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7

8 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 FOR THE COUNTY OF FRESNO
10

11 SHERIFF CLAY PARKER, TEHAMA)
COUNTY SHERIFF; HERB BAUER)
12 SPORTING GOODS; CALIFORNIA RIFLE)
AND PISTOL ASSOCIATION)
13 FOUNDATION; ABLE'S SPORTING,)
INC.; RTG SPORTING COLLECTIBLES,)
14 LLC; AND STEVEN STONECIPHER,)

15 Plaintiffs and Petitioners,
16
17 vs.

18 THE STATE OF CALIFORNIA; JERRY)
BROWN, IN HIS OFFICIAL CAPACITY)
AS ATTORNEY GENERAL FOR THE)
19 STATE OF CALIFORNIA; THE)
CALIFORNIA DEPARTMENT OF)
20 JUSTICE; and DOES 1-25,)
21)
22 Defendants and Respondents.)
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FILED

DEC 07 2010

FRESNO COUNTY SUPERIOR COURT
By _____

CASE NO. 10CECG02116

**DECLARATION OF RAY T. GILES
IN SUPPORT OF MOTION FOR
SUMMARY JUDGMENT OR IN THE
ALTERNATIVE FOR SUMMARY
ADJUDICATION AND TRIAL**

Date: January 18, 2011
Time: 8:30 a.m.
Location: Dept. 402
Judge: Hon. Jeffrey Y. Hamilton

Action Filed: June 17, 2010

DECLARATION OF RAY T. GILES

I, Ray T. Giles, declare as follows:

1. I am the owner of RTG Sporting Collectibles, LLC, a Texas limited liability company that sells and ships directly to California residents a variety of ammunition that can be used interchangeably between handguns and rifles, but which are primarily sold as collectibles.

2. As the owner, I am responsible for determining the policies and operating procedures of RTG Sporting Collectibles, LLC. In doing so, I am responsible for ensuring RTG Sporting Collectibles, LLC complies with all applicable federal, state, and local laws, including California Penal Code sections 12060, 12061, and 12318.

3. I do not know what ammunition is "handgun ammunition" and thus subject to California Penal Code sections 12060, 12061, and 12318.

4. I do not know what ammunition is principally for use in a handgun. Nor do I know of any source from which I could determine what ammunition suitable for use in both rifles and handguns is principally for use in a handgun, and which is not principally for use in a handgun.

5. I also do not know which ammunition is exempt from California Penal Code sections 12060, 12061, and 12318 as ammunition "designed and intended to be used in 'antique firearms'" manufactured before 1898, because many cartridges of ammunition used in firearms manufactured before 1898 are also used in firearms manufactured after 1898, including cartridges sold by RTG Sporting Collectibles, LLC.

6. I also do not know whether law enforcement considers the ammunition that RTG Sporting Collectibles, LLC sells to be "handgun ammunition" under California Penal Code sections 12060, 12061, and 12318 since it is collectible ammunition, not intended to be fired.

7. I have reviewed the list of calibers the California Department of Justice provided in response to Plaintiffs' Specially Prepared Interrogatories, Set One as what it considers "handgun ammunition" for purposes of California Penal Code sections 12060, 12061, and 12318. RTG Sporting Collectibles, LLC sells various different types of cartridges in most all of those "calibers." For example, in ".25 caliber," it sells, among others, .25 ACP, .25 Rimfire Long, .25 Rimfire Short, 25-20 Single Shot, 25-20WCF, 25-35, and 250-3000. In ".32 caliber," it sells,

1 among others, .32 S&W, .32 S&W Long, .32 Short Colt, .32 Long Colt, .32 Ideal, .32-30, .32-40,
2 .32-40 Bullard, .32-40 Remington, .32-35 Stevens, .32-44, .32 Remington, .32 Special, .32 WSL,
3 .32 Ballard XL, .32 Short Rimfire, .32 XS Rimfire, and .32 Long Rimfire. In “.38 caliber,” it sells,
4 among others, .38 ACP, .38 Super, .38 Short Rimfire, .38 Long Rimfire, .38 XL Rimfire, .38 XL
5 Ballard, .38-45 Bullard, .38-40 Remington, .38-40 WCF, 38-44 S&W (Target and Gallery), 38-44
6 Special, .38-56, .38-70, .38-90, .38 S&W, .38 S&W Special. In “9mm caliber,” it sells, among
7 others, 9mm Luger, 9mm Mauser, 9mm Rimfire Long Shot and 9mm Rimfire Ball. In “.40
8 caliber,” it sells, among others, .40-50 Sharps (both Straight & Bottle-neck), .40-70 Sharps
9 (Straight & Bottle-neck), .40-90 Sharps (Straight & Bottle-neck), .40-70 WCF, .40-65 WCF, .40-
10 72, .40-82, .40-60 WCF, .40-60 Marlin, .40-75 Bullard, .40-75 WCF, .40-85 Ballard, .40-90
11 Bullard, .40-90 What Cheer, .401 Herters, .401 WSL, .405 WCF, and .40-110. In “.44 caliber,” it
12 sells, among others, .44 Magnum, .44 Colt, .44 S&W Spl, .44 Russian, .44 Remington, .44 M&H,
13 .44 WCF, .44-77, .44-90, .44 Evans, .44 Ballard Long & XL, .44 Henry, .44 Short Rimfire, .44
14 Long Rimfire, .44 XL, .44-60 Sharps/ Creedmoor, .44-95 What Cheer, and .44-100 Rem
15 Creedmoor. In “.45 caliber,” it sells, among others, .45 ACP, .45 AutoRim, .45 Colt, .45 S&W
16 Schofield, .45-70, .45-82, .45-85, .45-90, .45-75, .45 Sharps (4 diff lengths), and .45-125. Some
17 of the cartridges in each “caliber” listed by the Department of Justice are likely used more often in
18 rifles than in handguns, while others are likely used more often in handguns than in rifles.

19 8. RTG Sporting Collectibles, LLC also sells various different types of cartridges that
20 do not fall within any of the “calibers” listed by the Department of Justice. For example, in “.22
21 caliber,” dozens of .22 Rimfire cartridges, .22 Jet, .220 Swift, .219 Zipper, .218 Bee, .222
22 Remington, .222 Remington Magnum, .225 Winchester, and .22 Hornet. In “.30 caliber,” .30
23 Rimfire Short, .30 Rimfire Long, .30 Luger, .30-30, .30-40, .30-’06, .300 Savage, 30 Remington,
24 .300 H&H, and .30 Mauser. In “.35 caliber,” .35 S&W, .35 WSL, .35 WCF, .351 WSL, .35
25 Whelen, and .35 Newton. In “.41 caliber,” 41 Action Express, 41 Magnum, 41 Colt Short, 41
26 Swiss, and 41 Colt Long. In “.50 caliber,” .50-70, .50-100-450, 50-110, .50 Action Express, .50-
27 115 Bullard, and .50 Meigs. Some of the cartridges within each of these “calibers” excluded from
28

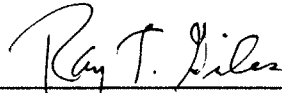
1 the Department of Justice's list are likely used more often in handguns than in rifles, while others
2 are likely used more often in rifles than in handguns.

3 9. Ammunition sales to California usually account for a significant portion of the
4 profit made by RTG Sporting Collectibles, LLC. For that reason, I would like to continue selling
5 ammunition to California residents, even if the provisions of California Penal Code sections
6 12061 and 12318 set to take effect on February 1, 2011 do in fact take effect; but I do not know
7 what ammunition I will be able to ship into California, because I do not know what ammunition is
8 "handgun ammunition" under California Penal Code sections 12060, 12061, and 12318.

9 10. Because I do not know what ammunition is "handgun ammunition" under
10 California Penal Code sections 12060, 12061, and 12318, I fear that I will be prosecuted for
11 unknowingly violating those statutes. For example, I fear prosecution under Penal Code section
12 12318 if I ship to a non-exempt California resident any ammunition that law enforcement deems
13 "handgun ammunition" even though I do not know what ammunition is "handgun ammunition"
14 nor what ammunition law enforcement will consider "handgun ammunition" under these laws.

15
16 I declare under penalty of perjury under the laws of the State of California that the
17 foregoing is true and correct.

18
19 Dated: November 30, 2010

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22 _____
23 Ray T. Giles
24 Owner, RTG Sporting Collectibles, LLC
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1 PROOF OF SERVICE

2 STATE OF CALIFORNIA

3 COUNTY OF FRESNO

4 I, Claudia Ayala, am employed in the City of Long Beach, Los Angeles County,
5 California. I am over the age eighteen (18) years and am not a party to the within action. My
business address is 180 East Ocean Blvd., Suite 200, Long Beach, California 90802.

6 On December 6, 2010, I served the foregoing document(s) described as
7 **DECLARATION OF RAY T. GILES IN SUPPORT OF**
8 **MOTION FOR SUMMARY JUDGMENT OR IN THE ALTERNATIVE**
9 **FOR SUMMARY ADJUDICATION AND TRIAL**

10 on the interested parties in this action by placing

11 ☐ the original

12 ☒ a true and correct copy

13 thereof enclosed in sealed envelope(s) addressed as follows:

14 Edmund G. Brown, Jr.
15 Attorney General of California
16 Zackery P. Morazzini
17 Supervising Deputy Attorney General
18 Peter A. Krause
19 Deputy Attorney General
20 1300 I Street, Suite 125
21 P.O. Box 944255
22 Sacramento, CA 94244-2550

23 (BY MAIL) As follows: I am "readily familiar" with the firm's practice of collection and
24 processing correspondence for mailing. Under the practice it would be deposited with the
25 U.S. Postal Service on that same day with postage thereon fully prepaid at Long Beach,
26 California, in the ordinary course of business. I am aware that on motion of the party
27 served, service is presumed invalid if postal cancellation date is more than one day after
28 date of deposit for mailing an affidavit.

Executed on December 6, 2010, at Long Beach, California.

29 (PERSONAL SERVICE) I caused such envelope to delivered by hand to the offices of the
addressee.

Executed on December 6, 2010, at Long Beach, California.

30 X (VIA OVERNIGHT MAIL) As follows: I am "readily familiar" with the firm's practice of
31 collection and processing correspondence for overnight delivery by UPS/FED-EX. Under
32 the practice it would be deposited with a facility regularly maintained by UPS/FED-EX for
33 receipt on the same day in the ordinary course of business. Such envelope was sealed and
34 placed for collection and delivery by UPS/FED-EX with delivery fees paid or provided for
35 in accordance with ordinary business practices.

Executed on December 6, 2010, at Long Beach, California.

36 X (STATE) I declare under penalty of perjury under the laws of the State of California that
37 the foregoing is true and correct.

38 
CLAUDIA AYALA