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

CITY OF CHICAGO, an Illinois municipal corporation,

Plaintiff,

v.

WESTFORTH SPORTS, INC.,

Defendant.

13083243

Case No. 2021CH01987

COMPLAINT

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

SUMMARY OF ACTION

1. For more than a decade, Defendant Westforth Sports, Inc. has engaged in a pattern of illegal sales that has resulted in the flow of hundreds, if not thousands, of illegal firearms into the City of Chicago. Westforth feeds the market for illegal firearms by knowingly selling its products to an ever-changing roster of gun traffickers and straw (sham) purchasers who transport Westforth’s guns from Indiana into Chicago, where they are resold to individuals who cannot legally possess firearms, including convicted felons and drug traffickers.

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

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have sold at least 180 guns to at least 40 people later charged with federal crimes in connection with these purchases.

3. These eye-popping numbers are not the result of bad luck or coincidence or location. They are the natural and predictable outcome of a business model that ignores the federal laws and regulations that are intended to keep the public safe. Over the past decade, the Bureau of Alcohol, Tobacco, Firearms and Explosives (“ATF”) has cited Westforth for many serious violations of federal laws, including for transferring firearms to straw purchasers after a failed background check, and failing to conduct a background check in the first place, among others. ATF has repeatedly warned Westforth that its violations threaten public safety and that it must implement safeguards to prevent straw purchasing. But to no avail.

4. While federal law is clear that if a dealer suspects that a customer is a straw purchaser or unlicensed gun dealer, the dealer must stop the transaction, Westforth continues to sell firearms to people that it knew, or deliberately avoided knowing, were engaged in illegal firearms trafficking and straw purchasing. In the face of unmistakable indicators of illegal gun sales—including high volume, multiple-sale transactions involving duplicate or near-duplicate firearms—Westforth chose time and time again to look the other way and to falsify transaction forms, becoming a trusted source of firearms for traffickers and straw purchasers. For example:

- According to the federal government, over the course of seven months in 2020, Darryl Ivery Jr. purchased 19 handguns from Westforth, including ten guns bought in multiple-sale transactions, and nine others bought at intervals designed to avoid federal reporting requirements. With the exception of one gun that Ivery kept for himself, each of these guns was sold to buyers in Chicago. Ivery has since been charged with making false statements in connection with his gun purchases at Westforth, in violation of 18 U.S.C. § 922(a)(6).
- Cherisse Lavette Mitchell bought six handguns from Westforth in the spring of 2020, including three identical Taurus handguns and a pair of identical Smith & Wesson handguns. These duplicative multiple-sale transactions were unmistakable warning signs of straw purchasing, which Westforth ignored. One of the guns that Westforth sold to Mitchell was recovered by the Chicago Police just over a month later, and the rest are

believed to remain in circulation. In December 2020, Mitchell pled guilty to one count of making a false statement in connection with one of her purchases at Westforth, in violation of 18 U.S.C. § 922(a)(6).

- According to court documents, Levar Reynolds visited Westforth on May 12, 2018, and bought five Glock handguns—including two duplicate and near-duplicate pairs—in a single purchase. This suspicious bulk purchase of handguns was highly indicative of trafficking. Just a day after Westforth sold these guns, two of them were recovered by law enforcement in Chicago in the bedroom of a man who was under indictment for multiple felonies. One had been outfitted with a laser sight. Reynolds has since been charged with making false statements in connection with his gun purchases at Westforth, in violation of 18 U.S.C. § 922(a)(6).
- Paul Fowlkes bought five guns at Westforth in a single purchase in June 2016, including three handguns and a pair of duplicate rifles. Later, Fowlkes returned to buy two more handguns. Chicago police later recovered one of these firearms in the possession of a man who had been convicted of multiple felonies including arson and robbery, but the remainder are “unaccounted for [and] are most likely in the hands of others who are unable or unwilling to purchase firearms within the law,” according to federal prosecutors. Fowlkes pled guilty to one count of making false statements in connection with gun purchases, in violation of 18 U.S.C. § 922(a)(6).

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

6. The sheer number of illegal transactions that took place at Westforth, combined with repeat warnings by the ATF, makes it inconceivable that Westforth was an innocent bystander to all of the illegality that was occurring on its premises. Westforth’s sales to traffickers like Ivery, Mitchell, Reynolds, Fowlkes, and others were unlawful and negligent, and foreseeably resulted in the transfer of hundreds if not thousands of firearms into the hands of criminals and other prohibited persons throughout the region, including in Chicago.

7. As a federal firearms licensee (“FFL”), Westforth is categorically prohibited from selling firearms directly to criminals and others who cannot pass a background check. But by acting as a source and distributor for unlicensed street retailers—many of whom *can* pass a background

check—Westforth can access the lucrative criminal market for firearms in Chicago without selling to prohibited persons directly.

8. Westforth’s misconduct has created, exacerbated, and sustained a public nuisance that causes harm to the health, safety, and well-being of Chicago residents and imposes significant costs on the City. Firearms that Westforth sold to traffickers and straw purchasers have been transferred to individuals who are prohibited from possessing them, increasing the danger to all residents of Chicago. Some of the illegally transferred firearms have also been recovered alongside various illegal drugs, making it likely that at least some of the guns were used in the furtherance of drug trafficking activities, which further harms the City and its residents. The flood of Westforth guns into Chicago’s criminal firearms market also interferes with the rights of residents to freely use and enjoy public and private property within the City, travel safely throughout the City, and attend school, without the fear of being shot.

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

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

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

11. To abate the public nuisance that Westforth has created and maintained, Chicago seeks an order compelling Westforth to implement remedial policies to prevent recurrences, and damages for the cost of abating the nuisance. The City also seeks damages to compensate it for the financial harm proximately caused by Westforth's illegal activities.

JURISDICTION AND VENUE

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

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

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

PARTIES

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

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

17. Westforth transacts business within the state of Illinois and with its residents in various ways. Westforth sells firearms, ammunition and other products directly to Illinois residents at its retail counter. Westforth's Google.com business listing includes a question and answer section with guidance specifically for Illinois residents interested in purchasing firearms, accessories, and ammunition from Westforth. Describing requirements for firearms purchases, Westforth instructs prospective customers that "if you are from Illinois, I actually DO need your FOID card inorder [sic] to sell you firearms or ammunition" and that "Illinois has its own special rules for waiting periods." In another response, Westforth instructs that "We require a FOID card to purchase ammunition specifically of IL residents." These responses indicate that Westforth both specifically targets Illinois residents as potential customers, and also that Westforth does regular business with Illinois residents at its retail store.

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

19. Westforth has advertised to out-of-state buyers on a variety of internet platforms, including ArsenalExchange.com (an online firearms classified section), GunsAmerica.com, GalleryofGuns.com, theShootingStore.com, and Facebook.com. Some of these advertisements target out-of-state buyers specifically, such as a May 2018 Facebook advertisement that Westforth

promoted as “open to qualifying residents of all 50 states of the US,” soliciting customers who “live outside of Indiana” to “contact us for help finding a participating dealer.”

20. Westforth’s regulatory history confirms that it sells firearms to Illinois residents. In at least one instance, ATF cited Westforth for violating federal law by transferring long guns to Illinois residents without observing the waiting period required by Illinois law. And Westforth knows, or reasonably should know, that many of its gun trafficking customers are bringing Westforth’s firearms to Chicago given the widely available public reporting on Westforth being the highest out-of-state source for crime guns recovered in Chicago.

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

FACTS

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

22. Plaintiff, the City of Chicago, is the third largest city in the United States, and has a population of nearly three million people. Gun violence in Chicago is a growing epidemic. In 2020, there were 4,033 shooting victims compared to 2,598 the year before.² Chicago’s residents carry the physical, emotional and economic weight of this public health crisis in communities

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

where lives are put at risk, job and housing insecurity is increasing, emergency and medical costs are rising, and the criminal justice system is overburdened.³ The toll of gun violence was especially dire in 2020 as Chicago's healthcare system struggled under the strain of treating victims of gun violence amid the coronavirus pandemic.⁴

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

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

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

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

⁶ *Id.* at 31.

⁷ *Id.* at 13.

⁸ *Id.*

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

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

26. The economic burden of providing funds and resources to care for the victims of gun violence is substantial. Between 2016 and 2019, firearm injuries directly cost the City approximately \$442 million in policing and emergency medical services alone.¹² During the same time period, the public welfare cost of gun violence—that is, the cost of medical and mental healthcare, police and criminal justice costs, injury-related work loss, and perpetrator work loss—

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

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

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

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

totaled over \$5 billion.¹³ For the budget year 2020, Chicago allocated over \$10.4 million towards gun violence prevention programs, including victim support services, street outreach programs, trauma-informed training, community safe-space programming, and a high-risk youth pilot program that offers therapy services, case management, and educational and employment opportunities.¹⁴

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

28. In the fall of 2020, Chicago Mayor Lori Lightfoot released a comprehensive violence reduction plan that included a significant discussion of gun regulation.¹⁵ Key to this discussion is the fact that guns are frequently brought into Chicago from Indiana and Wisconsin—two neighboring states that have significantly weaker gun laws. The violence reduction plan

¹³ *See id.*

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

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

explains the importance of interrupting gun trafficking from source dealers that repeatedly sell guns to straw purchasers, who then funnel them to criminals and other prohibited possessors in Chicago. As the City's 2014 study of crime gun tracing concluded, "Chicago's violence problem is directly linked to the number of illegal guns available in the City."¹⁶

29. While Chicago's gun violence epidemic flows directly from its large illegal gun market, this market is fed disproportionately by only a small number of licensed gun dealers. There are approximately 150 FFLs in the Chicago metro area and Lake County Indiana, but only four of them collectively supplied nearly 20% of the crime guns recovered in Chicago between 2009 and 2013.¹⁷ During that same time period, all other dealers sold an average of three crime guns each.¹⁸ Between 2013 and 2016, almost one in four crime guns could be traced back to just ten FFLs.¹⁹

30. Westforth is one of these principal sources of illicit firearms for the Chicago criminal market, and has been since at least 2009. Between 2009 and 2013, Chicago police recovered and traced 515 crime guns sold by Westforth, making it the largest out-of-state supplier of crime guns.²⁰ Between 2013 and 2016, Westforth retained this dubious distinction, accounting for another 341 crime guns.²¹

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

¹⁷ *Id.* at 6.

¹⁸ *Id.*

¹⁹ City of Chicago, GUN TRACE REPORT 4 (2017) ("2017 Trace Report"), *****.chicago.gov/content/dam/city/depts/mayor/Press%20Room/Press%20Releases/2017/October/GTR2017.pdf.

²⁰ 2014 Trace Report, at 6.

²¹ 2017 Trace Report, at 20.

31. What is more, a large percentage of crime guns traced to Westforth have a short “time-to-crime,” meaning the period between the date of retail sale and the date of recovery by law enforcement. According to the ATF, a time-to-crime of three years or less is a “significant trafficking indicator” that “suggests illegal diversion or criminal intent associated with the retail purchase from the FFL.”²² More than 40% of the Westforth crime guns recovered in Chicago between 2009 and 2016 had a time-to-crime of less than three years.²³

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

Regulatory framework for dealing in firearms

33. Federal laws closely regulate commercial sales of firearms. Dealers, distributors, and manufacturers of firearms are known as “licensees” because they must obtain a federal license to operate a business that sells, distributes, or manufactures firearms. A person is categorically prohibited from “engag[ing] in the business of importing, manufacturing, or dealing in firearms” without a federal firearms license. 18 U.S.C. §§ 922(a)(1), 923(a). A person must be licensed if they “devote[] time, attention, and labor to dealing in firearms” with the objective of making a

²² U.S. Dep’t of Justice, Office of the Inspector Gen., INSPECTIONS OF FIREARMS DEALERS BY THE BUREAU OF ALCOHOL, TOBACCO, FIREARMS AND EXPLOSIVES, Report No. I-2004-005 (July 2004), <https://oig.justice.gov/reports/ATF/e0405/background.htm>; *see also* 2014 Trace Report, at 6 (Short time-to-crime is “a key indicator that the sale could have involved criminal activity by the buyer or the dealer.”).

²³ *See* 2014 Trace Report, at 7; 2017 Trace Report, at 20.

profit. *See* 18 U.S.C. § 921(a)(21)(C). Even a person who deals in guns part-time is required to obtain a license. *See* 27 C.F.R. 478.11.

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

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

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

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

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

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

38. A seller must not complete the sale if the seller knows or has reason to know that the form is inaccurate. Licensees certify on ATF Form 4473 that it is their "belief that it is not unlawful [] to sell, deliver, transport, or otherwise dispose of the firearm(s) listed on this form to the person identified in Section B," which "Must Be Completed Personally By [The] Transferee/Buyer." Licensees must truthfully complete this portion of the form.

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

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

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

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

42. Federal law also enlists dealers in working to detect illegal transactions and trafficking after a firearm is used unlawfully. When a law enforcement agency recovers a firearm at a crime scene or in the course of a criminal investigation, the agency may request a trace report from ATF's National Tracing Center. The National Tracing Center tracks the path of the firearm from its manufacturer through the distribution chain to the first retail purchaser. Licensees must provide information from their records about crime guns that the licensee manufactured, distributed, or sold. *See* 18 U.S.C. § 923(g)(7); 27 C.F.R. 478.25a.

Westforth Has Been Cited Repeatedly for Violating Federal Firearms Regulations

43. Westforth has intimate familiarity with these federal laws and regulations, because ATF has cited it for violating them at least 39 separate times while Earl Westforth has been president of the business. Many of these citations concern multiple instances of improper or illegal conduct, meaning that the true number of infractions is far higher. On at least two occasions, ATF regulators examining Westforth's business practices recommended that ATF revoke its federal firearms license on the basis of "willful violations of the GCA [Gun Control Act]," though ATF management ultimately opted to conduct a warning conference in lieu of revocation. In 2017, Earl Westforth even asked the ATF "whether the business's inspection history would 'erase' if his son took over the business."

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

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

46. Westforth was also on notice that illegal firearms were being trafficked from its store and harming public safety because it was sued by the City of Gary in 1999, in *City of Gary v. Smith & Wesson, et al.*, Case No. 45D05-0005-CT-243 (Ind. Lake Cnty. Super. Ct.). That lawsuit accused Westforth and other gun dealer defendants of creating a public nuisance by "mak[ing] openly illegal sales without filling out the required paperwork or conducting background checks on purchasers," and by "conveniently look[ing] the other way while sales are made to straw purchasers or under circumstances where the dealer knows or should reasonably foresee that the gun will thereafter be diverted into the illegal secondary market to illegal buyers who will use the guns in crime...." Westforth settled these and related allegations on confidential terms with the city of Gary in 2007.

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

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

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

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

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

51. In short, Westforth is well aware of its obligations under federal law to stop straw purchasers and gun traffickers, and it is well trained on how to spot them. Its continued illegal sales to such customers can only be characterized as willful and knowing.

Westforth Continues to Illegally Sell Guns to Traffickers and Straw Purchasers

52. Despite these repeated warnings, Westforth continues to engage in a pattern of violating federal law and regulations, and of aiding and abetting others in violating them. According to federal criminal filings, over the last six years Westforth has sold at least 180 guns to at least 40 separate purchasers who have since been charged with federal firearms crimes in connection with their transactions at the store. Westforth sells firearms to straw purchasers and gun traffickers even though it knows, based on the circumstances of these transactions and its own training, that these customers are not making bona fide purchases for themselves. By choosing to disregard its obligations under federal law, Westforth is able to access the lucrative criminal secondary market for firearms in Chicago and, ultimately, to profit from the sale of firearms to criminals and other prohibited persons.

53. Federal prosecutions of dozens of these street level retailers reveals the striking pattern of red flags of illegal activity ignored by Westforth at the store's gun counter and cash register. These patterns—multiple purchases of duplicate and near-duplicate guns, buying sprees over a concentrated period of time, large-volume purchases, cash payments, and staggered visits to elude multiple-sale reporting requirements—are all unmistakable hallmarks of a gun trafficking business.

Westforth's Sales to Darryl Ivery Jr.

54. A review of federal court documents demonstrates that one of the most egregious traffickers that Westforth sold guns to is Darryl Ivery Jr.²⁴ Westforth sold Ivery 19 handguns in the course of 14 separate transactions between February 18 and August 8, 2020:

²⁴ See Complaint at 3–4, *United States v. Ivery*, No. 2:20-cr-00138 (N.D. Ind. Aug. 26, 2020), ECF No. 1. Ivery was charged with 17 counts of making a material false statement in the

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

55. On its own, the sheer volume of Ivery’s purchases put Westforth on notice that Ivery was not making bona fide purchases for himself, but was instead buying guns for others. But Ivery’s purchases were suspicious in other ways as well. On five occasions, Ivery bought multiple guns at once—purchases that required Westforth to submit additional paperwork to ATF because of the close association between multiple sales and trafficking. According to ATF guidance, “[i]f

acquisition of a firearm in violation of Title 18, United States Code, Section 922(a)(6). As of April 2021, Ivery’s case remains pending.

one or more firearms recovered from a crime are part of a multiple purchase, this could be an indicator of potential firearms trafficking.”²⁵

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

57. After buying guns from Westforth and other FFLs in northwestern Indiana, Ivery quickly trafficked them to Chicago to be resold, where seven of them have already been recovered. In one instance, a gun that Ivery purchased was recovered at the scene of a shooting in Chicago only 22 days later. In other instances, Chicago police recovered guns that Ivery purchased in as little as 12 days—and in one instance *five days*—after purchase. Many of the guns that Westforth sold to Ivery are believed to remain in circulation on the streets of Chicago to this day.

58. By engaging in the sale and transfer of firearms to Ivery under the circumstances described above, Westforth knowingly violated, and/or aided and abetted Ivery in the violation of numerous laws and regulations, including 18 U.S.C. § 922(a)(1) (engaging in the business of dealing in firearms without a license); 18 U.S.C. § 922(a)(6) (knowingly making a false statement in connection with the acquisition of a firearm); 18 U.S.C. § 922(m) (knowingly making false entries in records required to be kept by dealer); 18 U.S.C. § 923(a) (engaging in the business of

²⁵ Bureau of Alcohol, Tobacco, Firearms, and Explosives, *Reporting Multiple Firearm Sales*, ATF.GOV (April 16, 2021), <https://www.atf.gov/firearms/reporting-multiple-firearms-sales>.

dealing in firearms without a license); 18 U.S.C. § 924(a) (knowingly making a false statement or representation concerning information to be kept in the records of an FFL); 27 C.F.R. 478.124(c)(1) (failing to ensure accurate completion of ATF Form 4473 prior to transfer of a firearm); 27 C.F.R. 478.124(c)(4) (failing to record accurate information in ATF Form 4473); and 27 C.F.R. 478.21(a) (failing to ensure completion of ATF Form 4473 in accordance with form instructions).

Westforth's sales to Cherisse Lavette Mitchell

59. In just over a two-month period, Cherisse Lavette Mitchell purchased six guns from Westforth, including a pair and a trio of identical guns.²⁶ Mitchell's first visit to Westforth was on April 10, 2020 when she bought three Taurus handguns, each of the same model. Mitchell returned to Westforth on May 29, 2020 and again on May 30, 2020 and purchased two Smith & Wesson handguns, again of the same model, during this pair of visits. One of these was recovered by the Chicago Police Department only 33 days after Westforth's sale to Mitchell. Mitchell purchased a sixth handgun from Westforth, a SAR B6C, on June 15, 2020.

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

²⁶ See Complaint, *United States v. Mitchell*, No. 2:20-cr-00139 (N.D. Ind. Aug. 26, 2020), ECF No. 1. On December 17, 2020, Mitchell pled guilty to one count of making a false statement in connection with the purchase of a handgun at Westforth Sports, in violation of 18 U.S.C. § 922(a)(6). As of April 2021, she is awaiting sentencing.

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

Westforth's sales to Adrienne Danielle Bean

62. On March 6, 2019, officers with the Chicago Police Department observed a vehicle traveling 95 mph on the Dan Ryan Expressway and conducted a traffic stop. Law enforcement recovered from the front seat passenger, Sherrod Gee, two firearms including a loaded Jimenez Arms 9mm semi-automatic pistol. Law enforcement also recovered marijuana and multiple loaded gun magazines from the vehicle's console. A trace on the Jimenez Arms firearm revealed that Adrienne Danielle Bean had purchased it from Westforth on March 4, 2019: a time-to-crime of just two days. When confronted later by ATF agents, Bean admitted that she was a resident of Illinois when she purchased the firearms and that she had taken them to a resident in Illinois.²⁷

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

64. By engaging in the sale and transfer of firearms to Bean under the circumstances described above, Westforth knowingly violated, and/or aided and abetted Bean in the violation of

²⁷ See Gov't Sentencing Memo, *United States v. Bean*, No. 2:20-cr-00019 (N.D. Ind. Nov. 13, 2020), ECF No. 29. On July 7, 2020, Bean pled guilty to one count of making material false statements in the acquisition of a firearm in violation of Title 18, United States Code, Section 922(a)(6). Bean was sentenced in February 2021 to a year of probation and six months of home detention.

numerous laws and regulations, including 18 U.S.C. § 922(a)(6); 18 U.S.C. §922(m); 18 U.S.C. § 924(a); 27 C.F.R. 478.124(c)(1); 27 C.F.R. 478.124(c)(4); and 27 C.F.R. 478.21(a).

Westforth's sales to Levar Reynolds

65. On May 12, 2018, Levar Reynolds of Hammond, Indiana visited Westforth and purchased five Glock handguns in a single transaction.²⁸ Not only was this a suspiciously large volume for a single purchase, but four of the guns that Reynolds bought were duplicates or near duplicates of one another. Reynolds bought a pair of .40 caliber Glock 23s, and a pair of .40 caliber Glock 23gen4s—two duplicate pairs. What is more, the Glock 23gen4 is simply a newer model of the Glock 23, making the four handguns near-duplicates of one another.

66. A multiple firearms purchase, particularly one involving the purchase of duplicate and near-duplicate handguns, is a significant warning sign that the purchaser is really a trafficker or straw buyer. Despite this knowledge, Westforth completed the multiple sale transaction with Reynolds.

67. Just one day after Reynolds received the Glocks from Westforth, two of the guns were recovered in Chicago during a court-ordered eviction, in the bedroom of an individual who was under indictment for multiple felonies, making him ineligible to purchase the firearms himself. During a search of his bedroom, officers found multiple bags of marijuana, as well as four loaded handguns under a blanket, including two of the Glocks that Reynolds had purchased from Westforth the day before. One had been outfitted with a laser sight, according to the testimony of

²⁸ See Complaint, *United States v. Reynolds*, No. 2:20-cr-00125 (N.D. Ind. Aug. 31, 2020), ECF No. 1. Reynolds was charged with one count of making material false statements in the acquisition of a firearm in violation of Title 18, United States Code, Section 922(a)(6). See Indictment, *United States v. Reynolds*, No. 2:20-cr-00125 (N.D. Ind. Sep. 16, 2020), ECF No. 10. As of April 2021, his case remains pending.

an FBI agent based in Chicago and assigned to investigate gangs, violent crime, and drug activity in the City's south suburbs. According to the agent, the bags "contained a distribution quantity of cannabis, not for personal use."

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

Westforth's sales to Paul Fowlkes

69. On April 6, 2017, 22-year-old Paul Fowlkes was charged with making false statements to illegally purchase 29 guns over the course of the preceding year, from various Indiana dealers.²⁹ At least seven of Fowlkes' firearms purchases were from Westforth.

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

²⁹ *See* Complaint, *United States v. Fowlkes*, No. 2:17-cr-00042 (N.D. Ind. Apr. 6, 2017), ECF No. 1; Indictment, *United States v. Fowlkes*, No. 2:17-cr-00042 (N.D. Ind. Apr. 19, 2017), ECF No. 11. On July 19, 2017, Fowlkes pled guilty to one count of a two-count indictment for making false statements in connection with the acquisition of a firearm, and was sentenced to 30 months' imprisonment.

To make his purchases, Fowlkes provided a fraudulent Indianapolis address at the gun counter and used this address to complete the ATF Form 4473.

71. On June 28, 2016, Fowlkes bought five guns from Westforth. Three of these purchases were handguns, including one Cobra CA380—a model that a popular firearms blog describes as “The cheapest handgun in America!”³⁰ In addition to the handguns, Fowlkes bought two duplicate rifles—the Mossberg 715-T .22 LR, which is a semiautomatic rifle patterned on the AR-15 assault rifle but chambered in a smaller caliber. Westforth ignored these red flags of trafficking and consummated the transaction.

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

73. At least one gun purchased by Fowlkes from Westforth was recovered in the hands of a dangerous felon a short time after being sold. On October 16, 2017, the Chicago Police Department recovered the Glock handgun that Westforth sold Fowlkes on March 11, 2017, in the possession of an individual who had previously been convicted of multiple felonies, including armed robbery and aggravated arson. The rest of the guns that Fowlkes purchased at Westforth remain, on information and belief, in circulation to this day. According to federal prosecutors, the unrecovered guns that Westforth and other dealers sold to Fowlkes “are most likely in the hands of others who are unable or unwilling to purchase firearms within the law.”³¹

³⁰ See Jeremy S., *Gun Review: Cobra CA380 – The Cheapest Handgun in America!*, THE TRUTH ABOUT GUNS.COM (Feb. 4, 2021), <https://www.thetruthaboutguns.com/gun-review-cobra-ca380-cheapest-handgun-america/>.

³¹ Gov’t Sentencing Memo., *United States v. Fowlkes*, No. 2:17-cr-00042 (N.D. Ind. Oct. 20, 2017), ECF No. 30.

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

Westforth's Sales to these Traffickers and Straw Purchasers Are Part of a Larger Pattern

75. Westforth's role as a source of illegal guns bound for the Chicago market is part of a larger pattern of supplying traffickers and straw purchasers across the region. While not all of Westforth's illegal transactions have resulted in a known crime gun recovery in Chicago, many nonetheless share numerous features with the transactions described in paragraphs 52 to 74, above. Because of these similarities, they underscore that Westforth's prominence as a source of illegal guns is not attributable to a mere accident of geography. Rather, they point to business practices that have earned Westforth a reputation as a dealer willing to sell firearms while overlooking red flags of illegal behavior.

Westforth's sales to Kadeem Fryer

76. Kadeem Fryer, a prolific gun trafficker, was a routine customer of Westforth's until law enforcement began recovering his firearms from individuals involved in criminal activity. During the course of three and a half months in 2020, Fryer purchased 19 guns from Westforth, most of them Glocks.³²

³² See Complaint, *United States v. Fryer*, No. 2:20-cr-00114 (N.D. Ind. Aug. 17, 2020), ECF No. 1. On February 12, 2021, Fryer pled guilty to one of 22 counts of making material false statements in the acquisition of a firearm in violation of Title 18, United States Code, Section 922(a)(6). See Indictment, *United States v. Fryer*, No. 2:20-cr-00114 (N.D. Ind. Aug. 20, 2020), ECF No. 3. As of April 2021, he continues to await sentencing.

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

| <u>Transaction Date</u> | <u>Make</u> | <u>Model</u> | <u>Caliber</u> |
|-------------------------|-------------|--------------|----------------|
| 3/28/2020 | ATI | Omni Hybrid | 5.56 |
| 4/17/2020 | Glock | 31Gen4 | .357 |
| | Glock | 23Gen4 | .40 |
| 4/21/2020 | Glock | 33Gen4 | .357 |
| | Roman/Cugar | Mini Draco | 7.6x39 |
| 4/23/2020 | Glock | 21Gen4 | .45 |
| 4/27/2020 | Glock | 29 | 10mm |
| | Glock | 33Gen4 | .357 |
| 5/1/2020 | Glock | 22 | .40 |
| 5/15/2020 | Glock | 21 | .45 |
| | Glock | 31 | .357 |
| 5/16/2020 | Glock | 21 | .45 |
| | Glock | 22Gen4 | .40 |
| | ATI | Omni Hybrid | 5.56 |
| 6/6/2020 | ATI | Omni Hybrid | 300blk |
| 6/18/2020 | Glock | 19 | 9x19 |
| 7/1/2020 | Glock | 45 | 9x19 |
| 7/6/2020 | Glock | 23C | .40 |
| 7/8/2020 | Glock | 33Gen4 | .357 |

78. Fryer's large volume of purchases is highly indicative of gun trafficking, and unlicensed dealing, simply standing alone. But that is not the only red flag that Westforth chose to

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

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

80. As of August 2020, three of Fryer's firearms had been recovered by various law enforcement agencies, including one recovered from Fryer himself, one recovered by law enforcement in Merrillville, Indiana, 90 days after purchase, and one recovered by law enforcement in East Chicago, Indiana, 53 days after purchase. On information and belief, the remaining firearms that Fryer purchased from Westforth remain in circulation.

Westforth's sales to Cassie Wilson

81. Cassie Wilson came to the attention of federal agents in Chicago when she purchased at least nine firearms over the course of just 31 days in late 2019. Seven of the purchases were from Westforth, and nearly all of these were Glock handguns.³³

³³ See Complaint, *United States v. Wilson*, No. 2:20-cr-00110 (N.D. Ind. Aug. 17, 2020), ECF No. 1. On August 20, 2020, Wilson was charged with six counts of making material false statements in the acquisition of a firearm in violation of Title 18, United States Code, Section

82. The pattern of Wilson's transactions at Westforth were textbook examples of straw-purchasing and/or trafficking, as she repeatedly bought the same make and model of handgun and appeared to have staggered some of her purchases to avoid a multiple-sales report being filed with the ATF. Yet in every instance, Westforth Sports accommodated her:

| <u>Transaction Date</u> | <u>Make</u> | <u>Model</u> | <u>Caliber</u> |
|-------------------------|-------------|--------------|----------------|
| 12/12/2019 | Glock | 23 | .40 |
| 12/13/2019 | Glock | 23 | .40 |
| | Glock | 23 | .40 |
| 12/20/2019 | Glock | 17 | 9x19mm |
| 12/28/2019 | Glock | 23 | .40 |
| | SCCY | CPX2 | 9mm |
| 12/30/2019 | Glock | 29 | 10mm |

83. Two of these guns were recovered by police in incidents in Northwest Indiana. On January 7, 2020, the Hammond Police Department recovered from an underage male the Glock that Wilson had bought on December 30, 2019, only eight days earlier. Wilson admitted that she had made the buy for that individual because he was not legally able to make the purchase himself.

84. On January 13, 2020, the Lake County Sheriff's Department recovered another Glock in Gary, Indiana, that Wilson had purchased just 31 days earlier.

85. On information and belief, the remaining firearms that Wilson purchased from Westforth remain in public circulation.

Westforth's sales to Marqwan Blasingame

922(a)(6). See Indictment, *United States v. Wilson*, No. 2:20-cr-00110 (N.D. Ind. Aug. 20, 2020), ECF No. 3. As of April 2021, her case remains pending.

86. On December 16, 2019, Marqwan Blasingame purchased a Taurus G2C semi-automatic pistol from Westforth.³⁴ The next day, the Gary Police Department recovered that pistol from a vehicle during a traffic stop. The vehicle was stolen, and the Taurus was suspected to have been used in a homicide on December 16, 2019—the very day of Blasingame’s purchase.

87. Upon information and belief, despite having received a crime-trace request on the Taurus it sold to Blasingame, Westforth continued to do business with him. Blasingame returned to Westforth seven times during a span of just 11 days, making one gun buy each time for a grand total of seven guns purchased from Westforth. He made all the purchases in cash, and later admitted to law enforcement that he acquired the guns for other people who paid him to make the buys.

88. The trace request that, on information and belief, Westforth received on the Taurus handgun sold to Blasingame, combined with Blasingame’s suspicious pattern of regular (almost daily) single-gun purchases, his large aggregate volume of purchases, and his use of cash to buy firearms put Westforth on notice that Blasingame was engaged in criminal trafficking, straw purchasing, and or unlicensed dealing. Notwithstanding, Westforth consummated seven separate firearms transactions with Blasingame.

Westforth’s sales to Tashanda and Abubaker Okoe

89. Abubaker Okoe was an individual with previous convictions for forgery and for being a felon in possession of a firearm, and was thus categorically prohibited from purchasing or

³⁴ See Complaint, *United States v. Blasingame*, No. 2:20-cr-00026 (N.D. Ind. Jan. 31, 2020), ECF No. 1. On February 21, 2020, Blasingame was charged with eight counts of making material false statements in the acquisition of a firearm in violation of Title 18, United States Code, Section 922(a)(6). See Indictment, *United States v. Blasingame*, No. 2:20-cr-00026 (N.D. Ind. Feb. 21, 2020), ECF No. 9. As of April 2021, this case remains pending.

possessing firearms. Yet on February 14, 2015, he sent his wife, Tashanda Okoe, into Westforth to purchase three firearms for him: a Savage Arms Stevens model 320 shotgun; a Jimenez Arms .22 caliber handgun; and a Cobra model FS 380 .380 caliber pistol. Tashanda Okoe filled out ATF Form 4473, but was delayed on receipt of the firearms pending a background check.³⁵

90. On February 23, Tashanda returned to the store with her husband. She completed the certification and retrieved the three firearms. Abubaker Okoe was then seen on surveillance video carrying the Savage Arms shotgun out of the store—a textbook indicator of illegal straw purchasing that appears as one of the paradigmatic examples in the ATF’s “Don’t Lie for the Other Guy” campaign. Court filings in Abubaker Okoe’s criminal case indicate that he admitted to handling firearms while inside the store. Yet despite this clear indication of straw purchasing, Westforth completed the transactions and transferred the firearms to the Okoes, allowing them to leave the store with three guns.

Westforth’s sales to Richard Rowe and Marcus Jones

91. Federal agents commenced an investigation in June 2014 into Richard Rowe after learning that he was dealing cocaine and brokering various gun deals.³⁶ As a convicted felon, Rowe

³⁵ See Sentencing Memorandum, *United States v. Okoe*, No. 2:15-cr-00113 (N.D. Ind. Jan. 12, 2018), ECF No. 62. Tashanda Okoe was charged with one count of making material false statements in the acquisition of a firearm in violation of Title 18, United States Code, Section 922(a)(6). See Indictment, *United States v. Okoe*, No. 2:15-cr-00113 (N.D. Ind. Jan. Sept. 17, 2015), ECF No. 1. She later pled guilty to one count of knowingly receiving a firearm while under an indictment for a felony in violation of Title 18, United States Code, Section 922(n) and was sentenced to 12 months of probation.

³⁶ See Sentencing Memorandum of Marcus Jones, *United States v. Rowe*, No. 2:15-cr-00019, (N.D. Ind. June 6, 2016), ECF No. 65. On November 10, 2015, Jones pled guilty to one count of making material false statements in the acquisition of a firearm in violation of Title 18, United States Code, Section 922(a)(6) and (2). He was sentenced to two years of probation. On March 2, 2016, Rowe pled guilty to one count of making material false statements in the acquisition of a firearm in violation of Title 18, United States Code, Section 922(a)(6) and (2). He was sentenced to 30 months in prison and two years of supervised release.

could not buy guns himself, so he enlisted co-defendant Marcus Jones to purchase firearms for him in exchange for \$100 per transaction. Jones went to Westforth on three occasions in October 2014 and straw-purchased 8 guns:

| <u>Transaction Date</u> | <u>Make</u> | <u>Model</u> | <u>Caliber</u> |
|-------------------------|-------------------|--------------|----------------|
| 10/1/2014 | Sturm Ruger | Unknown | .45 |
| | Springfield Arms | Unknown | 9mm |
| 10/15/2014 | Smith & Wesson | Unknown | 22LR |
| | Glock | Unknown | .40 |
| | FT Tangfoglio/EAA | Unknown | 10mm |
| 10/28/2014 | H&K, Inc. | USP Compact | .45 |
| | Zastava-CAI | PAP M85NP | 5.56mm |
| | Walther Arms | PK380 | .380 |

92. The large volume of firearms purchased by Rowe and Jones in the span of less than a month, combined with the fact that each transaction was a multiple-sale transaction, were highly suggestive of straw purchasing and put Westforth on actual or constructive notice that Rowe and Jones were engaged in criminal activity. Westforth completed each of the sales to Jones despite this knowledge.

Westforth's sales to James Magee and associates

93. In the summer of 2014, ATF Chicago began investigating a target out of Chicago, James Magee, who told a confidential informant that he could obtain drugs and guns.³⁷ Magee

³⁷ See Sentencing Memorandum of James Magee, *United States v. Magee*, No. 2:14-cr-00128 (N.D. Ind. Mar. 7, 2016), ECF No. 94; Sentencing Memorandum of Jevonte Thomas, *United States v. Magee*, No. 2:14-cr-00128 (N.D. Ind. Aug. 4, 2016), ECF No. 114. On October 15, 2015, Clark pled guilty to one count of making material false statements in the acquisition of a firearm in violation of Title 18, United States Code, Section 922(a)(6) and (2) and was sentenced to two years of probation. On December 7, 2015, Magee pled guilty to one count of making material false statements in the acquisition of a firearm in violation of Title 18, United States Code, Section 922(a)(6) and was sentenced to 21 months of supervised release. On April 12,

enlisted two other men, Jevonte Thomas and James Clark, as part of an effort to traffic firearms from stores in northern Indiana into Chicago. Together, Magee, Thomas, and Clark purchased, or attempted to purchase, 16 guns over the course of three visits to Westforth.

94. The pattern of Magee’s and his co-defendants’ purchases (and attempted purchases) from Westforth was highly suspicious, because of the aggregate volume of guns they purchased, because each of their transactions involved multiple handguns bought at once, and because of the large number of inexpensive handguns they purchased—many in the same caliber.

- On July 8, 2014, Magee bought three handguns, including a 9mm Kel Tec P-11, a 9mm Smith & Wesson SW990L, and a 9mm Sturm Ruger P89.
- On July 15, 2014—just one week later—Magee returned with Thomas and bought another three handguns, including a second 9mm Kel Tec P-11, a .40 caliber Sig Sauer P250, and a .40 caliber Ruger SR40.
- On or about November 21, 2014, Magee, working in alternating pairs with Thomas and Clark, purchased or attempted to purchase 10 more firearms from Westforth over the course of one or more transactions. These firearms included a 9mm Jimenez Arms handgun, a 9mm Ruger LC9, a second 9mm Ruger P89, a 9mm Kel Tec CNC, a 9mm Zastava-CAI Cz999, a 9mm Ruger SR9C, a 9mm Springfield Armory XD-9, a 9mm Sig Sauer SP2022, a .40 caliber Springfield Armory XDM-40, and a Roman/Cugir 7.62x.39mm pistol. Three of the firearms were transferred by Westforth, while seven other purchases appear to have been thwarted from completion due to an ATF sting operation.

95. Together, these factors put Westforth on actual or constructive notice that Magee and his associates were not purchasing for their own use, but were instead involved in a gun-trafficking operation. Indeed, in court filings, defense counsel admitted that “the facts of this case are a classic firearm straw purchase scenario.”³⁸

2016, Thomas pled guilty to one count of making material false statements in the acquisition of a firearm in violation of Title 18, United States Code, Section 922(a)(6) and (2) and was sentenced to nine months of supervised release.

³⁸ Sentencing Memorandum of Jevonte Thomas, *United States v. Magee*, No. 2:14-cr-00128 (N.D. Ind. Aug. 4, 2016), ECF No. 114.

CAUSES OF ACTION

COUNT I – PUBLIC NUISANCE

96. Plaintiff incorporates by reference paragraphs 1 through 95 as set forth above.

97. Westforth’s conduct in selling firearms to individuals that it knew or should have known were engaged in straw purchasing and/or unlicensed dealing in firearms created a nuisance to the City of Chicago and its residents. This conduct foreseeably resulted in the illegal transfer of these firearms to criminals and other prohibited persons in the criminal secondary market in Chicago. Some of the illegally transferred firearms have also been recovered along with various illegal drugs, making it likely that at least some of the guns were used in the furtherance of drug trafficking activities, which further harms the City and its residents. The nuisance created by Westforth’s illegal conduct continues to this day and, absent abatement or other relief, will continue indefinitely.

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

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

100. Westforth engaged in conduct that unjustifiably endangers, renders insecure, interferes with, and obstructs the rights of the residents of Chicago. Westforth created, promoted, supported, and supplied an illegal secondary market for firearms. This secondary market contributes to gun violence and drug trafficking in Chicago by providing a ready supply of deadly weapons to individuals who are particularly likely to use those firearms to commit acts of violence or in furtherance of other crimes.

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

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

COUNT II – MUNICIPAL COST RECOVERY ORDINANCE

103. Plaintiff incorporates by reference paragraphs 1 through 102 as set forth above.

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

Any person who causes the city or its agents to incur costs in order to provide services reasonably related to such person's violation of any federal, state or local law, or such person's failure to correct conditions which violate any federal, state or local law when such person was under a

legal duty to do so, shall be liable to the city for those costs. This liability shall be collectible in the same manner as any other personal liability.

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

- Engaging in the sale and transfer of firearms to individuals including, but not limited to, Ivery, Mitchell, Bean, Reynolds, Fowlkes, and others, under circumstances in which Westforth knew, and/or consciously avoided knowing, that such individuals were engaged in the business of dealing in firearms without a license in violation of 18 U.S.C. § 923(a)(1), and illegal straw purchasing of firearms in violation of 18 U.S.C. § 922(a)(6) (knowingly making a false statement in connection with the acquisition of a firearm) and 18 U.S.C. § 924(a)(1) (knowingly making a false statement or representation concerning information to be kept in the records of an FFL). Through its sales and transfers to these individuals, Westforth also conspired with, aided, and abetted these individuals in violation of 18 U.S.C. §§ 2, 4, and 371;
- With respect to the sale and transfer of firearms to individuals including, but not limited to, Ivery, Mitchell, Bean, Reynolds, Fowlkes, and others, making a false entry in, failing to make an appropriate entry in, and/or failing to maintain required records in violation of 18 U.S.C. § 922(m), failing to ensure accurate completion of ATF Form 4473 prior to transfer of a firearm in violation of 27 C.F.R. 478.124(c)(1), failing to record accurate information in ATF Form 4473 in violation of 27 C.F.R. 478.124(c)(4), and failing to ensure completion of ATF Form 4473 in accordance with form instructions in violation of 27 C.F.R. 478.21(a);
- Transferring firearms to individuals including, but not limited to Ivery, Mitchell, Bean, Reynolds, Fowlkes, and others, under circumstances in which Westforth knew, and/or consciously avoided knowing that the person was not the actual transferee of the firearm, and in which Westforth failed to conduct a background check and/or verify the identity of the actual transferee in violation of 18 U.S.C. § 922(t)(1).

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

107. The City has incurred costs reasonably related to Westforth's violations of federal law and/or failure to correct conditions that violate federal law. These include, but are not limited to, the costs of investigating and prosecuting gun crimes involving firearms trafficked from Westforth, the costs of providing emergency services to transport and treat victims of shootings involving firearms trafficked from Westforth, the cost of victim support services for victims of crimes involving firearms trafficked from Westforth, and the costs of providing gun violence prevention, street outreach, and community safe-space programming to mitigate harms caused by the trafficking of firearms from Westforth into the City.

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

COUNT III – NEGLIGENCE

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

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

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

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

113. Westforth further breached its duty through conduct which knowingly violated, was part of a conspiracy to violate, and aided and abetted the violation of numerous federal laws and

regulations, including, but not limited to, 18 U.S.C §§ 2, 4, 371, 922(a)(1), 922(a)(2), 922(b)(3), 922(m), 922(t)(1), 923(a), 924(a)(1), and 924(a)(3), as well as 27 C.F.R. 478.29; 478.99(a), 478.102, 478.123(b), 478.123(d), and 478.124(a).

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

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

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

COUNT IV – NEGLIGENT ENTRUSTMENT

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

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

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

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

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

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

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

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

124. Westforth's negligent entrustment of firearms to Ivery, Mitchell, Bean, Reynolds, Fowlkes, and others, proximately caused harm to the City.

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

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests that this Court:

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

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

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

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

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

E. Award the City exemplary damages;

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

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

JURY DEMAND

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

Dated: April 26, 2021

CELIA MEZA
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