

**IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT – CHANCERY DIVISION**

CITY OF CHICAGO, an Illinois municipal
Corporation,

Plaintiff,

v.

WESTFORTH SPORTS, INC.,

Defendant.

Case No. 2021CH01987

Judge: Sophia H. Hall

**PLAINTIFF'S REPLY IN SUPPORT OF ITS
MOTION TO COMPEL PRODUCTION OF DOCUMENTS**

The City's opening brief asks that Westforth produce (a) the balance of its transaction records with known gun traffickers identified by the City and (b) certain limited records of its sales to Illinois customers. In response, Westforth asks the Court to foreclose discovery on the grounds that the requested evidence will not suffice to establish personal jurisdiction, essentially inviting a decision on the merits of Westforth's Motion to Dismiss. But that puts the cart before the horse. The question currently before the Court is whether the requested discovery is relevant to personal jurisdiction or calculated to lead to the discovery of such evidence. Westforth has already answered this question in the affirmative by putting these documents squarely at issue in its Motion to Dismiss by claiming that it has stopped selling to Illinois residents at its retail counter, that it ships guns into Illinois only "on rare occasions," and that all of the sales that the City complains of were made to "Indiana residents who provided valid, government-issued photo IDs." *See* Def.'s Section 2-619 Mot. to Dismiss for Lack of Pers. Jurisd. ("Westforth MTD"), filed Aug. 16, 2021, at 1, 3-4. While Westforth wants the Court to rely on this evidence in deciding the Motion to Dismiss, it now seeks to prevent the City from testing its veracity. This is not allowed under Illinois law.

Westforth's jurisdictional arguments also rest on a fundamental misunderstanding of how courts assess a defendant's contacts with the state. Contrary to Westforth's assertions, its transactions with straw purchasers are relevant to personal jurisdiction because the City alleges that Westforth knowingly sold weapons through these straw purchasers into Chicago's criminal market, effectively treating the straw purchasers as distributors. There is also no question that the City's claims against Westforth "arise out of" or "relate to" these sales to straw purchasers, as they form the core of the City's claims against the gun store.

Westforth's argument that its gun sales to Illinois residents are jurisdictionally irrelevant fares no better. To reach this conclusion, Westforth relies on out-of-state precedent that is factually distinguishable. At the same time, Westforth ignores the Illinois Supreme Court's most recent pronouncement about the "lenient" and "flexible" standard for finding that a lawsuit "relates to" a defendant's Illinois contacts. This case—*Russell v. SNFA*, 2013 IL 113909—provides clear guidance about how courts should evaluate a defendant's contacts with Illinois when, as here, the defendant tries to draw artificial lines between its product lines and distribution pathways. In *Russell*, the Illinois Supreme Court rejected this type of artificial line drawing, as the Court should do here. What is more, under *Russell*, Westforth's connections to Illinois are relevant not just to the minimum contacts analysis, but to whether it is reasonable to make Westforth litigate in the state—an element of the jurisdictional test.

Finally, Westforth makes a half-hearted argument based on purported privacy concerns and undue burden of production. It is difficult to take Westforth's newfound privacy concerns at face value given that it has produced over 550 pages of customer transaction documents without ever requesting a protective order and filed many of these same documents on the court docket. Any privacy concerns at issue here can be remedied by appropriate redactions and/or a confidentiality

order. Similarly, Westforth's undue burden argument is not based on an accurate representation of the discovery dispute before the Court. As the City made clear, it has offered to limit its request for Illinois transactions to only three years of log book entries, and has agreed to forgo all other types of Illinois transaction records. *See* Pl.'s Mot. to Compel Production of Docs ("City MTC"), at 4.

ARGUMENT

A. Westforth Put Straw Purchaser Transaction and Illinois Sales Records At Issue

Westforth fails to acknowledge—much less respond to—the argument that it put straw purchaser transaction records and sales to Illinois customers at issue in its Motion to Dismiss, subjecting both to pre-motion discovery. As the City pointed out in its opening brief, Westforth submitted more than 270 pages of transaction records with certain straw purchasers alongside its Motion to Dismiss. It then cited these records to argue that these customers presented Indiana identification and thus that its sales to them was conduct directed at Indiana, not Illinois. *See* City MTC at 3, 5-6 (citing Westforth MTD at 1). The store's owner also submitted an affidavit contesting Westforth's volume of direct contacts with Illinois residents, claiming that it ships firearms to customers in Illinois only on "rare occasions," and that it had (at some unspecified time) ceased selling to Illinois residents at its retail store. *See* City MTC at 3, 8-9 (citing Westforth MTD at 3; Westforth Aff. ¶¶ 21 & 27); *see also* Westforth Aff. ¶¶ 6-8 (claiming that Westforth has not "conducted or solicited business...in the State of Illinois," or "derived substantial revenue from interstate or international commerce").

By basing its merits arguments on these factual claims and certain cherry-picked underlying records, Westforth has made both topics fair game for jurisdictional discovery. Indeed, as a matter of basic fairness, if Westforth can cite transaction records with certain straw purchasers

to argue that it thought it was selling guns to Indiana residents, the City should be able to obtain the balance of these transaction records to show that Westforth knew it was *not* dealing with bona fide retail purchasers but rather with illicit distributors. Likewise, if Westforth is going to characterize its Illinois contacts as “occasional” in order to contest jurisdiction, the City is entitled to find out exactly how frequent—and recent—these Illinois contacts truly are.

This is precisely what the controlling case law says as well. As the First District instructs, when a plaintiff seeks jurisdictional discovery on an issue contested in a defendant’s limited appearance, the trial court “*must allow that inquiry.*” *Falstad v. Falstad*, 152 Ill. App. 3d 648, 655 (1st Dist. 1987) (emphasis added); *see also Yuretich v. Sole*, 259 Ill. App. 3d 311, 317 (4th Dist. 1994) (reversing dismissal where trial court denied pre-motion discovery). Westforth has no answer for these cases and ignores them entirely in its opposition. But they are dispositive of the parties’ discovery dispute. The Court should order Westforth to produce straw purchaser transaction and Illinois customer records for the simple reason that they bear directly on issues that Westforth has raised in its Motion to Dismiss.

B. Westforth’s Records of Transactions with Straw Purchasers are Relevant

Even if Westforth had not put its straw purchaser transaction records at issue in its Motion to Dismiss, they are relevant to personal jurisdiction in their own right, and therefore discoverable. These records are probative of what the store knew about the true identity of its purchasers, the legality of the transactions, and whether the guns were being diverted to the black market for trafficking to Chicago.

These questions of fact bear directly on personal jurisdiction, because the City alleges that Westforth *knew* that it was selling into the criminal market through straw purchasers, effectively using them as distributors to reach the black market in Chicago and elsewhere while maintaining

a façade of plausible deniability. *See, e.g.*, Compl. ¶¶ 1, 52. The production of straw purchasing records will also facilitate the City’s discovery of other relevant information, by, for example, identifying firearm serial numbers that will allow the City to investigate gun recoveries, and by identifying the Westforth staff member(s) who participated in these illegal transactions so that the City can depose them about their knowledge about the customers’ residence and intent for the guns. Westforth fails to respond to these arguments, thus conceding them.

Furthermore, the records will allow the City to more fully test the numerous, self-serving statements made by Westforth that bear on personal jurisdiction, including that (i) Westforth “never sold any handgun at retail to anyone other than a resident of the State of Indiana” (Westforth MTD at 2; Westforth Aff. ¶ 14); (ii) Westforth sold guns only to “Indiana residents who provided valid, government-issued photo IDs” (Westforth MTD at 1); and (iii) that Westforth “properly completed and submitted” the required forms (Westforth Aff. ¶ 33).

Notwithstanding the limited information currently available to the City, there is evidence that several of these statements are not accurate. For example, while Westforth claims that it has never sold a handgun at retail to an Illinois resident and that all purchasers presented valid government-issued IDs, at least one of Westforth’s straw purchasing clients was charged with using an invalid Indiana ID because he was actually living in Illinois. *See* Ex. A, Criminal Complaint, *United States v. Paul Fowkles* (No. 2:17-cr-00042-JVB-JEM) (N.D. Ind., Apr. 6, 2017), at ¶ 10. Similarly, while Westforth claims it properly completed all transaction forms, the forms that Westforth has already provided show that this is not accurate. At least one multiple sale form that Westforth produced to the City was filed a year after the guns were purchased—and after this lawsuit was filed—even though federal regulations require such forms to be submitted no later than close of business on the day the multiple sale occurs. *See* Westforth MTD Ex. A-2 at 048; *see*

also 27 C.F.R. 478.126a. Another document shows that Westforth made blatant misrepresentations when the ATF asked about a firearm that had been purchased at Westforth and recovered in Chicago. Where the form specifically asked whether the buyer was known to the store, whether the buyer had bought other guns from the store, and whether the purchase was part of a multiple sale transaction, Westforth falsely answered “No” to all three questions. *See* Ex. B, WESTFORTH SPORTS 276. In reality, the store had previously sold 18 guns to that purchaser over a 3½ month period, and the transaction that ATF was inquiring about was part of a multiple sale transaction, as Westforth’s own records show. *See* Westforth MTD, Ex. A-5, A-6 & A-7, at 134-172, 181 (Kadeem Fryer 4473 Forms and multiple sale form). These limited transaction records call into serious question the rosy compliance picture that Westforth paints in its Motion to Dismiss, and provide evidence not only that the store ignored or failed to timely report red flags of straw purchasing but also that it affirmatively misrepresented to law enforcement the magnitude of its own role in supplying traffickers.

Westforth’s principal argument against further disclosure of transaction records like these is that the link between illegal straw sales and gun violence in Chicago is too attenuated, and that so long as every straw purchaser shows an Indiana ID the store can insulate itself from the jurisdictional consequences when those straw purchasers turn around and “illegally s[ell] firearms in Illinois.” Opp’n at 4 (claiming that the actions of straw purchasers are “not of jurisdictional significance”). But this argument is not supported by the case law.

Westforth’s main authority for discounting the role of its straw purchaser customers is *Walden v. Fiore*, 571 U.S. 277 (2014). *See* Opp’n at 3-4. But that case is readily distinguishable from the facts here. In *Walden*, plaintiff filed a lawsuit in Nevada to challenge the seizure of plaintiff’s money by law enforcement at a Georgia airport. 571 U.S. at 279-80. The defendant-

officer had never taken any act to “form[] a contact” of his own with Nevada, and had “never traveled to, conducted activities within, contacted anyone in, or sent anything or anyone to Nevada.” *Id.* at 289-90. Thus, unlike this case, *Walden* did not involve a defendant accessing the forum state through intermediaries or placing its products into the stream of commerce.

Westforth’s reliance on *Cisco Systems v. Dexon Computer, Inc.* and *Williams v. Beemiller* fares no better. *See* Opp’n at 12. While a defendant’s “random, isolated or fortuitous” contacts cannot be the sole basis for exercising personal jurisdiction, Westforth’s contact with Illinois are the exact opposite. *See Cisco Systems*, 2021 U.S. Dist. LEXIS 103613, *12 (N.D. Cal. June 1, 2021) (40 shipments into forum state, comprising just “1/8 of 1%” of defendant’s sales, were sufficient for personal jurisdiction). In fact, “Westforth is one of th[e] principal sources of illicit firearms for the Chicago criminal market[.]” Compl. ¶ 30. Between 2009 and 2016, Chicago police recovered 856 crimes guns sold by Westforth, **making it the largest out-of-state-supplier of crime guns into the City**, and placing it among the largest suppliers of crime guns into Chicago overall. *See id.* As the complaint alleges, “Westforth feeds the market for illegal firearms by **knowingly** selling its products to an ever-changing roster of gun traffickers and straw (sham) purchasers who transport Westforth’s guns from Indiana into Chicago[.]” *Id.* at 1 (emphasis added). By contrast, in *Williams*, the out-of-state defendant gun dealer had sold no guns into the forum state, other than the ones sold to a single trafficker and his straw purchasers. *See Williams v. Beemiller, Inc.*, 33 N.Y.3d 523, 527 (2019). This case is a far cry from that.

Instead, this case more closely resembles *Russell v. SNFA*, 2013 IL 113909, ¶ 72, in which the Illinois Supreme Court held that a foreign manufacturer was subject to personal jurisdiction in Illinois despite having only indirect contacts with the state through a third-party distributor for its products. *Russell* “reject[ed] defendant’s contention that the actions of [its downstream

distributors] are irrelevant to our determination of personal jurisdiction”—the very argument that Westforth makes here. *Id.* This Court should likewise reject that argument.¹

C. Westforth’s Sales and Shipments to Illinois Residents are Related to Its Retail Firearms Business, and Therefore Relevant

Westforth’s sales to Illinois residents at its retail counter, and shipments to Illinois firearms dealers for delivery to Illinois customers, are also relevant to personal jurisdiction in Illinois and therefore discoverable. Westforth claims that its sales of firearms to Illinois residents are not sufficiently “related to” its sales of firearms to straw purchasers. *See, e.g.*, Opp’n at 6-8. But Illinois Supreme Court precedent makes clear there is no meaningful distinction between these types of sales for purposes of the minimum contacts analysis, and, as a result, they should be considered. In any case, Westforth’s Illinois sales are relevant not just to minimum contacts, but to whether it is reasonable for Westforth to litigate in Illinois—a point that Westforth overlooks. The Court should allow the City to take a full accounting of Westforth’s contacts with Illinois so that the City can respond to the arguments raised in Westforth’s Motion to Dismiss.

As an initial matter, Westforth spends much of its brief arguing the merits of its underlying Motion to Dismiss, inviting the Court to reject further discovery because, in Westforth’s view, its contacts with Illinois do not “rise to the level” of the “unmistakably extensive” contacts the

¹ In its Motion, the City also noted that the requested transaction records are germane to an alternative theory of personal jurisdiction in which a defendant who commits an intentional tort can under certain conditions be sued where the effects of that tort are felt. *See* City MTC at 6-7 (describing “effects test” for personal jurisdiction). The transaction records are relevant—and therefore discoverable—under this theory because they provide evidence that Westforth is knowingly supplying firearms to straw purchasers and traffickers, with foreseeable effects in Chicago. Westforth’s critique of the “effects test” largely amounts to a merits argument which is properly resolved with the benefit of a complete record at the motion to dismiss stage. Indeed, Westforth’s primary support on this issue, *Sabados v. Planned Parenthood*, underscores the need for discovery as the court in that case ruled only after extensive Rule 201(l) discovery. 378 Ill. App. 3d 243, 245 (1st Dist. 2007) (noting discovery concerning healthcare provider’s number of Illinois patients, percentage of Illinois residents among patient population, number of Illinois donors, number of Illinois residents among employees, and extent of Illinois marketing efforts).

defendant had in *Ford Motor Co. v. Montana Eighth Judicial District Court*. See, e.g., Opp’n at 8; see also *Ford Motor Co.*, 141 S. Ct. 1017, 1028 (2021). But this argument is predicated on the very Illinois contacts about which the City is seeking disclosure, and underscores why the City should be permitted to present the full measure of these contacts to the Court when it responds to Westforth’s Motion to Dismiss.

Next, Westforth argues for a narrow construction of what it means for a defendant’s forum-state contacts to “relate to” the litigation. See Opp’n at 7-8. But in doing so, Westforth overlooks that “minimum contacts” are not the only aspect of personal jurisdiction to which the store’s Illinois sales relate. Indeed, separate from minimum contacts, Westforth’s Illinois sales are relevant to whether it is reasonable for Westforth to litigate in Illinois. See *Russell*, 2013 IL 113909, at ¶ 91 (assessing, as part of the reasonableness analysis, the “multiple sales of defendant’s products [that] were made in Illinois over the past 10 years”). Thus, even if Westforth’s Illinois sales could somehow be excluded from the minimum contacts analysis, they would still be relevant to personal jurisdiction, and thus discoverable.

Regardless, Westforth’s Illinois gun sales are properly considered as part of its minimum contacts with the state. In resisting this conclusion, Westforth relies on factually distinguishable out-of-state precedents that supposedly illustrate the difficulty of establishing that claims “relate to” a defendant’s forum-state contacts. See Opp’n at 7-8. But none of these cases bears even a passing resemblance to the facts here. See, e.g., *Cox v. HP Inc.*, 368 Ore. 477 (2021) (industrial testing and certification firm not subject to personal jurisdiction in Oregon relating to defective generator, where the “evidence regarding [defendant’s] Oregon activities [wa]s minimal” and

defendant “had not performed any testing of certification work in Oregon relating to generators of any kind”).²

These cases would not help Westforth even if they were a closer match, either. Under the controlling Illinois law, “the applicable standard is lenient or flexible” for determining whether a defendant’s Illinois contacts “relate to” the lawsuit for purposes of due process. *Russell*, 2013 IL 113909, ¶ 38; *see also Qualizza v. Fischer Fine Home Bldg., Inc.*, 2021 IL App (1st) 201242-U, ¶ 38 (applying this standard from *Russell*, post-*Ford*). Under the proper, “flexible” standard, a defendant’s sales practices with respect to its “general product line” are related for purposes of assessing minimum contacts, even if the sales at issue involve different customers and different categories of product. *Russell*, 2013 IL 113909, ¶ 84. Thus, in *Russell*, a defendant’s sale of airplane parts through a distributor into Illinois was related to a claim that the defendant had sold a defective helicopter part through a different distributor that ultimately caused plaintiff’s injury. *See id.* As the *Russell* court explained:

defendant’s proposed distinction between subcategories of its primary product, custom-made aerospace bearings, is too restrictive and narrow for purposes of our jurisdictional inquiry. Indeed, at this stage of the inquiry, we must construe all conflicts in the evidence in favor of the plaintiff. [citation omitted] More importantly, though, defendant cites no authority that would require us to ignore one of its contacts with Illinois based on a categorical distinction within its general product line.

² Westforth does not explain how its remaining cases advance its argument for a narrow construction of “relating to,” and each of these cases concern factual scenarios that are entirely unrelated to the matter before this Court. *See, e.g., Hepp v. Facebook*, 2021 U.S. App. LEXIS 28830 (3d Cir. Sept. 23, 2021) (dealing with misappropriation of likeness claim in contexts of online social media platforms); *Sambrano v. United Airlines, Inc.*, 2021 U.S. Dist. LEXIS 215289 (N.D. Tex. Nov. 8, 2021) (challenge to employee COVID-19 vaccine policy, as applied to airline with distributed nationwide workforce); *Murphy v. Viad Corp.*, 2021 U.S. Dist. LEXIS 192453 (E.D. Mich. Oct. 1, 2021) (asbestos claim, where asbestos-containing product was not alleged to have ever been present or marketed in the forum state); *Zurich Am. Life Ins. Co. v. Nagel*, 2021 U.S. Dist. LEXIS 217865 (S.D.N.Y. Nov. 10, 2021) (age discrimination and retaliation claims under the New York State Human Rights Law); *O’Neil v. Somatics, LLC*, 2021 U.S. Dist. LEXIS 183730 (D. N.H. Sept. 24, 2021) (claims brought by a woman who suffered brain damage as a result of electroconvulsive therapy).

Id. Westforth makes the same error as the defendant in *Russell*, asking the Court to draw an artificial distinction between products and customers—here, its sales of firearms to Illinois residents and its sales of firearms to straw purchasers—that all fall comfortably within the rubric of Westforth’s retail firearms business. And just as the defendant failed to do in *Russell*, Westforth cites no case that requires the City or this Court to ignore the store’s contacts with Illinois customers when assessing personal jurisdiction. These contacts are relevant, and thus discoverable.

D. The Discovery Requests are Not Unduly Burdensome and Do Not Unnecessarily Invade Customers Privacy

Westforth raises a final pair of fallback arguments to resist disclosure of the requested documents, but neither merit serious consideration.

First, Westforth claims that disclosure of information about its sales to Illinois residents would invade unspecified privacy rights of those customers. Opp’n at 14. But Westforth cites no case or statute suggesting that the generalized protection of privacy in the state constitution extends to a customer’s retail firearms transactions, and the City is aware of none. And Westforth’s newfound concern for privacy is vastly undercut by its previous production—and public filing—of voluminous records containing the very types of demographic information that it now seeks to withhold. To the extent Westforth is able to articulate a bona fide privacy concern over customer information, that concern is best resolved through a protective order or appropriate redactions. It is not a basis for Westforth to *carte blanche* withhold relevant, discoverable information.

Second, Westforth asserts that the production of the requested records would be unduly burdensome. Opp’n at 14-15. With respect to the Illinois transactions, Westforth does not attempt to quantify the number of records at issue—despite the obvious tension between its assertion that Illinois sales are “rare” and its claim that producing these records would nonetheless constitute an extreme burden. And while Westforth argues that the City has requested “all documents relating

to transfers to Illinois FFLs or Illinois long gun purchasers in Indiana,” Opp’n at 15, in reality the City has significantly limited this request, seeking records only for three years, and only from Westforth’s log books (in lieu of all other Illinois transaction records). *See* City MTC at 4.

With respect to the straw purchasing transaction records, Westforth fails to demonstrate how the purported burden of producing the remaining straw purchaser transaction records is any different or greater than the records it produced for the initial 14 straw purchasers. Instead, Westforth misleadingly suggests that comparable information is available in court records from the straw purchasers’ prosecutions. *See* Opp’n at 14-15. As an initial matter, it is not: these court records often omit critical information such as firearm serial numbers, participating Westforth employees, and details like cash payments that put Westforth on notice of illegal conduct. Westforth also fails to acknowledge that the same reasoning applies to the records for the initial 14 straw purchasers—which records Westworth voluntarily produced despite their being “publicly available” to the same degree. The underlying transaction records contain relevant, and critical, information and should be produced.

CONCLUSION

For the foregoing reasons, the City of Chicago respectfully asks that the Court issue an order compelling Westforth to produce documents responsive to Requests 1, 3, and 7 concerning its transactions records with the remaining known straw purchasers, and its A&D records for sales to Illinois customers and transfers to Illinois FFLs.

Dated: December 3, 2021

Respectfully submitted,

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CERTIFICATE OF SERVICE

I, Michael J. Gill, an attorney, on oath, states that I served the foregoing by e-mailing copies to the parties mentioned on the attached Service List at their respective e-mail address this 3rd day of December, 2021.

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Exhibit A

UNITED STATES DISTRICT COURT

for the

Northern District of Indiana

United States of America

v.

Paul Fowkles

Case No.

2:17-mj-65

Defendant(s)

-FILED-

APR 06 2017

At
ROBERT N. TRGOVICH, Clerk
U.S. DISTRICT COURT
NORTHERN DISTRICT OF INDIANA

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of 6-22-16 through 3-11-17 in the county of Lake in the
Northern District of Indiana, the defendant(s) violated:

Code Section

Offense Description

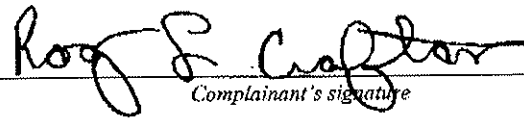
18 USC 922(a)(6)

Providing Knowingly False Material Information to a Federal Firearms
Licensee in order to procure firearms

This criminal complaint is based on these facts:

See Attached Affidavit

☒ Continued on the attached sheet.


Complainant's signature

Roger Crafton, Special Agent, ATF

Printed name and title

Sworn to before me and signed in my presence.

Date: 04/06/2017

3/John E. Martin

Judge's signature

City and state: Hammond, IN

John E. Martin, U.S. Magistrate Judge

Printed name and title

AFFIDAVIT

Roger Crafton, Special Agent, Bureau of Alcohol, Tobacco, Firearms and Explosives, being sworn, deposes and states the following:

1. That I am a Special Agent with the Bureau of Alcohol, Tobacco, Firearms and Explosives and have been so employed for over 25 years. During my employment with the Bureau of Alcohol, Tobacco and Firearms, I have successfully completed two training programs, Criminal Investigator Training and New Agent Training. Both programs were approximately eight weeks in length and both were conducted by the Federal Law Enforcement Center, located in Glynco, Georgia. Both of these programs included training in conducting complex criminal investigations involving violations of the Gun Control Act, National Firearms Act and the Explosives Control Act. I have also participated in numerous investigations of firearms related and drug related offenses occurring in the Northern District of Indiana. Prior to my association with the Bureau of Alcohol, Tobacco and Firearms, I had been employed by the Indiana University Police Department and the City of Portage, Indiana, Police Department for a combination of approximately seven years. During my tenure as a police officer, I had the opportunity to make a wide variety of felony arrests concerning violations of state narcotics and firearms laws of the State of Indiana.

2. Your affiant states that the facts which establish probable cause necessary for the issuance of the criminal complaint are either personally known to me, have been told to me directly by law enforcement officers and others with whom I have worked on this case, or I have learned from review of documents. This affidavit is being submitted for the limited purpose of establishing probable cause necessary for the issuance of the criminal complaint, and I have not

included each and every fact known to me concerning this investigation.

3. On or about March 28, 2017, SA Dan Mitten reviewed ATF reports of investigation relating to Paul Kenya Fowkles, who also goes by the name Paul Kenya Fowlkes, who lists his residence address as being 1532 Woodson Drive, Apartment 216, Indianapolis, Indiana. Your affiant learned that Fowkles had purchased in excess of twenty-five (25) firearms, mainly all handguns, including several handguns of the same make, model and caliber, from two (2) FFLs in Marion County, Indiana, and four (4) FFLs in Lake County, Indiana, during the about the last year. Your affiant learned that the last three (3) firearm purchases made by Fowkles were on March 8, 2017, where he purchased two (2) Glock pistols, a model 23 and a model 27, from South County Gun Company in Schererville, Indiana, and March 11, 2017, where he purchased a Glock 23 from Westforth Sports in Gary, Indiana. Your affiant learned that on March 28, 2017, Fowkles had purchased a Ruger, SR9C pistol from Westforth Sports in Gary, Indiana, but he has not yet taken possession of this firearm.

4. Your affiant also learned that Fowkles has had three (3) firearms, which he had previously purchased, recovered by law enforcement in the possession of other people not authorized to purchase firearms themselves that were submitted to ATF to be traced.

5. Fowkles purchased a Smith and Wesson, nine-millimeter pistol on March 1, 2016, from Gander Mountain, an FFL located in Merrillville, Indiana. This firearm was recovered by the Harvey, Illinois, Police Department, in the possession of Leondre Smith, a felon. This firearm had a time to crime of 115 days, which is the number of days from the date it was purchased from the FFL until the date it was recovered by law enforcement.

6. Fowkles purchased a Taurus nine millimeter pistol on October 15, 2016, from Gander Mountain located in Avon, Indiana, an FFL, which was recovered by the Indianapolis

Police Department on January 1, 2017, in the possession of Geordyn Owens, a twenty year old male who, because he was under 21 years of age, could not purchase a handgun from an FFL. This firearm trace had a time to crime of 78 days.

7. On March 4, 2017, Fowkles purchased a Canik55, nine millimeter pistol from Gander Mountain located in Merrillville, Indiana, an FFL, which was recovered on March 7, 2017, by the Chicago Police Department in the possession of Dion Winston who at the time of the arrest had an outstanding felony arrest warrant and was a suspect in an unrelated aggravated battery with a firearm charge. Winston, who was also only twenty years old and thus could not purchase a handgun from an FFL. Winston was arrested with the firearm after both a vehicle and foot chase. This firearm trace had a time to crime of three (3) days meaning that it was in the hands of Winston three days after it was purchased by Fowkles.

8. Prior to each gun purchase, Fowkles filled out an ATF form whereby he gave personal information to the FFL that the FFL utilized to determine if Fowkles was eligible to purchase firearms. In each purchase made between June 1, 2016 and the present, Fowkles used as his address, 1532 Woodson Drive, Apartment 216 in Indianapolis, Indiana.

9. On March 31, 2017, your affiant learned that Paul K. Fowkles had in fact rented the apartment located at 1532 Woodson Drive, Apartment 216 in Indianapolis, Indiana, on February 6, 2016, and moved into the apartment. However, Fowkles made his last rent payment on April 8, 2016. On May 31, 2016, FOWKLES was evicted from the apartment at 1532 Woodson Drive, Apartment 216, in Indianapolis, Indiana, still owing the apartment complex approximately \$850 in back rent and fees. This same apartment was then rented to another tenant in June of 2016 who remains living there. Therefore, for all purchases of firearms made from FFL's after June 1,

2016, Fowkles used this address as his residence on the required ATF forms despite having no connection to that property at the time of the gun purchases.

10. On or about March 31, 2017, ATF learned, that Paul K. Fowkles changed his mailing address with the Indiana Bureau of Motor Vehicles (BMV) on May, 28, 2016, from 1532 Woodson Drive, Apartment 216 in Indianapolis, Indiana, to 232 North Mickley Avenue, Apartment A, in Indianapolis, Indiana. On September 23, 2016, Fowkles again changed his mailing address with the BMV to 3021 Pebble Point Drive, Apt. C, in Indianapolis, Indiana. Importantly, your affiant learned that Fowkles never changed his residence or legal address when he changed his mailing addresses. On December 6, 2016, Fowkles went into the Hammond, Indiana BMV Branch and applied for an Indiana State identification card. When Fowkles applied for this State identification card he listed his residence address as being 1532 Woodson Dr., Apt. 216, in Indianapolis, Indiana, (even though he had not lived there for 6 months) and then advised the BMV his mailing address was 11624 S. Normal Avenue in Chicago, Illinois. This suggests that Fowkles was living in Illinois while attempting to maintain an Indiana address for the purpose of utilizing an Indiana address to make firearm purchases.

11. Your affiant knows that the Gander Mountain stores located in Merrillville and Avon, Indiana, along with Westforth Sports located in Gary, Indiana, are licensed by ATF as FFLs.

12. ATF has identified at least 25 firearm purchases between June 1, 2016 and the present within the Northern District of Indiana whereby Fowkles used the Woodson address in Indianapolis as his address on the ATF forms provided to the FFL in support of the purchase of firearms including a purchase on 6-22-16 from Cabela's at 770 Cabela Drive in Hammond Indiana

within the Northern District of Indiana for a Walther PPS .40 serial number AM4497 and a 3-11-17 purchase from Westforth Sports at 4704 Roosevelt St in Gary, Indiana within the Northern District of Indiana for a Glock 23 .40 caliber with serial number BCSS068. Fowkles had no connection with the Woodson address at the time of these purchases.

13. Paul Fowkles was located in Indianapolis, IN by law enforcement on April 5, 2017. He was placed in state custody and questioned on gun purchases in the Indianapolis area and in the Northern District of Indiana. After receiving Miranda warnings, Fowkles agreed to be interviewed. Fowkles agreed that he had not lived at the 1532 Woodson Drive address since June of 2016 and further admitted to using that address to procure guns from various gun stores after he had no connection to the address. He claims that he is still in possession of the purchased firearms and that they are all within a family safe at a home in Gary, Indiana despite the fact that three have been recovered by law enforcement in the hands of individuals who cannot themselves purchase firearms from an FFL.

14. Based on the above statement of facts, your affiant believes probable cause exists for the issuance of a criminal complaint for Paul K. Fowlkes who also uses the name Paul Kenya Fowlkes for Making False Statements to an FFL to Acquire Firearms, in violation of Title 18, United States Code, Section 922(a) (6).

FURTHER AFFIANT SAYETH NAUGHT.



ROGER CRAFTON, SPECIAL AGENT
BUREAU OF ALCOHOL, TOBACCO
FIREARMS AND EXPLOSIVES

Subscribed and sworn to
before me this 6th day
of April, 2017.

S/John E. Martin

HONORABLE JOHN MARTIN
UNITED STATES MAGISTRATE JUDGE

Exhibit B

DEPARTMENT OF JUSTICE
Bureau of Alcohol, Tobacco, Firearms and Explosives
National Tracing Center Division
FIREARMS DISPOSITION FAX REQUEST

URGENT REQUEST

TO: WESTFORTH SPORTS INCDATE: 04/14/2021ATTN: FFL 43537399FAX: 219-985-9074

PLEASE NOTE: The information requested is to assist in a criminal investigation.

Return the completed forms to us within 24 hours (1 working day) with any 4473's.

Thank you for your cooperation.

Fax: (202)-648-9991

Phone: (800)-788-7133 Ext:

ALT Fax (800)-578-7223

Attention:

Firearms & Acquisition Information	If Sold to Another FFL Dealer	
Serial Number: <u>BMXX866</u>	Date Shipped: <u> </u>	
Manufacturer: <u>GLOCK GMBH</u>	Invoice Number: <u> </u>	
Firearm Type: <u>PISTOL</u>	Shipped To Name: <u> </u>	
Caliber/Gauge: <u>357</u>	Street Address: <u> </u>	
Model Number: <u>33GEN4</u>	City: <u> </u>	
Color/Finish: <u> </u>	State: <u> </u>	ZIP: <u> </u>
Date Shipped To You: <u>07/06/2020</u>	Phone Number: <u> </u>	
Shipped To You By: <u>RILEYS INC</u>	FFL #: <u> </u>	

Individual Purchaser Information			
Date of Purchase: <u>2-8-2020</u>			
Last Name: <u>Fryer</u>		Suffix (i.e. Jr., Sr., I, II): <u> </u>	
First Name: <u>Kadeem</u>		Middle Name: <u>Malik</u>	
Height: <u>5-11</u>	Weight: <u>180</u>	Sex: <u>M</u>	Race: <u>BE</u>
Ethnicity: <u>Hispanic or Latino</u>	Non-Hispanic or Latino: <u> </u>		
Street Address: <u> </u>			
City: <u>Hammond</u>	State: <u>IN</u>	Zip Code: <u>46324</u>	
Date of Birth: <u> </u>	Place of Birth: <u>Hazlet Crest IL</u>		
Identification #: <u>IN ID</u>	Type: <u>ID</u>	ID State: <u>IN</u>	
Identification #:	Type:	ID State:	
Purchaser Known To Dealer?	Yes: <u> </u>	No: <u> </u>	

1.) Is the 4473 available? (If yes, please fax a copy regarding this firearm transaction) (If no, complete the form including the Individual Purchaser Information section of this form and fax to the ATF National Tracing Center.)	Yes: <u> </u>	No: <u> </u>
2.) Was the firearm information verified to be the same as the NTC is tracing from the 4473?	Yes: <u> </u>	No: <u> </u>
3.) Please provide the FFL # the firearm was sold under per the 4473:	<u> </u>	
4.) Was this transaction part of a multiple sale purchase?	Yes: <u> </u>	No: <u> </u>
5.) Was this firearm sold at an alternate location away from your licensed premises?	Yes: <u> </u>	No: <u> </u>
If yes, please indicate the Event Name and Alternate Sale Location: <u> </u>		
6.) To your knowledge, have additional firearms been purchased from your business by this purchaser at any given time?	Yes: <u> </u>	No: <u> </u>

1587