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**FILED**  
 MAY 13 2013  
 FRESNO COUNTY SUPERIOR COURT  
 BY \_\_\_\_\_ DEPUTY

*Attorneys for Respondents*

8 *Stephen J. Lindley, in his capacity as Bureau Chief*  
*of the Bureau of Firearms for the State of California*  
 9 *Department of Justice; Kamala D. Harris, in her*  
*capacity as Attorney General of the State of*  
 10 *California; State of California Department of Justice*

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF FRESNO

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**DANIEL SCHOEPF, an individual;**  
**JEFFERY HUFFMAN, an individual;**  
**YURIY TUZOV, an individual; KENNETH**  
**HUTCHINSON III, an individual;**  
**ROBERT BANNON, an individual;**  
**ELDON MANUEL, an individual; RALPH**  
**JOHNSON JR, an individual; THE**  
**CALGUNS FOUNDATION, INC., a**  
**California nonprofit public benefit**  
**corporation,**

Petitioners,

v.

**STEPHEN J. LINDLEY, in his capacity as**  
**Bureau Chief of the Bureau of Firearms for**  
**the State of California Department of**  
**Justice; KAMALA D. HARRIS, in her**  
**capacity as Attorney General of the State of**  
**California; THE STATE OF CALIFORNIA**  
**DEPARTMENT OF JUSTICE,**

Respondents.

Case No. 13CECG01132

**RESPONDENTS' ANSWER TO  
PETITION FOR ALTERNATIVE WRIT  
OF MANDATE AND COMPLAINT FOR  
DECLARATORY AND INJUNCTIVE  
RELIEF**

**BY FAX (Exempt from filing fees per Gov.  
Code § 6103)**

Dept: 51  
Judge: Honorable Debra J. Kazanjian  
Trial Date:

Action Filed: April 11, 2013

1 Respondents Stephen J. Lindley, in his capacity as Bureau Chief of the Bureau of Firearms  
2 for the State of California Department of Justice; Kamala D. Harris, in her capacity as Attorney  
3 General of the State of California; and the State of California Department of Justice (collectively  
4 referred to below as "respondents") answer the verified petition for alternative writ of mandate  
5 and compliant for declaratory relief and injunctive relief (petition) pursuant to Code of Civil  
6 Procedure section 446 as follows:

7 Respondents generally deny all allegations not specifically denied or expressly admitted  
8 pursuant to section 431.30, subdivision (f), of the California Code of Civil Procedure.

9 Respondents reserve their right to amend the answer and to assert other defenses, if necessary.

#### 10 INTRODUCTION

11 1. In answering paragraph 1, respondents deny that petitioners "have been denied their  
12 rights to keep and bear arms for self-defense" by certain policies of the Department of Justice  
13 challenged in this action under the noted constitutional and statutory provisions. Respondents  
14 further deny that all petitioners are qualified to possess and purchase firearms in California. With  
15 respect to the remaining allegations in paragraph 1, respondents have insufficient information to  
16 either admit or deny the allegations and therefore deny those allegations based on lack of  
17 information, knowledge, and belief. To the extent that paragraph 1 contains legal conclusions,  
18 respondents are not required to admit or deny such conclusions.

19 2. In answering paragraph 2, respondents admit that Penal Code section 26815 prohibits  
20 the delivery of a firearm within 10 days of the date of purchase under certain circumstances as  
21 provided for in that section. Respondents further admit that the Department of Justice conducts a  
22 criminal background check during this time period, and examines its records as well as other  
23 records under Penal Code section 28220. Respondents also admit that certain individuals are  
24 prohibited from purchasing firearms under various state and federal statutes. To the extent that  
25 paragraph 2 contains legal conclusions, respondents are not required to admit or deny such  
26 conclusions.

27 3. In answering paragraph 3, respondents admit that the Department of Justice conducts  
28 criminal background checks as required by law and notifies the dealer of its findings within the

1 proscribed period of time, which includes eligibility and incomplete criminal histories  
2 notifications. Respondents deny the remaining allegations in paragraph 3. To the extent that  
3 paragraph 3 contains legal conclusions, respondents are not required to admit or deny such  
4 conclusions.

5 4. Respondents deny the allegations in paragraphs 4 and 5.

6 5. In answering paragraph 6, respondents admit that Exhibit 1, attached to the petition,  
7 can be found on the Department of Justice's website and addresses the purchase of firearms and a  
8 variety of situations. Respondents deny the remaining allegations in paragraph 6.

9 6. Paragraph 7 does not require a response because it merely restates the requested  
10 relief.

#### 11 PARTIES

12 7. In answering paragraphs 8 through 14, respondents have insufficient information to  
13 either admit or deny the allegations and therefore deny those allegations based on lack of  
14 information, knowledge, and belief.

15 8. In answering paragraph 15, respondents admit that petitioner The CalGuns  
16 Foundation, Inc. is a California Corporation with a business address in San Carlos, California. As  
17 to the remaining allegations in paragraph 15, respondents have insufficient information to either  
18 admit or deny the allegations and therefore deny those allegations based on lack of information,  
19 knowledge, and belief.

20 9. In answering paragraph 16, respondents admit that respondent Lindley is the Chief of  
21 the Bureau of Firearms within the Department of Justice and is responsible, in part, for the  
22 implementation of many state and federal laws related to the sale and purchase of firearms,  
23 including the ones challenged in this litigation. As to the remaining allegations in paragraph 16,  
24 attempting to generally describe respondent Lindley's duties and responsibilities as the Chief of  
25 the Bureau of Firearms, respondents deny those allegations because they are vague, overly broad,  
26 and ambiguous.

1 10. In answering paragraph 17, respondents admit that respondent Harris is the Attorney  
2 General for the State of California and is responsible for administering and enforcing the laws of  
3 the state, including the laws challenged in this litigation.

4 11. In answering paragraph 18, respondents admit that the California Department of  
5 Justice is a department within the state and has various statutory responsibilities related to the sale  
6 and purchase of firearms, including the laws challenged in this litigation.

7 12. Paragraph 19 does not contain any factual allegations and therefore does not require a  
8 response.

9 13. Respondents have insufficient information to either admit or deny the allegations in  
10 paragraphs 20 through 22 and therefore deny those allegations based on lack of information,  
11 knowledge, and belief.

#### 12 JURISDICTION AND VENUE

13 14. Respondents admit the allegations in paragraph 23.

#### 14 CALIFORNIA'S REGULATORY SCHEME RELATING TO PURCHASE OF 15 FIREARMS AND TRACKING CRIMINAL ACTIVITY

16 15. Respondents admit the allegations in paragraph 24.

17 16. Paragraph 25 does not contain any factual allegations and merely attempts to  
18 summarize various provisions of the Penal Code related to the purchase and sale of firearms. The  
19 cited provisions speak for themselves. To the extent that paragraph 25 contains legal conclusions,  
20 respondents are not required to admit or deny such conclusions.

21 17. In answering paragraph 26, respondents admit that when an applicant attempts to  
22 purchase a firearm certain notices may be issued by the Department of Justice under the Penal  
23 Code. As to any remaining allegations in paragraph 26, respondents have insufficient information  
24 to either admit or deny those allegations and therefore deny them based on lack of information,  
25 knowledge, and belief.

26 18. In answering paragraph 27, respondents admit the Department of Justice issues denial  
27 notices when it determines that an applicant is not eligible to purchase a firearm as provided for in  
28 the Penal Code.

1           19. In answering paragraph 28, respondents admit that in some circumstances the  
2 Department of Justice sends a notice to dealers indicating that an applicant's eligibility to  
3 purchase a firearm has not been determined and that the firearm should not be released to the  
4 applicant as provided for in the Penal Code. As to any remaining allegations in paragraph 28,  
5 respondents have insufficient information to either admit or deny those allegations and therefore  
6 deny them based on lack of information, knowledge, and belief.

7           20. In answering paragraph 29, respondents admit that at times the Department of Justice  
8 denies an individual's application to purchase a firearm after a delay notice has been generated as  
9 provided for in the Penal Code.

10           21. In answering paragraph 30, respondents admit that at times the Department of Justice  
11 approves an individual's application to purchase a firearm after a delay notice has been generated  
12 as provided for in the Penal Code.

13           22. In answering paragraph 31, respondents admit that the Department of Justice will not  
14 approve the purchase of a firearm until it is determined that the applicant is eligible to purchase a  
15 firearm as provide for in the Penal Code. As to the remaining allegations in paragraph 31,  
16 respondents have insufficient information to either admit or deny those allegations and therefore  
17 deny them based on lack of information, knowledge, and belief.

18           23. Paragraph 32 does not require a response because it is attempting to summarize  
19 section 13150 of the Penal Code, which speaks for itself.

20           24. Paragraph 33 does not require a response because it is attempting to summarize  
21 section 13125 of the Penal Code, which speaks for itself.

22           25. Paragraphs 34 and 35 do not require a response because they are attempting to either  
23 summarize or quote sections 13151 and 13151.1 of the Penal Code, which speak for themselves.

24           26. Paragraph 36 does not require a response because it is attempting to quote portions of  
25 section 849 of the Penal Code, which speaks for itself.

26           27. Paragraph 37 does not require a response because it is attempting to quote portions of  
27 section 851.6 of the Penal Code, which speaks for itself.

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1 28. In answering paragraph 38, respondents admit that the Los Angeles Times featured an  
2 article on the criminal records system maintained by the Department of Justice. The article  
3 speaks for itself. As to the remaining allegations in paragraph 38, respondents have insufficient  
4 information to either admit or deny the allegations and therefore deny those allegations based on  
5 lack of information, knowledge, and belief.

6 29. Respondents deny the allegations in paragraph 39.

7 30. Respondents admit the allegations in paragraph 40.

8 31. Respondents have insufficient information to either admit or deny the allegations in  
9 paragraph 41 and therefore deny those allegations based on lack of information, knowledge, and  
10 belief.

11 **FACTS**

12 **Petitioner Schoepf**

13 32. Respondents admit the allegations in paragraph 42.

14 33. Respondents have insufficient information to either admit or deny the allegations in  
15 paragraphs 43 and 44 and paragraph 46 and therefore deny those allegations based on lack of  
16 information, knowledge, and belief.

17 34. Respondents deny the allegations in paragraph 45.

18 35. Respondents admit the allegations in paragraph 47.

19 36. Respondents have insufficient information to either admit or deny the allegations in  
20 paragraphs 48 and 49 and therefore deny those allegations based on lack of information,  
21 knowledge, and belief.

22 37. Respondents admit the allegations in paragraph 50, except for the term "ironically."

23 38. Respondents have insufficient information to either admit or deny the allegations in  
24 paragraphs 51 and 53 and therefore deny those allegations based on lack of information,  
25 knowledge, and belief.

26 39. Respondents deny the allegations in paragraph 52.

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1 **Petitioner Huffman**

2 40. Respondents admit the allegations in paragraph 54, except that the date of purchase  
3 was January 4, 2013, and not January 3, 2013 as indicated.

4 41. In answering paragraph 55, respondents note that petitioner Huffman's DROS was  
5 approved on April 30, 2013. With respect to the remaining allegations in paragraph 55,  
6 respondents have insufficient information to either admit or deny the allegations and therefore  
7 deny those allegations based on lack of information, knowledge, and belief.

8 42. Respondents have insufficient information to either admit or deny the allegations in  
9 paragraphs 56 through 60 and paragraph 62 and therefore deny those allegations based on lack of  
10 information, knowledge, and belief.

11 43. Respondents deny the allegations in paragraph 61.

12 **Petitioner Tuzov**

13 44. Respondents admit the allegations in paragraph 63.

14 45. Respondents deny the allegations in paragraphs 64 and 69.

15 46. Respondents have insufficient information to either admit or deny the allegations in  
16 paragraphs 65 through 68 and paragraph 70 and therefore deny those allegations based on lack of  
17 information, knowledge, and belief.

18 **Petitioner Hutchinson**

19 47. Respondents admit the allegations in paragraph 71, except that the date of purchase  
20 was December 17, 2012, not December 16, 2012, as indicated.

21 48. Respondents have insufficient information to either admit or deny the allegations in  
22 paragraphs 72 through 77 and therefore deny those allegations based on lack of information,  
23 knowledge, and belief.

24 49. Respondents deny the allegations in paragraph 78.

25 50. Respondents have insufficient information to either admit or deny the allegations in  
26 paragraph 79 and therefore deny those allegations based on lack of information, knowledge, and  
27 belief.

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1 **Petitioner Bannon**

2 51. Respondents admit the allegations in paragraph 80

3 52. Respondents deny the allegations in paragraphs 81 and 88.

4 53. Respondents have insufficient information to either admit or deny the allegations in  
5 paragraphs 82 through 87 and paragraph 89 and therefore deny those allegations based on lack of  
6 information, knowledge, and belief.

7 **Petitioner Manuel**

8 54. Respondents admit the allegations in paragraph 90.

9 55. Respondents deny the allegations in paragraphs 91 and 95.

10 56. Respondents have insufficient information to either admit or deny the allegations in  
11 paragraphs 92 through 94 and paragraph 96 and therefore deny those allegations based on lack of  
12 information, knowledge, and belief.

13 **Petitioner Johnson**

14 57. Respondents admit the allegations in paragraph 97, except that TDS Guns is located  
15 in Bonita, California, not Chula Vista, as indicated.

16 58. In answering paragraph 98, respondents note that petitioner Johnson's DROS was  
17 approved on April 16, 2013. With respect to the remaining allegations in paragraph 99,  
18 respondents have insufficient information to either admit or deny the allegations and therefore  
19 deny those allegations based on lack of information, knowledge, and belief.

20 59. Respondents deny the allegation in paragraph 102.

21 60. Respondents have insufficient information to either admit or deny the allegations in  
22 paragraphs 98 through 101 and paragraphs 103 through 105 and therefore deny those allegations  
23 based on lack of information, knowledge, and belief.

24 **EQUITY AND IRREPARABLE INJURY**

25 61. Respondents deny the allegations in paragraphs 106 through 107.

26 **SERVICE**

27 62. Respondents admit the allegations in paragraph 108.

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**FIRST CAUSE OF ACTION – MANDAMUS****(Against All Respondents)**

63. In response to paragraph 109, respondents incorporate their responses to paragraphs 1 through 108 of the petition, above, as though fully set forth herein.

64. Respondents deny the allegations in paragraphs 110 through 112.

**SECOND CAUSE OF ACTION – VIOLATION OF SECOND AMENDMENT****(Against All Respondents)**

65. In response to paragraph 113, respondents incorporate their responses to paragraphs 1 through 112 of the petition, above, as though fully set forth herein.

66. Respondents deny the allegations in paragraph 114.

**THIRD CAUSE OF ACTION – VIOLATION OF FIFTH & FOURTEENTH****AMENDMENTS – DENIAL OF PROCEDURAL DUE PROCESS****(Against All Respondents)**

67. In response to paragraph 115, respondents incorporate their responses to paragraphs 1 through 114 of the petition, above, as though fully set forth herein.

68. Respondents deny the allegations in paragraph 116.

**FOURTH CAUSE OF ACTION – VIOLATION OF FIFTH & FOURTEENTH  
AMENDMENTS – DEPRIVATION OF PROPERTY WITHOUT DUE PROCESS OF****LAW****(Against All Respondents)**

69. In response to paragraph 117, respondents incorporate their responses to paragraphs 1 through 116 of the petition, above, as though fully set forth herein.

70. Respondents deny the allegations in paragraph 118.

71. In answering paragraph 119, respondents deny that petitioners have been deprived of their property without due process of law. As to the remaining allegations in paragraph 119, respondents have insufficient information to either admit or deny the allegations and therefore deny those allegations based on lack of information, knowledge, and belief.

**FIFTH CAUSE OF ACTION – VIOLATION OF FOURTEENTH AMENDMENT –  
DENIAL OF EQUAL PROTECTION OF THE LAWS**

**(Against All Respondents)**

72. In response to paragraph 120, respondents incorporate their responses to paragraphs 1 through 119, above, as though fully set forth herein.

73. Respondents deny the allegations in paragraphs 121 through 124.

Without admitting any allegations contained in the petition, respondents assert the following defenses based on information, knowledge and belief:

**FIRST DEFENSE**

The petition, and each and every purported cause of action contained therein, fails to state a claim upon which relief can be granted.

**SECOND DEFENSE**

Petitioners' claims are barred, in whole or in part, by the applicable statute of limitations.

**THIRD DEFENSE**

Petitioners lack standing to bring this action.

**FOURTH DEFENSE**

All alleged acts or omissions by respondents, their agents, servants, employees or representatives were discretionary acts or omissions such that a writ of mandate may not issue to control the exercise of such discretion.

**FIFTH DEFENSE**

All alleged acts done by respondents, their agents, servants, employees or representatives were performed fairly, in good faith and for a lawful purpose, and were reasonable and justified under the circumstances.

**SIXTH DEFENSE**

The relief sought in the petition violates the separation of powers doctrine.

**SEVENTH DEFENSE**

The petition, and each cause of action, is barred because the action is either premature and is not ripe or is moot.

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**EIGHTH DEFENSE**

The petition, and each cause of action, is barred by the doctrines of estoppel, laches and/or waiver.

**NINTH DEFENSE**

The petition fails to name necessary and indispensable parties.

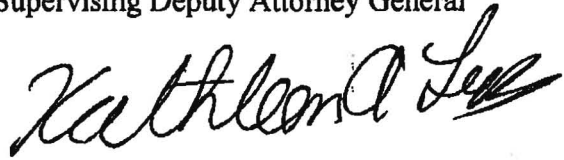
WHEREFORE, respondents pray as follows:

1. That judgment be rendered in favor of respondents and against petitioners;
2. That petitioners take nothing by their petition;
3. That respondents be awarded the costs, expenses, and reasonable attorneys fees incurred as a result of this action; and
4. That respondents be awarded such other and further relief as the Court may deem just and proper.

Dated: May 13, 2013

Respectfully submitted,

KAMALA D. HARRIS  
Attorney General of California  
PETER K. SOUTHWORTH  
Supervising Deputy Attorney General



KATHLEEN A. LYNCH  
Deputy Attorney General  
*Attorneys for Respondents  
Stephen J. Lindley, in his capacity as  
Bureau Chief of the Bureau of Firearms  
for the State of California Department of  
Justice; Kamala D. Harris, in her capacity  
as Attorney General of the State of  
California; State of California Department  
of Justice*

**DECLARATION OF SERVICE BY U.S. MAIL**

Case Name: **Schoepf, et al. v. Lindley, et al.**  
No.: **13CECG01132**

I declare:

I am employed in the Office of the Attorney General, which is the office of a member of the California State Bar, at which member's direction this service is made. I am 18 years of age or older and not a party to this matter. I am familiar with the business practice at the Office of the Attorney General for collection and processing of correspondence for mailing with the United States Postal Service. In accordance with that practice, correspondence placed in the internal mail collection system at the Office of the Attorney General is deposited with the United States Postal Service with postage thereon fully prepaid that same day in the ordinary course of business.

On May 13, 2013, I served the attached **Respondent's Answer to Petition for Alternative Writ of Mandate and Complaint for Declaratory and Injunctive Relief** by placing a true copy thereof enclosed in a sealed envelope in the internal mail collection system at the Office of the Attorney General at 1300 I Street, Suite 125, P.O. Box 944255, Sacramento, CA 94244-2550, addressed as follows:

Victor J. Otten  
Michael Ruttle  
Otten & Joyce, LLP  
3620 Pacific Coast Hwy Suite 100  
Torrance, CA 90505

I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct and that this declaration was executed on May 13, 2013, at Sacramento, California.

\_\_\_\_\_  
Scott De Medeiros  
Declarant

\_\_\_\_\_  
*Scott De Medeiros*  
Signature