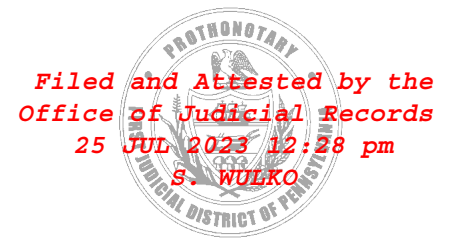


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CITY OF PHILADELPHIA, a municipal corporation,

Plaintiff,

v.

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

Defendants.

COURT OF COMMON PLEAS
PHILADELPHIA COUNTY

Civil Action No. _____

CIVIL DIVISION

NOTICE TO DEFEND

NOTICE

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

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

**Philadelphia Bar Association
Lawyer Referral
and Information Service**

AVISO

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

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

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Pro hac vice applications forthcoming

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

v.

TANNER OPERATIONS, LLC d/b/a
TANNER'S SPORT CENTER, and
TANNER'S HOLDING, LLC,
2301 York Road
Jamison, PA 18929,

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

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

COURT OF COMMON PLEAS
PHILADELPHIA COUNTY

Civil Action No. _____

CIVIL DIVISION

COMPLAINT

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

SUMMARY OF ACTION

1. Philadelphia, like many American cities, is awash with illegal guns. A tide of gun violence inevitably follows the flow of these guns into neighborhoods and communities, leaving

behind the wreckage of broken lives, shattered bodies, and communities of traumatized survivors. A home invasion robbery by suspects armed with a 9mm Smith & Wesson handgun and a large capacity magazine. A domestic violence incident where an abuser armed with an unlicensed Glock 43X 9mm threatened to kill the mother of his child and terrorized her with gun photos to drive the message home. A homicide connected to a .45 caliber Glock handgun recovered by Philadelphia Police Department (“PPD”) detectives. Two shootings in the Richmond neighborhood separated by just four days and a single city block, both involving the same Taurus PT111 handgun. This small sample of the gun violence that plagues Philadelphia is traceable directly to illegal gun sales by the Defendants.

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

3. The three Defendants play an outsize role in supplying Philadelphia’s secondary criminal gun market by repeatedly and unconscionably choosing to engage in illegal straw transactions. According to publicly available criminal court filings, Defendant Tanner’s has sold at least 79 guns to at least 11 different straw purchasers between April 2019 and May 2021. Defendant Frank’s has sold at least 48 guns to at least 15 different straw purchasers between April 2018 and December 2021. Defendant Delia’s sold at least 31 firearms to at least 12 different straw purchasers between March 2018 and March 2022. These figures represent Defendants’ sales only

to known straw purchasers who have already been prosecuted and whose purchases are enumerated in public court filings.¹ On information and belief, the true number of firearms that Defendants have diverted to the criminal market through illegal straw transactions is substantially higher.

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

- Tanner's sold 13 handguns to straw purchaser Nafez Hutchings in a single week in August 2020.² All of Hutchings' purchases were multiple-sale transactions, and he bought numerous duplicative guns including five .45 caliber Glocks and three .40 caliber handguns. Philadelphia police have recovered at least three of the guns that Tanner's sold Hutchings, two of which were recovered from prohibited possessors and two of which had obliterated serial numbers.
- Frank's sold four handguns to straw purchaser Robert Otis Cooper III in a pair of transactions just eight days apart in June 2021. Frank's sold Cooper two 9mm Glocks and two 10mm Glocks—duplicative purchases highly indicative of straw purchasing. Cooper then tried to buy four more guns from the store, but was frustrated by delays with his Pennsylvania background check. Within six months, PPD had recovered two of Cooper's guns at crime scenes.³
- Delia's sold seven handguns to straw purchaser Anthony Cipriano in April and May 2021. Remarkably, Delia's accepted false identification from Cipriano for these sales—a stolen driver's license—even though Cipriano had a facial tattoo that the

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

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

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

fake driver's license picture clearly lacked.⁴ When questioned by investigators, a Delia's employee acknowledged that the person pictured on the stolen license was not the person they had sold guns to.

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

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

7. Defendants have together created and continue to maintain a public nuisance that interferes with the public health, safety, and well-being of Philadelphia residents and imposes significant costs on the City. From 2015-2019, the last years for which public data is available, over 1,300 crime guns recovered in Philadelphia were traced to the three Defendants.

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

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

9. While some of the harms from Defendants' supply of firearms to the criminal market in Philadelphia are presently known, others remain unknown, because many of the firearms that Defendants illegally sold have yet to be recovered and are believed to remain in circulation. The City is certain to suffer additional harms and incur additional costs with respect to the illegal firearms that have yet to be recovered.

10. As such, Philadelphia seeks an abatement order (1) enjoining the Defendants from continuing to maintain this public nuisance; (2) requiring Defendants to adopt and enforce written policies to prevent further sale to straw purchasers and provide for independent monitoring of their implementation; (3) allowing the City to recover costs it has thus far expended for abating the nuisance of illegal guns; and (4) ordering the creation of an abatement fund to address the continuing harms caused by the guns unlawfully sold by the Defendants that are still circulating in Philadelphia's illegal secondary firearm market. The City also seeks damages for the harm caused by Defendants' illegal and negligent activities.

PARTIES

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

12. Defendant Tanner's Sport Center⁵ is the fictitious name registered to Tanner Operations, LLC, which holds a Type 1 (dealer) federal firearms license ("FFL") and operates as a retail dealer in firearms. Tanner Operations, LLC, along with Defendant Tanner's Holding, LLC are both incorporated under the laws of the Commonwealth as domestic limited liability corporations, and both share a principal place of business at 2301 York Road in Jamison, Pennsylvania. On information and belief, defendants Tanner Operations, LLC and Tanner's Holding, LLC, jointly operate a retail firearms business at that location which is about 15 miles directly north of Philadelphia, even though Tanner's Holding, LLC does not hold a federal firearms license.

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

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

⁵ Defendant Tanner Operations, LLC appears to use the names "Tanner's Sport Center" and "Tanner's Sports Center" interchangeably. It is registered by the Pennsylvania Secretary of State to operate under the fictitious name Tanner's Sport Center, but is reflected in ATF licensing records as operating under the business name Tanner's Sports Center.

JURISDICTION AND VENUE

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

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

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

FACTS

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

18. Rates of gun violence have sharply risen in Philadelphia in recent years, despite substantial decreases in almost every other kind of violent crime. In 2021 alone, the City reported 2,326 shootings.⁶ The victims of these shootings are disproportionately Black: according to the Philadelphia Office of the Controller, 79% of shooting victims year-to-date in 2023 were Black, and 81% of shooting victims since 2015 were Black (another 12% were Hispanic).⁷ Between 2020 and 2021, City residents experienced a 28% increase in robberies with firearms,⁸ and the number of homicides in the city reached 562 in 2021—its highest point yet—and more than double the

⁶ Pew Charitable Trusts, PHILADELPHIA 2022: THE STATE OF THE CITY (“PHILADELPHIA 2022”) (2022), at <https://www.pewtrusts.org/en/research-and-analysis/reports/2022/04/philadelphia-2022-state-of-the-city>.

⁷ See *Mapping Philadelphia's Gun Violence Crisis*, Office of the Controller – The City of Philadelphia, at <https://controller.phila.gov/philadelphia-audits/mapping-gun-violence/> (accessed July 22, 2023); accord City of Philadelphia, THE PHILADELPHIA ROADMAP TO SAFER COMMUNITIES (“PHILADELPHIA ROADMAP”) (2019) at <https://www.phila.gov/media/20190116150530/The-Philadelphia-Roadmap-to-Safer-Communities.pdf>.

⁸ Paige Gross, “The cost of gun violence: How are small business owners mentally and financially hurt by shootings?” *Technical.ly* (June 2022) at <https://technical.ly/civic-news/cost-gun-violence-small-businesses-philly-south-street/>.

number reported in 2013.⁹ Last year, 65% of Philadelphia residents reported hearing gunshots in their neighborhood; the number was 76% for Hispanic residents and 78% for Black residents.¹⁰

19. Children in Philadelphia also bear the burden of gun violence. According to a recent study in the *Journal of the American Medical Association*, the rate of firearm assaults (e.g., non-accidental, non-self-harm shootings) on children in Philadelphia more than doubled from just under 30 per 100,000 children to more than 62 per 100,000 during the course of the pandemic.¹¹ In a dataset comprising Philadelphia and three other major cities, non-Hispanic Black children were almost 100 times more likely than white children to be assaulted with a gun, and Hispanic children were more than 25 times more likely.

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

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

⁹ Philadelphia Police Dept., *Crime Maps & Stats*, at <https://www.phillypolice.com/crime-maps-stats> (accessed July 2, 2023).

¹⁰ Gross, "The Cost of Gun Violence," *supra* n. 8.

¹¹ Jonathan Jay, Rachel Martin, Manish Patel, et al., "Analyzing Child Firearm Assault Injuries by Race and Ethnicity During the COVID-19 Pandemic in 4 Major US Cities," *JAMA Network Open*, 2023;6(3):e233125. doi:10.1001/jamanetworkopen.2023.3125.

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

22. The cost to the City stemming from the proliferation of illegal firearms in its communities is immense, totaling in the hundreds of millions of dollars. The City spends millions of dollars annually on direct services to combat gun violence, deploying police to interdict the flow of illegal weapons and to respond to individual acts of violence, relying on fire and medical services to transport and treat the victims of gun violence, and investing in its criminal justice system to prosecute offenders. For example, for 2024, the City Council has appropriated approximately \$900 million to the police department, a significant portion of which will be spent on responding to, and investigating, gun crimes. The City likewise spends millions of dollars annually on initiatives to prevent gun violence and to invest in communities whose social and economic fabric is frayed by the persistent cycle of violence. Beyond conventional policing costs, the City spent an additional \$210 million during the fiscal year 2023 on various preventative programs aimed at curbing gun violence and intends to increase that sum to more than \$233 million in 2024.¹² In addition, the City bears the economic burden of gun violence, including the lost wages of victims and offenders, the erosion of public and private property values, and the value of activities chilled by the proliferation of gun violence.

Straw Purchases Supply the Crime Gun Market

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

¹² See City of Philadelphia, PHILADELPHIA'S ROADMAP TO SAFER COMMUNITIES: VIOLENCE PREVENTION INVESTMENTS UPDATE (2023), at <https://www.phila.gov/media/20230302190339/2023-Violence-Prevention-Investments-Update.pdf>.

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

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

25. Straw purchasing is illegal because it harms public safety by creating and sustaining a criminal market for firearms that supplies guns to violent criminals and other prohibited possessors. This criminal market foreseeably and substantially contributes to gun violence and gun-related crimes in the area where it operates—here, Philadelphia.

26. The diversion of guns to the criminal market depends on dealers who “facilitate straw purchasing by ... turning a blind eye to obvious instances of straw purchasing.”¹³ Studies suggest that members of gangs and other criminal enterprises in particular rely heavily on a small number of “dirty dealers, that is, FFL dealers who are willing to violate the law by selling guns to people who should not be legally allowed to have them—including by looking the other way during a straw purchase.”¹⁴ The Bureau of Alcohol, Tobacco, Firearms, and Explosives (“ATF”), the agency largely responsible for administering federal firearms law, has observed that “[i]n any

¹³ Christopher S. Koper, “Crime Gun Risk Factors: Buyer, Seller, Firearm, and Transaction Characteristics Associated with Gun Trafficking and Criminal Gun Use” (2007), at <https://www.ojp.gov/pdffiles1/nij/grants/221074.pdf>.

¹⁴ *Id.*; Philip J. Cook, et al. “Some Sources of Crime Guns in Chicago: Dirty Dealers, Straw Purchasers, and Traffickers,” *Journal of Criminal Law & Criminology* (2015).

jurisdiction, a small number of Federally licensed gun dealers are associated with a large number of crime gun traces from that jurisdiction.”¹⁵

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

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

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

29. Moreover, a large percentage of the crime guns traced to Defendants are recovered at a Philadelphia crime scene shortly after they were sold. This short “time to crime” indicates that Defendants sold these guns to straw purchasers planning to traffic them to Philadelphia’s criminal market, and that these were not sales to bona fide purchasers. According to ATF, a time-to-crime of three years or less is a “significant trafficking indicator” that “suggests illegal diversion

¹⁵ ATF, CRIME GUN TRACE REPORTS (2000) ALBUQUERQUE NM, p. 5-6 at <https://www.atf.gov/file/56656/download> (noting by way of example that 37 percent of crime guns recovered in Albuquerque could be traced to just seven FFLs in the city); Cook at 724 (among crime guns recovered in Cook County that were also sold in Cook County, three dealers accounted for 76% of guns recovered from gang members and 65% of guns recovered from others).

or criminal intent associated with the retail purchase from the FFL.”¹⁶ Of the crime guns recovered in Philadelphia between 2015 and 2019, more than 56% of the crime guns sold by Tanner’s, 63% of the crime guns sold by Delia’s, and a breathtaking 80% of the crime guns sold by Frank’s had a time-to-crime of less than three years. The Defendants’ statistics for crime guns recovered within a year of sale are even sharper: more than 1-in-4 crime guns sold by Tanner’s over this period had a time-to-crime of a year or less, along with nearly 4-in-10 crime guns sold by Delia’s, and nearly half of the crime guns sold by Frank’s.

Federal regulatory framework for dealing in firearms

30. Federal laws regulate commercial sales of firearms. Dealers, distributors, and manufacturers of firearms are known as “licensees” because they must obtain a federal license (an FFL) to operate a business that sells, distributes, or manufactures firearms. A person is categorically prohibited from “engag[ing] in the business of importing, manufacturing, or dealing in firearms” without a federal firearms license. 18 U.S.C. §§ 922(a)(1), 923(a). Licensed dealers are also prohibited from aiding and abetting or conspiring to advance unlicensed dealings in firearms by others. *See* 18 U.S.C §§ 2, 371.

31. A central purpose of federal firearms laws is to prevent crime by keeping guns out of the hands of certain persons who have a heightened risk of misusing firearms, such as persons with felony convictions, minors, and domestic abusers. For this reason, before transferring a 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

¹⁶ U.S. Dep’t of Justice, Office of the Inspector Gen., INSPECTIONS OF FIREARMS DEALERS BY THE BUREAU OF ALCOHOL, TOBACCO, FIREARMS AND EXPLOSIVES, Report No. I-2004-005 (July 2004), <https://oig.justice.gov/reports/ATF/e0405/background.htm>; *see also* City of Chicago, TRACING THE GUNS: THE IMPACT OF ILLEGAL GUNS ON VIOLENCE IN CHICAGO 6 (May 27, 2014), <https://www.chicagobusiness.com/Assets/downloads/20151102-Tracing-Guns.pdf> (Short time-to-crime is “a key indicator that the sale could have involved criminal activity by the buyer or the dealer.”).

record (“ATF Form 4473”). *See* 18 U.S.C. § 922(t)(1), 27 C.F.R. 478.102, 478.124(a). The dealer must also ensure that the transaction complies with any applicable state or local laws. *See* 18 U.S.C. § 922(b)(2).

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

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

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

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

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

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

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

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

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

38. Because of the close association between bulk handgun purchases and firearms trafficking, federal law requires a licensee to report all transactions in which a buyer who is not a

federally licensed dealer purchases two or more handguns within five days. *See* 18 U.S.C. § 923(g)(3)(A); 27 C.F.R. 478.126a. Licensees must also keep a record of all transactions with unlicensed persons in an acquisition and disposition book. 27 C.F.R. 478.123(d), 478.125(e). Knowing false statements or omissions in any of these required records is a violation of federal law. 18 U.S.C. §§ 922(m), 924(a)(3); *see also* 18 U.S.C. § 924(a)(1)(A). Dealers must also provide information from these records to law enforcement to assist in tracing firearms recovered in connection with a crime. *See* 18 U.S.C. § 923(g)(7), 27 C.F.R. 478.25a.

Pennsylvania’s regulatory framework for dealing in firearms

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

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

41. Before selling a firearm to a retail customer, the dealer must (among other things) request that the Pennsylvania State Police (“PSP”) conduct a background check on the purchaser. The dealer must inspect photo identification presented by the purchaser, and the law obligates both the purchaser *and the dealer* to provide “such information as is necessary to accurately identify the purchaser” for purposes of this background check. *See id.* § 6111(b)(2)-(3). It is a felony for

a dealer to request a background check from the PSP for any purpose other than compliance with the Uniform Firearms Act. *See id.* § 6111(g)(3). The dealer generally may not transfer the firearm until they receive a unique approval number from PSP for the purchase. *See id.* § 6111(b)(4).

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

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

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

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

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

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

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

Defendants' Illegal Gun Sales to Traffickers and Straw Purchasers

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

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

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

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

Tanner's Illegal Gun Sales to Traffickers and Straw Purchasers

49. According to court filings in criminal prosecutions of straw purchasers, Tanner's has sold at least 79 guns to at least 11 different straw purchasers between April 2019 and May 2021. The pattern of illegal sales at Tanner's indicates that the store is selling to straw purchasers and gun traffickers even though it knows, based on the circumstances of these transactions, that these customers are not making bona fide purchases for themselves. Although the store sits just outside City limits, the harm from its illegal sales flows directly into the City: at least 13 of these guns have been recovered by Philadelphia Police on City streets, and at least seven of the known straw purchasers at the store were City residents.

Tanner's Sales to Nafez Hutchings

50. According to a federal criminal complaint, Nafez Hutchings bought 13 handguns from Tanner's in one week in August 2020.¹⁷ All of Hutchings' transactions at the store were multiple-sale transactions. Specifically, Hutchings bought the following handguns at Tanner's:

<u>Transaction Date</u>	<u>Make/Model</u>	<u>Caliber</u>
Aug. 17, 2020	Springfield XD	.45 cal.
Aug. 17, 2020	Glock 21	.45 cal.
Aug. 17, 2020	Glock 44	.22 cal.

¹⁷ See Complaint (Dkt. No. 1) at 4-5, *United States v. Hutchings*, No. 2:20-cr-00455 (E.D. Pa. Oct. 14, 2020).

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

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

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

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

Tanner’s Sales to Joshua Morales

54. Hutchings was not the only straw purchaser whose high-volume purchases of duplicative handguns were an obvious red flag of illegal behavior that Tanner’s disregarded. Between February 21 and September 6, 2020, straw purchaser Joshua Morales straw purchased at least 7 guns at Tanner’s including six handguns in a pair of multiple-sale transactions spaced just over a month apart.¹⁸

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

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

Transaction Date	Make/Model	Caliber
Sept. 8, 2020	Taurus G2C	9mm

55. Tanner’s ignored the fact that Morales bought multiple handguns in a short period of time, including a pair of duplicate Taurus G2C 9mm pistols along with a third pistol of the same caliber. These bulk and duplicative purchases were an obvious sign that Morales was buying handguns not for himself, but to traffic to others. What is more, most of Morales’ purchases—including the duplicate pair of Taurus handguns—were cheap, low-quality handguns disfavored by collectors. And Morales paid for these purchases in cash¹⁹—a further indicator of trafficking that ATF trains FFLs to recognize, and which Tanner’s ignored.

56. These red flags of straw purchasing were more than enough to put Tanner’s on notice that its sales to Morales were illegal. But there was more: ATF contacted Tanner’s on September 3, 2020, to investigate Morales’ transactions at the store. Nevertheless, just five days later Tanner’s sold Morales the pair of duplicate 9mm Taurus handguns—despite knowing that ATF was investigating his transactions.²⁰

57. At least seven firearms that Tanner’s sold to Morales have been recovered as crime guns in Philadelphia—including some recovered just days after purchase and others recovered as recently as November 2021.²¹ One (an FN Model 57 handgun) was recovered just over two weeks after purchase, in the possession of a convicted felon with a lengthy criminal record. The gun had an extended magazine and 18 live rounds. On information and belief, law enforcement would

¹⁹ See Gov’t’s Change of Plea Mem. (Dkt. No. 37), at 4, *United States v. Morales*, No. 2:21-cr-00282 (E.D. Pa. Mar. 29, 2023).

²⁰ See *id.* According to court records, given his string of successful straw purchases at Tanner’s, Morales returned to the store a final time on September 16, 2020, and attempted to purchase an additional 11 handguns. The store then contacted ATF who responded in time to observe Morales purchase the 11 handguns using “a wad of cash” worth more than \$5,700. Agents attempted to follow Morales as he left the store, but by the time they located and arrested Morales the 11 handguns were gone.

²¹ Three of the seven crime gun recoveries attributed to Morales were of guns Tanner’s sold him or before September 8, 2020, and four are of guns sold during Morales’ final trip to the store on September 16, 2020.

have contacted Tanner's as part of its efforts to trace this firearm, putting Tanner's on notice that it was recovered with an extremely short time-to-crime that was an unmistakable indicator that Morales was a straw purchaser.

58. More recently, in March 2021, investigators with the PPD gun violence reduction task force executed a search warrant and recovered from a 19-year old another FN Model 57 handgun that Tanner's sold to Morales, as well as a kilogram of heroin, more than \$45,000 in cocaine, a scale, and narcotics packaging materials. PPD recovered another gun that Tanner's sold Morales (a Springfield XD40 .40 caliber handgun) in May 2021 from the trunk of a stolen vehicle. Less than a month later in June 2021, PPD officers recovered yet another Tanner's gun from the waistband of a convicted felon during a traffic stop. This gun, a Glock 19 9mm handgun, had a large capacity magazine with 30 live rounds as well as a modification to the back plate (commonly called a "Glock switch"), which allowed the firearm to function as a fully automatic machinegun. On November 24, 2021, PPD officers recovered yet another gun that Tanner's sold to Joshua Morales from a suicidal man who resisted police efforts to take him into custody. After the arrest, the police discovered that the gun, a Glock 17 9mm handgun, had an obliterated serial number.

Tanner's Sales to Quinn Whisted

59. In 2021, the Montgomery County District Attorney charged Quinn Whisted and thirteen co-defendants with making at least 31 straw purchases at Philadelphia-area gun dealers for purposes of selling guns into the criminal market.²² Tanner's was one of the stores that sold guns to this trafficking ring, and straw purchaser Quinn Whisted bought guns there on at least five separate occasions between June 2019 and July 2020. Three of Whisted's visits to the store

²² See Affidavit of Probable Cause, *Commonwealth v. Quinn Whisted*, Case No. CP-46-CR-0002193-2021 (Montgomery Cnty. Ct. of Common Pleas).

involved multiple-sale transactions, including a purchase of two 9mm handguns on December 4, 2019, followed by the purchase of two more handguns (one, a third 9mm) just two days later on December 6. Whisted's purchase of three 9mm handguns in closely spaced, multiple-sale transactions was an obvious red flag that Tanner's ignored. Rather than stopping these transactions and notifying authorities, Tanner's sold Whisted these four handguns, and later sold him three more.

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

Tanner's Sales to Other Straw Purchasers

61. Tanner's has also sold guns to numerous other straw purchasers. For example, Tanner's sold 36 guns to trafficker Thomas Harris Jr. in 11 transactions between April 2019 and February 2020. All but one of Harris' transactions at Tanner's involved the sale of multiple handguns, which Harris typically bought three or four at a time. Beyond this extreme volume, Harris also bought numerous guns in duplicate or triplicate—including three Cugir Mini Draco pistols, five ATI Omni hybrid pistols, and four Glock 27s, among others. A clerk at Tanner's, identified in court papers by the initials R.G., later admitted to ATF that store employees knew Harris was purchasing firearms to transport them to St. Lucia for a profit—in other words, that he was straw purchasing and trafficking them. Harris pled guilty in November 2021 and was sentenced to 46 months' imprisonment.²³

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

62. Tanner's sold at least two (and potentially many more) handguns to straw purchaser Tyrone Dansby between May 4 and September 12, 2020. Dansby bought approximately 60 handguns from Pennsylvania gun stores (including Tanner's, Frank's, and Delia's) over this time period, though only a handful are attributed to a particular store in public filings. According to federal authorities, Dansby's purchases "included a suspicious pattern of repeated purchases of identical firearms; for instance, Dansby bought eight identical SCCY 9mm semiautomatic pistols, and 16 identical Taurus G2/G3 9mm semiautomatic pistols, with the only difference between the firearms being their respective serial numbers." Two handguns that Tanner's sold Dansby have been recovered by law enforcement in Pennsylvania, one in connection with a shooting and both with partially obliterated serial numbers.²⁴

63. Tanner's sold three 9mm handguns to straw purchaser Heather Ramirez in a single purchase on October 7, 2020. Even a single transaction can carry strong indicators of illegal straw purchasing where, as in Ramirez's case, she bought three very similar 9mm handguns (including a Taurus G2C and a Taurus G3C) and had no apparent purchase history with the store. Ramirez was working with Dansby, who drove her to the store to make the purchases—another red flag of straw purchasing.²⁵

64. Tanner's sold a pair of Taurus 9mm handguns to straw purchaser Shanea Patterson on December 29, 2020. When interviewed by law enforcement, Patterson was unable to identify the make, model, or caliber of the firearms she had purchased, displaying a complete unfamiliarity with firearms that is another obvious hallmark of straw purchasing. A reasonable gun dealer would have recognized that an apparent first-time customer, buying duplicate handguns in a multiple-sale

²⁴ See Complaint (Dkt. No. 1) at 2-3, *United States v. Dansby*, Case No. 2:21-cr-00060 (E.D. Pa. Feb. 12, 2021).

²⁵ See Affidavit of Probable Cause at 2-3, *Commonwealth v. Ramirez*, Case No. CP-51-CR-0007477-2021 (Phila. Cnty. Ct. of Common Pleas May 13, 2021).

transaction, while being completely unfamiliar with the guns she is buying, is a straw buyer. Yet Tanner's ignored these obvious red flags and proceeded with the sale. One of Patterson's 9mm handguns was recovered by the PPD on April 14, 2022, in the possession of a 16-year old boy who fled from police after a car chase. The firearm had an extended magazine with 23 live rounds plus one in the chamber.²⁶

Frank's Illegal Gun Sales to Traffickers and Straw Purchasers

65. Like the other Defendants, Frank's Gun Shop has repeatedly engaged in transactions with obvious straw purchasers, as described in court filings in subsequent criminal prosecutions. According to these court records, Frank's has sold at least 48 guns to at least 15 different straw purchasers between April 2018 and December 2021, though the true figure is likely much higher as several court filings only identify straw purchasers at Frank's, but not the total number of guns that the store sold to them. Like the other Defendants, Frank's ignored a variety of red flags indicating that its customers were engaged in illegal straw purchases and gun trafficking; it chose instead to profit from these illegal sales.

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

66. Trafficker Johnnie Ballard visited Frank's 12 times from June 25 to September 5, 2020, each time accompanying one of two straw purchasers to the store.²⁷ These two straw

²⁶ See Affidavit of Probable Cause at 2-3, *Commonwealth v. Patterson*, Case No. CP-51-CR-0006869-2022 (Phila. Cnty. Ct. of Common Pleas Apr. 29, 2022).

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

purchasers, Khalil Hayes²⁸ and Sakinah Braxton,²⁹ collectively bought 15 guns from Frank’s in 12 separate transactions:

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

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

68. Instead, Frank’s chose to sell Hayes and Braxton more and more guns, turning a blind eye to Ballard’s role in orchestrating the straw purchases. But even if Hayes and Braxton had acted alone, their buying patterns were each highly indicative of straw purchasing in their own

²⁸ See Information (Dkt. No. 1), at 2-3, *United States v. Hayes*, Case No. 2:21-cr-00436 (E.D. Pa. Nov. 15, 2021). Hayes is identified in Ballard’s indictment as “Person #1.” Hayes was charged with six counts of making a material false statement in the acquisition of a firearm in violation of 18 U.S.C. § 924(a)(1)(A). He pled guilty in 2022 and was sentenced to probation.

²⁹ See Information (Dkt. No. 1), at 2-4, *United States v. Braxton*, Case No. 2:22-cr-00055 (E.D. Pa. Feb. 23, 2022). Braxton is identified in Ballard’s indictment as “Person #2.” Braxton was charged with eight counts of making a material false statement in the acquisition of a firearm in violation of 18 U.S.C. § 924(a)(1)(A). She pled guilty in 2022 and was sentenced to probation.

right. This is because each straw purchaser bought a large volume of duplicate or near-duplicate guns. Hayes, for example, bought a pair of duplicate Taurus G2S handguns in a multiple sale on his first trip to the store, as well as three separate 9mm Glock handguns in later transactions. Braxton bought three Glock 19s and a Glock 19X in four visits spaced less than a month apart, as well two Ruger 57 pistols in the span of less than a month. Either one of these buying patterns, on its own, would have put a reasonable firearms dealer on notice that Hayes and Braxton were each engaged in straw purchasing.

69. What is more, both purchasers staggered their transactions at intervals in an apparent effort to avoid multiple-sale reporting requirements. Under federal law, an FFL must report to ATF and local law enforcement when a buyer purchases two or more handguns within a five-day period. This report is required because of the close association between multiple sales and trafficking—according to ATF guidance, “[i]f one or more firearms recovered from a crime are part of a multiple purchase, this could be an indicator of potential firearms trafficking.”³⁰ But reporting these sales increases the risk that a straw purchaser’s illegal conduct will be detected by authorities. After his first visit to the store, Hayes spaced his subsequent four purchases at roughly two-week intervals. Similarly, Braxton spaced several purchases at weekly intervals (for example, purchases on August 7, 14, and 21, 2020). By doing so, both Braxton and Hayes avoided triggering ATF’s mandatory reporting requirement and increased the chances that their straw purchases would remain undetected by law enforcement.

70. Through seminars, compliance inspections and publications, ATF trains FFLs to recognize that transactions structured to avoid reporting requirements are an indicator of straw

³⁰ 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>.

purchasing, and on information and belief Frank's would have been trained on this red flag. Coupled with the high aggregate purchase volume and duplicative handgun buys, it should have been obvious to Frank's that Braxton and Hayes were structuring their illegal straw purchasing to avoid detection. But rather than stopping these patently unlawful sales and reporting them to authorities, the store carried on its business with these straw purchasers for more than 10 weeks.

71. At least one gun that Frank's sold to Braxton has been recovered by PPD. That gun, a Glock 43X 9mm handgun, was recovered in September 2020 from a domestic abuser who did not have a license to carry the firearm, and who was using it to send threatening photos to terrorize the mother of his child.

Frank's Sales to Robert Otis Cooper III

72. Frank's also sold guns to Robert Otis Cooper III, who according to court records was a member of a straw purchasing organization involving several other individuals.³¹ Cooper visited Frank's on at least four separate occasions in the summer of 2021 to straw purchase firearms. On his first visit, on June 21, 2021, Frank's sold Cooper three Glock handguns: a Glock 26 9mm, a Glock 19 9mm, and a Glock 29 10mm. A first-time buyer acquiring this many similar handguns in a single multiple sale was an obvious warning sign of straw purchasing, yet Frank's approved the sale. Eight days later, Frank's sold Cooper another 10mm handgun—this one a Glock 20. Ten days after that, on July 9, Cooper attempted to purchase another pair of Glock 9mm handguns but was placed into “research” by Pennsylvania's background check system, delaying the sale to allow law enforcement to research whether Cooper could legally purchase a firearm. While this prevented Frank's from consummating the sale (and Cooper ultimately abandoned it),

³¹ See Affidavit of Probable Cause at 70, 81-82, *Commonwealth v. Robert Otis Cooper III*, Case No. CP-46-CR-0002226-2023 (Montgomery Cnty. Ct. of Common Pleas).

on information and belief, Frank's did not contact law enforcement to report Cooper's suspicious buying even though he had by that point bought or attempted to buy six similar handguns from the store. Cooper even tried again to buy another two handguns from Frank's on August 2, but was again foiled by Pennsylvania's background check system.

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

Frank's Sales to Other Straw Purchasers

74. Frank's has ignored warning signs of straw purchasing in other transactions as well. In September 2018, straw purchaser Morgan Johnson came to Frank's on two consecutive days and bought eight handguns—four on each day.³² Johnson was buying guns for Kevin Gupton, a convicted felon who was prohibited by law from purchasing or possessing a firearm.³³ Johnson's bulk purchase of handguns on back-to-back days was an obvious sign of straw purchasing on its own and would have put a reasonable dealer on notice of illegal behavior. But this was not the only easily recognizable sign that Johnson was a straw purchaser: more than half of Johnson's

³² See Indictment (Dkt. No. 1) at 3, *United States v. Johnson*, Case No. 2:19-cr-00102 (E.D. Pa. Feb. 19, 2019). Johnson was indicted on two counts of making a material false statement in the acquisition of a firearm in violation of 18 U.S.C. § 924(a)(1)(A). She pled guilty and was sentenced in 2021.

³³ See Indictment (Dkt. No. 1), at 1, 5-7, *United States v. Gupton*, Case No. 2:20-cr-00436 (E.D. Pa. Dec. 1, 2020). Gupton was charged with two counts of being a felon in possession of a firearm in violation of 18 U.S.C. § 922(g)(1) and two counts of aiding and abetting Morgan Johnson's false statements to FFLs in violation of 18 U.S.C. § 924(a)(1)(A). Gupton pled guilty in May of 2021 and was sentenced to 57 months' imprisonment.

guns were duplicates of one another including three Taurus G2Cs and a close variant Taurus G2S, as well as a pair of Glock 30S handguns.

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

75. Pursuant to ATF training, and as would be evident to any actor that engages in the retail business of dealing in firearms, this buying pattern alone is indicative of gun trafficking and should have been more than enough to put any reasonable store on notice that its customer was illegally buying guns for others. But even if it were not, Johnson and Gupton's in-store behavior further confirmed that Johnson was buying guns for Gupton, the convicted felon. According to the indictment, Gupton supplied Johnson the cash to buy the firearms, took her to Frank's, specified the guns for her to buy while they were at the store together, and took immediate possession of the firearms and paperwork after she bought them.³⁴ This was the textbook example of straw purchasing and should have been obvious to any reasonable firearms dealer even if the pair had only bought a single gun, let alone eight. Yet Frank's chose to ignore this, as well as the red flags in the form of Johnson's high-volume, duplicative handgun buys, and instead chose to profit from these illegal sales.

76. According to court records, several guns that Frank's sold through Johnson to Gupton were subsequently recovered in Philadelphia in connection with criminal activity. PPD

³⁴ See, e.g., Gupton Indictment at 5.

recovered a Taurus Model G2C 9mm handgun in October 2018 from a 17-year-old suspected of dealing cocaine who fled from police. In May 2020, PPD recovered a second Taurus G2C sold from Frank's, during a traffic stop of a man in possession of marijuana and prescription opiates.

77. In August 2021, a straw purchaser named Nafissa Prosser bought a pair of Glock 9mm handguns from the store on consecutive days: one on August 23 and one on August 24.³⁵ Remarkably, she gave the store two different home addresses for these back-to-back buys. But these addresses were in fact false, and Prosser did not live at either address. Instead, she apparently gave the store false addresses to make it more difficult for law enforcement to trace the guns to her in the event they were recovered at a crime scene. Frank's knew Prosser had given the store two different addresses on consecutive days because it had to enter this information into its own records and because it had to decide which address to provide to ATF and to local law enforcement when reporting the transaction as a multiple sale. Despite knowing that Prosser had provided the store with conflicting information about her residence, the store proceeded with the sales.

78. Straw purchaser Dominick Weatherbe bought seven firearms, including six Glocks, in five days at Frank's and another local gun store in July 2021.³⁶ Although charging documents do not attribute Weatherbe's purchases to each store, it appears likely that he bought multiple, similar guns at Frank's over the course of mere days. What is more, Weatherbe told police that he went to buy these firearms with (and for) a convicted felon, which suggests that in-store behavior may have been a further red flag of illegal activity. At least one of the Glocks that Weatherbe

³⁵ See Affidavit of Probable Cause at 3, *Commonwealth v. Prosser*, Case No. CP-51-CR-0008972-2021 (Phila. Cnty. Ct. of Common Pleas Oct. 4, 2021).

³⁶ See Affidavit of Probable Cause at 2-4, *Commonwealth v. Weatherbe*, Case No. CP-51-CR-0008535-2021 (Phila. Cnty. Ct. of Common Pleas Sept. 16, 2021).

purchased from these stores was recovered by PPD during a narcotics investigation about two months later, in the possession of someone else.

Delia's Illegal Gun Sales to Traffickers and Straw Purchasers

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

Delia's Sales to Anthony Cipriano

80. Straw purchaser Anthony Cipriano purchased seven handguns at Delia's in just over a month, between April 23 and May 26, 2021.³⁷ Four of these were 9mm handguns, and two were duplicate or near-duplicate EAA Girsan 9mm handguns.

<u>Transaction Date</u>	<u>Make/Model</u>	<u>Caliber</u>
April 23, 2021	Ruger P95 DC	9mm
April 25, 2021	SCCY CPX-2	9mm
May 8, 2021	EAA Girsan	9mm
May 20, 2021	EAA Girsan MC28 SA	9mm
May 24, 2021	Glock 21 Gen4	.45 cal.
May 24, 2021	Smith & Wesson M&P 15-22	.22lr
May 26, 2021	Ruger 57	5.7x28mm

³⁷ See Indictment (Dkt. No. 7), at 2, *United States v. Cipriano*, Case No. 2:21-cr-00287 (E.D. Pa. July 28, 2021).

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

82. The volume, pace, and similarity of Cipriano’s purchases, alone, were more than sufficient to put a reasonable store on notice that the transactions were illegal. But there was more. Cipriano also presented the store with false identification—a stolen driver’s license belonging to a person with initials “W.M.”—for each purchase. This should have prompted serious scrutiny by the store, as a Delia’s employee later told investigators that Cipriano did not closely resemble “W.M.,” the person pictured on the stolen license. Instead, Cipriano had a facial tattoo and hair styled in dread locks, but “W.M.” did not. Yet the store either failed to inspect this photoidentification (violating 18 PA. CONS. STAT. § 6111(b)(2)), or saw this obvious discrepancy but decided to proceed with the sale of half a dozen handguns notwithstanding.³⁸

³⁸ See Complaint (Dkt. No. 1) at ¶¶ 9-11, *United States v. Cipriano*, Case No. 2:21-cr-00287 (E.D. Pa. June 30, 2021).

Delia's Sales to Charles L. Thompson

83. Another straw purchaser to whom Delia's sold a large number of handguns in a short period of time was Charles Thompson.³⁹ According to court records, Delia's sold Thompson six 9mm Taurus handguns in the span of four months running from September 7, 2019, through January 31, 2020. The purchase of this many identical or near-identical handguns—particularly cheap, low-quality Taurus handguns with little collectible value—is strongly indicative of illegal straw purchasing.

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

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

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

³⁹ See Affidavit of Probable Cause at 2, *Commonwealth v. Thompson*, Case No. CP-51-CR-0004475-2021 (Phila. Cnty. Ct. of Common Pleas Feb. 14, 2020).

longer holding the guns he had purchased only moments earlier—and Delia’s sold him two boxes of 9mm bullets.

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

87. A few days after Thompson’s transaction involving accomplices, PPD arrested him and the scheme unraveled. Officers executed a search warrant at the home of Smith—the underage Philadelphia resident—and seized a gun containing components from the two 9mm Taurus handguns purchased on January 28: a slide from the Taurus with serial number TMW78892 mounted on a frame from the Taurus with serial number TMW76023. PPD recovered that gun’s mirror image in April 2020, after being tipped off by a witness that it had been abandoned by the side of Tabor Avenue. The slide on this second gun bore the serial number TMW76023, while the frame was labeled TMW78892. On information and belief, the remaining handguns that Delia’s sold to Thompson remain in circulation in the community.

Delia’s Sales to Other Straw Purchasers

88. Straw purchaser Emmitt M. Smith purchased seven guns in the first half of 2018 from four different gun stores including Delia’s and Frank’s, according to court records.⁴⁰ At least

⁴⁰ See Affidavit of Probable Cause at 2-4, *Commonwealth v. Smith*, Case No. CP-51-CR-0000891-2021 (Phila. Cnty. Ct. of Common Pleas Feb. 5, 2020).

five of these purchases were 9mm Taurus handguns—similar if not identical to the guns that Delia’s sold straw purchaser Charles Thompson. Although public filings largely omit attribution of Smith’s purchases to specific stores, he purchased at least one 9mm Taurus handgun (a Taurus PT111 Millennium) at Delia’s on March 30, 2018. This Taurus PT111 from Delia’s is one of three handguns bought by Smith that PPD has recovered at crime scenes. The Taurus from Delia’s was recovered during the execution of a search warrant in September 2019, during which two individuals (not Smith) were arrested on narcotics charges. Ballistics testing linked this firearm to at least two shootings in Philadelphia that took place in July 2019, including one in which police found a victim suffering from a gunshot wound.

89. Delia’s sold at least three handguns to a straw purchaser named Tyrone Gresham between December 2019 and April 2021. Gresham’s purchases at Delia’s were part of a larger straw purchasing operation involving at least two codefendants who collectively trafficked at least 37 firearms from around 20 Pennsylvania gun stores.⁴¹ Gresham’s purchases at Delia’s include a pair of Glock handguns chambered in .40 caliber, as well as a 9mm Taurus. According to charging documents, Gresham was in close contact via text message with other accomplices during his time inside Delia’s on April 29, 2021. This was a strong indicator of potential straw purchasing: as law enforcement explained in Gresham’s case, “individuals involved in ‘straw purchasing’ firearms will sometimes communicate with the intended recipient of the firearm and other co-conspirators while in the store through their cellular devices.” This is often driven by a desire to relay and/or confirm “the make, model, and price of the firearm he/she is purchasing on the other

⁴¹ See Affidavit of Probable Cause at 1-5, 8-9, 22-24, 46-48, *Commonwealth v. Gresham*, Case No. CP-46-CR-0004635-2021 (Montgomery Cnty. Ct. of Common Pleas July 12, 2020). Gresham purchased at least three firearms at Frank’s: a Glock 23 (.40 cal) on March 8, 2021; a Glock G45 five days later on March 13, 2021, and a Glock 43 on May 4, 2021.

person's behalf.”⁴² ATF likewise identifies taking and sending cell phone photos of firearms, and talking on a cell phone while browsing firearms, as indicators of potential straw purchasing. But despite Gresham's deeply suspicious in-store cell phone use, Delia's completed its transactions with him.

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

CAUSES OF ACTION

COUNT 1 – PUBLIC NUISANCE

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

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

93. At the time Defendant Frank's sold one or more firearms to Johnson, Gupton, Cooper III, Ballard, Hayes, Braxton, Prosser, Weatherbe, and other gun traffickers, Frank's knew, reasonably should have known, or deliberately avoided knowing that these individuals were

⁴² *Id.* at 48.

engaged in straw purchasing, and/or dealing in firearms without a license, both of which are violations of federal and Commonwealth law.

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

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

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

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

98. Defendants' pattern of unlawful firearms sales has created, contributed, to, and maintained a public nuisance in the City of Philadelphia. Defendants' conduct foreseeably resulted

in the illegal transfer of firearms to criminals and other prohibited persons in the criminal secondary market in Philadelphia. Many of the firearms illegally sold this way by Defendants have already been recovered in Philadelphia in connection with crimes such as homicide, assault, burglary, drug trafficking, and myriad other unlawful activities that harm the City. Many of these guns had obliterated serial numbers to aid criminals in avoiding detection, others had large capacity magazines, and at least one had been modified into an illegal machine gun. Many of these illegal firearms were found on people prohibited from possessing firearms because they had criminal convictions or because they were minors.

99. Defendants' conduct in selling firearms in violation of federal and/or Commonwealth law has together created, contributed to, and maintained a public nuisance in Philadelphia that unreasonably and unjustifiably endangers, renders insecure, interferes with, and obstructs rights common to the general public. Such public nuisance harms the rights of City residents to life, health, the use and enjoyment of property, the right to travel within the City, and the right to attend school, all without fear of being shot. It deprives the City and its residents and visitors of the peaceful use of public streets, sidewalks, parks, and other places, interferes with commerce, travel, and the quality of daily life, and endangers the health, welfare, peace, safety, well-being, convenience, and property of considerable numbers of residents of, and visitors to, Philadelphia.

100. The threat of gun violence proximately caused by Defendants' misconduct impacts how City residents and visitors choose to commute to work or to school, whether and how they participate in community activities, and the degree to which they visit and patronize local businesses. It also affects their decisions whether or not to ultimately stay in Philadelphia, linking

the City's economic future to its ability to solve this crisis.⁴³ These harms are felt throughout the City, and are borne disproportionately by its Black communities.⁴⁴

101. The City has suffered harm and incurred substantial costs as the direct and proximate result of the Defendants' knowing violations of law and resulting nuisance. Each firearm recovered by PPD involves, at the very least, processing and tracing costs to the PPD, but often the costs are significantly larger. In fact, the City spends millions of dollars annually to respond to, investigate and prosecute gun crime, and on medical services to treat victims of gun violence. Gun violence also threatens City employees and other public servants and makes their work more dangerous. In 2020, the City government spent an estimated \$195 million in medical and criminal justice costs alone—a sum which does not account for other welfare and social services expenditure from gun violence.⁴⁵ From January 1 to November 1, 2021, gun violence cost Philadelphia \$267.4 million in victim initial hospitalization costs.⁴⁶

102. The City also spends millions of dollars annually to prevent gun violence, and to mitigate the long-term damage to communities in which it is endemic. During the 2023 fiscal year, the City of Philadelphia is spending more than \$184 million on various gun violence prevention initiatives, up from \$155 million the year before.⁴⁷ This sum includes investments in community

⁴³ According to a national poll conducted in 2023, 84% of respondents said that they take at least one precaution to stay safe from the possibility of gun violence. About a third said they avoid large crowds, such as music festivals, crowded bars and clubs. 23% have avoided using public transit, 20% have considered changing the schools that their children attend, and 15% have moved to a different neighborhood or city.

⁴⁴ See *Philadelphia Roadmap* (reporting that Black people comprised 77% of shooting victims in Philadelphia so far in 2023, as well as 81% of victims since 2015); *Philadelphia 2022* (noting that in 2022, 78% of Black Philadelphians reported to hearing gunshots in their neighborhood, compared to 65% for the City as a whole).

⁴⁵ Jonathan Lovitz, "The Economic Imperative to Stop Gun Violence," *The Philadelphia Citizen* (August 2021) at <https://thephiladelphiacitizen.org/economic-imperative-stop-gun-violence/>.

⁴⁶ *2023 Violence Prevention Investments Update*, City of Philadelphia (2023), p. 4, at <https://www.phila.gov/media/20230302190339/2023-Violence-Prevention-Investments-Update.pdf>.

⁴⁷ *2022 Violence Prevention Investments Update*, City of Philadelphia (2022), p. 2, at <https://www.phila.gov/media/20220331094753/2022-Violence-Prevention-Investments-Update.pdf>.

empowerment programs, career and employment training, healing for victims of gun violence and their families, prevention programs, and providing safe havens for youth and families.⁴⁸ In 2024, the City plans to increase these investments to more than \$233 million.⁴⁹

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

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

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

⁴⁸ *Id.*

⁴⁹ 2023 *Violence Prevention Investments*, p. 3.

COUNT 2 – NEGLIGENCE

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

107. At all relevant times, Defendants were subject to the general duty imposed on all persons and entities to not expose others to reasonably foreseeable risks of injury. Each Defendant had a duty to exercise reasonable care in distributing and selling firearms and to refrain from engaging in any activity creating reasonably foreseeable risks of injury to others. Each Defendant breached this duty by selling firearms that it knew or should have known were being directly unloaded into illegal streams of commerce and into the hands of persons ineligible to possess them.

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

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

and records, failed to make appropriate entries in required documentation and records, and concealed these actions from law enforcement.

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

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

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

COUNT 3 – NEGLIGENCE PER SE

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

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

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

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

117. Each Defendant sold and/or transferred firearms to individuals that it knew, reasonably should have known, or deliberately avoided knowing at the time of each transaction, were engaged in straw purchasing, and/or dealing in firearms without a license, both of which are violations of federal and Commonwealth law. In doing so, each Defendant violated its own legal obligation not to engage in such transactions, in violation of one or more of the aforementioned statutes and regulations. Each Defendant further breached its legal duties under these statutes and regulations by failing to properly verify purchaser identity, failing to request and obtain a completed background check on the actual buyer of a firearm, making false statements in required documentation and records, and failing to make appropriate entries in required documentation and records. Each Defendant's breach of these duties constituted negligence per se.

118. Each of the Defendants that has a federal firearms license was trained on how to prevent straw sales and took on the obligation to prevent such sales when they received their

license. Furthermore, each of the Defendants knew that the foreseeable and entirely predictable result of such illegal sales is gun violence and other criminal activities that endanger the public. Yet, with a reckless indifference to the safety of others, each of the Defendants continued to engage in such sales for the sake of profit. Such conduct can only be categorized as outrageous.

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

COUNT 4 – NEGLIGENT ENTRUSTMENT

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

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

122. Each Defendants 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.

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

124. Each Defendant knew or should have known that its employees and agents, who effectuated these firearms transfers to those individuals, were obliged to use their judgment to

refuse to transfer firearms to a transferee whom the employees and agents knew or should have known was involved in straw purchasing and/or unlicensed dealing in firearms.

125. Each Defendant, by its employee and agents, knew or should have known that firearms transferred to these individuals, and others involved in straw purchasing and/or the unlicensed dealing of firearms would likely be used in a manner involving an unreasonable risk of harm.

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

127. Defendants' negligent entrustment of firearms to traffickers has proximately caused harm to the City. Firearms negligently entrusted by each Defendant to straw purchasers have caused harm to the City. This includes, but is not limited to: (1) a Glock 23 sold by Delia's to straw purchaser Tyrone Gresham on April 29, 2021 that was recovered by PPD on October 27, 2022 and, upon information and belief, was used in the facilitation of drug distribution within the City; (2) a Glock 26 sold by Frank's to straw purchaser Robert Otis Cooper III on June 21, 2021 that was recovered by PPD on October 22, 2021 during the investigation of a shooting that required a significant response from the City; and (3) a Glock 17 sold by Tanner's to Joshua Morales on July 30, 2020 that was recovered on November 4, 2021, during which time PPD officers had to put themselves in harm's way in response to an armed individual experiencing a mental health crisis.

128. Each of the Defendants that has a federal firearms license was trained on how to prevent straw sales and took on the obligation to prevent such sales when they received their license. Furthermore, each of the Defendants knew that the foreseeable and entirely predictable

result of such illegal sales is gun violence and other criminal activities that endanger the public. Yet, with a reckless indifference to the safety of others, each of the Defendants continued to engage in such sales for the sake of profit. Such conduct can only be categorized as outrageous.

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

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

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

131. At all relevant times Tanner Operations, LLC, Frank's Gun Shop & Shooting Range LLC, and Mad Minute Enterprises, LLC, were and are licensed dealers in firearms within the meaning of the Pennsylvania Uniform Firearms Act. Defendants and their employees are also persons within the meaning of this statute.

132. At the time Defendant Tanner's sold one or more firearms to Hutchings, Morales, Whisted, Harris Jr., Dansby, Ramirez, Patterson, and other straw purchasers, Tanner's knew, had reason to believe, or deliberately avoided knowing that these individuals were engaged in straw purchasing, and/or dealing in firearms without a license, and were not the actual purchasers of the guns. Therefore, such sales were made in violation of 18 PA. CONS. STAT. § 6111. Tanner's also knew, had reason to believe or deliberately avoided knowing that such firearms acquired by straw purchasers would be used in the commission or attempted commission of crimes, including, but not limited to, the straw-purchasing and trafficking of such firearms. As such, Tanner's is liable for the harms the City sustained as a result of such crimes or attempted crimes.

133. At the time Defendant Frank's sold one or more firearms to Johnson, Gupton, Ballard, Hayes, Braxton, Johnson, Prosser, Weatherbe, and other straw purchasers, Frank's knew,

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

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

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

136. Straw purchasers buy guns in order to engage in the criminal activity of gun trafficking and/or dealing in firearms without a license. As alleged throughout this complaint, gun trafficking harms the City by contributing to gun violence and other gun-related crimes therein.

As such, the City and its residents have been injured as a proximate result of criminal activities and attempted criminal activities reasonably foreseen by each Defendant at the time that it knowingly and intentionally sold firearms to the aforementioned straw purchasers.

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

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

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests that this Court:

A. Award injunctive relief against Defendants enjoining them from continuing to maintain a public nuisance, as alleged in Count I above, and requiring them to abate such nuisance by:

1. Ordering each Defendant to submit to supervision by a court-appointed special master(s) for a period of five years or longer if deemed necessary by the Court, the responsibilities of whom shall include, *inter alia*, monitoring of such Defendant's sales practices through observation, records monitoring, and random and repeated integrity-testing, and implementing corrective policies and procedures, with the costs of the special master(s) to be borne by such Defendant;

2. Ordering Defendants to retain all trace requests received from ATF for a period of five years, to keep a record of all employees whose sales result in a trace request, and to conduct heightened screening (as determined by the special master) of sales to individuals who have previously been the subject of trace requests from ATF;
3. Ordering each Defendant to require mandatory training of all personnel by a court-approved training entity, with the costs of that training to be borne by such Defendant;
4. Ordering each Defendant to adopt and enforce written policies to identify and prevent straw purchasing;
5. Ordering each Defendant to take corrective action to identify and assist in recovering the remaining firearms that were sold to or through persons identified as straw purchasers, and others identified as transferees of firearms from each Defendant as stated herein;
6. Ordering each Defendant to post bonds in amounts to be determined by the Court, which must be forfeited in the event of future violations by such Defendant; and
7. Ordering each Defendant to pay into an abatement fund a sum that the Court deems just and proper for addressing the continuing harms caused by the nuisance that Defendants have created;

B. Award against Defendants the costs the City has incurred abating the nuisance that Defendants have created;

- C. Award damages against Defendants for a reasonable sum of money that will fairly compensate the City for its injuries;
- D. Award the City pre- and post-judgment interest, to the extent allowable;
- E. Award the City punitive and exemplary damages;
- F. Award the City's costs and reasonable attorney's fees incurred in this action; and
- G. Grant such other relief as the Court may deem just, equitable, or proper.

JURY DEMAND

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

Dated: July 25, 2023

DIANA P. CORTES
City Solicitor
Of the City of Philadelphia

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**Pro hac vice applications forthcoming*

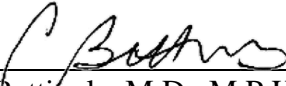
**ATTORNEYS FOR PLAINTIFF
CITY OF PHILADELPHIA**

VERIFICATION

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

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

Dated: July 24, 2023



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