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16 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

17 **FOR THE COUNTY OF LOS ANGELES**

18 THE PEOPLE OF THE STATE OF CALIFORNIA,

19 Plaintiffs,

20 vs.

21
22 POLYMER80, INC., a Nevada Corporation;
23 DAVID BORGES, an individual; LORAN
KELLEY, an individual,

24 Defendants.
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Case No. 21STCV06257

[Related to Case No. 21STCV29196]

*[Assigned for all purposes to the Hon. Daniel
S. Murphy, Department 32]*

**DECLARATION OF MICHAEL
MARRON IN SUPPORT OF
DEFENDANTS' MOTION FOR
JUDGMENT ON THE PLEADINGS**

Date: May 19, 2023

Time: 8:30 a.m.

Department: 32

Reservation ID: 305522480553

Complaint Filed: February 17, 2021

Trial Date: May 30, 2023

**DECLARATION OF MICHAEL MARRON IN SUPPORT OF
DEFENDANTS’ MOTION FOR JUDGMENT ON THE PLEADINGS**

I, Michael Marron, declare as follows:

1. I am Senior Counsel with the law firm of Greenspoon Marder LLP, an attorney at law duly licensed to practice in all of the Courts of the State of New York, and admitted *pro hac vice* to appear in this action on behalf of Defendants Polymer80, Inc., David Borges, and Loran Kelley. I respectfully submit this declaration in support of Defendants’ Motion for Judgment on the Pleadings.

2. I have personal knowledge of the facts set forth herein. If called and sworn as a witness, I could and would competently testify as to those facts

3. Attached hereto as **EXHIBIT A** is a true and correct copy of the operative Amended Complaint in *People of the State of California v. Blackhawk Manufacturing Group, Inc., et al.* (Cal. Super. Ct. San Francisco Cnty. Oct. 13, 2021) No. CGC-21-594577.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration was executed on May 17, 2023, in New York City, New York.

DATED: May 17, 2023

GREENSPOON MARDER LLP

By:



MICHAEL MARRON

Attorney for Defendants Polymer80, Inc., David Borges, and Loran Kelley

1 **PROOF OF SERVICE**

2 *The People of The State of California vs. Polymer80, Inc., David Borges, Loran Kelley*
3 Case No. 21STCV06257

4 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
5 **FOR THE COUNTY OF LOS ANGELES**

6 I am employed in the County of Jefferson, State of Alabama. I am over the age of eighteen
7 years and not a party to this action. My business address is 1819 5th Avenue N, Birmingham, AL
8 35203. On May 17, 2023, I served true and correct copies of the following document(s) described as
9 **DECLARATION OF MICHAEL MARRON IN SUPPORT OF DEFENDANTS’ MOTION**
10 **FOR JUDGMENT ON THE PLEADINGS** on the interested parties in this action as follows:

11 **SEE ATTACHED SERVICE LIST**

12 **BY E-MAIL OR ELECTRONIC TRANSMISSION:** Based on a court order or an
13 agreement of the parties to accept service by e-mail or electronic transmission, I caused the
14 document(s) to be sent from e-mail address clamar@bradley.com to the persons at the e-mail addresses
15 listed in the Service List. I did not receive, within a reasonable time after the transmission, any
16 electronic message or other indication that the transmission unsuccessful.

17 I declare under penalty of perjury under the laws of the State of California that the foregoing
18 is true and correct.

19 Executed on May 17, 2023 at Birmingham, Alabama.

20 */s/ W. Chadwick Lamar, Jr.*
21 _____
22 W. Chadwick Lamar, Jr.

1 **SERVICE LIST**

2 *The People of The State of California vs. Polymer80, Inc., David Borges, Loran Kelley*
3 *Case No. 21STCV06257*

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EXHIBIT A

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SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF SAN FRANCISCO

PEOPLE OF THE STATE OF CALIFORNIA,

Plaintiff,

v.

BLACKHAWK MANUFACTURING GROUP INC.; GS PERFORMANCE, LLC; MDX CORPORATION; and DOES 1-25,

Defendants.

Case No. CGC-21-594577

AMENDED COMPLAINT FOR PRELIMINARY AND PERMANENT INJUNCTIONS, CIVIL PENALTIES, AND OTHER EQUITABLE RELIEF

Business & Professions Code §§ 17200 *et seq.* & 17500 *et seq.*

Filing Fees Exempt (Gov. Code § 6103)

ELECTRONICALLY
FILED
*Superior Court of California,
County of San Francisco*
10/13/2021
Clerk of the Court
BY: EDWARD SANTOS
Deputy Clerk

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1 The Attorney General of the State of California and the District Attorney for the City and
2 County of San Francisco, authorized to protect the general public within the State of California
3 from unlawful business practices, bring this suit in the name of the People of the State of
4 California. The People hereby allege the following:

5 **I. NATURE OF THE CASE**

6 1. An epidemic of “ghost guns” is ravaging San Francisco and the State of California.
7 Ghost guns are untraceable, fully functional firearms that lack serial numbers. They are sold as
8 kits and are easily assembled by consumers using common tools. Manufacturers and retailers of
9 ghost gun parts and kits (“ghost gun companies”) do not follow the laws that apply to firearm
10 sales. As a result, people legally prohibited from purchasing or possessing firearms—usually due
11 to their criminal histories—are easily able to obtain, assemble, and use ghost guns. One company
12 in this lawsuit—Defendant GS Performance, LLC—has sold more than 26,000 ghost gun parts
13 and kits to consumers in the State of California, a quantity that would be sufficient to build over
14 12,000 fully-functioning “ghost” semiautomatic handguns.

15 2. Ghost gun companies evade federal and California laws that regulate the
16 manufacture, sale, and possession of firearms. These protections serve critical public safety and
17 consumer protection purposes. In this way, ghost gun companies engage in unlawful and unfair
18 business practices.

19 3. Ghost gun companies also mislead California consumers about the extent to which
20 possession of their products is lawful in California. A Californian cannot lawfully possess any
21 privately manufactured gun (and particularly a handgun) without taking affirmative steps to
22 comply with many different Penal Code provisions related to firearm ownership, registration, and
23 safety, the violation of which is generally a crime. And many privately manufactured firearms,
24 including semiautomatic handguns that fail to meet California’s safety standards, are per se
25 unlawful to build or possess. Ghost gun companies lull consumers into believing that their
26 products are “100% Legal!,” yet fail to disclose the additional regulatory burdens, and potential
27 criminal liability, that their consumers undertake by buying their wares and assembling ghost
28 guns. In this way, ghost gun companies engage in fraudulent business practices and false

1 advertising.

2 4. Defendants are ghost gun companies. Their business practices violate or otherwise
3 undermine statutes that regulate firearms including:

- 4 • The federal Gun Control Act, 18 U.S.C. §§ 921-931;
- 5 • The California Assembly of Firearms Law, Penal Code §§ 29180-29184;
- 6 • The California Unsafe Handgun Act, Penal Code §§ 31900-32110; and
- 7 • The California Manufacture of Firearms Law, Penal Code §§ 29010-29150.

8 5. Defendants violate the federal *Gun Control Act* (“GCA”). The GCA is a
9 comprehensive, nationwide statute that governs the manufacture, importation, sale, and
10 possession of firearms. Two features of the GCA are especially relevant to this action. The first
11 relates to serial numbers. The GCA requires that firearms manufactured in or imported into the
12 United States bear a unique serial number or other identifying mark, and firearm retailers must
13 ensure that the firearms they sell bear serial numbers. The second relevant feature of the GCA is
14 its point-of-sale requirements, which enforce the federal eligibility requirements for firearm
15 possession. Federal law requires that all commercial sales of firearms take place through a
16 Federal Firearm Licensee (“FFL”).¹ FFLs are legally required to run background checks on
17 firearm purchasers through the National Instant Criminal Background Check System (“NICS”) or
18 a similar government-run system; these background checks seek to verify that the purchaser is
19 eligible to possess the firearm. FFLs also have recordkeeping requirements that allow law
20 enforcement officials to trace lost or stolen firearms or guns involved in criminal investigations.

21 6. Unscrupulous ghost gun companies evade the GCA’s serialization and point-of-
22 sale requirements by exploiting a perceived loophole in the federal definition of “firearm.” The
23 GCA requirements described above apply to “firearms,” as defined by the GCA. The statutory
24 definition of “firearm” includes any fully assembled weapon that would be commonly understood
25 to be a gun. Accordingly, when a consumer goes to purchase a fully assembled and operational
26 gun, he or she buys a “firearm” under federal law, triggering the serialization and point-of-sale

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28 ¹ The term “FFL” means Federal Firearm License or Federal Firearm Licensee.

1 regulations described above.

2 7. But guns aren't always sold fully assembled; they can be (and often are) sold on a
3 component-by-component basis. For this reason, the GCA includes a gun's "frame" or
4 "receiver"—the critical components, respectively, of a handgun or a long gun—within the federal
5 definition of a "firearm." A frame or receiver is necessary to fully assemble any gun. They can
6 be thought of as a gun's chassis. Other components, such as the trigger, the firing pin, the barrel,
7 and the slide fit directly or indirectly onto the frame (the term generally used for handguns) or the
8 receiver (the term used for long guns). Those other components are generally unregulated under
9 the GCA, but frames and receivers are subject to the serialization and point-of-sale requirements
10 described above. In this way, the GCA applies to the manufacture, sale, and possession of all
11 firearms by regulating firearm frames and receivers.

12 8. Ghost gun companies sell products called "frame blanks" and "receiver blanks."
13 These almost-but-not-quite-completed frames and receivers can be "finished" at home by the
14 consumer. With just a small amount of work—which can be readily accomplished, according to
15 some sellers, in less than 15 minutes—the consumer can convert the "blank" into a "finished"
16 frame or receiver. After "finishing" the blank, the consumer can then easily combine it with the
17 additional parts needed to assemble a fully functioning weapon.² This process is sometimes
18 called the "private manufacture" of a firearm.

19 9. Defendants sell frame and receiver blanks without serial numbers on them, without
20 conducting background checks to verify that the purchaser is eligible to possess a firearm, and
21 without maintaining the types of records that FFLs selling "frames" and "receivers" must

22
23 ² As used in this complaint, a "receiver" or "frame" is a "finished" product that, without
24 modification, can be used as part of a fully functional weapon. A "receiver blank" or "frame
25 blank" is a receiver or frame that needs additional modification (usually drilling holes and filing
26 away some material) before it can be used as part of a fully functional weapon. The terms
27 "receiver blank" and "frame blank" are encompassed within the definition set forth in Penal Code
28 section 16520, subdivision (g), which refers to an "unfinished frame or receiver of a weapon that
can be readily converted to the functional condition of a finished frame or receiver." The ghost
gun industry often calls receiver blanks and frame blanks "unfinished receivers" and "unfinished
blanks," or simply "80% lowers" or just "80s." The term "ghost gun" refers to a fully functional
firearm assembled using an unserialized frame or receiver sold out of compliance with the
regulations discussed herein.

1 maintain. As a result, untold numbers of unserialized ghost guns have been sold out of
2 compliance with federal serialization and point-of-sale regulations.

3 10. Defendants make it incredibly easy for their customers to obtain and assemble
4 unserialized firearms without a background check. Defendants bundle frame and receiver blanks
5 with the equipment the consumer needs to “finish” them at home, making it very simple for
6 consumers to purchase all components needed to easily and rapidly assemble a firearm. Indeed,
7 Defendants sell kits containing all components needed to assemble a fully functional firearm
8 (“Build Kits”), though they pretextually separate these kits into two or more purportedly discrete
9 items that are marketed together. Such Build Kits meet the GCA’s definition of “firearms,” and
10 Defendants violate the GCA by selling their Build Kits without complying with the GCA’s
11 serialization and point-of-sale regulations. This is an unlawful and unfair business practice.

12 11. Defendants, all of which are based in California, also violate California firearms
13 laws. *The Assembly of Firearms Law* requires that any consumer who purchases a frame or
14 receiver blank must apply to the California DOJ for a serial number for that firearm if the
15 consumer “privately manufactures” it. As a part of that process, the applicant must complete a
16 background check to demonstrate that he or she is not prohibited from possessing a firearm under
17 state or federal law. In this way, California law seeks to close the specific perceived loophole in
18 federal law that ghost gun companies seek to exploit by applying similar serialization and point-
19 of-sale requirements specifically to ghost guns.

20 12. Defendants undermine the Assembly of Firearms Law. They lead consumers to
21 believe that frame and receiver blanks are “100% Legal!” but fail to explain to California
22 consumers that “finishing” a frame or receiver triggers a consumer’s obligations under the
23 Assembly of Firearms Law—despite the fact that the sole marketed use for frame and receiver
24 blanks is to finish them and use them to assemble firearms. By undermining the policy animating
25 the Assembly of Firearms Law, Defendants engage in an unfair business practice. And by touting
26 their products as “100% Legal” and “California Complaint,” *which they are not once they are*
27 *personally manufactured*, Defendants engage in deceptive marketing, which is a fraudulent
28 business practice.

1 13. Defendants also undermine the California *Unsafe Handguns Act* (“UHA”) and
2 related requirements. The Legislature enacted the UHA to improve product safety standards and
3 to reduce accidental firearm deaths. The statute has achieved that goal; the rate of accidental
4 firearms deaths in California is substantially lower than it was before the law was enacted and
5 substantially below the national average. The UHA requires that handguns sold within the State
6 meet certain standards, including standards for reliability and safety. Among those standards are
7 the requirements that handguns sold in California pass, first, a firing test to ensure that the
8 weapon can be fired multiple times without malfunction and, second, a drop safety test to ensure
9 that the weapon will not accidentally discharge if it is dropped. Further, any new semiautomatic
10 handgun models must also include a chamber load indicator and a magazine disconnect, and other
11 characteristics, such as a threaded barrel, can also render a semiautomatic handgun unlawful.³
12 Once a handgun manufacturer can demonstrate that its handgun meets these (and other)
13 standards, California DOJ can list the handgun on a roster of handguns approved for sale in this
14 State. The Legislature specifically mandated that the UHA, and its prohibition on the
15 manufacture or assembly of unsafe handguns, applies equally to self-made firearms.⁴

16 14. Defendants sell handgun Build Kits that do not comply with the UHA’s
17 requirements. Here, Defendants’ business practices violate the law in multiple ways. First,
18 Defendants sell Build Kits for handguns that lack features necessary for compliance with the
19 UHA. For example, the Build Kits lack the required chamber load indicator and magazine
20 disconnect, and when assembled, the handguns have not satisfied the firing and drop safety
21 requirements. Second, even while Defendants tout the lawfulness of the products they sell,
22 Defendants nowhere disclose to their customers that the UHA’s rigorous requirements apply to
23 private manufacturers. A reasonable consumer relying on Defendants’ representations could
24 reasonably come to believe that it is lawful to privately manufacture a handgun from the parts and
25 kits sold by the Defendants, when it is in fact a crime to do so because the finished handgun per
26 se does not comply with the UHA’s requirements. Defendants are thus causing the proliferation

27 ³ See Penal Code § 30515 & subd. (a)(4)(A).

28 ⁴ Penal Code § 29182(e)(2).

1 of handguns in California that do not meet the UHA’s requirements—including safety
2 requirements that have saved countless lives from accidental shooting deaths—all while
3 subjecting their customers to potential criminal liability. These business practices are unlawful,
4 unfair, and fraudulent.

5 15. Defendants GS Performance and Blackhawk also violate the California
6 ***Manufacture of Firearms Law***. This Law requires any federally-licensed firearms manufacturer
7 who manufactures at least 50 firearms per year—and the law specifically includes frame and
8 receiver blanks within the applicable definition of “firearms”⁵—to obtain a California firearm
9 manufacturing license, if it manufactures in this State. A California firearm manufacturing
10 license comes with certain obligations, including that the manufacturer engrave all frame and
11 receiver blanks with a unique serial number. Defendant GS Performance does not possess such a
12 license. It and Defendant Blackhawk Manufacturing (which does possess such a license) fail to
13 comply with a California licensee’s obligations, including that they engrave a serial number on
14 the frame and receiver blanks they manufacture. These are unlawful and unfair business
15 practices.

16 16. Defendants also violate California law by aiding and abetting the manufacture of
17 guns that fail to comply with the safety and certification requirements of the UHA and the
18 serialization and registration requirements of the Assembly of Firearms Law. They further violate
19 California law by aiding and abetting the manufacture of guns by individuals who fail to meet
20 firearms eligibility and other requirements of the Assembly of Firearms Law. These are unlawful
21 business practices.

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⁵ Penal Code § 16520(g).

17. Defendants’ business practices violate the California Unfair Competition Law (“UCL”), Business and Professions Code sections 17200 *et seq.*, and the California False Advertising Law (“FAL”), Business and Professions Code sections 17500 *et seq.* The UCL prohibits unlawful, unfair, and fraudulent business practices in this State. The FAL prohibits false and misleading advertising. Below is a Defendant-by-Defendant summary of the various unlawful, unfair, and fraudulent business practices alleged herein:

STATUTE	UCL PRONGS	DEFENDANT		
		GS PERFORMANCE	BLACKHAWK	MDX ARMS
GCA	Unlawful Unfair	X	X	X
Assembly of Firearms	Unlawful Unfair Fraudulent	X	X	X
UHA	Unlawful Unfair Fraudulent	X	X	X
Manufacturer of Firearms	Unlawful Unfair	X	X	

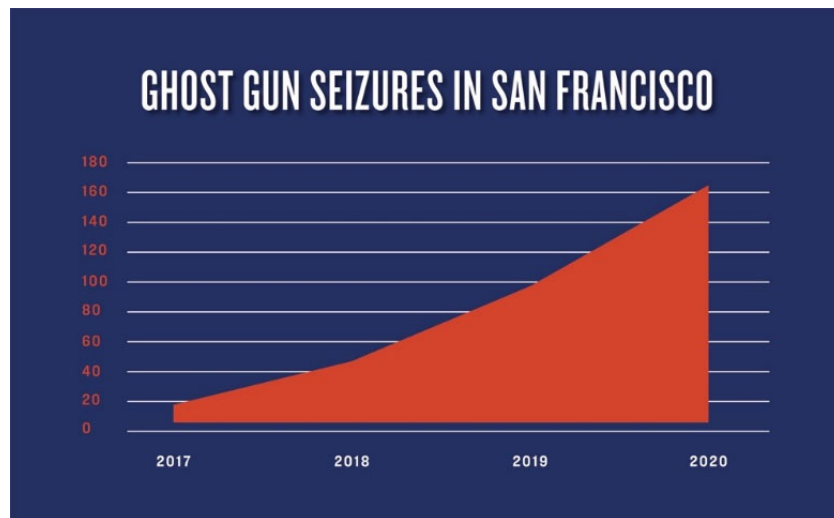
18. Defendants’ unlawful, unfair, and fraudulent business practices have facilitated the proliferation of ghost guns in San Francisco, in California, and nationally.

19. The federal Bureau of Alcohol, Tobacco, Firearms and Explosives (“ATF”) estimates that in 2019, law enforcement agencies recovered about 10,000 ghost guns. Although California accounts for just slightly more than 10% of the U.S. population, the ATF estimates that about 27% of those 10,000 ghost guns were recovered in California, more than double California’s share of the population.⁶ That same year, thirty percent of all guns recovered by the

⁶ ATF statistics appear in the Affidavit of ATF Special Agent Tolliver Hart, *In the Matter of the Search of POLYMER80 Inc.*, 3:20-mj-00123-WGC, ¶ 28b (D. Nev. Dec. 9, 2020) (hereinafter “Hart Aff.”).

1 ATF in California were ghost guns.⁷ That percentage grew in 2020. During 2020, 65% of all
2 ghost guns seized nationwide were seized in California. The next highest state was Maryland,
3 where 7% of ghost guns were seized.

4 20. The number of ghost guns in San Francisco is rising. San Francisco Police
5 Department Chief Bill Scott states in 2019, 6% of the firearms recovered in connection with San
6 Francisco homicides were ghost guns. In 2020, that number soared to 44%.⁸ Overall, SFPD
7 seized 17 ghost guns in 2017, 50 in 2018, 97 in 2019, and 164 in 2020.⁹ As of August 2, 2021,
8 the SFPD Crime Lab had processed 154 ghost guns recovered by law enforcement in 2021,
9 representing 31.7% of the cases reviewed by the lab. And of course, these figures represent only
10 those ghost guns actually seized by police, not those possessed and used, often illegally, by San
11 Francisco residents.



20 21. As ghost guns have become more prevalent, shooting incidents have also
21 increased. Midway through 2021, there were 119 victims of shootings in San Francisco. That's
22 more than double the 58 such victims recorded mid-year in both 2019 and 2020. Killings in the

23 ⁷ Alain Stephens, *Ghost Guns Are Everywhere in California*, The Trace (May 17, 2019),
24 <https://www.thetrace.org/2019/05/ghost-gun-california-crime/>.

25 ⁸ Megan Cassidy, *S.F. Supervisor Looks to Ban Untraceable 'Ghost Guns'*, San Francisco
26 Chronicle (May 11, 2021), <https://www.sfchronicle.com/crime/article/S-F-supervisor-looks-to-ban-untraceable-ghost-16168745.php>.

27 ⁹ Megan Cassidy, *Oakland, S.F. See Spike in Untraceable Ghost Guns: 'Anybody Can Get
28 These'*, San Francisco Chronicle (April 30, 2021),
<https://www.sfchronicle.com/crime/article/Oakland-SF-ghost-guns-violence-shootings-16142872.php>.

1 Bay Area’s 15 biggest cities increased by more than 35% in 2020 (285 deaths) compared to 2019
2 (210 deaths),¹⁰ and there’s been a further 36% increase in Bay Area homicides through the first
3 half of 2021.¹¹

4 22. Ghost guns pose an obvious public safety issue. Because ghost gun companies do
5 not follow federal and state point-of-sale and record-keeping requirements, anyone can obtain a
6 ghost gun, even if they cannot lawfully possess a firearm. Taking advantage of this lax market,
7 people ineligible to possess firearms have obtained ghost guns only to use them immediately to
8 shoot and kill. Of particular concern is that the ease of purchase has allowed teens and younger
9 people—who do not meet the age requirement to purchase a firearm—to obtain ghost guns and
10 engage in street violence.¹² Further, over half of all of deaths by suicide occur with a firearm.¹³
11 Suicide is the second leading cause of death for children between the ages of 10 to 14, and
12 children and young adults ages 15 to 24.¹⁴ Having access to a handgun is associated with a
13 dramatically elevated risk of suicide.¹⁵ Indeed, frontline violence intervention workers in the
14 communities most impacted by gun violence say the increased availability of ghost guns and the
15 ease of purchasing them online has contributed to the recent rise in gun deaths across the nation.¹⁶
16 Put starkly, the cost of this regulatory dodge by ghost gun companies is measured in lives.

17
18 ¹⁰ Megan Cassidy, *A Violent Year: Bay Area Killings Spiked 35% in 2020*, San Francisco
19 Chronicle (Jan. 8, 2021), <https://www.sfchronicle.com/crime/article/A-violent-year-Bay-Area-murders-spiked-36-in-15857202.php>.

20 ¹¹ Rachael Swan & Susie Neilson, *Homicides Are Up 36% in Bay Area’s Biggest Cities. Deaths*
21 *in Oakland Are Driving the Surge*, San Francisco Chronicle (July 14, 2021),
22 <https://www.sfchronicle.com/crime/article/Homicides-are-up-36-in-Bay-Area-s-biggest-16315439.php>.

23 ¹² Abené Clayton, *Ordered Online, Assembled at Home: the Deadly Toll of California’s ‘Ghost*
24 *Guns*, The Guardian (May 18, 2021), [https://www.theguardian.com/us-](https://www.theguardian.com/us-news/2021/may/18/california-ghost-guns-deadly-toll)
25 [news/2021/may/18/california-ghost-guns-deadly-toll](https://www.theguardian.com/us-news/2021/may/18/california-ghost-guns-deadly-toll).

26 ¹³ Centers for Disease Control & Prevention, *Suicide and Self-Harm Injury*, (Mar. 1, 2021),
27 <https://www.cdc.gov/nchs/fastats/suicide.htm>.

28 ¹⁴ Suicide Prevention Resource Center, *Suicide by Age*, (2020), <https://sprc.org/scope/age>.

¹⁵ David M. Studdart, et al., *Handgun Ownership and Suicide in California*, New England
Journal of Medicine (June 4, 2020), <https://www.nejm.org/doi/full/10.1056/NEJMsa1916744>.

¹⁶ Abené Clayton, *Ordered Online, Assembled at Home: the Deadly Toll of California’s ‘Ghost*
Guns, The Guardian (May 18, 2021), [https://www.theguardian.com/us-](https://www.theguardian.com/us-news/2021/may/18/california-ghost-guns-deadly-toll)
[news/2021/may/18/california-ghost-guns-deadly-toll](https://www.theguardian.com/us-news/2021/may/18/california-ghost-guns-deadly-toll).

1 23. Making matters worse, ghost guns also impede investigations of firearm crimes
2 and fuel cycles of gun violence. Because ghost guns lack serial numbers and there are no records
3 of their sale, law enforcement cannot initiate trace requests of ghost guns through the ATF or
4 California DOJ when such firearms are recovered in crimes. Through trace requests, law
5 enforcement can use a firearm’s serial number to identify the original manufacturer or importer
6 and to track the firearm through the wholesale and retail distribution chain to the original buyer.
7 Such trace information can identify possible suspects or traffickers and link them to specific
8 firearms found in criminal investigations. Tracing also enables law enforcement to track lost and
9 stolen guns, which FFLs are required to report within 48 hours of an incident.

10 24. Gun tracing is also a powerful violence prevention tool, enabling law enforcement
11 to track down lost or stolen firearms, apprehend perpetrators of violence, and obtain justice for
12 victims. Unsolved gun homicides are known to perpetuate and contribute to higher rates of gun
13 violence and vigilante retaliatory killings when law enforcement and legal systems fail to deliver
14 accountability and justice. It is therefore not surprising that ATF considers firearms tracing to be
15 “the single most important strategy in determining the sources of crime guns, linking suspects to
16 firearms in criminal investigations, and developing strategies to address firearms-related
17 violence.”¹⁷ As to the products they profit from, ghost gun companies’ business practices render
18 this critical tool a nullity.

19 25. Defendants’ sales of ghost gun parts and kits also pose a consumer protection
20 problem. Ghost gun companies hold out their products as complying with the law. These
21 statements are deceptive and misleading. When their customers buy and use the kits they sell in
22 California for their exclusive intended purpose—that is, when they finish the frame and receiver
23 blanks and use them to build fully operable guns—these consumers come to possess a firearm
24 subject to state regulation. It is deceptive to tell consumers that a product is legal when
25 possession of the product for its sole intended use is illegal, either per se or unless the consumer
26 takes specific regulatory steps that ghost gun companies fail to disclose. In this way, well-

27 _____
28 ¹⁷ U.S. Department of Justice, *ATF Firearms Tracing Guide*, (Nov. 2011),
<https://www.atf.gov/file/58631/download>.

1 meaning California consumers, hobbyists, or gun enthusiasts who may “privately manufacture”
2 ghost guns without meaning to break the law, break it nonetheless because they are misled by the
3 information the dealer provides online and in other communications with customers and
4 prospective customers as to what is and is not lawful in the state of California.

5 26. By circumventing the UHA, Defendants pose an additional consumer-protection
6 problem. California law prohibits the sale of unsafe handguns, and requires that handguns sold in
7 this State meet certain generally-applicable requirements, including safety standards that prevent
8 unintended injuries and accidental deaths. California consumers are entitled to rely on that law,
9 yet ghost gun Build Kits sold by Defendants in California do not meet these standards.

10 27. The People bring this UCL and FAL action to enjoin Defendants from engaging in
11 prospective unlawful, unfair, and fraudulent business practices and to recover penalties and
12 restitution for Defendants’ past UCL and FAL violations.

13 **II. PARTIES**

14 28. The People of the State of California (the “People”) bring this action by and
15 through Rob Bonta, Attorney General of California, and Chesa Boudin, District Attorney of the
16 County of San Francisco.

17 29. The People may bring a civil action to enjoin any person who engages, has
18 engaged, or proposes to engage in unfair competition, as defined in Business and Professions
19 Code section 17200, and may seek civil penalties and restitution for each act of unfair
20 competition. (Bus. & Prof. Code §§ 17203, 17204 & 17206.)

21 30. The People may bring a civil action to enjoin false advertising practices, as defined
22 in Business and Professions Code section 17500, and may seek civil penalties for each act of false
23 advertising. (Bus. & Prof. Code § 17535 & 17536.)

24 31. The People bring this action without prejudice to any other action or claim that the
25 People may have based on separate, independent, and unrelated violations arising out of matters
26 or allegations that are not set forth in this Complaint.

27 32. Defendant Blackhawk Manufacturing Group Inc. (“Blackhawk”) is a corporation
28 organized under the laws of the State of California. It holds a Federal Firearms License, Type 07,

1 which is issued to manufacturers of firearms other than destructive devices. It maintains a
2 website at www.80percentarms.com, from which it offers for sale products in a manner that
3 violates sections 17200 and 17500 as further described herein, and it also advertises and sells its
4 products from a showroom in Orange County and at gun shows. Blackhawk advertises its
5 products to San Francisco and California residents. Blackhawk sells products into San Francisco,
6 including by shipping to a San Francisco address multiple products purchased by investigators
7 working at the direction of the District Attorney. Blackhawk's principal place of business is
8 located at 12272 Monarch St., Garden Grove, CA 92841.

9 33. Defendant GS Performance, LLC ("GS Performance") is a corporation organized
10 under the laws of the State of Tennessee. It holds a Federal Firearms License, Type 07, which is
11 issued to manufacturers of firearms other than destructive devices. It maintains a website at
12 www.glockstore.com, as well as a retail store in San Diego, from which it offers for sale products
13 in a manner that violates sections 17200 and 17500 as further described herein. GS Performance
14 advertises its products to San Francisco and California residents. GS Performance sells products
15 into San Francisco, including by shipping to San Francisco addresses one or more products
16 purchased by investigators working at the direction of the District Attorney and by a legal analyst
17 working at the direction of the Attorney General. GS Performance's principal place of business is
18 located at 4770 Ruffner St., San Diego, CA 92111.

19 34. Defendant MDX Corporation ("MDX Arms") is a corporation organized under the
20 laws of the State of California. MDX Arms maintains a website at www.mdxarms.com, from
21 which it offers for sale products in a manner that violates sections 17200 and 17500 as further
22 described herein, and it also advertises and sells its products at gun shows. MDX Arms
23 advertises its products to San Francisco and California residents. MDX Arms sells products into
24 San Francisco, including by shipping to a San Francisco address one or more products purchased
25 by investigators working at the direction of the District Attorney and a legal analyst working at
26 the direction of the Attorney General. MDX Arms' principal place of business is located at
27 11404 Arizona Ave., Riverside, CA 92503.

28 35. Defendants Does 1-25 have identities that are not yet known to the People. The

1 People will seek to amend the pleadings, or to conform them to proof, as the identities of these
2 Defendants become known. Does 1-25 act in concert with the Defendants specifically named in
3 this suit to violate sections 17200 and 17500 in the manner described herein.

4 36. At all relevant times, Defendants committed the acts, caused others to commit the
5 acts, ratified the commission of the acts, or permitted others to commit the acts alleged in this
6 complaint and have made, caused, ratified, or permitted others to do the unlawful, fraudulent, and
7 unfair acts alleged in this complaint.

8 37. Whenever in this complaint reference is made to any act of any corporate
9 defendant, such allegation shall be deemed to mean that such corporate defendant did the acts
10 alleged in the complaint through its officers, directors, agents, employees, and/or representatives
11 while they were acting within the actual or ostensible scope of their authority.

12 **III. JURISDICTION AND VENUE**

13 38. The Court has subject matter jurisdiction over this action pursuant to Article VI,
14 section 10 of the California Constitution.

15 39. The Court has personal jurisdiction over Defendants. Defendants Blackhawk and
16 MDX Arms are incorporated and maintain their principal place of business in California.
17 Defendant GS Performance maintains its principal place of business in California. All
18 Defendants maintain interactive websites through which they make goods available for purchase
19 to Californians. On information and belief, all Defendants sell products to California residents
20 and ship products in or into California; indeed, all Defendants have sold kit products to
21 investigators working at the direction of the District Attorney, and two have sold kit products to a
22 legal analyst working at the direction of the Attorney General. All Defendants thus take
23 advantage of the benefits and privileges of the laws of the State of California and purposefully
24 avail themselves of the California market.

25 40. Venue is proper in this Court pursuant to Code of Civil Procedure section 393
26 because violations of law that occurred in the City and County of San Francisco are part of the
27 cause upon which the People seek penalties imposed by statute and, independently, because
28 Defendants' business practices affect San Francisco consumers.

1 **IV. FACTUAL ALLEGATIONS**

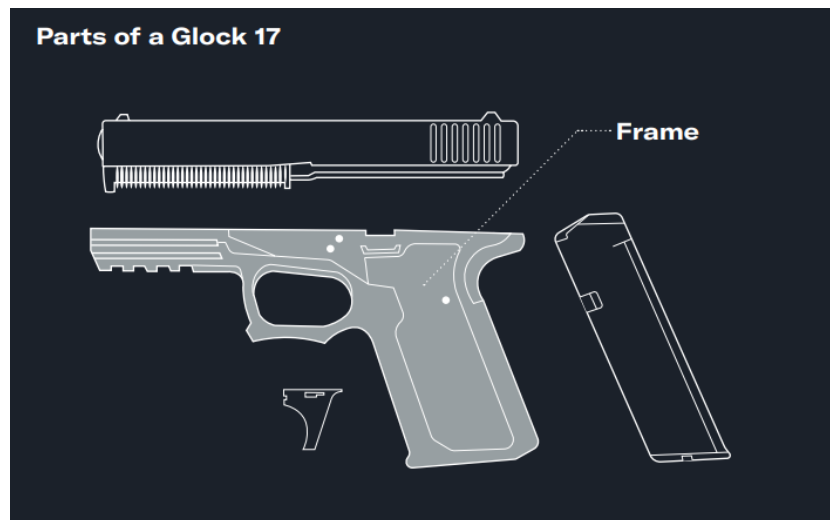
2 **A. Firearm Regulations**

3 **1. The Federal Gun Control Act**

4 41. Enacted in 1968, the federal Gun Control Act is the primary federal statute
5 governing the manufacture and sale of firearms. Through the GCA, the federal government
6 regulates the commercial sale of firearms.

7 42. As relevant here, under the GCA, the “term ‘firearm’ means (A) any weapon
8 (including a starter gun) which will or is designed to or may readily be converted to expel a
9 projectile by the action of an explosive [or] (B) the frame or receiver of any such weapon.” (18
10 U.S.C. § 921(a)(3).) While Paragraph (A) refers to the “weapon,” Paragraph (B) refers to a
11 specific component of the weapon—the frame or receiver. The frame and the receiver are the key
12 gun components to which the federal serialization and point-of-sale requirements apply. The
13 terms “frame” and “receiver” are thus critical to regulation under the GCA.

14 43. In this basic diagram¹⁸ of a Glock 17, which is a pistol, the frame is shown in light
15 gray:

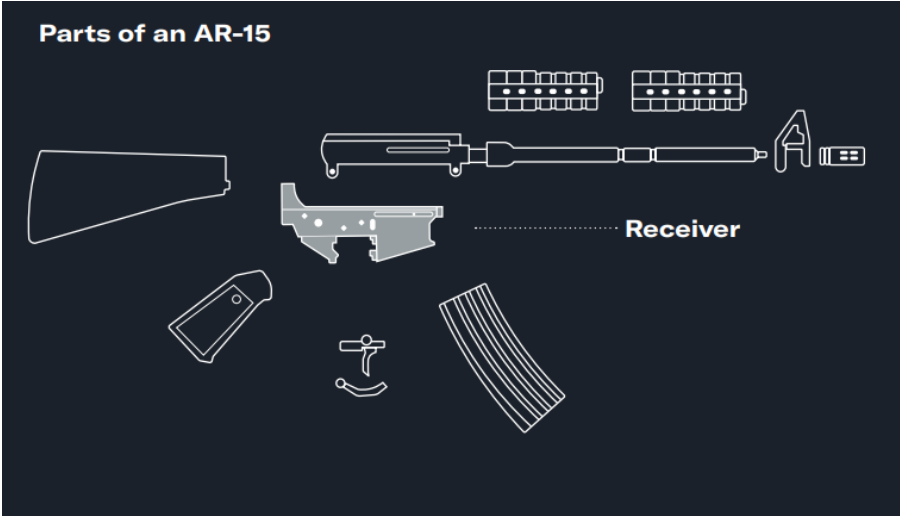


24 44. In this basic diagram¹⁹ of an AR-15 rifle, the receiver is shown in light gray:

26 _____
27 ¹⁸ Everytownresearch.org, *Untraceable: The Rising Specter of Ghost Guns*, (May 14, 2020),
<https://everytownresearch.org/report/the-rising-specter-of-ghost-guns/>.

28 ¹⁹ *Id.*

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45. The GCA regulates the manufacture and sale of firearms—including frames and receivers—through a licensing scheme.

46. The GCA prohibits an individual or business from engaging in the business of manufacturing, importing, or selling firearms—including frames and receivers—unless that individual or business has an FFL. (18 U.S.C. § 922(a)(1)(A).)

47. FFLs who manufacture or import firearms must engrave or cast a serial number on all frames and receivers that they make. (18 U.S.C. § 923(i).) This is the federal serialization requirement.

48. There is also a federal background check requirement. Before an FFL can sell a weapon at retail, the FFL must ensure that the buyer completes ATF’s Form 4473, which collects the biographical information about the purchaser. The FFL must also conduct a background check on the buyer through the National Instant Criminal Background Check System or a comparable government-run system, and the FFL cannot complete the sale if the NICS or government-run system identifies the buyer as ineligible to possess the firearm.²⁰ In addition, to ensure the ability to trace guns recovered by law enforcement, federal law requires FFLs to “maintain such records of” the “sale, or other disposition of firearms at his place of business for

²⁰ In some states, including California, the background check process involves checking additional state databases, in addition to the federal NICS system, to ensure a would-be gun buyer is legally eligible to purchase and possess a firearm.

1 such period, and in such form, as the Attorney General may by regulations prescribe.” (18 U.S.C.
2 § 923(g)(1)(A); *see also* 27 C.F.R. § 478.11.) It is unlawful for an FFL to sell or deliver a firearm
3 to any person without recording in the FFL’s records the make, model and serial number of the
4 firearm as well as “the name, age, and place of residence” of the purchaser. (18 U.S.C.
5 § 922(b)(5).)

6 49. In addition, except in limited circumstances, FFLs must actually meet the buyer in
7 person. (18 U.S.C. § 922(c).) Furthermore, FFLs may not “sell or deliver [] any firearm or
8 ammunition to any individual who the licensee knows or has reasonable cause to believe is less
9 than eighteen years of age,” or, in the case of firearms “other than a shotgun or rifle..., to any
10 individual who the licensee knows or has reasonable cause to believe is less than twenty-one
11 years of age.” (18 U.S.C. § 922(b)(1).) FFLs also may not “sell or otherwise dispose of any
12 firearm or ammunition to any person knowing or having reasonable cause to believe that such
13 person” is in one of certain prohibited categories, including but not limited to their being charged
14 with or convicted of a felony or domestic violence misdemeanor, or having had an involuntary
15 mental health commitment, or being an unlawful user of controlled substances. (18 U.S.C.
16 § 922(d).) And FFLs may not “sell, deliver, or transfer any handgun to any person other than any
17 person licensed under this chapter, unless the transferee is provided with a secure gun storage or
18 safety device.” (18 U.S.C. § 922(z).)²¹ FFLs also generally may not sell firearms to consumers
19 who reside outside the state in which the FFL is licensed, unless the firearm is first shipped to an
20 FFL in the consumer’s home state, or the transaction is in-person and the FFL verifies compliance
21 with the law of the FFL’s state and the state where the purchaser resides. (18 U.S.C. § 922(b)(3).)

22 2. The California Assembly of Firearms Law

23 50. The Legislature enacted the Assembly of Firearms Law to clamp down on ghost
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25 ²¹ A “secure gun storage or safety device” means “a device that, when installed on a firearm, is
26 designed to prevent the firearm from being operated without first deactivating the device; [] a
27 device incorporated into the design of the firearm that is designed to prevent the operation of the
28 firearm by anyone not having access to the device; or [] a safe, gun safe, gun case, lock box, or
other device that is designed to be or can be used to store a firearm and that is designed to be
unlocked only by means of a key, a combination, or other similar means.” (18 U.S.C.
§ 921(a)(34).)

1 guns. The bill’s sponsor, Assemblymember Cooper, explained his reasons for proposing AB 857
2 (Cooper 2016), which enacted the law:

3 Many homemade, or personally manufactured, firearms have no
4 serial number; therefore have no record of existence. New
5 technology makes it very easy to manufacture untraceable firearms
6 and has created a public safety concern. These untraceable firearms
7 are showing up at crime scenes, are found in the hands and [sic]
8 violent criminals and criminal organizations are now in the business
9 of manufacturing these guns for criminal activity and profit.
10 Furthermore, when a law abiding citizen has one of these guns
11 stolen it is not recoverable by law enforcement because it is
12 untraceable. AB 857 will be an important step forward in holding
13 criminals accountable and protecting the property of citizens who
14 make these firearms.²²

15 51. Codified at Chapter 3, Division 7, Title 4, Part 6 of the Penal Code, the Assembly
16 of Firearms Law applies to people who “privately manufacture” firearms by finishing a frame or
17 receiver blank. It requires that any person who manufactures or assembles a firearm in California
18 apply to the California Department of Justice to obtain a unique serial number to inscribe upon
19 the firearm. (Penal Code § 29180.)²³ To obtain the serial number, the applicant must “complete
20 a firearms eligibility check . . . demonstrating that the applicant is not prohibited by state or
21 federal law from possessing, receiving, owning, or purchasing a firearm.” (Penal Code § 29182,
22 subd. (b)(1).) The applicant must also provide proof that he or she is of legal age to possess the
23 firearm. (Penal Code § 29182, subd. (b)(2).) Typically, applicants must obtain the serial number
24 prior to manufacturing or assembling the firearm.²⁴ The law further prohibits individuals or
25 companies from knowingly allowing, facilitating, aiding, or abetting the manufacture or assembly
26 of a firearm by anyone who is prohibited from possessing a firearm under state law. (Penal Code
27 § 29180, subd. (f).)

28 ²² August 1, 2016 Assembly Floor Analysis of AB 857 (Cooper 2016),
https://leginfo.legislature.ca.gov/faces/billAnalysisClient.xhtml?bill_id=201520160AB857#

²³ If the firearm is manufactured or assembled from polymer plastic, a 3.7-ounce piece of
stainless steel must be embedded within the plastic, and the serial number can be engraved upon
this piece of steel. *Id.*

²⁴ Commencing July 1, 2018, a person manufacturing or assembling a firearm must apply for a
unique serial number prior to manufacturing or assembling the firearm. (*Id.*, § 29180, subd. (b).)
By January 1, 2019, any person who, as of July 1, 2018, owns a firearm that does not bear a serial
number must apply for the unique serial number. (*Id.*, § 29180, subd. (c).)

1 52. To ensure that the Assembly of Firearms Law applies to ghost guns, the
2 Legislature provided that the definition of “firearm” applicable to this legislation “includes the
3 frame or receiver of the weapon.” (Penal Code § 16520, subd. (b)(13).)

4 **3. The California Unsafe Handgun Act**

5 53. Between 1996 and 2000, almost 400 Californians died as a result of unintentional
6 shootings. Responding to this needless loss of life, in 1999 the Legislature enacted the Unsafe
7 Handgun Act. The UHA prohibits the sale of unsafe handguns and requires that all newly
8 developed handgun models manufactured or offered for sale in California be certified according
9 to California DOJ standards as “not unsafe.” The UHA has been effective. Within twenty years
10 of the law’s enactment, unintentional shooting deaths decreased in California by two-thirds.

11 54. Under the UHA, to be classified as “not unsafe,” a handgun must pass a specified
12 “firing test” that ensures that the weapon can be fired multiple times without malfunction. (Penal
13 Code §§ 31905 & 31910.) Additionally, the handgun must pass a specified “drop safety test” to
14 ensure that the firearm will not accidentally discharge when dropped. (Penal Code §§ 31900 &
15 31910.) Further, a pistol must “have a positive manually operated safety device” that meets
16 certain standards set by ATF. (Penal Code § 31910, subd. (b)(1).)

17 55. To ensure compliance with these safety standards, the UHA requires handgun
18 manufacturers to produce three exemplars of any new model of a handgun that the manufacturer
19 wishes to make or, whether directly or through a retailer, offer for sale in California. Those
20 exemplar weapons are tested by independent laboratories certified by California DOJ, and
21 California DOJ retains at least one of the exemplars, which must be identical to the handguns
22 offered for sale. California DOJ maintains a roster of firearms that have successfully passed the
23 firing and drop safety tests or otherwise met the requirements of the UHA.

24 56. The Legislature later expanded the UHA to incorporate additional consumer and
25 public safety protections. For instance, since January 1, 2007, state law has required that all newly
26 developed center-fire semiautomatic pistols must, in order to be submitted for testing and
27 certification under the UHA, include both a chamber-load indicator, which alerts the user as to
28 whether the handgun is loaded with a cartridge in the firing chamber, as well as a magazine-

1 disconnect mechanism, which prevents the firearm from discharging when a detachable magazine
2 is removed from the weapon. Rim-fire semiautomatic pistols are also required to have a
3 magazine disconnect mechanism if they have detachable magazines. (Penal Code § 32010, subd.
4 (d).)

5 **4. The California Manufacture of Firearms Law**

6 57. Like the GCA, the Manufacture of Firearms Law is a licensing regime. Any
7 “person, firm, or corporation” that possesses an FFL to manufacture firearms “shall not
8 manufacture firearms within this state unless” licensed to do so under the Penal Code. (Penal
9 Code § 29010, subd. (a).) The state licensing requirement does not apply to a “person . . . who
10 manufactures fewer than 50 firearms in a calendar year within this state.” (Penal Code § 29010,
11 subd. (b).) A violation of the licensing requirement is a misdemeanor. (Penal Code § 29010,
12 subd. (d).)

13 58. To obtain a state manufacturing license, the prospective licensee must pay a fee to
14 the State and obtain a certificate of eligibility, which ensures that the applicant is not prohibited
15 by state or federal law from possessing, receiving, owning, or purchasing a firearm. (Penal Code
16 § 26710, subd. (b) (defining certificate of eligibility); *see id.* § 29050, subd. (b)(4) (requiring
17 manufacturing licensees to hold such a certificate).)

18 59. Once licensed, the state licensee must then follow the prohibitions and
19 requirements specified at sections 29100 through 29150, inclusive, of the Penal Code. One
20 important requirement is that manufacturers must serialize the firearms they manufacture: “Each
21 firearm a licensee manufactures in this state shall be identified with a unique serial number
22 stamped onto the firearm utilizing the method of compression stamping.” (Penal Code § 29125,
23 subd. (a).)

24 60. Other requirements applicable to licensees protect public and consumer safety.
25 State licensees must ensure that their employees have certificates of eligibility (Penal Code
26 § 29120), make their premises available for inspection by law enforcement (Penal Code § 29135),
27 and “store in a secure facility all firearms manufactured and all barrels for firearms
28 manufactured” (Penal Code § 29140).

1 61. The requirements of the Manufacture of Firearms Law *specifically apply* to frame
2 and receiver blanks. (Penal Code § 16520, subd. (g).)

3 **5. The California Unfair Competition Law**

4 62. The State of California prohibits a corporation from engaging in unfair
5 competition by violating any regulation or law. (Bus. & Prof. Code §§ 17200, 17201, 17203 &
6 17206, subd. (a).)

7 63. Business and Professions Code section 17206 imposes civil liability of not more
8 than \$2,500 for each violation for any act of unfair competition, as defined in Business and
9 Professions Code section 17200.

10 64. Business and Professions Code section 17203 authorizes the Court to order
11 restitution of any money or property which may have been acquired by means of unfair
12 competition, as defined in Business and Professions Code section 17200.

13 65. Business and Professions Code section 17203 authorizes the Court to issue an
14 order that enjoins any person who engages, has engaged, or proposes to engage in unfair
15 competition, as defined in Business and Professions Code section 17200.

16 **6. The California False Advertising Law**

17 66. The State of California prohibits any person, firm, corporation, or association from
18 engaging in false advertising practices. (Bus. & Prof. Code § 17500.)

19 67. Business and Professions Code section 17536 imposes civil liability of not more
20 than \$2,500 for each violation for any act of false advertising, as defined in Business and
21 Professions Code section 17500.

22 68. Business and Professions Code section 17535 authorizes the Court to issue an
23 order that enjoins any person who engages, has engaged, or proposes to engage in unfair
24 competition, as defined in Business and Professions Code section 17200.

25 **B. Ghost Guns**

26 **1. Frame and receiver blanks can be easily finished and assembled into**
27 **fully operable weapons.**

28 69. Ghost gun companies like Defendants sell frame and receiver blanks. These are

1 sometimes called “80% lowers” or “80s.” While “80” is intended to refer to “80% finished,” in
2 reality, ghost guns are sold in a far more complete form than that number suggests.

3 70. This is a diagram of an “80”—a pistol frame blank:



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1 71. This is a diagram of a finished pistol frame:²⁵



13 72. As these diagrams show, the difference is minimal. In this example, the finished
14 frame has three holes drilled into it (the Locking Block Pin Hole, the Trigger Pin Hole, and the
15 Trigger Housing Pin Hole), and has the rails filed off. The effort needed to finish the frame blank
16 is also minimal. Videos abound on YouTube and throughout the Internet showing how easy it is
17 to do. Retailers proudly make these videos and display, or link to them from, the product pages
18 for their “80s.”

19 73. So-called “jig kits” aid consumers in finishing ghost guns. A jig is a drill guide, or
20 template, that tells the consumer exactly where to drill the holes and file down the rails on the
21 frame or receiver blank. Jig kits are commonly sold with the drill bits and other accessories that
22 the consumer can use to finish the frame or receiver blank. To use these jig kits, the consumer
23 only needs to supply common tools, like a drill, and some elbow grease. In little time, a
24 consumer with no manufacturing or machining background can finish a frame or receiver, then
25 use that frame or receiver to assemble a fully functional weapon. Defendant Blackhawk, for
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28 ²⁵ Everytown, *Untraceable: The Rising Specter of Ghost Guns*, (May 14, 2020),
<https://everytownresearch.org/report/the-rising-specter-of-ghost-guns/>.

1 example, which operates under the trade name “80% Arms,” promotes an instructional video
2 which states that “[t]he 80% Arms Easy Jig system makes it simple for the average person to
3 build their own AR-15. It requires no machining experience whatsoever and *you can finish*
4 *building a firearm in under an hour.*”²⁶

5 74. In 2020, as part of an investigation, an ATF agent was able to “finish” an 80%
6 pistol frame in less than nineteen minutes.²⁷

7 75. As described in further detail below, law enforcement personnel working at the
8 direction of the San Francisco District Attorney investigated Defendants and the products they
9 sell. As a part of that investigation, law enforcement personnel obtained frame and receiver
10 blanks from Defendants. A law enforcement officer was able to convert a pistol blank purchased
11 from Defendant MDX Arms into a functional pistol frame in less than twenty-five minutes, and a
12 law enforcement officer was able to convert a receiver blank purchased from Defendant
13 Blackhawk into a functional rifle receiver in one hour and fifty-eight minutes.

14 76. Defendants sell receiver and frame blanks as part of Build Kits, which generally
15 contain all components needed to assemble a fully functional firearm. Defendants artificially
16 split out those components, usually along with any specialty tools, into two or more distinct
17 “items” such that the consumer needs to add different “items” into his or her online shopping cart
18 to obtain all of the needed components. However, Defendants’ marketing makes clear to the
19 consumer what “items” are needed to assemble the full working weapon. In some cases,
20 Defendants even automatically add the necessary items to the consumer’s online shopping cart.

21 77. After “finishing” the frame or receiver blank, the consumer can then easily
22 assemble a fully functional weapon using the remaining components in the Build Kit. This
23 process is also quick. For example, a confidential informant provided with a kit as part of a
24 recent ATF investigation was able to fully assemble a pistol from that kit in about 21 minutes; the
25 process the confidential informant followed included not only “finishing” the frame, but also

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27 ²⁶ See YouTube, *Build Your Own Gun in 1 Hour. 100% Legal*, (Aug. 20, 2014),
<https://www.youtube.com/watch?app=desktop&v=2MiIABbeNXc> (emphasis added).

28 ²⁷ Hart Aff. ¶ 61.

1 assembling the remaining kit components into a fully functional weapon.²⁸

2 **2. Public safety consequences of the ghost gun epidemic**

3 78. Easy-to-finish ghost guns are proliferating. The number of ghost guns recovered
4 in San Francisco has increased dramatically in the past five years. Last year, nearly half of the
5 firearms recovered in connection with San Francisco homicides were ghost guns, and the San
6 Francisco Crime Lab has already processed over 150 ghost guns recovered by law enforcement
7 this year.

8 79. San Francisco’s leaders are deeply concerned about the trend. San Francisco
9 Police Department Police Chief Bill Scott states: “The 27-fold increase in the number of ghost
10 guns we’ve been confiscating over the last five years is alarming, and I’m concerned that it’s only
11 the tip of the iceberg.”²⁹ Legislation to ban ghost guns within the city of San Francisco is
12 pending before the Board of Supervisors.

13 80. Law enforcement throughout the State shares San Francisco leaders’ concern.
14 Former San José Police Department Chief Eddie Garcia has stated that law enforcement officers
15 “work so hard in ensuring that individuals pass background checks and are responsible gun
16 owners . . . [a]nd that really gets thrown out the door when you have individuals that can just
17 make a homemade gun.”³⁰ ATF’s California leadership notes how common ghost guns are in the
18 State. Graham Barlowe, the resident agent in charge at the ATF’s Sacramento field office,
19 publicly stated that “[t]his is not just something for enthusiasts. This has become something for
20 people that are actual practitioners of violence.” He has also noted “We’ve seen machine shops
21 where they are lining them up and completing them in 20-minute intervals, with three or four
22 machines going at once.”³¹

23 81. Community-based violence prevention organizations share this concern as well.

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25 ²⁸ Hart Aff. ¶ 69.

26 ²⁹ KPIX CBS SF Bay Area, *San Francisco Supes to Vote on Ghost Gun Ban*, (May 11, 2021),
<https://sanfrancisco.cbslocal.com/2021/05/11/san-francisco-supes-to-vote-on-ghost-gun-ban/>.

27 ³⁰ Alain Stephens, *Ghost Guns Are Everywhere in California*, The Trace (May 17, 2019),
<https://www.thetrace.org/2019/05/ghost-gun-california-crime/>.

28 ³¹ *Id.*

1 Increasingly, as they report, young people in California communities are turning to online
2 distributors to purchase kits to build ghost guns at home. And while ghost gun purveyors had
3 already preyed on vulnerable communities before the pandemic, the demand for these weapons
4 has intensified during the past year. As one employee of a violence prevention non-profit
5 observed, “Now, instead of people having to purchase weapons for \$600 to \$700, they can buy
6 them on the computer, put them together, and use them on the street.”³²

7 82. The proliferation of ghost guns has had tragic consequences in California:

- 8 • In 2013, a man who failed a background check conducted by an FFL went on to
9 assemble an unserialized AR-15 ghost gun. He used that rifle to kill five people in
10 Santa Monica.
- 11 • In 2014, bank robbers in Stockton took hostages and engaged in a high-speed chase
12 with police. They later engaged in a gun battle that killed three, including one
13 hostage. Police recovered a homemade AK-47 at the scene.
- 14 • In 2015, a Stanford engineering student shot and killed a woman, then killed himself,
15 in Walnut Creek. He had assembled the gun using components purchased online.
- 16 • In 2017, a man who had a criminal record that barred him from lawful firearm
17 ownership purchased an AR-15 ghost gun. He used it to engage in a 25-minute-long
18 shooting spree across Tehama County, killing five people and injuring 18 more.
- 19 • In 2018, another man with a criminal record that barred him from lawful firearm
20 ownership shot a San Diego police officer, then killed himself. Two ghost guns were
21 recovered at the scene.³³
- 22 • In 2019, a sixteen-year-old in Santa Clarita, ineligible to possess a handgun because of
23 his age, used an unserialized ghost gun in a school shooting. He killed two and shot
24 three more before killing himself. All the victims were high school students.

25 ³² Abené Clayton, *Ordered Online, Assembled at Home: the Deadly Toll of California’s ‘Ghost*
26 *Guns*, The Guardian (May 18, 2021), [https://www.theguardian.com/us-](https://www.theguardian.com/us-news/2021/may/18/california-ghost-guns-deadly-toll)
[news/2021/may/18/california-ghost-guns-deadly-toll](https://www.theguardian.com/us-news/2021/may/18/california-ghost-guns-deadly-toll).

27 ³³ Alain Stephens, *Ghost Guns are Everywhere in California*, The Trace (May 17, 2019),
28 <https://www.thetrace.org/2019/05/ghost-gun-california-crime/> (listing the provided examples
from 2013 through 2018).

- 1 • In 2020, a shooter wielding a ghost gun shot two Los Angeles County Sheriff’s
2 Department deputies while they were sitting in their patrol car.³⁴
- 3 • In May and June of 2020, respectively, a shooter using a homemade machine gun shot
4 two security guards at a federal building in Oakland, and subsequently a sheriff’s
5 deputy in an ambush in Santa Cruz.³⁵
- 6 • Earlier this year, a San Diego man with a criminal history that would disqualify him
7 from lawful gun possession used a ghost gun to kill one and wound four others during
8 a nighttime shooting in San Diego’s Gaslamp Quarter. San Diego’s police chief
9 explained that ghost gun proliferation “means anyone who is prohibited because of
10 their mental illness or their prior felony convictions can still purchase a firearm, have
11 it Fedexed overnight and have a gun in their hands the following day.”³⁶

12 3. ATF determinations regarding ghost guns

13 83. ATF has previously issued various “determination letters” about specific frame or
14 receiver blanks that are sold as standalone items. In these determination letters, ATF opined that
15 the products at issue are not firearms within the meaning of the GCA.

16 84. The ATF determination letters have two important characteristics. First, they
17 obviously do not address the issue of whether a frame or receiver blank meets any definition of
18 “firearm” under California law. Second, while ATF has, at times, determined that various
19 *specific* frame or receiver blanks are not firearms when sold as standalone products, ATF has
20 *never* determined that a frame or receiver blank bundled with additional firearm parts or a jig fails
21
22

23 ³⁴ NBC Los Angeles, *‘Ghost Gun’ Kit Maker Sued Over Ambush Shooting of Two Deputies at*
24 *Compton Transit Station*, (Aug. 10, 2021), <https://www.nbclosangeles.com/news/local/la-county-deputies-ghost-gun-kit-maker-lawsuit-compton-metro-rail-station/2668483/>.

25 ³⁵ Lois Beckett, *100 Days of Warning Inside the Boogaloo Killings of US Security Personnel*, *The*
26 *Guardian* (Jan. 15, 2021), <https://www.theguardian.com/world/2021/jan/15/boogaloo-killing-facebook-dave-patrick-underwood-police>.

27 ³⁶ CBS8, *Untraceable ‘Ghost Gun’ Allegedly Used in Fatal Gaslamp Shooting Spree*, (Apr. 23,
28 2021) <https://www.cbs8.com/article/news/local/untraceable-ghost-gun-allegedly-used-in-fatal-gaslamp-shooting-spree/509-cc352272-85d9-4e4b-bc1b-7446dcb96660>.

1 to meet the federal “firearm” definition.³⁷ Indeed, ATF has warned ghost gun companies that
2 marketing frame or receiver blanks in combination with other products that facilitate the
3 conversion of the frame or receiver blank into its finished state could cause ATF to revisit its
4 prior determinations.

5 85. Indeed, ATF has determined that frame blanks sold as part of a firearms kit meet
6 the federal “firearm” definition. Last year, ATF obtained and tested kits manufactured and
7 marketed by Polymer80, Inc., a leading manufacturer of frame blanks and ghost gun kits. Both
8 ATF’s General Counsel and the Special Agent who assembled the kit determined that the
9 Polymer80 kit constituted a firearm under federal law.³⁸

10 **V. DEFENDANTS’ VIOLATIONS OF SECTIONS 17200 AND 17500**

11 86. Defendants’ business practices violate, or seek to evade, at least four distinct
12 statutes: the federal Gun Control Act, the California Assembly of Firearms Act, the California
13 Unsafe Handgun Act, and the California Manufacture of Firearms Act. In some instances,
14 Defendants directly violate these laws or aid and abet their violation; where they do, they engage
15 in unlawful business practices. In other instances, Defendants exploit perceived loopholes in an
16 effort to evade the law; in those instances, too, Defendants engage in both unlawful and unfair
17 business practices.

18 87. Defendants also engage in false and deceptive advertising and other fraudulent
19 practices. Defendants’ advertising and other communications lull reasonable consumers into
20 believing that Defendants’ Build Kits can be used, in compliance with the law, as sold and
21 without the consumer needing to take further steps to comply with the law. Such marketing

22 ³⁷ ATF’s determinations that various stand-alone frame and receiver blanks do not meet the
23 federal definition of “firearm” have been challenged as contrary to law and arbitrary and
24 capricious in at least two pending lawsuits, one brought by the State of California. *See State of*
25 *California v. ATF*, No. 20-06761 (N.D. Cal.); *City of Syracuse v. ATF*, No. 20-06885 (S.D.N.Y.).
26 And ATF recently initiated a rulemaking and proposes to revise its regulatory definition to ensure
27 that the frame and receiver blanks sold by Defendants, which are designed and readily converted
28 to function as fully operable firearms (the sole purpose for which Defendants market and sell
them) do indeed meet the federal definition of “firearm” even if sold without additional gun
components. *See* ATF, Definition of “Frame or Receiver” and Identification of Firearms, rule
2021R-05 (proposed May 7, 2021).

³⁸ Hart Aff. ¶ 65.

1 practices are fraudulent business practices within the meaning of section 17200 and they
2 constitute false advertising within the meaning of section 17500.³⁹

3 **A. Defendants’ violations related to the GCA.**⁴⁰

4 88. All Defendants sell “firearms” as defined in the GCA, but they fail to comply with
5 the federal serialization and point-of-sale regulations that apply to firearms sellers. Among other
6 violations, Defendants fail to ensure that the firearms bear unique serial numbers; Defendants sell
7 firearms but do not run background checks on prospective consumers to screen for consumers’
8 ineligibility to possess firearms; Defendants do not require purchasers to fill out Form 4473;
9 Defendants fail to meet purchasers to transfer the firearm in person; Defendants fail to maintain
10 the records of sales required under federal law; and Defendants fail to include safety devices or
11 locks when selling firearms. Defendants’ violations of the GCA constitute an unlawful business
12 practice under section 17200.

13 89. Even if Defendants’ business practices as alleged herein did not result in the sales
14 of products that meet the federal definition of a “firearm,” the purpose of Defendants’ business
15 practices is to evade the federal serialization and point-of-sale requirements that apply to firearms
16 sellers. Put differently, even if Defendants were not selling “firearms” under the federal
17 definition—which they clearly are—their purpose in marketing frame and receiver blanks in the
18 way they do is to evade the policy that inheres in the GCA. Defendants’ intentional evasion of
19 the GCA constitutes an unfair business practice under section 17200.⁴¹

20 **1. Blackhawk**

21 90. Blackhawk operates from Garden Grove, California where it maintains both a

22 ³⁹ Where Defendants engage in false advertising in violation of section 17500, they also engage
23 in an independently actionable *unlawful* business practice within the meaning of 17200 because a
24 violation of section 17500 can serve as a predicate offense for the “unlawful prong” of section
17200.

25 ⁴⁰ The factual allegations regarding Defendants made in Part V.A. here apply equally to the
26 allegations of Defendants’ violations of the Assembly of Firearms Law, the UHA, and the
27 Manufacturer of Firearms Law, in Parts V.B-D, *supra*.

28 ⁴¹ Below, the People allege that specific kit products sold by Defendants are firearms under the
GCA. These are representative examples of the ways in which Defendants sell “firearms” in kits,
and, on information and belief, Defendants sold other kits meeting the statutory definition
available for sale during the statute of limitations period.

1 brick-and-mortar “showroom” and a factory. Blackhawk operates an interactive website through
2 which it sells ghost guns at www.80percentarms.com.

3 91. Blackhawk understands itself to be selling firearms. While it sells no finished
4 frames or receivers on its website, its website until recently proudly proclaimed:

5 In 2013, 80% Arms opened as the premier 80% lower and jig
6 manufacturer of the *firearms* industry, in the heart of Orange
7 County, California. Since then, we have provided Americans with
8 tens of thousands of lowers, jigs, and quality American made
9 products designed to ensure the security of our 2nd Amendment.
10 Later that year, we revolutionized the industry again by developing
11 the worlds [*sic*] first router-based jig, cutting down on machine
12 work, and refining results even further. As our company has grown,
13 as we have released more products, and we branch out into all
14 different areas of the *firearms* industry, we always have a core goal
15 in mind: To produce a quality American made product, that ensures
16 freedom can never be infringed upon.⁴²

17 92. “GST-9.” Blackhawk’s pistol product is called the GST-9. Blackhawk holds out
18 the GST-9 as a “pistol frame system” that is “compatible” with various “Glock” components; it is
19 substantially similar to a Glock 19. Blackhawk sells a Build Kit that is split over two “items,” the
20 “GST-9 Build Kit,” which contains all of the pistol’s components,⁴³ and its corresponding jig
21 kit.⁴⁴ The “GST-9 Build Kit” contains an unserialized pistol frame.

22 93. The screenshot below is of the GST-9 Build Kit’s product page. It touts the GST-
23 9 Build Kit” as containing “everything you need to build a top-tier handgun.” It notes that “[a]ll
24 that’s left for you to buy” is the jig kit, and it contains a hyperlink, offset in a contrasting color, to
25 the product page for the jig kit. Blackhawk tells consumers that the “GST-9 Build Kit” will allow
26 the consumer to have a “ready pistol in under 15 minutes”:

27 ⁴² 80% Arms, *80% Arms Frequently Asked Questions* (as viewed Aug. 16, 2021),
28 <https://www.80percentarms.com/contact-us/> (emphasis added).

⁴³ 80% Arms, *GST-9: 80% Pistol Build Kit*, (last viewed Oct. 12, 2021),
<https://www.80percentarms.com/products/gst-9-80-pistol-build-kit/>.

⁴⁴ 80% Arms, *GST-9 Jig w/ Tool Kit & Slide Rails*, (last viewed Oct. 12, 2021),
<https://www.80percentarms.com/products/gst-9-jig-w-tool-kit-slide-rails/>. On information and
belief, during the statute of limitations period, Blackhawk has sold all components needed to
assemble a fully functional GST-9 as a single-item kit.

1 The complete GST-9 pistol kit is everything you need to build a top-tier handgun, at a
2 production level price. Engineered from the ground up to capitalize on all the strengths of the
3 Generation 1-3 Glock® platform, while also incorporating the most common aftermarket
4 upgrades as standard features, we've created a pistol that not only ships straight to your door,
5 but outshoots you everyday of the week.

6 **Every GST-9 Pistol comes with:**

- 7 • The GST-9 Modular Frame
- 8 • GST-9 Grip Extension
- 9 • The Wraith RMR Cut Slide - Completed
- 10 • Black, Straight-Fluted, Match-Grade G19 Barrel
- 11 • G19 Lower Parts Kit

12 All that's left for you to buy is one of our top-of-the-line GST-9 Jigs! Our goal was for you to be
13 able to go from opening the mail, to a competition or defense ready pistol in under 15 minutes.
14 As always, our products are backed by our Lifetime Warranty!

15 94. The Build Kit's product page states that Blackhawk cannot "legally include the jig
16 or frame rails with the GST-9 frame" because of "recently changed ATF regulations." Instead,
17 "the jig and GST-9 must be purchased on our website as two separate items." On information and
18 belief, Blackhawk's purpose for requiring consumers to add two different products—the build kit
19 and the jig kit—to their online shopping carts is to attempt to circumvent the GCA.

20 95. Blackhawk is currently shipping Build Kits for which orders have been placed.
21 While Blackhawk is not currently accepting new orders for the "GST-9 Build Kit," because of
22 production delays, the Build Kit's product page notes that Blackhawk "look[s] forward to making
23 this product live again." And it further observes that it is "working on shipping" certain orders
24 and that "[o]rders will be filled even more quickly than previously demonstrated with higher
25 production capacity. We will continue to release updated shipping timelines to keep you
26 informed."

27 96. Blackhawk also touts how easily and quickly the consumer can assemble the GST-
28 9 Build Kit into a fully functional weapon. The GST-9 standalone pistol frame's product page⁴⁵
claims that the product "Easily ships to your door & completes within minutes." To prove the

⁴⁵ 80% Arms, *GST-9 Pistol Frame*, (last viewed Oct. 12, 2021),
<https://www.80percentarms.com/products/gst-9-pistol-frame/>.

1 point, it later states “How easy is it to build? Check out the instruction manual and see for
2 yourself!” The instruction manual, which is two pages long, provides this diagram and overview
3 noting the three “simple instructions” for finishing the frame:

4 **OVERVIEW**

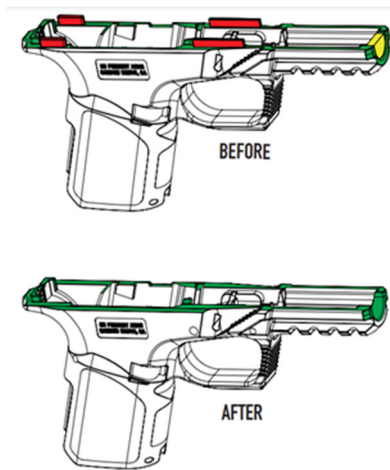
5 The jig has simple instructions highlighting the following steps required to complete your GST-9:

6 A) Drill three (3) pin holes on each side (1x 4MM, 2x 3MM)

7 B) Remove the front cross blocking member (YELLOW)

8 C) Remove four (4) top tabs marked in (RED)

9 It then contains a set of diagrams that illustrates just how little work the consumer needs to
10 undertake to “finish” the GST-9 frame blank:



18 In addition to these written instructions, Blackhawk creates videos, which it posts to YouTube, to
19 aid private manufacturers in finishing the GST-9 frame blank. The video “How To: Finish GST-
20 9 Frame” is less than five minutes long, and shows the viewer how to convert the frame blank
21 into a firearm; indeed, the video concludes with the narrator stating “Congratulations, you’ve just
22 made a gun. And this is now legally a firearm and should be treated as such,”⁴⁶ though without
23 disclosing the legal obligations under, among other laws, the Assembly of Firearms Law or the
24 Unsafe Handgun Act that arise from finishing a pistol blank or using that pistol blank to assemble
25 a fully functional weapon. Blackhawk has also posted to YouTube a “How To: Assemble Your
26 GST-9” video, which is less than four minutes long, that shows the user how to use a finished
27

28 ⁴⁶ https://www.youtube.com/watch?v=zN_fYqILFnA.

1 GST-9 frame to create a fully functional firearm.⁴⁷ Combined, these two videos have been
2 viewed more than 100,000 times.

3 97. **AR-10 and AR-15 Build Kits.** Blackhawk also sells, or has within the statute of
4 limitations period sold, AR-10 and AR-15 rifles as Build Kits, with the components sold as one
5 “item” and the corresponding jigs sold as a second “item.” Blackhawk currently lists four Build
6 Kits on its website.⁴⁸ Blackhawk touts that each of these kits as being complete; for example, one
7 kit’s product page proclaims that “This 80% AR-308 kit contains all of the necessary high-quality
8 parts to build your AR-308 rifle at home! We removed all the guesswork and packaged the
9 necessary parts to build your AR-308 Pistol in one, easy to purchase, complete AR-10 build kit.”
10 On information and belief, each of these kits contains an unserialized, lower receiver blank.
11 Blackhawk also sells a variety of corresponding jig products. One of these products is the “Easy
12 Jig Gen 3 Multi-Platform - AR-15, AR-9 and .308 80% Lower Jig,” which is compatible with
13 Blackhawk’s AR-15 and AR-10/.308 components kits.⁴⁹ An embedded video on the product
14 page for the “Easy Jig Gen 3 Multi-Platform - AR-15, AR-9 and .308 80% Lower Jig” purports to
15 show the customer how to use the jig, closing with the line “And that’s how you go from a hunk
16 of aluminum to a fully functional firearm. It’s really just that simple.”

17 98. On July 7, 2021, at approximately 2:40 pm, a law enforcement officer employed
18 by the San Francisco District Attorney’s Office, operating in an undercover capacity, purchased
19 an “All You Need Kit” to build an AR-15 with an 80% lower from Blackhawk’s website.⁵⁰ The

20 ⁴⁷ https://www.youtube.com/watch?v=PY_8eaw4Ock.

21 ⁴⁸ Blackhawk’s website lists four such Build Kits that, on information and belief, Blackhawk has
22 sold during the statute of limitations period: the “Complete 10.5” 5.56/300BLK AR-15 Pistol
23 80% Build Kit,” [https://www.80percentarms.com/products/complete-10-5-5-56-300blk-ar-15-](https://www.80percentarms.com/products/complete-10-5-5-56-300blk-ar-15-pistol-80-build-kit/)
24 <https://www.80percentarms.com/products/complete-16-223-5-56-300blk-ar-15-80-build-kit/>; the
25 “Complete 16” .223/5.56/300BLK AR-15 80% Build Kit,”
26 <https://www.80percentarms.com/products/complete-16-7-62x39-ar-15-80-build-kit/>; and the
27 “Complete 18” AR .308 80% Build Kit,” [https://www.80percentarms.com/products/complete-18-](https://www.80percentarms.com/products/complete-18-ar-308-80-build-kit/)
28 [ar-308-80-build-kit/](https://www.80percentarms.com/products/complete-18-ar-308-80-build-kit/) (sites last visited Oct. 11, 2021).

⁴⁹ 80% Arms, *Easy Jig Gen 3 Multi-Platform – AR-15, AR-9 and .308 80% Lower Jig*, (last
viewed Oct. 12, 2021), [https://www.80percentarms.com/products/easy-jig-gen-3-multi-platform-](https://www.80percentarms.com/products/easy-jig-gen-3-multi-platform-ar-15-ar-9-and-308-80-lower-jig/)
[ar-15-ar-9-and-308-80-lower-jig/](https://www.80percentarms.com/products/easy-jig-gen-3-multi-platform-ar-15-ar-9-and-308-80-lower-jig/).

⁵⁰ This product does not itself contain all components needed to assemble a fully functional
firearm.

1 product contains a receiver blank. The website’s interface did not require the officer to fill out
2 ATF Form 4473, nor did it require the officer to answer screening questions related to the
3 purchaser’s eligibility to possess a firearm under federal and state law. The website’s interface
4 did not ask the officer any questions about secure gun storage or a safety device.

5 99. On or about August 9, 2021, a law enforcement officer employed by the San
6 Francisco District Attorney’s Office, operating in an undercover capacity, purchased a GST-9
7 pistol frame from Blackhawk’s website. The website’s interface did not require the officer to fill
8 out ATF Form 4473, nor did it require the officer to answer screening questions related to the
9 purchaser’s eligibility to possess a firearm under federal and state law. The website’s interface
10 did not ask the officer any questions about secure gun storage or a safety device.

11 100. Blackhawk shipped the purchases to an undercover address in San Francisco
12 County. Blackhawk shipped the July 7 purchase on August 2, 2021, and it arrived in San
13 Francisco County on August 4, 2021. The frame purchased on August 9 arrived in San Francisco
14 County on or about August 12, 2021. In both instances, Blackhawk did not arrange for an in-
15 person delivery of the purchased products, both of which included either a frame blank or a
16 receiver blank.

17 101. On information and belief, the GST-9 is substantively similar to the polymer
18 firearm that ATF determined is a firearm under the GCA. The GST-9 Build Kit and the Glock 19
19 Build Kit sold by MDX Arms are substantively similar. The process of building the GST-9 from
20 Blackhawk’s Build Kit is substantively similar to the process of building the Glock 19 from the
21 Build Kit sold by Defendant MDX Arms, which process is described below. Like MDX Arms’
22 Build Kit, Blackhawk’s GST-9 Build Kit includes the components needed to assemble a fully
23 functional firearm, as well as the jig that the consumer can use to “personally manufacture” the
24 frame blank into a pistol frame.

25 102. The GST-9 Build Kit, as sold by Blackhawk, is a firearm as defined by section
26 921(a)(3) of Title 18 of the United States Code.

27 103. A law enforcement officer working at the direction of the District Attorney was
28 able to “privately manufacture” an AR-15 receiver, sold by Blackhawk, into a fully functional

1 receiver, which is the item controlled under the GCA, in approximately one hour and fifty-eight
2 minutes. The officer spent an additional approximately 15 minutes to assemble a jig purchased
3 from Blackhawk. To “privately manufacture” the receiver, the officer used a receiver blank, jig,
4 and drill bits purchased from Blackhawk. The product purchased from Blackhawk also included
5 a router and router bits. The officer supplied several of his own hand-tools, such as a drill and a
6 pair of pliers, all of which are readily available at a hardware store. In general, the primary tasks
7 involved drilling several holes and milling several compartments into the receiver. The officer
8 consulted YouTube videos while “privately manufacturing” the receiver blank into a receiver.
9 After the officer completed the receiver, he was able to assemble the AR into a fully functional
10 firearm in less than two additional hours, using a combination of Blackhawk-supplied
11 components and other readily available firearm components (which are not subject to regulation
12 under the GCA) the officer had on hand, including an upper assembly.⁵¹

13 104. When sold with their corresponding jigs, Blackhawk’s AR-10 and AR-15 Build
14 Kits are firearms as defined by section 921(a)(3) of Title 18 of the United States Code.

15 2. GS Performance

16 105. GS Performance operates an interactive website www.glockstore.com through
17 which it sells ghost guns. It also maintains a brick-and-mortar retail facility in San Diego.

18 106. “SS80.” GS Performance sells its SS80 pistol as a Build Kit. It sells its “SS80
19 80% Lower,” which is a pistol frame, as a standalone item. However, the “SS80 80% Lower”
20 product page⁵² contains clear links guiding the consumer to the products the consumer would
21 need to purchase to assemble a fully functional pistol using the SS80 frame. Specifically, by
22 purchasing the “Builders Tool Set,” the “Complete Upper,” and the “Lower Parts Kit,” a
23 consumer would obtain all components needed to assemble a fully functional pistol. The GS

24 _____
25 ⁵¹ The officer determined that one of the components of Blackhawk’s “All You Need Kit” was
26 defective. After consulting with Blackhawk personnel by phone, he completed building the
27 firearm using a substitute for the defective part, as well as other components the officer had on
28 hand. The time the officer spent troubleshooting the defective-component issue and calling
Blackhawk’s support line is included in the times alleged above.

⁵² Magill’s Glockstore, *SS80 80% Lower*, (last viewed Oct. 12, 2021),
<https://www.glockstore.com/SS80-M-Model>.

1 Performance website explains this as follows:
2

3 **Please Note:** This is the SS80 Single Stack Frame Blank (aka 80% Lower) **ONLY**. It does not include
4 any of the parts or tools required to complete the lower. We carry an **SS80 Builders Tool Set found here**
5 which includes the tools necessary to finish the lower. The SS80 Single Stack 80% Lower is **ONLY**
6 compatible with factory and aftermarket Glock 43 parts.

7 **Also Note:** For your convenience, the **SS80 Builder's Tool Set** now comes with a pre-drilled Locking
8 Block. The product shown in the video is an earlier version that required additional drilling, however you
9 can skip this step with current and future versions of the SS80 Locking Block.

10 **Return Policy: Due to the unique nature of this item, the SS80 lower is non-refundable once it has
11 been modified in any way.**

12 **Looking for a Complete Upper to finish your build?**

13 [Click Here](#)

14 **Need a Lower Parts Kit for your frame?**

15 [Click Here](#)

16 **Want to spruce up your Build with Stainless Steel Pins?**

17 [Click Here](#)

18 107. The “SS80 80% Lower” product page states that GS Performance does not
19 inscribe a serial number on the frame.

20 108. In how-to videos and blog posts on its website and social media platforms,
21 Glockstore provides detailed instructions to consumers on how to build a handgun using the parts
22 and kits it sells. For example, on the product webpage for the SS80 80% lower, Glockstore has
23 posted several videos on how to build a handgun from the 80% lower and other items it sells.

24 109. On June 8, 2021, at approximately 10:34 am, a law enforcement officer employed
25 by the San Francisco District Attorney’s Office, operating in an undercover capacity, purchased
26 an SS80 frame blank and jig kit from GS Performance’s website. The website’s interface did not
27 require the officer to fill out ATF Form 4473, nor did it require the officer to answer screening
28 questions related to the purchaser’s eligibility to possess a firearm under federal and state law.
The website’s interface did not ask the officer any questions about secure gun storage or a safety
device.

107. GS Performance shipped the purchase to an undercover address in San Francisco
County and it did not arrange for an in-person transfer of the SS80 frame blank and

1 accompanying jig kit, which arrived in San Francisco County on June 15, 2021.

2 111. On June 10, 2019, at approximately 10:16 am, a legal analyst employed by the
3 Office of the Attorney General, operating in an undercover capacity, purchased an SS80 80%
4 lower, a complete upper, a lower parts kit, and an SS80 builder tool set from GS Performance’s
5 website. The website’s interface did not require the legal analyst to fill out ATF Form 4473, nor
6 did it require the legal analyst to answer screening questions related to the purchaser’s eligibility
7 to possess a firearm under federal and state law. The website’s interface did not ask the legal
8 analyst any questions about secure gun storage or a safety device.

9 112. GS Performance shipped the purchase to an undercover address in San Francisco
10 County and it did not arrange for an in-person transfer of the items. The SS80 80% lower, lower
11 parts kit, and SS80 builder tool set were received by the Office of the Attorney General at the
12 undercover address in San Francisco County on June 18, 2019. The complete upper was received
13 at the undercover address in San Francisco County on July 9, 2019.

14 113. The process of building an SS80 from GS Performance’s Build Kit is substantively
15 similar to the process of building the Glock 19 that Defendant MDX Arms sells as a Build Kit,
16 which process is described below. Like MDX Arms’ Build Kit, GS Performance’s SS80 Build
17 Kit includes the weapon components needed to assemble a fully functional firearm, as well as the
18 jig that the consumer can use to “personally manufacture” the frame blank into a functional
19 receiver.

20 114. Purchased together, the SS80 80% Lower, the Builders Tool Set, the Complete
21 Upper, and the Lower Parts Kit constitute a firearm as defined by section 921(a)(3) of Title 18 of
22 the United States Code because they can be readily converted to expel a projectile by the action of
23 an explosive.

24 3. MDX Arms

25 115. MDX Arms operates an interactive website through which consumers can
26 purchase products.

27 116. **“MDX Arms G19 pistol.”** MDX Arms offers for sale its MDX G19 pistol, which
28 it sells as a Build Kit. One item in this Build Kit is the “MDX Arms G19 LF19 with RMR Cut

1 Build Kit - No Frame.”⁵³ This item contains a slide and barrel, and it comes with the option to
2 include a lower parts kit. The item’s product pages note that “FRAMES NOT INCLUDED,
3 SOLD SEPRATELY CLICK HERE.” When the consumer clicks “CLICK HERE,” the consumer
4 is able to navigate to a gallery that displays just one item, the “Polymer80 PF940CV1 80%
5 Textured Compact Pistol Frame Kit for Glock Gen 3 G19/23,” which, as pictured on MDX Arms’
6 website, is a pistol frame blank that comes complete with a jig kit and the drill bits needed to
7 finish the pistol frame. On information and belief, this Polymer80 pistol frame kit is compatible
8 with MDX Arms’ G19 build kit and is unserialized.

9 117. On July 14, 2021, at approximately 10:10 am, a law enforcement officer employed
10 by the San Francisco District Attorney’s Office, operating in an undercover capacity, purchased a
11 PF45 Full Size Glock 21/20 Compatible 80% Lower Pistol Frame Kit from MDX Arms’ website.
12 On July 20, 2021, at approximately 5:20pm, a law enforcement officer employed by the San
13 Francisco District Attorney’s Office, operating in an undercover capacity, purchased an MDX
14 Arms G19 LF19 with RMR Cut Build Kit - No Frame and the Polymer80 PF940CV1 80%
15 Textured Compact Pistol Frame Kit for Glock Gen 3 G19/23 from MDX Arms’ website. In both
16 instances, the website’s interface did not require the officer to fill out ATF Form 4473, nor did it
17 require the officer to answer screening questions related to the purchaser’s eligibility to possess a
18 firearm under federal and state law. The website’s interface did not ask the officer any questions
19 about secure gun storage or a safety device.

20 118. MDX Arms shipped the purchase to an undercover address in San Francisco
21 County and it did not arrange for an in-person transfer of the MDX Arms PF45 Full Size Glock
22 21/20 Compatible 80% Lower Pistol Frame Kit, which arrived in San Francisco County on July
23 16, 2021. MDX Arms shipped the “MDX Arms G19 LF19 with RMR Cut Build Kit - No Frame”
24 and the “Polymer80 PF940CV1 80% Textured Compact Pistol Frame Kit for Glock Gen 3
25 G19/23” to an undercover address in San Francisco County and it did not arrange for an in-person
26 transfer of the products, which arrived in San Francisco County on July 23, 2021.

27 ⁵³ MDX Arms, *MDX Arms G19 LF19 With RMR Cut Build Kit – No Frame*, (last viewed Oct. 12,
28 2021), <https://mdxarms.com/mdx-arms-g19-lf19-with-rmr-cut-build-kit-no-frame/>.

1 119. On August 5, 2021, at approximately 10:00 am, a law enforcement officer
2 employed by the San Francisco District Attorney’s Office assembled a fully functional Glock 19
3 pistol from MDX Arms’ Build Kit. It took the officer approximately 24 minutes, 40 seconds to
4 “finish” the pistol frame. The officer then attached the pistol frame to a slide, which a law
5 enforcement officer had assembled in about five minutes using no tools other than a small key.⁵⁴
6 All components of the fully assembled weapon were purchased from MDX Arms. To complete
7 the firearm, the officer used several tools commonly available at hardware stores, such as a drill
8 (with MDX Arms-supplied bits), a rotary tool, sandpaper, a mallet, and a utility knife.
9 Subsequently, the officer was able to fire the weapon. When sold together as a Build Kit, the
10 “MDX Arms G19 LF19 with RMR Cut Build Kit - No Frame” and the “Polymer80 PF940CV1
11 80% Textured Compact Pistol Frame Kit for Glock Gen 3 G19/23” is a firearm as defined by
12 section 921(a)(3) of Title 18 of the United States Code.

13 120. On September 27, 2021, at approximately 10:00 am, a legal analyst employed by
14 the Attorney General’s Office, operating in an undercover capacity, purchased an MDX Arms .22
15 LR (Long Rifle) G19/G23 Compact Build Kit – No Frame, an MDX Arms .22 LR (Long Rifle)
16 G26/G27 Sub Compact Build Kit – No Frame, an MDX Arms G19 V1 Build Kit – No Frame, an
17 Polymer80 PF940CV1 80% Textured Compact Pistol Frame Kit for Glock Gen 3 G19/23, and a
18 Polymer80 PF940SC 80% Textured Pistol Frame Kit for Glock G26/G27 for shipment to an
19 address in San Francisco. The website’s interface did not require the legal analyst to fill out ATF
20 Form 4473, nor did it require the legal analyst to answer screening questions related to the
21 purchaser’s eligibility to possess a firearm under federal and state law. The website’s interface
22 did not ask the legal analyst any questions about secure gun storage or a safety device. When
23 sold together these items are a firearm as defined by section 921(a)(3) of Title 18 of the United
24 States Code.

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27 _____
28 ⁵⁴ A “slide” is the upper portion of the weapon that attaches to the frame. It recoils when the
weapon is fired.

1 **B. Defendants’ violations related to the Assembly of Firearms Law and**
2 **associated false advertising.**

3 121. The Legislature enacted the Assembly of Firearms Law to clamp down on the
4 proliferation of unregulated and unserialized ghost guns. Among other things, the Assembly of
5 Firearms Law requires private manufacturers to successfully pass federal and state background
6 checks and to obtain serial numbers for any ghost guns they manufacture, and it prohibits the
7 assembly of unsafe handguns. Defendants seek to evade that law, an unfair business practice.

8 122. Defendants also engage in false and deceptive advertising related to this Law’s
9 requirements. Defendants lull reasonable consumers into believing that Defendants’ products can
10 be lawfully used for their intended purpose without the consumer taking any further steps, or
11 without violating the Assembly of Firearms Law’s prohibition on manufacturing unsafe
12 handguns. This is untrue. Defendants’ marketing practices and other consumer communications
13 related to their products are a fraudulent business practice within the meaning of section 17200
14 and false advertising within the meaning of section 17500.⁵⁵

15 123. Defendants also violate the law by aiding and abetting the manufacture of unsafe
16 handguns, and of guns that fail to comply with the serialization, registration, and other
17 requirements of the Assembly of Firearms Law, as well as by aiding and abetting the manufacture
18 of guns by individuals who fail to meet the firearms eligibility and other requirements that apply
19 to individuals. These are unlawful business practices.

20 **1. Blackhawk**

21 124. Blackhawk has posted a video to its YouTube channel⁵⁶ called “Build Your Own
22 Gun in 1 Hour. 100% Legal.” The video makes clear that Blackhawk’s purpose for
23 manufacturing and selling frame and receiver blanks is to stop the government from “tracking
24 your gun purchases and putting you on a list” and to avoid “more and more paperwork” that

25 ⁵⁵ The People provide representative examples of products, product pages, and other marketing
26 materials that violate section 17200. On information and belief, Defendants have engaged in
27 unfair and fraudulent business practices related to products and through representations not
28 alleged here.

⁵⁶ YouTube, *Build Your Own Gun in 1 Hour. 100% Legal*, (Aug. 20, 2014),
<https://www.youtube.com/watch?app=desktop&v=2MiLABbeNXc>.

1 comes with purchasing firearms. In the video, Blackhawk specifically touts that building a gun is
2 “completely legal and does not require any sort of serial number or registration.” It also touts that
3 there are “no background checks” involved in the process. This video, originally posted in 2014,
4 has over been viewed over 124,000 times.⁵⁷

5 125. The representations in Blackhawk’s video undermine the purpose of the Assembly
6 of Firearms Law. On information and belief, the term “more and more paperwork” is a reference
7 to the federal requirement filling out Form 4473 and completing a federal background check
8 when purchasing a firearm through an FFL. And, based on the representations in the video, the
9 term “tracking” refers to the requirement that all firearms manufactured in or imported into the
10 United States bear a serial number. The Legislature enacted the Assembly of Firearms law for the
11 specific purpose of requiring “private manufacturers” to fill out analogous “paperwork” (a
12 background check) that is required of any purchaser buying a fully finished firearm from an FFL.
13 The Legislature also specifically intended that “private manufacturers” would need to obtain a
14 serial number, just like a federally licensed manufacturer. By touting the consumer’s ability to
15 avoid “paperwork” and “tracking,” and to specifically avoid background checks and serialization
16 of their firearms, Blackhawk undermines the legislative purpose of the Assembly of Firearms
17 Law.

18 126. The video also misleads consumers and is false advertising. The only reasonable
19 conclusion to be drawn from the phrase “100% Legal,” when used in conjunction with the
20 statement “Build Your Own Gun in 1 Hour” is that a consumer can build a gun in one hour
21 entirely within the bounds of the law. A California consumer cannot do that because he or she
22 must also comply with the Assembly of Firearms Law’s serialization and background-check
23 requirements.

24
25 ⁵⁷ Blackhawk posted the video in 2014, prior to the Legislature’s passage of the Assembly of
26 Firearms Law. However, the video remains on Blackhawk’s YouTube channel, and the
27 “comments” left by video viewers, which are dated, show that Internet users have viewed the
28 video since the Assembly of Firearms Law came into force. User comments from within the last
year include “SirPlayAlot” stating “I like how you state its [sic] 100% legale [sic] but i think most
people here dont [sic] care if its [sic] legal or not” and “mr. the 23rd” stating “Now i can be a
smooth criminal.”

1 127. Blackhawk’s website contains statements that further demonstrate Blackhawk’s
2 efforts to evade the Assembly of Firearms Law. In a blog post on its website dated June 2,
3 2020,⁵⁸ Blackhawk states:

4 these *firearms* are not considered to be *firearms* by the law until
5 the receiver is completed, which means a few things for consumers.
6 One, these *firearms* do not need to be registered at time of
7 purchase, since they are not legally “*firearms*.” Second, there are
8 no transfer fees with *80% firearms*, unlike their completed
9 counterparts. Third, there is no Federal Firearms License required
10 when purchasing these *firearms*, which allows for an easier and
11 smoother purchasing experience. For these reasons alone, many
12 consumers are interested in these particular *firearms*, but they do
13 come at a cost: they have to be completed before they can be used.

14 This passage makes clear that Blackhawk understands its “80% firearms” to be *firearms*—
15 products that both the GCA and the Assembly of Firearms Law seek to regulate—yet Blackhawk
16 does not follow GCA point-of-sale rules when selling frame and receiver blanks. Furthermore,
17 the reference to an “easier and smoother purchasing experience” relates to the federal requirement
18 to undergo a background check—a requirement that the Assembly of Firearms Law reinforces in
19 the specific context of ghost guns—yet Blackhawk does not conduct, or otherwise make its
20 customers aware of, such checks when selling frame or receiver blanks.

21 128. This blog post also misleads reasonable consumers and is thus false and deceptive
22 advertising. The statement “these firearms do not need to be registered at time of purchase” is
23 deceptive by implying that no paperwork or record-keeping is required upon purchase. But, as
24 Blackhawk clearly touts here, its kit products meet the federal definition for firearm; accordingly,
25 federal law does require that the purchaser complete a Form 4473 while purchasing the product.
26 Further, Blackhawk’s statement that its kit products lead to a “easier and smoother purchasing
27 experience” is deceptive. Blackhawk touts the “easier and smoother purchasing experience”—a
28 bit further down the blog post, Blackhawk even refers to the “appeal” of “avoiding red tape” and
the ability to “to avoid many aspects of the legal process during the purchasing process”—while
omitting the California consumer’s obligation to obtain serial numbers from the California DOJ

⁵⁸ 80% Arms, *Why Build an 80% Firearm?*, (last viewed Oct. 12, 2021),
<https://www.80percentarms.com/blog/why-build-an-80-firearm/> (emphasis added).

1 upon finishing frame and receiver blanks, as well as the fact that a California consumer must
2 provide California DOJ with specified information describing the firearm they own or intend to
3 assemble or manufacture. In this way, Blackhawk misleads consumers into believing that they
4 can skip certain requirements imposed by federal law when, in reality, California law imposes
5 upon the consumer the same or virtually the same regulatory requirements.

6 129. Other portions of Blackhawk’s website also seek to obfuscate the Assembly of
7 Firearms Law. At the top of the user interface on the product page for the GST-9 Build Kit,
8 Blackhawk displays a photograph of the weapon on the left and various purchasing options, like
9 quantity and color, on the right. Immediately below those purchasing options is the purchase
10 button. On information and belief, during the statute of limitations period a consumer could add a
11 GST-9 Build Kit to his or her shopping cart on the Blackhawk website after looking at just this
12 portion of the user interface.

13 130. Below the purchase button, Blackhawk includes about ten paragraphs of
14 information. The very last paragraph—well below the purchase button—reads:

15 Because the GST-9 is not a firearm, in most cases, it is currently
16 legal to purchase and own an unfinished frame in California.
17 California law prohibits building an off-roster handgun as well as a
18 homebuilt firearm that does not contain an integral 3.7 oz piece of
stainless steel. If you are purchasing a GST-9 that ships to
California, you certify that you have a law-enforcement exemption,
or intend to build and maintain the product outside of the state.

19 131. This statement describes some Penal Code provisions that relate to private firearm
20 manufacturing in California, but not all such provisions and—critically—it omits any mention of
21 the requirement that a consumer who privately manufactures Blackhawk’s GST-9 pistol must
22 serialize the weapon and submit to a California DOJ background check. Furthermore, this
23 statement is “submerged” on the webpage; it is positioned in such a manner that a consumer
24 would not have to scroll past it before purchasing the product. And the text, while italicized, is
25 not bolded or displayed in a contrasting color. By contrast, the text immediately above this
26 statement, other text on the webpage that describes “ATF regulations,” and statements about
27 Blackhawk’s timeline to deliver the product are displayed in bold and in contrasting colors.

28 132. Blackhawk’s high-visibility marketing, such as videos and its blog, proclaims, or

1 at the very least strongly implies, that a private firearms manufacturer can legally finish one of
2 Blackhawk's frame or receiver blanks without obtaining a serial number or submitting to a
3 background check. The specific product pages for the products do nothing to dispel that false
4 notion. These practices are likely to deceive the ordinary California consumer into believing that
5 he or she can finish a Blackhawk frame or receiver blank without obtaining a serial number of
6 submitting to a background check. These marketing practices violate section 17200's prohibition
7 against fraudulent business practices and section 17500's prohibition against false advertising
8 (and thus section 17200's prohibition against unlawful business practices).

9 2. GS Performance

10 133. GS Performance leads consumers to believe that ATF has approved the sale of its
11 SS80 Build Kit. ATF has not done so; indeed, it has specifically disclaimed any analysis of the
12 marketing practices that GS Performance uses.

13 134. The product page for the SS80 pistol frame contains these representations:

14 As with all 80% Lowers, at this time there is no serial number,
15 however a serial plate is embedded in the polymer to allow you to
serialize it once completed.

16 ...

17 Click [HERE](#) to read the ATF Determination Letter.⁵⁹

18 ...

19 Now is your best time to purchase the SS80 lower.

20 Federal law states that you can build a firearm for personal use.
21 This law has been in effect for years, but [no] one knows when, or
if, it will be changed or repealed.

22 135. If the consumer clicks on "HERE," GS Performance's website navigates to an
23 ATF "Determination Letter," dated August 27, 2018, that contains the statement that the "SS80
24 polymer frame-blank, in and of itself, is not regulated as a firearm" under the federal Gun Control
25

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27 ⁵⁹ The word "HERE" is in red and is a hyperlink. Magill's Glockstore, *SS80 80% Lower*, (last
28 viewed Aug. 16, 2021), <https://www.glockstore.com/SS80-M-Model>.

1 Act.⁶⁰

2 136. A reasonable consumer reading the ATF Determination Letter would likely
3 conclude that the SS80 receiver blank is unregulated. GS Performance’s further characterization
4 of federal law (“you can build”) reinforces the conclusion the SS80 frame blank is unregulated.

5 137. While making these statements about federal law, GS Performance also projects
6 uncertainty about potential changes to federal law in an effort to drive sales. By suggesting that
7 federal law may be “changed or repealed,” GS Performance is baiting consumers to act promptly
8 by suggesting that it is legal to buy and “build” this product now, but that it might not be legal in
9 the future.

10 138. But, regardless of whether federal law allows the private manufacture of an SS80,
11 California law clearly does not, unless the consumer complies with the Assembly of Firearms
12 Law, and GS Performance never discloses this fact on its product page.

13 139. The SS80 product page nowhere informs GS Performance’s California consumers
14 that they will undertake a legal obligation to obtain a serial number by finishing the frame and
15 that violation of this obligation is a crime. Indeed, GS Performance even explains that it includes
16 a “serial plate” that will “allow” the consumer to serialize the weapon “once completed,” but it
17 fails to explain that California law requires the consumer to do so and that it is a crime not to
18 comply with this requirement.

19 140. Furthermore, the SS80’s product page nowhere informs consumers that to lawfully
20 possess a privately manufactured frame in California, the consumer must successfully pass a
21 background check, or that a violation of this duty is a crime.

22 141. GS Performance’s marketing practices violate section 17200’s prohibition against
23 fraudulent business practices and section 17500’s prohibition against false advertising (and thus
24 section 17200’s prohibition against unlawful business practices).

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26 ⁶⁰ The ATF Determination Letter specifically notes that ATF’s determination “*does not apply if*
27 *the polymer frame-blank is marketed, sold, or distributed as part of a kit,*” and that is what GS
28 Performance does—it markets the SS80 frame blank as part of a kit.
<https://www.glockstore.com/assets/images/email/SS80-ATF-Ltr.pdf>. Thus, GS Performance’s
suggestion that the GCA does not regulate the sale of its kit product is also deceptive.

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3. MDX Arms

142. MDX Arms sells a variety of frame and receiver blanks. The product pages for these products contain statements like:

MDX Arms does not sell firearms. This is not a firearm and will ship directly to you without FFL needed[.] We do not ship 80% to New Jersey, Washington DC[.] Please refer to your state and federal laws about 80% kits. It's your responsibility to know your own laws.⁶¹

And

No FFL required *** WE DO NOT SHIP THIS PRODUCT TO HAWAII, NEW JERSEY, NEW YORK.⁶²

143. MDX Arms' products pages nowhere disclose the serialization and background-check requirements of the Assembly of Firearms Law, even though MDX Arms is based in California.

144. MDX Arms also includes this statement on its "How To Order Build Kits" webpage.⁶³

To make a purchase from MDX ARMS, you certify the following is true:

- You are a permanent resident or US citizen, nor have you renounced your citizenship.
- You have never been convicted of a felony.
- You have never been convicted of a crime punishable by more than one year in prison.
- You have never been convicted of a domestic violence crime misdemeanor.
- You have never been committed to a mental institution or adjudicated as mentally defective.

⁶¹ MDX Arms, *Polymer80 PF9SS 80% Textured Single Stack 9mm Pistol Frame Kit for Glock G43*, (last viewed Oct. 12, 2021), <https://mdxarms.com/polymer80-pf9ss-80-textured-single-stack-9mm-pistol-frame-kit-for-glock-g43/>.

⁶² MDX Arms, *AR15 80% Lower Receiver – Raw Aluminum*, (last viewed Oct. 12, 2021), <https://mdxarms.com/ar15-80-lower-receiver-raw-aluminum/>.

⁶³ MDX Arms, *How to Order Build Kits*, (last viewed Oct. 12, 2021), <https://mdxarms.com/how-to-order-build-kits/>.

- You are not currently under a court order restraining you from stalking, threatening, or harassing a child or an intimate partner.

145. MDX Arms' nod at some (but not all) eligibility requirements highlights the way it undermines the Assembly of Firearms Law's background check requirement. MDX Arms' effort to obtain a customer's self "certification" is substantially less rigorous than the background checks required by the Assembly of Firearms Law, which utilize NICS records and other state databases to assess a consumer's eligibility to possess a firearm under both state and federal law. And MDX Arms' list of criteria does not contain all eligibility requirements; for example, under California law, people under the age of 18 generally may not lawfully possess a handgun and people under the age of 21 may not lawfully personally manufacture a firearm. (Cal. Penal Code § 29182(b)(2).) By relegating this "certification" to a secondary webpage, by not even requiring users to affirmatively indicate that they meet the criteria, and by omitting basic criteria such as whether purchasers are underage or ineligible under other criteria its website does not list, MDX Arms circumvents the Assembly of Firearms Law's background check requirement.

146. Like other Defendants, MDX Arms also misleads consumers. A reasonable consumer would understand MDX Arms' reference to there being "no FFL required" to purchase frame and receiver blanks to mean that the product is unregulated. Furthermore, the fact that MDX Arms will not ship to certain states implies that ownership of the product is unlawful there, but lawful elsewhere. Neither conclusion is correct as to California because the Assembly of Firearms Law regulates frames and receivers once finished by a private manufacturer. These marketing practices violate section 17200's prohibition against fraudulent business practices and section 17500's prohibition against false advertising (and thus section 17200's prohibition against unlawful business practices).

C. Defendants' violations related to the California Unsafe Handgun Act and related requirements and associated false advertising.

147. The purpose of the UHA is to make sure that new handguns manufactured and sold in California meet certain consumer and public safety standards. To ensure that new handguns, including ghost guns, meet these standards, such as the safe-firing and drop-test

1 requirements described above, the UHA requires that an independent laboratory test new models
2 of handguns and certify that they meet the UHA’s standards. For example, semiautomatic
3 handguns must also include a positive manually operated safety, a chamber load indicator, and a
4 magazine disconnect. and per related laws, they cannot have a threaded barrel.⁶⁴

5 148. Defendants GS Performance and Blackhawk manufacture and sell, in California,
6 build kits, “80% frames,” and other items, packaged together or separately, for use by consumers
7 to assemble semiautomatic handguns. These ghost guns do not meet UHA standards when
8 assembled. For example, the build kits and parts do not include the required chamber load
9 indicator and magazine disconnect, and when assembled, the handguns have not satisfied the
10 firing and drop safety tests. The sale of these build kits and other items is therefore unlawful and
11 unfair.

12 149. Defendant MDX Arms sells, in California, build kits, “80% frames,” and other
13 items, packaged together or separately, for use by consumers to assemble semiautomatic
14 handguns. These ghost guns do not meet UHA standards when assembled. For example, the
15 build kits and parts do not include the required chamber load indicator and magazine disconnect,
16 and when assembled, the handguns have not satisfied the firing and drop safety tests. The firearm
17 that the District Attorney’s investigator built on August 5, 2021, as described above, did not
18 include a chamber load indicator or magazine disconnect. The sale of these build kits and other
19 items is therefore unlawful and unfair.

20 150. Defendant MDX also offers for sale build kits with a threaded barrel option, such
21 as the “MDX Arms G19 Build Kit – No Frame,” which can be used to make an unlawful assault
22 weapon.⁶⁵

23 151. Defendants further violate the UHA by “causing” or aiding and abetting the
24 private manufacture of unsafe handguns. The Legislature specifically intended for the Unsafe
25 Handgun Act’s requirements to apply to privately manufactured handguns. (Penal Code § 29182,

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27 ⁶⁴ *E.g.*, Penal Code § 30515, subd. (a)(4)(A).

28 ⁶⁵ MDX Arms, MDX Arms G19 V1 Build Kit – No Frame, (last viewed Oct. 8, 2021),
<https://mdxarms.com/mdx-arms-g19-v1-build-kit-no-frame/>.

1 subd. (e)(2).) In order to avoid unlawfully manufacturing an unsafe handgun, any private person
2 who manufactures a handgun from Defendants’ products must comply with the UHA’s
3 requirements themselves, including by purchasing, assembling, and submitting *three* identical
4 exemplars of the handgun to a California DOJ-certified laboratory for safety testing, which would
5 in turn be required to submit a prototype of the weapon to be retained by California DOJ. (Penal
6 Code § 32010(c).) Consumers who do not purchase at least three identical models for testing
7 effectively cannot comply with the UHA themselves. But even if they did purchase and build
8 three models for testing, if they did so using the products Defendants sell, the handguns they
9 assembled would lack the chamber load indicator and magazine disconnect mechanism required
10 under the UHA, further reason why it would be impossible to comply with the UHA.

11 Unsurprisingly, therefore, ***no ghost gun private manufacturer has ever satisfied the UHA***
12 ***requirements.*** Defendants advertise their build kits and other items to consumers to be used for
13 the purpose of self-assembling a handgun, offer the products for sale without any mention of the
14 UHA requirements (in some instances, telling consumers that the completed firearms are legal),
15 and, in some instances, instruct consumers on how to complete the firearm build from their kits
16 and parts. By facilitating the private manufacture of unsafe handguns with the knowledge that
17 consumers do not (and cannot) comply with the UHA, or with conscious disregard for that fact,
18 Defendants “cause” or aid and abet in the manufacture of unsafe handguns in California in
19 violation of section 32000 of the Penal Code.

20 152. At a minimum, even if Defendants did not violate the UHA, Defendants’ conduct
21 plainly seeks to circumvent the policy undergirding that law. By facilitating the manufacture of
22 handguns that do not and typically cannot meet UHA standards, Defendants undermine the
23 legislative policy that animates the UHA and other state firearms laws, causing harm to the public
24 and exposing customers to potential criminal liability. This is an unfair business practice.

25 153. Defendants also engage in deceptive practices and false advertising related to the
26 UHA. Reasonable California consumers are entitled to rely on safety and other standards in the
27 UHA and assume that any handgun they build from the build kits and related items purchased in
28 the state—and particularly from a California-based company such as GS Performance,

1 Blackhawk, or MDX Arms—satisfies the requirements of the UHA. But handguns built from
2 these Defendants’ kit products do not satisfy those standards. Defendants engage in a fraudulent
3 business practice by advertising build kits and other products that, when assembled, create ghost
4 guns that do not comply with the UHA, and by failing to disclose this fact to their customers. In
5 this way, these Defendants engage in a fraudulent business practice within the meaning of section
6 17200 and false advertising within the meaning of section 17500 (and thus an unlawful business
7 practice in violation of section 17200).

8 154. Furthermore, these Defendants fail to disclose to their customers that individuals
9 who wish to assemble ghost guns from kits must comply with the UHA and other state firearms
10 laws, including submission and testing of three exemplars of each handgun, as described above.
11 Failure to comply with these requirements is a crime. As the People allege above with respect to
12 the Assembly of Firearms Law, Defendants tout their products as fully legal, and a reasonable
13 consumer would understand Defendants’ marketing as promising that these Defendants’ kit
14 products can be used in the manner intended without the consumer taking on any further legal
15 obligations. Yet, not a single of these Defendants makes any reference to the UHA’s certification
16 requirement on any product page described in this Complaint. By failing to disclose these
17 requirements to consumers, these Defendants engage in a fraudulent business practice.

18 **D. Defendants GS Performance and Blackhawk’s violations related to the**
19 **California Manufacture of Firearms Law.**

20 155. Defendants GS Performance and Blackhawk engage in unlawful and unfair
21 business practices by violating the Manufacture of Firearms Law.

22 156. On information and belief, Defendants GS Performance and Blackhawk each
23 manufactured more than 50 firearms in the State of California in the preceding calendar year,
24 where the term “firearm” is defined by subdivision (g) of section 16520 of the Penal Code.

25 157. On information and belief, Defendants GS Performance and Blackhawk possess
26 FFLs, Type 07, which license them to manufacture firearms under federal law.

27 158. Defendant GS Performance manufactures and sells, or has within the statute of
28 limitations period manufactured and sold, “unfinished frame[s] or receiver[s] that can be readily

1 converted to the functional condition of a finished frame or receiver” in California without
2 obtaining a license to manufacture as required by section 29010 of the Penal Code and without
3 complying with the Penal Code requirements that apply to California firearm manufacturers, such
4 as, for example, serializing the firearms they manufacture in this State. (*See* Penal Code §§
5 16520, subd. (g), 29100-29150.) These violations of the law constitute an unlawful business
6 practice.

7 159. Even if Defendant GS Performance’s conduct did not violate sections 29010 and
8 29100 through 29150 of the Penal Code, its conduct violates the public policy that these statutes
9 seek to implement, such as, for example, California’s serialization requirement. This violation
10 constitutes an unfair business practice.

11 160. Defendant Blackhawk manufactures and sells, or has within the statute of
12 limitations period manufactured and sold, “unfinished frame[s] or receiver[s] that can be readily
13 converted to the functional condition of a finished frame or receiver” in California. Defendant
14 Blackhawk possesses a California firearm manufacturing license. However, Defendant
15 Blackhawk does not comply with the obligations that that license imposes. (*See* Penal Code
16 §§ 29100-29150.) For example, Defendant Blackhawk fails to serialize the firearms that it
17 manufactures in this State as required by section 29125. These violations constitute an unlawful
18 business practice.

19 161. Even if Blackhawk’s conduct does not violate the Penal Code, its conduct clearly
20 violates the public policy that these Penal Code provisions seek to implement such as, for
21 example, ensuring that all frames and receivers manufactured and possessed within the State bear
22 unique serial numbers. This violation constitutes an unfair business practice.

23 **CAUSES OF ACTION**

24 **FIRST CAUSE OF ACTION**
25 (Business and Professions Code § 17200 *et seq.*)

26 162. The People repeat, re-allege, and incorporate herein each and every allegation in
27 paragraphs 1 through 161, above.
28

1 163. The UCL prohibits any person from engaging in “any unlawful, unfair, or
2 fraudulent business act or practice,” or any “unfair, deceptive, untrue or misleading advertising.”
3 (Bus & Prof. Code § 17200 *et seq.*)

4 164. Defendants are “persons” subject to the UCL. (Bus. & Prof. Code § 17201.)

5 165. Defendants knowingly engaged in, and continue to knowingly engage in, unlawful
6 business practices in violation of the UCL through their violations of federal and state gun laws,
7 including the Gun Control Act of 1968, provisions of the California Penal Code, and the
8 California False Advertising Law, as described at further length above.

9 166. Defendants knowingly engaged in, and continue to knowingly engage in, unfair
10 business practices in violation of the UCL by seeking to evade federal gun safety laws and
11 various provisions of the Penal Code, as described above, and by misleading consumers as to the
12 legality of frame and receiver blanks and kit products when used for their sole, intended purpose.

13 167. Defendants knowingly engaged in, and continue to knowingly engage in,
14 fraudulent business practices in violation of the UCL by misleading consumers as to the legality
15 of frame and receiver blanks and kit products when used for their sole, intended purpose.

16 168. Defendants knowingly engaged in, and continue to knowingly engage in,
17 fraudulent business practices in violation of the UCL by selling in or into California kits to make
18 handguns, without disclosing that their handgun models do not satisfy the requirements of the
19 Unsafe Handgun Act when assembled. Furthermore, Defendants deceive consumers by failing to
20 disclose that it is also a crime for a person to manufacture handguns from their kits without taking
21 multiple, significant additional steps themselves, such as by applying for a registration number as
22 required by the Assembly of Firearms Law and/or submitting three identical exemplars of that
23 handgun for safety testing and certification by the Department of Justice as required by the
24 Unsafe Handgun Act.

25
26 **SECOND CAUSE OF ACTION**
(Business and Professions Code § 17500 *et seq.*)

27 169. The People repeat, re-allege, and incorporate herein each and every allegation in
28 paragraphs 1 through 168, above.

1 Defendants be ordered to pay cumulative⁶⁶ civil penalties of Two Thousand Five Hundred
2 Dollars (\$2,500.00) for each violation of Business and Profession Code sections 17200 and
3 17500, respectively, according to proof.

4 3. That pursuant to Business and Professions Code sections 17535 and 17203, and
5 pursuant to the Court's inherent equitable power, Defendants be ordered to restore to every
6 person in interest all money and property which was acquired by the Defendants through their
7 unlawful conduct, according to proof.

8 4. That Plaintiff be awarded its costs of suit.

9
10 Respectfully submitted,

11 Dated: October 13, 2021

ROB BONTA
Attorney General

12
13 By: /s/ Vesna Cuk
VESNA CUK
14 Deputy Attorney General

15 Dated: October 13, 2021

CHESA BOUDIN
District Attorney

16
17
18 By: /s/ Chesa Boudin
CHESA BOUDIN
19 District Attorney
20 Attorneys for Plaintiff
PEOPLE OF THE STATE OF
21 CALIFORNIA

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28 _____
⁶⁶ Bus. & Prof. Code §§ 17205, 17534.5.