford Petition at 11-12; see also Answer of Jimenez Arms at 12-13.

<sup>35</sup> Crawford Petition at 11-12.

<sup>36</sup> Crawford Petition at 13-14; see also Answer of Jimenez Arms at 14-15.

<sup>37</sup> Crawford Petition at 14; see also Answer of Jimenez Arms at 16.

stated that “Samuels already had buyers for he firearms.”<sup>38</sup> In other words, Jimenez Arms was explicitly told that Samuels was selling guns, but shipped him the order nevertheless, despite the fact that it is illegal for an unlicensed individual to be engaged in the firearms business.<sup>39</sup> It was only after an employee from Blue Steel called Jimenez Arms to say that Samuels was unauthorized to make the purchases that Jimenez Arms stopped selling guns directly to Samuels.<sup>40</sup> These facts make clear that Jimenez Arms knew, or was willfully ignorant, that it was shipping handguns directly to an unlicensed firearms dealer, in violation of 18 U.S.C. §§ 2, 371, 922(a)(1), 922(a)(2), 922(b)(3), 922(m), 922(t)(1), 923(a), 924(a)(1) and 924(a)(3).

We are aware of no evidence that Jimenez Arms ever reported Samuels to the ATF. In fact, during a 2017 ATF inspection, Paul Jimenez represented to ATF that Jimenez Arms did not sell firearms to non-licensees.<sup>41</sup> Notably, this inspection also resulted in numerous additional findings of violations of federal firearms regulations, specifically for failing to accurately record the acquisition and disposition of firearms.<sup>42</sup> In November 2017, ATF sent a warning letter to Jimenez Arms expressing “particular concern” about the inventory that Jimenez Arms was unable to account for.<sup>43</sup> However, once again, Jimenez Arms faced no real repercussions from the ATF.

***Jimenez Arms doesn’t properly pay its taxes or incurred legal obligations.***

Besides running a business that, as the evidence outlined above shows, repeatedly violated laws and regulations, and making misrepresentations to the ATF, Paul Jimenez racked up huge liabilities at Jimenez Arms, but made sure to keep the business’ core assets out of the reach of creditors. The recent bankruptcy filing by Jimenez Arms, followed quickly by re-licensing through JA Industries, are the means Paul Jimenez is using to continue to avoid responsibility. And the story is not a new one for Mr. Jimenez or the ATF: as noted above, nearly two decades ago, Bryco Arms similarly declared bankruptcy after a jury awarded \$24 million to a boy who had been rendered quadriplegic when he was shot with a defective Bryco Arms pistol, and the ATF granted Jimenez Arms a license soon thereafter to continue in the same business, resulting in the numerous violations of the gun laws outlined above.

In its recent bankruptcy filings, Jimenez Arms listed over \$1.3 million in unpaid taxes, much of it to the federal government: ***\$900,000 in owed firearms excise taxes to the Alcohol and Tobacco Tax and Trade Bureau, and \$421,579 to the Internal Revenue Service for payroll taxes.*** In addition, Jimenez Arms owes \$4,612 to the Nevada Department of Taxation and \$19,825 in unemployment taxes to the Nevada Department of Employment, Training and Rehabilitation.

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<sup>38</sup> Crawford Petition at 14-15; *see also* Answer of Jimenez Arms at 16.

<sup>39</sup> Crawford Petition at 15.

<sup>40</sup> Crawford Petition at 15; *see also* Answer of Jimenez Arms at 17.

<sup>41</sup> ATF, Firearms Inspection Report at 4, dated Nov. 16, 2017.

<sup>42</sup> *Id.*

<sup>43</sup> Warning Letter from Area Supervisor, ATF Las Vegas Field Office to Paul Jimenez (Nov. 20, 2017).

Jimenez Arms is also attempting to escape civil liability judgments by declaring bankruptcy. It appears to owe a significant portion of a civil product defect lawsuit settlement, as well as yet-to-be-determined sums owed to the survivors of a victim of one of the pistols the company is alleged to have helped traffic and to Kansas City, Missouri for participating in a trafficking scheme that poured dozens of crime guns into the city.

Despite its failure to pay taxes and civil liability debts, Jimenez Arms' business may survive, if ATF lets it. Paul Jimenez's sole proprietorship, Jimenez Arms DBA, purports to own the firearm manufacturing assets purchased seventeen years ago in Bryco Arms' bankruptcy auction. Therefore, the key asset that allowed Jimenez Arms to profit is poised to pass on to Paul Jimenez for use at JA Industries without meeting any of his company's obligations to federal and state governments and the victims of its irresponsible practices.

***JA Industries' application for a license should have been denied; ATF should now revoke the license.***

As demonstrated above, ATF had a number of reasons for denying a new license to JA Industries for Paul Jimenez's disqualifications. Mr. Jimenez took over a firearms business controlled by a person prohibited from having even indirect control over it. Substantial evidence demonstrates that Paul Jimenez then allowed that prohibited person to continue to exercise control over Jimenez Arms' business, even though he represented otherwise to ATF. Furthermore, the substantial evidence of Jimenez Arms' repeated violations of the Gun Control Act and ATF regulations should have deprived the company of a renewed license and, as the owner and responsible person of Jimenez Arms, Paul Jimenez continues to bear responsibility for those violations.<sup>44</sup> Given all this, ATF's approval of Mr. Jimenez's application for a license violated the Administrative Procedure Act as a final agency action that was "arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law." 5 U.S.C. § 706(2)(A).

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<sup>44</sup> These disqualifying provisions cannot be erased simply by starting a new firearms business. Just as Jimenez Arms would be disqualified from obtaining a license based on each of these factors, JA Industries LLC is also disqualified due to Paul Jimenez's control of those businesses. *See e.g., Barany v. Van Haelst*, No. 09-CV-00253, 2010 U.S. Dist. LEXIS 128290, at \*17-18 (E.D. Wash. Dec. 6, 2010) (holding that the misdeeds of the former corporate licensee were "attributable" to the individual applicant who ran the former business); *MEW Sporting Goods, LLC v. Johansen*, 992 F. Supp. 2d 665, 674-75 (N.D.W. Va. 2014) (the liability of a predecessor corporation for a denial based on 18 U.S.C. § 923(d)(1)(C) or (D) is imputed to the successor corporation so as to warrant denial of a license application). Pursuant to the Gun Control Act, ATF must deny a license to any applicant with a disqualified "responsible person," that is to say, an individual who "possess[es], directly or indirectly, the power to direct or cause the direction of the management and policies" of the business can be disqualified from obtaining a license. *See* 18 U.S.C. § 923(d)(1)(B); ATF E-Form 7 (5310.12)/7CR(5310.16) (Rev. Apr. 2019) (defining "responsible person").

By granting a license to Paul Jimenez, ATF has given its imprimatur to business practices that cheat governments out of tax revenues, deprive victims of restitution and flout the provisions of the Gun Control Act and its implementing regulations. This is not the treatment ATF should give a repeat violator of the Gun Control Act given that “[a]ny single violation of the federal statutes or regulations controlling the firearms industry can be a basis for denying an application for a new license.” *DiMartino v. Buckles*, 129 F. Supp. 2d 824, 832 (D. Md. 2001).

We urge ATF to correct its arbitrary, capricious, and legally incorrect decision by immediately undertaking a comprehensive investigation of Paul Jimenez and revoking his company’s recently granted federal firearms license.

Sincerely,

/s/ Eric Tirschwell

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Mayor Debra March and City Attorney Nicholas Vaskov, Henderson City Hall, 240 S.  
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