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# EXHIBIT A

**8.53 FIREARMS—DEALING WITHOUT LICENSE**

[Modified]

Ryan McGowan is charged in Count 1 of the indictment with Engaging in the Business of Dealing in Firearms without a License, in violation of Section 922(a)(1) of Title 18 of the United States Code. In order for the defendant to be found guilty of that charge, the government must prove each of the following elements beyond a reasonable doubt:

First, McGowan was willfully engaged in the business of dealing in firearms as defined below, within the dates specified in the indictment; and

Second, McGowan did not then have a license as a firearms dealer.

“Engaged in the Business of Dealing in Firearms” means a person who devotes time, attention, and labor to dealing in firearms as a regular course of trade or business with the principal objective of livelihood and profit through the repetitive purchase and resale of firearms, but such term shall not include a person who makes occasional sales, exchanges, or purchases of firearms for the enhancement of a personal collection or for a hobby, or who sells all or part of his personal collection of firearms. “With the principal objective of livelihood and profit” means that the intent underlying the sale or disposition of firearms is predominantly one of obtaining a livelihood and pecuniary gain, as opposed to other intents, such as improving or liquidating a personal firearms collection.

“Willfully” means proof that the defendant knew his conduct was unlawful, but does not require proof that the defendant knew of the federal licensing requirement.

**Authority**

The definition of “Engaged in the Business of Dealing in Firearms” is taken directly from 18 U.S.C. § 921(a) (21) (C) and 18 U.S.C. § 921(a) (22).

*United States v. Breier*, 813 F.2d 212, 214-15 (9th Cir. 1987).

*United States v. King*, 735 F.3d 1098, 1106 (9<sup>th</sup> Cir. 2013).

Fifth Circuit: Fifth Circuit Pattern Criminal Jury Instruction 2.44.

1           Eleventh Circuit: Eleventh Circuit Pattern Criminal Jury Instructions, Offense Instruction  
2           34.1.

3           The definition of “Willfully” is taken from Ninth Circuit Model Instruction # 8.53. citing  
4           Bryan v. United States, 524 U.S. 184, 198-99 (1998).