

**FIRST JUDICIAL DISTRICT OF PENNSYLVANIA
IN THE COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY**

CITY OF PHILADELPHIA, a municipal
corporation,

Plaintiff,

v.

WRT MANAGEMENT, INC., f/k/a
TANNER’S SPORT CENTER INC.,
FRANK’S GUN SHOP & SHOOTING
RANGE LLC, MAD MINUTE
ENTERPRISES, LLC d/b/a DELIA’S GUN
SHOP, and DELIA’S GUN SHOP, INC.,

Defendants.

CIVIL DIVISION

Case No. 230702394

**PLAINTIFF’S MOTION TO COMPEL DEFENDANT FRANK’S DISCOVERY
PRODUCTION AND RESPONSES**

Plaintiff City of Philadelphia (the “City”) hereby moves the Court to compel Defendant Frank’s Gun Shop & Shooting Range LLC (“Frank’s”) to produce documents and responses to the City’s First Set of Discovery Requests. The grounds justifying the requested relief are set forth in the accompanying Memorandum of Law.

Date: September 5, 2024

/s/ Melissa Medina

Melissa Medina
1515 Arch Street, 15th Floor
Philadelphia, PA 19102
Attorney for Plaintiff

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CIVIL DIVISION

Case No. 230702394

**MEMORANDUM OF LAW IN SUPPORT OF THE CITY'S MOTION TO COMPEL
DEFENDANT FRANK'S DISCOVERY PRODUCTION AND RESPONSES**

The City seeks to hold Frank's accountable for its repeated violations of federal and Commonwealth firearms laws, resulting in the flow of illegal guns into its communities, which has harmed the City and its residents. The City served its initial discovery requests upon Frank's almost six months ago, yet despite repeated efforts by the City to enforce its requests, Frank's has refused to produce even a single document.

The City's lawsuit is predicated on Frank's knowing facilitation of straw purchases—illegal transactions where sham buyers pretend to purchase firearms for themselves but actually purchase the guns to sell or transfer to others. Exhibit A ¶ 23 (Amended Complaint). This practice diverts guns from legal commerce—where sales are subject to a background check and other public safety requirements, and must be recorded in a licensed dealer's books and records—into the unregulated criminal market. *Id.* The City's Amended Complaint details some of the 48 known straw transactions by Frank's, including instances where the store turned a blind eye to telltale red flags

of straw purchasing. *Id.* ¶¶ 65-80. In each transaction, Frank’s knowingly violated the law by falsely certifying its belief that the transaction was lawful. *Id.* ¶¶ 35, 46. Frank’s also submitted false information for firearms background checks, failed to conduct background checks on the actual purchasers, and recorded fictitious buyers in its books and records, among other violations. *Id.* ¶¶ 31, 38, 41-42, 46.

On March 5, 2024, the City served Frank’s discovery requests seeking information related to its illegal conduct. *See* Exhibit B (City’s First Set of Discovery Requests). Since that time, despite repeated efforts by the City to move discovery along, Frank’s has refused to produce any documents in response to the City’s discovery requests. Instead, several days after an extension granted by the City at Frank’s request had run, Frank’s served responses and objections invoking inapposite state (18 PA. CONS. STAT. § 6111(i)) and federal (18 U.S.C. § 926) prohibitions related to firearms, and asserting boilerplate, unsubstantiated objections. *See* Exhibit C (Defendant Frank’s Answer and Objections to Plaintiff’s First Set of Discovery Requests). After meeting and conferring with the City on August 22, 2024, Frank’s persists in these objections, all of which are meritless. As a result, the City now moves for an Order of this Court compelling Frank’s to produce responsive documents and to meaningfully respond to Interrogatory No. 2 for the reasons discussed below.

MATTER BEFORE THE COURT

The City moves this Court for an order compelling Frank’s to fully respond to its request for production of documents and interrogatories in a manner compliant with the Pennsylvania Rules of Civil Procedure (Rules).

STATEMENT OF THE QUESTIONS INVOLVED

1. Should this Court compel Frank's to produce documents responsive to the City's Requests for Production?

Suggested Answer: Yes.

2. Should this Court compel Frank's to meaningfully answer the City's Interrogatories in a manner compliant with the Pennsylvania Rules of Civil Procedure?

Suggested Answer: Yes.

PROCEDURAL AND FACTUAL BACKGROUND

On October 31, 2023, the City filed an Amended Complaint seeking to hold Defendant Frank's, along with two other local gun stores, accountable for its straw sales of firearms in violation of federal and state law from April 2018 to December 2021. Exhibit A ¶ 65. Firearms sold by Frank's in these transactions have been recovered by the Philadelphia Police Department in connection with violent crimes that have harmed Philadelphia residents. *Id.* ¶¶ 72-73, 75, 78, 80. Frank's facilitation of these illegal straw transactions has also harmed and imposed significant costs on the City. *Id.* ¶¶ 107-110. As just one example, Frank's sold six handguns to straw-purchaser Sakinah Braxton in just over a month, even though she was accompanied during each purchase by Johnnie Ballard (a gun trafficker), who instructed her about which guns to buy, arranged payment for the purchases, and immediately took possession of the guns upon completion of the transaction. *Id.* ¶¶ 66-67. At least three of these firearms have since been recovered in crimes by the Philadelphia police. *Id.* ¶¶ 72-73.

On November 21, 2023, Frank's filed preliminary objections to the City's Amended Complaint, which the Court overruled on March 20, 2024. While Frank's preliminary objections were pending, the City served its first Request for Production ("RFP") and its first set of

Interrogatories (“ROG”) (together, the “Discovery Requests”) upon Frank’s on March 5. *See* Exhibit B. The City’s Discovery Requests seek information relevant to Frank’s illegal conduct, including, among other things, records and information relating to straw purchases alleged in the Amended Complaint, Frank’s communications with federal and state law enforcement concerning straw purchasers, and Frank’s practices and policies for detecting and preventing straw transactions. *See id.* On April 2, two days before its deadline to respond to the City’s Discovery Requests, Frank’s requested an extension to April 30; the City consented. *See* Exhibit D (April 2, 2024 Email Correspondence). Nevertheless, Frank’s did not serve responses until May 3. *See* Exhibit E (May 3, 2024 Email Correspondence); Exhibit C.

The responses Frank’s served to the City’s Discovery Requests were not responsive at all. Frank’s objected to nearly every request for production by claiming, among other things, that the request was prohibited by Pennsylvania’s Uniform Firearms Act, 18 PA. CONS. STAT. § 6111(i) and 18 U.S.C. § 926; that the request was so vague and ambiguous as to render Frank’s “unable to decipher the specific documents requested”; or that the request was overbroad and sought the production of information not relevant to the claims or defenses in this matter. *See* Exhibit C. Although Frank’s responded to most of the City’s interrogatories, it refused to identify the date, transferor, transferee, and certain related manufacturer information for firearm and ammunition transactions it conducted with the identified straw purchasers—instead, Frank’s again objected under 18 PA. CONS. STAT. § 6111(i) and 18 U.S.C. § 926. *See id.* ¶ 2.

On July 9, 2024, the City requested to meet and confer with Frank’s on July 12, 16, or 17 about its non-responsive and unsubstantiated objections to virtually all requests. *See* Exhibit F at 1 (July 9, 2024 Letter from Everytown Law to Wally Zimolong). Frank’s ignored this request. On July 16, 2024, the City again asked Frank’s to meet and confer regarding its objections. *See* Exhibit

G at 8 (July 9, 2024, to August 22, 2024 Email Correspondence). Frank's initially offered to meet on August 8, 2024, but then asked instead to meet on August 23, 2024. *See id.* at 6-7. This was more than six weeks after the City's initial request.

On August 23, 2024, the parties conferred and remained at an impasse regarding the applicability of Section 6111(i) and 18 U.S.C. § 926. During the meet and confer, the City offered to assuage Frank's confidentiality concerns by entering into a confidentiality agreement, but Frank's contended that such an agreement would not resolve its objections. *See* Exhibit H (August 22, 2024 letter, Everytown Law to Wally Zimolong). The parties also remained at an impasse on Frank's other unsubstantiated objections as to the purported vagueness, ambiguity, and overbreadth of the City's requests. Indeed, despite the City's previous written request that Frank's either withdraw or fully explain its objections (*see* Exhibit F), Frank's did not clarify its position as to the applicability of 18 PA. CONS. STAT. § 6111(i) and 18 U.S.C. § 926, nor did it offer any additional explanation or argument to substantiate its conclusory claims as to the sufficiency of the City's other Discovery Requests. In response to the City's letter memorializing the meet & confer, Frank's attorney repeatedly accused counsel for the City of engaging in "outright lie[s]," leading the City to believe that further communications with Frank's would be unproductive. *See* Exhibit G at 1-2.

To date, Frank's has not produced a single document or communication in response to the City's Discovery Requests, and it has not agreed to a timeline for any such production.¹ Faced

¹ Frank's responded that it would produce "relevant communication that is not protected by state or federal laws, redacted if necessary" in response to RFPs Nos.6 and 11. *See* Exhibit C. At the meet and confer, Frank's reiterated its intent to produce responsive documents but did not commit to a production date, even though discovery had been pending for almost half a year. *See* Exhibit H. To date, Frank's counsel not produced any responsive documents nor has Frank's counsel provided the City with an update about whether such responsive documents exist.

with Frank’s ongoing refusal to produce documents concerning its straw sales of firearms, the City moves to compel Frank’s compliance.

ARGUMENT

Neither Pennsylvania’s Uniform Firearms Act 18 PA. CONS. STAT. § 6111(i) nor 18 U.S.C. § 926 prevent Frank’s from producing relevant information to the City in this litigation. Section 6111 is contained within the Uniform Firearms Act (“UFA”). That Act’s purposes are “to regulate the possession and distribution of firearms, which are highly dangerous and are frequently used in the commission of crimes,” *Commonwealth v. Corradino*, 588 A.2d 936, 940 (Pa. Super. Ct. 1991), and to “prohibit certain persons from possessing a firearm within this Commonwealth.” *Commonwealth v. Baxter*, 956 A.2d 465, 471 (Pa. Super. Ct. 2008).

Section 6111(i) provides, in relevant part:

All information provided by the potential purchaser, transferee or applicant, including, but not limited to, the potential purchaser, transferee or applicant’s name or identity, *furnished by a potential purchaser or transferee under this section or any applicant for a license to carry a firearm as provided by section 6109 shall be confidential and not subject to public disclosure.* (emphasis added).

By its own terms, Section 6111(i) only applies to: (i) purchaser information “furnished . . . under this section”—that is, to fulfill the requirements of Section 6111 under the UFA; or (ii) a firearm carry license applicant’s information under Section 6109 of the UFA. It does not apply to information in Frank’s possession for other federal statutory requirements, such as information on the federal Firearm Transaction Record (“Form 4473”) prescribed by the ATF, which must be completed when a person wants to purchase a firearm. Moreover, Section 6111(i) prohibits only *public disclosure* of the information; it says nothing about disclosure of the information to a party in civil litigation, particularly when the parties could negotiate a protective order to govern the use of the information in the litigation. *See Commonwealth v. Selenski*, 996 A.2d 494, 506 (Pa. Super.

Ct. 2010) (“Discovery, whether civil or criminal, is essentially a private process because the litigants and the courts assume that the sole purpose of discovery is to assist trial preparation.” (quoting *United States v. Wecht*, 484 F.3d 194, 209 (3d Cir. 2007); see also *Seattle Times Co. v. Rhinehart*, 467 U.S. 20, 33 & n.19 (1984) (“[P]retrial depositions and interrogatories are not public components of a civil trial. . . . [T]o the extent that courthouse records could serve as a source of public information, access to that source customarily is subject to the control of the trial court.”)). Frank’s overreaching interpretation of the statute it cites is at odds with its plain meaning and warrants no deference. See *Pa. Restaurant & Lodging Ass’n v. City of Pittsburgh*, 211 A.3d 810, 822 (Pa. 2019) (statutory interpretation “begins and ends with the plain language of the statute”).

Frank’s Section 6111(i) objections are particularly unwarranted here, where the identity of the straw-purchasers identified in the City’s Amended Complaint are already a matter of public record. Each of the straw purchasers named in the Amended Complaint was charged with a crime in state or federal court in association with their illegal purchases. See e.g., Exhibit I (Information, *United States v. Braxton*, No. 22-cr-00055 (E.D. Pa. Feb. 23, 2022), ECF No. 1) (information charging Sakinah Braxton with making a false statement in connection with the purchase of a firearm and outlining the details of her purchases at Frank’s); Exhibit J (Affidavit of Probable Cause, *Commonwealth v. Prosser* (Phila. Cnty. Ct. of Commons Pleas) (setting forth probable cause to charge Nafisa Prosser with unlawful transfer of a firearm, among other charges, and including the details of her purchases at Frank’s)). Because the straw purchasers’ identities and the circumstances of their crimes have already been made public in the City’s Amended Complaint and in criminal filings, it would be illogical to find that the information they provided to Frank’s in committing these crimes is barred from civil discovery. See 1 PA. CONS. STAT. § 1922(1) (detailing statutory interpretation presumption that “the General Assembly does not intend a result

that is absurd”). And in any event, firearm transaction records containing information provided by illegal purchasers are routinely disclosed, produced in discovery, and presented as evidence in courts. *See, e.g., Commonwealth v. Bennett*, Nos. 516 WDA 2022, 620 WDA 2022, 2023 WL 3478456 (Pa. Super. Ct. May 16, 2023); *Commonwealth v. Heim*, No. 497 WDA 2022, 2023 WL 5097286 (Pa. Super. Ct. Aug. 9, 2023); *Commonwealth v. Bachner*, No. 414 WDA 2018, 2020 WL 5513557 (Pa. Super. Ct. Sept. 14, 2020).

Frank’s objections based on 18 U.S.C. § 926 of the Gun Control Act of 1968 (“GCA”) are meritless and irrelevant to this litigation. The GCA imposes strict requirements on firearms dealers, such as Frank’s, with severe consequences for violations. To enforce these provisions, the United States Attorney General “may prescribe only such rules and regulations as are necessary.” 18 U.S.C. § 926(a). In doing so, the Attorney General is prohibited from promulgating rules that would require the transfer of firearms records, or the creation of any federal registry system. *Id.* Such restrictions are not only not applicable to the City but on its face contain no language that could be reasonably interpreted as creating an absolute privilege against disclosure in civil discovery in state court, as Frank’s baselessly claims. The City is not the Attorney General, and civil discovery is not a rule or regulation of the Attorney General.

Further, even if Section 926 were applicable to the City, its restrictions do not prohibit the type of discovery being sought. For example, the GCA requires gun stores like Frank’s to maintain records related to the production, shipment, receipt, sale, or other disposition of firearms. *See* 18 U.S.C. § 923. Courts have consistently held that Section 926 does not prohibit disclosures mandated by sources of authority other than a rule or regulation of the Attorney General. Thus, gun stores must disclose sales records in response to demand letters issued by the Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF) under § 923(g)(5)(a), because “§ 926(a)

restricts only rules and regulations; the demand letter is not a rule or regulation, and neither is § 923(g)(5)(a), the statute under which it was issued.” *Ron Peterson Firearms, LLC v. Jones*, 760 F.3d 1147, 1159-60 (10th Cir. 2014). *See also Nat’l Shooting Sports Found., Inc. v. Jones*, 716 F.3d 200, 212 (D.C. Cir. 2013) (“The words ‘rule or regulation’ are not mere surplusage The demand letter is not a rule or regulation and, therefore, Section 926(a) does not apply.”). Similarly, the City’s Discovery Requests are not a federal rule and are “a very far cry from the creation of a national firearms registry” as prohibited under Section 926(a). *RSM, Inc. v. Buckles*, 254 F.3d 61, 68 (4th Cir. 2001) (limited collection of records by ATF does not run afoul of § 926(a))).

Frank’s vaguely and without further elaboration asserted that “many courts” have interpreted certain provisions directed at the Attorney General “broadly,” suggesting that these decisions may create a confidentiality requirement applicable to Frank’s. *See* Exhibit H at 1 (August 22, 2024 Letter, Everytown Law to Wally Zimolong). However, Frank’s has not identified any such court or case, nor has the City found any applicable. *Id.* Frank’s attempt to invoke this statute as a shield against disclosure is unfounded and should be rejected.

The production of documents in a court proceeding or pursuant to a lawfully issued subpoena does not constitute “public disclosure,” nor does it breach confidentiality. It cannot be “public disclosure” within the meaning of § 6111(i) to produce information to a person “authorized to receive such information by statute.” *Doe I v. Franklin Cnty.*, 272 A.3d 1022, 1027 (Pa. Commw. Ct. 2022) (citation omitted); *see also Toland v. Pa. Bd. of Probation & Parole*, 311 A.3d 649, 666 (Pa. Commw. Ct. 2024) (rejecting argument that Pennsylvania Right-to-Know Law bars disclosure to plaintiff, in discovery, of plaintiff’s own parole file, “because discovery, of course, does not implicate the RTKL’s policy concern of wide potential public disclosure, especially given the safeguards courts may erect around the discovery process.”). And the City has a statutory right to

receive discovery from Defendants relevant to its claims. 231 Pa. Code § 4000 *et. seq.* As a general rule “discovery, of course, does not implicate . . . policy concern[s] of wide potential public disclosure, especially given the safeguards courts may erect around the discovery process.” *Toland*, 311 A.3d at 666 (citing Pa. R. Civ. P. 4102).

To the extent that the production raises confidentiality concerns, these concerns could be adequately addressed with a protective order. To alleviate Frank’s concerns, the City is willing to enter into a protective order that bars the public disclosure of any personally identifying information of any of Frank’s customers that is not already in the public record. In fact, on August 22, 2024, the City attempted to resolve the parties’ discovery dispute by offering to enter a protective order with Frank’s, and Frank’s refused, suggesting that it would not produce documents prior to “hav[ing] the arguments presented to the Court for resolution,” and even accusing the City of being unlikely to abide by the terms of a protective order. *See* Exhibit G at 2; Exhibit H. Frank’s further suggested that it would continue to stonewall discovery by appealing any adverse interim decision from this Court on the matter. *See* Exhibit G at 2 (“I said it is an interest[ing] and novel legal issue and that the trial court will probably not have the last word.”).

Frank’s flat rejection of the practical measure of a protective order makes clear that its objections to the City’s Discovery Requests are nothing more than obstructionism. Indeed, it is widely acknowledged that protective orders are the appropriate safeguard for a party’s confidentiality interests and, for that reason, an important tool in facilitating discovery. *See, e.g., Richard Roe W.M. v. Devereaux Found.*, No. 21-2655, 2023 WL 1862290, at *4 (E.D. Pa. Feb. 9, 2023) (parties’ confidentiality interests in sensitive documents “can be protected through (1) a confidentiality agreement and/or protective order; and (2) redaction of names and other identifying information”); *Eddystone Rail Co., LLC v. Bridger Logistics, LLC*, No. 2:17-cv-00495 (JDW),

2022 WL 704206, at *1 (E.D. Pa. Mar. 9, 2022) (“In complex litigation, courts enter protective orders to facilitate discovery and further the ends of justice.”). In keeping with that purpose, this Court has broad discretion to issue a protective order under Rule 4012. *See Stenger v. Lehigh Valley Hosp. Ctr.*, 554 A.2d 954, 960 (Pa. Super. Ct. 1989) (“[W]e wholly embrace the conclusion of the Supreme Court of the United States that ‘the trial court is in the best position to weigh fairly the competing needs and interests of parties affected by discovery. The unique character of the discovery process requires that the trial court have substantial latitude to fashion protective orders.’”) (quoting *Seattle Times*, 467 U.S. at 36). To the extent that Frank’s has genuine confidentiality concerns, this Court should alleviate them through a protective order.

Some of the City’s discovery requests do not seek information about particular firearm purchasers, and thus, Section 6111(i) is doubly inapplicable. Even the broadest reading of Section 6111(i) does not reach all of the City’s discovery requests. For example, the City’s Discovery Requests include one concerning the process and systems by which Frank’s maintains its sales records (RFP 3), and one seeking documents that reflect audits, reports of violations, or warning letters that Frank’s received from ATF or the U.S. Department of Justice (RFP 10). Yet, Frank’s nevertheless objects to them based on Section 6111(i).

Frank’s remaining objections are boilerplate recitations of terms like “vague,” “ambiguous,” and “overly broad,” none of which suffices to alleviate Frank’s of its obligation to produce responsive documents. During the parties’ meet and confer, Frank’s failed to provide any specific reasoning to support these objections. Even if Frank’s perceives these requests as vague, irrelevant, or overbroad, that does not excuse it from producing any responsive documents whatsoever. In any event, the City’s requests are neither vague nor overbroad.

First, under Rule 4003.1, the City is entitled to obtain discovery on any matter that is relevant to its claims. Discovery should be liberally allowed when requests are reasonable and do not amount to a fishing expedition. *Koken v. One Beacon Ins. Co.*, 911 A.2d 1021, 1025 (Pa. Commw. Ct. 2006). Here, all of the City’s requests are relevant and seek information related to its claims—namely Frank’s awareness of and role in creating the crisis of illegal straw purchasing and resale of firearms in Philadelphia—the precise conduct “for which a judicial remedy is sought.” *Off. of the Dist. Att’y of Pa. v. Bagwell*, 155 A.3d 1119, 1138 (Pa. Commw. Ct. 2017). As such, the City’s requests meet the generous standard for relevance established by Rule 4003.1.

Second, the City’s requests are not vague. They explicitly identify records sought—such as acquisition and disposition records, ATF Form 4473s, Pennsylvania State Police Form SP4-113s; communications with ATF regarding straw purchasing, firearms trafficking, and recovery of firearms sold or transferred by Frank’s; ATF trace requests; and Firearms Inspection Reports and Firearms Qualification Reports (RFP 1, 6, 9, 10(b))—from January 1, 2018 to the present that either do or do not exist, and for which Frank’s is the party best situated to know what form they would take, if any. It is inconceivable that Frank’s is “unable to decipher the specific documents” these requests identify, as it dubiously and repeatedly claims. *See* Exhibit C. Moreover, in its requests, the City delineated the sender, recipient, and specific subject matter of the documents it seeks. These tailored requests are sufficient, relevant, and reasonable. *Cf. Eigen v. Textron Lycoming Reciprocating Engine Div.*, 874 A.2d 1179, 1187-88 (2005) (finding there was “nothing at all vague” about a request to produce “all insurance policies applicable” to an accident when such request was made to the potentially insured party).

Third, the City’s requests are not overly broad. The majority of the City’s requests that Frank’s labels overbroad are in fact carefully tailored to target a narrow subset of documents

pertaining to known straw purchasers whom the City has already identified. *See* RFP 1 (straw purchaser transaction records); RFP 2 (straw purchaser customer records); RFP 4-5 (law enforcement communications concerning straw purchasers); RFP 6 (communications with straw purchasers); RFP 9 (straw purchaser trace requests). Because they target specific documents pertaining to identified people over a limited and specified time period, these Discovery Requests are sufficiently narrow. *See Pa. State Sys. of Higher Educ. v. Ass’n of State Coll. & Univ. Faculties*, 142 A.3d 1023, 1031 (Pa. Commw. Ct. 2016) (discovery request for records pertaining to “current and past employees” completing specific reports over specific time period was “sufficiently narrow” because it provided a “subject matter and scope that identifies a discrete group of documents by both type and recipient”). And Frank’s has offered only general and conclusory objections to the contrary. *See* Exhibit C. This Court should reject such “boilerplate discovery objections without sufficient elaboration.” *Toland*, 311 A.3d at 673.

Frank’s nonresponsive, unsubstantiated objections are merely an attempt to avoid producing relevant documents clearly in its possession. Accordingly, the Court should dismiss the objections and require that Frank’s produce responsive documents to, and engage in meaningful discovery with, the City.

CONCLUSION

For the foregoing reasons, the City respectfully asks this Court to order Frank’s to produce responsive documents and meaningfully respond to the City’s First Set of Discovery Requests.

DATED this 5th day of September 2024.

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**ATTORNEY CERTIFICATION OF GOOD FAITH
PURSUANT TO PHILA. CIV. R. *208.2(e)**

The undersigned counsel for Movant City of Philadelphia hereby certifies and attests that:

I have had the contacts described below with opposing counsel or unrepresented party regarding discovery matter contained in the foregoing discovery motion in an effort to resolve the specific discovery dispute(s) at issue and, further, that despite all counsel's good faith attempts to resolve the dispute(s), counsel have been unable to do so.

Description: The City on numerous occasions corresponded with Defendant's counsel in an attempt to resolve the discovery dispute without court intervention, and parties attended a meet and confer on August 23, 2024, in further attempt to achieve a resolution. Despite these efforts, the parties have been unable to resolve this discovery dispute.

CERTIFIED TO THE COURT BY:

Date: September 5, 2024

/s/ Melissa Medina
Attorney I.D. No. 327048
Attorney for Defendant City of Philadelphia

Certification Due Date: 09/12/2024
Response Date: 09/19/2024
Case ID: 230702394
Control No.: 24090925

CERTIFICATE OF SERVICE

I, Melissa Medina, hereby certify that on the date below, the foregoing Motion to Compel was served on all counsel of record by electronic filing and is available for viewing and downloading.

Dated: September 5, 2024

/s/ Melissa Medina
Melissa Medina, Esq.
Divisional Deputy City Solicitor

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EXHIBIT A

Certification Due Date: 09/12/2024
Response Date: 09/19/2024
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**CITY OF PHILADELPHIA LAW DEPARTMENT
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Plaintiff,

v.

WRT MANAGEMENT, INC. f/k/a
TANNER'S SPORT CENTER INC.,
2660 Dark Hollow Road,
Jamison, PA 18929,

FRANK'S GUN SHOP & SHOOTING
RANGE LLC,
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MAD MINUTE ENTERPRISES, LLC d/b/a
DELIA'S GUN SHOP, and DELIA'S GUN
SHOP, INC.
6104 Torresdale Avenue
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Defendants.

COURT OF COMMON PLEAS
PHILADELPHIA COUNTY

Civil Action No. 230702394

CIVIL DIVISION

NOTICE TO DEFEND

NOTICE

You have been sued in court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this complaint and notice are served, by entering a written appearance personally or by attorney and filing in writing with the court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you by the court without further notice for any money claimed in the complaint or for any other claim or relief requested by the plaintiff. You may lose money or property or other rights important to you.

AVISO

Le han demandado a usted en la corte. Si usted quiere defenderse de estas demandas expuestas en las paginas siguientes, usted tiene veinte (20) dias de plazo al partir de la fecha de la demanda y la notificacion. Hace falta ascantar una comparencia escrita o en persona o con un abogado y entregar a la corte en forma escrita sus defensas o sus objeciones a las demandas en contra de su persona. Sea avisado que si usted no se defiende, la corte tomara medidas y puede continuar la demanda en contra suya sin previo aviso o notificacion. Ademas, la corte puede decider a favor del demandante y requiere que usted cumpla con todas las provisiones de esta demanda. Usted puede perder dinero o sus propiedades u otros derechos importantes para usted.

You should take this paper to your lawyer at once. If you do not have a lawyer or cannot afford one, go to or telephone the office set forth below to find out where you can get legal help.

**Philadelphia Bar Association
Lawyer Referral
and Information Service
One Reading Center
Philadelphia, Pennsylvania 19107
(215) 238-6333
TTY (215) 451-6197**

Lleve esta demanda a un abogado inmediatamente. Si no tiene abogado o si no tiene el dinero suficiente de pagar tal servicio. Vaya en persona o llame por telefono a la oficina cuya direccion se encuentra escrita abajo para averiguar donde se puede conseguir asistencia legal.

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Certification Due Date: 09/12/2024
Response Date: 09/19/2024
Case ID: 230702394
Control No.: 24090925

CITY OF PHILADELPHIA, a municipal
corporation,
1515 Arch Street 15th Floor
Philadelphia, PA 19102,

Plaintiff,

v.

WRT MANAGEMENT, INC. f/k/a
TANNER’S SPORT CENTER INC.,
2660 Dark Hollow Road,
Jamison, PA 18929,

FRANK’S GUN SHOP & SHOOTING
RANGE LLC,
4730 Blakiston Street
Philadelphia, PA 19136,

MAD MINUTE ENTERPRISES, LLC d/b/a
DELIA’S GUN SHOP, and DELIA’S GUN
SHOP, INC.
6104 Torresdale Avenue
Philadelphia, PA 19135,

Defendants.

COURT OF COMMON PLEAS
PHILADELPHIA COUNTY

Civil Action No. 230702394

CIVIL DIVISION

FIRST AMENDED COMPLAINT

Plaintiff, the City of Philadelphia, Pennsylvania (“the City”), by and through its attorneys, and for its complaint against Defendants WRT Management, Inc. f/k/a Tanner’s Sport Center Inc. (“Tanner’s”), Frank’s Gun Shop & Shooting Range LLC (“Frank’s”), Mad Minute Enterprises, LLC d/b/a Delia’s Gun Shop, and Delia’s Gun Shop, Inc. (collectively with Mad Minute Enterprises, LLC, “Delia’s”), alleges as follows:

SUMMARY OF ACTION

1. Philadelphia, like many American cities, is awash with illegal guns. A tide of gun violence inevitably follows the flow of these guns into neighborhoods and communities, leaving behind the wreckage of broken lives, shattered bodies, and communities of traumatized survivors. A home invasion robbery by suspects armed with a 9mm Smith & Wesson handgun and a large capacity magazine. A domestic violence incident where an abuser armed with an unlicensed Glock 43X 9mm threatened to kill the mother of his child and terrorized her with gun photos to drive the message home. An armed robbery of a corner store near Hunting Park and a foot chase in which Philadelphia Police Department (“PPD”) officers recovered a 9mm Glock 19 handgun from the suspect. Two shootings in the Richmond neighborhood separated by just four days and a single city block, both involving the same Taurus PT111 handgun. This small sample of the gun violence that plagues Philadelphia is traceable directly to illegal gun sales by the Defendants.

2. The tide of gun violence is not inevitable; it is in significant part the product of deliberate choices by certain gun retailers to engage in practices that supply the illegal and unregulated secondary market for guns. This black market is created and sustained in large part by gun stores that divert firearms out of lawful, regulated commerce. The stores do this by selling their products to gun traffickers in illegal “straw” transactions—gun sales in which sham buyers pretend to buy firearms for themselves when they are really purchasing the firearms to sell or give to others.

3. Tanner’s, Frank’s, and Delia’s have played an outsize role in supplying Philadelphia’s secondary criminal gun market by repeatedly and unconscionably choosing to engage in illegal straw transactions. According to publicly available criminal court filings, Defendant Tanner’s sold at least 79 guns to at least 11 different straw purchasers between April

2019 and May 2021. Defendant Frank's sold at least 48 guns to at least 15 different straw purchasers between April 2018 and December 2021. Defendant Delia's sold at least 31 firearms to at least 12 different straw purchasers between March 2018 and March 2022. These figures represent Defendants' sales only to known straw purchasers who have already been prosecuted and whose purchases are enumerated in public court filings.¹ On information and belief, the true number of firearms that Defendants have diverted to the criminal market through illegal straw transactions is substantially higher.

4. Tanner's, Frank's, and Delia's each routinely sold firearms to people that they knew, or deliberately avoided knowing, were engaged in illegal firearms trafficking and straw purchasing. Defendants repeatedly proceed with firearms transactions despite unmistakable indicators of illegal activity—including high volume, multiple-sale transactions involving duplicate or near-duplicate firearms, open collaboration between buyers and others in-store, and the presentation of false identification to store clerks. For example:

- Tanner's sold 13 handguns to straw purchaser Nafez Hutchings in a single week in August 2020.² All of Hutchings' purchases were multiple-sale transactions, and he bought numerous duplicative guns including five .45 caliber Glocks and three .40 caliber handguns. Philadelphia police have recovered at least three of the guns that Tanner's sold Hutchings, two of which were recovered from prohibited possessors and two of which had obliterated serial numbers.
- Frank's sold four handguns to straw purchaser Robert Otis Cooper III in a pair of transactions just eight days apart in June 2021. Frank's sold Cooper two 9mm Glocks and two 10mm Glocks—duplicative purchases highly indicative of straw purchasing. Cooper then tried to buy four more guns from the store, but was

¹ As to both Delia's and Frank's, the true figure may also be higher because several criminal filings identify people who straw purchased guns at these stores but do not specify the number of guns they bought.

² See Complaint (Dkt. No. 1) at 4-5, *United States v. Hutchings*, No. 2:20-cr-00455 (E.D. Pa. Oct. 14, 2020). Hutchings was charged with 12 counts of making a material false statement in the acquisition of a firearm in violation of 18 U.S.C. § 924(a)(1)(A). See Indictment (Dkt. No. 12), *United States v. Hutchings*, No. 2:20-cr-00455 (E.D. Pa. Dec. 3, 2020). He pled guilty in June 2021 and was sentenced to time served (approximately 11 months' imprisonment).

frustrated by delays with his Pennsylvania background check. Within six months, PPD had recovered two of Cooper's guns at crime scenes.³

- Delia's sold seven handguns to straw purchaser Anthony Cipriano in April and May 2021. Remarkably, Delia's accepted false identification from Cipriano for these sales—a stolen driver's license—even though Cipriano had a facial tattoo that the fake driver's license picture clearly lacked.⁴ When questioned by investigators, a Delia's employee acknowledged that the person pictured on the stolen license was not the person they had sold guns to. To date, PPD has recovered two of these guns during drug trafficking busts.

5. Firearms that Defendants sold to gun traffickers and straw purchasers have been recovered in connection with crimes ranging from shootings to armed robbery, narcotics possession and distribution, and vehicle theft. PPD has recovered these guns in the possession of underage possessors, domestic abusers, unlicensed individuals, and others prohibited from owning or buying a gun. At least one gun was recovered with an auto-sear—a small aftermarket part that converts a semi-automatic handgun into an illegal fully automatic machine gun. Others had obliterated serial numbers, and still others had large capacity magazines.

6. In the above examples, and in others described in greater detail below, Defendants each proceeded with transactions despite circumstances that put them on notice that their customers were attempting to engage in illegal straw transactions with the store in violation of federal and Commonwealth law. Facilitation of such straw transactions is illegal, unjustifiable, dangerous, and causes substantial harms to the City.

7. Defendants have together created and continue to maintain a public nuisance that interferes with the public health, safety, and well-being of Philadelphia residents and imposes

³ See Affidavit of Probable Cause, *Commonwealth v. Robert Otis Cooper III*, Case No. CP-46-CR-0002226-2023 (Montgomery Cnty. Ct. of Common Pleas).

⁴ See Indictment (Dkt. No. 7), at 2, *United States v. Cipriano*, Case No. 2:21-cr-00287 (E.D. Pa. July 28, 2021). Cipriano was charged with eleven counts false statements in connection with the purchase of a firearm in violation of 18 U.S.C. §§ 922(a)(6) and 924(a)(2), and eleven counts of possession and use of another's identification in violation of 18 U.S.C. §§ 1028A(a)(1) and (c)(3). Cipriano pled guilty in July 2022 and as of July 2023 is awaiting sentencing.

significant costs on the City. From 2015-2019, the last years for which public data is available, over 1,300 crime guns recovered in Philadelphia were traced to the three Defendants.

8. As alleged throughout this complaint, gun violence and gun-related crimes are a directly foreseeable consequence of Defendants' unlawful sales to straw purchasers, and of their creation of the public nuisance that is the illegal secondary market for crime guns—into which Defendants have been profitably unloading their products for years.

9. While some of the harms from Defendants' supply of firearms to the criminal market in Philadelphia are presently known, others remain unknown, because many of the firearms that Defendants illegally sold have yet to be recovered and are believed to remain in circulation. 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. As such, Philadelphia seeks an abatement order (1) enjoining the Defendants from continuing to maintain this public nuisance; (2) requiring Defendants to adopt and enforce written policies to prevent further sale to straw purchasers and provide for independent monitoring of their implementation; (3) allowing the City to recover costs it has thus far expended for abating the nuisance of illegal guns; and (4) ordering the creation of an abatement fund to address the continuing harms caused by the guns unlawfully sold by the Defendants that are still circulating in Philadelphia's illegal secondary firearm market. The City also seeks damages for the harm caused by Defendants' illegal and negligent activities.

PARTIES

11. Plaintiff, the City of Philadelphia, is a municipal corporation of the first class, duly organized and existing by virtue of the laws of the Commonwealth of Pennsylvania. Philadelphia is the largest city in the Commonwealth and the sixth-largest city in the United States.

12. Defendant WRT Management, Inc. is an active domestic business corporation incorporated under the laws of the Commonwealth with a registered office located at 2660 Dark Hollow Road in Jamison, Pennsylvania. WRT Management was originally incorporated in 2012 as Tanner's Sport Center Inc. and operated a retail firearms business under the name Tanner's Sport Center at 2301 York Road in Jamison, Pennsylvania until approximately December 2022. During that time, Tanner's Sport Center Inc. held a Type 1 (dealer) federal firearms license ("FFL"). On or about December 19, 2022, Tanner's Sport Center Inc. amended its articles of incorporation to change its name to WRT Management, Inc. and change its business address from 2301 York Road to 2660 Dark Hollow Road. On information and belief, these changes coincided with the sale of all or substantially all of Tanner's Sport Center Inc.'s assets to Tanner Operations, LLC, Tanner's Holdings LLC, and/or their affiliates.

13. Defendant Frank's Gun Shop & Shooting Range LLC holds a Type 1 (dealer) federal firearms license and operates as a retail dealer in firearms. Frank's is incorporated under the laws of the Commonwealth as a domestic limited liability company and has a principal place of business at 4730 Blakiston Street in Philadelphia, Pennsylvania.

14. "Delia's Gun Shop" is a fictitious name registered to Mad Minute Enterprises, LLC, which holds a Type 1 (dealer) federal firearms license and operates as a retail dealer in firearms. Mad Minute Enterprises, LLC is a domestic limited liability company incorporated under the laws of the Commonwealth. Delia's Gun Shop, Inc. is a domestic business corporation formed under the laws of the Commonwealth. It does not have a federal firearms license. Both Mad Minute Enterprises, LLC d/b/a Delia's Gun Shop and Delia's Gun Shop, Inc. have their principal place of business at 6104 Torresdale Avenue in Philadelphia, Pennsylvania, and, on information and belief, jointly operate a retail firearms business at that location.

JURISDICTION AND VENUE

15. This Court has subject matter jurisdiction under Article 5, Section 5 of the Pennsylvania Constitution, and 42 PA. CONS. STAT. § 931.

16. This Court has personal jurisdiction over each Defendant pursuant to 42 PA. CONS. STAT. § 5301, because each Defendant is incorporated in the Commonwealth of Pennsylvania and conducts business therein.

17. Venue is proper pursuant to 231 PA. CODE 1006(a)(2), because a substantial part of the events or omissions giving rise to Plaintiff's claims occurred in, were directed to, and/or emanated from Philadelphia County.

FACTS

Philadelphia's Gun Violence Crisis Harms City Residents and Drives Substantial City Costs

18. Rates of gun violence have sharply risen in Philadelphia in recent years, despite substantial decreases in almost every other kind of violent crime. In 2021 alone, the City reported 2,326 shootings.⁵ The victims of these shootings are disproportionately Black: according to the Philadelphia Office of the Controller, 79% of shooting victims year-to-date in 2023 were Black, and 81% of shooting victims since 2015 were Black (another 12% were Hispanic).⁶ Between 2020 and 2021, City residents experienced a 28% increase in robberies with firearms,⁷ and the number of homicides in the city reached 562 in 2021—its highest point yet—and more than double the

⁵ Pew Charitable Trusts, PHILADELPHIA 2022: THE STATE OF THE CITY ("PHILADELPHIA 2022") (2022), at <https://www.pewtrusts.org/en/research-and-analysis/reports/2022/04/philadelphia-2022-state-of-the-city>.

⁶ See *Mapping Philadelphia's Gun Violence Crisis*, Office of the Controller – The City of Philadelphia, at <https://controller.phila.gov/philadelphia-audits/mapping-gun-violence/> (accessed July 22, 2023); accord City of Philadelphia, THE PHILADELPHIA ROADMAP TO SAFER COMMUNITIES ("PHILADELPHIA ROADMAP") (2019) at <https://www.phila.gov/media/20190116150530/The-Philadelphia-Roadmap-to-Safer-Communities.pdf>.

⁷ Paige Gross, "The cost of gun violence: How are small business owners mentally and financially hurt by shootings?" *Technical.ly* (June 2022) at <https://technical.ly/civic-news/cost-gun-violence-small-businesses-philly-south-street/>.

number reported in 2013.⁸ Last year, 65% of Philadelphia residents reported hearing gunshots in their neighborhood; the number was 76% for Hispanic residents and 78% for Black residents.⁹

19. Children in Philadelphia also bear the burden of gun violence. According to a recent study in the *Journal of the American Medical Association*, the rate of firearm assaults (e.g., non-accidental, non-self-harm shootings) on children in Philadelphia more than doubled from just under 30 per 100,000 children to more than 62 per 100,000 during the course of the pandemic.¹⁰ In a dataset comprising Philadelphia and three other major cities, non-Hispanic Black children were almost 100 times more likely than white children to be assaulted with a gun, and Hispanic children were more than 25 times more likely.

20. Defendants' illegal gun sales fuel and exacerbate the City's gun violence problem. Guns sold by Defendants in straw transactions are linked to shootings, armed robberies, assaults, drug trafficking, and domestic violence, among other crimes. The victims of these crimes bear the physical and emotional scars of gun violence perpetrated with weapons that Defendants have knowingly supplied to the criminal market for their own profit.

21. The harms from this gun violence are felt throughout the community long after the guns are fired. The fear of gun violence impacts—and harms—the daily lives of countless people who live and work in Philadelphia but who are not themselves the victims of a shooting. The flood of illegal weapons from Defendants' stores to City streets interferes with the rights of residents to

⁸ Philadelphia Police Dept., *Crime Maps & Stats*, at <https://www.phillypolice.com/crime-maps-stats> (accessed July 2, 2023).

⁹ Gross, "The Cost of Gun Violence," *supra* n. 8.

¹⁰ Jonathan Jay, Rachel Martin, Manish Patel, et al., "Analyzing Child Firearm Assault Injuries by Race and Ethnicity During the COVID-19 Pandemic in 4 Major US Cities," *JAMA Network Open*, 2023;6(3):e233125. doi:10.1001/jamanetworkopen.2023.3125.

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.

22. The cost to the City stemming from the proliferation of illegal firearms in its communities is immense, totaling in the hundreds of millions of dollars. The City spends millions of dollars annually on direct services to combat gun violence, deploying police to interdict the flow of illegal weapons and to respond to individual acts of violence, relying on fire and medical services to transport and treat the victims of gun violence, and investing in its criminal justice system to prosecute offenders. For example, for 2024, the City Council has appropriated approximately \$900 million to the police department, a significant portion of which will be spent on responding to, and investigating, gun crimes. The City likewise spends millions of dollars annually on initiatives to prevent gun violence and to invest in communities whose social and economic fabric is frayed by the persistent cycle of violence. Beyond conventional policing costs, the City spent an additional \$210 million during the fiscal year 2023 on various preventative programs aimed at curbing gun violence and intends to increase that sum to more than \$233 million in 2024.¹¹ In addition, the City bears the economic burden of gun violence, including the lost wages of victims and offenders, the erosion of public and private property values, and the value of activities chilled by the proliferation of gun violence.

Straw Purchases Supply the Crime Gun Market

23. A straw purchase is a gun sale in which a sham buyer pretends to purchase firearms for themselves, but in reality purchases the guns to sell or transfer to others. This diverts firearms from legal commerce—where gun sales are subject to a background check and other public safety

¹¹ See City of Philadelphia, PHILADELPHIA'S ROADMAP TO SAFER COMMUNITIES: VIOLENCE PREVENTION INVESTMENTS UPDATE (2023), at <https://www.phila.gov/media/20230302190339/2023-Violence-Prevention-Investments-Update.pdf>.

requirements and must be recorded in a licensed dealer's books and records—into the unregulated criminal market. Once diverted into the black market, many straw-purchased guns are trafficked to convicted criminals, underage users, and other dangerous possessors who are prohibited from owning or buying a gun themselves.

24. Straw purchasing is illegal under both federal and Pennsylvania law. Pennsylvania has laws prohibiting straw purchasing, amended in 2012 after Pennsylvania police officer Bradley Fox was killed during a traffic stop with a straw-purchased gun wielded by a convicted felon. For licensed gun stores, the law is clear that when a dealer suspects that a customer is a straw purchaser or unlicensed gun seller, the dealer must stop the transaction.

25. Straw purchasing is illegal because it harms public safety by creating and sustaining a criminal market for firearms that supplies guns to violent criminals and other prohibited possessors. This criminal market foreseeably and substantially contributes to gun violence and gun-related crimes in the area where it operates—here, Philadelphia. Indeed, Pennsylvania's General Assembly has declared that straw purchasing, in and of itself, is against public interest, that it represents “a threat to public safety and security,” and that “[s]temming [its] flow...will help to curb the crime rate throughout this Commonwealth and increase public safety.” 18 PA. CONST. STAT. §§ 6182(1), (2).

26. The diversion of guns to the criminal market depends on dealers who “facilitate straw purchasing by ... turning a blind eye to obvious instances of straw purchasing.”¹² Studies suggest that members of gangs and other criminal enterprises in particular rely heavily on a small number of “dirty dealers, that is, FFL dealers who are willing to violate the law by selling guns to

¹² Christopher S. Koper, “Crime Gun Risk Factors: Buyer, Seller, Firearm, and Transaction Characteristics Associated with Gun Trafficking and Criminal Gun Use” (2007), at <https://www.ojp.gov/pdffiles1/nij/grants/221074.pdf>.

people who should not be legally allowed to have them—including by looking the other way during a straw purchase.”¹³ The Bureau of Alcohol, Tobacco, Firearms, and Explosives (“ATF”), the agency largely responsible for administering federal firearms law, has observed that “[i]n any jurisdiction, a small number of Federally licensed gun dealers are associated with a large number of crime gun traces from that jurisdiction.”¹⁴

A Handful of Dealers are Responsible for Selling a Disproportionate Number of Crime Guns

27. Philadelphia’s gun violence crisis is being driven, in significant part, by the diversion of firearms into the illegal secondary market by retailers who sell guns to straw purchasers. A small number of licensed gun dealers are responsible for a disproportionate share of the guns redirected from legal commerce into this unregulated black market on City streets. While there are more than 350 licensed firearms dealers in Philadelphia and its collar counties, a mere 10 of them collectively supplied over a third of the crime guns recovered and traced by the PPD between 2015 and 2019 (the last years for which data are publicly available).

28. Defendants are among the principal sources of crime guns recovered in Philadelphia during this period. Between 2015 and 2019, PPD traced 803 crime guns to Delia’s, 264 crime guns to Frank’s, and another 239 crime guns to Tanner’s. During that same period, all other dealers averaged only five crime guns each that were recovered in the City.

29. Moreover, a large percentage of the crime guns traced to Defendants are recovered at a Philadelphia crime scene shortly after they were sold. This short “time to crime” indicates that Defendants sold these guns to straw purchasers planning to traffic them to Philadelphia’s

¹³ *Id.*; Philip J. Cook, et al. “Some Sources of Crime Guns in Chicago: Dirty Dealers, Straw Purchasers, and Traffickers,” *Journal of Criminal Law & Criminology* (2015).

¹⁴ ATF, CRIME GUN TRACE REPORTS (2000) ALBUQUERQUE NM, p. 5-6 at <https://www.atf.gov/file/56656/download> (noting by way of example that 37 percent of crime guns recovered in Albuquerque could be traced to just seven FFLs in the city); Cook at 724 (among crime guns recovered in Cook County that were also sold in Cook County, three dealers accounted for 76% of guns recovered from gang members and 65% of guns recovered from others).

criminal market, and that these were not sales to bona fide purchasers. According to 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.”¹⁵ Of the crime guns recovered in Philadelphia between 2015 and 2019, more than 56% of the crime guns sold by Tanner’s, 63% of the crime guns sold by Delia’s, and a breathtaking 80% of the crime guns sold by Frank’s had a time-to-crime of less than three years. The Defendants’ statistics for crime guns recovered within a year of sale are even sharper: more than 1-in-4 crime guns sold by Tanner’s over this period had a time-to-crime of a year or less, along with nearly 4-in-10 crime guns sold by Delia’s, and nearly half of the crime guns sold by Frank’s.

Federal regulatory framework for dealing in firearms

30. Federal laws regulate commercial sales of firearms. Dealers, distributors, and manufacturers of firearms are known as “licensees” because they must obtain a federal license (an FFL) to operate a business that sells, distributes, or manufactures firearms. A person is categorically 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). Licensed dealers are also prohibited from aiding and abetting or conspiring to advance unlicensed dealings in firearms by others. *See* 18 U.S.C §§ 2, 371.

31. 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. For this reason, before transferring a

¹⁵ 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* City of Chicago, TRACING THE GUNS: THE IMPACT OF ILLEGAL GUNS ON VIOLENCE IN CHICAGO 6 (May 27, 2014), <https://www.chicagobusiness.com/Assets/downloads/20151102-Tracing-Guns.pdf> (Short time-to-crime is “a key indicator that the sale could have involved criminal activity by the buyer or the dealer.”).

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). The dealer must also ensure that the transaction complies with any applicable state or local laws. *See* 18 U.S.C. § 922(b)(2).

32. 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 places the buyer on notice: they are prohibited from buying a firearm on someone else's behalf while falsely claiming that it is for themselves. This arrangement is known as a "straw purchase," and the buyer/transferee a "straw purchaser." On ATF Form 4473, the buyer must certify that their answers on the form are true, correct, and complete.

33. 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.

34. 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.

35. It is illegal under federal law for “any person” to knowingly make a false oral or written statement, or to present false identification, in connection with the attempted acquisition of a firearm from a licensed dealer. This provision applies not only to the purchaser of a firearm, but to a dealer who accepts a false statement by a putative buyer with knowledge of its falsity—for example, by entering into the dealer’s written records that a straw purchaser is the actual buyer of a firearm. *See* 18 U.S.C. § 922(a)(6).

36. As recently as last year, Congress has expanded the scope of its prohibition on transferring firearms to individuals who intended to re-sell them through the enactment of the Bipartisan Safer Communities Act, PL 117-159 (June 25, 2022). The law makes it a felony to: (a) purchase a firearm with the intent of transferring it to a prohibited possessor; (b) sell a firearm to someone who intends to transfer the firearm to a prohibited possessor; and (c) transfer a firearm if the transferor “knows, or has reasonable cause to believe that the use, carrying, possession of a firearm by the recipient would constitute a felony.” 18 U.S.C. §§ 922(d)(10)-(11), 932(b), 933(a).

37. To ensure that licensees are not transferring guns for likely misuse, ATF regularly trains them on how to spot gun traffickers and straw purchasers, including whether the buyers are engaged in repeat bulk purchases, whether they are accompanied by other people who seem to have input on the decision of what guns to buy, and whether they can answer simple questions about for whom and what purpose they are purchasing firearms. This training comes in the form of seminars, inspections, and various publications.

38. Because of the close association between bulk handgun purchases and firearms trafficking, federal law requires a licensee to report all transactions in which a buyer who is not a federally licensed dealer purchases two or more handguns within five days. *See* 18 U.S.C. § 923(g)(3)(A); 27 C.F.R. 478.126a. Licensees must also 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). Knowing false statements or omissions in any of these required records is a violation of federal law. 18 U.S.C. §§ 922(m), 924(a)(3); *see also* 18 U.S.C. § 924(a)(1)(A). Dealers must also provide information from these records to law enforcement to assist in tracing firearms recovered in connection with a crime. *See* 18 U.S.C. § 923(g)(7), 27 C.F.R. 478.25a.

Pennsylvania’s regulatory framework for dealing in firearms

39. Pennsylvania law also governs the sale of firearms within the Commonwealth and imposes a series of duties on both buyers and sellers that are independent from—but often parallel to and complementary with—those imposed by federal law.

40. To begin with, all retail firearms dealers must be licensed by the Commonwealth in order to sell or transfer a gun, and before offering one for sale. *See* 18 PA. CONS. STAT. § 6112. They may not sell a firearm unless the purchaser is personally known to them or presents “clear evidence” of identity, and must make a “true record” of every firearm sold. *See id.* §§ 6113(a)(4)-(5). In addition, sales between private parties must take place at the office of a licensed dealer or county sheriff; the dealer or sheriff then performs a background check and documents the transaction in a similar fashion to sales between a dealer and customer. *See id.* § 6111(c).

41. Before selling a firearm to a retail customer, the dealer must (among other things) request that the Pennsylvania State Police (“PSP”) conduct a background check on the purchaser. The dealer must inspect photo identification presented by the purchaser, and the law obligates both

the purchaser *and the dealer* to provide “such information as is necessary to accurately identify the purchaser” for purposes of this background check. *See id.* § 6111(b)(2)-(3). It is a felony for a dealer to request a background check from the PSP for any purpose other than compliance with the Uniform Firearms Act. *See id.* § 6111(g)(3). The dealer generally may not transfer the firearm until they receive a unique approval number from PSP for the purchase. *See id.* § 6111(b)(4).

42. Thus, when a dealer requests a background check from the PSP on a straw purchaser that the dealer knows is not the actual buyer of the gun, the dealer thereby (1) fails to provide information necessary to accurately identify the purchaser to PSP (in violation of Sections 6111(b)(2) and (b)(3)), (2) requests a background check for improper purposes—namely, to simulate compliance with the background check requirement (in violation of Section 6111(g)(3)), and (3) records inaccurate information about the background check on required sales records (in violation of Section 6111(b)(4)).

43. In addition, for all transactions involving a handgun or short-barreled shotgun or rifle, the dealer must obtain a completed purchase application from the buyer, which includes a statement that the purchaser is the actual buyer of the firearm. This application, PSP form SP 4-113, asks:

ARE YOU THE ACTUAL BUYER OF THE FIREARM AS DEFINED UNDER 18 PA.C.S. § 6102 LISTED ON THIS APPLICATION/RECORD OF SALE? (WARNING: YOU ARE NOT THE ACTUAL BUYER IF YOU ARE ACQUIRING THE FIREARM ON BEHALF OF ANOTHER PERSON UNLESS YOU ARE LEGITIMATELY ACQUIRING THE FIREARM AS A GIFT FOR ANY OF THE FOLLOWING INDIVIDUALS WHO ARE LEGALLY ELIGIBLE TO OWN A FIREARM: 1) SPOUSE; 2) PARENT; 3) CHILD; 4) GRANDPARENT; OR 5) GRANDCHILD.)

Id. § 6111(b)(1). After the buyer answers this question and completes their portions of the form, they sign it. The dealer completes portions of the form and signs it as well and must submit a copy to the PSP while retaining a separate copy in the dealer’s own records. *See id.* As the

implementing regulations for this form explain, the duty “to ensure the form is accurately completed” falls on both the buyer and the seller. 37 PA. CODE § 33.111(b)(1); *see also id.* § 33.111(c)(3) (“The licensee/sheriff shall ensure the form has been accurately completed.”).

44. False statements in connection with firearm transactions are a crime under Pennsylvania law, as they are under federal law. Any person who, in connection with the purchase, delivery, or transfer of a firearm, makes any materially false oral or written statement, including a statement on any form promulgated by state or federal agencies, commits a felony in the third degree. *See* 18 PA. CONS. STAT. § 6111(g)(4). In addition, furnishing false information in connection with the purchase, sale, or transfer of a firearm is a violation of Section 4904 (unsworn falsification to authorities). *See id.* § 6116.

45. Unless otherwise specified, knowing and intentional sales, deliveries, or transfers of a firearm in violation of any provision of the Uniform Firearms Act is a misdemeanor. *See id.* § 6111(g)(1); *see also id.* § 6119. It is a felony for any person, including licensed dealers, to knowingly or intentionally sell, deliver, or transfer a firearm under circumstances intended to provide a firearm to any prohibited person. *See id.* § 6111(g)(2). In addition, anyone—including a licensed dealer—who knowingly and intentionally sells, delivers, or transfers a firearm in violation of the UFA and has reason to believe that the firearm will be used in a crime or attempted crime can be prosecuted criminally. *See id.* § 6111(g)(5). That dealer is also civilly liable to any person injured by that subsequent crime or attempted crime. *See id.* § 6111(g)(6). Thus, a Pennsylvania dealer who violates the UFA and sells a firearm to someone that he knows is really buying a gun for someone else can be civilly and criminally liable not only for his own misconduct, but also for the reasonably foreseeable downstream illegal misuse of that gun—including its illegal resale or re-transfer.

Defendants' Illegal Gun Sales to Traffickers and Straw Purchasers

46. Despite the clear prohibitions on selling firearms to straw purchasers under both federal and Pennsylvania law, each Defendant has engaged in a pattern of precisely this type of illegal sales activity. And upon information and belief, Frank's and Delia's continue to engage in this illegal conduct. As explained in further detail below, in doing so each Defendant knowingly violated numerous federal and Commonwealth laws and regulations, including, but not limited to, 18 U.S.C §§ 4, 922(m), 922(t)(1), 924(a)(1)(A), and 924(a)(3); 27 C.F.R. 478.102, 478.124, 478.125(e), and 478.128(c); 18 PA. CONS. STAT. §§ 6111(b)(1), 6111(b)(2)-(5), 6111(g), and 6113(a)(4)-(5); and 37 PA. CODE § 33.111(b) and (d). In addition, each Defendant knowingly conspired with, or aided and abetted, straw purchasers and traffickers in violation of 18 U.S.C §§ 2, 371, 922(a)(1)(A), 922(a)(6), 922(t)(1), 923(a), 924(a)(1)(A), 924(a)(3); and 27 C.F.R. 478.128(b). These knowing violations of law proximately harmed the City.

47. Records from criminal prosecutions of straw purchasers at each of the Defendants' stores reveals the striking pattern of red flags of illegal activity that each Defendant ignored. These patterns—such as high-volume purchases over short periods of time, duplicative handgun purchases, all-cash purchases, frequent purchases by buyers with no prior buying history, and buyers working in pairs to select guns and count and exchange the money to pay for them—are all hallmarks of illegal straw purchasing and gun trafficking. Through seminars, compliance inspections, and publications, ATF trains FFLs that bulk purchases and repetitive buying in a short time period is indicative of gun trafficking, as is a customer with no prior buying history suddenly engaging in frequent buying. ATF also trains FFLs to recognize that a second person “scouting” a firearm or advising a purchaser in person or remotely on a firearm purchase is a clear indicator

of straw purchasing. Upon information and belief, Tanner's, Frank's, and Delia's would each have been trained to recognize these and other red flags.

48. The true number of firearms sold by each Defendant into the criminal market through illegal straw transactions is likely substantially larger than the set of transactions identified in this pleading. This pleading reflects only a subset of transactions between each Defendant and straw purchasers who have been apprehended by law enforcement and whose purchases are enumerated in public criminal filings.

Tanner's Illegal Gun Sales to Traffickers and Straw Purchasers

49. According to court filings in criminal prosecutions of straw purchasers, Tanner's sold at least 79 guns to at least 11 different straw purchasers between April 2019 and May 2021. The pattern of illegal sales at Tanner's indicates that the store has sold to straw purchasers and gun traffickers even though it knew, based on the circumstances of these transactions, that these customers were not making bona fide purchases for themselves. Although the store operated just outside City limits, the harm from its illegal sales flows directly into the City: At least 15 of these guns have been recovered by Philadelphia Police on City streets, and at least seven of the known straw purchasers at the store were City residents.

Tanner's Sales to Nafez Hutchings

50. According to a federal criminal complaint, Nafez Hutchings bought 13 handguns from Tanner's in one week in August 2020.¹⁶ All of Hutchings' transactions at the store were multiple-sale transactions. Specifically, Hutchings bought the following handguns at Tanner's:

¹⁶ See Complaint (Dkt. No. 1) at 4-5, *United States v. Hutchings*, No. 2:20-cr-00455 (E.D. Pa. Oct. 14, 2020).

<u>Transaction Date</u>	<u>Make/Model</u>	<u>Caliber</u>
Aug. 17, 2020	Springfield XD	.45 cal.
Aug. 17, 2020	Glock 21	.45 cal.
Aug. 17, 2020	Glock 44	.22 cal.
Aug. 17, 2020	Glock 30	.45 cal.
Aug. 18, 2020	Glock 19X	9mm
Aug. 18, 2020	S&W M&P Shield	.40 cal.
Aug. 20, 2020	Glock 21SF	.45 cal.
Aug. 20, 2020	Glock 30S	.45 cal.
Aug. 20, 2020	Springfield XD9	9mm
Aug. 20, 2020	S&W M&P 40C	.40 cal.
Aug. 24, 2020	Glock 21	.45 cal.
Aug. 24, 2020	Glock 23	.40 cal.
Aug. 24, 2020	Del-Ton DTI-15	5.56mm

51. The high volume and pace of Hutchings’ gun acquisitions—buying three and four handguns at a time, multiple times, in less than a week—were unmistakable indicators of illegal straw purchasing. Hutchings’ purchases were also suspicious for a second reason: Many of the guns he bought at Tanner’s were near-duplicates of one another. Of course, purchasing duplicative guns makes little sense unless Hutchings was buying guns for others—which he was. Specifically, he bought eight Glock handguns, five of which were .45 caliber Glocks, including two pairs of near-duplicate variants of the Glock 21 and Glock 30 handguns. Yet Tanner’s ignored these warning signs and went on to sell Hutchings an additional seven guns.

52. On or about September 9, 2020, Hutchings attempted to buy another eight guns at Tanner’s, but left the store before a background check was completed. According to the federal agents who investigated Hutchings’ straw purchasing, Hutchings gave Tanner’s a different home address for this attempted purchase than he had given them during his previous purchases at the store just days before. When confronted by investigators, Hutchings admitted that the address he had given Tanner’s for his August 2020 purchases was false, and that he was not living there. He also admitted that he was engaged in illegal straw purchasing and was really buying guns for a person named “Jamal” for around \$40 or \$50 per gun.

53. At least eight guns that Tanner's sold to Hutchings have been recovered by law enforcement, including at least three crime guns recovered in Philadelphia. One (a Glock 44 .22 caliber handgun) was recovered from a 19-year-old underage possessor by SWAT officers executing a search warrant in January 2021. The firearm had an obliterated serial number and was recovered from a location that contained drugs and drug paraphernalia. Another (a Springfield XD .45 caliber handgun) was recovered during a separate SWAT warrant execution in June 2021, also with an obliterated serial number. A third (a Glock 30 .45 caliber handgun) was recovered during a traffic stop in June 2022 from a woman with a prior felony conviction that prohibited her from possessing a firearm. Her passenger, who was wanted for probation violations, also had a prohibiting felony conviction. This firearm was fitted with a large capacity magazine containing 27 live rounds.

Tanner's Sales to Joshua Morales

54. Hutchings was not the only straw purchaser whose high-volume purchases of duplicative handguns were an obvious red flag of illegal behavior that Tanner's disregarded. Between February 21 and September 8, 2020, straw purchaser Joshua Morales straw purchased at least 7 guns at Tanner's including six handguns in a pair of multiple-sale transactions spaced just over a month apart.¹⁷

¹⁷ See Indictment (Dkt. No. 1), at 3-4, *United States v. Morales*, No. 2:21-cr-00282 (E.D. Pa. July 21, 2021). Morales was charged with seven counts of counts of making a material false statement in the acquisition of a firearm in violation of 18 U.S.C. 924(a)(1)(A). Morales pled guilty on April 4, 2023 and is scheduled to be sentenced in December 2023.

<u>Transaction Date</u>	<u>Make/Model</u>	<u>Caliber</u>
Feb. 21, 2020	Springfield XD Mod. 2	.40 cal.
July 30, 2020	FN Model 57	5.7x28mm
July 30, 2020	Taurus Model 856	.38 cal.
July 30, 2020	Glock 17	9mm
July 30, 2020	Sig Sauer MCX	300 BLK
Sept. 8, 2020	Taurus G2C	9mm
Sept. 8, 2020	Taurus G2C	9mm

55. Tanner’s ignored the fact that Morales bought multiple handguns in a short period of time, including a pair of duplicate Taurus G2C 9mm pistols along with a third pistol of the same caliber. These bulk and duplicative purchases were an obvious sign that Morales was buying handguns not for himself, but to traffic to others. What is more, most of Morales’ purchases—including the duplicate pair of Taurus handguns—were cheap, low-quality handguns disfavored by collectors. And Morales paid for these purchases in cash¹⁸—a further indicator of trafficking that ATF trains FFLs to recognize, and which Tanner’s ignored.

56. These red flags of straw purchasing were more than enough to put Tanner’s on notice that its sales to Morales were illegal. But there was more: ATF contacted Tanner’s on September 3, 2020, to investigate Morales’ transactions at the store. Nevertheless, just five days later Tanner’s sold Morales the pair of duplicate 9mm Taurus handguns—despite knowing that ATF was investigating his transactions.¹⁹

57. At least eight firearms that Tanner’s sold to Morales have been recovered as crime guns in Philadelphia—including some recovered just days after purchase and others recovered as

¹⁸ See Gov’t’s Change of Plea Mem. (Dkt. No. 37), at 4, *United States v. Morales*, No. 2:21-cr-00282 (E.D. Pa. Mar. 29, 2023).

¹⁹ See *id.* According to court records, given his string of successful straw purchases at Tanner’s, Morales returned to the store a final time on September 16, 2020, and attempted to purchase an additional 11 handguns. The store then contacted ATF who responded in time to observe Morales purchase the 11 handguns using “a wad of cash” worth more than \$5,700. Agents attempted to follow Morales as he left the store, but by the time they located and arrested Morales the 11 handguns were gone.

recently as July 2023.²⁰ One (an FN Model 57 handgun) was recovered just over two weeks after purchase, in the possession of a convicted felon with a lengthy criminal record. The gun had an extended magazine and 18 live rounds. On information and belief, law enforcement would have contacted Tanner's as part of its efforts to trace this firearm, putting Tanner's on notice that it was recovered with an extremely short time-to-crime that was an unmistakable indicator that Morales was a straw purchaser.

58. More recently, in March 2021, investigators with the PPD gun violence reduction task force executed a search warrant and recovered from a 19-year-old another FN Model 57 handgun that Tanner's sold to Morales, as well as a kilogram of heroin, more than \$45,000 in cocaine, a scale, and narcotics packaging materials. PPD recovered another gun that Tanner's sold Morales (a Springfield XD40 .40 caliber handgun) in May 2021 from the trunk of a stolen vehicle. Less than a month later in June 2021, PPD officers recovered yet another Tanner's gun from the waistband of a convicted felon during a traffic stop. This gun, a Glock 19 9mm handgun, had a large capacity magazine with 30 live rounds as well as a modification to the back plate (commonly called a "Glock switch"), which allowed the firearm to function as a fully automatic machinegun. On November 24, 2021, PPD officers recovered yet another gun that Tanner's sold to Joshua Morales from a suicidal man who resisted police efforts to take him into custody. After the arrest, the police discovered that the gun, a Glock 17 9mm handgun, had an obliterated serial number. Most recently, PPD officers recovered a .45 caliber Springfield XDS handgun in July 2023 during a traffic stop. The driver did not have a valid permit to carry the firearm.

²⁰ Three of the eight crime gun recoveries attributed to Morales were of guns Tanner's sold him or before September 8, 2020, and five are of guns sold during Morales' final trip to the store on September 16, 2020.

Tanner's Sales to Quinn Whisted

59. In 2021, the Montgomery County District Attorney charged Quinn Whisted and thirteen co-defendants with making at least 31 straw purchases at Philadelphia-area gun dealers for purposes of selling guns into the criminal market.²¹ Tanner's was one of the stores that sold guns to this trafficking ring, and straw purchaser Quinn Whisted bought guns there on at least five separate occasions between June 2019 and July 2020. Three of Whisted's visits to the store involved multiple-sale transactions, including a purchase of two 9mm handguns on December 4, 2019, followed by the purchase of two more handguns (one, a third 9mm) just two days later on December 6. Whisted's purchase of three 9mm handguns in closely spaced, multiple-sale transactions was an obvious red flag that Tanner's ignored. Rather than stopping these transactions and notifying authorities, Tanner's sold Whisted these four handguns, and later sold him three more.

60. The 9mm Smith & Wesson handgun that Whisted bought at Tanner's on December 4, 2019, was recovered by the PPD on January 7, 2021, during the investigation of a home invasion robbery. Another Tanner's gun sold to Whisted, a Glock 44 .22 caliber handgun, was recovered during a traffic stop from an unlicensed possessor in August 2021.

Tanner's Sales to Other Straw Purchasers

61. Tanner's also sold guns to numerous other straw purchasers. For example, Tanner's sold 36 guns to trafficker Thomas Harris Jr. in 11 transactions between April 2019 and February 2020. All but one of Harris' transactions at Tanner's involved the sale of multiple handguns, which Harris typically bought three or four at a time. Beyond this extreme volume,

²¹ See Affidavit of Probable Cause, *Commonwealth v. Quinn Whisted*, Case No. CP-46-CR-0002193-2021 (Montgomery Cnty. Ct. of Common Pleas).

Harris also bought numerous guns in duplicate or triplicate—including three Cugir Mini Draco pistols, five ATI Omni hybrid pistols, and four Glock 27s, among others. A clerk at Tanner’s, identified in court papers by the initials R.G., later admitted to ATF that store employees knew Harris was purchasing firearms to transport them to St. Lucia for a profit—in other words, that he was straw purchasing and trafficking them. Harris pled guilty in November 2021 and was sentenced to 46 months’ imprisonment.²²

62. Tanner’s sold at least two (and potentially many more) handguns to straw purchaser Tyrone Dansby between May 4 and September 12, 2020. Dansby bought approximately 60 handguns from Pennsylvania gun stores (including Tanner’s, Frank’s, and Delia’s) over this time period, though only a handful are attributed to a particular store in public filings. According to federal authorities, Dansby’s purchases “included a suspicious pattern of repeated purchases of identical firearms; for instance, Dansby bought eight identical SCCY 9mm semiautomatic pistols, and 16 identical Taurus G2/G3 9mm semiautomatic pistols, with the only difference between the firearms being their respective serial numbers.” Two handguns that Tanner’s sold Dansby have been recovered by law enforcement in Pennsylvania, one in connection with a shooting and both with partially obliterated serial numbers.²³

63. Tanner’s sold three 9mm handguns to straw purchaser Heather Ramirez in a single purchase on October 7, 2020. Even a single transaction can carry strong indicators of illegal straw purchasing where, as in Ramirez’s case, she bought three very similar 9mm handguns (including a Taurus G2C and a Taurus G3C) and had no apparent purchase history with the store. Ramirez was working with Dansby, who drove her to the store to make the purchases—another red flag of

²² See Complaint (Dkt. No. 1) at 3-4, *United States v. Harris Jr.*, Case No. 2:20-cr-00317 (E.D. Pa. July 23, 2020); see also *id.* at 5-8 (listing purchases).

²³ See Complaint (Dkt. No. 1) at 2-3, *United States v. Dansby*, Case No. 2:21-cr-00060 (E.D. Pa. Feb. 12, 2021).

straw purchasing.²⁴ The Taurus G3C that Tanner's sold to Ramirez was subsequently recovered with an obliterated serial number.

64. Tanner's sold a pair of Taurus 9mm handguns to straw purchaser Shanea Patterson on December 29, 2020. When interviewed by law enforcement, Patterson was unable to identify the make, model, or caliber of the firearms she had purchased, displaying a complete unfamiliarity with firearms that is another obvious hallmark of straw purchasing. A reasonable gun dealer would have recognized that an apparent first-time customer, buying duplicate handguns in a multiple-sale transaction, while being completely unfamiliar with the guns she is buying, is a straw buyer. Yet Tanner's ignored these obvious red flags and proceeded with the sale. One of Patterson's 9mm handguns was recovered by the PPD on April 14, 2022, in the possession of a 16-year old boy who fled from police after a car chase. The firearm had an extended magazine with 23 live rounds plus one in the chamber.²⁵

Frank's Illegal Gun Sales to Traffickers and Straw Purchasers

65. Like the other Defendants, Frank's Gun Shop has repeatedly engaged in transactions with obvious straw purchasers, as described in court filings in subsequent criminal prosecutions. According to these court records, Frank's has sold at least 48 guns to at least 15 different straw purchasers between April 2018 and December 2021, though the true figure is likely much higher as several court filings only identify straw purchasers at Frank's, but not the total number of guns that the store sold to them. Like the other Defendants, Frank's ignored a variety

²⁴ See Affidavit of Probable Cause at 2-3, *Commonwealth v. Ramirez*, Case No. CP-51-CR-0007477-2021 (Phila. Cnty. Ct. of Common Pleas May 13, 2021).

²⁵ See Affidavit of Probable Cause at 2-3, *Commonwealth v. Patterson*, Case No. CP-51-CR-0006869-2022 (Phila. Cnty. Ct. of Common Pleas Apr. 29, 2022).

of red flags indicating that its customers were engaged in illegal straw purchases and gun trafficking; it chose instead to profit from these illegal sales.

Frank's Sales to Johnnie Ballard, Khalil Hayes, and Sakinah Braxton

66. Trafficker Johnnie Ballard visited Frank's 12 times from June 25 to September 5, 2020, each time accompanying one of two straw purchasers to the store.²⁶ These two straw purchasers, Khalil Hayes²⁷ and Sakinah Braxton,²⁸ collectively bought 15 guns from Frank's in 12 separate transactions:

<u>Transaction Date</u>	<u>Straw Buyer</u>	<u>Make/Model</u>	<u>Caliber</u>
June 25, 2020	Hayes	Taurus G2S	9mm
June 25, 2020	Hayes	Taurus G2S	9mm
July 2, 2002	Braxton	Glock 19	9mm
July 2, 2020	Braxton	Glock 44	.22lr
July 9, 2020	Braxton	Glock 19	9mm
July 12, 2020	Hayes	Glock 48	9mm
July 15, 2020	Braxton	Glock 19	9mm
July 25, 2020	Braxton	Glock 19X	9mm
July 25, 2020	Braxton	Glock 17	9mm
July 29, 2020	Hayes	Glock 34	9mm
Aug. 7, 2020	Braxton	Ruger 57	5.7x28mm
Aug. 14, 2020	Braxton	Glock 43X	9mm
Aug. 20, 2020	Hayes	Glock 43	9mm
Aug. 21, 2020	Braxton	Ruger 57	5.7x28mm
Sep. 5, 2020	Hayes	Ruger 57	5.7x28mm

²⁶ See Indictment (Dkt. No. 1), at 2-8, *United States v. Ballard*, Case No. 2:21-cr-00439 (E.D. Pa. Nov. 16, 2021). Ballard was charged with one count of conspiracy to make a false statement with respect to information in required gun dealer records, and one count of unlicensed dealing in firearms. He pled guilty in May 2022 and was sentenced to 27 months of imprisonment.

²⁷ See Information (Dkt. No. 1), at 2-3, *United States v. Hayes*, Case No. 2:21-cr-00436 (E.D. Pa. Nov. 15, 2021). Hayes is identified in Ballard's indictment as "Person #1." Hayes was charged with six counts of making a material false statement in the acquisition of a firearm in violation of 18 U.S.C. § 924(a)(1)(A). He pled guilty in 2022 and was sentenced to probation.

²⁸ See Information (Dkt. No. 1), at 2-4, *United States v. Braxton*, Case No. 2:22-cr-00055 (E.D. Pa. Feb. 23, 2022). Braxton is identified in Ballard's indictment as "Person #2." Braxton was charged with eight counts of making a material false statement in the acquisition of a firearm in violation of 18 U.S.C. § 924(a)(1)(A). She pled guilty in 2022 and was sentenced to probation.

67. According to criminal filings, Ballard instructed Hayes and Braxton about which firearms to buy, arranged payment for the guns, and took immediate possession of the firearms after the purchases. This paired buying behavior was a textbook example of straw purchasing that the store should have recognized and stopped immediately.

68. Instead, Frank's chose to sell Hayes and Braxton more and more guns, turning a blind eye to Ballard's role in orchestrating the straw purchases. But even if Hayes and Braxton had acted alone, their buying patterns were each highly indicative of straw purchasing in their own right. This is because each straw purchaser bought a large volume of duplicate or near-duplicate guns. Hayes, for example, bought a pair of duplicate Taurus G2S handguns in a multiple sale on his first trip to the store, as well as three separate 9mm Glock handguns in later transactions. Braxton bought three Glock 19s and a Glock 19X in four visits spaced less than a month apart, as well as two Ruger 57 pistols in the span of less than a month. Either one of these buying patterns, on its own, would have put a reasonable firearms dealer on notice that Hayes and Braxton were each engaged in straw purchasing.

69. What is more, both purchasers staggered their transactions at intervals in an apparent effort to avoid multiple-sale reporting requirements. Under federal law, an FFL must report to ATF and local law enforcement when a buyer purchases two or more handguns within a five-day period. This report is required 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

70. of potential firearms trafficking.”²⁹ But reporting these sales increases the risk that a straw purchaser’s illegal conduct will be detected by authorities. After his first visit to the store, Hayes spaced his subsequent four purchases at roughly two-week intervals. Similarly, Braxton spaced several purchases at weekly intervals (for example, purchases on August 7, 14, and 21, 2020). By doing so, both Braxton and Hayes avoided triggering ATF’s mandatory reporting requirement and increased the chances that their straw purchases would remain undetected by law enforcement.

71. Through seminars, compliance inspections and publications, ATF trains FFLs to recognize that transactions structured to avoid reporting requirements are an indicator of straw purchasing, and on information and belief, Frank’s would have been trained on this red flag. Coupled with the high aggregate purchase volume and duplicative handgun buys, it should have been obvious to Frank’s that Braxton and Hayes were structuring their illegal straw purchasing to avoid detection. But rather than stopping these patently unlawful sales and reporting them to authorities, the store carried on its business with these straw purchasers for more than 10 weeks.

72. While Frank’s carried on selling more and more guns to Hayes and Braxton through August and September 2020, guns from their earlier straw purchases were already being used in shootings on City streets. On the evening of August 26, 2020, PPD officers responded to a report of gunshots outside a pizzeria on N 60th Street in West Philadelphia and found 13 spent 9mm casings along with 8 more of another caliber. A little over two weeks later in September 2020, officers again responded to gunfire just under a mile away on Atwood Street. There, officers found evidence of a gun battle: 44 spent bullet casings including 27 9mm ones. Two occupied residences

²⁹ 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>.

had been hit by bullets. Four days later, PPD officers recovered a Glock 19 9mm handgun with 15 live rounds and a laser sight from the waistband of a 16-year old boy. This gun was linked by forensic evidence to the shootings on both N 60th Street and Atwood Street. Frank's had sold it to Braxton just over two months earlier, on July 2.

73. At least two other guns that Frank's sold to Braxton have been recovered by PPD. One, a Glock 43X 9mm handgun, was also recovered in September 2020 just months after the straw transaction—this time from a domestic abuser who did not have a license to carry the firearm, and who was using it to send threatening photos to terrorize the mother of his child. A second, a Glock 19 loaded with 17 live rounds, was recovered in June 2021 during the execution of a warrant on a juvenile probationer facing charges of robbery. Forensic analysis linked this Glock 19 to a shooting in the Kingsessing neighborhood in January 2021, in which a 22-year-old man was shot four times in the arm and hand. Frank's had sold this gun to Braxton on July 9, 2020.

Frank's Sales to Robert Otis Cooper III

74. Frank's also sold guns to Robert Otis Cooper III, who according to court records was a member of a straw purchasing organization involving several other individuals.³⁰ Cooper visited Frank's on at least four separate occasions in the summer of 2021 to straw purchase firearms. On his first visit, on June 21, 2021, Frank's sold Cooper three Glock handguns: a Glock 26 9mm, a Glock 19 9mm, and a Glock 29 10mm. A first-time buyer acquiring this many similar handguns in a single multiple sale was an obvious warning sign of straw purchasing, yet Frank's approved the sale. Eight days later, Frank's sold Cooper another 10mm handgun—this one a

³⁰ See Affidavit of Probable Cause at 70, 81-82, *Commonwealth v. Robert Otis Cooper III*, Case No. CP-46-CR-0002226-2023 (Montgomery Cnty. Ct. of Common Pleas).

Glock 20. Ten days after that, on July 9, Cooper attempted to purchase another pair of Glock 9mm handguns but was placed into “research” by Pennsylvania’s background check system, delaying the sale to allow law enforcement to research whether Cooper could legally purchase a firearm. While this prevented Frank’s from consummating the sale (and Cooper ultimately abandoned it), on information and belief, Frank’s did not contact law enforcement to report Cooper’s suspicious buying even though he had by that point bought or attempted to buy six similar handguns from the store. Cooper even tried again to buy another two handguns from Frank’s on August 2, but was again foiled by Pennsylvania’s background check system.

75. Despite these aborted sales, two of the four guns that Frank’s sold Cooper have already been recovered at crime scenes. The first—the 10mm Glock 29 purchased on June 21, 2021—was recovered in Northeast Philadelphia (near the Oxford Circle neighborhood) on October 13, 2021 by PPD officers executing a search warrant. The second—the 9mm Glock 26 also purchased on June 21, 2021—was recovered a few blocks from Hunting Park in North Philadelphia on October 22, 2021 by plainclothes PPD officers responding to a shooting incident.

Frank’s Sales to Other Straw Purchasers

76. Frank’s has ignored warning signs of straw purchasing in other transactions as well. In September 2018, straw purchaser Morgan Johnson came to Frank’s on two consecutive days and bought eight handguns—four on each day.³¹ Johnson was buying guns for Kevin Gupton, a convicted felon who was prohibited by law from purchasing or possessing a firearm.³² Johnson’s

³¹ See Indictment (Dkt. No. 1) at 3, *United States v. Johnson*, Case No. 2:19-cr-00102 (E.D. Pa. Feb. 19, 2019). Johnson was indicted on two counts of making a material false statement in the acquisition of a firearm in violation of 18 U.S.C. § 924(a)(1)(A). She pled guilty and was sentenced in 2021.

³² See Indictment (Dkt. No. 1), at 1, 5-7, *United States v. Gupton*, Case No. 2:20-cr-00436 (E.D. Pa. Dec. 1, 2020). Gupton was charged with two counts of being a felon in possession of a firearm in violation of 18 U.S.C. § 922(g)(1) and two counts of aiding and abetting Morgan Johnson’s false statements to FFLs in violation of 18 U.S.C. § 924(a)(1)(A). Gupton pled guilty in May of 2021 and was sentenced to 57 months’ imprisonment.

bulk purchase of handguns on back-to-back days was an obvious sign of straw purchasing on its own and would have put a reasonable dealer on notice of illegal behavior. But this was not the only easily recognizable sign that Johnson was a straw purchaser: More than half of Johnson's guns were duplicates of one another including three Taurus G2Cs and a close variant Taurus G2S, as well as a pair of Glock 30S handguns.

<u>Transaction Date</u>	<u>Make/Model</u>	<u>Caliber</u>
September 20, 2018	Glock 30S	.45 cal.
September 20, 2018	Taurus G2C	9mm
September 20, 2018	Taurus G2S	9mm
September 20, 2018	Smith & Wesson SD9VE	9mm
September 21, 2018	Glock 30S	.45 cal.
September 21, 2018	Glock 27	.40 cal.
September 21, 2018	Taurus G2C	9mm
September 21, 2018	Taurus G2C	9mm

77. Pursuant to ATF training, and as would be evident to any actor that engages in the retail business of dealing in firearms, this buying pattern alone is indicative of gun trafficking and should have been more than enough to put any reasonable store on notice that its customer was illegally buying guns for others. But even if it were not, Johnson and Gupton's in-store behavior further confirmed that Johnson was buying guns for Gupton, the convicted felon. According to the indictment, Gupton supplied Johnson the cash to buy the firearms, took her to Frank's, specified the guns for her to buy while they were at the store together, and took immediate possession of the firearms and paperwork after she bought them.³³ This was the textbook example of straw purchasing and should have been obvious to any reasonable firearms dealer even if the pair had only bought a single gun, let alone eight. Yet Frank's chose to ignore this, as well as the

³³ See, e.g., Gupton Indictment at 5.

red flags in the form of Johnson's high-volume, duplicative handgun buys, and instead chose to profit from these illegal sales.

78. According to court records, several guns that Frank's sold through Johnson to Gupton were subsequently recovered in Philadelphia in connection with criminal activity. PPD recovered a Taurus Model G2C 9mm handgun in October 2018 from a 17-year-old suspected of dealing cocaine who fled from police. In May 2020, PPD recovered a second Taurus G2C sold from Frank's, during a traffic stop of a man in possession of marijuana and prescription opiates.

79. In August 2021, a straw purchaser named Nafissa Prosser bought a pair of Glock 9mm handguns from the store on consecutive days: one on August 23 and one on August 24.³⁴ Remarkably, she gave the store two different home addresses for these back-to-back buys. But these addresses were in fact false, and Prosser did not live at either address. Instead, she apparently gave the store false addresses to make it more difficult for law enforcement to trace the guns to her in the event they were recovered at a crime scene. Frank's knew Prosser had given the store two different addresses on consecutive days because it had to enter this information into its own records and because it had to decide which address to provide to ATF and to local law enforcement when reporting the transaction as a multiple sale. Despite knowing that Prosser had provided the store with conflicting information about her residence, the store proceeded with the sales.

80. Straw purchaser Dominick Weatherbe bought seven firearms, including six Glocks, in five days at Frank's and another local gun store in July 2021.³⁵ Although charging documents do not attribute Weatherbe's purchases to each store, it appears likely that he bought multiple,

³⁴ See Affidavit of Probable Cause at 3, *Commonwealth v. Prosser*, Case No. CP-51-CR-0008972-2021 (Phila. Cnty. Ct. of Common Pleas Oct. 4, 2021).

³⁵ See Affidavit of Probable Cause at 2-4, *Commonwealth v. Weatherbe*, Case No. CP-51-CR-0008535-2021 (Phila. Cnty. Ct. of Common Pleas Sept. 16, 2021).

similar guns at Frank's over the course of mere days. What is more, Weatherbe told police that he went to buy these firearms with (and for) a convicted felon, which suggests that in-store behavior may have been a further red flag of illegal activity. At least one of the Glocks that Weatherbe purchased from these stores was recovered by PPD during a narcotics investigation about two months later, in the possession of someone else.

Delia's Illegal Gun Sales to Traffickers and Straw Purchasers

81. Defendant Delia's Gun Shop also has a pattern of sales to obvious straw purchasers as revealed by criminal court records describing Delia's transactions. Between March 2018 and March 2022, Delia's sold at least 31 firearms to at least 12 different straw purchasers. The true number of sales to straw purchasers is likely even higher because several criminal filings identify people who straw purchased guns at Delia's but do not specify the number of guns they bought. Like Tanner's and Frank's, Delia's ignored a series of unmistakable warning signs of illegal straw purchasing, including high volume purchases, purchasers acting in tandem with others, and at least one incident of a straw purchaser using false (stolen) identification.

Delia's Sales to Anthony Cipriano

82. Straw purchaser Anthony Cipriano purchased seven handguns at Delia's in just over a month, between April 23 and May 26, 2021.³⁶ Four of these were 9mm handguns, and two were duplicate or near-duplicate EAA Girsan 9mm handguns.

<u>Transaction Date</u>	<u>Make/Model</u>	<u>Caliber</u>
April 23, 2021	Ruger P95 DC	9mm
April 25, 2021	SCCY CPX-2	9mm
May 8, 2021	EAA Girsan	9mm
May 20, 2021	EAA Girsan MC28 SA	9mm
May 24, 2021	Glock 21 Gen4	.45 cal.
May 24, 2021	Smith & Wesson M&P 15-22	.22lr

³⁶ See Indictment (Dkt. No. 7), at 2, *United States v. Cipriano*, Case No. 2:21-cr-00287 (E.D. Pa. July 28, 2021).

<u>Transaction Date</u>	<u>Make/Model</u>	<u>Caliber</u>
May 26, 2021	Ruger 57	5.7x28mm

83. Although Cipriano purchased most of these guns one at a time, they were close enough in time to trigger multiple sale reporting requirements as to all but one transaction. Specifically, pursuant to 18 U.S.C. § 923(g)(3), the store was required to report the two 9mm handguns purchased on April 23rd and 25th as a multiple-sale transaction, and then to separately report the four handguns purchased on May 20th, 24th, and 26th as another multiple sale. Thus, the store knew that Cipriano was amassing a small arsenal of handguns in a matter of weeks. And for at least the May 26th purchase, Cipriano was accompanied into the store by a second individual—a further indicator of straw purchasing. Yet the store did not stop these sales, ignoring these warning signs that Cipriano was buying for others rather than for himself.

84. The volume, pace, and similarity of Cipriano’s purchases, alone, were more than sufficient to put a reasonable store on notice that the transactions were illegal. But there was more. Cipriano also presented the store with false identification—a stolen driver’s license belonging to a person with initials “W.M.”—for each purchase. This should have prompted serious scrutiny by the store, as a Delia’s employee later told investigators that Cipriano did not closely resemble “W.M.,” the person pictured on the stolen license. Instead, Cipriano had a facial tattoo and hair styled in dread locks, but “W.M.” did not. Yet the store either failed to inspect this photoidentification (violating 18 PA. CONS. STAT. § 6111(b)(2)), or saw this obvious discrepancy but decided to proceed with the sale of half a dozen handguns notwithstanding.³⁷

³⁷ See Complaint (Dkt. No. 1) at ¶¶ 9-11, *United States v. Cipriano*, Case No. 2:21-cr-00287 (E.D. Pa. June 30, 2021).

85. At least two guns that Delia's sold Cipriano have been recovered at Philadelphia crime scenes. The first—one of the duplicate EAA Girsan 9mm handguns that Delia's sold in May 2021—was recovered just over a year later during a June 2022 narcotics bust in the Kensington neighborhood. The gun was located under the passenger seat of an SUV from which officers observed a suspect conducting hand-to-hand drug transactions; officers also recovered narcotics, paraphernalia, and significant amounts of US currency. The gun was loaded with 15 live rounds and had a laser sight.

86. The second recovered handgun, a SCCY CPX-2 that Delia's sold to Cipriano on April 25, 2021, was seized by PPD during a January 2023 narcotics bust in the Frankford neighborhood, during which officers also seized marijuana, crack cocaine, and assorted pills.

Delia's Sales to Charles L. Thompson

87. Another straw purchaser to whom Delia's sold a large number of handguns in a short period of time was Charles Thompson.³⁸ According to court records, Delia's sold Thompson six 9mm Taurus handguns in the span of four months running from September 7, 2019, through January 31, 2020. The purchase of this many identical or near-identical handguns—particularly cheap, low-quality Taurus handguns with little collectible value—is strongly indicative of illegal straw purchasing.

<u>Transaction Date</u>	<u>Make/Model</u>	<u>Caliber</u>
Sept. 7, 2019	Taurus	9mm
Oct. 19, 2019	Taurus	9mm
Nov. 30, 2019	Taurus	9mm
Jan. 28, 2020	Taurus	9mm
Jan. 28, 2020	Taurus	9mm
Jan. 31, 2020	Taurus	9mm

³⁸ See Affidavit of Probable Cause at 2, *Commonwealth v. Thompson*, Case No. CP-51-CR-0004475-2021 (Phila. Cnty. Ct. of Common Pleas Feb. 14, 2020).

88. After he was arrested, Thompson told police that he was purchasing the guns for two other men in exchange for money and drugs. One of these men, identified in court filings as Philadelphia resident Nigel Smith, was only 19 years old at the time and thus prohibited from purchasing or owning a handgun.

89. According to statements that Smith gave police, he, Thompson, and a third person all went into Delia's together on January 28, 2020 and picked out two 9mm Taurus handguns that Thompson then bought. Immediately upon exiting the store, Thompson handed over the shopping bag with the two guns, at which point the trio realized that Thompson had forgotten to buy ammunition. They handed Thompson another \$40, and he went back into Delia's—apparently no longer holding the guns he had purchased only moments earlier—and Delia's sold him two boxes of 9mm bullets.

90. It should have been obvious to Delia's employees that this trio was engaged in illegal straw purchasing, particularly because Thompson had already bought identical guns on three prior occasions. And the fact that Thompson needed to be reminded by his accomplices to buy ammunition only underscores what would have been clear to any reasonable firearms dealer: that the guns and bullets were not actually for him. Yet despite Thompson's bulk and duplicative sales, and the fact that at least some were conducted in the company of an underage accomplice, Delia's still sold him the guns.

91. A few days after Thompson's transaction involving accomplices, PPD arrested him and the scheme unraveled. Officers executed a search warrant at the home of Smith—the underage Philadelphia resident—and seized a gun containing components from the two 9mm Taurus handguns purchased on January 28: a slide from the Taurus with serial number TMW78892 mounted on a frame from the Taurus with serial number TMW76023. PPD recovered that gun's

mirror image in April 2020, after being tipped off by a witness that it had been abandoned by the side of Tabor Avenue. The slide on this second gun bore the serial number TMW76023, while the frame was labeled TMW78892. In April 2021, PPD recovered a third Taurus 9mm handgun that Delia's sold Thompson, during a traffic stop of a vehicle driving aggressively. Neither the driver nor the passenger had a license to carry the gun, which had 14 live rounds and a laser sight. On information and belief, the remaining handguns that Delia's sold to Thompson remain in circulation in the community.

Delia's Sales to Other Straw Purchasers

92. Straw purchaser Emmitt M. Smith purchased seven guns in the first half of 2018 from four different gun stores including Delia's and Frank's, according to court records.³⁹ At least five of these purchases were 9mm Taurus handguns—similar if not identical to the guns that Delia's sold straw purchaser Charles Thompson. Although public filings largely omit attribution of Smith's purchases to specific stores, he purchased at least one 9mm Taurus handgun (a Taurus PT111 Millennium) at Delia's on March 30, 2018. This Taurus PT111 from Delia's is one of three handguns bought by Smith that PPD has recovered at crime scenes. The Taurus from Delia's was recovered during the execution of a search warrant in September 2019, during which two individuals (not Smith) were arrested on narcotics charges.

93. This firearm is also connected to a pair of shootings on Janney Street in the Port Richmond neighborhood just a few months earlier. On the evening of July 20, 2019, PPD officers responding to a shooting in the 3000 block of Janney Street found a 36-year-old man suffering from two gunshot wounds to the abdomen. Four nights later and just a block away, PPD officers

³⁹ See Affidavit of Probable Cause at 2-4, *Commonwealth v. Smith*, Case No. CP-51-CR-0000891-2021 (Phila. Cnty. Ct. of Common Pleas Feb. 5, 2020).

responding to reports of gunfire in the 2900 block of Janney Street located four spent 9mm casings. Forensic evidence gathered from both crime scenes linked each shooting back to the Taurus PT111 that Delia's sold to Smith in March 2018.

94. Delia's sold at least three handguns to a straw purchaser named Tyrone Gresham between December 2019 and April 2021. Gresham's purchases at Delia's were part of a larger straw purchasing operation involving at least two codefendants who collectively trafficked at least 37 firearms from around 20 Pennsylvania gun stores.⁴⁰ Gresham's purchases at Delia's include a pair of Glock handguns chambered in .40 caliber, as well as a 9mm Taurus. According to charging documents, Gresham was in close contact via text message with other accomplices during his time inside Delia's on April 29, 2021. This was a strong indicator of potential straw purchasing: As law enforcement explained in Gresham's case, "individuals involved in 'straw purchasing' firearms will sometimes communicate with the intended recipient of the firearm and other co-conspirators while in the store through their cellular devices." This is often driven by a desire to relay and/or confirm "the make, model, and price of the firearm he/she is purchasing on the other person's behalf."⁴¹ ATF likewise identifies taking and sending cell phone photos of firearms, and talking on a cell phone while browsing firearms, as indicators of potential straw purchasing. But despite Gresham's deeply suspicious in-store cell phone use, Delia's completed its transactions with him.

⁴⁰ See Affidavit of Probable Cause at 1-5, 8-9, 22-24, 46-48, *Commonwealth v. Gresham*, Case No. CP-46-CR-0004635-2021 (Montgomery Cnty. Ct. of Common Pleas July 12, 2020). Gresham purchased at least three firearms at Frank's: a Glock 23 (.40 cal) on March 8, 2021; a Glock G45 five days later on March 13, 2021, and a Glock 43 on May 4, 2021.

⁴¹ *Id.* at 48.

95. PPD recovered the Glock from Gresham's April 2021 purchase at Delia's during a traffic stop near the intersection of Kensington Avenue and East Allegheny Avenue in October 2022. Gresham was not among the vehicle's occupants, and the Glock he had bought was fitted with an extended magazine and 20 rounds of ammunition. Officers also recovered a second handgun from the vehicle, along with narcotics believed to be cocaine, unidentified pills, and crystal meth.

CAUSES OF ACTION

COUNT 1 – PUBLIC NUISANCE *(against all Defendants)*

96. Plaintiff incorporates by reference all preceding paragraphs of this complaint as if fully set forth herein, and further alleges as follows:

97. At the time Defendant Tanner's sold one or more firearms to Hutchings, Morales, Whisted, Harris Jr., Dansby, Ramirez, Patterson, and other gun traffickers, Tanner's knew, reasonably should have known, or deliberately avoided knowing that these individuals were engaged in straw purchasing, and/or dealing in firearms without a license, both of which are violations of federal and Commonwealth law.

98. At the time Defendant Frank's sold one or more firearms to Johnson, Gupton, Cooper III, Ballard, Hayes, Braxton, Prosser, Weatherbe, and other gun traffickers, Frank's knew, reasonably should have known, or deliberately avoided knowing that these individuals were engaged in straw purchasing, and/or dealing in firearms without a license, both of which are violations of federal and Commonwealth law.

99. At the time Defendant Delia's sold one or more firearms to Cipriano, Thompson, Smith, Gresham, and other gun traffickers, Delia's knew, reasonably should have known, or deliberately avoided knowing that these individuals were engaged in straw purchasing, and/or dealing in firearms without a license, both of which are violations of federal and Commonwealth law.

100. Each Defendant also failed to properly verify the identity of and request a background check on the firearms' actual buyers, made numerous false statements in required documentation and records, failed to make appropriate entries in required documentation and records, and concealed these actions from law enforcement.

101. Each Defendant is vicariously liable for the actions or inactions of its agents and/or employees while acting within the scope of their agency or employment.

102. Each Defendant's conduct in completing these transactions was in knowing violation of numerous federal and Commonwealth laws and regulations, including, but not limited to: 18 U.S.C §§ 4, 922(m), 922(t)(1), 924(a)(1)(A), and 924(a)(3); 27 C.F.R. 478.102, 478.124, 478.125(e), and 478.128; 18 PA. CONS. STAT. §§ 6111(b)(1), 6111(b)(2)-(5), 6111(g), 6113(a)(4)-(5), and 6504; and 37 PA. CODE § 33.111(b) and (d). In addition, each Defendant knowingly conspired with, or aided and abetted, straw purchasers and traffickers in knowing violation of 18 U.S.C §§ 2, 371, 922(a)(1)(A), 922(a)(6), 922(t)(1), 923(a), 924(a)(1)(A), 924(a)(3); and 27 C.F.R. 478.128(b). These knowing violations of law proximately harmed the City.

103. No defendant is licensed to manufacture firearms. On information and belief, Defendants did not manufacture the firearms at issue in the City's claims, did not sell or distribute those firearms to other FFLs, but rather sold each firearm in a retail sale to an individual who did not possess an FFL.

104. Defendants' pattern of unlawful firearms sales has created, contributed, to, and maintained a public nuisance in the City of Philadelphia. Such conduct, in and of itself, constitutes "a threat to public safety and security." 18 PA. CONST. STAT. § 6182. Furthermore, Defendants' conduct foreseeably resulted in the illegal transfer of firearms to criminals and other prohibited persons in the criminal secondary market in Philadelphia. Many of the firearms illegally sold this way by Defendants have already been recovered in Philadelphia in connection with crimes such as homicide, assault, burglary, drug trafficking, and myriad other unlawful activities that harm the City. Many of these guns had obliterated serial numbers to aid criminals in avoiding detection, others had large capacity magazines, and at least one had been modified into an illegal machine gun. Many of these illegal firearms were found on people prohibited from possessing firearms because they had criminal convictions or because they were minors.

105. Defendants' conduct in selling firearms in violation of federal and/or Commonwealth law has together created, contributed to, and maintained a public nuisance in Philadelphia that unreasonably and unjustifiably endangers, renders insecure, interferes with, and obstructs rights common to the general public. Such public nuisance harms the rights of City residents 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. It deprives the City and its residents and visitors of the peaceful use of public streets, sidewalks, parks, and other 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, Philadelphia.

106. The threat of gun violence proximately caused by Defendants' misconduct impacts how City residents and visitors choose to commute to work or to school, whether and how they

participate in community activities, and the degree to which they visit and patronize local businesses. It also affects their decisions whether or not to ultimately stay in Philadelphia, linking the City's economic future to its ability to solve this crisis.⁴² These harms are felt throughout the City, and are borne disproportionately by its Black communities.⁴³

107. The City has suffered harm and incurred substantial costs as the direct and proximate result of the Defendants' knowing violations of law and resulting nuisance. Each firearm recovered by PPD involves, at the very least, processing and tracing costs to the PPD, but often the costs are significantly larger. In fact, the City spends millions of dollars annually to respond to, investigate and prosecute gun crime, and on medical services to treat victims of gun violence. Gun violence also threatens City employees and other public servants and makes their work more dangerous. In 2020, the City government spent an estimated \$195 million in medical and criminal justice costs alone—a sum which does not account for other welfare and social services expenditure from gun violence.⁴⁴ From January 1 to November 1, 2021, gun violence cost Philadelphia \$267.4 million in victim initial hospitalization costs.⁴⁵

108. The City also spends millions of dollars annually to prevent gun violence, and to mitigate the long-term damage to communities in which it is endemic. During the 2023 fiscal year, the City of Philadelphia is spending more than \$184 million on various gun violence prevention

⁴² According to a national poll conducted in 2023, 84% of respondents said that they take at least one precaution to stay safe from the possibility of gun violence. About a third said they avoid large crowds, such as music festivals, crowded bars and clubs. 23% have avoided using public transit, 20% have considered changing the schools that their children attend, and 15% have moved to a different neighborhood or city.

⁴³ See *Philadelphia Roadmap* (reporting that Black people comprised 77% of shooting victims in Philadelphia so far in 2023, as well as 81% of victims since 2015); *Philadelphia 2022* (noting that in 2022, 78% of Black Philadelphians reported to hearing gunshots in their neighborhood, compared to 65% for the City as a whole).

⁴⁴ Jonathan Lovitz, "The Economic Imperative to Stop Gun Violence," *The Philadelphia Citizen* (August 2021) at <https://thephiladelphiacitizen.org/economic-imperative-stop-gun-violence/>.

⁴⁵ *2023 Violence Prevention Investments Update*, City of Philadelphia (2023), p. 4, at <https://www.phila.gov/media/20230302190339/2023-Violence-Prevention-Investments-Update.pdf>.

initiatives, up from \$155 million the year before.⁴⁶ This sum includes investments in community empowerment programs, career and employment training, healing for victims of gun violence and their families, prevention programs, and providing safe havens for youth and families.⁴⁷ In 2024, the City plans to increase these investments to more than \$233 million.⁴⁸

109. The public nuisance created and maintained by the Defendants also causes economic harm to the City, including lost wages of victims and the value of activities chilled by the proliferation of gun violence and other gun-related crimes. It also depresses property values, harming the City's ability to raise revenue through taxation. The City is entitled to damages incurred as a result of the nuisance, as well as injunctive relief and cost of abating the nuisance.

110. The nuisance created by Defendants' illegal conduct continues to this day, and absent abatement or other relief will continue indefinitely. Firearms sold illegally by each Defendant to straw purchasers have been used in the commission of crimes within the City. In addition, unrecovered firearms sold by each Defendant to straw purchasers remain, on information and belief, in circulation in the criminal market within the City and thereby endanger its residents and employees and necessitate the expenditure of City funds and resources to investigate, interdict, and mitigate their use in crimes within the City.

111. Each of the Defendants that has (or had) a federal firearms license was trained on how to prevent straw sales and took on the obligation to prevent such sales when they received their license. Furthermore, each Defendant knew that the foreseeable and entirely predictable result of such illegal sales is gun violence and other criminal activities that endanger the public.

⁴⁶ 2022 *Violence Prevention Investments Update*, City of Philadelphia (2022), p. 2, at <https://www.phila.gov/media/20220331094753/2022-Violence-Prevention-Investments-Update.pdf>.

⁴⁷ *Id.*

⁴⁸ 2023 *Violence Prevention Investments*, p. 3.

Yet, with a reckless indifference to the safety of others, each of the Defendants continued to engage in such sales for the sake of profit. Such conduct can only be categorized as outrageous.

112. The City has suffered harm and incurred substantial costs as the direct and proximate result of the public nuisance created and maintained by Tanner's, Frank's, and Delia's misconduct. It is entitled to damages incurred as a result of Defendants' public nuisance, as well as injunctive relief.

COUNT 2 – NEGLIGENCE
(against all Defendants)

113. Plaintiff incorporates by reference all preceding paragraphs of this complaint as if fully set forth herein, and further alleges as follows:

114. At all relevant times, Defendants were subject to the general duty imposed on all persons and entities to not expose others to reasonably foreseeable risks of injury. Each Defendant 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. Each Defendant breached this duty by selling firearms that it knew or should have known were being directly unloaded into illegal streams of commerce and into the hands of persons ineligible to possess them.

115. Each Defendant's conduct in completing these transactions was in knowing violation of numerous federal and Commonwealth laws and regulations, including, but not limited to: 18 U.S.C §§ 4, 922(m), 922(t)(1), 924(a)(1)(A), and 924(a)(3); 27 C.F.R. 478.102, 478.124, 478.125(e), and 478.128; 18 PA. CONS. STAT. §§ 6111(b)(1), 6111(b)(2)-(5), 6111(g), 6113(a)(4)-(5), and 6504; and 37 PA. CODE § 33.111(b) and (d). In addition, each Defendant knowingly conspired with, or aided and abetted, straw purchasers and traffickers in knowing violation of 18 U.S.C §§ 2, 371, 922(a)(1)(A), 922(a)(6), 922(t)(1), 923(a), 924(a)(1)(A), 924(a)(3); and 27 C.F.R. 478.128(b). These knowing violations of law proximately harmed the City.

116. Each Defendant transacted firearms business with straw purchasers and traffickers even though they knew, reasonably should have known, and/or consciously avoided knowing that these individuals were engaged in unlicensed dealing, straw purchasing, and/or firearms trafficking. Each Defendant also failed to properly verify the identity of and request a background check on the firearms' actual buyers, made numerous false statements in required documentation and records, failed to make appropriate entries in required documentation and records, and concealed these actions from law enforcement.

117. Each Defendant is vicariously liable for the actions or inactions of its agents and/or employees while acting within the scope of their agency or employment.

118. Each of the Defendants that has (or had) a federal firearms license was trained on how to prevent straw sales and took on the obligation to prevent such sales when they received their license. Furthermore, each of the Defendants knew that the foreseeable and entirely predictable result of such illegal sales is gun violence and other criminal activities that endanger the public. Yet, with a reckless indifference to the safety of others, each of the Defendants continued to engage in such sales for the sake of profit. Such conduct can only be categorized as outrageous.

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

COUNT 3 – NEGLIGENCE PER SE
(against all Defendants)

120. Plaintiff incorporates by reference all preceding paragraphs of this complaint as if fully set forth herein, and further alleges as follows:

121. At all relevant times, Defendants were subject to a variety of legal obligations under Commonwealth and Federal law concerning the operation of their retail firearms businesses. These duties are imposed by a range of statutes, including but not limited to, 922(a)(1)(A), 922(a)(6), 922(m), 922(t)(1), 923(a), 924(a)(1)(A), and 924(a)(3); 27 C.F.R. 478.102, 478.124, 478.125(e), and 478.128; 18 PA. CONS. STAT. §§ 6111(b)(1), 6111(b)(2)-(5), 6111(g), 6113(a)(4)-(5), and 6504; and 37 PA. CODE § 33.111(b) and (d).

122. The above laws and regulations are intended to curb firearm crime, prevent access to firearms by persons prohibited from possessing them, and protect public safety. These laws and regulations were designed to prevent illegal dealing in firearms by directing firearms commerce through businesses licensed by the federal government. These laws and regulations impose obligations on licensed dealers and manufacturers to further the laws' and regulations' purposes.

123. The City and its residents are within the class of persons meant to be protected by these laws and regulations. And the injury to the City is of the nature that these laws and regulations were designed to prevent. In addition to City residents, law enforcement and other frontline City agencies and employees who work to respond to and address gun violence are among the class of persons directly exposed to the risk of gun violence and are among the intended beneficiaries of these laws and regulations.

124. Each Defendant sold and/or transferred firearms to individuals that it knew, reasonably should have known, or deliberately avoided knowing at the time of each transaction, were engaged in straw purchasing, and/or dealing in firearms without a license, both of which are violations of federal and Commonwealth law. In doing so, each Defendant violated its own legal obligation not to engage in such transactions, in violation of one or more of the aforementioned statutes and regulations. Each Defendant further breached its legal duties under these statutes and

regulations by failing to properly verify purchaser identity, failing to request and obtain a completed background check on the actual buyer of a firearm, making false statements in required documentation and records, and failing to make appropriate entries in required documentation and records. Each Defendant's breach of these duties constituted negligence per se.

125. Each of the Defendants that has (or had) a federal firearms license was trained on how to prevent straw sales and took on the obligation to prevent such sales when it received its license. Furthermore, each of the Defendants knew that the foreseeable and entirely predictable result of such illegal sales is gun violence and other criminal activities that endanger the public. Yet, with a reckless indifference to the safety of others, each of the Defendants continued to engage in such sales for the sake of profit. Such conduct can only be categorized as outrageous.

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

COUNT 4 – NEGLIGENT ENTRUSTMENT
(against all Defendants)

127. Plaintiff incorporates by reference all preceding paragraphs of this complaint as if fully set forth herein, and further alleges as follows:

128. Each Defendant sold and/or transferred firearms to individuals that it knew, or reasonably should have known at the time of the transaction, were engaged in straw purchasing, and/or dealing in firearms without a license, both of which are violations of federal and Commonwealth law.

129. Each Defendant 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.

130. Each Defendant had possession and control of the firearms that it transferred or caused to be transferred to these individuals.

131. Each Defendant knew or should have known that its employees and agents, who effectuated these firearms transfers to those individuals, 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.

132. Each Defendant, by its employee and agents, knew or should have known that firearms transferred to these individuals, 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.

133. Many of the firearms Defendants negligently entrusted to these traffickers and straw purchasers have foreseeably been recovered in the possession of prohibited possessors in Philadelphia, while many others are still unaccounted for.

134. Defendants' negligent entrustment of firearms to traffickers has proximately caused harm to the City. Firearms negligently entrusted by each Defendant to straw purchasers have caused harm to the City. This includes, but is not limited to: (1) a Glock 23 sold by Delia's to straw purchaser Tyrone Gresham on April 29, 2021 that was recovered by PPD on October 27, 2022 and, upon information and belief, was used in the facilitation of drug distribution within the City; (2) a Glock 26 sold by Frank's to straw purchaser Robert Otis Cooper III on June 21, 2021 that was recovered by PPD on October 22, 2021 during the investigation of a shooting that required a significant response from the City; and (3) a Glock 17 sold by Tanner's to Joshua Morales on

July 30, 2020 that was recovered on November 4, 2021, during which time PPD officers had to put themselves in harm's way in response to an armed individual experiencing a mental health crisis.

135. Each of the Defendants that has (or had) a federal firearms license was trained on how to prevent straw sales and took on the obligation to prevent such sales when it received its license. Furthermore, each of the Defendants knew that the foreseeable and entirely predictable result of such illegal sales is gun violence and other criminal activities that endanger the public. Yet, with a reckless indifference to the safety of others, each of the Defendants continued to engage in such sales for the sake of profit. Such conduct can only be categorized as outrageous.

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

COUNT 5 – VIOLATION OF 18 PA. CONS. STAT. § 6111(G)(6)
(against all Defendants)

137. Plaintiff incorporates by reference all preceding paragraphs of this complaint as if fully set forth herein, and further alleges as follows:

138. At all relevant times WRT Management, Inc. f/k/a Tanner's Sport Shop Inc., Frank's Gun Shop & Shooting Range LLC, and Mad Minute Enterprises, LLC, were or are licensed dealers in firearms within the meaning of the Pennsylvania Uniform Firearms Act. Each of these Defendants and their employees are also persons within the meaning of this statute.

139. At the time Defendant Tanner's sold one or more firearms to Hutchings, Morales, Whisted, Harris Jr., Dansby, Ramirez, Patterson, and other straw purchasers, Tanner's knew, had reason to believe, or deliberately avoided knowing that these individuals were engaged in straw purchasing, and/or dealing in firearms without a license, and were not the actual purchasers of the guns. Therefore, such sales were made in violation of 18 PA. CONS. STAT. § 6111. Tanner's sales

to these individuals were knowing and intentional. Tanner's also knew, had reason to believe or deliberately avoided knowing that such firearms acquired by straw purchasers would be used in the commission or attempted commission of crimes, including, but not limited to, the straw-purchasing and trafficking of such firearms. As such, Tanner's is liable for the harms the City sustained as a result of such crimes or attempted crimes.

140. At the time Defendant Frank's sold one or more firearms to Johnson, Gupton, Ballard, Hayes, Braxton, Johnson, Prosser, Weatherbe, and other straw purchasers, Frank's knew, had reason to believe, or deliberately avoided knowing that these individuals were engaged in straw purchasing, and/or dealing in firearms without a license, and were not the actual purchasers of the guns. Therefore, such sales were made in violation of 18 PA. CONS. STAT. § 6111. Frank's sales to these individuals were knowing and intentional. Frank's also knew, had reason to believe, or deliberately avoided knowing that such firearms acquired by straw purchasers would be used in the commission or attempted commission of crimes, including, but not limited to, the straw-purchasing and trafficking of such firearms. As such, Frank's is liable for the harms the City sustained as a result of such crimes or attempted crimes.

141. At the time Defendant Delia's sold one or more firearms to Cipriano, Thompson, Smith, Gresham, and other straw purchasers, Delia's knew, had reason to believe, or deliberately avoided knowing that these individuals were engaged in straw purchasing, and/or dealing in firearms without a license, and were not the actual purchasers of the guns. Therefore, such sales were made in violation of 18 PA. CONS. STAT. § 6111. Delia's sales to these individuals were knowing and intentional. Delia's also knew, had reason to believe or deliberately avoided knowing that such firearms acquired by straw purchasers were intended to be used in the commission or attempted commission of crimes, including, but not limited to, the straw-purchasing and trafficking

of such firearms. As such, Delia's is liable for the harms the City sustained as a result of such crimes or attempted crimes.

142. Each Defendant knowingly and intentionally sold and delivered one or more firearms to the aforementioned straw purchasers in violation of provisions of Chapter 61 of Title 18, Pennsylvania Consolidated Statutes, including but not limited to: 18 PA. CONS. STAT. §§ 6111(b)(1), 6111(b)(2)-(5), 6111(g), and 6113(a)(4)-(5).

143. Straw purchasers buy guns in order to engage in the criminal activity of gun trafficking and/or dealing in firearms without a license. As alleged throughout this complaint, gun trafficking harms the City by contributing to gun violence and other gun-related crimes therein. As such, the City and its residents have been injured as a proximate result of criminal activities and attempted criminal activities reasonably foreseen by each Defendant at the time that it knowingly and intentionally sold firearms to the aforementioned straw purchasers.

144. Each of the Defendants that has (or had) a federal firearms license was trained on how to prevent straw sales and took on the obligation to prevent such sales when it received its license. Furthermore, the Defendants knew that the foreseeable and entirely predictable result of such illegal sales is gun violence and other criminal activities that endanger the public. Yet, with a reckless indifference to the safety of others, each of these Defendants continued to engage in such sales for the sake of profit. Such conduct can only be categorized as outrageous.

145. The City is entitled to recover these 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 Defendants enjoining them from continuing to maintain a public nuisance, as alleged in Count I above, and requiring them to abate such nuisance by:

1. Ordering Frank's and Delia's to submit to supervision by a court-appointed special master(s) for a period of five years or longer if deemed necessary by the Court, the responsibilities of whom shall include, *inter alia*, monitoring of such Defendant'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 such Defendant;
2. Ordering Frank's and Delia's to retain all trace requests received from 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 ATF;
3. Ordering Frank's and Delia's to require mandatory training of all personnel by a court-approved training entity, with the costs of that training to be borne by such Defendant;
4. Ordering Frank's and Delia's to adopt and enforce written policies to identify and prevent straw purchasing;
5. Ordering each Defendant to take corrective action to identify and assist in recovering the remaining firearms that were sold to or through persons

identified as straw purchasers, and others identified as transferees of firearms from each Defendant as stated herein;

6. Ordering Frank's and Delia's to post bonds in amounts to be determined by the Court, which must be forfeited in the event of future violations by such Defendant; and
7. Ordering each Defendant to pay into an abatement fund a sum that the Court deems just and proper for addressing the continuing harms caused by the nuisance that Defendants have created;

B. Award the City with costs it has incurred abating the public nuisance set forth in this Complaint;

C. Award the City with a reasonable sum of money that will fairly compensate it for the damages it has suffered;

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

E. Award the City punitive and exemplary damages;

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

G. Grant such other relief as the Court may deem just, equitable, or proper.

JURY DEMAND

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

Dated: October 31, 2023

DIANA P. CORTES
City Solicitor
Of the City of Philadelphia

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By: Renee M. Garcia, Chair, Litigation
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**ATTORNEYS FOR PLAINTIFF
CITY OF PHILADELPHIA**

VERIFICATION

I, Cheryl Bettigole, M.D., M.P.H. hereby verify that:

1. I serve as the Health Commissioner for the City of Philadelphia;
2. I am authorized to make this verification on behalf of the City;
3. I hereby verify that the averments contained in the foregoing Complaint are true and correct to the best of my knowledge, information, and belief; and
4. I understand that I make the foregoing statements subject to the penalties of 18 PA. CONS. STAT. § 4904 (relating to unsworn falsification to authorities).

Dated: October 31, 2023



Cheryl Bettigole, M.D., M.P.H., Health Commissioner
City of Philadelphia Department of Public Health

Certification Due Date: 09/12/2024
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CERTIFICATE OF SERVICE

I, Renee Garcia, hereby certify that on the date indicated below, the foregoing document was filed on the First Judicial District of Pennsylvania's electronic filing system. Pursuant to Pennsylvania Rule of Civil Procedure 205.4(g)(2), service was completed when the filing was accepted by the Prothonotary upon all parties who have entered their appearance on the electronic filing system, that is, Defendants Frank's Gun Shop & Shooting Range LLC; Mad Minute Enterprises, LLC d/b/a Delia's Gun Shop; and Delia's Gun Shop, Inc.

Defendant WRT Management, Inc. f/k/a Tanner's Sport Center Inc. will be served as provided by the Rules and proof of service will be filed when service is complete.

DATE: October 31, 2023

BY: /s/ Renee M. Garcia
Renee M. Garcia
Chair, Litigation
Philadelphia Law Department

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EXHIBIT B

Certification Due Date: 09/12/2024
Response Date: 09/19/2024
Case ID: 230702394
Control No.: 24090925

**FIRST JUDICIAL DISTRICT OF PENNSYLVANIA
IN THE COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY**

CITY OF PHILADELPHIA, a municipal
corporation,

Plaintiff,

v.

WRT MANAGEMENT, INC., f/k/a
TANNER'S SPORT CENTER INC.,
FRANK'S GUN SHOP & SHOOTING
RANGE LLC, MAD MINUTE
ENTERPRISES, LLC d/b/a DELIA'S GUN
SHOP, and DELIA'S GUN SHOP, INC.

Defendants.

CIVIL DIVISION

Case No. 230702394

**PLAINTIFF'S FIRST SET OF REQUESTS FOR PRODUCTION OF DOCUMENTS TO
DEFENDANT FRANK'S GUN SHOP & SHOOTING RANGE LLC**

Pursuant to Pennsylvania Rules of Civil Procedure 4003.1, 4009.1, and 4009.11, Plaintiff City of Philadelphia hereby requests that Defendant Frank's Gun Shop & Shooting Range LLC produce all documents responsive to the following Requests for Production (the "Requests") at the offices of Kramer Levin Naftalis & Frankel, 1177 Avenue of the Americas, New York, New York 10036, within thirty (30) days of service.

DEFINITIONS

1. "Communications" means all oral or written exchanges of information and any responses thereto, including any documents consisting of or reflecting any correspondence, in-person, telephonic, or virtual conversations or meetings, emails, text messages, instant messages, chat messages, encrypted communications via Signal, We Chat, WhatsApp,

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Telegram or any other encrypted messaging application, facsimiles, voicemail messages, recordings of telephone or in-person conversations, blog posts, and social media messages and posts.

2. “Documents” means all written or graphic matter of every kind or description, however produced or reproduced, whether draft or final, original or reproduction, signed or unsigned, and regardless of whether approved, signed, sent, received, redrafted, or executed, including but not limited to: written communications, letters, correspondence, facsimiles, email, memoranda, minutes, notes, films, recordings, of any type, transcripts, contracts, agreements, purchase or sales orders, memoranda of telephone conversations of personal conversations, diaries, desk calendars, interoffice communications, reports, studies, bills, receipts, checks, checkbooks, invoices, requisitions or material similar to any of the foregoing however denominated, by whomever prepared, and to whomever addressed, which are in your possession, custody or control or to which you have had or can obtain access.
3. “Identify” means:
 - a. when used with respect to an individual, means to state their (1) name; (2) business affiliation and official title and/or position; and (3) last known residential and business address.
 - b. when used with respect to a document, means to state (1) the type of document (e.g. letter, memorandum, hand-written note, facsimile, e-mail); (2) its date of origin or creation; (3) its author and addressee; (4) its last known custodian or locations; and (5) a brief description of its subject matter and size. In lieu of identifying any

document(s), you may attach a copy of it to your answer, indicating the question to which it is responsive.

- c. when used with respect to a company or other business entity, means to state, (1) the company's legal name, any former names, and the name under which it trades or does business (2) the address of its principal place of business; and (3) the identity of its chief executive officer.
- 4. "Person" means an individual, corporation, partnership, trust, association, company, organization, or any form of a business or commercial entity.
- 5. "Relate to" means consist of, refer to, reflect or be in any way logically connected with the matter discussed.
- 6. "You" or "Your" refers to Frank's Gun Shop & Shooting Range LLC and to all other persons acting or purporting to act on behalf of Frank's Gun Shop & Shooting Range LLC, including agents and employees.
- 7. "ATF" refers to the U.S. Department of Justice Bureau of Alcohol, Tobacco, Firearms and Explosives, and the Alcohol, Tobacco, Firearms and Explosives Philadelphia Field Division.
- 8. "And" and "Or" shall be construed either disjunctively or conjunctively, as necessary to bring within the scope of the discovery request all responses that might otherwise be construed to be outside of its scope. The term "each" shall be construed to include the word "every," and "every" shall be construed to include the word "each." The term "any" shall be construed to include the word "all," and "all" shall be construed to include the word "any."

9. As used herein, the terms “refer” or “relate to” shall mean consisting of, reflecting, referring to, concerning, regarding, supporting, involving, evidencing, constituting, purporting, embodying, establishing, comprising, commenting on, responding to, describing, discussing, or in any way having a legal, logical, evidential, or factual connection with (whether to support or to rebut) the subject matter designated in the Request. A request that “refers” or “relates to” a specified subject matter always shall include notes and memoranda (whenever prepared) relating to the subject matter of the request.
10. “Frank’s Straw Purchasers” shall mean Johnnie Ballard, Khalil Hayes, Sakinah Braxton, Robert Otis Cooper III, Morgan Johnson, Kevin Gupton, Nafissa Prosser, Dominick Weatherbe, Amal Samuels, Bryan Johnson, Dajuan Coffee, Carmella Logan, Kevin Logan, Larry Williams, Malik Rowell-Jernigan, Mercedes Kinderlan, Rayshaun James, Jamie Landis, Anthony Brophy, Nick Palmer, Tyrone Gresham, Emmit Smith, Gregg Dreghorn, Carlos Rosario-Figueroa, Vaishuan Convington, and Tyrone Dansby.

SCOPE

Except where otherwise indicated, these Requests cover the period from January 1, 2018 to the present (the “Relevant Time Period”). If an otherwise responsive Document was created or transmitted prior to the Relevant Time Period, but concerns facts that occurred and/or policies that were in effect during the Relevant Time Period, it should be produced. These Requests are of a continuing nature, requiring You to amend or supplement responses, which may be acquired by You, Your attorneys, investigators, agents or others employed by or acting in Your behalf, following the original responses.

INSTRUCTIONS

1. The Requests extend to all Documents in your possession, custody, or control. In responding to these Requests, You are directed to search for responsive Documents in all potentially relevant locations.
2. No Request should be interpreted as an implicit or explicit restriction on any other Request, except that Documents responsive to more than one Request need be produced only once.
3. You are to produce all responsive Documents prepared, sent, or received, in whole or part.
4. For each Request, responsive Documents are to be produced and identified by Bates number.
5. For each Request, if You are unable to produce the requested documents in full or in part, please explain why You are unable to produce those requested documents.
6. In the event that more than one copy of a Document exists, produce every copy on which there appears any notation or marking of any sort not appearing on any other copy (including routing or filing instructions) or any copy containing different attachments from any other copy.
7. Pursuant to Pennsylvania Rule of Civil Procedure 4007.4(2), You are under a duty to seasonably amend any of your responses to these Requests if You obtain information upon the basis of which You know the response was incorrect when made or, though correct when made, is no longer true.
8. If You contend that You are entitled to withhold any requested Documents on the basis of privilege, identify the privilege claimed and state the basis for that claim, identifying the pertinent circumstances with sufficient specificity to permit the court to assess the applicability of the privilege. If You claim that the Document requested relates to privileged communication, identify (a) the nature of the communication; (b) the

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participants; (c) the identities of all other persons who were present or who otherwise received or had access to the communication; (d) the date and place of the communication; (e) the subject matter of the communication; and (f) the basis for your claim of privilege.

If You, for any reason, including the assertion of privilege, withhold information or Documents responsive to any part of any Request, respond to any part of the Request which is not alleged to be objectionable.

9. To the extent You object to any of the Requests below and refuse to produce any requested information or Documents, You should produce any responsive information or Documents that are not objectionable and explain the grounds for each objection with specificity.
10. The Requests shall operate and be construed independently and shall not be limited by any other Request, except that documents responsive to more than one Request need be produced only once.
11. The production of similar or identical Documents or Communications by another party or third party does not alleviate the requirement for You to produce all Documents and Communications responsive to these Requests.
12. If you encounter any ambiguity in construing a Request, You shall make Your best effort to interpret the Request reasonably and shall respond to all portions that You are able to respond to, as well as set forth the matter deemed ambiguous and the construction or interpretation chosen or used in responding.

REQUESTS FOR PRODUCTION

REQUEST FOR PRODUCTION NO. 1: All Documents reflecting Your transaction records from the Relevant Time Period, relating to any transaction involving any of the Frank's Straw Purchasers, including but not limited to: acquisition and disposition records, ATF Form

4473s, Pennsylvania State Police Form SP4-113s, records of multiple sales, invoices, orders, shipping labels, receipts, and recordings.

REQUEST FOR PRODUCTION NO. 2: Documents sufficient to show all customer profiles of the Frank's Straw Purchasers.

REQUEST FOR PRODUCTION NO. 3: Documents sufficient to show how You maintain acquisition and disposition records, transaction records, and/or customer records, including manuals for electronic databases or point of sale systems, including but not limited to Your formal or informal policies.

REQUEST FOR PRODUCTION NO. 4: All Documents that You or any of Your employees, owners, or other representatives sent to or shared with ATF, the Philadelphia Police Department, the Philadelphia Sheriff's Office, the Pennsylvania State Police, or any other Pennsylvania law enforcement agency during the Relevant Time Period concerning any of the Frank's Straw Purchasers, or any person to whom these individuals are known to have provided a firearm purchased from You.

REQUEST FOR PRODUCTION NO. 5: All Communications that You or any of Your employees, owners, or other representatives had during the Relevant Time Period with ATF, the Philadelphia Police Department, the Philadelphia Sheriff's Office, the Pennsylvania State Police, or any other Pennsylvania law enforcement agency concerning any of the Frank's Straw Purchasers, or any person to whom these individuals are known to have provided a firearm purchased from You.

REQUEST FOR PRODUCTION NO. 6: All Communications that You or any of Your employees, owners, or other representatives had during the Relevant Time Period with ATF, the

Philadelphia Police Department, the Philadelphia Sheriff's Office, the Pennsylvania State Police, or any other Pennsylvania law enforcement agency concerning:

- a) Actual, planned, or attempted straw purchasing of firearms by residents of Philadelphia;
- b) Actual, planned, or attempted straw purchasing of firearms on behalf of or intended for transfer to individuals or criminal organizations located in Philadelphia;
- c) Actual, planned, or attempted trafficking of firearms into Philadelphia;
- d) Any sting operation involving the actual, planned, or attempted purchase of a firearm, firearm component, firearm accessory, or ammunition at Frank's;
- e) The recovery in Philadelphia of any firearm sold or transferred by Frank's.

REQUEST FOR PRODUCTION NO. 7: All Communications during the Relevant Time Period that You or any of your employees, owners, or other representatives had with any of the Frank's Straw Purchasers or any person to whom these individuals are known to have provided a firearm purchased from You, or that concern discussions about any of these individuals.

REQUEST FOR PRODUCTION NO. 8: All video surveillance for April 30, 2018, September 20, 2018, September 21, 2018, February 20, 2019, June 21, 2020, June 25, 2020, July 2, 2020, July 9, 2020, July 12, 2020, July 15, 2020, July 25, 2020, July 29, 2020, August 7, 2020, August 14, 2020, August 20, 2020, August 21, 2020, September 5, 2020, December 26, 2020, March 8, 2021, March 13, 2021, May 4, 2021, June 21, 2021, June 29, 2021, July 8, 2021, July 9, 2021, July 17, 2021, July 24, 2021, August 2, 2021, August 16, 2021, August 23, 2021, August 24, 2021, October 25, 2021, November 22, 2021, and December 18, 2021.

REQUEST FOR PRODUCTION NO. 9: All trace requests You received from ATF for firearms sold to the Frank's Straw Purchasers.

REQUEST FOR PRODUCTION NO. 10: All Documents reflecting audits, inspections, reports, notices, reports of violations, warning letters, and warning conference letters that You received from ATF or the U.S. Department of Justice during the Relevant Time Period. This request shall include, but not be limited to:

- a) Any notices of violations of any law or regulations;
- b) All Firearms Inspection Reports, Firearms Qualification Reports, memos, and any other communications issued by ATF;
- c) Notice(s) of license suspension or revocation, denial(s) of license application, and/or notice(s) of fine(s); or
- d) Communications with ATF or the U.S. Department of Justice concerning any of the above.

REQUEST FOR PRODUCTION NO. 11: All Communications that You or any of Your employees, owners, or other representatives had during the Relevant Time Period with ATF regarding your involvement in ATF's Demand 2 Program, as well as any reports You had to submit as a result.

REQUEST FOR PRODUCTION NO. 12: Documents sufficient to show Your formal or informal policy during the Relevant Time Period concerning working with or cooperating with law enforcement and/or reporting suspicious activity to any law enforcement agency.

REQUEST FOR PRODUCTION NO. 13: Documents sufficient to show Your formal or informal policies —and trainings attended by any of Your employees, owners or other representatives—during the Relevant Time Period concerning compliance with federal, state, and local firearms laws, suspicious conduct or behavior concerning purchases or attempted purchases

of firearms, multiple purchases of firearms, denied sales of firearms, and detecting or preventing straw purchasing of firearms or trafficking of firearms.

REQUEST FOR PRODUCTION NO. 14: All Communications during the Relevant Time Period concerning compliance with federal, state, and local firearms laws, suspicious conduct or behavior in connection with purchases or attempted purchased of firearms, multiple purchases of firearms, and detecting or preventing straw purchasing or trafficking of firearms.

REQUEST FOR PRODUCTION NO. 15: All Documents reflecting instances during the Relevant Time Period in which any of Your employees, owners, or other representatives failed to comply, and/or was reprimanded or disciplined for failing to comply, with company policies or regulations pertaining to the acquisition and disposition of firearms or with federal, state, or local firearms laws.

REQUEST FOR PRODUCTION NO. 16: All Documents that support or concern Your claims or defenses.

REQUEST FOR PRODUCTION NO. 17: All Documents You identified or relied on in response to Plaintiff's First Set of Interrogatories to Defendant Frank's Gun Shop & Shooting Range LLC.

DATED this 5th day of March, 2024.

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CERTIFICATE OF SERVICE

I, James E. Miller, hereby certify that on the date below, I served the foregoing First Set of Requests for Production of Documents to Defendant Frank's Gun Shop & Shooting Range LLC on the following counsel by electronic mail:

Walter S. Zimolong, Esq. wally@zimolonglaw.com	James J. Fitzpatrick, Esq. James@zimolonglaw.com
--	--

Dated: March 5, 2024

/s/ James E. Miller
EVERYTOWN LAW

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Case ID: 230702394
Control No.: 24090925

**FIRST JUDICIAL DISTRICT OF PENNSYLVANIA
IN THE COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY**

CITY OF PHILADELPHIA, a municipal
corporation,

Plaintiff,

v.

WRT MANAGEMENT, INC., f/k/a
TANNER'S SPORT CENTER INC,
FRANK'S GUN SHOP & SHOOTING
RANGE LLC, MAD MINUTE
ENTERPRISES, LLC d/b/a DELIA'S GUN
SHOP, and DELIA'S GUN SHOP, INC.

Defendants.

CIVIL DIVISION

Case No. 230702394

**PLAINTIFF'S FIRST SET OF INTERROGATORIES TO
DEFENDANT FRANK'S GUN SHOP & SHOOTING RANGE LLC**

Pursuant to Pennsylvania Rules of Civil Procedure 4005, Plaintiff City of Philadelphia hereby requests that Defendant Frank's Gun Shop & Shooting Range LLC respond to the following interrogatories in writing, under oath, and within thirty (30) days of service.

DEFINITIONS

1. "Communications" means all oral or written exchanges of information and any responses thereto, including any documents consisting of or reflecting any correspondence, in-person, telephonic, or virtual conversations or meetings, emails, text messages, instant messages, chat messages, encrypted communications via Signal, We Chat, WhatsApp, Telegram or any other encrypted messaging application, facsimiles, voicemail messages,

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recordings of telephone or in-person conversations, blog posts, and social media messages and posts.

2. “Documents” means all written or graphic matter of every kind or description, however produced or reproduced, whether draft or final, original or reproduction, signed or unsigned, and regardless of whether approved, signed, sent, received, redrafted, or executed, including but not limited to: written communications, letters, correspondence, facsimiles, email, memoranda, minutes, notes, films, recordings, of any type, transcripts, contracts, agreements, purchase or sales orders, memoranda of telephone conversations of personal conversations, diaries, desk calendars, interoffice communications, reports, studies, bills, receipts, checks, checkbooks, invoices, requisitions or material similar to any of the foregoing however denominated, by whomever prepared, and to whomever addressed, which are in your possession, custody or control or to which you have had or can obtain access.
3. “Identify” means:
 - a. when used with respect to an individual, means to state their (1) name; (2) business affiliation and official title and/or position; and (3) last known residential and business address.
 - b. when used with respect to a document, means to state (1) the type of document (e.g. letter, memorandum, hand-written note, facsimile, e-mail); (2) its date of origin or creation; (3) its author and addressee; (4) its last known custodian or locations; and (5) a brief description of its subject matter and size. In lieu of identifying any document(s), you may attach a copy of it to your answer, indicating the question to which it is responsive.

- c. when used with respect to a company or other business entity, means to state, (1) the company's legal name, any former names, and the name under which it trades or does business (2) the address of its principal place of business; and (3) the identity of its chief executive officer.
4. "Person" means an individual, corporation, partnership, trust, association, company, organization, or any form of a business or commercial entity.
5. "Relate to" means consist of, refer to, reflect or be in any way logically connected with the matter discussed.
6. "You" or "Your" refers to Frank's Gun Shop & Shooting Range LLC and to all other persons acting or purporting to act on behalf of Frank's Gun Shop & Shooting Range LLC, including agents and employees.
7. "ATF" refers to the U.S. Department of Justice Bureau of Alcohol, Tobacco, Firearms and Explosives, and the Alcohol, Tobacco, Firearms and Explosives Philadelphia Field Division.
8. "And" and "Or" shall be construed either disjunctively or conjunctively, as necessary to bring within the scope of the discovery request all responses that might otherwise be construed to be outside of its scope. The term "each" shall be construed to include the word "every," and "every" shall be construed to include the word "each." The term "any" shall be construed to include the word "all," and "all" shall be construed to include the word "any."
9. As used herein, the terms "refer" or "relate to" shall mean consisting of, reflecting, referring to, concerning, regarding, supporting, involving, evidencing, constituting, purporting, embodying, establishing, comprising, commenting on, responding to,

describing, discussing, or in any way having a legal, logical, evidential, or factual connection with (whether to support or to rebut) the subject matter designated in the Request. A request that “refers” or “relates to” a specified subject matter always shall include notes and memoranda (whenever prepared) relating to the subject matter of the request.

10. “Frank’s Straw Purchasers” shall mean Johnnie Ballard, Khalil Hayes, Sakinah Braxton, Robert Otis Cooper III, Morgan Johnson, Kevin Gupton, Nafissa Prosser, Dominick Weatherbe, Amal Samuels, Bryan Johnson, Dajuan Coffee, Carmella Logan, Kevin Logan, Larry Williams, Malik Rowell-Jernigan, Mercedes Kinderlan, Rayshaun James, Jamie Landis, Anthony Brophy, Nick Palmer, Tyrone Gresham, Emmit Smith, Gregg Dreghorn, Carlos Rosario-Figueroa, Vaishuan Convington, and Tyrone Dansby.

INSTRUCTIONS

1. Unless otherwise stated herein, these Requests cover the time period from January 1, 2018 to the present (the “Relevant Time Period”).
2. Please answer the following interrogatories with all information in Your possession, custody, or control.
3. In answering the following interrogatories, please furnish all nonprivileged information available to You, including information possessed by Your attorneys, or agents of either You or Your attorneys.
4. All interrogatories must be answered completely, in writing, and under oath and signed by the Person providing the answer. If any interrogatory cannot be answered completely after exercising reasonable due diligence, the Person providing the answer shall furnish as complete an answer as possible and then explain in detail the reason a full answer cannot

be given, which shall include a statement indicating what is needed in order to be able to give a full answer to the interrogatory.

5. When an interrogatory asks You to identify, list, describe, or provide information about certain documents, You may attach those documents to Your response to the interrogatory instead of identifying, listing, describing, or providing information about those documents.
6. In accordance with Pennsylvania Rule of Civil Procedure 4007.4(2), You are under a duty to seasonably amend any of your responses to these interrogatories if You obtain information upon the basis of which You know the response was incorrect when made or, though correct when made, is no longer true.
7. If You contend that You are entitled to withhold a response to any interrogatory on the basis of privilege, identify the privilege claimed and state the basis for that claim, identifying the pertinent circumstances with sufficient specificity to permit the court to assess the applicability of the privilege. If You claim that the interrogatory relates to privileged communication, identify (a) the nature of the communication; (b) the participants; (c) the identities of all other persons who were present or who otherwise received or had access to the communication; (d) the date and place of the communication; (e) the subject matter of the communication; and (f) the basis for your claim of privilege. If You, for any reason, including the assertion of privilege, withhold information responsive to any part of any interrogatory, respond to any part of the interrogatory which is not alleged to be objectionable.
8. Whenever in answer to these interrogatories You refer to an act or action, omission, meeting, conference, discussion, conversation, oral statement, occurrence, happening, instance, or event, You are to provide a full description thereof, including a statement:

- a. setting forth its substance;
 - b. setting forth the date and place thereof;
 - c. identifying each oral communication involved and each Document that refers to or which was prepared or made during the course thereof or as a consequence thereof; and
 - d. identifying all Persons who were witnesses or participants.
9. To the extent You object to any parts of the interrogatories below and refuse to answer on the basis of that objection, You should provide answers to those parts of the interrogatory that are not objectionable and explain the grounds for each objection with specificity.
10. Another party's or third party's responses to any interrogatories does not alleviate the requirement for You to answer these interrogatories.
11. If you encounter any ambiguity in construing an interrogatory, You shall make Your best effort to interpret the interrogatory reasonably and shall respond to all portions that You are able to respond to, as well as set forth the matter deemed ambiguous and the construction or interpretation chosen or used in responding.
12. Whenever an interrogatory calls for information with respect to "each" one of a particular type or class of matters, events, Persons, or entities, of which there is more than one, You are required to separately list, set forth, or Identify for each thereof all of the information requested.
13. The interrogatories shall operate and be construed independently and shall not be limited by any other interrogatory.

INTERROGATORIES

INTERROGATORY NO. 1: Identify the name, address, and phone number of each person involved in providing information to respond to these interrogatories.

INTERROGATORY NO. 2: For each firearm or ammunition transaction that You conducted with any of the Frank's Straw Purchasers, identify the date, the transferor and transferee and (i) for a firearm, the make, model, and serial number of that firearm, or (ii) for ammunition, the brand, caliber, and quantity of ammunition.

INTERROGATORY NO. 3: State whether any employee, owner, or other representative of Frank's spoke in-person or telephonically, or communicated by text message, email, or other electronic communication, during the Relevant Time Period, with any of the Frank's Straw Purchasers or any other person to whom any of these individuals transferred a firearm that they purchased or otherwise obtained from You, and for each such communication list the date, location, means of communication, Frank's employee(s), owner(s), and representative(s) involved, and the subject matter of the communication.

INTERROGATORY NO. 4: State whether any employee, owner, or other representative of Frank's spoke in person or telephonically, or communicated by text message, email, or other electronic communication, during the Relevant Time Period, with an employee, agent, or other representative of the ATF, Philadelphia Police Department, the Philadelphia Sheriff's Office, the Pennsylvania State Police, the Pennsylvania Attorney General's Office, or any other Pennsylvania law enforcement agency concerning actual, planned, or attempted straw purchasing of firearms at Frank's, or about any of the Frank's Straw Purchasers, and for any such communication list the date, means of communication, Frank's employee(s), owner(s), and representative(s) involved, other person(s) involved, and the subject matter of the communication.

INTERROGATORY NO. 5: State whether You conducted any investigation into any of the Frank's Straw Purchasers or Your firearms transactions with any of them, and, if so, identify (1) the date that investigation was commenced, (2) the individual(s) who conducted the investigation, and (3) state whether that investigation resulted in any written notes, summary, or report.

INTERROGATORY NO. 6: Identify the number of firearm trace requests You received annually from ATF during the Relevant Time Period, the location where and manner how those trace requests are stored, and, for any trace request that involved a firearm transferred to any of the Frank's Straw Purchasers, the date such trace request was received by You.

INTERROGATORY NO. 7: Describe any policies that You had in place during the Relevant Time Period related to preventing the trafficking of firearms or straw purchasing.

INTERROGATORY NO. 8: Identify any trainings that any of Your employees, owners, or other representatives conducted or attended, during the Relevant Time Period, related to federal and/or state firearms laws, firearms trafficking, or straw purchases, or that were conducted by ATF or any state or local law enforcement agency.

INTERROGATORY NO. 9: Identify the name, title, and duties of each of Your employees, managers, officers, owners, agents, contractors, volunteers or other representatives, during the Relevant Time Period.

INTERROGATORY NO. 10: Identify the account holder, phone number, and service provider for each telephone number used to conduct Your business – including any personal telephone numbers for Your employees, owners, or other representatives – during the Relevant Time Period; for each account, state the dates during which the account was active and the person(s) who used such account or telephone number.

INTERROGATORY NO. 11: Identify every list-serve, message board, website advertising, or firearms sales brokering website You used, during the Relevant Time Period, to advertise or conduct business relating to firearms; for each listed site, identify the name or username associated with the account, the URL or name of the list-serve or message board or website, the email address associated with the account, the dates You maintained the account, and state whether that account is still active.

INTERROGATORY NO. 12: Identify the name, address, and phone number of each person from whom You have obtained an affidavit or other statement, written or recorded, concerning any act, circumstance, or event related to any claims or defenses in this case, and for each statement provide the substance of the statement and identify the custodian of the statement.

INTERROGATORY NO. 13: Identify the name, address, and phone number of each person who may have knowledge or information supporting or relating to any of the allegations, claims, or defenses asserted in this case.

DATED this 5th day of March, 2024.

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CERTIFICATE OF SERVICE

I, James E. Miller, hereby certify that on the date below, I served the foregoing First Set of Interrogatories to Defendant Frank's Gun Shop & Shooting Range LLC on the following counsel by electronic mail:

Walter S. Zimolong, Esq.
wally@zimolonglaw.com

James J. Fitzpatrick, Esq.
James@zimolonglaw.com

Dated: March 5, 2024

/s/ James E. Miller
EVERYTOWN LAW

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EXHIBIT C

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CITY OF PHILADELPHIA

Plaintiff

V.

TANNER OPERATIONS, ET AL.

Defendants

PHILADELPHIA COUNTY
COURT OF COMMON PLEAS

No. 230702394

**ANSWERS AND OBJECTIONS TO REQUESTS FOR PRODUCTION
DIRECTED TO FRANK'S GUN SHOP & SHOOTING RANGE LLC**

Defendant, Frank's Gun Shop & Shooting Range LLC ("Frank's"), answers and objects to the plaintiff's requests for production of documents as follows:

General Objections to Requests for Production

Frank's objects to the requests for production of documents to the extent that they:

1. Seek information or things not reasonably calculated to the discovery of admissible evidence.
2. Seek documents or things that are subject to the attorney-client privilege, constitute attorney work product, or are otherwise immune from discovery.

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3. Seek documents or things equally available to the party propounding the discovery.

4. Seek documents or things that are not in the possession, care, custody, or control or the party seeking discovery.

5. Are overly broad, unduly burdensome or oppressive because they seek the production of all documents that are responsive to the request.

6. Seek to impose discovery obligations beyond those provided for by the Rules of Civil Procedure.

7. Seeks production of documents prohibited from disclosure by state and federal law.

8. Frank's incorporates each of the foregoing general objections into each of its responses to defendants' document requests. Subject to the foregoing general objections, Conlin provides the following responses:

REQUESTS FOR PRODUCTION

1. All Documents reflecting Your transaction records from the Relevant Time Period, relating to any transaction involving any of the Frank's Straw Purchasers, including but not limited to: acquisition and disposition records, ATF Form 4473s, Pennsylvania State Police Form SP4-113s, records of multiple sales, invoices, orders, shipping labels, receipts, and recordings.

RESPONSE: Frank's objects to this request because it is prohibited from disclosing this information pursuant to state and federal law, including, without limitation, 18 Pa.C.S.A. § 6111(i) and 18 U.S.C. § 926. Frank's further objects to these requests because it is vague and ambiguous and Frank's is unable to decipher the specific documents requested. Frank's further objects to this request because it is overly broad and seeks information that is not relevant to the claims or defenses in this matter. Frank's further objects to the term "Frank's Straw Purchasers."

2. Documents sufficient to show all customer profiles of the Frank's Straw Purchasers.

RESPONSE: Frank's objects to this request because it is prohibited from disclosing this information pursuant to state and federal law, including, without limitation, 18 Pa.C.S.A. § 6111(i) and 18 U.S.C. § 926. Frank's further objects to these requests because it is vague and ambiguous and Frank's is unable to decipher the specific documents requested. Frank's further objects to this request because it is overly broad and seeks information that is not relevant to the claims or defenses in this matter. Frank's further objects to the term "Frank's Straw Purchasers."

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3. Documents sufficient to show how You maintain acquisition and disposition records, transaction records, and/or customer records, including manuals for electronic databases or point of sale systems, including but not limited to Your formal or informal policies.

RESPONSE: Frank's objects to this request because it is prohibited from disclosing this information pursuant to state and federal law, including, without limitation, 18 Pa.C.S.A. § 6111(i) and 18 U.S.C. § 926. Frank's further objects to these requests because it is vague and ambiguous and Frank's is unable to decipher the specific documents requested. Frank's further objects to this request because it is overly broad and seeks information that is not relevant to the claims or defenses in this matter. Frank's further objects to the term "Frank's Straw Purchasers."

4. All Documents that You or any of Your employees, owners, or other representatives sent to or shared with ATF, the Philadelphia Police Department, the Philadelphia Sheriff's Office, the Pennsylvania State Police, or any other Pennsylvania law enforcement agency during the Relevant Time Period concerning any of the Frank's Straw Purchasers, or any person to whom these individuals are known to have provided a firearm purchased from You.

RESPONSE: Frank's objects to this request because it is prohibited from disclosing this information pursuant to state and federal law, including, without limitation, 18 Pa.C.S.A. § 6111(i) and 18 U.S.C. § 926. Frank's further objects to these requests because it is vague and ambiguous and Frank's is unable to decipher the specific documents requested. Frank's further objects to this request because it

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is overly broad and seeks information that is not relevant to the claims or defenses in this matter. Frank's further objects to the term "Frank's Straw Purchasers."

5. All Communications that You or any of Your employees, owners, or other representatives had during the Relevant Time Period with ATF, the Philadelphia Police Department, the Philadelphia Sheriff's Office, the Pennsylvania State Police, or any other Pennsylvania law enforcement agency concerning any of the Frank's Straw Purchasers, or any person to whom these individuals are known to have provided a firearm purchased from You.

RESPONSE: Frank's objects to this request because it is prohibited from disclosing this information pursuant to state and federal law, including, without limitation, 18 Pa.C.S.A. § 6111(i) and 18 U.S.C. § 926. Frank's further objects to these requests because it is vague and ambiguous and Frank's is unable to decipher the specific documents requested. Frank's further objects to this request because it is overly broad and seeks information that is not relevant to the claims or defenses in this matter. Frank's further objects to the term "Frank's Straw Purchasers."

6. All Communications that You or any of Your employees, owners, or other representatives had during the Relevant Time Period with ATF, the Philadelphia Police Department, the Philadelphia Sheriff's Office, the Pennsylvania State Police, or any other Pennsylvania law enforcement agency concerning:

a) Actual, planned, or attempted straw purchasing of firearms by residents of Philadelphia;

b) Actual, planned, or attempted straw purchasing of firearms on behalf

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of or intended for transfer to individuals or criminal organizations located in Philadelphia;

- c) Actual, planned, or attempted trafficking of firearms into Philadelphia;
- d) Any sting operation involving the actual, planned, or attempted purchase of a firearm, firearm component, firearm accessory, or ammunition at Frank's;
- e) The recovery in Philadelphia of any firearm sold or transferred by Frank's.

RESPONSE: Frank's objects to this request because it is prohibited from disclosing this information pursuant to state and federal law, including, without limitation, 18 Pa.C.S.A. § 6111(i) and 18 U.S.C. § 926. Frank's further objects to these requests because it is vague and ambiguous and Frank's is unable to decipher the specific documents requested. Frank's further objects to this request because it is overly broad and seeks information that is not relevant to the claims or defenses in this matter. However, without waiving these objections, Frank's will produce relevant communication that is not protected by state or federal laws, redacted if necessary.

7. All Communications during the Relevant Time Period that You or any of your employees, owners, or other representatives had with any of the Frank's Straw Purchasers or any person to whom these individuals are known to have provided a firearm purchased from You, or that concern discussions about any of these individuals.

RESPONSE: Frank's does not maintain documents responsive to this

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request.

8. All video surveillance for April 30, 2018, September 20, 2018, September 21, 2018, February 20, 2019, June 21, 2020, June 25, 2020, July 2, 2020, July 9, 2020, July 12, 2020, July 15, 2020, July 25, 2020, July 29, 2020, August 7, 2020, August 14, 2020, August 20, 2020, August 21, 2020, September 5, 2020, December 26, 2020, March 8, 2021, March 13, 2021, May 4, 2021, June 21, 2021, June 29, 2021, July 8, 2021, July 9, 2021, July 17, 2021, July 24, 2021, August 2, 2021, August 16, 2021, August 23, 2021, August 24, 2021, October 25, 2021, November 22, 2021, and December 18, 2021.

RESPONSE: Frank's does not maintain any such footage.

9. All trace requests You received from ATF for firearms sold to the Frank's Straw Purchasers.

RESPONSE: Frank's objects to this request because it is prohibited from disclosing this information pursuant to state and federal law, including, without limitation, 18 Pa.C.S.A. § 6111(i) and 18 U.S.C. § 926. Frank's further objects to these requests because it is vague and ambiguous and Frank's is unable to decipher the specific documents requested. Frank's further objects to this request because it is overly broad and seeks information that is not relevant to the claims or defenses in this matter. Frank's further objects to the term "Frank's Straw Purchasers."

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10. All Documents reflecting audits, inspections, reports, notices, reports of violations, warning letters, and warning conference letters that You received from ATF or the U.S. Department of Justice during the Relevant Time Period. This request shall include, but not be limited to:

- a) Any notices of violations of any law or regulations;
- b) All Firearms Inspection Reports, Firearms Qualification Reports, memos, and any other communications issued by ATF;
- c) Notice(s) of license suspension or revocation, denial(s) of license application, and/or notice(s) of fine(s); or
- d) Communications with ATF or the U.S. Department of Justice concerning any of the above.

RESPONSE: Frank's objects to this request because it is prohibited from disclosing this information pursuant to state and federal law, including, without limitation, 18 Pa.C.S.A. § 6111(i) and 18 U.S.C. § 926. Frank's further objects to these requests because it is vague and ambiguous and Frank's is unable to decipher the specific documents requested. Frank's further objects to this request because it is overly broad and seeks information that is not relevant to the claims or defenses in this matter. Frank's further objects to the term "Frank's Straw Purchasers." Without waiving these objections, Frank's does not maintain any documents that are responsive to this request.

11. All Communications that You or any of Your employees, owners, or other representatives had during the Relevant Time Period with ATF regarding your

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involvement in ATF's Demand 2 Program, as well as any reports You had to submit as a result.

RESPONSE: See answer to request number 6.

12. Documents sufficient to show Your formal or informal policy during the Relevant Time Period concerning working with or cooperating with law enforcement and/or reporting suspicious activity to any law enforcement agency.

RESPONSE: Frank's objects to this request as it is vague and ambiguous. Without waiving this objection, Frank's does not maintain documents responsive to this request.

13. Documents sufficient to show Your formal or informal policies—and trainings attended by any of Your employees, owners or other representatives—during the Relevant Time Period concerning compliance with federal, state, and local firearms laws, suspicious conduct or behavior concerning purchases or attempted purchases.

RESPONSE: Frank's objects to this request as it is vague and ambiguous. Without waiving this objection, Frank's does not maintain documents responsive to this request.

14. All Communications during the Relevant Time Period concerning compliance with federal, state, and local firearms laws, suspicious conduct or behavior in connection with purchases or attempted purchased of firearms, multiple purchases of firearms, and detecting or preventing straw purchasing or trafficking of firearms.

RESPONSE: Frank's objects to this request because it is vague and

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ambiguous. Without waiving said objection, Frank's complies with all state and federal firearms laws including, without limitation, completing required background checks on all purchasers and maintain required records of firearms sales.

15. All Documents reflecting instances during the Relevant Time Period in which any of Your employees, owners, or other representatives failed to comply, and/or was reprimanded or disciplined for failing to comply, with company policies or regulations pertaining to the acquisition and disposition of firearms or with federal, state, or local firearms laws.

RESPONSE: None.

16. All Documents that support or concern Your claims or defenses.

RESPONSE: Frank's objects to this request because it seeks information protected by the attorney client privilege and work product doctrine. Frank's reserves the right to supplement its answers to this request consistent with the Rules of Civil Procedure and the Court's Case Management Order.

17. All Documents You identified or relied on in response to Plaintiff's First Set of Interrogatories to Defendant Frank's Gun Shop & Shooting Range LLC.

RESPONSE: Frank's objects to this request because it seeks information protected by the attorney client privilege and work product doctrine. Frank's reserves the right to supplement its answers to this request consistent with the Rules of Civil Procedure and the Court's Case Management Order.

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Dated: May 2, 2024

/s/Walter S. Zimolong

Walter S. Zimolong, Esquire

Attorney I.D. No.

James J. Fitzpatrick, Esquire

Attorney I.D. 320497

ZIMOLONG LLC

Attorneys for Defendant,

Frank's Gun Shop & Shooting Range LLC

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CITY OF PHILADELPHIA

Plaintiff

v.

TANNER OPERATIONS, ET AL.

Defendants

PHILADELPHIA COUNTY
COURT OF COMMON PLEAS

No. 230702394

**FRANK'S GUN SHOP & SHOOTING RANGE LLC ANSWERS AND OBJECTIONS
TO PLAINTIFF'S FIRST SET OF INTERROGATORIES**

Frank's Gun Shop & Shooting Range LLC (Frank's) answers and objects to the plaintiff's interrogatories as follows:

General Objections to Interrogatories

1. Frank's objects to these Interrogatories to the extent they seek to require information other than that which may be obtained through reasonably diligent search of their records.

2. Frank's objects to these Interrogatories to the extent they seek information protected by the attorney client privilege or work product doctrine.

3. Frank's objects to these Interrogatories to the extent they seek information beyond the scope of discovery permissible under the Rules of Civil Procedure.

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4. Frank's objects to these Interrogatories to the extent they seek information regarding the identification of documents. Responsive documents will be produced rather than identified.

5. Frank's objects to these Interrogatories to the extent they seek information that is equally available to Plaintiffs and Defendants or information already in the care, custody, or control of Plaintiffs.

6. Frank's objects to these Interrogatories to the extent they seek information that is unduly burdensome to produce.

7. Frank's objects to these Interrogatories to the extent they are vague and ambiguous.

Subject to the foregoing objections and limitations which are applicable to each of the numbered paragraphs of the interrogatories, and subject to any documents begin in existence and recoverable reasonably diligent search, and without representing that any particular document or documents are or are not thus existing and recoverable, Frank's further responds to each individual interrogatory without waiver and with preservation of:

The right to object to the use of any responses, or the subject matter thereof, on any ground in any proceedings in any actions (including any trials);

The right to object on any grounds at any time to a demand or request for a further response to this discovery request or to any other interrogatories, document requests, or other discovery proceedings including or relating to the subject matter of the discovery requests herein responded to; and

INTERROGATORIES

1. Identify the name, address, and phone number of each person involved

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in providing information to respond to these interrogatories.

ANSWER: Frank Stelmach. Frank Stelmach can be contacted through counsel.

Sebastian Stelmach, Sebastian Stelmach can be contacted through counsel.

2. For each firearm or ammunition transaction that You conducted with any of the Frank's Straw Purchasers, identify the date, the transferor and transferee and (i) for a firearm, the make, model, and serial number of that firearm, or (ii) for ammunition, the brand, caliber, and quantity of ammunition.

ANSWER: Frank's objects to this interrogatory because it seeks information that Frank's is prohibited from disclosing under state and federal law, including, without limitation, 18 U.S.C. § 926 and 18 Pa.C.S.A. § 6111(i).

3. State whether any employee, owner, or other representative of Frank's spoke in-person or telephonically, or communicated by text message, email, or other electronic communication, during the Relevant Time Period, with any of the Frank's Straw Purchasers or any other person to whom any of these individuals transferred a firearm that they purchased or otherwise obtained from You, and for each such communication list the date, location, means of communication, Frank's employee(s), owner(s), and representative(s) involved, and the subject matter of the communication.

ANSWER: Frank's did not engage in this written communication with any of the individuals that plaintiff defines as "Frank's Straw Purchasers."

4. State whether any employee, owner, or other representative of Frank's spoke in person or telephonically, or communicated by text message, email, or other electronic communication, during the Relevant Time Period, with an employee, agent, or other representative of the ATF, Philadelphia Police Department, the Philadelphia Sheriff's Office, the Pennsylvania State Police, the Pennsylvania

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Attorney General's Office, or any other Pennsylvania law enforcement agency concerning actual, planned, or attempted straw purchasing of firearms at Frank's, or about any of the Frank's Straw Purchasers, and for any such communication list the date, means of communication, Frank's employee(s), owner(s), and representative(s) involved, other person(s) involved, and the subject matter of the communication.

ANSWER: Frank's was in communication telephonically on multiple occasions with the Philadelphia Gun Violence Task Force. It is possible that Frank's communicated with the ATF telephonically. Frank's does not recall the exact dates that it spoke on the telephone with the Philadelphia Gun Violence Task Force or ATF. Frank's also communicated with representatives of the Philadelphia Gun Violence Task Force by text message. The subject matter of the communication was to alert law enforcement about multiple handgun sales.

5. State whether You conducted any investigation into any of the Frank's Straw Purchasers or Your firearms transactions with any of them, and, if so, identify 1) the date that investigation was commenced, (2) the individual(s) who conducted the investigation, and (3) state whether that investigation resulted in any written notes, summary, or report.

ANSWER: Frank's objects to this request on the grounds that it is vague and ambiguous because the term "investigation" is undefined. Without waiving said objection, Frank's does not perform investigation into potential purchasers of firearms. However, Frank's does perform all prerequisites required of it before transferring a firearm to an individual, making a copy of the Pennsylvania drivers

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licenses, requiring the purchaser to complete an ATF Form 4473, and a Pennsylvania State Police handgun form. Frank's runs a background check with the Pennsylvania State Police PICS system through an online portal or telephone line. Frank's supplies the Pennsylvania State Police with the purchaser's driver's license number, place of birth, and employer to conduct a background check. The Pennsylvania State Police then supplies Frank's with an approval code which Frank's writes onto the Form 4473.

6. Identify the number of firearm trace requests You received annually from ATF during the Relevant Time Period, the location where and manner how those trace requests are stored, and, for any trace request that involved a firearm transferred to any of the Frank's Straw Purchasers, the date such trace request was received by You.

ANSWER: Frank's does not now the number of trace requests received from the ATF during the Relevant Time Period.

7. Describe any policies that You had in place during the Relevant Time Period related to preventing the trafficking of firearms or straw purchasing.

ANSWER: Frank's adhered to all federal and state laws related to preventing the trafficking of firearms or straw purchasing.

8. Identify any trainings that any of Your employees, owners, or other representatives conducted or attended, during the Relevant Time Period, related to federal and/or state firearms laws, firearms trafficking, or straw purchases, or that were conducted by ATF or any state or local law enforcement agencies.

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ANSWER: Frank's is not aware of any training conducted by the ATF or "state or local law enforcement."

9. Identify the name, title, and duties of each of Your employees, managers, officers, owners, agents, contractors, volunteers or other representatives, during the Relevant Time Period.

ANSWER:

Franciszek ("Frank") Stelmach. Frank Stelmach is the owner of Frank's. Frank Stelmach oversees all operations of Frank's.

Sebastian Stelmach. Sebastian Stelmach is the manager of Frank's. Among other things he oversees the employees of Frank's and runs the day-to-day operations of the store.

Andrea Sondag. Sondag worked as a salesperson. Sondag performed sales and clerical tasks.

Hector Martinez. Martinez was salesman.

Samuel Maturo. Maturo is a salesman and cashier.

10. Identify the account holder, phone number, and service provider for each telephone number used to conduct Your business – including any personal telephone numbers for Your employees, owners, or other representatives – during the Relevant Time Period; for each account, state the dates during which the account was active and the person(s) who used such account or telephone number.

ANSWER: Frank Stelmach, 215-624-1015, Verizon, Active during relevant dates, used by shop employees.

Sebastian Stelmach, 484-321-1824, T-Mobile, active during relevant dates, used by Sebastian Stelmach.

11. Identify every list-serve, message board, website advertising, or

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firearms sales brokering website You used, during the Relevant Time Period, to advertise or conduct business relating to firearms; for each listed site, identify the name or username associated with the account, the URL or name of the list-serve or message board or website, the email address associated with the account, the dates You maintained the account, and state whether that account is still active.

ANSWER: None.

12. Identify the name, address, and phone number of each person from whom You have obtained an affidavit or other statement, written or recorded, concerning any act, circumstance, or event related to any claims or defenses in this case, and for each statement provide the substance of the statement and identify the custodian of the statement.

ANSWER: None.

13. Identify the name, address, and phone number of each person who may have knowledge or information supporting or relating to any of the allegations, claims, or defenses asserted in this case.

ANSWER:

Sebastian Stelmach. Sebastian Stelmach has knowledge of the procedures that Frank's follows to comply with federal and state law. Sebastian also has knowledge of Frank's proactive cooperation with law enforcement regarding multiple handgun sales.

Eric Fry. Upon information and belief, Fry is or was a member of the Philadelphia Police Department Gun Violence Task Force. Fry has information related to multiple

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firearms sales that Frank's alert the Philadelphia Police about and statements by the Philadelphia Police Department that the sale should proceed.

Marta Santos. Upon information and belief, Marta is or was a member of the Philadelphia Police Department Gun Violence Task Force. Marta has information related to multiple firearms sales that Frank's alert the Philadelphia Police about and statements by the Philadelphia Police Department that the sale should proceed.

Michael Baldwin. Baldwin is an agent with the Bureau of Alcohol, Tabaco, and Firearms. Baldwin has knowledge of Frank's compliance with state and federal law.

Lawrence Krasner. Krasner is the Philadelphia District Attorney. Krasner has knowledge of his refusal to prosecute gun crimes and the resultant surge in gun violence because of his soft of crime policies.

John McNesby. McNesby has knowledge of Krasner's refusal to prosecute gun crimes and the resultant surge in gun violence because of Krasner's soft on crime policies. McNesby also has knowledge of Krasner's antagonism towards law enforcement and pro-criminal policies.

Respectfully submitted,

Dated: May 2, 2024

/s/Walter S. Zimolong
Walter S. Zimolong, Esquire
Attorney I.D. No.
James J. Fitzpatrick, Esquire
Attorney I.D. 320497
ZIMOLONG LLC
Attorneys for Defendant,
*Frank's Gun Shop &
Shooting Range LLC*

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VERIFICATION

I, Sebastian Stelmach, verify that that the facts contained in the foregoing are true and correct based upon my knowledge, information, and belief. However, while the facts are true and correct based upon my knowledge, information, and belief, the words contained in the foregoing are those of counsel and not mine. I understand that statements herein are made subject to the penalties set forth in 18 Pa. C.S.A. §4904 relating to unsworn falsification to authorities.

Sebastian Stelmach

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EXHIBIT D

Certification Due Date: 09/12/2024
Response Date: 09/19/2024
Case ID: 230702394
Control No.: 24090925

Zagami, Drew

From: Jed Miller <jedmiller@everytown.org>
Sent: Wednesday, April 3, 2024 10:11 AM
To: Wally Zimolong
Cc: James Fitzpatrick; Alla Lefkowitz; Eugene Nam; Estes, Jordan; Bootstaylor, Chloe; Zagami, Drew; Renee Garcia; benjamin.field@phila.gov; Lydia Furst; Ryan Smith; Melissa Medina
Subject: [EXTERNAL] Re: City of Philadelphia, v. WRT Management, Inc., et. al. (Dkt. No.: 230702394) -- First Set of Discovery Requests (Franks)

Good morning,

The City consents to an extension to April 30, 2024 for Frank's Gun Shop & Shooting Range to respond to the City's first set of interrogatories and document requests. Best regards,

-Jed

On Tue, Apr 2, 2024 at 3:02 PM Wally Zimolong <wally@zimolonglaw.com> wrote:

Attorney Miller:

Can we have an extension until April 30, 2024 to provide you with our answers to your discovery requests?

Wally Zimolong, Esquire

Main Office

353 West Lancaster Avenue, Suite 300, Wayne, PA 19087

Mailing Address

P.O. Box 552, Villanova, PA 19085-0552

Office: 215.665.0842 | **Mobile:** 609.932.8836 | **Email:** wally@zimolonglaw.com |

www.zimolonglaw.com



From: Jed Miller <jedmiller@everytown.org>

Sent: Tuesday, March 5, 2024 5:03 PM

Certification Due Date: 09/12/2024
Response Date: 09/19/2024
Case ID: 230702394
Control No.: 24090925

To: Wally Zimolong <wally@zimolonglaw.com>; James Fitzpatrick <james@zimolonglaw.com>
Cc: Alla Lefkowitz <alefkowitz@everytown.org>; Eugene Nam <enam@everytown.org>; Estes, Jordan <jestes@kramerlevin.com>; Bootstaylor, Chloe <CBootstaylor@kramerlevin.com>; Zagami, Drew <DZagami@kramerlevin.com>; Renee Garcia <Renee.Garcia@phila.gov>; Benjamin Field <Benjamin.Field@phila.gov>; Lydia Furst <Lydia.Furst@phila.gov>; Ryan Smith <Ryan.Smith@phila.gov>; Melissa Medina <Melissa.Medina@phila.gov>
Subject: City of Philadelphia, v. WRT Management, Inc., et. al. (Dkt. No.: 230702394) -- First Set of Discovery Requests (Franks)

Counsel,

Please see the attached first set of document requests and first set of interrogatories served on behalf of the City of Philadelphia in the above-captioned case. Best regards,

-Jed Miller

--

JAMES E. MILLER | SENIOR COUNSEL, AFFIRMATIVE LITIGATION
JEDMILLER@EVERYTOWN.ORG 646-324-8220
PRONOUNS: HE/HIM/HIS

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--

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EXHIBIT E

Certification Due Date: 09/12/2024
Response Date: 09/19/2024
Case ID: 230702394
Control No.: 24090925

Zagami, Drew

From: Wally Zimolong <wally@zimolonglaw.com>
Sent: Friday, May 3, 2024 11:09 AM
To: Jed Miller
Cc: Jonathan Goldstein; Alla Lefkowitz; Britain Henry; Eugene Nam; Renee Garcia; benjamin.field@phila.gov; Lydia Furst; Aimee Thomson; Estes, Jordan; Bootstaylor, Chloe; Zagami, Drew
Subject: [EXTERNAL] RE: City of Philadelphia, v. WRT Management, Inc., et. al. (Dkt. No.: 230702394) -- Consent for extension
Attachments: Miller 5.3.24.pdf; Franks Answers and Objections to Plaintiffs First Set of Interrogatories.pdf; Franks _Answers and Objections to Requests for Production_Frank's Gun Shop & Shooting Range LLC v.2.pdf

Mr. Miller (He/Him/His):

Please see the attached.

Wally Zimolong, Esquire

Main Office

353 West Lancaster Avenue, Suite 300, Wayne, PA 19087

Mailing Address

P.O. Box 552, Villanova, PA 19085-0552

Office: 215.665.0842 | **Mobile:** 609.932.8836 | **Email:** wally@zimolonglaw.com | www.zimolonglaw.com



From: Wally Zimolong
Sent: Monday, April 8, 2024 2:57 PM
To: Jed Miller <jedmiller@everytown.org>; Britain Henry <bhenry@goldsteinlp.com>
Cc: Jonathan Goldstein <jgoldstein@goldsteinlp.com>; Alla Lefkowitz <alefkowitz@everytown.org>; Eugene Nam <enam@everytown.org>; Renee Garcia <Renee.Garcia@phila.gov>; Benjamin Field <Benjamin.Field@phila.gov>; Lydia Furst <Lydia.Furst@phila.gov>; Aimee Thomson <Aimee.Thomson@phila.gov>; Estes, Jordan <jestes@kramerlevin.com>; Bootstaylor, Chloe <CBootstaylor@kramerlevin.com>; Zagami, Drew <DZagami@kramerlevin.com>
Subject: RE: City of Philadelphia, v. WRT Management, Inc., et. al. (Dkt. No.: 230702394) -- Consent for extension

Thank you.

Wally Zimolong, Esquire

Main Office

353 West Lancaster Avenue, Suite 300, Wayne, PA 19087

Mailing Address

P.O. Box 552, Villanova, PA 19085-0552

Office: 215.665.0842 | **Mobile:** 609.932.8836 | **Email:** wally@zimolonglaw.com |

Certification Due Date: 09/12/2024
Response Date: 09/19/2024
Case ID: 230702394
Control No.: 24090925



From: Jed Miller <jedmiller@everytown.org>

Sent: Monday, April 8, 2024 1:24 PM

To: Britain Henry <bhenry@goldsteinlp.com>

Cc: Wally Zimolong <wally@zimolonglaw.com>; Jonathan Goldstein <jgoldstein@goldsteinlp.com>; Alla Lefkowitz <alefkowitz@everytown.org>; Eugene Nam <enam@everytown.org>; Renee Garcia <Renee.Garcia@phila.gov>; Benjamin Field <Benjamin.Field@phila.gov>; Lydia Furst <Lydia.Furst@phila.gov>; Aimee Thomson <Aimee.Thomson@phila.gov>; Estes, Jordan <jestes@kramerlevin.com>; Bootstaylor, Chloe <CBootstaylor@kramerlevin.com>; Zagami, Drew <DZagami@kramerlevin.com>

Subject: Re: City of Philadelphia, v. WRT Management, Inc., et. al. (Dkt. No.: 230702394) -- Consent for extension

Good afternoon Britain,

The City consents to an extension on the deadline for Delia's/Mad Minute and Frank's to Answer the Amended Complaint to April 18, 2024. Best regards,

-Jed

On Mon, Apr 8, 2024 at 12:23 PM Britain Henry <bhenry@goldsteinlp.com> wrote:

Hello Jed,

I am writing to request a brief 10-day extension for the deadline to Answer to the Amended Complaint on behalf of both Delia's and Frank's, which would be the 18th of April. Thank you for your consideration.

Britain R. Henry, Esq.



11 Church Rd.

Hatfield, PA 19440

www.goldsteinlp.com

office: 610-949-0444

fax: 1-215-565-2597

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From: Jed Miller <jedmiller@everytown.org>

Sent: Wednesday, November 29, 2023 5:14 PM

To: Wally Zimolong <wally@zimolonglaw.com>; Jonathan Goldstein <jgoldstein@goldsteinlp.com>; Britain Henry <bhenry@goldsteinlp.com>

Cc: Alla Lefkowitz <alefkowitz@everytown.org>; Eugene Nam <enam@everytown.org>; Renee Garcia <Renee.Garcia@phila.gov>; Benjamin Field <Benjamin.Field@phila.gov>; Lydia Furst <Lydia.Furst@phila.gov>; Aimee Thomson <Aimee.Thomson@phila.gov>; Estes, Jordan <jestes@kramerlevin.com>; Bootstaylor, Chloe <CBootstaylor@kramerlevin.com>; Zagami, Drew <DZagami@kramerlevin.com>

Subject: City of Philadelphia, v. WRT Management, Inc., et. al. (Dkt. No.: 230702394) -- Consent for extension

Counsel --

I am writing to request your consent to a brief extension for the City's responses to Frank's and Delia's preliminary objections to the amended complaint. We'd like to extend the deadline by 11 days, from December 11 **to December 22, 2023**. Please let me know whether you consent to this extension, and we will prepare a draft stipulation to circulate before filing. Thanks,

-Jed Miller

--

JAMES E. MILLER | SENIOR COUNSEL, AFFIRMATIVE LITIGATION

JEDMILLER@EVERYTOWN.ORG [646-324-8220](tel:646-324-8220)

PRONOUNS: HE/HIM/HIS

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--

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EXHIBIT F

Certification Due Date: 09/12/2024
Response Date: 09/19/2024
Case ID: 230702394
Control No.: 24090925

July 9, 2024

Delivered via Email

Wally Zimolong, Esq.
353 West Lancaster Avenue
Suite 300
Wayne, PA 19087
215-665-0842
wally@zimolonglaw.com

Re: *City of Philadelphia v. WRT Management, Inc., et al.*

Dear Mr. Zimolong:

We write on behalf of the City of Philadelphia (“the City”) to request a Meet and Confer regarding Frank’s discovery responses and objections. Please advise us of your availability on July 12, 16, or 17, so that we can coordinate a time.

As a threshold matter, the City notes that Frank’s lodged non-responsive and unsubstantiated objections to virtually all of the City’s discovery requests and interrogatories. Such “boilerplate discovery objections without sufficient elaboration” will be promptly dismissed upon a motion to compel. *Toland v. Pennsylvania Bd. of Prob. & Parole*, 311 A.3d 649, 673 (Pa. Commw. Ct. 2024). As the party seeking to prevent disclosure, Frank’s bears the burden of establishing its right to refuse each discovery request. *See Ario v. Deloitte & Touche LLP*, 934 A.2d 1290, 1293 (Pa. Commw. Ct. 2007). And as detailed below, Frank’s appears unable to meet this burden in regard to any of its objections.

Accordingly, the City requests these objections be withdrawn. At minimum, the City expects that Frank’s will provide full explanations as to why it believes each request or interrogatory is objectionable by the time of Meet and Confer.

Objections based on 18 Pa.C.S. § 6111(i)

Frank’s objects to many of the City’s interrogatories and requests for production on the grounds that it is “prohibited from disclosing [responsive information under] ... Pa.C.S. § 6111(i)[.]” (**Frank’s Objections to Document Request Nos. 1-6, 9, and 10; Frank’s Objections to Interrogatories No. 2**). On its face, this provision of the Uniform Firearms Act (“UFA”) plainly does not apply for several reasons, including the following:

First the City seeks information about specific straw purchases and the misrepresentations made by Frank’s customers in connection with those transactions. (*E.g.* **City’s Request for Production Nos. 1-2**). Insofar as Frank’s contends that § 6111(i) precludes a response to these requests, it is taking the position that false statements made by gun traffickers to effectuate illegal straw purchases are “privileged” under the Uniform Firearms Act.

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Such a position is untenable, both as a matter of common sense and legal doctrine: Criminal misstatements by straw purchasers in connection with illegal transactions are not protected by the UFA, and the transaction records on which such misstatements are recorded are routinely disclosed, produced in discovery, and presented as evidence in court. *See, e.g., Commonwealth v. Bennett*, 299 A.3d 903 (Pa. Super. Ct. 2023); *Commonwealth v. Heim*, 304 A.3d 739 (Pa. Super. Ct. 2023); *Commonwealth v. Bachner*, 240 A.3d 925 (Pa. Super. Ct. 2020). The defendant straw purchasers in such cases are not entitled to immunize themselves from prosecution by invoking a privilege under 6111(i). Nor can Frank's assert a privilege on behalf of these individuals to shield its own misconduct, as it proposes to do here. This is because the content of these records is not "information provided ... under this section," but is instead *disinformation* recorded in violation of the UFA.

Additionally, § 6111(i) has no conceivable application to information recorded on transaction records mandated by federal law. This is because, again, Section 6111(i) applies only to "information provided ... under this section"—meaning Section 6111 of the UFA. Information provided and recorded in order to comply with federal law, such as in an ATF Form 4473, is neither provided by the customer nor maintained by the store in order to comply with the UFA.

Furthermore, disclosure to a counterparty during civil discovery is not a public disclosure within the meaning of Section 6111(i).

For these and other reasons, Frank's § 6111(i) objections are meritless. Accordingly, the City requests that Frank's withdraw its objections. At minimum, the City expects that Frank's will clarify what it believes to be the scope of information covered by § 6111(i).

Objections based on 18 U.S.C. § 926

Frank's lodged further objections against the same set of requests on the grounds that it is "prohibited from disclosing [responsive information under] ... 18 U.S.C. § 926[.]" (**Frank's Objections to Document Requests Nos. 1-6, 9, and 10; Frank's Objections to Interrogatories No. 2**).

Section 926 is directed exclusively at the Attorney General of the United States and imposes no prohibitions of any kind on Frank's, the City, or the Pennsylvania courts. As such, the provision is completely irrelevant to the ongoing discovery process, and the City requests that Frank's withdraw these objections.

Objections for Vagueness

Frank's contends that 12 out of the City's 17 requests for production, as well as one of the City's interrogatories are "vague and ambiguous" and that "Frank's is unable to decipher the specific documents requested." (**Frank's Objections to Document Request Nos. 1-6, 9-14**). But Frank's does not even attempt to explain how the City's requests are vague, ambiguous, or insufficiently specific, or identify even a single term or phrase that Frank's believes is insufficiently precise. These "bald assertions, unsupported by specific facts establishing" why a

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request may be vague, are plainly untenable as a matter of law. *Toland v. Pennsylvania Bd. of Prob. & Parole*, 311 A.3d 649, 671 (Pa. Commw. Ct. 2024).

To the contrary, the City's requests are clear, concrete, and specific—in many instances seeking particular documents as to particular individuals over particular periods of time. *E.g.*, **Request for Production No. 1** (seeking particular types of transaction records as to named straw purchasers); **Request for Production No. 10** (seeking compliance inspection records over a defined date range). These are just a few of numerous clear and specific requests for records that either do or do not exist, and for which Frank's is the party best situated to know what form they would take, if any. *Cf. Eigen v. Textron Lycoming Reciprocating Engine Div.*, 874 A.2d 1179, 1188 (2005) (finding there was “nothing at all vague” about a request to produce “all insurance policies applicable” to an accident when such request was made to the potentially insured party).

As such, the City requests that Frank's withdraw these objections. At minimum, the City expects that Frank's will clarify which part of the City's requests or language it considers vague, and that Frank's will make an effort to seek its own clarification from the City by the time of Meet and Confer about the meaning of these requests.

Objections for Overbreadth

Frank's raises similarly conclusory objections to certain document requests as “overly broad.” (**Frank's Objections to Document Request Nos. 1-6, 9-11**). But the City's requests are carefully tailored to include only information that is relevant to its claims. For example, several requests target a narrow subset of documents related to a list of known straw purchasers. *E.g.*, **City's Request for Production No. 1** (straw purchaser transaction records); **City's Request for Production No. 2** (straw purchaser customer records); **City's Request for Production Nos. 4-5** (law enforcement communications concerning straw purchasers) **City's Request for Production No. 6** (communication with straw purchasers); **City's Request for Production No. 8** (video surveillance of straw purchases); **City's Request for Production No. 9** (straw purchaser trace requests). *Cf. Koken v. One Beacon Ins. Co.*, 911 A.2d 1021, 1025 (Pa. Commw. Ct. 2006) (“Discovery is liberally allowed, and all doubts should be resolved in favor of permitting discovery” except when “matters which have been stated too broadly ... and would amount to a fishing expedition.”)

Similarly, when seeking information about Frank's compliance with federal, state, and local gun regulations, the City has carefully delimited the sender, recipient, and specific subject matter (for instance, the Demand 2 program) of the documents it seeks. *Compare, e.g., J.S. v. Whetzel*, 860 A.2d 1112, 1121 (Pa. Super. Ct. 2004) (upholding a request for 1099 forms relating to an expert witness's service in personal injury cases).

The City therefore requests that Frank's withdraw these objections. At a minimum, the City expects Frank's to “adequately expand on [its] objection” by clarifying which requests it believes to be overbroad and why. *Toland*, 311 A.3d at 671.

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Objections to Relevance

Frank's asserts that a number of the City's document requests are irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. (**Frank's Objections to Document Request Nos. 1-6, 9-11**). But "the requirement that the request be reasonably calculated to lead to the discovery of admissible evidence" represents a "low[] threshold," and "any doubts" about whether information is relevant "are to be resolved in favor of relevancy." *Cooper v. Schoffstall*, 905 A.2d 482, 493 (Pa. 2006); *see also Ario v. Deloitte & Touche LLP*, 934 A.2d 1290, 1293 (Pa. Commw. Ct. 2007); *Com. ex rel. Pappert v. TAP Pharm. Prod., Inc.*, 904 A.2d 986, 994 (Pa. Commw. Ct. 2006) (explaining that the relevancy standard during discovery is broad "to ensure that a party has in its possession all relevant and admissible evidence before the start of trial"). The City's discovery requests plainly meet this standard, and Frank's objection is meritless.

As explained above, a number of the City's requests seek information about the illegal straw purchases that are at the heart of the City's lawsuit. Details regarding these straw purchasers (**Request for Production No. 2**) and communications with law enforcement regarding those straw purchasers (**Request for Production No. 5**)—to name a few more of the City's requests—share more than a "common thread" with "the subject matter of the present litigation"; they form the very substance of that litigation. *George v. Schirra*, 814 A.2d 202, 205 (2002). This information bears directly upon Frank's awareness of and role in creating the crisis of illegal straw purchasing and resale of firearms in Philadelphia—the precise conduct "for which a judicial remedy is sought." *Bagwell*, 155 A.3d at 1138. The City's requests more than meet the generous standard for relevance established by Rule 4003.1.

The City requests that Frank's withdraw these objections. At a minimum, the City expects Frank's to explain why it considers specific requests and interrogatories irrelevant or not reasonably calculated to lead to the discovery of admissible evidence.

Objections for Undue Burden

Without offering any details, Frank's further lodges a "general objection" that the City's requests are "unduly burdensome or oppressive." (**Frank's Objections to Document Requests at 2**). Because "almost any discovery request causes some annoyance, embarrassment, oppression, burden or expense," simple inconvenience does not constitute an undue burden; rather, the party resisting discovery must demonstrate that the inconvenience is "*unreasonable*." *Doe C.D. v. Career Tech. Ctr. of Lackawanna Cnty.*, 2019 WL 13490292 at *4 (Pa. Com. Pl. July 18, 2019); *see also Miller v. Bethlehem Steel Corp.*, 56 Pa. D. & C.2d 269, 276 (Pa. Com. Pl. 1972) ("There is not one bit of evidence in the record on which the court could base a finding that unreasonable expense will result to defendant in complying with this request of discovery. In the absence of any such evidence, we cannot assume it[.]").

Frank's fails to articulate how it will be burdened by the City's requests, let alone why that burden is *unreasonable*. Common sense suggests that providing records that Frank's is legally obligated to maintain, or that would ordinarily be maintained in the course of business, would not be unduly onerous. *Compare, e.g., Doe C.D.*, 2019 WL 13490292 at *4 (rejecting an

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undue burden objection to a request for documents that “should be readily available”); *In re Greco Appeal*, 30 Pa. D. & C.3d 661, 664 (Pa. Com. Pl. 1984) (finding no unreasonable annoyance in a request for documents that “are normally on hand and available for any business entity which must have them for tax purposes” and “accounting purposes”).

Accordingly, the City requests that Frank’s withdraw these objections. At a minimum, the City expects Frank’s to offer “factual specifics” regarding the burden that the City’s requests and interrogatories will purportedly impose. *See Marini v. K-Mart Corp.*, 22 Pa. D. & C.3d 110, 114 (Pa. Com. Pl. 1982) (rejecting an undue burden argument not supported by “any factual specifics”).

In light of the foregoing, the City asks that Frank’s withdraws its objections to the City’s discovery requests. At minimum, the City expects that Frank’s will provide full explanations as to why it believes each request is objectionable by the time we meet and confer. To this end, please let us know your availability on July 12, 16, or 17, and we will endeavor to be available to discuss.

Respectfully,

/s/ James E. Miller

Everytown Law
450 Lexington Ave.
P.O Box # 4184
New York, NY 10017

EXHIBIT G

Certification Due Date: 09/12/2024
Response Date: 09/19/2024
Case ID: 230702394
Control No.: 24090925

Zagami, Drew

From: Wally Zimolong <wally@zimolonglaw.com>
Sent: Thursday, August 22, 2024 5:03 PM
To: Laura Keeley
Cc: Jed Miller; Renee Garcia; Lydia Furst; Melissa Medina; Ryan Smith; Alla Lefkowitz; Eugene Nam; Estes, Jordan; Zagami, Drew; Bootstaylor, Chloe; etirschwell@everytown.org
Subject: [EXTERNAL] Re: City of Philadelphia v. WRT Management, Inc. -- discovery correspondence

Attorney Keeley:

I beg your pardon. I've interacted with you once in my entire life. So I fail to see how have I been entirely "unprofessional" throughout the course of this litigation. I find your conduct troubling. If you cannot act as a courteous officer of the court perhaps another lawyer should take the lead for plaintiffs.

Wally Zimolong, Esquire
Zimolong LLC
353 West Lancaster Avenue, Suite 300
Wayne, PA 19087
www.zimolonglaw.com
O: (215) 665-0842
M: (609) 932-8836

From: Laura Keeley <lkeeley@everytown.org>
Sent: Thursday, August 22, 2024 4:59 PM
To: Wally Zimolong <wally@zimolonglaw.com>
Cc: Jed Miller <jedmiller@everytown.org>; Renee Garcia <Renee.Garcia@phila.gov>; Lydia Furst <Lydia.Furst@phila.gov>; Melissa Medina <Melissa.Medina@phila.gov>; Ryan Smith <Ryan.Smith@phila.gov>; Alla Lefkowitz <alefkowitz@everytown.org>; Eugene Nam <enam@everytown.org>; Estes, Jordan <jestes@kramerlevin.com>; Zagami, Drew <DZagami@kramerlevin.com>; Bootstaylor, Chloe <CBootstaylor@kramerlevin.com>; Eric Tirschwell <etirschwell@everytown.org>
Subject: Re: City of Philadelphia v. WRT Management, Inc. -- discovery correspondence

Wally,

I have tried to treat you with respect while we resolve our differences about the case, but I have found your behavior throughout this process entirely unprofessional. We disagree with your characterizations of our conversation, and we will be soon filing a Motion to Compel to resolve the discovery issues.

On Thu, Aug 22, 2024 at 3:57 PM Wally Zimolong <wally@zimolonglaw.com> wrote:

Attorney Keeley:

The letter is entirely inaccurate.

Certification Due Date: 09/12/2024
Response Date: 09/19/2024
Case ID: 230702394
Control No.: 24090925

1. Regarding the protective order, I stated that the protective order does not address the liability imposed under Section 6111(i). A violation of 6111(i) subject my client (and potentially me) to a lawsuit that can impose a \$1000 fine, treble damages and compensatory damages. As I explained to you, there is no safe harbor when the information is produced pursuant to a protective order. So, as I explained to you, a protective order does not resolve the issue.
2. I am not sure what you mean by “open to persuasion.” I am an advocate for my client. I am not “open to persuasion” to give you what you want. I told you that I understood you had a much different perspective on Section 6111(i) and that we should have the arguments presented to the Court for resolution. I said it is an interest and novel legal issue and that the trial court will probably not have the last word.
3. It is an outright lie that I called into question the Law Department’s trustworthiness. I have a tremendous amount of respect for the City’s attorneys, including Attorney Furst, with whom I have litigated many cases. I would ask that you correct your lie for all copied on this email.
4. Regarding requests 6 and 11, I said if communication exist that is not subject to the objection we will produce it. But I need to determine if there is communication responsive to the request first.
5. I am not sure what this means:

“Otherwise, Frank’s maintained its objections and will not produce documents on grounds of vagueness, overbreadth, relevance, undue burden, and assertions of information within the City’s Control for the City’s other requests.”

I never said any of this. So, it is a lie.

Finally, I am more than happy to engage in discussions with you to try to resolve disputes and impasses. But if you are going to send me a letter “memorializing” the discussion which, as here, mischaracterizes the discussion and contains blatant falsehoods, then I will need to reconsider my position on having discussions with you. I am not sure how folks practice in New York, but in Philadelphia we do not lie about what opposing counsel said.

If you believe I anything here is incorrect, please let me know as soon as possible. I look forward to hearing from you.

Wally Zimolong, Esquire

Main Office

353 West Lancaster Avenue, Suite 300, Wayne, PA 19087

Mailing Address

P.O. Box 552, Villanova, PA 19085-0552

Office: 215.665.0842 | **Mobile:** 609.932.8836 | **Email:** wally@zimolonglaw.com |

www.zimolonglaw.com



From: Laura Keeley <keeley@everytown.org>
Date: Thursday, August 22, 2024 at 3:33 PM
To: Wally Zimolong <wally@zimolonglaw.com>
Cc: Jed Miller <jedmiller@everytown.org>, Renee Garcia <Renee.Garcia@phila.gov>, Lydia Furst <Lydia.Furst@phila.gov>, Melissa Medina <Melissa.Medina@phila.gov>, Ryan Smith <Ryan.Smith@phila.gov>, Alla Lefkowitz <alefkowitz@everytown.org>, Eugene Nam <enam@everytown.org>, Estes, Jordan <jestes@kramerlevin.com>, Zagami, Drew <DZagami@kramerlevin.com>, Bootstaylor, Chloe <CBootstaylor@kramerlevin.com>, Eric Tirschwell <etirschwell@everytown.org>
Subject: Re: City of Philadelphia v. WRT Management, Inc. -- discovery correspondence

Wally,

I have attached a letter memorializing our discussion yesterday. Please let us know if there is anything in this letter that does not reflect your understanding of our discussion.

We look forward to hearing from you tomorrow with an update on your attempts to speak to your client about the production of responsive documents.

On Wed, Jul 31, 2024 at 9:46 AM Laura Keeley <keeley@everytown.org> wrote:

Certification Due Date: 09/12/2024
Response Date: 09/19/2024
Case ID: 230702394
Control No.: 24090925

That works. We will follow up with a calendar invite.

On Wed, Jul 31, 2024 at 7:33 AM Wally Zimolong <wally@zimolonglaw.com> wrote:

How does 2:00 p.m. work for you?

Wally Zimolong, Esquire

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353 West Lancaster Avenue, Suite 300, Wayne, PA 19087

Mailing Address

P.O. Box 552, Villanova, PA 19085-0552

Office: 215.665.0842 | **Mobile:** 609.932.8836 | **Email:** wally@zimolonglaw.com |

www.zimolonglaw.com

Error! Filename not specified.

From: Laura Keeley <lkeeley@everytown.org>

Date: Tuesday, July 30, 2024 at 11:21 AM

To: Wally Zimolong <wally@zimolonglaw.com>

Cc: Jed Miller <jedmiller@everytown.org>, Renee Garcia <Renee.Garcia@phila.gov>, Lydia Furst <Lydia.Furst@phila.gov>, Melissa Medina <Melissa.Medina@phila.gov>, Ryan Smith <Ryan.Smith@phila.gov>, Alla Lefkowitz <alefkowitz@everytown.org>, Eugene Nam <enam@everytown.org>, Estes, Jordan <jestes@kramerlevin.com>, Zagami, Drew <DZagami@kramerlevin.com>, Bootstaylor, Chloe <CBootstaylor@kramerlevin.com>, Eric Tirschwell <etirschwell@everytown.org>

Subject: Re: City of Philadelphia v. WRT Management, Inc. -- discovery correspondence

Wally,

Stepping in for Jed, who is in trial. Judge Bright was not pleased with the progress that has been made in this case at the one-year status conference on July 18th, so we are conscious of the need to keep things moving along.

Since we will need to talk before any motion to compel hearing, we can be available to speak on August 21st. What time works for you?

On Thu, Jul 25, 2024 at 3:44 PM Wally Zimolong <wally@zimolonglaw.com> wrote:

Mr. Miller:

I do not think your email is a fair characterization. It is also not fair to say your busy schedule is the same as mine. You have 3 dozen lawyers working on this case and my firm consists of Mr. Fitzpatrick and myself.

Are you available August 21, 2024?

I am not sure of what the procedure is in New York, but you are not likely to get a hearing date in Philadelphia before August 21 on a motion to compel. Then the Court will ask us to talk before the hearing. I am not sure if that changes your position.

If you need to proceed with the motion to compel, that is your decision.

Wally Zimolong, Esquire

Main Office

353 West Lancaster Avenue, Suite 300, Wayne, PA 19087

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P.O. Box 552, Villanova, PA 19085-0552

Office: 215.665.0842 | **Mobile:** 609.932.8836 | **Email:** wally@zimolonglaw.com |

www.zimolonglaw.com

Error! Filename not specified.

From: Jed Miller <jedmiller@everytown.org>

Date: Thursday, July 25, 2024 at 1:16 PM

To: Wally Zimolong <wally@zimolonglaw.com>

Certification Due Date: 09/12/2024
Response Date: 09/19/2024
Case ID: 230702394
Control No.: 24090925

Cc: Renee Garcia <Renee.Garcia@phila.gov>, Lydia Furst <Lydia.Furst@phila.gov>, Melissa Medina <Melissa.Medina@phila.gov>, Ryan Smith <Ryan.Smith@phila.gov>, Alla Lefkowitz <alefkowitz@everytown.org>, Laura Keeley <lkeeley@everytown.org>, Eugene Nam <enam@everytown.org>, Estes, Jordan <jestes@kramerlevin.com>, Zagami, Drew <DZagami@kramerlevin.com>, Bootstaylor, Chloe <CBootstaylor@kramerlevin.com>, Eric Tirschwell <etirschwell@everytown.org>
Subject: Re: City of Philadelphia v. WRT Management, Inc. -- discovery correspondence

Wally,

We understand that you have more on your plate than just this case—we do, too. But this timeline is not reasonable.

We served discovery in this case on March 5th, granted an extension at your request, and then received your responses and objections a few days past the extension on May 3rd. We initially approached you about a meet & confer on July 9th. After not hearing from you, we followed up on July 16th. You offered a date three weeks away, August 8th. We responded that we could be available any time that day, and you have now instead offered a date two additional weeks into the future, August 23rd. That is 45 days—more than six weeks—from when we initially solicited a meet and confer to resolve the parties' apparent discovery dispute.

We consider your refusal to meet and confer within a reasonable time to be a constructive denial of the City's request. Unless you confirm by Friday of this week that someone else from your firm is available to meet on or before August 8, we will proceed with filing a motion to compel. Best regards,

-Jed

On Wed, Jul 24, 2024 at 7:03 AM Wally Zimolong <wally@zimolonglaw.com> wrote:

Jed:

I am no longer available on August 8. I have to fly to Palm Beach for a meeting related to the upcoming election. How is Friday, August 23?

Wally Zimolong, Esquire

Main Office

353 West Lancaster Avenue, Suite 300, Wayne, PA 19087

Mailing Address

P.O. Box 552, Villanova, PA 19085-0552

Office: 215.665.0842 | **Mobile:** 609.932.8836 | **Email:** wally@zimolonglaw.com

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From: Jed Miller <jedmiller@everytown.org>
Date: Tuesday, July 23, 2024 at 3:04 PM
To: Wally Zimolong <wally@zimolonglaw.com>
Cc: Renee Garcia <Renee.Garcia@phila.gov>, Lydia Furst <Lydia.Furst@phila.gov>, Melissa Medina <Melissa.Medina@phila.gov>, Ryan Smith <Ryan.Smith@phila.gov>, Alla Lefkowitz <alefkowitz@everytown.org>, Laura Keeley <lkeeley@everytown.org>, Eugene Nam <enam@everytown.org>, Estes, Jordan <jestes@kramerlevin.com>, Zagami, Drew <DZagami@kramerlevin.com>, Bootstaylor, Chloe <CBootstaylor@kramerlevin.com>, Eric Tirschwell <etirschwell@everytown.org>
Subject: Re: City of Philadelphia v. WRT Management, Inc. -- discovery correspondence

Wally,

Our team is available to meet and confer at any time on August 8. Please let us know when you are available on August 8 and we will circulate a dial-in. We are eager to work through these issues and avoid unnecessary delay, so if you have availability before that please let us know. Thanks,

-Jed

On Thu, Jul 18, 2024 at 10:14 AM Wally Zimolong <wally@zimolonglaw.com> wrote:

Hi Jed:

I have been swamped with the election. (President Trump's momentum is unreal!) I am away this week. I head away again on Sunday. I am back a few days in early August but then head away again. Do you have any time the week of August 8? I can check my schedule.

Wally Zimolong, Esquire

Main Office

353 West Lancaster Avenue, Suite 300, Wayne, PA 19087

Mailing Address

Certification Due Date: 09/12/2024
Response Date: 09/19/2024
Case ID: 230702394
Control No.: 24090925

P.O. Box 552, Villanova, PA 19085-0552

Office: 215.665.0842 | Mobile: 609.932.8836 | Email: wally@zimolonglaw.com |

www.zimolonglaw.com



From: Jed Miller <jedmiller@everytown.org>

Date: Tuesday, July 16, 2024 at 3:33 PM

To: Wally Zimolong <wally@zimolonglaw.com>

Cc: Renee Garcia <Renee.Garcia@phila.gov>, Lydia Furst <Lydia.Furst@phila.gov>, Melissa Medina <Melissa.Medina@phila.gov>, Ryan Smith <Ryan.Smith@phila.gov>, Alla Lefkowitz <alefkowitz@everytown.org>, Laura Keeley <lkeeley@everytown.org>, Eugene Nam <enam@everytown.org>, Estes, Jordan <jestes@kramerlevin.com>, Zagami, Drew <DZagami@kramerlevin.com>, Bootstaylor, Chloe <CBootstaylor@kramerlevin.com>, Eric Tirschwell <etirschwell@everytown.org>

Subject: Re: City of Philadelphia v. WRT Management, Inc. -- discovery correspondence

Mr. Zimolong,

I sent a letter on behalf of the City a week ago itemizing deficiencies in your client's responses and objections to the City's initial discovery requests. I also asked for your availability to meet and confer so that we can understand and clarify your client's objections. To date we have not received a response.

Please let us know at your earliest convenience the date(s) and time(s) you are available to discuss this discovery. I look forward to your prompt reply,

-Jed Miller

On Tue, Jul 9, 2024 at 10:22 AM Jed Miller <jedmiller@everytown.org> wrote:

Dear Mr. Zimolong,

Certification Due Date: 09/12/2024
Response Date: 09/19/2024
Case ID: 230702394
Control No.: 24090925

I have attached a letter concerning the responses and objections lodged by Frank's Gun Shop & Shooting Range LLC to the City's first interrogatories and requests for production. We'd like to set up a meet and confer to discuss with you; could you please let us know your availability for a zoom call on July 12, 16, or 17? Thank you,

-Jed Miller

--

JAMES E. MILLER | SENIOR COUNSEL, AFFIRMATIVE LITIGATION

JEDMILLER@EVERYTOWN.ORG 646-324-8220

PRONOUNS: HE/HIM/HIS

EVERYTOWN LAW | 450 LEXINGTON AVE., P.O. BOX #4184 | NEW YORK, NY 10017
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JAMES E. MILLER | SENIOR COUNSEL, AFFIRMATIVE LITIGATION

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--

JAMES E. MILLER | SENIOR COUNSEL, AFFIRMATIVE LITIGATION

JEDMILLER@EVERYTOWN.ORG 646-324-8220

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--

LAURA KEELEY | COUNSEL

LKEELEY@EVERYTOWN.ORG | 646-324-8499

Pronouns: She/Her/Hers

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**Certification Due Date: 09/12/2024
Response Date: 09/19/2024
Case ID: 230702394
Control No.: 24090925**

error, please notify us by telephone (646-324-8499) or by electronic mail (lkeeley@everytown.org) immediately.

--

LAURA KEELEY | COUNSEL
LKEELEY@EVERYTOWN.ORG | 646-324-8499
Pronouns: She/Her/Hers

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--

LAURA KEELEY | COUNSEL
LKEELEY@EVERYTOWN.ORG | 646-324-8499
Pronouns: She/Her/Hers

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--

LAURA KEELEY | COUNSEL

LKEELEY@EVERYTOWN.ORG | 646-324-8499

Pronouns: She/Her/Hers

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EXHIBIT H

Certification Due Date: 09/12/2024
Response Date: 09/19/2024
Case ID: 230702394
Control No.: 24090925

August 22, 2024

Delivered via Email

Wally Zimolong, Esq.
353 West Lancaster Avenue
Suite 300
Wayne, PA 19087
215-665-0842
wally@zimolonglaw.com

Re: *City of Philadelphia v. WRT Management, Inc., et al.*
City's First Sets of Requests for Production of Documents and Interrogatories

Dear Mr. Zimolong:

We write on behalf of the City of Philadelphia ("the City") to memorialize our August 21, 2024, meet and confer regarding Frank's objections to the City's First Set of Requests for Production of Documents and Interrogatories.

Objections based on 18 Pa.C.S. § 6111(i)

We agreed that we are at an impasse regarding the extent to which 18 Pa.C.S. § 6111(i) limits the disclosure of records containing customer information. Frank's final position is that all information provided by a purchaser or a potential purchaser under the Pennsylvania Uniform Firearms Act ("UFA") is confidential.

The City proposed entering into a stipulated protective order to shield the information from any public disclosure. You rejected our offer, stating that neither you nor Frank's trusts the City's counsel to abide by such an order and that a protective order would fail to obviate your concerns under § 6111(i). You explained that Frank's is unwilling to engage any further with the City regarding the scope of 18 Pa.C.S. § 6111(i) and is not open to persuasion or negotiation about the production of information you believe falls within the ambit of § 6111(i). In light of Frank's final position, the City plans to seek the court's assistance to resolve this dispute.

Objections based on 18 U.S.C. § 926

We agreed that we are also at an impasse regarding Frank's objections to production based on 18 U.S.C. § 926. The City's position is that this statute applies only to the Attorney General of the United States. You disagreed and asserted that many courts have interpreted provisions directed at the Attorney General more broadly, in a manner that may give rise to confidentiality here, though you did not identify any case. In light of Frank's final position, the City plans to seek the court's assistance to resolve this dispute.

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Objections for Vagueness, Overbreadth, Relevance, Undue Burden, and Assertions of Information Within the City's control

We discussed Frank's other objections to the City's requests, such as vagueness and overbreadth. You explained that you did not fully understand the scope of the City's requests, partly because you construed them as potentially encompassing information covered by § 6111(i).

For instance, Request No. 3. seeks "[d]ocuments sufficient to show how You maintain acquisition and disposition records, transaction records, and/or customer records, including manuals for electronic databases or point of sale systems, including but not limited to Your formal or informal policies." You stated that you interpreted this request as broadly encompassing information covered by § 6111(i), given its use of the phrase "including but not limited to." You represented that, insofar as the request seeks documents outside the scope of § 6111(i) that do not contain any customer information, such as the store's written policies, you will confer with Frank's to determine whether such documents exist, and if Frank's is willing to producing them.

In regards to Frank's responses to Request No. 6 (communications with state and federal law enforcement) and Request No. 11 (communications with ATF regarding the Demand 2 Program), you confirmed that Frank's will produce responsive communications, with redaction of personally identifying information to alleviate any barriers to production. You stated that you will contact your client to determine when Frank's will produce responsive documents. You also stated that you will keep us apprised of your progress by Friday, August 23 but could not commit to a production date, even though the discovery has been pending for almost half a year.

Otherwise, Frank's maintained its objections and will not produce documents on grounds of vagueness, overbreadth, relevance, undue burden, and assertions of information within the City's Control for the City's other requests

The City stated that, given our impasse on § 6111(i), that 171 days have passed since the City served its discovery requests on March 5, 2024, and the City is still waiting on documents Frank's represented it would produce, the City will file a motion to compel Frank's to produce responsive documents. If Frank's makes a production that is fully responsive to any RFP, the City is amenable to withdrawing that portion of its motion.

* * *

If you believe we have misunderstood your client's positions on various discovery requests, please let us know as soon as possible. We look forward to hearing back from you regarding your progress by Friday, August 23.

Respectfully,
/s/ Laura Keeley
Everytown Law
450 Lexington Ave.
P.O Box # 4184
New York, NY 10017

EXHIBIT I

Certification Due Date: 09/12/2024
Response Date: 09/19/2024
Case ID: 230702394
Control No.: 24090925

IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA : **CRIMINAL NO.** _____

v. : **DATE FILED:** _____

SAKINAH BRAXTON : **VIOLATION:**
18 U.S.C. § 924(a)(1)(A) (making false
: statements to a federal firearms licensee – 8
counts)
: Notice of forfeiture

INFORMATION

COUNTS ONE THROUGH EIGHT

THE UNITED STATES ATTORNEY CHARGES THAT:

At all times material to this information:

1. Frank's Gun Shop & Shooting Range, LLC, located at 4730 Blakiston Street, Philadelphia, Pennsylvania, 19136, possessed a federal firearms license ("FFL") and was authorized to deal in firearms under federal laws.
2. Surplus Arme, located at 1101B Elsinore Place, Chester, Pennsylvania, possessed a federal firearms license ("FFL") and was authorized to deal in firearms under federal laws.
3. FFL holders are licensed, among other things, to sell firearms and ammunition. Various rules and regulations, promulgated under the authority of Chapter 44, Title 18, United States Code, govern the manner in which FFL holders are permitted to sell firearms.
4. The rules and regulations governing FFL holders require that a person seeking to purchase a firearm fill out a Firearm Transaction Record, ATF Form 4473 ("Form 4473"). Part of the Form 4473 requires that the prospective purchaser certify that all of his or

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her answers on Form 4473 are true and correct. The Form 4473 requires that the prospective purchaser certify truthfully, subject to penalties of perjury, that he or she was the actual buyer of the firearm. The Form 4473 contains the following language in bold type: **“Warning: You are not the actual buyer if you are acquiring the firearm(s) on behalf of another person. If you are not the actual buyer, the dealer cannot transfer the firearm(s) to you.”** In the certification section of the Form 4473, the actual buyer must certify that his or her answers to the questions on the form are “true, correct, and complete,” and acknowledge by his or her signature that “making any false oral or written statement . . . is a crime punishable as a felony under Federal law, and may also violate State and/or local law.”

5. FFL holders are required to maintain a record, in the form of a completed Form 4473, of the identity of the actual buyer of firearms sold by the FFL holder, including the buyer’s home address and date of birth, to ensure that the person was not prohibited from purchasing a firearm. For example, convicted felons are persons prohibited by law from buying firearms.

6. On or about the dates listed below, each date constituting a separate offense, in Philadelphia and Chester, in the Eastern District of Pennsylvania, defendant

SAKINAH BRAXTON,

in connection with the acquisition of each of the firearms listed below from the FFL holders listed below, knowingly made a false statement and representation with respect to information required by the provisions of Chapter 44, Title 18, United States Code, to be kept in the FFL holders’ records, in that defendant BRAXTON, certified on the Form 4473 that she was the actual transferee/buyer, when in fact, as defendant knew, this statement was false and fictitious, because BRAXTON was purchasing the firearms on behalf of another person:

Count	Date and FFL Location	Firearm	Serial Number
One	July 2, 2020	Glock, model 19, 9x19mm semi-automatic pistol	BNLH711
	Frank's Gun Shop 4730 Blakiston Street Philadelphia, Pennsylvania	Glock, model 44, .22lr semi-automatic pistol	AEKF450
Two	July 9, 2020	Glock, model 19 Gen5, 9x19mm semi-automatic pistol	BPLK017
	Frank's Gun Shop 4730 Blakiston Street Philadelphia, Pennsylvania		
Three	July 15, 2020	Glock, model 19, 9x19mm semi-automatic pistol	BPLC976
	Frank's Gun Shop 4730 Blakiston Street Philadelphia, Pennsylvania		
Four	July 25, 2020	Glock, model 19X, 9x19mm semi-automatic pistol	BPNM340
	Frank's Gun Shop 4730 Blakiston Street Philadelphia, Pennsylvania	Glock, model 17, 9x19mm semi-automatic pistol	BPKH677
Five	July 30, 2020	Glock, model 48, 9x19mm semi-automatic pistol	BKXL121
	Surplus Arme 1101B Elsinore Place Chester, Pennsylvania	FN America, model 509, 9mm semi-automatic pistol	GKS0106960
Six	August 7, 2020	Ruger, model 57, 5.7x28mm semi-automatic pistol	641-40526
	Frank's Gun Shop 4730 Blakiston Street Philadelphia, Pennsylvania		
Seven	August 14, 2020	Glock, model 43X, 9x19mm semi-automatic pistol	BPPN626
	Frank's Gun Shop 4730 Blakiston Street Philadelphia, Pennsylvania		

Eight	August 21, 2020 Frank's Gun Shop 4730 Blakiston Street Philadelphia, Pennsylvania	Ruger, model 57, 5.7x28mm semi-automatic pistol	641-38381
-------	--	--	-----------

All in violation of Title 18, United States Code, Section 924(a)(1)(A).

NOTICE OF FORFEITURE

THE UNITED STATES ATTORNEY FURTHER CHARGES THAT:

As a result of the violations of Title 18, United States Code, Section 924(a)(1)(A), set forth in this information, defendant

SAKINAH BRAXTON

shall forfeit to the United States of America, the firearms involved in the commission of such violations, including, but not limited to:


- 1) a Glock, model 19, 9x19mm semi-automatic pistol, bearing serial number BNLH711;
- 2) a Glock, model 44, .22l semi-automatic pistol, bearing serial number AEKF450;
- 3) a Glock, model 19, Gen5 9x19mm semi-automatic pistol, bearing serial number BPLK017;
- 4) a Glock, model 19, 9x19mm semi-automatic pistol, bearing serial number BPLC976;
- 5) a Glock, model 19X, 9x19mm semi-automatic pistol, bearing serial number BPNM340;
- 6) a Glock, model 17, 9x19mm semi-automatic pistol, bearing serial number BPKH677;
- 7) a Glock, model 48, 9x19mm semi-automatic pistol, bearing serial number BKXL121;
- 8) a FN America, model 509, 9mm semi-automatic pistol, bearing serial number GKS0106960;

9) a Ruger, model 57, 5.7x28mm, semi-automatic pistol, bearing serial number 641-40526;

10) a Glock, model 43X, 9x19mm, semi-automatic pistol, bearing serial number BPPN626; and

11) a Ruger, model 57, 5.7x28mm semi-automatic pistol, bearing serial number 641-38381.

All pursuant to Title 28, United States Code, Section 2461(c), and Title 18, United States Code, Section 924(d).


JENNIFER ARBITTIER WILLIAMS
UNITED STATES ATTORNEY

Criminal No.

UNITED STATES DISTRICT COURT

Eastern District of Pennsylvania

Criminal Division

THE UNITED STATES OF AMERICA

vs.

SAKINAH BRAXTON

INFORMATION

Counts

18 U.S.C. § 924(a)(1)(A) (making false statements to a federal firearms licensee - 8 Counts)

Notice of Forfeiture

A true bill.

Foreman

Filed in open court this _____ day,
Of _____ A.D. 20 _____

Clerk

Bail, \$ _____

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Certification Due Date: 09/12/2024
Response Date: 09/19/2024
Case ID: 230702394
Control No.: 24090925

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

INFORMATION

DESIGNATION FORM to be used by counsel to indicate the category of the case for the purpose of assignment to appropriate calendar.

Address of Plaintiff: 615 Chestnut Street, Suite 1250, Philadelphia, PA 19106-4476

Post Office: Philadelphia

County: Philadelphia

City and State of Defendant: Philadelphia, Pennsylvania

County: Philadelphia

Register number: N/A

Place of accident, incident, or transaction: Eastern District of Pennsylvania

Post Office: Philadelphia

County: Philadelphia

RELATED CASE, IF ANY:

Criminal cases are deemed related when the answer to the following question is "yes".

Does this case involve a defendant or defendants alleged to have participated in the same action or transaction, or in the same series of acts or transactions, constituting an offense or offenses?

YES/NO: Yes

Case Number: 21 - 439

Judge: Gerald J. Pappert, USDJ

CRIMINAL: (Criminal Category - FOR USE BY U.S. ATTORNEY ONLY)

1. ☐ Antitrust
2. ☐ Income Tax and other Tax Prosecutions
3. ☐ Commercial Mail Fraud
4. ☐ Controlled Substances
5. ☐ Violations of 18 U.S.C. Chapters 95 and 96 (Sections 1951-55 and 1961-68) and Mail Fraud other than commercial
6. ☒ General Criminal

(U.S. ATTORNEY WILL PLEASE DESIGNATE PARTICULAR CRIME AND STATUTE CHARGED TO BE VIOLATED AND STATE ANY PREVIOUS CRIMINAL NUMBER FOR SPEEDY TRIAL ACT TRACKING PURPOSES):
18 U.S.C. § 924(a)(1)(A) (making false statements to a federal firearms licensee – 8 counts); Notice of Forfeiture

DATE: 2/23/2022

s/ Priya T. De Souza

Priya T. De Souza

Assistant United States Attorney

U.S. v. Sakinah Braxton

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EXHIBIT J

Certification Due Date: 09/12/2024
Response Date: 09/19/2024
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AFFIDAVIT OF PROBABLE CAUSE

COURT VERSION

Copy

Affiant:

DET MARK SCHMIDHEISER District Attorney

Warrant Control Number:

AFF-0005096-2021

PROBABLE CAUSE BELIEF IS BASED UPON THE FOLLOWING FACTS AND CIRCUMSTANCES:

1. That after investigation I have probable cause to believe that a warrant of arrest should be issued for:

Defendant Name: NAFISA PROSSER

Gender: F Race: Black

Alias:

Address: 6001 N 17th ST Apt. 305 Philadelphia, PA 19111
3403 W Clearfield ST philadelphia, PA 19111
2204 N Cleveland ST philadelphia, PA 19111

CHARGES:

DC Number	Code	Grade	Description	Count
2125060603	CC4911	F3	TAMPER W/ RECORDS	10
	CC6111	F3	VUFA-ILLEGAL TRANSFER OF FIREARM	10
	CC4904	M2	UNSWORN FALSIFYING	10

2. That the facts tending to establish the grounds for the issuance of the warrant of arrest and the probable cause for my belief are as follows: (Note: if extended text exists, see following page(s))

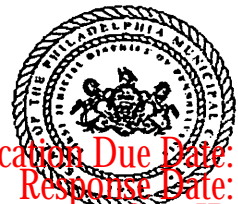
I, THE AFFIANT, BEING DULY SWORN ACCORDING TO LAW, DEPOSE AND SAY THAT THE FACTS SET FORTH IN THE AFFIDAVIT ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE, INFORMATION AND BELIEF AND THAT PROBABLE CAUSE TO ARREST EXISTS.

Affiant: DET MARK SCHMIDHEISER District Attorney

Sworn to or affirmed and subscribed before me this 4 day of October , 2021

Affiant Signature

Issuing Authority Signature



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AFFIDAVIT OF PROBABLE CAUSE
COURT VERSION
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Affiant:

DET MARK SCHMIDHEISER District Attorney

Warrant Control Number:

AFF-0005096-2021

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I, the Affiant, Special Agent Mark Schmidheiser #750, I am assigned to the Office of the Attorney General's Gun Violence Task Force. I have been a member of the task force since February 2007. I have also been a sworn member of the Philadelphia Police Department for 25 years. 17 of these years as a Philadelphia narcotics officer also 7 years as a patrol officer, and I have made and participated in hundreds of arrests for, and investigations of, violations of the Pennsylvania Crimes Code. I conduct such investigations as a Special Agent as well. I have conducted investigation into Instagram, social media and straw purchasing, which have resulted in numerous arrest and guns confiscations.

Your affiant believes that based on the fact of this case, Nafisa Prosser is purchasing firearms for the purpose of selling them on the streets, (straw purchase). A straw purchase is when a person legally purchase a firearm and then sells/transfers this weapon for profit to a second person who is not legal to purchase or possess because of a criminal back ground.

Your affiant has been with the Gun Violence Task Force, Office of the Attorney General for approximately 14 years and has made numerous arrest and conducted hundreds of investigations that deal with straw purchases.

The facts in support of my belief are as follows:

09/08/2021, your affiant, SA Mark Schmidheiser received multiple gun sales paper work from Lock's Gun exchange located 6700 Rowland Ave. in Philadelphia. Investigation shows that Nafisa Prosser B/F purchased a Glock 9mm pistol ser# BTMU548 on 08/24/2021. On 08/26/2021 Prosser purchased a Glock 9mm pistol ser# AFVP566 with the transfer going through on 8/28/2021.

The investigation shows that Prosser purchased ten (10) hand guns between 8/23/2021 and 10/01/2021 at the following dealers and dates of sale:

8/23/2021- Franks Gun Shop- Glock, 9mm pistol, # AFYY708
8/24/2021-Lock's gun shop-Glock, 9mm pistol, # BTMU548
8/24/2021-Franks Gun Shop-Glock, 9mm pistol, # BTMK884
8/28/2021-Locks Gun Shop-Glock, 9mm pistol, # AFVP566
8/28/2021-Founding Fathers - Glock, 9mm, pistol #BTZZ576
8/29/2021-Stars & Stripes gun shop-FNB- 9mm, pistol # GKS0220361
8/29/2021-Stars & Stripes Gun Shop-Glock-9mm, pistol #AFUC761
9/15/2021- Lock's Gun Shop- Glock-40 caliber pistol # BUCS806
10/01/2021- Surplus Arme- Glock- 40 caliber pistol # BUWK378, and Glock 9mm hand gun # BRWB326

Page 2 of 4

Prosser does not have a permit to carry. Investigation shows that Nafisa Prosser residence as of 08/15/2021 is 6001 N 17th Street APT 305.

09/08/2021 your affiant received two (2) sets of the ATF 4473 Firearms transaction record along with the Pennsylvania

I, THE AFFIANT, BEING DULY SWORN ACCORDING TO LAW, DEPOSE AND SAY THAT THE FACTS SET FORTH IN THE AFFIDAVIT ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE, INFORMATION AND BELIEF AND THAT PROBABLE CAUSE TO ARREST EXISTS.

Affiant: DET MARK SCHMIDHEISER District Attorney

Sworn to or affirmed and subscribed before me this 4 day of October , 2021

Affiant Signature

Issuing Authority Signature



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AFFIDAVIT OF PROBABLE CAUSE

COURT VERSION

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Affiant:

DET MARK SCHMIDHEISER District Attorney

Warrant Control Number:

AFF-0005096-2021

State applications from Lock's Gun Shop, 4700 Rowland Ave. Philadelphia, which shows that Nafisa Prosser on 8/24/2021 purchased a Glock 9mm serial # BTMU548, using her PA driver's license # 33154219 with the address of 3403 W Clearfield St in Philadelphia. Investigation shows that Nafisa Prosser has been living at 6001 N 17th Street APT 305 since 8/15/2021. On this same day (08/24/2021), Prosser purchased a Glock 9mm hand gun from Frank's gun shop, 4730 Blakiston St in Philadelphia using the address of 3403 W Clearfield. Prosser gave false information on the required paper work.

08/26/2021 Nafisa Prosser returned to Lock's gun shop and again after filling out the required paper work using her PA driver's license #33154219, residence 3403 W Clearfield St in Philadelphia, Prosser purchased a Glock 9mm hand gun # AFP566 but did not receive the hand gun until 08/28/2021. Prosser gave false information on the required paper work.

On 08/28/2021 investigation shows that Nafisa Prosser also went to Founding Fathers Outfitters gun shop, 9280 Ridge Pk., Lafayette Hill, PA and purchased a Glock 9mm serial # BTZZ576. Your affiant recovered from Founding Fathers the required paper work and photo identification OLN 33154219. Prosser used the address of 2204 N Cleveland St, Philadelphia. Prosser gave false information on the required paper work.

Your affiant knows through experience with the Gun Violence Task Force that a straw purchaser will sometimes go to several gun shops on the same day in an attempt to conceal/cover up their multiple gun purchases.

09/08/2021 Your affiant, SA Mark Schmidheiser went to Frank's Gun Shop located 4730 Blakiston St. in Philadelphia and recovered two (2) sets of the AT 4473, firearms transaction record. The first transaction took place on 08/23/2021 with the purchase of a Glock, 9mm, and serial # AFYY708. Prosser used her PA driver's license # 33154219 with the address of 2204 N Cleveland St in Philadelphia. Issued on 05/27/2021 and expires on 02/15/2023. Investigation shows that Nafisa Prosser has not lived at this address since 08/15/2021. Prosser gave false information on the required paper work.

The second transaction from Frank's Gun Shop on 08/24/2021(the following day), the Firearms Transaction Record (4473) shows that Nafisa Prosser purchased a Glock, 9mm serial # BTMK884 using the driver's license # 33154219 with the address of 3403 W Clearfield St. in Philadelphia. Investigation shows that Prosser has not lived at this location since 8/15/2021. Prosser gave false information on the required paper work.

Page 3 of 4

Investigation shows that on 08/29/2021 Nafisa Prosser went to Stars & Stripes Tactical gun shop, 1313 West Chester Pike, West Chester, PA and purchased Two (2) hand guns. The first was a FNB 9mm serial # GKS0220361 and the second was a Glock 9mm serial # AFUC761.

Investigation shows that Nafisa Prosser is using two driver's licenses. One (1) issued 5/27/2021 and expires 2/15/2023, OLN: 33154219 with the address 2204 N Cleveland Street. Records show this license was suspended on 7/09/2021. Two (2) issued 10/01/2019 and expires 2/15/2023, OLN: 33154219 with the address of 3403 W Clearfield Street in Philadelphia. Investigation shows Prosser residence of 6001 N 17th St APT 305 in Philadelphia since 8/15/2021

Your affiant believes that Nafisa Prosser along with others, (not named), are purchasing firearms illegally for the purpose of

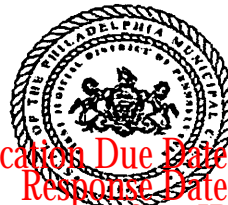
I, THE AFFIANT, BEING DULY SWORN ACCORDING TO LAW, DEPOSE AND SAY THAT THE FACTS SET FORTH IN THE AFFIDAVIT ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE, INFORMATION AND BELIEF AND THAT PROBABLE CAUSE TO ARREST EXISTS.

Affiant: DET MARK SCHMIDHEISER District Attorney

Sworn to or affirmed and subscribed before me this 4 day of October, 2021

Affiant Signature

Issuing Authority Signature



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AFFIDAVIT OF PROBABLE CAUSE
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Affiant:

DET MARK SCHMIDHEISER District Attorney

Warrant Control Number:

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Your affiant believes that Nafisa Prosser along with others, (not named), are purchasing firearms illegally for the purpose of selling them on the street for profit. Your affiant believes this by the fact that Prosser is using two separate driver's licenses with separate addresses along with the amount of weapons that have been purchased over between 8/23/2021 and 10/01/2021 at five different gun shops located in and around Philadelphia.

9/08/2021 SA Schmidheiser contacted PSP (Pennsylvania State Police), Brenda Zartman and had Prosser placed into a pending file to see if she attempts to purchase any other firearms.

9/10/2021 SA Marta Santos informed SA Schmidheiser that Nafisa Prosser attempted to purchase a Glock hand gun from Lock's gun shop, but she was put into a pending file by SA Schmidheiser

9/15/2021 agents from the Gun Violence Task Force set up surveillance at 4700 Rowland Street in Philadelphia at 10:00am. At 2:20pm a gray Ford focus PA # LNG-5942, registered to Nafisa Prosser at 2204 W Cleveland Street in Philadelphia parked out front. A female identified as Nafisa Prosser exited the vehicle and entered Lock's gun shop. After approximately 15 minutes Prosser exited carrying a black Glock gun case in a black bag.

The vehicle driven by Prosser was followed to 6001 N 17th Street where Prosser exited the vehicle with the black bag containing the Glock gun case then removed her license plate and entered into 6001 N 17th Street. Agent Santos recovered the ATF 4473 required paper work from lock's, which showed that Nafisa Prosser purchased a Glock 40 caliber hand gun # BUCS806. Prosser used the address of 3403 W Clearfield Street.

9/16/2021 surveillance was set up at 6001 N 17th Street, SA Schmidheiser observed the Ford Focus with no license tag parked out front of 6001 N 17th Street.

9/20/2021, 6:00am, surveillance was set up at 6001 N 17th Street, Ford Focus, no tag parked out front of 6001 N 17th Street. Surveillance terminated 10:00am.

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10/01/2021 your affiant was informed by PSP that Nafisa Prosser attempted to purchase two Glock hand guns from Surplus Arme gun shop, 1101B Elsinore PL, Chester, PA but she was put into a pending file by your affiant. Your affiant received copies of the required paper work along with a photo ID of Nafisa Prosser's driver's licenses OLN: 33154219 with the address of 3403 W Clearfield St. Prosser has not lived at this address since 8/15/2021.

Question 34 on the Pennsylvania State Application reads as follows:

I verify the facts that I have set forth in blocks 5-33 of this form are true and correct to the best of my knowledge, information and belief. This verification is made subject to both penalties of section 4904 of the crimes code relating to unsworn falsification to authorities and the uniform firearms act. I also understand that making any false written statement of the exhibiting of any false misrepresented identification with the respect to this application is a crime punishable as a felony. This question was signed by Nafisa Prosser.

The ATF 4473 states in part the following:

I understand that making any false oral or written statement, or exhibiting any false or misrepresented identification with the respect to this transaction, is a crime punishable as a felony under federal law, and may also violate state and/or local law. I further understand that the repetitive purchase of firearms for the purpose of resale for livelihood and profit without a federal firearms license is a violation of federal law. This question was signed by Nafisa Prosser.

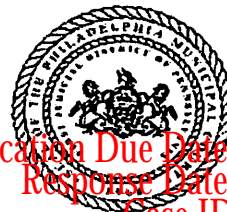
I, THE AFFIANT, BEING DULY SWORN ACCORDING TO LAW, DEPOSE AND SAY THAT THE FACTS SET FORTH IN THE AFFIDAVIT ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE, INFORMATION AND BELIEF AND THAT PROBABLE CAUSE TO ARREST EXISTS.

Affiant: DET MARK SCHMIDHEISER District Attorney

Sworn to or affirmed and subscribed before me this 4 day of October, 2021

Affiant Signature

Issuing Authority Signature



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Affiant:

DET MARK SCHMIDHEISER District Attorney

Warrant Control Number:

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Federal firearms license is a violation of federal law. This question was signed by Nafisa Prosser.

Based on all of the above information, I believe that probable cause exists to obtain an arrest warrant for Nafisa Prosser, DOB: 02/14/1999 for the following charges:

4904-Unsworn falsification to authorities-(M2)
4911-Tampering with public records or information-(F3)
6111-Sale or transfer of firearms-(F3)

"Certification of Compliance"

I certify that this filing complies with the provisions of the Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial courts that require filing confidential information and documents differently than non-confidential and documents.

I, THE AFFIANT, BEING DULY SWORN ACCORDING TO LAW, DEPOSE AND SAY THAT THE FACTS SET FORTH IN THE AFFIDAVIT ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE, INFORMATION AND BELIEF AND THAT PROBABLE CAUSE TO ARREST EXISTS.

Affiant: DET MARK SCHMIDHEISER District Attorney

Sworn to or affirmed and subscribed before me this 4 day of October, 2021

Affiant Signature

Issuing Authority Signature



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COMMONWEALTH OF PENNSYLVANIA
PHILADELPHIA COUNTY

PARS

DC#: 21-25-060603

Dckt/MC#: MC51-CR-0018702-202

Date: Oct 04, 2021

Complaint: COM-0005096-2021

Criminal Complaint

Gun Task Force

Copy

COMMONWEALTH OF PENNSYLVANIA VS. NAFISA PROSSER

I, the undersigned, do hereby state under oath or affirmation:

(1) My name is: MARK SCHMIDHEISER District Attorney

(2) I accuse NAFISA PROSSER

who lives at 6001 N 17th ST Apt. 305 Philadelphia, PA 19111

with violating the Penal Laws of Pennsylvania on or about Monday, October 04, 2021
in the county of Philadelphia.

(3) The acts committed by the accused were:

See Supplemental Page For Complete Text

In violation of Pennsylvania Penal Laws, section(s) and title(s)

CHARGES:

Code	Grade	Description	Counts
CC4911	F3	TAMPER W/ RECORDS	010
CC6111	F3	VUFA-ILLEGAL TRANSFER OF FIREARM	010
CC4904	M2	UNSWORN FALSIFYING	010

All of which is against the peace and dignity of the Commonwealth of Pennsylvania

(4) I ask that a warrant of arrest or a summons be issued and that the accused be required to answer the charges I have made. This complaint has been reviewed and approved by A.D.A. DAVID STOCK

(5) I swear to or affirm the within complaint upon my knowledge, information and belief, and sign it on
before Philadelphia Municipal Court Magistrate.

Mark Schmidheiser



Samuel Johnson

Signature of Arraignment Court Magistrate.

Signature of Affiant

Commonwealth's Representative: "I certify that this filing complies with the provisions of the Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts that require filing confidential information and documents differently than non-confidential information and documents."

On 10/04/2021, the above named affiant swore or affirmed that the facts set forth in the complaint were true and correct to the best of his/her knowledge, information and belief, and signed it in my presence. I believe the within affiant to be a responsible person and that there is probable cause for the issuance of process.

Mark Schmidheiser

Issuing Authority





COMMONWEALTH OF PENNSYLVANIA
PHILADELPHIA COUNTY

PARS

DC# : 21-25-060603

Dckt/MC#: MC51-CR-0018702-202

Date : Oct 04, 2021

Complaint : COM-0005096-2021

Supplemental Page For Complete Text

ON OR ABOUT AUGUST 23, 2021, IN PHILADELPHIA, PENNSYLVANIA, IN OR AROUND THE 4700 BLOCK OF BLAKISTON STREET, THIS DEFENDANT, NAFISA PROSSER, MADE MATERIALLY FALSE ORAL AND/OR WRITTEN STATEMENTS, INCLUDING A STATEMENT ON ANY FORM PROMULGATED BY FEDERAL OR STATE AGENCIES IN CONNECTION WITH THE PURCHASE OF A HANDGUN WITH THE INTENT TO DEFRAUD, WITHOUT COMPLYING WITH THE REQUIREMENTS OF 18 PA. C.S. 6111.

ON OR ABOUT AUGUST 24, 2021, IN PHILADELPHIA, PENNSYLVANIA, IN OR AROUND THE 6700 BLOCK OF ROWLAND AVENUE, THIS DEFENDANT, NAFISA PROSSER, MADE MATERIALLY FALSE ORAL AND/OR WRITTEN STATEMENTS, INCLUDING A STATEMENT ON ANY FORM PROMULGATED BY FEDERAL OR STATE AGENCIES IN CONNECTION WITH THE PURCHASE OF A HANDGUN WITH THE INTENT TO DEFRAUD, WITHOUT COMPLYING WITH THE REQUIREMENTS OF 18 PA. C.S. 6111.

ON OR ABOUT AUGUST 24, 2021, IN PHILADELPHIA, PENNSYLVANIA, IN OR AROUND THE 4700 BLOCK OF BLAKISTON STREET, THIS DEFENDANT, NAFISA PROSSER, MADE MATERIALLY FALSE ORAL AND/OR WRITTEN STATEMENTS, INCLUDING A STATEMENT ON ANY FORM PROMULGATED BY FEDERAL OR STATE AGENCIES IN CONNECTION WITH THE PURCHASE OF A HANDGUN WITH THE INTENT TO DEFRAUD, WITHOUT COMPLYING WITH THE REQUIREMENTS OF 18 PA. C.S. 6111.

ON OR ABOUT AUGUST 26, 2021, IN PHILADELPHIA, PENNSYLVANIA, IN OR AROUND THE 6700 BLOCK OF ROWLAND AVENUE, THIS DEFENDANT, NAFISA PROSSER, MADE MATERIALLY FALSE ORAL AND/OR WRITTEN STATEMENTS, INCLUDING A STATEMENT ON ANY FORM PROMULGATED BY FEDERAL OR STATE AGENCIES IN CONNECTION WITH THE PURCHASE OF A HANDGUN WITH THE INTENT TO DEFRAUD, WITHOUT COMPLYING WITH THE REQUIREMENTS OF 18 PA. C.S. 6111.

ON OR ABOUT AUGUST 28, 2021, IN LAFAYETTE HILL, PENNSYLVANIA, IN OR AROUND THE 9200 BLOCK OF RIDGE PIKE, THIS DEFENDANT, NAFISA PROSSER, MADE MATERIALLY FALSE ORAL AND/OR WRITTEN STATEMENTS, INCLUDING A STATEMENT ON ANY FORM PROMULGATED BY FEDERAL OR STATE AGENCIES IN CONNECTION WITH THE PURCHASE OF A HANDGUN WITH THE INTENT TO DEFRAUD, WITHOUT COMPLYING WITH THE REQUIREMENTS OF 18 PA. C.S. 6111.

ON OR ABOUT AUGUST 29, 2021, IN WEST CHESTER, PENNSYLVANIA, IN OR AROUND THE 1300 BLOCK OF WEST CHESTER PIKE, THIS DEFENDANT, NAFISA PROSSER, MADE MATERIALLY FALSE ORAL AND/OR WRITTEN STATEMENTS, INCLUDING A STATEMENT ON ANY FORM PROMULGATED BY FEDERAL OR STATE AGENCIES IN CONNECTION WITH THE PURCHASE OF TWO HANDGUNS WITH THE INTENT TO DEFRAUD, WITHOUT COMPLYING WITH THE REQUIREMENTS OF 18 PA. C.S. 6111.

ON OR ABOUT SEPTEMBER 15, 2021, IN PHILADELPHIA, PENNSYLVANIA, IN OR AROUND THE 6700 BLOCK OF ROWLAND AVENUE, THIS DEFENDANT, NAFISA PROSSER, MADE MATERIALLY FALSE ORAL AND/OR WRITTEN STATEMENTS, INCLUDING A STATEMENT ON ANY FORM PROMULGATED BY FEDERAL OR STATE AGENCIES IN CONNECTION WITH THE PURCHASE OF A HANDGUN WITH THE INTENT TO DEFRAUD, WITHOUT COMPLYING WITH THE REQUIREMENTS OF 18 PA. C.S. 6111.

ON OR ABOUT OCTOBER 1, 2021, IN CHESTER, PENNSYLVANIA, IN OR AROUND THE 1100 BLOCK OF ELSINORE PLACE, THIS DEFENDANT, NAFISA PROSSER, MADE MATERIALLY FALSE ORAL AND/OR WRITTEN STATEMENTS, INCLUDING A STATEMENT ON ANY FORM PROMULGATED BY FEDERAL OR STATE AGENCIES IN CONNECTION WITH THE PURCHASE OF TWO HANDGUNS WITH THE INTENT TO DEFRAUD, WITHOUT COMPLYING WITH THE REQUIREMENTS OF 18 PA. C.S. 6111.

I CERTIFY THAT THIS FILING COMPLIES WITH THE PROVISIONS OF THE PUBLIC ACCESS POLICY OF THE UNIFIED JUDICIAL SYSTEM OF PENNSYLVANIA: CASE RECORDS OF THE APPELLATE TRIAL COURTS THAT REQUIRE FILING CONFIDENTIAL INFORMATION AND DOCUMENTS DIFFERENTLY THAN NON-CONFIDENTIAL INFORMATION AND DOCUMENTS.

Certification Due Date: 09/12/2024

Response Date: 09/19/2024

Case ID: 230702394

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