

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

06 6504

FILED
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U.S. DISTRICT COURT E.D.N.Y.

REC 07 2006

THE CITY OF NEW YORK,

Plaintiff, **COMPLAINT**

-against-

06 CV _____

EINSTEIN J

POLLAK, M.J.

BOB MOATES' SPORT SHOP, INC.; COASTAL TILE & ROOFING COMPANY, INC. d/b/a Coastal Pawn Shop; JOHN COSCIA d/b/a John's Gun & Tackle Room; FRANKLIN ROD & GUN SHOP, INC.; GWINNETT PAWN SHOP, INC.; HOT SHOTS, INC. d/b/a Hot Shots Jewelry & Pawn; MILLER ROD & GUN, INC.; RJS ENTERPRISES, INC. d/b/a Dick's Pawn Shop North; JERRY DALE ROOKS d/b/a Rooks Sales & Service; TCE OF VIRGINIA, INC. d/b/a Town & Country Pawn Shop; TOCCOA PAWN & VARIETY, INCORPORATED; TRADER WORLD, INC.;

Defendants.

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Plaintiff, the City of New York (the "City"), by its attorneys, Michael A. Cardozo, Corporation Counsel of the City of New York, and Pillsbury Winthrop Shaw Pittman, LLP, for its complaint against defendants Bob Moates' Sport Shop, Inc.; Coastal Tile & Roofing Company, Inc. d/b/a Coastal Pawn Shop; John Coscia d/b/a John's Gun & Tackle Room; Franklin Rod & Gun Shop, Inc.; Gwinnett Pawn Shop, Inc.; Hot Shots, Inc. d/b/a Hot Shots Jewelry & Pawn; Miller Rod & Gun, Inc.; RJS Enterprises, Inc. d/b/a Dick's Pawn Shop North; Jerry Dale Rooks d/b/a Rooks Sales & Service; TCE of Virginia, Inc. d/b/a Town & Country Pawn Shop; Toccoa Pawn & Variety, Incorporated; and Trader World, Inc. (hereafter, when referred to collectively, "Defendants") alleges as follows:

Nature of the Action

1. This civil action seeks injunctive relief to remedy prospectively the Defendants' creation of and contribution to a public nuisance existing in the City of New York.

2. Gun violence in New York City is a direct result of thousands of handguns in the possession of individuals for whom gun ownership is illegal by reason of criminal history, mental infirmity, age and/or lack of a license. These individuals (referred to herein as "prohibited persons") commonly obtain handguns directly or indirectly from federally-licensed gun dealers who abuse the public trust inherent in licensure by intentionally or negligently engaging in certain illegal sales practices described below.

3. The very reason for prohibiting certain persons from possessing guns is the known propensity of such persons to use them in crimes. By reason of that propensity, the enormous number of illegally possessed guns in the hands of prohibited persons unequivocally meets the definition of a common law public nuisance – a condition that is injurious to the property, health, safety and comfort of a considerable number of persons. The New York State legislature has in fact declared illegally possessed guns to be a public nuisance.

4. Evidence of that such a nuisance exists in the City takes the form of the near-daily stream of incidents in which City residents, City police officers and City visitors are shot dead or wounded by prohibited persons wielding illegally possessed handguns. Accordingly, illegally possessed handguns in the hands of criminals injure the property, health, safety and comfort of a considerable number of persons.

5. Upon information and belief, Defendant Bob Moates' Sport Shop, Inc. ("Moates") sells handguns at a storefront establishment in Midlothian, Virginia. During the period from February 1994 through June 2002, at least 22 guns sold by Moates were recovered in New York City, both in the hands of individuals with no lawful right to possess a gun and in

connection with a variety of violent crimes. Guns sold by Moates have been recovered in the City in as few as 3 1/2 months after their sale by Moates in Virginia.

6. Upon information and belief, Defendant Coastal Tile & Roofing Company, Inc. d/b/a Coastal Pawn Shop (“Coastal Pawn”) sells handguns at a storefront establishment in Latta, South Carolina. During the period from February 1994 through June 2002, at least 12 guns sold by Coastal Pawn were recovered in New York City, both in the hands of individuals with no lawful right to possess a gun and in connection with a variety of violent crimes. Guns sold by Coastal Pawn have been recovered in the City in as few as 2 days after sale by Coastal in South Carolina.

7. Upon information and belief, Defendant John Coscia d/b/a John’s Gun & Tackle Room (“Coscia”) sells handguns at a storefront establishment in Easton, Pennsylvania. During the period from February 1994 through June 2002, at least 12 guns sold by Coscia were recovered in New York City, both in the hands of individuals with no lawful right to possess a gun and in connection with a variety of violent crimes. Guns sold by Coscia have been recovered in the City as soon as 4 days after their sale by Coscia in Pennsylvania.

8. Upon information and belief, Defendant Franklin Rod & Gun Shop, Inc. (“Franklin”), sells handguns at a storefront establishment in Rocky Mount, Virginia. During the period from February 1994 through June 2002, at least 14 guns sold by Franklin were recovered in New York City, both in the hands of individuals with no lawful right to possess a gun and in connection with a variety of violent crimes. Guns sold by Franklin have been recovered in the City in as few as 4 days after their sale by Franklin in Virginia.

9. Upon information and belief, Defendant Gwinnett Pawn Shop, Inc. (“Gwinnett”) sells handguns at a storefront establishment in Norcross, Georgia. During the

period from February 1994 through June 2002, at least 15 guns sold by Gwinnett were recovered in New York City, both in the hands of individuals with no lawful right to possess a gun and in connection with a variety of violent crimes. Guns sold by Gwinnett have been recovered in the City in as few as 3 1/2 months after sale by Gwinnett in Georgia.

10. Upon information and belief, Defendant Hot Shots, Inc. d/b/a Hot Shots Jewelry & Pawn (“Hot Shots”) sells handguns at a storefront establishment in Marietta, Georgia. During the period from February 1994 through June 2002, at least 29 guns sold by the Hot Shots were recovered in New York City, both in the hands of individuals with no lawful right to possess a gun and in connection with a variety of violent crimes. In the period 1996 through 2000, a total of 273 guns sold by Hot Shots were recovered in connection with crimes, nationwide. Guns sold by Hot Shots have been recovered in the City as soon as 3 weeks after their sale by Hot Shots in Georgia.

11. Upon information and belief, Defendant Miller Rod & Gun, Inc. (“Miller”) sells handguns at a storefront establishment in Youngstown, Ohio. During the period from February 1994 through June 2002, at least 15 guns sold by Miller were recovered in New York City, both in the hands of individuals with no lawful right to possess a gun and in connection with a variety of violent crimes. Guns sold by Miller have been recovered in the City in as few as 5 1/2 months after their sale by Miller in Ohio.

12. Upon information and belief, Defendant RJS Enterprises, Inc. d/b/a Dick’s Pawn Shop North (“Dick’s Pawn”) sells handguns at a storefront establishment in North Myrtle Beach, South Carolina. During the period from February 1994 through June 2002, at least 17 guns sold by Dick’s Pawn were recovered in New York City, both in the hands individuals with no lawful right to possess a gun and in connection with a variety of violent crimes. Guns sold by

Dick's Pawn have been recovered in the City as soon as 2 months after their sale by Dick's Pawn in South Carolina.

13. Upon information and belief, Defendant Jerry Dale Rooks d/b/a Rooks Sales & Service ("Rooks") sells handguns at a storefront establishment in Bishopville, South Carolina. During the period from February 1994 through June 2002, at least 109 guns sold by Rooks were recovered in New York City, both in the hands of individuals with no lawful right to possess a gun and in connection with a variety of violent crimes. Guns sold by Rooks have been recovered in the City in as few as 6 days after sale by Rooks in South Carolina.

14. Upon information and belief, Defendant TCE of Virginia, Inc. d/b/a Town & Country Pawn Shop ("Town & Country") sells handguns at a storefront establishment in Roanoke, Virginia. During the period from February 1994 through June 2002, at least 18 guns sold by Town & Country were recovered in New York City, both in the hands of individuals with no lawful right to possess a gun and in connection with a variety of violent crimes. Guns sold by Town & Country have been recovered in the City in as few as 6 months after their sale by Town & Country in Virginia.

15. Upon information and belief, Defendant Toccoa Pawn & Variety, Incorporated ("Toccoa Pawn") sells handguns at a storefront establishment in Toccoa, Georgia. During the period from February 1994 through June 2002, at least 18 guns sold by Toccoa Pawn were recovered in New York City, both in the hands of individuals with no lawful right to possess a gun and in connection with a variety of violent crimes. Guns sold by Toccoa Pawn have been recovered in the City in as little as six months after their sale by Toccoa Pawn in Georgia.

16. Upon information and belief, Defendant Trader World, Inc. (“Trader World”) sells handguns at a storefront establishment in North Charleston, South Carolina. During the period from February 1994 through June 2002, at least 37 guns sold by Trader World (and its predecessor, Trader World Pawnshop) were recovered in New York City, both in the hands of individuals with no lawful right to possess a gun and in connection with a variety of violent crimes. Guns sold by Trader World have been recovered in the City in as few as 2 weeks after their sale by Trader World in South Carolina.

17. Upon information and belief, the Defendants themselves are in possession of additional evidence demonstrating that guns sold by them were recovered both in the hands of individuals with no lawful right to possess a gun and in connection with a variety of violent crimes in New York City and elsewhere between July 2002 and November 2006.

18. Guns sold by the Defendants are recovered from prohibited persons in New York City in numbers that far exceed recoveries for other comparably-situated retail gun dealers. Guns sold by the Defendants are recovered in the hands of prohibited persons in disproportionate numbers because each Defendant sells handguns in a manner that violates federal law or is contrary to stated industry practice. Specifically, upon information and belief, Defendants sell handguns to prohibited persons through “strawman” purchases, in which an individual legally able to buy a handgun purchases the gun from a licensed gun dealer, intending to transfer it immediately to a prohibited person.

19. Defendants know or should know that the handguns they sell in strawman purchases are transferred rapidly to prohibited persons. Defendants know or should know that they could readily reduce the number of guns transferred to prohibited persons by refusing to

engage in straw sales. Yet, upon information and belief, Defendants have failed, and still fail, to take the steps necessary to avoid selling handguns in straw sales.

20. ATF has established that a very small percentage of retail gun dealers – about 1% – are responsible for approximately 57% of the illegally possessed guns nationwide. The Defendants are among this small group of gun dealers who arm illegal gun possessors. As such, the Defendants cause, contribute to and maintain a public nuisance within the City of New York.

21. The City seeks injunctive relief ordering Defendants to cease selling handguns in strawman purchases in violation of federal, state and local law, and ordering mandatory training on proper sales practices for their employees. The City also seeks the appointment of a Special Master to monitor Defendants' sales practices.

Jurisdiction and Venue

22. This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. § 1332 in that the amount in controversy exceeds \$75,000, exclusive of interest and costs, and the action is between citizens of different States.

23. This Court has personal jurisdiction over Defendants pursuant to N.Y. CPLR § 302(a)(3), in that each Defendant has committed a series of tortious acts outside of the State that have caused injury within the State and each Defendant derives substantial revenue from goods used in New York.

24. Venue is proper in this Court pursuant to 28 U.S.C. § 1391(a) in that a substantial part of the events or omissions giving rise to this claim occurred in this district.

The Parties

25. Plaintiff The City of New York is a municipal corporation existing by and under the laws of the State of New York.

26. Upon information and belief, Defendant Bob Moates' Sport Shop, Inc. is a corporation formed under the laws of the Commonwealth of Virginia, with a principal place of business located at 10418 Hull Street Road, Midlothian, Virginia 23112.

27. Upon information and belief, Defendant Coastal Tile & Roofing Company, Inc. d/b/a Coastal Pawn Shop is a corporation formed under the laws of the State of South Carolina, with a principal place of business located at 214 South Richardson Street, Latta, South Carolina 29565.

28. Upon information and belief, Defendant John Coscia d/b/a John's Gun & Tackle Room is a resident of the Commonwealth of Pennsylvania, with a principal place of business located at 2604 Freemansburg Avenue, Easton, Pennsylvania 18045.

29. Upon information and belief, Defendant Franklin Rod & Gun Shop, Inc. is a corporation formed under the laws of the Commonwealth of Virginia, with a principal place of business located at 320 Old Franklin Turnpike, Rocky Mount, Virginia 24151.

30. Upon information and belief, Defendant Gwinnett Pawn Shop, Inc. is a corporation formed under the laws of the State of Georgia, with a principal place of business located at 5345 Jimmy Carter Boulevard, Suite M, Norcross, Georgia 30093.

31. Upon information and belief, Defendant Hot Shots, Inc. d/b/a Hot Shots Jewelry & Pawn, is a corporation formed under the laws of the State of Georgia, with a principal place of business located at 2445 Austell Road SW, Marietta, Georgia 30008.

32. Upon information and belief, Defendant Miller Rod & Gun, Inc. is a corporation formed under the laws of the State of Ohio with a principal place of business located at 5140 Youngstown Poland Road, Youngstown, Ohio 44514.

33. Upon information and belief, Defendant RJS Enterprises, Inc. d/b/a Dick's Pawn Shop North is a corporation formed under the laws of the State of South Carolina, with a place of business located at 860 Highway 17 South, North Myrtle Beach, South Carolina 29582.

34. Upon information and belief, Defendant Jerry Dale Rooks d/b/a Rooks Sales & Service is a resident of South Carolina, with a principal place of business located at 239 North Main Street, Bishopville, South Carolina 29010.

35. Upon information and belief, Defendant TCE of Virginia, Inc. d/b/a Town & Country Pawn Shop is a corporation formed under the laws of the Commonwealth of Virginia, with a principal place of business located at 3806 Williamson Road, Roanoke, Virginia 24012.

36. Upon information and belief, Defendant Toccoa Pawn & Variety, Incorporated is a corporation formed under the laws of the State of Georgia, with a principal place of business located at 131 West Currahee Street, Toccoa, Georgia 30577.

37. Upon information and belief, Defendant Trader World, Inc. is a corporation formed under the laws of the State of South Carolina, with a principal place of business located at 7163 Cross Country Road in North Charleston, South Carolina 29418.

Facts

Handgun Violence in the City of New York

38. New York City strictly limits the people permitted to possess handguns within the City, and has enacted comprehensive gun laws intended, *inter alia*, to keep guns out of the hands of juveniles and criminals. Among other things, the City prohibits the possession of firearms without a license and prohibits possession of firearms by felons, those with mental disorders, and anyone under the age of 21; requires licensees to obtain prior written authorization from NYPD before purchasing guns or purchasing more than one gun; and requires an owner to give notice to the Police Department when selling a gun. 38 RCNY §3-01 to 38 RCNY § 5- 33.

39. Notwithstanding the City's extensive efforts, persons in New York City prohibited by law from owning handguns and persons without the requisite New York City license easily obtain handguns illegally, despite prices that are often two to three times the price charged in a legal gun purchase.

40. During the 11 year period from 1995 to 2005, NYPD's ballistics analysis unit processed more than 70,000 handguns that had been recovered by NYPD or other law enforcement agencies, 5,500 in 2005 alone. Virtually all of the firearms recovered in this 11 year period were recovered from individuals who were prohibited by law from possessing guns.

41. Firearms are by far the preferred method of homicide in New York City, and are used in approximately 60% of the homicides committed each year. Over the ten-year period from 1995 to 2004, approximately 5,400 people died in New York City as a result of gun violence in New York City. Virtually all of the firearms involved in these homicides were illegally possessed.

42. Although the NYPD does not keep separate statistics to measure the use of guns in particular types of violent crimes, such as rape, robbery and aggravated assault, of the 792,000 of those crimes between 1995 and 2004, tens of thousands involved the use of handguns. Virtually all of those firearms were illegally possessed.

43. Statistics do not fully convey the effect of illegally possessed guns on the health and safety of the City's residents and its visitors. Some of the gun-related incidents reported by a single City newspaper, the *New York Post*, between September 29 and October 4, 2006 are:

- Four bandits stole 10 cartons of Nike Air Jordans from a Fashion District office after pistol-whipping two employees and shooting at another man in the building yesterday. The robbery occurred at 242 W. 38th St. at 9 a.m. The thieves entered the

offices of a seventh-floor sneaker wholesaler and attacked two employees, cops said. The thugs shot at, but missed, an elevator attendant on the way out of the building, witnesses said, and then drove away in a waiting box truck.

NYPD Daily Blotter, *The New York Post*, October 4, 2006.

- Police arrested four Latin King gang members in Mount Hope after pulling them over for driving suspiciously and finding two loaded guns in the car, authorities said yesterday. Bronx Gang Squad cops, traveling in two unmarked cars, arrested Angel Mercado, 24, Sergio Martinez, 20, Alejandro Padilla, 17, and Jovani Gil, 18, on Monroe Avenue near East 173rd Street at 8:30 p.m. Saturday, sources said. A search of the men's vehicle found a 9 mm Beretta and a Smith & Wesson revolver, they said. The four young men were charged with criminal possession of a weapon.

Id., October 3, 2006.

- A shooting suspect exchanged gunfire with cops in the stairwell of a Coney Island building last night. The violence started when the gunman shot a 26-year-old man in the arm and the buttocks in a building on W. 32nd Street at about 7 p.m. Police chased him into the stairwell of a building a block away. He began shooting at the cops and the officers returned fire. Nobody was hit. Cops nabbed him in a 15th floor apartment. The shooting victim was in stable condition at Lutheran Hospital.

Id.

- Two gun-toting bandits robbed a Morris Park grocery store and attacked an employee, authorities said yesterday. The masked thieves entered the Santa Barbara Grocery at Boston Road and Mace Avenue on Sunday night and struck an employee over the head with a gun then locked him in the bathroom, police said. The thugs emptied the cash register and fled with an undisclosed amount of cash, police said.

Id.

- A man walking his dog in High Bridge was struck by a stray bullet, police said. The 50-year-old victim, whose name was not released, was walking along Nelson Avenue near West 164th Street on Sunday night when six men began arguing nearby. Two of the men shot at each other and missed, but a bullet hit the passing dog-walker in the right hip. The wounded man was taken to Lincoln Hospital, where he was listed in stable condition after being treated for a graze wound, cops said.

Id.

- Thomas Alfano, 42, allegedly killed 21-year-old Terrence Alford on Van Buren Street near Van Nest Avenue at 3 p.m. last Saturday. Alford, who suffered gunshot wounds to the head, neck and left arm, was rushed to Jacobi Hospital, where he died.

Id., September 30, 2006.

- Three bandits terrorized a female acquaintance and her 2-year-old son at gunpoint while burglarizing their South Ozone Park home, authorities said yesterday. Angelo Johns, 26, Tony Johns, 24, and Steve Nicklas, 21, entered the 25-year-old woman's 109th Avenue residence at 8:35 a.m. Wednesday and shoved her against a wall, sources said. One of the suspects then allegedly put a gun to her head and demanded money, while his accomplices ransacked the kitchen, stealing cash from a drawer. The woman's young boy started crying, and the gunman put the gun to his head. The three were later arrested and charged with burglary, robbery and endangering the welfare of a child, said Brown's spokeswoman.

Id., September 29, 2006.

44. On Easter Sunday, April 16, 2006, David Pacheco Jr., a 2 1/2-year-old boy was shot and killed in the Bronx when a stray bullet penetrated his family's minivan. The shot was fired from a 9 mm handgun following a street dispute at a nearby intersection. The pastor at the church holding David's funeral service, "made a plea during the service to get guns off the streets of New York to prevent more children from dying. 'God is sick and tired of our weapons. He's sick and tired of our guns.'" Manny Fernandez, *et al.*, *Sad Farewell to Bronx 2-Year-Old Slain on Easter Sunday*, *The New York Times* (April 23, 2006).

45. NYPD police officers are the victims of shootings that arise out of criminal activity generally and out of criminal activity that is specifically tied to the supply of illegal guns. For example, two detectives assigned to NYPD's Firearms Investigation Unit, James V. Nemorin and Rodney J. Andrews were shot and killed on March 10, 2003, during an undercover operation while attempting to purchase illegal firearms on Staten Island.

The Trafficking of Illegal Guns into New York City

46. NYPD firearms trafficking investigations reveal that many of the guns purchased on the street from gun traffickers are brand new. Undercover officers frequently are able to buy handguns in their original boxes, with manuals and accessories. The ability to buy new handguns illegally on the street indicates that the guns are being purchased from licensed gun dealers.

47. Upon information and belief, illegally possessed handguns originate principally from retail purchases that take place outside of New York State. Few guns fall into the hands of prohibited persons as a result of theft from lawful owners. Only about 15% of the handguns recovered in the City had been previously reported stolen from lawful owners.

48. Upon information and belief, the principal indicator that a dealer is selling to prohibited persons is the number of guns sold by that dealer which are later recovered in connection with crimes. Some dealers sell hundreds of guns later recovered in crimes nationwide; others sell few or none. Recent research has shown that differences among dealers in the number of guns recovered from illegal possessors are not accounted for by the fact that some dealers merely sell more guns than others.

49. Another indicator widely used by ATF to identify retail dealers that serve as a source of illegally possessed guns is the time between the retailer's sale of the gun and the gun's recovery in a crime. ATF has found that 43% of the guns used in crimes in urban centers across the United States were purchased from retail dealers less than three years prior to commission of the crime in which the gun was recovered. According to ATF, a relatively short interval between the retail sale of a gun and its recovery in a crime – known as “time to crime” – is an indication that the purchaser planned to transfer the gun to a prohibited person at the time of the purchase. Indeed, ATF's “Project Lead” assumes that a trafficking investigation may be

warranted when several guns purchased from the same dealer are recovered with a time to crime of less than 2 years.

Straw Purchases

50. Straw purchases are purchases by legal buyers who intend immediately to transfer the gun to a prohibited person, *i.e.*, an individual prohibited by state, local or federal law from possessing the gun. In one law enforcement study, more than 50% of the firearms subject to firearm trafficking investigations had been acquired in straw purchases. According to a United States Department of Justice publication:

Straw purchases are one of the most frequent methods used to divert firearms out of lawful commerce, where they are a heavily regulated commodity, and onto the street, where they are available to anyone. Convicted felons will simply use a friend, a family member or a girlfriend to buy a gun for them. *The felon provides the money for the gun, selects the gun, and directs the purchase. The straw purchaser just fills out all of the required paperwork, posing as the buyer.*

Firearms Trafficking 101 Or Where Do Crime Guns Come From? United States Attorneys Bulletin, January 2002 at 7 (emphasis added).

51. According to another United States Department of Justice publication:

The straw purchase serves as another method often employed by an illegal firearms trafficker who cannot legally purchase firearms. *... A common scenario entails the firearm trafficker accompanying the straw purchaser into the firearms store to pay for the purchase while the straw purchaser completes the paperwork. Store video surveillance can verify this type of purchase.*

Joseph P. Greco, *Firearms Trafficking Enforcement Techniques*, The FBI Law Enforcement Bulletin, v. 69, n.9 (1968) (emphasis added).

52. Gun retailers are well aware through law enforcement and industry publications of the existence of straw purchases and the characteristic appearance of a straw

purchase. For example, an instructional pamphlet for gun dealers issued by a gun industry trade association provides:

STRAWMAN PURCHASES Section 12(a) of Form 4473 makes it clear that by law, the individual filling out the ATF Form 4473 firearms transaction record must be purchasing the firearm for himself or herself or as a gift. That individual must be the one actually paying for the gun. It is illegal for an individual to have another person buy him or her a firearm. This is commonly known as a “strawman purchase.”

A strawman is sometimes used because the actual purchaser is prohibited from acquiring the firearm. Consult ATF Form 4473, Section 12 for a full disclosure of prohibitions for eligibility to purchase a firearm.

IF THE PURCHASER ACTS SUSPICIOUS

Example: The key is to engage the customer and ask enough questions to draw out information on their background and intentions. **If suspicions arise, it is more prudent to follow the precautionary principle of politely refusing the sale to protect yourself from the risk of contributing to a possible illegal transaction.** (original emphasis)

Example: Bill and Al go to a gun shop because Bill wants a shotgun for duck hunting. Bill picks out the gun and gives Al the money. Al fills out and signs the sales record and pays for the gun. The gun dealer knows the gun is really for Bill, but he knows that neither one is a criminal. He lets the deal go down. All three have broken the law.

It does not matter if both the straw purchaser and the actual buyer can legally acquire firearms. By falsely claiming on the federal form who the actual buyer is, both parties commit a federal felony. **The dealer violates the law as well if aware of the false statements on the form.** (emphasis added)

Example: Bob brings his girlfriend Kay to a gun shop. Bob points out a pistol to Kay, who asks to see it. She briefly looks at the pistol and hands it to Bob who nods his approval and hands the pistol back to Kay. Kay then fills out the Form 4473 to purchase the pistol.

Observing this, you have reason to believe that Kay may not be the actual purchaser, Bob may simply be helping Kay select her first

handgun or, he may be ineligible to purchase a firearm and is using her as a strawman purchaser.

National Shooting Sports Foundation, *Don't Lie for the Other Guy: A Retailers Guide to Recognizing and Deterring Straw Purchases* (“Don't Lie for the Other Guy”).

53. According to a videotape presentation by an ATF agent, retailers are instructed that they can prevent straw purchases, and the consequent diversion of firearms into the illegal market, by adhering to an important principle: if one person fills out the paperwork to purchase a firearm, that same person should pay for the firearm. National Shooting Sports Foundation videotape, *Identifying and Deterring Straw Purchasers*.

54. Thus, one explanation for the fact that “Dealer A’s” guns are recovered from prohibited persons with greater frequency than “Dealer B” is that Dealer A participates in straw purchases.

55. Consistent with the fact that some dealers participate in straw purchases is a recent study demonstrating that retail gun dealers appear to be in a position to control whether the guns they sell are subsequently recovered in criminal hands. Dealers whose participation in illegal sales is exposed by undercover “stings” show a sharp reduction in the number of guns sold by them that are later recovered in crimes, as compared with sales made before the stings occurred. Even dealers in the same locality that are not the subject of a sting display a decline in the number of guns later recovered in crimes, confirming that dealers can voluntarily adopt methods to reduce the number of handguns falling into the hands of prohibited persons.

56. Further evidence in support of the fact that dealers are able to voluntarily control the number of guns that fall into the hands of criminals is that the street price of illegal guns in the City has increased substantially since the City announced on May 15, 2006, “stings”

of both out-of-state and City gun dealers in connection with a prior lawsuit. *See* “Price of Illegal Guns Soaring Here In Wake of Anti-Gun Campaign,” NY Sun, November 1, 2006.

Bob Moates’ Sport Shop

Moates’ Participation in Straw Sales

57. Upon information and belief, Moates is well-acquainted with straw purchases, and has participated in such sales. Between approximately March 1990 and February 1991, convicted drug dealer Ian Blackstock directed a gunrunning operation which used straw purchasers to acquire over 115 guns from Richmond, Virginia-area gun dealers, one of which was Moates. Many of the guns were acquired as part of “multiple purchases,” the purchase of several guns in one transaction. At least 15 of those guns were recovered in connection with crimes in New York City and Washington, DC. Mr. Blackstock pleaded guilty to two counts of an 87 count indictment, and was sentenced to 25 years in prison.

58. Moates continues to be willing to participate in straw sales. On or about March 14, 2006, a male and a female investigator retained by the City of New York entered Moates’ Midlothian, Virginia store and engaged in a simulated straw purchase of a Taurus handgun that displayed all of the observable, in-store characteristics of the straw purchases described above (*supra*, at ¶¶ 50-53), without any subsequent transfer of the gun by the “straw purchaser.” Only the male investigator interacted with the Moates salesperson, discussing and selecting a Taurus handgun and ammunition to purchase. Once the male investigator had selected the gun and indicated a desire to purchase it, the female investigator, who had not been a part of the discussion, approached the counter to make the purchase.

59. Up to the moment of filling out the required federal documentation, the female investigator was completely uninvolved in the purchase discussion and was off elsewhere, browsing in the store. The Moates salesperson at the counter, who had shown the

Taurus handgun to the male investigator and answered questions about the gun, raised no objections when the female investigator presented her identification and filled out the federal paperwork in connection with the purchase.

60. After the completion of the paperwork, the salesperson accepted cash payment for the firearm and ammunition from the male investigator, and handed him the change from the purchase. Other than completing the federal paperwork, the female investigator did not participate in the transaction in any manner, nor did she express any interest in the handgun, its capabilities, or suitable ammunition.

61. Other gun dealers in the States of Georgia, South Carolina, Virginia, Ohio and Pennsylvania, unequivocally identified the virtually identical scenario, at times staged by the same investigators, as an attempted straw purchase. Some of those dealers refused to go through with the sales, even informing the investigators that the sales would be illegal straw purchases. Other gun dealers who sold guns to City investigators in the course of identical straw purchase scenarios subsequently admitted that the sales should not have been allowed to proceed.

62. Although there has been no transfer of the gun by the straw purchaser necessary for an actual straw sale, Moates' participation in the simulated straw sale violates Sections 922, 923, 924 and 1001 of Title 18 of the U.S. Code and that violation is a proximate cause of the City's injury.

63. Upon information and belief, Moates continues to make straw sales and those handguns sold by Moates continue to be recovered in New York City from persons prohibited from possessing them and in connection with violent crimes.

Moates' Contribution to the City Gun Nuisance

64. Despite its location approximately 350 miles from New York City, between February 1994 and June 2002, Moates sold 22 guns recovered in the City.

65. Most of the guns sold by Moates that have been recovered in New York City were seized from illegal possessors. Many guns sold by Moates had already been used in connection with serious crimes before they were recovered, including homicide, aggravated assault, assault and robbery.

66. Some of the reported incidents involving Moates guns include the following:

- In March 1997, a person killed by a gunshot to the head was found in the street in Queens, with a handgun lying alongside the body;
- In October 1996, a woman in a Bronx shoe store was robbed at gunpoint by a 15-year-old child who put a .38 caliber gun to her head and demanded money;
- In April 1997, a man was shot in the back while in the hallway of a public housing project in the Bronx;
- In February 2000, a 16-year-old in the Bronx was arrested for possession of a loaded 9mm Taurus handgun; and
- In August 1996, two people, including a 16-year-old child, were arrested in the Bronx with burglar's tools, and three loaded handguns.

67. Guns sold by Moates were recovered in New York City just over 3 months after the sale. Five guns sold by Moates were recovered in New York City less than 1½ years after their sale by Moates in Virginia. The average time to crime for the 22 recovered guns traced from Moates to New York City is 5.69 years, compared to an average time to crime of 6 years for all crime guns recovered in New York City.

68. Over half of the handguns sold by Moates and recovered in the City were “Saturday night specials” – cheap, poorly made handguns favored by criminals, including Bryco Arms, Davis Industries, Lorcin, and Taurus.

Coastal Pawn Shop

Coastal Pawn’s Participation in Straw Sales

69. Upon information and belief, Coastal Pawn has participated in straw sales, and continues to be willing to do so. On or about May 4, 2006, a male and female investigator retained by the City of New York entered Coastal Pawn’s Latta, South Carolina store and engaged in a simulated straw purchase of a Smith & Wesson 9mm that displayed all of the observable, in-store characteristics of the straw purchases described above (*supra*, at ¶¶ 50-53), without any subsequent transfer of the gun by the “straw purchaser.” Only the male investigator interacted with the Coastal Pawn salesman, discussing and selecting the handgun to purchase. Once the male investigator had selected the 9mm, and indicated a desire to purchase it, the female investigator, who had not been part of the discussion, was summoned to the counter to make the purchase.

70. Up to the moment of presenting identification and filling out the required federal documentation, the female investigator was completely uninvolved in the purchase discussion and was off elsewhere, browsing in the store. The Coastal Pawn salesman at the counter, who had shown the 9mm handgun to the male investigator and answered questions about the gun, raised no objections when the female investigator presented her identification and filled out the federal paperwork in connection with the purchase.

71. As the female investigator was completing the paperwork, the Coastal Pawn salesman accepted cash payment for the 9mm handgun from the male investigator and handed the receipt for the purchase to the male investigator. Other than presenting her

identification and completing the federal paperwork, the female investigator did not participate in the transaction in any manner, nor did she express any interest in the handgun, its capabilities, or suitable ammunition.

72. Other gun dealers in the States of Georgia, South Carolina, Virginia, Ohio and Pennsylvania, unequivocally identified the virtually identical scenario, at times staged by the same investigators, as an attempted straw purchase. Some of those dealers refused to go through with the sales, even informing the investigators that the sales would be illegal straw purchases. Other gun dealers who sold guns to City investigators in the course of identical straw purchase scenarios subsequently admitted that the sales should not have been allowed to proceed.

73. Although there have been no transfers of the guns by the straw purchasers necessary for actual straw sales, Coastal Pawn's participation in the simulated straw sales violates Sections 922, 923, 924 and 1001 of Title 18 of the U.S. Code and those violations are a proximate cause of the City's injury.

74. Upon information and belief, Coastal Pawn continues to make straw sales and those handguns sold by Coastal Pawn continue to be recovered in New York City from persons prohibited from possessing them and in connection with violent crimes.

Coastal Pawn's Contribution to the City Gun Nuisance

75. Despite its location nearly 618 miles from New York City, between February 1994 and June 2002, Coastal Pawn sold 12 guns recovered in the City.

76. Most of the guns sold by Coastal Pawn that have been recovered in New York City, were seized from illegal possessors. Some of the guns sold by Coastal Pawn had already been used in connection with serious crimes before they were recovered, including assault.

77. Some of the reported incidents involving firearms sold by Coastal Pawn include the following:

- In February 2002, a man was shot in the thigh and ankle on a Brooklyn street;
- In August 1996, in Staten Island, an 18-year-old boy in possession of a 9mm Hi-Point gun struggled violently with a police officer for possession of the gun, resulting in injury to the police officer's partner; and
- In December 1997, three young New Jersey residents were found in possession of a loaded 9mm Hi-Point.

78. Guns sold by Coastal Pawn were recovered in New York City as soon as 2 days after the sale. Four guns sold by Coastal Pawn were recovered in New York City within 2 weeks after sale, and nine guns were recovered within a year of their sale by Coastal Pawn in South Carolina. The average time to crime for the 12 recovered guns traced from Coastal Pawn to New York City is 0.6 years – approximately 8 months – compared to an average time to crime of 6 years for all crime guns recovered in New York City.

79. All of the handguns sold by Coastal Pawn and recovered in the City were “Saturday night specials” – cheap, poorly made handguns favored by criminals, including 11 Hi-Points, and one Lorcin, and 8 of the 12 were 9mm pistols.

Coscia

Coscia Participates in Straw Sales

80. Upon information and belief, Coscia is well-acquainted with straw purchases, and has participated in such sales. Between approximately November 1999 and January 2000, Lydia Carter acted as a straw purchaser, buying 8 handguns from two Pennsylvania gun dealers, one of which was Coscia. Carter engaged in 2 “multiple purchases” from Coscia – on or about November 24, 1999, she straw purchased two Ruger 9mm pistols

from Coscia, and on or about January 14, 2000, she straw purchased 2 more Ruger 9mm pistols, and one Intratec .45 caliber pistol. Ms. Carter pleaded guilty to straw purchasing the handguns, was convicted, and was sentenced to 21 months in prison.

81. More recently, Coscia again participated in straw sales of handguns. Between approximately November 2001 and January 2002, convicted felon Sakima Hamilton used straw purchasers to acquire 22 guns from six Pennsylvania gun dealers, one of which was Coscia. Thirteen of those handguns were purchased for Hamilton by straw purchaser Robin Gross, including one from Coscia on or about January 21, 2002.

82. Upon information and belief, Coscia continues to be willing to participate in straw sales. On April 19, 2006, a male and a female investigator retained by the City of New York went into Coscia's Easton, Pennsylvania store, and engaged in a simulated straw purchase, that displayed all of the observable, in-store characteristics of the straw purchases described above (*supra*, at ¶¶ 50-53), without any subsequent transfer of the gun by the "straw purchaser." Only the male investigator interacted with the Coscia salesperson, discussing and selecting a Ruger handgun and ammunition to purchase. Once the male investigator had selected the gun and indicated a desire to purchase it, the female investigator, who had not been a part of the discussion, approached the counter to make the purchase.

83. Up to the moment of filling out the required federal documentation, the female investigator was completely uninvolved in the purchase discussion and was off elsewhere, browsing in the store. The Coscia salesperson at the counter, who had shown the Ruger handgun to the male investigator and answered questions about the gun, did not object to completing the sale when the female investigator presented her identification, said that the gun was for her, and filled out the federal paperwork in connection with the purchase.

84. While the female investigator was completing the paperwork, the male investigator discussed ammunition with the salesperson, and then picked out a box, and placed it on the counter. After the paperwork was completed, the salesperson accepted cash payment for the firearm and ammunition from the male investigator, and handed him the change from the purchase. Other than completing the federal paperwork, the female investigator did not participate in the transaction in any manner, nor did she express any interest in the handgun, its capabilities, or suitable ammunition.

85. Other gun dealers in the States of Georgia, South Carolina, Virginia, Ohio and Pennsylvania, unequivocally identified the virtually identical scenario, at times by the same investigators, as an attempt to engage in a straw purchase. Some of those dealers refused to go through with the sales, even informing the investigators that the sales would be illegal straw purchases. Other gun dealers who sold guns to City investigators in the course of identical straw purchase scenarios subsequently admitted that the sales should not have been allowed to proceed.

86. Although there has been no transfer of the gun by the straw purchaser necessary for an actual straw sale, Coscia's participation in the simulated straw sale violates Sections 922, 923, 924 and 1001 of Title 18 of the U.S. Code and that violation is a proximate cause of the City's injury.

87. Upon information and belief, Coscia continues to make straw sales and those handguns sold by Coscia continue to be recovered in New York City from persons prohibited from possessing them and in connection with violent crimes.

Coscia's Contribution to the City Gun Nuisance

88. Despite its location nearly 73 miles from New York City, between February 1994 and June 2002, Coscia sold at least 12 guns recovered in New York City. Many of the guns were seized from illegal possessors. A number of guns sold by Coscia had already

been used in connection with serious crimes before they were recovered, including robbery, and reckless endangerment.

89. Some of the reported incidents involving Coscia's guns include the following:

- In January 1997, a .22 caliber handgun was recovered after a search of a Brooklyn apartment. Two women, one 18-years-old, were arrested;
- In October 1998, a 32-year-old man used a Smith & Wesson .380 caliber handgun to commit a robbery in Queens;
- In July 2000, a 25-year-old man in Brooklyn was robbed at gunpoint, and forced to hand over his money when two 17-year-old boys and a 17-year-old girl put at gun to his head; and
- In April 2001, a police officer on patrol in Brooklyn heard shots fired in the street, and observed a man running to an area where a .25 caliber handgun was later recovered.

90. Guns sold by Coscia were recovered in crimes in New York City as soon as 4 days after sale by Coscia in Pennsylvania. A total of 7 guns had times to crime of less than two years, and four of those were recovered in under 150 days. The average time to crime for the 12 guns sold by Coscia and recovered in New York City during the period from February 1994 to June 2002 was 1.6 years, compared to an average time to crime of 6 years for all crime guns recovered in New York City.

91. Some of the Coscia guns recovered in the City were "Saturday night specials" – cheap, poorly made handguns favored by criminals, including Taurus.

Dick's Pawn

Dick's Pawn Participates in Straw Sales

92. Upon information and belief, Dick's Pawn is well-acquainted with straw purchases and has participated in straw sales. On or about May 4, 2006, a male and a female

investigator retained by the City of New York entered Dick's Pawn's North Myrtle Beach, South Carolina store and engaged in a simulated straw purchase of a Taurus 9mm handgun that displayed all of the observable, in-store characteristics of the straw purchases described above (*supra*, at ¶¶ 50-53), without any subsequent transfer of the gun by the "straw purchaser." Only the male investigator interacted with the Dick's Pawn salesperson, discussing and selecting a Taurus 9mm handgun to purchase. Only after the male investigator had selected the gun and indicated a desire to purchase it was the female investigator summoned to the counter to complete the paperwork for the purchase.

93. Up to the moment of filling out the required federal documentation, the female investigator was completely uninvolved in the purchase discussions, and was off elsewhere, browsing in the store. The Dick's Pawn salesperson at the counter, who had shown the Taurus 9mm to the male investigator and answered questions about the gun, raised no objections and asked no questions when the female investigator presented her identification and filled out the federal paperwork.

94. While the paperwork was being completed by the female investigator, with assistance from the Dick's Pawn salesperson, the salesperson accepted cash payment for the firearm from the male investigator, returned the change and receipt from the purchase back to him, and handed the firearm to the male investigator at the conclusion of the sale. Other than completing the federal paperwork, the female investigator did not participate in the transaction in any manner, nor did she express any interest in the handgun, its capabilities, or suitable ammunition.

95. Other gun dealers in the States of Georgia, South Carolina, Virginia, Ohio and Pennsylvania, unequivocally identified the virtually identical scenarios, at times staged by

the same investigators, as an attempted straw purchase. Some of those dealers refused to go through with the sales, even informing the investigators that the sales would be illegal straw purchases. Other gun dealers who sold guns to City investigators in the course of identical straw purchase scenarios subsequently admitted that the sales should not have been allowed to proceed.

96. Although there has been no transfer of the gun by the straw purchaser necessary for an actual straw sale, Dick's Pawn's participation in the simulated straw sale violates Sections 922, 923, 924 and 1001 of Title 18 of the U.S. Code and that violation is a proximate cause of the City's injury.

97. Upon information and belief, Dick's Pawn continues to make straw sales and those handguns sold by Dick's Pawn continue to be recovered in New York City from persons prohibited from possessing them and in connection with violent crimes.

Dick's Pawn's Contribution to the City Gun Nuisance

98. Despite its location nearly 679 miles from New York City, Dick's Pawn sold at least 17 guns recovered in New York City between February 1994 and June 2002.

99. Of the 17 guns sold by Dick's Pawn recovered in New York City, many were recovered from illegal possessors before they could be used in violent crimes. One gun was recovered in connection with an assault and another three guns were recovered in connection with drug offenses.

100. The reported incidents involving handguns sold by Dick's Pawn include the following:

- In February 1996, three men resembling suspects wanted in a recent robbery, when approached by a police officer on patrol in Brooklyn, threw, and tried to dispose of, two handguns;
- In October 1997, a gun was seized from the Brooklyn apartment of a man arrested for choking and punching a woman in the face;

- In June 1998, a police officer in the Bronx heard and observed a man firing a handgun, and after pursuing the man and his 3 companions on foot, was able to catch and arrest two of the men;
- In August 1999, a 29-year-old man in possession of a loaded .45 caliber handgun in Brooklyn was struck by a car as he attempted to flee police;
- In March 2001, two men, ages 17 and 24, were found in a livery cab in Brooklyn in possession of a loaded .40 caliber handgun and a large quantity of marijuana;
- In November 2001, a 30-year-old man was arrested in Manhattan following a violent altercation on the #1 subway, and found to be in possession of a loaded 9mm Hi-Point; and
- In January 2002, a 17-year-old fired shots from two different guns in a Brooklyn street, and police had to undertake a physical “take down” to subdue and place him under arrest.

101. Guns sold by Dick’s Pawn have been recovered in New York City as soon as 62 days after sale by Dick’s Pawn in South Carolina. The average time to crime for 17 guns traced to New York City from Dick’s Pawn was 2.6 years, compared to a time to crime for all crime guns recovered in New York City of 6 years.

102. Approximately two thirds of the guns recovered in the City that had been sold by Dick’s Pawn were “Saturday night specials” – cheap, poorly made handguns favored by criminals, including 7 Hi-Points, 2 Lorcins and 2 Taurus.

Franklin Rod & Gun Shop

Franklin’s Participation in Straw Sales

103. Upon information and belief, Franklin’s has participated in straw sales. On or about April 22, 2006, a male and a female investigator retained by the City of New York entered Franklin’s Rocky Mount, Virginia store and engaged in a simulated straw purchase of a Smith & Wesson 9mm that displayed all of the observable, in-store characteristics of the straw purchases described above (*supra*, at ¶¶ 50-53), without any subsequent transfer of the gun by

the “straw purchaser.” Only the male investigator interacted with the Franklin salesperson, discussing and selecting the Smith & Wesson 9mm to purchase. Once the male investigator had selected the gun and indicated a desire to purchase it, the female investigator, who had not been a part of the discussion, was summoned to the counter to make the purchase.

104. Up to the moment of filling out the required federal documentation, the female investigator was completely uninvolved in the purchase discussions and was off elsewhere, browsing in the store. The Franklin salesperson at the counter, who had shown the Smith & Wesson 9mm handgun to the male investigator and answered questions about the gun, asked no questions and raised no objections when the female investigator presented her identification in connection with the completion of the federal paperwork.

105. After the completion of the paperwork, the Franklin salesperson discussed the purchase of ammunition with the male investigator, accepted cash payment for the firearm from the male investigator, and slid the gun across the counter towards the male investigator, who took the gun and left the store. Other than completing the federal paperwork, the female investigator did not participate in the transaction in any manner, nor did she express any interest in the handgun, its capabilities, or suitable ammunition.

106. Other gun dealers in the States of Georgia, South Carolina, Virginia, Ohio and Pennsylvania, unequivocally identified the virtually identical scenario, at times staged by the same investigators, as an attempted straw purchase. Some of those dealers refused to go through with the sales, even informing the investigators that the sales would be illegal straw purchases. Other gun dealers who sold guns to City investigators in the course of identical straw purchase scenarios subsequently admitted that the sales should not have been allowed to proceed.

107. Although there has been no transfer of the gun by the straw purchaser necessary for an actual straw sale, Franklin's participation in the simulated straw sale violates Sections 922, 923, 924 and 1001 of Title 18 of the U.S. Code and that violation is a proximate cause of the City's injury.

108. Upon information and belief, Franklin continues to make straw sales and those handguns sold by Franklin continue to be recovered in New York City from persons prohibited from possessing them and in connection with violent crimes.

Franklin's Contribution to the City Gun Nuisance

109. Despite its location more than 484 miles from New York City, between February 1994 and June 2002, Franklin sold 14 guns recovered in the City. Many of the guns sold by Franklin that have been recovered in New York City, were seized from illegal possessors. Many guns sold by Franklin had already been used in connection with serious crimes before they were recovered, including homicide, robbery, and drug-related offenses.

110. Some of the reported incidents involving firearms sold by Franklin include the following:

- In July 1996, an 18-year-old engaging in a drug transaction on a Manhattan street was found in possession of a .380 caliber Jennings handgun;
- In July 1998, a 19-year-old man was arrested in Brooklyn in possession of a loaded .380 caliber automatic handgun;
- In September 1999, a search of a Queens apartment pursuant to a search warrant recovered four guns, and resulted in the arrest of a 26-year-old man; and
- In June 2001, a 19-year-old man and 18-year-old woman were arrested in Queens in possession of a 9mm Hi-Point handgun.

111. Guns sold by Franklin were recovered in New York City as soon as 4 days after sale by Franklin in Virginia. The average time to crime for the 14 guns recovered guns

traced from Franklin to New York City is 4.1 years. This compares to an average time to crime of 6 years for all crime guns recovered in New York City.

112. Many of the handguns sold by Franklin and recovered in the City were “Saturday night specials” – cheap, poorly made handguns favored by criminals, including Bryco Arms, Davis Industries, and Taurus.

Gwinnett Pawn Shop

Gwinnett Participates in Straw Sales

113. Upon information and belief, Gwinnett is well-acquainted with straw purchases, and has participated in such sales. On or about November 15, 2004, George Appia and Anthony Opoku entered Gwinnett Pawn Shop and purchased three handguns. Despite the fact that Mr. Opoku was the actual buyer of the guns, Mr. Appia filled out the required federal paperwork in the presence of the Gwinnett clerk with the assistance of Mr. Opoku. Mr. Appia subsequently pleaded guilty and Mr. Opoku was subsequently convicted of engaging in a straw purchase.

114. Gwinnett continues to be willing to participate in straw sales. On or about April 18, 2006, a male and a female investigator retained by the City of New York entered Gwinnett’s Norcross, Georgia store and engaged in a simulated straw purchase that displayed all of the observable, in-store characteristics of the straw purchases described above (*supra*, at ¶¶ 50-53), without any subsequent transfer of the gun by the “straw purchaser.” The male investigator interacted with the Gwinnett salesperson for several minutes, discussing and selecting a Glock 9mm handgun to purchase. After the male investigator decided on the purchase, the female investigator, who had not been a part of the discussion, approached the counter to complete the federal paperwork.

115. Up to the moment of filling out the required ATF documentation, the female investigator was completely uninvolved in the purchase discussions and was not even in the vicinity of the counter where the discussions took place. The Gwinnett salesperson who had shown the Glock 9mm handgun to the male investigator, and answered his questions about the gun, raised no objections when the female investigator presented her identification and filled out the federal paperwork in connection with the purchase. The salesperson even assisted the female investigator with the completion of the forms despite the male investigator's sole participation in the transaction to that point.

116. After the completion of the paperwork, the male investigator openly counted cash as the Gwinnett salesperson announced to the female investigator the total price of the handgun, and the male investigator then handed the cash to his female counterpart in front of the salesperson. The female investigator passed the cash on to the salesperson, who handed change and a receipt back to her. The female investigator then took the gun in its case, and the pair left Gwinnett's premises. Other than completing the federal paperwork and passing cash from the male investigator to the Gwinnett salesperson, the female investigator did not participate in the transaction in any manner, nor did she express any interest in the handgun or its capabilities.

117. Other gun dealers in the States of Georgia, South Carolina, Virginia, Ohio and Pennsylvania, unequivocally identified the virtually identical scenario, at times staged by the same investigators, as an attempted straw purchase. Some of those dealers refused to go through with the sales, even informing the investigators that the sales would be illegal straw purchases. Other gun dealers who sold guns to City investigators in the course of identical straw purchase scenarios subsequently admitted that the sales should not have been allowed to proceed.

118. Although there has been no transfer of the gun by the straw purchaser necessary for an actual straw sale, Gwinnett's participation in the simulated straw sale violates Sections 922, 923, 924 and 1001 of Title 18 of the U.S. Code and that violation is a proximate cause of the City's injury.

119. Upon information and belief, Gwinnett continues to make straw sales and those handguns sold by Gwinnett continue to be recovered in New York City from persons prohibited from possessing them and in connection with violent crimes.

Gwinnett's Contribution to the City Gun Nuisance

120. Despite its location nearly 867 miles from New York City, Gwinnett sold at least 15 guns recovered in New York City between February 1994 and June 2002.

121. Of the 15 guns sold by Gwinnett, most were seized from illegal possessors. Guns sold by Gwinnett had already been used in connection with serious crimes before they were recovered, including assault and drug offenses.

122. The reported incidents involving guns purchased at Gwinnett include the following:

- In July 1998, a 19-year-old man was arrested in Brooklyn for possession of a .380 caliber pistol;
- In December 1999, a 21-year-old man was observed to be in possession of a loaded 9mm Bryco handgun outside a Brooklyn apartment;
- In January 2001, an Emergency Medical Technician administering emergency treatment to a man in Queens found the man to be in possession of a loaded .22 caliber pistol and a switch blade; and
- In September 2001, police searching for the mother of young children left unattended in a park in the Bronx for over 2 hours located the 24-year-old woman in her apartment with a defaced handgun.

123. Guns sold by Gwinnett were recovered in crimes in New York City less than four months after sale by Gwinnett in Georgia. Three guns sold by Gwinnett were recovered in less than 6 months, and six guns were recovered in under a year. The average time to crime for the 15 guns traced to New York City from Gwinnett was 2.3 years, compared to a time to crime for all crime guns recovered in New York City of 6 years.

124. Some of the 15 guns recovered in the City that had been sold by Gwinnett had their serial numbers defaced at the time they were recovered. ATF has reported that a defaced or obliterated serial number is an indication that a gun may have been trafficked, illegally possessed or used in a crime.

125. Many of the guns recovered in the City that had been sold by Gwinnett were “Saturday night specials” – cheap, poorly made handguns favored by criminals, including Bryco Arms and Davis Industries.

Hot Shots

Hot Shots Participates in Straw Sales

126. Upon information and belief, Hot Shots has participated in straw sales, and continues to be willing to do so. On or about April 8, 2006, a male and a female investigator retained by the City of New York entered Hot Shots’ Marietta, Georgia store and engaged in a simulated straw purchase that displayed all of the observable, in-store characteristics of the straw purchases described above (*supra*, at ¶¶ 50-53), without any subsequent transfer of the gun by the “straw purchaser.” The male investigator interacted with male and female Hot Shots salespeople, asking to look at 9mm guns, and asking questions about the guns as he selects a handgun to purchase. The male investigator even attempted to bargain with the Hot Shots salesman concerning the price of the gun, before agreeing to purchase a Glock handgun from Hot Shots. When the Hot Shot salesman asked the male investigator for his identification to process

the sale, the female investigator, who had not participated at all in the purchase discussions, offered her identification to the Hot Shots salesman.

127. Up to the moment of filling out the required federal documentation, the female investigator did not participate at all in the purchase discussions, and was off elsewhere, browsing in the store. The Hot Shots salesman at the counter, who had shown the Glock to the male investigator and answered questions about the gun, raised no objections and asked no questions when the female investigator presented her identification and filled out the federal paperwork despite the fact that the male investigator had participated exclusively in the transaction to that point.

128. The Hot Shots salesman accepted cash payment for the handgun from the male investigator, and gave the change back to the male investigator, before engaging in a discussion with him about an extra clip for the gun. Other than completing the federal paperwork, the female investigator did not participate in the transaction in any manner, nor did she express any interest in the handgun, its capabilities, or its cost.

129. Other gun dealers in the States of Georgia, South Carolina, Virginia, Ohio and Pennsylvania, unequivocally identified the virtually identical scenario, at times staged by the same investigators, as an attempted straw purchase. Some of those dealers refused to go through with the sales, even informing the investigators that the sales would be illegal straw purchases. Other gun dealers who sold guns to City investigators in the course of identical straw purchase scenarios subsequently admitted that the sales should not have been allowed to proceed.

130. Although there has been no transfer of the gun by the straw purchaser necessary for an actual straw sale, Hot Shots' participation in the simulated straw sale violates

Sections 922, 923, 924 and 1001 of Title 18 of the U.S. Code and that violation is a proximate cause of the City's injury.

131. Upon information and belief, Hot Shots continues to make straw sales and those handguns sold by Hot Shots continue to be recovered in New York City from persons prohibited from possessing them and in connection with violent crimes.

Hot Shots' Contribution to the City Gun Nuisance

132. A study by the Americans for Gun Safety Foundation ("AGSF") released in January 2004, *see Selling Crime: High Crime Gun Stores Fuel Criminals* (AGSF, January 2004), observes that data collected from 1996 to 2000 showed Hot Shots ranked 71st on the list of the 120 worst crime gun retailers in the nation. Hot Shots had 273 reported guns recovered in connection with crimes nationwide for the period between 1996 and 2000.

133. Despite its location nearly 906 miles from New York City, Hot Shots sold at least 29 guns recovered in New York City between February 1994 and June 2002.

134. Of the 29 guns sold by Hot Shots, most were seized from illegal possessors. Many guns sold by Hot Shots had already been used in connection with serious crimes before they were recovered, including homicide, robbery, and drug offenses.

135. The reported incidents involving guns purchased at Hot Shots include the following:

- In January 1998, a 14-year-old boy demanded to leave his guns and drugs at a location in Brooklyn, but when he was refused he fired a shot at a man. The boy was later apprehended and a 9mm gun recovered.
- In January 1998, three men driving a car in Manhattan with plates that did not match the vehicle and had been reported stolen, were found in possession of firearms, heroin, and hypodermic needles;

- In February 1998, a man was found lying facedown in front of a Bronx home with multiple gunshot wounds. He was pronounced dead;
- In July 1998, a 18-year-old man was arrested on the street in the Bronx in possession of a handgun loaded with 20 live rounds;
- In June 2001, police arrested a 26-year-old man and recovered a 9mm Lorcin handgun with its serial number defaced in an apartment in Manhattan; and
- In July 2001, a man trespassed in an apartment in Brooklyn, armed with a loaded 9mm handgun.

136. Guns sold by Hot Shots were recovered in New York City as little as 21 days after their sale by Hot Shots in Georgia. The average time to crime for the 29 guns traced to New York City from Hot Shots was 4 years, compared to a time to crime for all crime guns recovered in New York City of 6 years.

137. At least one of the guns recovered in the City that had been sold by Hot Shots had its serial number defaced at the time it was recovered. ATF has reported that a defaced or obliterated serial number is an indication that a gun may have been trafficked, illegally possessed or used in a crime.

138. Over half of the guns recovered in the City that had been sold by Hot Shots were “Saturday night specials” – cheap, poorly made handguns favored by criminals, including Bryco Arms, Davis Industries, Lorcin, Taurus and Hi-Point.

Miller Rod & Gun

Miller Participates in Straw Sales

139. Upon information and belief, Miller has participated in straw sales, and continues to be willing to do so. On or about April 4, 2006, a male and a female investigator retained by the City of New York entered the Miller’s Youngstown, Ohio store and engaged in a simulated straw purchase of a Hi-Point 9mm handgun, much like those described above (*supra*,

at ¶¶ 50-53), without any subsequent transfer of the gun by the “straw purchaser.” Only the male investigator interacted with a Miller salesperson, discussing and selecting the Hi-Point 9mm to purchase. Once the male investigator had selected the gun and indicated a desire to purchase it, the female investigator, who had not been part of the discussion, was summoned to the counter to make the purchase.

140. Up to the moment of filling out the required federal paperwork, the female investigator was completely uninvolved in the purchase discussions and was off elsewhere, browsing in the store. The Miller salesperson at the counter, who had shown the Hi-Point to the male investigator and answered questions about the available guns, did not object to completing the sale when the female investigator presented her identification, said the gun was for her, and filled out the federal paperwork, despite the fact that the male investigator had participated exclusively in the transaction to that point.

141. As the paperwork was being completed by the female investigator, the salesperson discussed the suitability of various types of ammunition with the male investigator, accepted cash payment for the firearm from the male investigator, and handed the firearm to the male investigator upon completion of the transaction. Other than completing the federal paperwork, the female investigator did not participate in the transaction in any manner, nor did she express any interest in the handgun, its capabilities, or suitable ammunition.

142. Other gun dealers in the States of Georgia, South Carolina, Virginia, Ohio and Pennsylvania, unequivocally identified the virtually identical scenario, at times by the same investigators, as an attempt to engage in a straw purchase. Some of those dealers refused to go through with the sales, even informing the investigators that the sales would be illegal straw

purchases. Other gun dealers who sold guns to City investigators in the course of identical straw purchase scenarios subsequently admitted that the sales should not have been allowed to proceed.

143. Although there has been no transfer of the gun by the straw purchaser necessary for an actual straw sale, Miller's participation in the simulated straw sale violates Sections 922, 923, 924 and 1001 of Title 18 of the U.S. Code and that violation is a proximate cause of the City's injury.

144. Upon information and belief, Miller continues to make straw sales and those handguns sold by Miller continue to be recovered in New York City from persons prohibited from possessing them and in connection with violent crimes.

Miller's Contribution to the City Gun Nuisance

145. Despite its location approximately 402 miles from New York City, Miller sold 15 guns recovered in New York City between February 1994 and June 2002. Most of the guns sold by Miller that have been recovered in New York City, were seized from illegal possessors. Many guns sold by Miller had already been used in connection with serious crimes before they were recovered, including homicide, and drug-related offenses.

146. The reported incidents involving guns purchased at Miller include the following:

- In September 1996, a man stopped for a routine traffic violation in Brooklyn was found in possession of a loaded 9mm handgun;
- In March 1999, at a house in Queens, a gun was brandished by a 18-year-old during a dispute with a 16-year-old;
- In February 2000, police investigating a report of a man with a gun found a 23-year-old man and a gun behind the counter of a bodega in Brooklyn;
- In June 2000, a man involved in a domestic dispute with his common law wife entered a woman's home in Brooklyn brandishing a .25 caliber handgun looking to find his wife; and

- In August 2000, police involved in a long-term undercover gun trafficking investigation purchased a handgun in Manhattan.

147. A gun sold by Miller was recovered in New York City as soon as 5½ months after sale by Miller in Ohio. Five of the 15 guns were recovered within 18 months of being purchased from Miller.

148. Over half of the guns recovered in the City purchased at Miller were “Saturday night specials” – cheap, poorly made handguns favored by criminals, including Bryco Arms, Taurus, Hi-Point and Davis Industries.

Rooks Sales & Service

Rooks’ Participation in Straw Sales

149. Upon information and belief, Rooks is well-acquainted with straw purchases, and has participated in such sales. Between November 2001 and May 2003, Charles Davis Jr. and his wife Chandra Davis recruited and paid straw purchasers to buy 15 handguns from Columbia, South Carolina-area gun show merchants and gun dealers, including at least one handgun purchased from Rooks. The Davises’ gun-trafficking scheme involved trading those handguns in New York for marijuana, which was then trafficked in South Carolina. At least two of those handguns were recovered in connection with crimes in New York. Upon information and belief, James Singleton III was one of three straw purchasers who bought handguns for the Davises, including a Leinad .380 caliber handgun straw purchased from Rooks. Both the Davises and Singleton pleaded guilty to various gun-related offenses, in relation to their gun-trafficking activities.

150. In or around September 2004, Edward Charles Brown straw purchased 12 handguns from South Carolina gun dealers, including at least 2 Hi-Point 9mm pistols purchased

from Rooks as part of a “multiple purchase.” Brown pleaded guilty to one gun-related offense, in relation to his straw-purchasing of handguns.

151. Rooks continues to be willing to participate in straw sales. On or about May 4, 2006, a male and a female investigator retained by the City of New York entered Rooks’ Bishopville, South Carolina store and engaged in a simulated straw purchase of a Taurus 9mm handgun that displayed all of the observable, in-store characteristics of the straw purchases described above (*supra*, at ¶¶ 50-53), without any subsequent transfer of the gun by the “straw purchaser.” Only the male investigator interacted with a Rooks salesperson, discussing and selecting a Taurus 9mm handgun to purchase. Once the male investigator had selected the gun and indicated a desire to purchase it, the female investigator, who had not been a part of the discussion to that point, approached the counter to complete the paperwork in connection with the purchase.

152. Up to the moment of filling out the required federal documentation, the female investigator was completely uninvolved in the purchase discussions. The Rooks salesperson at the counter, who had shown the Taurus 9mm handgun to the male investigator and answered his questions about the gun and various types of ammunition, raised no objections when the female investigator presented her identification and filled out the federal paperwork in connection with the purchase.

153. As the paperwork was being completed, the Rooks salesperson continued to discuss various subjects relating to the Taurus 9mm with the male investigator. The salesperson then accepted cash payment for the firearm and ammunition from the male investigator, and gave the change from the purchase, the receipt, and the firearm to the male investigator. Other than completing the federal paperwork, the female investigator did not

participate in the transaction in any manner, nor did she express any interest in the handgun, its capabilities, or suitable ammunition.

154. Other gun dealers in the States of Georgia, South Carolina, Virginia, Ohio and Pennsylvania, unequivocally identified the virtually identical scenario, at times by the same investigators, as an attempt to engage in a straw purchase. Some of those dealers refused to go through with the sales, even informing the investigators that the sales would be illegal straw purchases. Other gun dealers who sold guns to City investigators in the course of identical straw purchase scenarios subsequently admitted that the sales should not have been allowed to proceed.

155. Although there have been no transfers of the guns by the straw purchasers necessary for actual straw sales, Rooks' participation in the simulated straw sales violates Sections 922, 923, 924 and 1001 of Title 18 of the U.S. Code and those violations are a proximate cause of the City's injury.

156. Upon information and belief, Rooks continues to make straw sales and those handguns sold by Rooks continue to be recovered in New York City from persons prohibited from possessing them and in connection with violent crimes.

Rooks' Contribution to the City Gun Nuisance

157. Despite its location approximately 666 miles from New York City, between February 1994 and June 2002, Rooks sold 109 guns recovered in the City. Many of the guns sold by Rooks that have been recovered in New York City were seized from illegal possessors, and many had already been used in connection with serious crimes before they were recovered, including homicide, aggravated assault, handgun trafficking, robbery, and drug offenses.

158. Some of the reported incidents involving Rooks guns include the following:

- In March 1996, police in Brooklyn responding to reports of screaming found a 17-year-old boy in possession of a handgun, and involved in a dispute with his sister;
- In April 1996, a 16-year-old boy in Staten Island was found in possession of a fully-loaded “Tec-9” automatic handgun, at which time he resisted arrest and fled, before being apprehended by police;
- In March 1997, a man arrested for domestic violence for striking his girlfriend in the head and face in their Manhattan apartment was found to be in possession of a 9mm Hi-Point gun;
- In March 1997, four people, including a 15-year-old girl, were tied up and robbed at gunpoint in their Queens housing project by several men.
- In July 1997 in Manhattan, six people, including 15, 16, 17, and 18-year-old boys, were found in possession of two loaded 9mm handguns, and bulletproof vests;
- In September 1997, a 23-year-old man was shot several times in an attempted homicide on a Manhattan street, and 5 perpetrators fled the scene in a vehicle;
- In October 1997, a man found in possession of a loaded Hi-Point handgun on a street in Queens attacked two police officers, striking them in the face and arms with a metal pipe;
- In January 1998, three men in an apartment in the Bronx were found in possession of 5 handguns;
- In September 1998, five gang members in their twenties were found in possession of 2 loaded guns in a car in Brooklyn;
- In June 1999, in a Manhattan apartment, a 24-year-old woman was murdered by her estranged husband who came to her apartment in violation of a protective order, and shot her in the head. He then turned the 9mm Lorcin gun on himself, orphaning their 4 year old daughter;
- In May 2000, a 78-year-old woman was murdered as she slept in her bed in a Manhattan housing project. The woman died after

being shot in the head by her granddaughter's boyfriend. Earlier that day, he had shot his girlfriend in the face, apparently angry because she had moved out of their apartment, and taken their children to her grandmother's apartment. At the time of the shootings, five children under the age of 7 were present in the apartment;

- In August 2000, police responding to a report of shots fired in Manhattan arrested three men after two loaded handguns were recovered from a car used by one of the men, and another man was found in possession of a knife; and
- In June 2001, a man arrested for threatening to kill a woman in a Brooklyn apartment was found in possession of 2 handguns and a quantity of marijuana.

159. Guns sold by Rooks were recovered in New York City as quickly as 6 days after the sale, and four guns sold by Rooks were recovered in under 10 days. 45 guns sold by Rooks were recovered in New York City less than 1 year after their sale, and 31 of those were recovered within 6 months of their sale by Rooks in South Carolina. The average time to crime for the 109 guns recovered between February 1994 and June 2002, traced from Rooks to New York City is 2.5 years, compared to an average time to crime of 6 years for all crime guns recovered in New York City.

160. Many of the handguns guns sold by Rooks and recovered in the City were "Saturday night specials" – cheap, poorly made handguns favored by criminals, including 35 Hi-Points, and 27 Lorcins.

Toccoa Pawn

Toccoa Pawn Participates in Straw Sales

161. Upon information and belief, Toccoa Pawn has participated in straw sales, and is well-acquainted with straw sales. On May 8, 2006, a male and a female investigator retained by the City of New York entered Toccoa Pawn's Toccoa, Georgia store and engaged in a simulated straw purchase of 2 Hi-Point handguns that displayed all of the observable, in-store

characteristics of the straw purchases described above (*supra*, at ¶¶ 50-53), without any subsequent transfer of the guns by the “straw purchaser.” Only the male investigator interacted with the Toccoa Pawn salesman, discussing and selecting two Hi-Point handguns to purchase. Once the male investigator had selected the guns, and indicated a desire to purchase them, the female investigator, who had not been a part of the discussions, approached the counter to make the purchase.

162. Up to the moment of filling out the required federal documentation, the female investigator was completely uninvolved in the purchase discussions and was off elsewhere, browsing in the store. The Toccoa Pawn salespeople at the counter, who showed the Hi-Points to the male investigator and answered his questions about the guns, asked no questions and raised no objections when the female investigator presented her identification and filled out the federal paperwork.

163. After completion of the paperwork, the salesman accepted cash payment for the firearms from the male investigator and returned the change to him, and made no objections when the male investigator took the firearms from the store. Other than completing the federal paperwork, the female investigator did not participate in the transaction in any manner, nor did she express any interest in the guns, their capabilities, or suitable ammunition.

164. Other gun dealers in the States of Georgia, South Carolina, Virginia, Ohio and Pennsylvania, unequivocally identified the virtually identical scenario, at times staged by the same investigators, as an attempted straw purchase. Some of those dealers refused to go through with the sales, even informing the investigators that the sales would be illegal straw purchases. Other gun dealers who sold guns to City investigators in the course of identical straw purchase scenarios subsequently admitted that the sales should not have been allowed to proceed.

165. Although there has been no transfer of the guns by the straw purchaser necessary for an actual straw sale, Toccoa Pawn's participation in the simulated straw sale violates Sections 922, 923, 924 and 1001 of Title 18 of the U.S. Code and that violation is a proximate cause of the City's injury.

166. Upon information and belief, Toccoa Pawn continues to make straw sales and those handguns sold by Toccoa Pawn continue to be recovered in New York City from persons prohibited from possessing them and in connection with violent crimes.

Toccoa Pawn's Contribution to the City Gun Nuisance

167. Despite its location approximately 808 miles from New York City, between February 1994 and June 2002, Toccoa Pawn sold 18 guns recovered in the City.

168. Of the 18 guns sold by Toccoa Pawn that have been recovered in New York City, most were seized from prohibited possessors. Guns sold by Toccoa Pawn had already been used in connection with serious crimes before they were recovered, including rape, robbery, assault, harassment and larceny.

169. The reported incidents involving guns purchased at Toccoa Pawn include the following:

- In February 1996, three young men – including a 16-year-old boy – being arrested for attempting to steal a car in Brooklyn were found to be in possession of a .380 caliber gun, and a pellet gun;
- In March 1998, a woman living in a single room occupancy building in Brooklyn was threatened by another occupant in possession of a .22 caliber gun;
- In August 1999, during a routine traffic stop in Brooklyn, a man driving with a suspended license was found in possession of a .380 caliber gun; and
- In February 2000, five men, including three 19-year-olds, and two 20-year-olds, robbed a man at gunpoint in his apartment building in Brooklyn, brandishing two loaded handguns.

170. Guns sold by Toccoa Pawn were recovered in New York City in as little as six months after their sale by Toccoa Pawn in Georgia. The average time to crime for the 18 recovered guns purchased at Toccoa Pawn and recovered in the City is 2.6 years, compared to a time to crime of 6 years for all crime guns recovered in New York City.

171. Most of the guns recovered in the City purchased at Toccoa Pawn were “Saturday night specials” – cheap, poorly made handguns favored by criminals, including Lorcin, Hi-Point, Davis Industries and Bryco Arms.

Town & Country

Town & Country’s Participation in Straw Sales

172. Upon information and belief, Town & Country has negligently or intentionally participated in straw sales, and continues to be willing to do so. On or about April 22, 2006, two male investigators retained by the City of New York entered Town & Country’s Roanoke, Virginia store and engaged in a simulated straw purchase of a Hi-Point 9mm handgun that displayed all of the observable, in-store characteristics of the straw purchases described above (*supra*, at ¶¶ 50-53), without any subsequent transfer of the gun by the “straw purchaser.” Investigator “A” interacted exclusively with a Town & Country salesman, discussing and selecting a Hi-Point 9mm to purchase. Once Investigator “A” had selected the gun and indicated a desire to purchase it, Investigator “B,” who had no participation in the purchase discussions, was summoned to the counter to fill out the federal paperwork.

173. Up to the moment of filling out the required federal documentation, Investigator “B” was completely uninvolved in the purchase discussions and was off elsewhere, browsing in the store. The Town & Country salesman at the counter, who had shown the Hi-Point 9mm to Investigator “A,” and answered his questions about the gun, did not object to

completing the sale when Investigator “B” presented his identification, said that the gun was for him, and filled out the federal paperwork in connection with the purchase.

174. After the completion of the paperwork, the Town & Country salesman accepted cash payment for the firearm from Investigator “A,” and discussed with him where he could find ammunition for the Hi-Point 9mm. Other than completing the federal paperwork, Investigator “B” did not participate in the transaction in any manner, nor did he express any interest in the handgun, its capabilities, or suitable ammunition.

175. Other gun dealers in the States of Georgia, South Carolina, Virginia, Ohio and Pennsylvania, unequivocally identified the virtually identical scenario, at times staged by the same investigators, as an attempted straw purchase. Some of those dealers refused to go through with the sales, even informing the investigators that the sales would be illegal straw purchases. Other gun dealers who sold guns to City investigators in the course of identical straw purchase scenarios subsequently admitted that the sales should not have been allowed to proceed.

176. Although there has been no transfer of the gun by the straw purchaser necessary for an actual straw sale, Town & Country’s participation in the simulated straw sale violates Sections 922, 923, 924 and 1001 of Title 18 of the U.S. Code and that violation is a proximate cause of the City’s injury.

177. Upon information and belief, Town & Country continues to make straw sales and those handguns sold by Town & Country continue to be recovered in New York City from persons prohibited from possessing them and in connection with violent crimes.

Town & Country’s Contribution to the City Gun Nuisance

178. Despite its location more than 455 miles from New York City, between February 1994 and June 2002, Town & Country sold 18 guns recovered in the City. The

majority of the guns sold by Town & Country that have been recovered in New York City, were seized from illegal possessors. Many guns sold by Town & Country had already been used in connection with serious crimes before they were recovered, including arson, and drug-related offenses.

179. Some of the reported incidents involving firearms sold by Town & Country include the following:

- In November 1997, a man frequenting a known drug location in Manhattan was arrested in possession of a Lorcin .25-caliber gun and 20 vials of crack cocaine;
- In October 1999, a 22-year-old Bronx man accidentally shot himself in the hand with a 9mm handgun, one of two 9mms that he was found to be in possession of;
- In September 2000, in the course of an armed robbery in Brooklyn, a 26-year-old man fired a shot at the victim, injuring another person standing nearby; and
- In September 2001, a 42-year-old man being chased by police in Manhattan removed a 9mm gun from his waistband and shot himself in the head, taking his own life.

180. Guns sold by Town & Country were recovered in New York City as soon as 6½ months after the sale. Seven of the guns were recovered less than 2 years after being purchased from Town & Country in Virginia. The average time to crime for the 18 recovered guns traced from Town & Country to New York City is 3.8 years, compared to an average time to crime of 6 years for all crime guns recovered in New York City.

181. Some of the guns recovered in the City sold by Town & Country had their serial numbers defaced at the time they were recovered. ATF has reported that a defaced or obliterated serial number is an indication that a gun may have been trafficked.

182. The majority of the handguns guns sold by Town & Country and recovered in the City were “Saturday night specials” – cheap, poorly made handguns favored by criminals, including Hi-Point, Lorcin, Bryco Arms and Davis Industries.

Trader World

Trader World Participates in Straw Sales

183. Upon information and belief, Trader World has participated in straw sales, and continues to be willing to do so. On or about April 20, 2006, a male and a female investigator retained by the City of New York entered Trader World’s North Charleston, South Carolina store and engaged in a simulated straw purchase of a Taurus 9mm handgun that displayed all of the observable, in-store characteristics of the straw purchases described above (*supra*, at ¶¶ 50-53), without any subsequent transfer of the gun by the “straw purchaser.” Only the male investigator interacted with the Trader World salesperson, discussing and selecting the handgun to purchase. Once the male investigator had selected the gun and indicated a desire to purchase it, the female investigator, who had not been a part of the discussion, was summoned to the counter to make the purchase.

184. Up to the moment of filling out the required federal documentation, the female investigator was completely uninvolved in the purchase discussion and was off elsewhere, browsing in the store. The Trader World salesperson at the counter, who had shown the Taurus 9mm handgun to the male investigator and answered questions about the gun, asked no questions and raised no objections when the female presented her identification and filled out the federal paperwork in connection with the purchase.

185. After the completion of the paperwork, the salesperson discussed the availability of various ammunition with the male investigator and accepted cash payment for the firearm from the male investigator, returning his change to him with a receipt for the gun. Other

than completing the federal paperwork, the female investigator did not participate in the transaction in any manner, nor did she express any interest in the handgun, its capabilities, or suitable ammunition.

186. Other gun dealers in the States of Georgia, South Carolina, Virginia, Ohio and Pennsylvania, unequivocally identified the virtually identical scenario, at times by the same investigators, as an attempt to engage in a straw purchase. Some of those dealers refused to go through with the sales, even informing the investigators that the sales would be illegal straw purchases. Other gun dealers who sold guns to City investigators in the course of identical straw purchase scenarios subsequently admitted that the sales should not have been allowed to proceed.

187. Although there has been no transfer of the gun by the straw purchaser necessary for an actual straw sale, Trader World's participation in the simulated straw sale violates Sections 922, 923, 924 and 1001 of Title 18 of the U.S. Code and that violation is a proximate cause of the City's injury.

188. Upon information and belief, Trader World continues to make straw sales and those handguns sold by Trader World continue to be recovered in New York City from persons prohibited from possessing them and in connection with violent crimes.

Trader World's Contribution to the City Gun Nuisance

189. Upon information and belief, despite its location approximately 760 miles from New York City, Trader World sold 37 guns recovered in crimes in New York City between February 1994 and June 2002. Upon information and belief, Trader World has previously operated under a different name, pursuant to another Federal Firearms License. Pursuant to a license held by Marion F. Dukes, Trader World Pawnshop sold 20 guns recovered in crimes in New York City, and pursuant to a license held by Trader World, Inc., Trader World sold 17 guns

recovered in crimes in New York City. Upon information and belief, Trader World currently sells firearms pursuant to a license held by Trader World, Inc.

190. Of the 37 handguns sold by Trader World (and its predecessor) that have been recovered in New York City prior to June 2002, many were seized from illegal possessors. Many guns sold by Trader World had already been used in connection with serious crimes before they were recovered, including homicide, attempted murder, robbery, aggravated assault, harassment, and drug-related offenses.

191. The reported incidents involving Trader World guns include the following:

- In June 1999, a 17-year-old boy was found in possession of a .22 caliber Intratec while riding his bicycle on a sidewalk in Brooklyn;
- In June 2000, a woman was robbed of her cell phone at gunpoint in her Manhattan apartment by two young men; and
- In August 2001, a 25-year old man opened fire on passengers on a Greyhound Bus at the Port Authority Bus Terminal in Manhattan, using a semiautomatic 9mm sold by Trader World. The shooting ended only when a wounded passenger begged the shooter to spare the life of her 8-year-old daughter. Before the man was apprehended by police, four passengers were shot.

192. Guns sold by Trader World (and its predecessor, Trader World Pawnshop) were recovered in crimes in New York City in as little as 2 weeks after sale in South Carolina. The average time to crime for the 37 recovered guns traced from Trader World and Trader World Pawnshop to New York City through June 2002 is 2.5 years, compared to a time to crime for all crime guns recovered in New York City of 6 years. In total, 20 of the 37 guns were recovered within two years of being purchased from Trader World or its predecessor.

193. At least half of the guns recovered in the City from February 1994 through June 2002 that were purchased at Trader World (and its predecessor, Trader World Pawnshop)

were “Saturday night specials” – cheap, poorly made handguns favored by criminals, including Hi-Point, Lorcin, and Taurus.

Defendants Know or Should Know That Their Guns Are Trafficked

194. Defendants know or should know when a gun they have sold has been recovered in a crime, because for many such guns, Defendants are contacted by ATF asking for the particulars of the sale. Contact from the ATF is a direct indication to Defendants that a gun that they have sold was very likely recovered in a crime.

195. Defendants know or should know that straw purchasers are likely to attempt to purchase handguns from Defendants. Upon information and belief, Defendants have each received the *Don't Lie For the Other Guy* pamphlet (*supra*, ¶ 54) described above, and have received other training and informational materials from ATF concerning straw purchases.

196. The simulated straw transactions described above had many of the hallmarks of the straw purchases as described in *Don't Lie for the Other Guy*. Indeed, a videotaped presentation by ATF in connection with the *Don't Lie for the Other Guy* program presented to gun dealers flatly states that, to prevent the diversion of firearms into the illegal market, dealers should follow the principle that if one person fills out the paperwork to purchase a firearm, then that person should be paying for the firearm. The same presentation emphasizes that, where indicators of potential straw purchases are present in a transaction, common sense says that dealers should ask additional questions to ensure that the person buying the firearm is the actual purchaser. National Shooting Sports Foundation videotape, *Identifying and Deterring Straw Purchasers*.

197. Despite the receipt of materials on straw purchases, Defendants fail to instruct their employees to recognize the obvious indicators of a straw purchase.

**FIRST CAUSE OF ACTION:
PUBLIC NUISANCE**

198. The City realleges paragraphs 1 to 197 as if fully set forth herein.

199. Under New York law, any unlawfully possessed, transported or disposed of gun is declared to be a nuisance. N.Y. Penal Law § 400.05(1).

200. Defendants' unlawful sales practices enable the easy acquisition of handguns by persons prohibited by law from possessing firearms by reason of criminal history, age, mental infirmity, and/or lack of a license.

201. Defendants, through their unlawful sales practices, acts and omissions and violation of N.Y. Penal Law § 400.05(1), have knowingly created, contributed to and helped to maintain an existing and continuing public nuisance of long-standing that unreasonably and substantially: interferes with rights common to the general public; deprives City residents and visitors of the peaceful use of public streets, sidewalks, parks, and other public places; interferes with commerce, travel and the quality of daily life; and endangers the health, welfare, peace, safety, well-being, convenience and property of considerable numbers of residents of, and visitors to, New York City. This public nuisance constitutes an injury in fact to the City that is concrete and particularized, actual and imminent, and that is caused and/or contributed to by Defendants' acts and omissions.

202. There are reasonable steps that Defendants could take to reduce or eliminate their contribution to this public nuisance. The cost of the steps that Defendants could take to reduce their contribution to the public nuisance are minuscule compared to the costs of the harm that would be avoided.

203. The City, its residents and its visitors are being irreparably harmed by this public nuisance.

204. The City is entitled to injunctive relief to abate this nuisance.

**SECOND CAUSE OF ACTION:
STATUTORY NUISANCE**

205. The City realleges paragraphs 1 to 197 as if fully set forth herein.

206. Defendants' conduct violates New York Penal Law § 240.45, Criminal Nuisance in the Second Degree, because Defendants' conduct is either unlawful in itself or unreasonable under all the circumstances, and Defendants have knowingly created or maintained a condition that endangers the safety or health of a considerable number of persons.

207. Defendants, through their violation of N.Y. Penal Law § 240.45, have knowingly created, contributed to and helped to maintain an existing and continuing public nuisance of long-standing that unreasonably and substantially: interferes with rights common to the general public; deprives City residents and visitors of the peaceful use of public streets, sidewalks, parks, and other public places; interferes with commerce, travel and the quality of daily life; and endangers the health, welfare, peace, safety, well-being, convenience and property of considerable numbers of residents of, and visitors to, New York City. This public nuisance constitutes an injury in fact to the City that is concrete and particularized, actual and imminent, and that is caused and/or contributed to by Defendants' acts and omissions.

208. There are reasonable steps that Defendants could take to reduce or eliminate their contribution to this public nuisance. The cost of the steps that Defendants could take to reduce their contribution to the public nuisance are minuscule compared to the costs of the harm that would be avoided.

209. The City, its residents and its visitors are being irreparably harmed by this public nuisance.

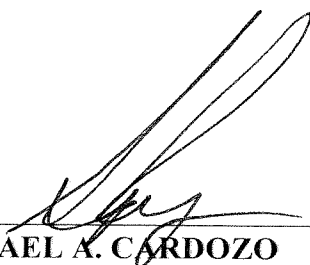
210. The City is entitled to injunctive relief to abate this nuisance.

WHEREFORE, the City respectfully prays that the Court:

- i) Grant judgment against the Defendants in the form of an injunction that:
 - a) Orders each Defendant to submit to supervision by a court-appointed Special Master(s) the responsibilities of whom shall include, *inter alia*, the monitoring of each Defendant's sales practices through in-store observation, records monitoring and random and repeated integrity-testing, the costs of such Special Master(s) to be borne by each such Defendant;
 - b) Orders each Defendant to comply with federal, state and local laws related to the sale of guns, including ceasing to engage in straw sales;
 - c) Orders each Defendant to provide mandatory training of all sales personnel under the supervision of the Special Master, the costs of such training to be borne by each such Defendant;
 - d) Orders each Defendant to post a bond in an amount to be determined by the Court, which in the event of future violations by a Defendant, shall be forfeited to the City to cover abatement costs attributable to that Defendant's future violations; and

- ii) Grant the City such other and further prospective injunctive relief as to the Court seems just and proper.

Dated: New York, New York
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MICHAEL A. CARDOZO
Corporation Counsel of the City of New York
Attorney for Plaintiff
100 Church Street, Rm. 20-99
New York, New York 10007
(212) 788-1324

By: Eric Proshansky

Of Counsel: Gail Rubin
Richard J. Costa
Melanie C.T. Ash
Ari Biernoff

Assistant Corporation Counsels

**PILLSBURY WINTHROP SHAW PITTMAN,
LLP**
Attorneys for Plaintiffs
1540 Broadway
New York, New York 10036
(212) 858-1000

Of Counsel: John Pritchard
Kenneth Taber
Bryan Dunlap
Susan Greenberg
Sangita Shah
James Wheaton
Kenneth Newby
Nicholas Minella
Lauren Ernst
Jeffrey Gavenman