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CITY OF PHILADELPHIA

Plaintiff

v.

TANNER OPERATIONS, ET AL.

Defendants

PHILADELPHIA COUNTY  
COURT OF COMMON PLEAS

No. 230702394

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**RESPONSE IN OPPOSITION TO MOTION TO COMPEL**

Defendant, Frank's Gun Shop & Shooting Range LLC ("Frank's") files this response in opposition to the motion to compel as follows:

Frank's opposes plaintiff's motion to compel because plaintiff seeks discovery of information that is privileged from disclosure under Commonwealth and federal law. Under Section 6111(i) of the Pennsylvania Uniform Act ("UFA"), 18 Pa.C.S.A. § 6111(i), "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.**" To enforce these confidentiality provisions, the UFA subjects any "person, licensed dealer, State or local government

agency or department,” who violates this confidentiality provision to civil damages of \$1,000 per occurrence, treble damages, and reasonable attorneys fees. 18 Pa.C.S.A. § 6111(i). Likewise, 18 U.S.C. § 926, except in criminal investigation, prohibits the records of firearms dealers maintain to be transferred to “any State or political subdivision.” But neither of these statutes has stopped plaintiff from requesting records of firearm’s transactions in the care, custody, and control of Frank’s. These records are clearly protected under 18 Pa.C.S.A. § 6111(i) and 18 U.S.C. § 926, and the plaintiff’s motion should be denied.

This interrogatory requests information that is squarely protected by 18 Pa.C.S.A. § 6111(i) and 18 U.S.C. § 926. While some of the discovery requests are limited to Frank’s interactions with so-called “Straw Purchasers,” it is irrelevant that plaintiff’s seek only information related to “Straw Purchasers.” The statutes make no except for records related to “Straw Purchasers” and plaintiff’s mere allegation that certain individual were “Straw Purchasers” is insufficient. If Frank’s were to disclose this information, the alleged “Straw Purchasers” could sue Frank’s and subjected it to significant liability. Other requests go well beyond the alleged “Straw Purchasers.” For example, in request for production number 6, the plaintiff’s request information related to firearm’s purchases by all residence of the city of Philadelphia.

In *Doe v. Franklin Cnty.*, 139 A.3d 296 (Pa. Commw. Ct. 2016), rev’d on other grounds, 644 Pa. 1, 174 A.3d 593 (2017) the Commonwealth Court held that “Section 6111(i) of the UFA to mean that ‘any person, licensed dealer, State or local governmental agency or department’ violates Section 6111(i) of the UFA by revealing

an applicant's name or identity' to a person not (1) authorized to receive such information by statute; (2) involved in the operation or management of the sheriff's office; (3) representing a law enforcement or criminal justice agency; or (4) otherwise authorized by an applicant.” *Id.* at 307. And that “disclosure to any other person constitutes ‘public disclosure’” under Section 6111(i). *Id.*

Plaintiff is not within the four enumerated classes of persons authorized to receive the confidential information Frank’s maintains regarding firearms transactions. Therefore, disclosure of the information requested would constitute a “public disclosure” and would violated the confidentiality provisions of Section 6111(i) and subject Frank’s to liability.

Accordingly, the Court should deny plaintiff’s motion.

Respectfully submitted,

/s/Walter S. Zimolong

Walter S. Zimolong, Esquire

Attorneys for Defendant, *Frank’s Gun Shop & Shooting Range LLC*

Dated: September 24, 2024

### **CERTIFICATE OF SERVICE**

I, Walter S. Zimolong, hereby certify that on the date set forth below, in accordance with Pa.R.Civ.P. 205.4(g)(1)(ii), the foregoing was electronically filed with the Philadelphia County Court of Common Pleas electronic filing system website and is available for review on the Philadelphia County Court of Common Pleas electronic filing system's website, which filing constitutes proper service upon counsel of record.

Dated: September 24, 2024

/s/ Walter S. Zimolong