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

CITY OF CHICAGO, an Illinois municipal corporation,)
)

Plaintiff,)

v.)

WESTFORTH SPORTS, INC.,)

Defendant.)

Case No. 21 CH 01987

Judge: Clare J. Quish

EXHIBIT A

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<i>Plaintiff,</i>)	
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v.)	Case No. 21 CH 01987
)	
WESTFORTH SPORTS, INC.,)	Judge: Clare J. Quish
)	
<i>Defendant.</i>)	

[PROPOSED] FIRST AMENDED COMPLAINT

Plaintiff, the City of Chicago, Illinois (“the City”), by and through its attorneys, and for its complaint against Defendant Westforth Sports, Inc. (“Westforth”), alleges as follows:

SUMMARY OF ACTION

1. For more than a decade, Defendant Westforth Sports, Inc. has engaged in a pattern of illegal sales that has resulted in the flow of hundreds, if not thousands, of illegal firearms into the City of Chicago. In some cases, Westforth feeds the market for illegal firearms directly, such as by selling prohibited assault weapons to Chicago residents. In other cases, Westforth uses middle-men to funnel firearms to Chicago residents who are not permitted to possess them, including convicted felons and drug traffickers. But the result is the same: Westforth profits at the expense of Chicago and the safety of its residents.

2. Studies of firearms recovered by law enforcement in the City of Chicago between 2009 and 2016 (“crime guns”) consistently rank Westforth as the highest out-of-state supplier of crime guns in the city, responsible for more than 850 recovered crime guns over this period. And a review of federal prosecutions from December 2014 to April 2021 for illegal gun purchases in the Northern District of Indiana, where Westforth is located, revealed that approximately 44% of

the cases involved sales at Westforth. Court documents and Westforth's own transaction records show that the store has sold at least 338 guns to at least 61 people later charged with federal crimes in connection with their purchases.

3. These eye-popping numbers are not the result of bad luck or coincidence or location. They are the natural and predictable outcome of a business model that maximizes sales and profits by facilitating straw purchases and other illegal gun sales.. For example, between 2018 and the beginning of 2021, Westforth sold at least 47 assault weapons to Chicago residents even though Chicago prohibits the possession of assault weapons in its borders. The City prohibits these weapons—which have features specifically designed for combat and warfare—because of the extreme risk they pose to the public in densely populated urban areas. While Westforth is required by federal law to abide by Chicago ordinances when it sells firearms to Chicago residents, it chooses to disregard these obligations.

4. In addition, while federal law is clear that if a dealer suspects that a customer is a straw purchaser or unlicensed gun dealer, the dealer must stop the transaction, Westforth regularly sells firearms to people that it knew, or deliberately avoided knowing, were engaged in illegal firearms trafficking and straw purchasing. In the face of unmistakable indicators of illegal gun sales—including high volume, multiple-sale transactions involving duplicate or near-duplicate firearms, or indications on purchasing forms that the customer was not the actual buyer of the gun—Westforth chose time and time again to look the other way and to falsify transaction forms, becoming a trusted source of firearms for traffickers and straw purchasers funneling guns into Chicago. For example:

- Over the course of six months in 2020, Darryl Ivery Jr. purchased 19 handguns from Westforth. Ivery made seven separate multiple-sale transactions at Westforth, including a period with three multiple sales in under a month. With the exception of one gun that Ivery kept for himself, each of these guns was sold to buyers in Chicago. Two of these handguns

were recovered less than a month later in Chicago (one in the possession of a juvenile, and the other in connection with an aggravated assault). Ivery has since pled guilty to making false statements in connection with one of his gun purchases, in violation of 18 U.S.C. § 922(a)(6).

- Kadeem Fryer bought 19 guns at Westforth over a five-month stretch in 2020, including 13 guns in just 30 days between April and May of that year. Most of Fryer’s purchases were Glocks, of which he bought numerous duplicates and near-duplicates: three Glock 33Gen4s, two Glock 21s and a 21Gen4, a Glock 31 and 31Gen4, and a Glock 22 and 22Gen4. At least five guns that Westforth sold to Fryer have been recovered in Chicago, including one from a juvenile and one from a prohibited possessor on parole—both of which had been converted into illegal machine guns. Ballistics evidence links Fryer’s guns to at least two shootings. Fryer has pled guilty to making a false statement in connection with one of his gun purchases, in violation of 18 U.S.C. § 922(a)(6).
- Levar Reynolds purchased 15 guns at Westforth (five of which have been recovered in Chicago). During one visit, Reynolds bought five Glock handguns—including two duplicate and near-duplicate pairs. On information and belief, at least one store employee immediately recognized that Reynolds was engaged in a straw purchase and told another employee that Reynolds was intending to take the guns to Chicago and re-sell them. The employee refused to complete the transaction because of these concerns, but Westforth’s owner instructed another employee to complete the transaction and provided Reynolds with a significant discount due to the large numbers of guns he purchased. Just a day after Westforth sold these guns, two of them were recovered by law enforcement in Chicago in the bedroom of a man who was under indictment for multiple felonies. One had been outfitted with a laser sight. Reynolds has since pled guilty to making false statements in connection with his gun purchases at Westforth, in violation of 18 U.S.C. § 922(a)(6).
- Paul Fowlkes bought five guns at Westforth in a single purchase in June 2016, including three handguns and a pair of duplicate rifles. Later, Fowlkes returned to buy two more handguns. Chicago police later recovered one of these firearms in the possession of a man who had been convicted of multiple felonies including arson and robbery, but the remainder are “unaccounted for [and] are most likely in the hands of others who are unable or unwilling to purchase firearms within the law,” according to federal prosecutors. Fowlkes pled guilty to one count of making false statements in connection with gun purchases, in violation of 18 U.S.C. § 922(a)(6).

5. The individuals named above—and many others—have been charged with federal gun crimes, and many have been convicted. But Westforth continues to operate business as usual—repeatedly violating federal gun laws and regulations—with no repercussions. This lawsuit, filed on behalf of the City of Chicago and its residents, seeks long overdue accountability.

6. The sheer number of illegal transactions that took place at Westforth, combined with repeat warnings by the ATF as well concerns raised by at least one former employee, show that Westforth was not an innocent bystander to all of the illegality that was occurring on its premises. Westforth's sales to traffickers like Ivery, Fryer, Reynolds, Fowlkes, and others were unlawful and negligent, and foreseeably resulted in the transfer of hundreds if not thousands of firearms into the hands of criminals and other prohibited persons in Chicago.

7. Over the past decade, ATF has cited Westforth for many serious violations of federal laws, including for transferring firearms to straw purchasers after a failed background check, failing to conduct a background check in the first place, and failing to submit documentation that allows ATF to trace guns used in crimes. ATF has repeatedly warned Westforth that its violations threaten public safety and that it must implement safeguards to prevent straw purchasing. But to no avail.

8. Westforth's misconduct has created, exacerbated, and sustained a public nuisance that causes harm to the health, safety, and well-being of Chicago residents and imposes significant costs on the City. Selling assault weapons to Chicago residents undermines the City's attempts to protect its citizens, endangers law enforcement and creates an environment of fear in the City. In addition, firearms that Westforth sold to traffickers and straw purchasers have been transferred to individuals who are prohibited from possessing them, increasing the danger to all residents of Chicago. Some of the illegally transferred firearms have been recovered in connection with violent crimes, drug crimes, and domestic violence crimes, meaning that Westforth's guns also harm the City and its residents by facilitating and exacerbating these and other criminal activities. The flood of illegal Westforth guns onto City streets interferes with the rights of residents to freely use and

enjoy public and private property within the City, travel safely throughout the City, and attend school, without the fear of being shot.

9. While some of the harms from Westforth's supply of illegal firearms to the criminal market in Chicago are presently known, others remain unknown, because many of the firearms that Westforth illegally sold have yet to be recovered and are believed to remain in circulation. As an ATF agent explained with respect to one straw purchaser who funneled guns into Chicago, the unrecovered guns are "the scary part."¹ He continued, "we don't know where they are and we won't know where they are until they're recovered by the police." The City is certain to suffer additional harms and incur additional costs with respect to the illegal firearms that have yet to be recovered.

10. Combatting the impact of illegal guns costs the City millions of dollars annually, and the cost is growing. In 2021 alone, Chicago allocated over \$16.5 million toward gun violence prevention programs, including victim support services, street outreach programs, community safe-space programming and a pilot program for high-risk youth that offers therapy services, case management support and educational and employment opportunities. In addition, the City incurs costs for investigating and prosecuting gun crimes, as well as for emergency services to transport victims to the hospital. Gun violence also stifles economic growth, and may cause the City to lose out on economic opportunities.

11. To abate the public nuisance that Westforth has created and maintained, Chicago seeks an order compelling Westforth to implement remedial policies to prevent recurrences and to

¹ Chuck Goudie and Ross Weidner, *Chicago gun violence, drug cartel mayhem fueled by straw purchases*, ABC-7 (Nov. 11, 2019), <https://abc7chicago.com/straw-purchases-fuel-chicago-gun-violence-drug-cartel-mayhem/5690949/>.

take measures to assist the City in recovering the guns that were illegally sold directly and indirectly to Chicago residents. The City also seeks damages for the cost of abating the nuisance and damages to compensate it for the financial harm proximately caused by Westforth's illegal activities.

JURISDICTION AND VENUE

12. This Court has subject matter jurisdiction under Article VI, Section 9 of the Illinois Constitution.

13. This Court has personal jurisdiction over Defendant under 735 ILCS 5/2-209 because Westforth transacts business within Illinois.

14. Venue is proper under 735 ILCS 5/2-101 because a substantial part of the events or omissions giving rise to the claims occurred in Cook County.

PARTIES

15. Plaintiff, the City of Chicago, is an Illinois municipal corporation and a home rule unit of local government organized under Article VII of the Constitution of the State of Illinois and the laws of the State of Illinois, located in Cook County.

16. Defendant Westforth Sports, Inc. is a retail dealer in firearms located in Gary, Indiana. It is incorporated under the laws of the State of Indiana as a domestic for-profit corporation with its principal place of business at 4704 Roosevelt Street in Gary, Indiana.

17. Westforth transacts business within the state of Illinois and with its residents in various ways. Westforth sells firearms, ammunition and other products directly to Illinois residents at its retail counter. For some firearms transactions with Illinois residents (in particular, handgun sales), Westforth makes delivery of the firearm by shipping it into the state of Illinois for transfer to Westforth's customer at another FFL (called an "FFL transfer"). Between January 2018 to April

2021, the store sold at least 538 firearms—comprised of both handguns and long guns—to Illinois residents both directly (over the counter) and by making delivery through Illinois FFLs. These gun sales directly to Illinois residents generated substantial revenue for the store—more than \$320,000 between 2018 and 2021, or 2.7% of the store’s total revenue.

18. According to a 2021 ATF inspection of Westforth, there are always vehicles with out-of-state, specifically, Illinois, license plates in the store’s parking lot. In 2022, Earl Westforth, the long-time owner of Westforth, admitted that he has been “inundated with a slew of inquiries, via telephone and otherwise, about what is required for Illinois residents to purchase firearms and/or ammunition.” Likewise, a former employee of Westforth Sports testified that selling firearms to Illinois residents “was just a normal part of our daily operations.” Well into 2021, Westforth’s handgun sales into Illinois were so routine that the store maintained mutually beneficial relationships with select Illinois gun stores to facilitate the transactions. According to Earl Westforth, in exchange for “get[ting] some transfers sent out to them,” the Illinois FFLs would direct business back to Westforth Sports by recommending it to “customers for products that [the Illinois FFLs] don’t carry.”

19. Westforth knows from numerous contacts with law enforcement that illegal firearms from its store are being recovered in Illinois generally, and in Chicago specifically. During one inspection, ATF cited Westforth for transferring long guns to Illinois residents without observing the waiting period required by Illinois law. In another instance, ATF warned Westforth during a sting operation that some of Westforth’s customers were “trafficking firearms to Vice Lord and Gangster Disciple street gang members on the west side of Chicago.” Separately, the Chicago Police Department and other law enforcement agencies in Illinois have contacted the store more than a half dozen times in recent years during gun investigations, according to the store’s

president. In addition, there is widely available public reporting on Westforth being the highest out-of-state source for crime guns recovered in Chicago.

20. Westforth also engages in advertising that targets out-of-state residents generally—and Illinois residents in particular, given Westforth’s proximity to the Illinois border. Westforth is located less than 10 miles from Illinois and an easy drive to Chicago on Interstate 90 or 94. As a result of this targeted advertising, Westforth’s retail store clientele includes Illinois residents who purchase firearms, accessories, and ammunition to be brought back to Illinois.

21. Westforth has advertised to out-of-state buyers on a variety of internet platforms. Westforth’s Google.com business listing includes a question-and-answer section with guidance specifically for Illinois residents interested in purchasing firearms, accessories, and ammunition from Westforth. Describing requirements for firearms purchases, Westforth instructs prospective customers that “if you are from Illinois, I actually DO need your FOID card inorder [sic] to sell you firearms or ammunition” and that “Illinois has its own special rules for waiting periods.” In another response, Westforth instructs that “We require a FOID card to purchase ammunition specifically of IL residents.” These responses indicate that Westforth both specifically targets Illinois residents as potential customers, and also that Westforth does regular business with Illinois residents at its retail store.

22. Westforth also advertises on websites including ArsenalExchange.com (an online firearms classified section), GunsAmerica.com, GalleryofGuns.com, theShootingStore.com, and Facebook.com. Some of these advertisements target out-of-state buyers specifically, such as a May 2018 Facebook advertisement that Westforth promoted as “open to qualifying residents of all 50 states of the US,” soliciting customers who “live outside of Indiana” to “contact us for help finding a participating dealer.” Other Facebook advertising by the store offers discounts on firearms to

retail customers, including customers from Illinois. Westforth also sells firearms over the internet to Illinois residents, shipping firearms to Illinois dealers for transfer to Illinois residents. Westforth describes this as “FFL transfer services” in one of its postings on ArsenalExchange.com, and its 2017 application for ATF license renewal discloses that it conducts such sales through at least one other online platform, Gunbroker.com. Westforth’s internet sales are echoed in ATF regulatory examinations, which note the sale of at least a “limited number of firearms over the internet” and that Westforth “transfers firearms to out-of-state dealers, especially Illinois licensees.”

FACTS

Chicago Faces a Gun Violence Crisis Fueled by Dealers Who Sell Firearms to Traffickers

23. Plaintiff, the City of Chicago, is the third largest city in the United States, and has a population of nearly three million people. Gun violence in Chicago is a growing epidemic. In 2020, there were 4,033 shooting victims compared to 2,598 the year before.² Chicago’s residents carry the physical, emotional and economic weight of this public health crisis in communities where lives are put at risk, job and housing insecurity is increasing, emergency and medical costs are rising, and the criminal justice system is overburdened.³ The toll of gun violence was especially dire in 2020 as Chicago’s healthcare system struggled under the strain of treating victims of gun violence amid the coronavirus pandemic.⁴

² Don Babwin, *Chicago ends 2020 with 769 homicides as gun violence surges*, ABC NEWS (Jan. 1, 2021), <https://abcnews.go.com/US/wireStory/chicago-ends-2020-769-homicides-gun-violence-surges-75005949>.

³ James Warren, *Hidden costs push price of city’s gun violence into the billions*, CRAIN’S CHICAGO BUSINESS (Aug. 28, 2019), <https://www.chicagobusiness.com/craains-forum-gun-violence/hidden-costs-push-price-citys-gun-violence-billions>.

⁴ Eric Lutz, *‘There are two pandemics’: Chicago’s gun violence persists amid lockdown*, THE GUARDIAN (Apr. 11, 2020), <https://www.theguardian.com/us-news/2020/apr/11/chicago-coronavirus-gun-violence>.

24. Gun violence in Chicago continues to be disproportionately concentrated in historically disadvantaged neighborhoods and continues to disproportionately impact the City's African American population. For example, in 2016, Chicago saw a spike in homicides—the vast majority of which were gun homicides—primarily on the South and West sides of the City where almost 27% of the population lived below the poverty line.⁵ Chicago neighborhoods Austin, Englewood, West Englewood, New City, and Greater Grand Crossing were home to only 9 percent of the City's population, but accounted for nearly half of the City's overall homicide increase.⁶ During the same time period, while African Americans made up only one third of Chicago's population, almost 80 percent of homicide victims were African American.⁷ More specifically, African American men between the ages of 15 and 34—just four percent of Chicago's population—comprised over half of the City's homicide victims.⁸

25. Gun violence affects many aspects of everyday life for Chicago residents, especially those living in historically disadvantaged, largely African American communities, and this epidemic has taken a particularly harsh toll on the City's children. In 2020, six children under the age of 10 were shot and killed. Three of them were riding in cars. Two were playing in front of their homes. One was watching television.⁹

⁵ University of Chicago Crime Lab, GUN VIOLENCE IN CHICAGO, 2016, at p. 17 (Jan. 2017), <https://urbanlabs.uchicago.edu/projects/gun-violence-in-chicago-2016>.

⁶ *Id.* at 31.

⁷ *Id.* at 13.

⁸ *Id.*

⁹ Maudlyne Ihejirika, *Mourning the babies killed in Chicago's violence in a summer of horror now ended*, CHICAGO SUN TIMES (Sept. 25, 2020), <https://chicago.suntimes.com/2020/9/25/21452929/mourning-babies-killed-chicago-violence-summer-horror>.

26. In response, Chicago and its community organizers have had to create programs to help Chicago youth navigate the realities of living in a city plagued by gun violence. Chicago Public Schools created Safe Passage, an initiative that helps children travel to and from school along predetermined safe routes because students were too afraid to go to school, let alone engage in their lessons.¹⁰ Healing Hurt People is a hospital-based program that provides mentoring and therapy to youth who have been shot.¹¹

27. The economic burden of providing funds and resources to care for the victims of gun violence is substantial. Between 2016 and 2019, firearm injuries directly cost the City approximately \$442 million in policing and emergency medical services alone.¹² During the same time period, the public welfare cost of gun violence—that is, the cost of medical and mental healthcare, police and criminal justice costs, injury-related work loss, and perpetrator work loss—totaled over \$5 billion.¹³ For the budget year 2020, Chicago allocated over \$10.4 million towards gun violence prevention programs, including victim support services, street outreach programs, trauma-informed training, community safe-space programming, and a high-risk youth pilot program that offers therapy services, case management, and educational and employment opportunities.¹⁴

¹⁰ *City of Chicago's Youth Violence Prevention Plan*, YOUTH.GOV (Apr. 16, 2021), <https://youth.gov/youth-topics/preventing-youth-violence/forum-communities/chicago/brief>.

¹¹ Nissa Rhee, *For Chicago Kids Shaken By Gun Violence, a Shortage of Trauma Support Compounds the Harm*, THE TRACE (Nov. 11, 2019), <https://www.thetrace.org/2019/11/for-chicago-kids-shaken-by-gun-violence-a-shortage-of-trauma-support-compounds-the-harm/>.

¹² Declaration of Ted Miller at 21, *City of Syracuse v. Bureau of Alcohol, Tobacco, Firearms, and Explosives*, No. 1:20-cv-06885 (S.D.N.Y. Dec. 9, 2020) ECF No. 64-32.

¹³ *See id.*

¹⁴ Declaration of Amanda Weis at 4, *City of Syracuse v. Bureau of Alcohol, Tobacco, Firearms, and Explosives*, No. 1:20-cv-06885 (S.D.N.Y. Dec. 9, 2020) ECF No. 64-27.

28. In 2019, the Illinois legislature made the policy determination that irresponsible sales practices by gun dealers contribute to gun trafficking and gun violence in the state. To address the role that gun dealers play in the flow of illegal guns and to take steps to curb gun trafficking, the Legislature enacted the Combating Illegal Gun Trafficking Act, (430 ILCS 68/1, *et seq.*). Among other things, this law requires all Illinois gun dealers and their employees to “receive at least 2 hours of training annually regarding legal requirements and responsible business practices as applicable to the sale or transfer o[f] firearms.” *Id.* §5-30. In addition, the Illinois State Police must “develop and implement by rule statewide training standards for assisting certified licensees in recognizing indicators that would lead a reasonable dealer to refuse sale of a firearm, including, but not limited to, indicators of a straw purchase.” *Id.* §5-60.

29. In the fall of 2020, then-Chicago Mayor Lori Lightfoot released a comprehensive violence reduction plan that included a significant discussion of gun regulation.¹⁵ Key to this discussion is the fact that guns are frequently brought into Chicago from Indiana and Wisconsin—two neighboring states that have significantly weaker gun laws. The violence reduction plan explained the importance of interrupting gun trafficking from source dealers that repeatedly sell guns to straw purchasers, who then funnel them to criminals and other prohibited possessors in Chicago. As the City’s 2014 study of crime gun tracing concluded, “Chicago’s violence problem is directly linked to the number of illegal guns available in the City.”¹⁶ Under Mayor Brandon Johnson the City is continuing to invest in public safety and gun violence prevention, including

¹⁵ City of Chicago, OUR CITY, OUR SAFETY: A COMPREHENSIVE PLAN TO REDUCE VIOLENCE IN CHICAGO (2020), <https://www.chicago.gov/content/dam/city/sites/public-safety-and-violence-reduction/pdfs/OurCityOurSafety.pdf>.

¹⁶ City of Chicago, TRACING THE GUNS: THE IMPACT OF ILLEGAL GUNS ON VIOLENCE IN CHICAGO 1 (May 27, 2014) (“2014 Trace Report”), <https://www.chicagobusiness.com/Assets/downloads/20151102-Tracing-Guns.pdf>.

through a \$2.5 million dollar public-private partnership to support violence prevention and youth outreach programming citywide beginning in summer 2023.¹⁷ The Mayor's office has also established a Deputy Mayor for Community Safety to coordinate and spearhead efforts across City departments to combat crime and violence and to advance a holistic and comprehensive approach to community safety.¹⁸

30. While Chicago's gun violence epidemic flows directly from its large illegal gun market, this market is fed disproportionately by only a small number of licensed gun dealers. There are approximately 150 FFLs in the Chicago metro area and Lake County Indiana, but only four of them collectively supplied nearly 20% of the crime guns recovered in Chicago between 2009 and 2013.¹⁹ During that same time period, all other dealers sold an average of three crime guns each.²⁰ Between 2013 and 2016, almost one in four crime guns could be traced back to just ten FFLs.²¹

31. Westforth is one of these principal sources of illicit firearms for the Chicago criminal market, and has been since at least 2009. Between 2009 and 2013, Chicago police recovered and traced 515 crime guns sold by Westforth, making it the largest out-of-state supplier

¹⁷ City of Chicago, *Mayor Johnson Announces Major Financial Investment in Violence Prevention Efforts Ahead of Memorial Day Weekend* (May 25, 2023), https://www.chicago.gov/city/en/depts/mayor/press_room/press_releases/2023/may/InvestmentViolencePreventionMemorialDayWeekend.html.

¹⁸ Office of the Mayor of the City of Chicago, EXECUTIVE ORDER No. 2023-17, EXECUTIVE ORDER ON COMMUNITY SAFETY (May 15, 2023), <https://www.chicago.gov/content/dam/city/depts/mayor/Press%20Room/Press%20Releases/2023/May/EO2023-17CommumunitySafety.pdf>

¹⁹ *Id.* at 6.

²⁰ *Id.*

²¹ City of Chicago, GUN TRACE REPORT 4 (2017) ("2017 Trace Report"), <https://www.chicago.gov/content/dam/city/depts/mayor/Press%20Room/Press%20Releases/2017/October/GTR2017.pdf>.

of crime guns.²² Between 2013 and 2016, Westforth retained this dubious distinction, accounting for another 341 crime guns.²³

32. What is more, a large percentage of crime guns traced to Westforth have a short “time-to-crime,” meaning the period between the date of retail sale and the date of recovery by law enforcement. According to the ATF, a time-to-crime of three years or less is a “significant trafficking indicator” that “suggests illegal diversion or criminal intent associated with the retail purchase from the FFL.”²⁴ More than 40% of the Westforth crime guns recovered in Chicago between 2009 and 2016 had a time-to-crime of less than three years.²⁵

33. Westforth’s pattern of selling firearms to traffickers has continued unabated to the present day. A review of federal prosecutions from December 2014 to April 2021 for false statements on firearm transaction forms in the Northern District of Indiana, where Westforth is located, revealed that approximately 44% involved sales at Westforth. Some of these illegal guns have already been recovered by law enforcement in Chicago; many others remain in circulation.

Federal Regulatory Framework for Dealing in Firearms

34. Federal laws closely regulate commercial sales of firearms. Dealers, distributors, and manufacturers of firearms are known as “licensees” because they must obtain a federal license to operate a business that sells, distributes, or manufactures firearms. A person is categorically

²² 2014 Trace Report, at 6.

²³ 2017 Trace Report, at 20.

²⁴ U.S. Dep’t of Justice, Office of the Inspector Gen., INSPECTIONS OF FIREARMS DEALERS BY THE BUREAU OF ALCOHOL, TOBACCO, FIREARMS AND EXPLOSIVES, Report No. I-2004-005 (July 2004), <https://oig.justice.gov/reports/ATF/e0405/background.htm>; *see also* 2014 Trace Report, at 6 (Short time-to-crime is “a key indicator that the sale could have involved criminal activity by the buyer or the dealer.”).

²⁵ *See* 2014 Trace Report, at 7; 2017 Trace Report, at 20.

prohibited from “engag[ing] in the business of importing, manufacturing, or dealing in firearms” without a federal firearms license. 18 U.S.C. §§ 922(a)(1), 923(a). A person must be licensed if they “devote[] time, attention, and labor to dealing in firearms” with the objective of making a profit. *See* 18 U.S.C. § 921(a)(21)(C). Even a person who deals in guns part-time is required to obtain a license. *See* 27 C.F.R. 478.11.

35. Federal laws require licensed firearm dealers to ensure the legality of the sales they complete. FFLs are prohibited from selling or delivering “any firearm to any person in any State where the purchase or possession by such person of such firearm would be in violation of any State law or any published ordinance applicable at the place of sale, delivery or other disposition, unless the licensee knows or has reasonable cause to believe that the purchase or possession would not be in violation of such State law or such published ordinance.” 18 U.S.C. § 922(b)(2). Federal law also prohibits FFLs from selling or delivering a firearm to an out-of-state resident unless the sale involves a rifle or shotgun, takes place in person, and “the transfer, and the sale, delivery, and receipt fully comply with the legal conditions of sale in both such States.” 18 U.S.C. § 922(b)(3). And unless they themselves hold an FFL, Illinois customers of Westforth are prohibited from transporting firearms purchased at Westforth back into Illinois unless the firearms were “obtained in conformity with subsection (b)(3) of this section.” 18 U.S.C. § 922(a)(3).

36. Federal law also prohibits dealers from assisting an individual’s violation of firearms laws: it is illegal to aid and abet or conspire with another to deal in firearms without a license, or to transport or possess firearms in violation of federal law. *See* 18 U.S.C §§ 2, 371. In addition, concealing an individual’s unlawful dealing, possession, or transport of firearms is prohibited: a dealer who knows of the commission of a felony firearms offense, conceals the offense, and does not report the offense to law enforcement, violates 18 U.S.C. § 4.

37. A central purpose of federal firearms laws is to prevent crime by keeping guns out of the hands of certain persons who have a heightened risk of misusing firearms, such as persons with felony convictions, minors, and domestic abusers. *See generally* 18 U.S.C. § 921 *et seq.* For this reason, gun dealers are trained on how to spot traffickers and straw purchasers through multiple publications and programs sponsored by the ATF and the gun industry, including the “Don’t Lie for the Other Guy” program, newsletters, reference guides, regulatory updates, and ATF seminars.

38. Before transferring a firearm to any person who is not a licensed dealer, a licensed dealer must conduct a background check, examine the individual’s identification, and record the transaction on a firearms transaction record (“ATF Form 4473”). *See* 18 U.S.C. § 922(t)(1), 27 C.F.R. 478.102, 478.124(a).

39. Before completing a purchase of a firearm from a licensee, a buyer must fill out ATF Form 4473, which asks the following question with the following bolded warning:

**Are you the actual transferee/buyer of the firearm(s) listed on this form...?
Warning: You are not the actual transferee/buyer if you are acquiring the
firearm(s) on behalf of another person. If you are not the actual
transferee/buyer, the dealer cannot transfer the firearm(s) to you.**

This warning puts the buyer on notice: the buyer is prohibited from buying a firearm on someone else’s behalf while falsely claiming that it is for the buyer. A transaction in that manner is known as a “straw purchase,” and the transferee a “straw purchaser.” On ATF Form 4473, the buyer must certify that his or her answers on the form are true, correct, and complete.

40. A seller must not complete the sale if the seller knows or has reason to know that the form is inaccurate. Licensees certify on ATF Form 4473 that it is their “belief that it is not unlawful [] to sell, deliver, transport, or otherwise dispose of the firearm(s) listed on this form to

the person identified in Section B,” which “Must Be Completed Personally By [The] Transferee/Buyer.” Licensees must truthfully complete this portion of the form.

41. ATF Form 4473 makes clear that the seller must do more than simply run a background check. The notices and instructions on the form explain that “[t]he transferor/seller of a firearm must determine the lawfulness of the transaction and maintain proper records of the transaction.” The form also explains that a gun dealer “must stop the transaction if there is reasonable cause to believe that the transferee/buyer is prohibited from receiving or possessing a firearm[.]” The form contains a clear admonition:

WARNING: Any person who transfers a firearm to any person he/she knows or has reasonable cause to believe is prohibited from receiving or possessing a firearm violates the law, 18 U.S.C. 922(d), even if the transferor/seller has complied with the Federal background check requirements.

42. The licensee must keep a record of all transactions with unlicensed persons in an acquisition and disposition book. 27 C.F.R. 478.123(d), 478.125(e). A licensee violates federal law by knowingly making false statements or misrepresentations, failing to make appropriate entries in, or failing to properly maintain, acquisition and disposition records, firearms transaction records, or reports of multiple sales of handguns. 18 U.S.C. §§ 922(m), 924(a)(3); *see also* 18 U.S.C. § 924(a)(1)(A).

43. Federal law regards the purchase of more than one handgun in a short period as a potential indication that the purchaser could be involved in trafficking. Therefore, to monitor and deter handgun trafficking, federal law requires a licensee to report all transactions in which an unlicensed buyer purchases two or more handguns within 5 days. *See* 18 U.S.C. § 923(g)(3)(A); 27 C.F.R. 478.126a.

44. Federal law also enlists dealers in working to detect illegal transactions and trafficking after a firearm is used unlawfully. When a law enforcement agency recovers a firearm

at a crime scene or in the course of a criminal investigation, the agency may request a trace report from ATF's National Tracing Center. The National Tracing Center tracks the path of the firearm from its manufacturer through the distribution chain to the first retail purchaser. Licensees must provide information from their records about crime guns that the licensee manufactured, distributed, or sold. *See* 18 U.S.C. § 923(g)(7); 27 C.F.R. 478.25a.

State and Local Regulatory Framework

45. Both the state of Illinois and the City of Chicago also regulate the sale, purchase, transfer, importation, and possession of firearms. These state and local laws apply to transactions that take place within their borders, as well as to transactions that involve residents of the jurisdiction. These laws are directly applicable to each transaction between Westforth and a resident of Chicago because federal law requires that transactions between a licensed FFL and a resident of another state comply with the legal conditions of sale in the purchaser's state of residence. *See* 18 U.S.C. § 922(b)(3).

46. Under Illinois law, an FFL may not deliver a firearm to a purchaser without observing a 72-hour waiting period. *See* 720 ILCS 5/24-3(A)(g). The FFL must also confirm that the prospective Illinois purchaser holds a currently valid Firearm Owner's Identification Card or concealed carry license prior to selling or transferring a firearm. *See* 720 ILCS 5/24-3(k). Illinois also prohibits FFLs from selling or delivering "to any unlicensed person a handgun having a barrel, slide, frame or receiver which is a die casting of zinc alloy or any other nonhomogeneous metal which will melt or deform at a temperature of less than 800 degrees Fahrenheit." 720 ILCS 5/24-3(A)(h). A violation of any of these provisions is a Class 4 felony under Illinois law. Illinois law

also requires “all federally-licensed firearm dealers” to “abide by all federal and State laws and local ordinances.” Ill. Admin. Code tit. 20, § 1235.30.

47. Chicago’s municipal code makes it unlawful to “import, sell, manufacture, transfer, or possess an assault weapon.” Chicago Municipal Code § 8-20-075. The municipal code defines assault weapon in several ways, including various make & model of rifle, shotgun, and handgun (and their copies and duplicates), and any semiautomatic rifle or handgun that can accept a detachable magazine and has one or more other specified features. *See id.* § 8-20-010. The municipal code declares that all such firearms are contraband when carried or possessed in violation of the code, and makes them subject to forfeiture and seizure by the Chicago police. *See id.*, § 8-20-250. Other municipalities within Illinois, including Cook County, have similar restrictions on assault weapons.²⁶

Westforth Has Been Cited Repeatedly for Violating Federal Firearms Regulations

48. Westforth has intimate familiarity with these federal laws and regulations, because ATF has cited it for violating them at least 48 separate times while Earl Westforth has been president of the business. Many of these citations concern multiple instances of improper or illegal conduct, meaning that the true number of infractions is far higher. On at least two occasions, ATF regulators examining Westforth’s business practices recommended that ATF revoke its federal firearms license on the basis of “willful violations of the GCA [Gun Control Act],” though ATF management ultimately opted to conduct a warning conference in lieu of revocation. In 2017, Earl Westforth even asked the ATF “whether the business’s inspection history would ‘erase’ if his son took over the business.”

²⁶ In 2023, the State of Illinois also enacted a restriction on assault weapons.

49. A small sampling of Westforth's violations includes: a citation for failing to conduct a background check before transferring a firearm to a customer; multiple instances of transferring a gun to a straw purchaser after the straw purchaser's associate failed a background check; repeat failure to report sales of multiple handguns; and repeat failure to ensure that a customer was the actual buyer/transferee, rather than a straw purchaser.

50. ATF has warned Westforth time and again that violations like these threaten public safety. Under its current leadership, Westforth has received at least five formal warning letters from ATF, and its president has attended at least four warning conferences with ATF personnel, where the dealer's breaches of federal law were reviewed. A June 2013 warning letter instructed Westforth to "put safeguards in place to prevent future straw purchases," detailing several strategies and warning that "[t]he violations for which you were cited could adversely impact law enforcement's ability to reduce violent crime and protect the public." A 2017 letter underscored that Westforth's failure to verify the identity of its customers is an "important public safety issue."

51. One of ATF's recommendations in 2017 was for Westforth to "record[] denied and/or delayed firearms transaction information and compare[] it to information provided by future customers, [so that] multiple clerks can all quickly identify possible straw purchases." But when ATF agents conducted their most recent inspection of Westforth in February 2021, they witnessed two employees "rip up and discard" transaction forms for a suspicious purchase that was halted. When questioned, the employees "both explained that it was the store's practice to discard 4473s in which the transfer did not occur." Not only does destroying these forms violate the law, it contravenes ATF's express instructions.

52. Westforth was also on notice that illegal firearms were being trafficked from its store and harming public safety because it was sued by the City of Gary in 1999, in *City of Gary*

v. Smith & Wesson, et al., Case No. 45D05-0005-CT-243 (Ind. Lake Cnty. Super. Ct.). That lawsuit accused Westforth and other gun dealer defendants of creating a public nuisance by “mak[ing] openly illegal sales without filling out the required paperwork or conducting background checks on purchasers,” and by “conveniently look[ing] the other way while sales are made to straw purchasers or under circumstances where the dealer knows or should reasonably foresee that the gun will thereafter be diverted into the illegal secondary market to illegal buyers who will use the guns in crime....” Westforth settled these and related allegations on confidential terms with the city of Gary in 2007.

53. ATF officials have also reviewed applicable regulations with Westforth’s president at the conclusion of each compliance inspection, meaning that Earl Westforth has been trained on his legal obligations on at least nine separate occasions, signing an affirmation each time acknowledging receipt. These comprehensive reviews cover, among other topics, straw purchases, acquisition and disposition records, ATF Form 4473 transaction records, customer identification documents, and reporting obligations for multiple sales.

54. In addition to these formal reviews of applicable law, ATF investigators have on several occasions provided additional guidance to Westforth concerning specific violations. For example, as part of ATF’s 2012 compliance inspection, investigators counseled Earl Westforth and another employee about their obligation not to sell firearms to straw purchasers:

IOIs [ATF’s Industry Operations Investigators] advised Earl and [redacted] Westforth that when the dealer knows or has reasonable cause to believe that the person completing the Form 4473 is not the actual buyer of the firearm(s), the dealer must STOP the transaction.

55. ATF employees reiterated similar guidance during a 2014 compliance inspection, advising Westforth on “the importance of employees gaining information on the purchase from the customers and asking questions that will help ensure that straw purchases do not take place.”

56. ATF has also provided remedial training to Westforth's employees at least twice. In 2013 and 2017, ATF trained Westforth employees on the identification and prevention of straw purchases, as well as on the regulations pertaining to ATF Form 4473, acquisition and disposition recordkeeping, and reporting obligations for multiple handgun sales.

57. In short, Westforth is well aware of its obligations under federal law to stop straw purchasers and gun traffickers, and it is well trained on how to spot them. Yet Westforth continues to knowingly, willfully, and repeatedly engage in illegal transactions that funnel guns into Chicago because it is good for the store's bottom line.

Westforth Continues to Illegally Sell Guns to Traffickers and Straw Purchasers

58. Despite these repeated warnings, Westforth continues to engage in a pattern of violating federal law and regulations, and of aiding and abetting others in violating them.

59. According to federal criminal filings between December 2014 and May 2022, Westforth has sold at least 338 guns to at least 61 separate purchasers who have since been charged with federal firearms crimes in connection with their transactions at the store. Westforth sells firearms to straw purchasers and gun traffickers even though it knows, based on the circumstances of these transactions and its own training, that these customers are not making bona fide purchases for themselves.

60. Westforth's president and its employees have been repeatedly trained on by the ATF on how to spot and prevent straw purchasing, attending seminars held by the ATF as recently as 2020 and 2021. The trainings go over common indicators of straw purchasing, including: (i) "bulk purchases or repetitive purchases of same or similar firearms, especially 'non-collectibles'"; (ii) "paying with large amounts of cash"; (iii) "[s]tructuring purchases to avoid MS [multiple sale] reporting"; (iv) "[a]rriving in car with out-of-state license plate"; and (v) attempting to purchase

firearm after recent denial.” Yet, according to one former employee, obvious straw purchasing is commonplace in the store, and employees are discouraged from asking questions about potential straw purchasers’ intent for the guns so that the store can go through with—and profit from—these sales.

61. Westforth repeatedly disregards its obligations under federal law, so that it can access the lucrative criminal secondary market for firearms in Chicago and, ultimately, to profit from the sale of firearms to criminals and other prohibited persons.

62. Westforth records and federal prosecutions of dozens of these street level retailers reveals the striking pattern of red flags of illegal activity ignored by Westforth at the store’s gun counter and cash register. These patterns—multiple purchases of duplicate and near-duplicate guns, buying sprees over a concentrated period of time, large-volume purchases, cash payments, staggered visits to elude multiple-sale reporting requirements, and indications on purchasing forms that the customer is not the actual buyer of the gun—are all unmistakable hallmarks of a gun trafficking business.

Westforth’s Sales to Darryl Ivery Jr.

63. A review of federal court documents demonstrates that one of the most egregious traffickers that Westforth sold guns to is Darryl Ivery Jr.²⁷ Westforth sold Ivery 19 handguns in the course of 14 separate transactions between February 18 and August 8, 2020. On each of his 14 visits, Ivery gave store employees an area code 312 Chicago phone number as part of his contact information:

²⁷ See Complaint at 3–4, *United States v. Ivery*, No. 2:20-cr-00138 (N.D. Ind. Aug. 26, 2020), ECF No. 1. Ivery was charged with 17 counts of making a material false statement in the acquisition of a firearm in violation of Title 18, United States Code, Section 922(a)(6). On December 21, 2021, Ivery was sentenced to 18 months in prison.

<u>Transaction Date</u>	<u>Make</u>	<u>Model</u>	<u>Caliber</u>
02/18/2020	Jimenez SCCY	IA CPX-1	.357 9mm
03/03/2020	Jimenez S & W	JA SD40	9mm 40 cal.
03/13/2020	Glock Glock	27 unknown	40 cal. 40 cal.
03/31/2020	S & W	M&P	40 cal.
04/30/2020	Glock Glock	43 22	9mm 40 cal.
05/13/2020	Century Arms	Micro Draco	7.62x.39
06/06/2020	Glock	17	9mm
06/10/2020	S & W	SD9VE	9mm
06/17/2020	Pioneer Arms	Hellpup	7.62x.39
07/06/2020	Glock	30	0.45
07/07/2020	Glock	43x	9mm
07/13/2020	FN	509T	9mm
07/23/2020	Shadow Springfield	MR920 XDM	SSCO11797 0.45
08/10/2020	Ruger	57	5.7x.28

64. On its own, the sheer volume of Ivery's purchases put Westforth on notice that Ivery was not making bona fide purchases for himself, but was instead buying guns for others. But Ivery's purchases were suspicious in other ways as well. For one, Ivery apparently spent more than \$10,000 *entirely in cash* on his purchases at Westforth, according to store records. And on seven occasions, Ivery bought multiple guns at once—purchases that required Westforth to submit additional paperwork to ATF because of the close association between multiple sales and trafficking. According to ATF guidance, “[i]f one or more firearms recovered from a crime are

part of a multiple purchase, this could be an indicator of potential firearms trafficking.”²⁸ Even Earl Westforth acknowledged that in light of these multiple sale transactions, store employees should have been asking “Hey Darryl, what are you doing with all these guns?”

65. Starting in May 2020, with the purchase of his tenth handgun at Westforth, Ivery began structuring his transactions at intervals apparently designed to evade the reporting requirement for multiple handgun sales. Specifically, he began purchasing single handguns within days or weeks of each other, but generally at intervals greater than the five-day period that would trigger mandatory reporting. *See* 27 C.F.R. 478.126a. Both behaviors put Westforth on further notice that Ivery was trafficking, and additionally that he was attempting to evade detection by authorities. Westforth continued to sell guns to Ivery anyway.

66. After buying guns from Westforth, Ivery quickly trafficked them to Chicago to be resold, where at least three have already been recovered. In one instance, a gun that Ivery purchased was recovered in Chicago only 22 days later after being fired multiple times into a car full of people. In another instance, Chicago police officers responding to a call for ‘shots fired’ recovered a .40 caliber Smith & Wesson SD40 with an extended magazine from a 17-year old. Westforth had sold the gun to Ivery just 27 days earlier. These two recoveries occurred just days apart at the end of March and beginning of April 2020. On information and belief both guns were subsequently traced, which notified Westforth that two of Ivery’s guns had been recovered with remarkably short times to crime. But despite this knowledge, Westforth continued to sell guns to Ivery for several more months—selling him as many as a dozen more guns. One of these

²⁸ Bureau of Alcohol, Tobacco, Firearms, and Explosives, *Reporting Multiple Firearm Sales*, ATF.GOV (April 16, 2021), <https://www.atf.gov/firearms/reporting-multiple-firearms-sales>.

subsequent sales was itself recovered in Chicago, with a time-to-crime of just over a year. The rest are believed to remain in circulation on the streets of Chicago to this day.

67. By engaging in the sale and transfer of firearms to Ivery under the circumstances described above, Westforth knowingly violated, and/or aided and abetted Ivery in the violation of numerous laws and regulations, including 18 U.S.C. § 922(a)(1) (engaging in the business of dealing in firearms without a license); 18 U.S.C. § 922(a)(6) (knowingly making a false statement in connection with the acquisition of a firearm); 18 U.S.C. § 922(m) (knowingly making false entries in records required to be kept by dealer); 18 U.S.C. § 923(a) (engaging in the business of dealing in firearms without a license); 18 U.S.C. § 924(a) (knowingly making a false statement or representation concerning information to be kept in the records of an FFL); 27 C.F.R. 478.124(c)(1) (failing to ensure accurate completion of ATF Form 4473 prior to transfer of a firearm); 27 C.F.R. 478.124(c)(4) (failing to record accurate information in ATF Form 4473); and 27 C.F.R. 478.21(a) (failing to ensure completion of ATF Form 4473 in accordance with form instructions).

Westforth's sales to Kadeem Fryer

68. Kadeem Fryer, another prolific gun trafficker, was a routine customer of Westforth's until law enforcement began recovering his firearms from individuals involved in criminal activity. In less than five months in 2020, Fryer purchased 19 guns from Westforth, most of them Glocks, some of which were purchased in eight separate multiple handgun sales.²⁹

²⁹ See Complaint, *United States v. Fryer*, No. 2:20-cr-00114 (N.D. Ind. Aug. 17, 2020), ECF No. 1. On February 12, 2021, Fryer pled guilty to one of 22 counts of making material false statements in the acquisition of a firearm in violation of Title 18, United States Code, Section 922(a)(6). See Indictment, *United States v. Fryer*, No. 2:20-cr-00114 (N.D. Ind. Aug. 20, 2020), ECF No. 3. As of March 2023, he continues to await sentencing.

69. Chicago police have already recovered five handguns that Westforth Sports sold to Fryer, including one recovered from a juvenile and another from a parolee, both of which had been modified to turn them into illegal fully-automatic machine guns. Ballistics evidence links both guns to additional crimes, including an incident in September 2020 where an offender fired five or six shots into an occupied vehicle. Ballistics evidence also links a third Fryer handgun recovered by CPD to a December 2020 shooting involving a victim shot in the leg while sitting in a car. On information and belief, the remaining firearms that Fryer purchased from Westforth remain in circulation.

70. Thirteen of Fryer's purchases at Westforth took place over a period of just 30 days, between April 17, 2020 and May 16, 2020, with additional purchases continuing through the summer of 2020. In most instances, Fryer visited the store every two to four days to make the buys, including:

<u>Transaction Date</u>	<u>Make</u>	<u>Model</u>	<u>Caliber</u>
3/28/2020	ATI	Omni Hybrid	5.56
4/17/2020	Glock	31Gen4	.357
	Glock	23Gen4	.40
4/21/2020	Glock	33Gen4	.357
	Roman/Cugar	Mini Draco	7.6x39
4/23/2020	Glock	21Gen4	.45
4/27/2020	Glock	29	10mm
	Glock	33Gen4	.357
5/1/2020	Glock	22	.40
5/15/2020	Glock	21	.45
	Glock	31	.357

5/16/2020	Glock	21	.45
	Glock	22Gen4	.40
	ATI	Omni Hybrid	5.56
6/6/2020	ATI	Omni Hybrid	300blk
6/18/2020	Glock	19	9x19
7/1/2020	Glock	45	9x19
7/6/2020	Glock	23C	.40
7/8/2020	Glock	33Gen4	.357

71. Fryer's large volume of purchases is highly indicative of gun trafficking, and unlicensed dealing, simply standing alone. But that is not the only red flag that Westforth chose to ignore by selling to Fryer, and through him into the criminal secondary market. Fryer also bought numerous handguns in duplicate and triplicate, including three Glock 33Gen4s, two Glock 21s and a near-duplicate 21Gen4, a Glock 31 and near-duplicate 31Gen4, a Glock 22 and near-duplicate 22Gen4, and two ATI Omni Hybrid AR-style rifles. Fryer's large volume of duplicative and near-duplicative purchasing was another red flag to Westforth that he was not a bona fide purchaser, but was instead purchasing for transfer to others.

72. When questioned by law enforcement on July 30, 2020 about the whereabouts of the guns he purchased, Fryer admitted that he had kept only one gun in his possession, turning all the other firearms over to his friends who wanted to protect themselves. Fryer stated his friends, including at least one with a pending felony charge, would tell him "in the category" of what they wanted, and he would get the firearms for them.

73. In or about April 2021, Westforth provided false information to ATF about one of Fryer's Glock handgun purchases that had been recovered by Chicago Police. Specifically, ATF asked Westforth whether the .357 Glock 33Gen4 that Westforth sold Fryer on July 8, 2020, was

part of a multiple sale. It was (along with the .40 Glock 23C sold on July 6), but Westforth lied to ATF and responded that “No” it was not. ATF also asked whether the store had sold Fryer any other firearms, and the store once again falsely represented that “No” it had not, when in reality it had sold Fryer at least 18 other guns. Upon information and belief, Westforth lied to ATF about its transactions with Fryer in order to minimize its own role in supplying firearms to this trafficker and allow it to continue to profit from sales to straw purchasers funneling guns into Chicago.

74. By engaging in the sale and transfer of firearms to Fryer under the circumstances described above, Westforth violated, or aided and abetted Fryer in the violation of numerous laws and regulations, including 18 U.S.C. § 922(a)(6); 18 U.S.C. § 922(m); 18 U.S.C. § 924(a); 27 C.F.R. 478.124(c)(1); 27 C.F.R. 478.124(c)(4); and 27 C.F.R. 478.21(a).

Westforth’s sales to Cherisse Lavette Mitchell

75. In just over a two-month period, Cherisse Lavette Mitchell purchased six guns from Westforth, including a pair and a trio of identical guns.³⁰ Mitchell’s first visit to Westforth was on April 10, 2020 when she bought three Taurus handguns, each of the same model. Mitchell returned to Westforth on May 29, 2020 and again on May 30, 2020 and purchased two Smith & Wesson handguns, again of the same model, during this pair of visits. One of these was recovered by the Chicago Police Department only 33 days after Westforth’s sale to Mitchell. Mitchell purchased a sixth handgun from Westforth, a SAR B6C, on June 15, 2020.

³⁰ See Complaint, *United States v. Mitchell*, No. 2:20-cr-00139 (N.D. Ind. Aug. 26, 2020), ECF No. 1. On December 17, 2020, Mitchell pled guilty to one count of making a false statement in connection with the purchase of a handgun at Westforth Sports, in violation of 18 U.S.C. § 922(a)(6). On June 30, 2021, Mitchell was sentenced to two years of probation and five months of home detention.

76. Mitchell's repeated multiple-sale handgun purchases, and repeated purchases of the same make and model of handgun were suspicious buying patterns that put Westforth on notice that Mitchell was engaged in straw purchasing, firearms trafficking, and/or unlicensed firearms dealing. But despite these red flags, Westforth consummated at least six firearms sales to Mitchell, including at least one handgun that was recovered at a crime scene in Chicago only a short time after it left Westforth's inventory.

77. By engaging in the sale and transfer of firearms to Mitchell under the circumstances described above, Westforth violated, or aided and abetted Mitchell in the violation of numerous laws and regulations, including 18 U.S.C. § 922(a)(6); 18 U.S.C. § 922(m); 18 U.S.C. § 924(a); 27 C.F.R. 478.124(c)(1); 27 C.F.R. 478.124(c)(4); and 27 C.F.R. 478.21(a).

Westforth's sales to Adrienne Danielle Bean

78. On March 6, 2019, officers with the Chicago Police Department observed a vehicle traveling 95 mph on the Dan Ryan Expressway and conducted a traffic stop. Law enforcement recovered from the front seat passenger, Sherrod Gee, two firearms including a loaded Jimenez Arms 9mm semi-automatic pistol. Law enforcement also recovered marijuana and multiple loaded gun magazines from the vehicle's console. A trace on the Jimenez Arms firearm revealed that Adrienne Danielle Bean had purchased it from Westforth on March 4, 2019: a time-to-crime of just two days. When confronted later by ATF agents, Bean admitted that she was a resident of Illinois when she purchased the firearms and that she had taken them to a resident in Illinois.³¹

³¹ See Gov't Sentencing Memo, *United States v. Bean*, No. 2:20-cr-00019 (N.D. Ind. Nov. 13, 2020), ECF No. 29. On July 7, 2020, Bean pled guilty to one count of making material false statements in the acquisition of a firearm in violation of Title 18, United States Code, Section 922(a)(6). Bean was sentenced in February 2021 to a year of probation and six months of home detention.

79. Upon information and belief, ATF traced these weapons after they were recovered, and these efforts put Westforth on notice that a firearm it had sold to Adrienne Bean had been recovered by law enforcement just two days after she purchased it on March 4, 2019. Yet when Bean returned to the store on March 29, 2019, Westforth sold her another gun.

80. By engaging in the sale and transfer of firearms to Bean under the circumstances described above, Westforth knowingly violated, and/or aided and abetted Bean in the violation of numerous laws and regulations, including 18 U.S.C. § 922(a)(6); 18 U.S.C. §922(m); 18 U.S.C. § 924(a); 27 C.F.R. 478.124(c)(1); 27 C.F.R. 478.124(c)(4); and 27 C.F.R. 478.21(a).

Westforth's sales to Levar Reynolds

81. Levar Reynolds purchased 15 guns at Westforth (of which five have been recovered in Chicago). During his first visit to Westforth, Reynolds indicated on his transaction form that he resided in “IL” before crossing that out and writing “IN.” On May 12, 2018, Reynolds visited Westforth seeking to purchase five Glock handguns in a single transaction.³² Not only was this a suspiciously large volume for a single purchase, but four of the guns that Reynolds wanted to buy were duplicates or near duplicates of one another. Reynolds bought a pair of .40 caliber Glock 23s, and a pair of .40 caliber Glock 23gen4s—two duplicate pairs. What is more, the Glock 23gen4 is simply a newer model of the Glock 23, making the four handguns near-duplicates of one another. In addition, on information and belief, Reynolds also bought five identical laser sights, five extended magazines, and large quantities of ammunition as part of this transaction. A multiple

³² See Complaint, *United States v. Reynolds*, No. 2:20-cr-00125 (N.D. Ind. Aug. 31, 2020), ECF No. 1. Reynolds was charged with one count of making material false statements in the acquisition of a firearm in violation of Title 18, United States Code, Section 922(a)(6). See Indictment, *United States v. Reynolds*, No. 2:20-cr-00125 (N.D. Ind. Sep. 16, 2020), ECF No. 10. Reynolds pled guilty and on June 28, 2021 was sentenced to time-served plus two years of supervised release.

firearms purchase, particularly one involving the purchase of duplicate and near-duplicate handguns, is a significant warning sign that the purchaser is really a trafficker or straw buyer.

82. Upon information and belief, the salesperson originally assisting Reynolds grew alarmed at the number and type of weapons Reynolds was seeking to buy, particularly given that Glock handguns are not typically collectibles. Based on his knowledge and experience, this salesperson believed that Reynolds intended to traffic the firearms into Chicago where they could be resold for a significant profit on the criminal black market. The salesperson stated his belief that Reynolds was intending to traffic these Glocks into Chicago to at least one other Westforth employee who was present at the time, and repeated his concerns to Earl Westforth, the store's owner. Earl Westforth responded, in substance, that it was not his concern what the customer did with the guns after he left the store and instructed a different employee to go through with the transaction instead.

83. Upon information and belief, the store also provided a substantial discount to Reynolds for the large purchase.

84. Just one day after Reynolds received the Glocks from Westforth, two of the guns were recovered in Chicago during a court-ordered eviction, in the bedroom of an individual who was under indictment for multiple felonies, making him ineligible to purchase the firearms himself. During a search of his bedroom, officers found multiple bags of marijuana, as well as four loaded handguns under a blanket, including two of the Glocks that Reynolds had purchased from Westforth the day before. One had been outfitted with a laser sight, according to the testimony of an FBI agent based in Chicago and assigned to investigate gangs, violent crime, and drug activity in the City's south suburbs. According to the agent, the bags "contained a distribution quantity of cannabis, not for personal use."

85. By engaging in the sale and transfer of firearms to Reynolds under the circumstances described above, Westforth knowingly violated, and/or aided and abetted Reynolds in the violation of numerous laws and regulations, including 18 U.S.C. § 922(a)(6); 18 U.S.C. § 922(m); 18 U.S.C. § 924(a); 27 C.F.R. 478.124(c)(1); 27 C.F.R. 478.124(c)(4); and 27 C.F.R. 478.21(a).

Westforth's sales to Paul Fowlkes

86. On April 6, 2017, 22-year-old Paul Fowlkes was charged with making false statements to illegally purchase 29 guns over the course of the preceding year, from various Indiana dealers.³³ Fowlkes bought at least 12 firearms from Westforth.

87. According to court records, at the time of his firearm purchases Fowlkes was living in Illinois and had a mailing address in Chicago. Because Fowlkes was actually an Illinois resident at the time of some or all of his purchases from Westforth, it was illegal for Fowlkes to purchase a handgun from Westforth directly and for Westforth to sell him one. *See* 18 U.S.C. § 922(a)(3) & (b)(3). It was also illegal for Fowlkes to purchase—and for Westforth to sell him—a rifle or shotgun without fully complying with Illinois law, which required presentation of a valid Firearm Owners Identification (“FOID”) card, among other things. *See id.*; *see also* 430 ILCS 65/2(a)(1). To make his purchases, Fowlkes provided a fraudulent Indianapolis address at the gun counter and used this address to complete the ATF Form 4473.

³³ *See* Complaint, *United States v. Fowlkes*, No. 2:17-cr-00042 (N.D. Ind. Apr. 6, 2017), ECF No. 1; Indictment, *United States v. Fowlkes*, No. 2:17-cr-00042 (N.D. Ind. Apr. 19, 2017), ECF No. 11. On July 19, 2017, Fowlkes pled guilty to one count of a two-count indictment for making false statements in connection with the acquisition of a firearm, and was sentenced to 30 months’ imprisonment.

88. On June 28, 2016, Fowlkes bought five guns from Westforth. Three of these purchases were handguns, including one Cobra CA380—a model that a popular firearms blog describes as “The cheapest handgun in America!”³⁴ In addition to the handguns, Fowlkes bought two duplicate rifles—the Mossberg 715-T .22 LR, which is a semiautomatic rifle patterned on the AR-15 assault rifle but chambered in a smaller caliber. Westforth ignored these red flags of trafficking and consummated the transaction.

89. On March 11, 2017, Fowlkes purchased a Glock handgun from Westforth. He returned to Westforth 17 days later, on March 28, 2017, to buy a Ruger pistol, but did not take possession of it.

90. At least one gun purchased by Fowlkes from Westforth was recovered in the hands of a dangerous felon a short time after being sold. On October 16, 2017, the Chicago Police Department recovered the Glock handgun that Westforth sold Fowlkes on March 11, 2017, in the possession of an individual who had previously been convicted of multiple felonies, including armed robbery and aggravated arson.³⁵ The rest of the guns that Fowlkes purchased at Westforth remain, on information and belief, in circulation to this day. According to federal prosecutors, the unrecovered guns that Westforth and other dealers sold to Fowlkes

³⁴ See Jeremy S., *Gun Review: Cobra CA380 – The Cheapest Handgun in America!*, THE TRUTH ABOUT GUNS.COM (Feb. 4, 2021), <https://www.thetruthaboutguns.com/gun-review-cobra-ca380-cheapest-handgun-america/>.

³⁵ Chicago Police recovered a second handgun that Westforth sold to Fowlkes in late 2016, just 26 days after purchase. Officers found the gun while patrolling an area of gang conflict. The gun had an extended magazine and was hidden under a trash can by an offender who was not licensed to possess it.

“are most likely in the hands of others who are unable or unwilling to purchase firearms within the law.”³⁶

91. By engaging in the sale and transfer of firearms to Fowlkes under the circumstances described above, Westforth knowingly violated, and/or aided and abetted Fowlkes in the violation of numerous laws and regulations, including 18 U.S.C. 922(a)(1); 18 U.S.C. § 922(a)(6); 18 U.S.C. 922(m); 18 U.S.C. § 923(a); 18 U.S.C. § 924(a); 27 C.F.R. 478.124(c)(1); 27 C.F.R. 478.124(c)(4); and 27 C.F.R. 478.21(a).

Westforth’s sales to Marqwan Blasingame

92. On December 16, 2019, Marqwan Blasingame bought two Taurus pistols from Westforth. One of the questions that Mr. Blasingame had to answer on the federal transaction form was: “[a]re you the actual transferee/buyer of the firearm(s) listed on this form?” Blasingame checked “No,” indicating that the gun was not actually for him. Instead of terminating the transaction, the clerk instructed Blasingame to change his answer to “Yes.”³⁷ These were not isolated incidents—the policy at Westforth Sports allows customers “correct” their answers to indicate that the gun was actually for them, not to terminate the transaction. According to Tim Morrissey, a former Westforth Sports employee of 30 years, when buyers checked a box on purchase forms indicating the gun was intended for someone else, he would “go back and say, ‘read it again’” so the buyer could “correct” their answer. Upon information and belief, Westforth

³⁶ Gov’t Sentencing Memo., *United States v. Fowlkes*, No. 2:17-cr-00042 (N.D. Ind. Oct. 20, 2017), ECF No. 30.

³⁷ See Complaint, *United States v. Blasingame*, No. 2:20-cr-00026 (N.D. Ind. Jan. 31, 2020), ECF No. 1. On February 21, 2020, Blasingame was charged with eight counts of making material false statements in the acquisition of a firearm in violation of Title 18, United States Code, Section 922(a)(6). See Indictment, *United States v. Blasingame*, No. 2:20-cr-00026 (N.D. Ind. Feb. 21, 2020), ECF No. 9. On June 22, 2022, Blasingame was sentenced to two years of probation.

employees prompted customers to “correct” their answers so that they could complete—and not be forced to reject—sales to straw purchasers and traffickers funneling guns into Chicago.

93. On December 17, 2019, the Gary Police Department recovered one of the pistols Blasingame purchased from a vehicle during a traffic stop. The vehicle was stolen, and the Taurus was suspected to have been used in a homicide on December 16, 2019—the very day of Blasingame’s purchase.

94. Upon information and belief, despite having received a crime-trace request on the Taurus it sold to Blasingame, Westforth continued to do business with him. Blasingame returned to Westforth and bought ten more handguns in the span of just ten more days. He made all the purchases in cash, and later admitted to law enforcement that he acquired the guns for other people who paid him to make the buys.

95. The trace request that, on information and belief, Westforth received on the Taurus handgun sold to Blasingame, combined with Blasingame’s suspicious pattern of regular (almost daily) single-gun purchases, his large aggregate volume of purchases, and his use of cash to buy firearms put Westforth on notice that Blasingame was engaged in criminal trafficking, straw purchasing, and or unlicensed dealing. Notwithstanding, Westforth consummated seven separate firearms transactions with Blasingame. So far, Chicago police have recovered two of the handguns that Westforth sold to Blasingame; one of which was recovered during a gang suppression operation just seven months after purchase, in the possession of a felon.

Westforth’s sales to Kyle Jackson

96. Over the course of ten months between June 2019 and March 2020, Westforth sold straw purchaser Kyle Jackson 20 handguns. Westforth sold at least 13 of these handguns to Jackson during multiple-sale transactions, and on at least ten occasions Jackson paid for his purchases

entirely in cash. Each of these factors (high volume, repeated multiple sales, cash purchases) was an indicator of illegal straw purchasing that Westforth had been trained to recognize by ATF, but nonetheless ignored in order to profit from sales through Jackson into the secondary market that he supplied. Any reasonable dealer faced with this series of transactions would have recognized that Jackson was straw purchasing and would have halted the transactions and alerted law enforcement. But on information and belief, Westforth did none of these things.

<u>Transaction Date</u>	<u>Make</u>	<u>Model</u>	<u>Caliber</u>
2/24/17	Jimenez Arms	J.A. Nine	9mm
6/28/19	Phoenix Arms	HP25A	.25 Auto
6/29/19	Jimenez Arms Inc	J.A. Nine	9 mm
8/15/19	Jimenez Arms Inc	J.A. Nine	9 mm
8/29/19	Jimenez Arms Inc	J.A. Nine	9 mm
	Jimenez Arms Inc	J.A. Nine	9 mm
10/7/19	SCCY Industries	CPX-1	9 mm
10/22/19	Taurus Armas	G2C PTIII G2A	9 mm
11/21/19	Cobra	CA-380	.380 Auto
12/3/19	Smith & Wesson	M+P40	.40 SW
12/7/19	SCCY Industries	CPX-1	9 mm
12/19/19	Taurus Armas	PTIII G2A	9 mm
12/27/19	Taurus Armas	PTIII G2A	9 mm
	Taurus Armas	PTIII G2A	9 mm
2/7/20	SCCY Industries	CPX-1	9 mm
2/18/20	SCCY Industries	CPX-2	9 mm
2/27/20	Smith & Wesson	SD40VE	40 S&W
	Ruger	LCP	380 Auto

2/29/20	Smith & Wesson Sccy Industries	SD40VE CPX-2	40 S&W 9 mm
3/4/20	Sccy Industries	CPX-1	9 mm

97. Perhaps the clearest indicator that Jackson was trafficking is that he invariably bought cheap, low-quality handguns—often in duplicate, triplicate, or more. Incredibly, Westforth ultimately sold Jackson *four* identical Taurus PTIII G2A 9mm handguns, *five* identical Jimenez Arms J.A. Nine 9mm handguns, and *six* near-identical SCCY Industries CPX-1 and CPX-2 compact 9mm handguns. Each of these handguns retails for only \$200-\$300, making them precisely the type of cheap handgun disfavored by legitimate collectors but preferred by traffickers buying in bulk to turn a tidy profit on the secondary market. Shopping at Westforth, Jackson didn't bother to camouflage his duplicative buys: in one remarkable series of transactions in the summer of 2019, Westforth sold Jackson four identical J.A. Nine handguns *in a row*. Later that same year Jackson returned and bought three Taurus PTIII G2A handguns in back-to-back transactions spaced just eight days apart.

98. It did not take long for Jackson to traffic these handguns to Chicago. The first Taurus handgun that Westforth sold Jackson (in October 2019) was recovered by Chicago Police *just 13 days later*, when it fell from the waistband of an underage gang member fleeing the police. On information and belief, Westforth knew that this handgun had been recovered with a remarkably short time-to-crime when it was traced by ATF. This confirmed to Westforth beyond any doubt that Jackson was trafficking handguns from the store. And yet despite this knowledge, Westforth sold Jackson another fourteen handguns. To date, Chicago Police have recovered at least five handguns that Westforth sold Jackson, including one involved in a non-fatal shooting and another recovered from the entrance to Rainbow Beach Park on the south side of Chicago by

officers responding to a report of gunfire. On information and belief, the remaining weapons remain in circulation on the streets of the City.

Westforth's sales to Alan Marsean Nunn

99. Alan Marsean Nunn used false identification to straw purchase 17 guns at Westforth, including 14 during a seven-month stretch from August 2017 through March 2018. Nunn bought at least 10 of these guns during multiple sale transactions, and appears to have paid for every single one of his purchases—totaling multiple thousands of dollars—all in cash. Westforth had been trained by ATF to recognize these features of Nunn's transactions as indicators of straw purchasing, but once again chose to profit from its sales to Nunn and through him into the illegal market for firearms.

<u>Transaction Date</u>	<u>Make</u>	<u>Model</u>	<u>Caliber</u>
7/19/14	Mossberg	702 Plinkster Rifle	.22 LR
8/4/17	Glock	21	.45 Auto
9/19/17	Diamondback Firearms	FS Nine	9x19
9/21/17	Smith & Wesson	SD9VE pistol	9mm
9/25/17	Springfield Armory	XD9 pistol	9x19
10/27/17	Springfield Armory	XDM45	.45 ACP
10/31/17	GSG/ATI	GSG-1911	.22 LR
12/12/17	Romarm Cugir CAI	Micro Draco	7.62 x 39mm
12/18/17	American Tactical	Omni Hybrid pistol	5.56mm
1/17/18	Glock	27 Gen 4	.40 S&W
	Glock	22 Gen 4	.40 S&W
	Glock	22	.40 S&W
1/25/18	Romarm Cugir CAI	Micro Draco	7.62x39mm

2/3/18	MasterPiece Arms	MPA30DMG	9mm
2/19/18	MasterPiece Arms	MPA57DMG	5.7 x 28mm
6/20/19	ATI	Omni Hybrid Maxx	5.56 mm
6/22/19	Sarsilmaz FAA	SAR B6P	9mm

100. In addition to this suspicious buying pattern, store records show that Nunn gave clerks at Westforth at least ten different phone numbers over his fifteen visits, including at least one phone number with a Chicago area code. This remarkable inconsistency in Nunn's basic contact information should have prompted additional scrutiny by the store, particularly when coupled with Nunn's high volume of handgun purchases.

101. At least five of the guns that Westforth sold Nunn have been recovered by law enforcement, including four by the Chicago Police. Of the guns recovered in Chicago, two were recovered from suspected gang members (one of whom was under 21 and could not have purchased the handgun legally himself). A third was recovered from a 17-year old during the execution of a search warrant that also found narcotics and drug packing paraphernalia. All of the guns recovered in Chicago had a time to crime of less than three years—a significant indicator that the firearm was trafficked. One handgun—the Masterpiece Arms MPA57DMG pistol sold to Nunn on February 19, 2018—was recovered *a mere three days* after purchase.

Westforth's firearms sales to Chicago Residents

102. In addition to intentionally supplying the Illinois and Chicago market indirectly, Westforth also sells firearms directly to Chicago residents. A substantial amount of these transactions are illegal under Illinois and Chicago statutes.

103. Between January 2018 and April 2021, the store sold at least 538 firearms—comprised of both handguns and long guns—to Illinois residents both in-person (over the counter)

and by making delivery through Illinois FFLs. Some of these guns have been recovered in crimes in Chicago (including homicide, assault and robbery), many others are still in circulation.

104. Some of the handguns that Westforth sold to Illinois residents via Illinois FFL transfers violate the State’s prohibition on the sale or delivery of certain handguns with zinc alloy components that melt or deform at low temperatures—in essence, cheap, low-quality handguns. *See* 720 ILCS 5/24-3(A)(h) (the “melting point law”). Upon information and belief, a number of these illegal melting point guns were sold to Chicago residents.

105. Westforth’s records also indicate that between 2018 and 2021, it sold at least 47 assault weapons to Chicago residents, in contravention of a city ordinance. *See* Chicago Municipal Code § 8-20-010.³⁸ By engaging in the sale and transfer of firearms in violation of Chicago’s ordinance prohibiting the possession, purchase, or sale of assault weapons, Westforth knowingly violated, or aided and abetted Chicago residents in violating Chicago Municipal Code § 8-20-075, Illinois Admin. Code tit. 20, § 1235.30, and 18 U.S.C. § 922(b)(3).

106. Assault weapons are extraordinarily lethal, disproportionately used in mass shootings and cause an outsized number of fatalities and serious injuries. In fact, out of the 10 most destructive mass shootings committed in the United States between January 2012 and the present—that is, the 10 mass shootings with the highest counts of gunshot injuries and deaths in the last decade—all 10 of them involved assault weapons.³⁹ Assault weapons also pose exceptional

³⁸ During the same time frame, Westforth sold at least 23 additional assault weapons to residents of other jurisdictions in Illinois which also prohibited such weapons at the time of the sale.

³⁹ The referenced list of the 10 most destructive mass shootings committed between January 2012 and the present is as follows: (1) the Las Vegas, Nevada shooting on October 1, 2017 (60 killed, 411 injured); (2) the Orlando, Florida shooting on June 12, 2016 (49 killed, 53 injured); (3) the Aurora, Colorado shooting on July 20, 2012 (12 killed, 70 injured); (4) the El Paso, Texas shooting on August 3, 2019 (23 killed, 23 injured); (5) the Sutherland Springs, Texas shooting on November 5, 2017 (25 people killed, including a pregnant woman, and 20 injured); (6) the Uvalde, Texas

risks to law enforcement officers who may not be adequately protected from the extreme fire power of assault rifles

107. The City’s ordinance seeks to protect public safety and its resident’s freedom to participate in public life. In addition, as the Seventh Circuit has held while evaluating a similar assault weapon restriction, a substantial benefit of such a restriction is that it may “reduce[] the perceived risk from a mass shooting and make[] the public feel safer as a result.” *Friedman v. City of Highland Park, Illinois*, 784 F.3d 406, 412 (7th Cir. 2015). Westforth’s illegal sales of assault weapons to Chicago residents undermines that sense of safety.

CAUSES OF ACTION

COUNT I – PUBLIC NUISANCE

108. Plaintiff incorporates by reference paragraphs 1 through 107 as set forth above.

109. Westforth’s multifaceted pattern of illegal firearms sales has created a nuisance to the City of Chicago and its residents.

110. First, Westforth created, contributed to, and maintained this nuisance of illegal guns in Chicago by selling firearms directly to Chicago residents in violation of Chicago’s assault weapon restrictions. Westforth’s sale of these assault weapons was in knowing violation of, and aided and abetted the violation of, Chicago Municipal Code § 8-20-075, Illinois Admin. Code tit. 20, § 1235.30, and 18 U.S.C. § 922(b)(2)-(3). These weapons, which are designed specifically for combat and have features intended to enhance their lethality over and above that of other types of

shooting on May 24, 2022 (21 killed, 17 injured); (7) the San Bernardino, California shooting on December 2, 2015 (14 killed, 22 injured); (8) the Parkland, Florida shooting on February 14, 2018 (17 killed, 17 injured); (9) the Highland Park, Illinois shooting on July 4, 2022 (7 killed; 46 injured); (10) the Newtown, Connecticut shooting on December 14, 2012 (27 killed, two injured).

firearms, are contraband within City limits, and their presence there endangers City residents and law enforcement charged with maintaining safety and public order.

111. Second, Westforth's conduct in selling firearms to individuals that it knew or should have known were engaged in straw purchasing and/or unlicensed dealing in firearms also created, contributed to, and maintained a nuisance in Chicago. This conduct foreseeably resulted in the illegal transfer of these firearms to criminals and other prohibited persons in the criminal secondary market in Chicago. Indeed, the Chicago police have already recovered at least 48 guns that were illegally sold by Westforth to straw purchasers – in connection with a wide range of criminal activity including multiple homicides, multiple assaults and batteries, and multiple incidents of domestic violence. Some of the firearms were converted into full-automatic, illegal machine guns. Many of the possessors of these illegal guns had gang affiliations, others had felony convictions, and yet others were minors. The nuisance created by Westforth's illegal conduct continues to this day and, absent abatement or other relief, will continue indefinitely.

112. Westforth's conduct of selling to straw purchasers and traffickers was in knowing violation of, was part of a conspiracy to violate, and aided and abetted the violation of numerous federal laws and regulations, including, but not limited to, 18 U.S.C §§ 2, 4, 371, 922(a)(1), 922(a)(2), 922(b)(3), 922(m), 922(t)(1), 923(a), 924(a)(1), and 924(a)(3), as well as 27 C.F.R. 478.29; 478.99(a), 478.102, 478.123(b), 478.123(d), and 478.124(a).

113. Third, Westforth contributed to and maintained a public nuisance of illegal guns in Chicago by selling firearms to Chicago residents in violation of the State's melting point law. 720 ILCS 5/24-3(A)(h).

114. Westforth's sales of illegal guns directly and indirectly into the City of Chicago unjustifiably endangers, renders insecure, interferes with, and obstructs the rights of City residents.

Westforth's conduct has created a public nuisance in Chicago by unreasonably interfering with the right of the general public to life, health, the use and enjoyment of property, the right to travel within the City, and the right to attend school, all without fear of being shot. The unlawful proliferation of firearms interferes with rights common to the general public, deprives the City and its residents and visitors of the peaceful use of public streets, sidewalks, parks, and other public places, interferes with commerce, travel, and the quality of daily life, and endangers the health, welfare, peace, safety, well-being, convenience, and property of considerable numbers of residents of, and visitors to, Chicago. These harms are felt throughout the City of Chicago, but are borne disproportionately by African American communities.

115. The City has suffered harm and incurred substantial costs as the direct and proximate result of the Defendant's nuisance. It is entitled to damages incurred as a result of the nuisance, as well as injunctive relief and damages to abate the nuisance.

COUNT II – MUNICIPAL COST RECOVERY ORDINANCE

116. Plaintiff incorporates by reference paragraphs 1 through 115 as set forth above.

117. Section 1-20-020 of the Municipal Code of Chicago ("MCC") provides that:

Any person who causes the city or its agents to incur costs in order to provide services reasonably related to such person's violation of any federal, state or local law, or such person's failure to correct conditions which violate any federal, state or local law when such person was under a legal duty to do so, shall be liable to the city for those costs. This liability shall be collectible in the same manner as any other personal liability.

118. At all times relevant to this Complaint, Westforth participated in unlawful acts or lawful acts in an unlawful manner by, among other unlawful conduct:

- Engaging in the sale and transfer of firearms to individuals including, but not limited to, Ivery, Fryer, Mitchell, Bean, Reynolds, Fowlkes, Blasingame, Jackson, Nunn, and others, under circumstances in which Westforth knew, and/or consciously avoided knowing, that such individuals were engaged in the business of dealing in firearms without a license in violation of 18 U.S.C. § 923(a)(1), and illegal straw purchasing of firearms in violation of

18 U.S.C. § 922(a)(6) (knowingly making a false statement in connection with the acquisition of a firearm) and 18 U.S.C. § 924(a)(1) (knowingly making a false statement or representation concerning information to be kept in the records of an FFL). Through its sales and transfers to these individuals, Westforth also conspired with, aided, and abetted these individuals in violation of 18 U.S.C. §§ 2, 4, and 371;

- With respect to the sale and transfer of firearms to individuals including, but not limited to, Ivery, Fryer, Mitchell, Bean, Reynolds, Fowlkes, Blasingame, Jackson, Nunn, and others, making a false entry in, failing to make an appropriate entry in, and/or failing to maintain required records in violation of 18 U.S.C. § 922(m), failing to ensure accurate completion of ATF Form 4473 prior to transfer of a firearm in violation of 27 C.F.R. 478.124(c)(1), failing to record accurate information in ATF Form 4473 in violation of 27 C.F.R. 478.124(c)(4), and failing to ensure completion of ATF Form 4473 in accordance with form instructions in violation of 27 C.F.R. 478.21(a);
- Transferring firearms to individuals including, but not limited to Ivery, Fryer, Mitchell, Bean, Reynolds, Fowlkes, Blasingame, Jackson, Nunn, and others, under circumstances in which Westforth knew, and/or consciously avoided knowing that the person was not the actual transferee of the firearm, and in which Westforth failed to conduct a background check and/or verify the identity of the actual transferee in violation of 18 U.S.C. § 922(t)(1).

119. At all times relevant to this Complaint, Westforth knew, or reasonably should have known, that the sale and transfer of firearms to straw purchasers and unlicensed firearms dealers like Ivery, Fryer, Mitchell, Bean, Reynolds, Fowlkes, Blasingame, Jackson, Nunn, and others in violation of federal law would result in the trafficking of many of those firearms to prohibited possessors in the City of Chicago, directly and proximately causing harm to the City and its residents. Accordingly, Westforth created conditions that violated the legal provisions outlined above and was under a legal duty to correct those conditions, but failed to do so.

120. The City has incurred costs reasonably related to Westforth's violations of federal law and/or failure to correct conditions that violate federal law. These include, but are not limited to, the costs of investigating and prosecuting gun crimes involving firearms trafficked from Westforth, the costs of providing emergency services to transport and treat victims of shootings involving firearms trafficked from Westforth, the cost of victim support services for victims of crimes involving firearms trafficked from Westforth, and the costs of providing gun violence

prevention, street outreach, and community safe-space programming to mitigate harms caused by illegal firearms sold by Westforth into the City.

121. The City is entitled to recovery of the costs of necessary services provided by the City in order to provide services in investigating and responding to Defendant's violations of federal law, together with its litigation and collection costs and attorney's fees.

COUNT III – NEGLIGENCE

122. Plaintiff incorporates by reference paragraphs 1 through 121 as set forth above.

123. At all relevant times, Westforth was subject to the general duty imposed on all persons and entities to not expose others to reasonably foreseeable risks of injury.

124. Westforth had a duty to exercise reasonable care in distributing and selling firearms and to refrain from engaging in any activity creating reasonably foreseeable risks of injury to others. A breach of such duty constitutes negligence.

125. Westforth breached its duty by selling and transferring firearms to Chicago residents in violation of the City's assault weapons restrictions. This conduct was in knowing violation of, and aided and abetted the violation of Chicago Municipal Code § 8-20-075, Illinois Admin. Code tit. 20, § 1235.30, and 18 U.S.C. § 922(b)(2)-(3).

126. Westforth further breached its duty by selling firearms that it knew or should have known were destined for the illegal stream of commerce and into the hands of persons ineligible to possess a firearm.

127. Westforth further breached its duty through conduct which knowingly violated, was part of a conspiracy to violate, and aided and abetted the violation of numerous federal laws and regulations, including, but not limited to, 18 U.S.C §§ 2, 4, 371, 922(a)(1), 922(a)(2), 922(b)(3),

922(m), 922(t)(1), 923(a), 924(a)(1), and 924(a)(3), as well as 27 C.F.R. 478.29; 478.99(a), 478.102, 478.123(b), 478.123(d), and 478.124(a).

128. Westforth transacted firearms business with straw purchasers and traffickers like Ivery, Fryer, Mitchell, Bean, Reynolds, Fowlkes, Blasingame, Jackson, Nunn and others, even though Westforth knew, or consciously avoided knowing, that these individuals were engaged in unlicensed dealing, firearms trafficking, and/or straw purchasing. Westforth also failed to properly verify the identity of a purchaser, made numerous false statements in required records, failed to make appropriate entries in required records, and concealed these actions from federal law enforcement.

129. Westforth is vicariously liable for the actions or inactions of its agents and/or employees while in the scope of their agency and/or employment.

130. The City has suffered harm and incurred substantial costs as the direct and proximate result of the Defendant's negligence. It is entitled to damages incurred as a result of the Defendant's negligence, as well as injunctive relief.

COUNT IV – NEGLIGENT ENTRUSTMENT

131. Plaintiff incorporates by reference paragraphs 1 through 130 as set forth above.

132. At the time it made one or more firearm sales to Ivery, Fryer, Mitchell, Bean, Reynolds, Fowlkes, Blasingame, Jackson, Nunn, and others, Westforth knew or reasonably should have known that these individuals were engaged in straw purchasing, and/or dealing in firearms without a license, both of which are violations of federal law.

133. Westforth knew or reasonably should have known that these individuals' straw purchasing, and/or unlicensed dealing in firearms created an unreasonable risk of harm to third

parties because a foreseeable and likely consequence of those activities is gun violence resulting in serious injury or death, as well as other criminal activity.

134. Westforth had possession and control of the firearms that it transferred or caused to be transferred to Ivery, Fryer, Mitchell, Bean, Reynolds, Fowlkes, Blasinagme, Jackson, Nunn, and others as set forth above.

135. Westforth knew or should have known that its employees and agents who consummated these firearms transfers to Ivery, Fryer, Mitchell, Bean, Reynolds, Fowlkes, Blasingame, Jackson, Nunn, and others, were obliged to use their judgment to refuse to transfer firearms to a transferee whom the employees and agents knew or should have known was involved in straw purchasing and/or unlicensed dealing in firearms.

136. Westforth, by its employee and agents, knew or should have known that firearms transferred to Ivery, Fryer, Mitchell, Bean, Reynolds, Fowlkes, Blasingame, Jackson, Nunn, and others involved in straw purchasing and/or the unlicensed dealing of firearms would likely be used in a manner involving an unreasonable risk of harm.

137. Firearms negligently entrusted by Westforth traffickers and straw purchasers have foreseeably been recovered in the possession of prohibited possessors in Chicago, and many others are still unaccounted for.

138. Westforth's negligent entrustment of firearms to Ivery, Fryer, Mitchell, Bean, Reynolds, Fowlkes, Blasingame, Jackson, Nunn, and others, proximately caused harm to the City.

139. The City is entitled to recover damages in an amount to be determined at trial, as well as injunctive relief.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests that this Court:

A. Award injunctive relief against Westforth requiring it to abate the nuisance it has created, as alleged in Count I above, by:

1. Ordering Westforth to submit to supervision by a court-appointed special master(s) for a period of five years, the responsibilities of whom shall include, *inter alia*, monitoring of Westforth's sales practices through observation, records monitoring, and random and repeated integrity-testing, and implementing corrective policies and procedures, with the costs of the special master(s) to be borne by Westforth;
2. Ordering Westforth to retain all trace requests received by the ATF for a period of five years, to keep a record of all employees whose sales result in a trace request, and to conduct heightened screening (as determined by the special master) of sales to individuals who have previously been the subject of trace requests from the ATF;
3. Ordering Westforth to require mandatory training of all personnel by a court-approved training entity, with the costs of that training to be borne by Westforth;
4. Ordering Westforth to take corrective action to identify and assist in recovering the remaining firearms that were sold to or through Ivery, Fryer, Mitchell, Bean, Reynolds, Fowlkes, Blasingame, Jackson, Nunn, and others identified as transferees of firearms from Westforth as stated herein; and
5. Ordering Westforth to take corrective action to identify and assist in recovering the firearms it sold and transferred in violation of Illinois' melting point law and Chicago's assault weapon ban.

6. Ordering Westforth to post bonds in amounts to be determined by the Court,
which must be forfeited in the event of future violations by Westforth;

B. Award damages against Westforth for a sum of money that will allow the City to
abate the nuisance that Westforth has created;

C. Award judgment against Westforth for a reasonable sum of money that will fairly
compensate the City for its damages;

D. Award the City pre- and post-judgment interest, to the extent allowable;

E. Award the City exemplary damages;

F. Award the City's costs and reasonable attorney's fees incurred in this action;

G. Grant such other relief as the Court may deem just and proper.

JURY DEMAND

The City of Chicago requests a trial by jury of all claims.

Dated: June 23, 2023

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By: /s/ Stephen J. Kane

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