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12 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

13 **FOR THE COUNTY OF SAN DIEGO**

15 Coordination Proceeding
Special Title (Rule 1550 (b))

16 **FIREARMS CASE**

17 Including actions:

18 People, et al. v. Arcadia Machine & Tool,
19 Inc., et al.,

20 People, et al. v. Arcadia Machine & Tool,
21 Inc., et al.,

22 People, et al. v. Arcadia Machine & Tool,
23 Inc., et al.,

JUDICIAL COUNCIL COORDINATION
PROCEEDING NO. 4095

San Francisco Superior Court No. 303753
Los Angeles Superior Court No. BC210894
Los Angeles Superior Court No. BC214794

**DECLARATION OF CHRISTOPHER
SOVAK IN SUPPORT OF CERTAIN
DEFENDANTS' MOTION FOR AN
ORDER PRECLUDING EVIDENCE
THAT DEFENDANTS' ALLEGED
CONDUCT HAS CAUSED ACQUISITION
OF FIREARMS BY CRIMINALS AND
OTHER PROHIBITED PERSONS
(KEL-TEC CNC INDUSTRIES, INC.)**

DATE: July 19, 2002

TIME: 8:30 a.m.

DEPT.: 65

TRIAL DATE: April 23, 2003

Hon. Vincent P. DiFiglia

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DEC. OF SOVAK IN SUPPORT OF CERTAIN DEFENDANTS' MOTION FOR AN ORDER PRECLUDING EVIDENCE
THAT DEFENDANTS' ALLEGED CONDUCT HAS CAUSED ACQUISITION OF FIREARMS, ETC. (KEL-TEC CNC)

6/28/2002

1 I, Christopher Sovak, declare as follows:

2 1. I am associated with Renzulli, Piscioti and Renzulli, LLP. Our firm represents
3 defendant Kel-Tec CNC Industries, Inc. ("Kel-Tec") in this litigation.

4 2. On March 26, 2001 this Court issued an order, entitled "Order Compelling
5 Plaintiffs to Disclose Facts and Documents Relating to the Acquisitional History of Firearms
6 Recovered by Plaintiffs," requiring plaintiffs to produce documents in their possession in response
7 to Sturm, Ruger Requests for Production Nos. 1, 3, and 4 which reflect:

8 a.) how criminals and others acquired the firearms manufactured and/or sold by
9 defendants and previously identified by plaintiffs; and

10 b.) whether the manner of acquisition has a factual nexus to defendants'
11 "alleged conduct."

12 Kel-Tec has received documents from plaintiffs in discovery that have been produced in
13 purported compliance with the Court's March 26, 2001 Order. However, these documents do not
14 establish any factual nexus between the acquisition of firearms and the alleged conduct or business
15 practices of the defendant Kel-Tec and do not support the plaintiffs' claims against this defendant.

16 3. Plaintiffs' complaints allege that criminals and others who are not legally permitted
17 to acquire firearms do so through straw purchases, illegal sales by federally licensed retail dealers,
18 gun show sales, sales by so-called kitchen table dealers and thefts. Plaintiffs also allege that
19 acquisition of Kel-Tec firearms in these ways is attributable to Kel-Tec's business practices and
20 constitutes a public nuisance.

21
22 **EVIDENCE OF FIREARM ACQUISITION PRODUCED BY PLAINTIFFS**

23 4. The documents produced by plaintiffs have been reviewed by me and other
24 attorneys at our firm. The documents were reviewed for information which the Court ordered
25 plaintiffs to produce in its March 26, 2001 Order.

26 5. The documents and factual evidence plaintiffs' produced in alleged compliance this
27 Court's March 26, 2001 Order that identify Kel-Tec firearms are described below:

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1 a.) City of Berkeley

2 A comprehensive and detailed review of the documents that plaintiffs produced in
3 response to the Court's March 26, 2001 order reveals that the City of Berkeley has not produced
4 any documents reflecting the recovery of any Kel-Tec firearms from 1996-1999. Since the
5 plaintiffs did not recover a Kel-Tec firearm between 1996 and 1999, there is no factual support for
6 its claims that Kel-Tec firearms somehow pose a "public nuisance" in the City of Berkeley.

7 b.) City of San Francisco

8 The City of San Francisco has produced a property room database reflecting the recovery
9 of two (2) Kel-Tec firearms, however, this database does not contain any information as to how
10 these firearms were acquired. Accordingly, the City of San Francisco has failed to produce any
11 acquisitional evidence relating to the any of the plaintiffs' claims concerning Kel-Tec's business
12 practices. Moreover, there is no factual support for plaintiffs' claims that Kel-Tec firearms
13 somehow pose a "public nuisance" in the City of San Francisco.

14 c.) City of Oakland

15 Plaintiffs have produced documents that appear to be Oakland Police Department ("OPD")
16 incident reports that reflect the recovery of two (2) Kel-Tec firearms by the OPD from 1996 to
17 1999. Prior to this production, plaintiffs produced a property room database that identified five
18 (5) Kel-Tec firearms by serial number and report date only. A review of the serial numbers of
19 these firearms indicates that one of the firearms described in the incident reports is also recorded
20 in the database. The property room database does not contain any information regarding how
21 these firearms were acquired.

22 A comprehensive and detailed review of the documents produced under this Court's
23 March 26, 2001 Order reveals the following acquisitional evidence as identified as to Kel-Tec
24 firearms:

25 Straw Purchases	None
26 Gun Show Sales	None
27 Licensed Kitchen Table Dealer Sales	None
28 Theft	None

1 Illegal Sale by Federally Licensed Dealer -

2 In May, 1999 Sean P. Twoomey was charged with conspiracy, willfully selling firearms
3 without a license, and knowingly furnishing identification that was "likely to deceive" for the
4 purpose of obtaining firearms. Mr. Twoomey had fraudulently altered his Federal Firearms
5 License. Among the firearms that Mr. Twoomey fraudulently obtained and transferred were eight
6 (8) Kel-Tec firearms. Mr. Twoomey pleaded guilty to these charges and served a prison sentence.
7 (SFC 23085-24224).

8 There is no evidence in the documents identifying these criminal actions by third parties
9 that there exists any factual nexus between the wrongdoing described in this incident report and
10 Kel-Tec's conduct or "business practices."

11 d.) City of Sacramento

12 Plaintiffs have produced a document that appears to be a Sacramento Police Department
13 ("SPD") incident report that reflects the recovery of one (1) Kel-Tec firearm by the SPD from
14 1996 to 1999. Prior to this production, plaintiffs produced a property room database that
15 identified three (3) Kel-Tec firearms by serial number and report date only. A review of the serial
16 numbers indicates that the firearm reflected in the incident report is also recorded in the database.
17 The property room database and SPD incident report do not contain any information regarding
18 how these firearms were acquired.

19 A comprehensive and detailed review of the documents produced under this Court's
20 March 26, 2001 Order reveals the following acquisitional evidence as to identified Kel-Tec
21 firearms:

22 Straw Purchases	None
23 Illegal Sales by Federal Licensed Dealers	None
24 Gun Show Sales	None
25 Licensed Kitchen Table Dealer Sales	None
26 Theft	None

27 As illustrated above, plaintiffs did not produce any evidence of a factual nexus between the
28 manner of firearm acquisition in Sacramento and Kel-Tec's alleged business practices.

1 e.) **City of East Palo Alto**

2 A comprehensive and detailed review of the documents that plaintiffs produced in
3 response to the Court's March 26, 2001 Order reveals that the City of East Palo Alto has not
4 produced any documents reflecting the recovery of any Kel-Tec firearms from 1996-1999.
5 Accordingly, the City of East Palo Alto has failed to produce any acquisitional evidence
6 supporting its claims concerning Kel-Tec's alleged business practices. Moreover, since the
7 plaintiff did not recover any Kel-Tec firearms between 1996 and 1999, there is no factual support
8 for its claims that Kel-Tec firearms somehow pose a "public nuisance" to the City of East Palo
9 Alto.

10 f.) **County of San Mateo**

11 A comprehensive and detailed review of the documents that plaintiffs produced in
12 response to the Court's March 26, 2001 Order reveals that the County of San Mateo has not
13 produced any documents reflecting the recovery of any Kel-Tec firearms from 1996-1999.
14 Accordingly, the County of San Mateo has failed to produce any acquisitional evidence supporting
15 its claims concerning Kel-Tec's alleged business practices. Moreover, since the plaintiff did not
16 recover any Kel-Tec firearms between 1996 and 1999, there is no factual support for its claims
17 that Kel-Tec firearms somehow pose a "public nuisance" in San Mateo County.

18 g.) **County of Alameda**

19 Plaintiffs have produced a document that appears to be a Alameda County Sheriff's
20 Department ("ASCD") incident report that reflects the recovery of one (1) Kel-Tec firearm by the
21 ASCD from 1996 to 1999. Prior to this production, plaintiffs produced a property room database
22 that did not identify any Kel-Tec firearms recovered by the ASCD.

23 A comprehensive and detailed review of the documents produced under this Court's
24 March 26, 2001 Order reveals the following acquisitional evidence as to identified Kel-Tec
25 firearms:

26 Straw Purchases	None
27 Illegal Sales by Federal Licensed Dealers	None
28 Gun Show Sales	None

1 Licensed Kitchen Table Dealer Sales None

2 Theft None

3 As illustrated above, plaintiffs did not produce any evidence of a factual nexus between the
4 manner of firearm acquisition in Alameda County and Kel-Tec's alleged business practices.
5 Moreover, plaintiff's have failed to present any evidence that Kel-Tec firearms somehow pose a
6 "public nuisance" in Alameda County.

7 h.) **City of Inglewood**

8 Plaintiffs have produced documents that appear to be Inglewood Police Department
9 ("IPD") incident reports that reflect the recovery of three (3) Kel-Tec firearms by the IPD from
10 1996 to 1999. Prior to this production, plaintiffs produced a property room database that
11 identified three (3) Kel-Tec firearms by serial number and report date only. These are the same
12 firearms which appear in IPD's incident reports. The property room database does not contain any
13 information regarding how these firearms were acquired.

14 A comprehensive and detailed review of the documents produced under this Court's
15 March 26, 2001 Order reveals the following acquisitional evidence as to identified Kel-Tec
16 firearms:

17 Straw Purchases None

18 Illegal Sales by Federal Licensed Dealers None

19 Gun Show Sales None

20 Licensed Kitchen Table Dealer Sales None

21 Theft None

22 As illustrated above, plaintiffs did not produce any evidence of a factual nexus between the
23 manner of firearm acquisition in the City of Inglewood and Kel-Tec's alleged business practices.
24 Moreover, there is no factual support for plaintiffs' claims that Kel-Tec firearms somehow pose a
25 "public nuisance" in the City of Inglewood.

26 i.) **City of Compton**

27 A comprehensive and detailed review of the documents that plaintiffs produced in
28 response to the Court's March 26, 2001 Order reveals that the City of Compton has not produced

1 any documents reflecting the recovery of a Kel-Tec firearm from 1996-1999. Accordingly, the
2 City of Compton has failed to produce any acquisitional evidence supporting any of its claims
3 concerning Kel-Tec's business practices. Moreover, since plaintiffs did not recover any Kel-Tec
4 firearms between 1996 and 1999, there is no factual support for their claims that Kel-Tec firearms
5 somehow pose a "public nuisance" in the City of Compton.

6 j.) County of Los Angeles

7 Plaintiffs have produced documents that appear to be Los Angeles County Police
8 Department ("LACPD") incident reports that reflect the recovery of five (5) Kel-Tec firearms by
9 the LACPD from 1996 to 1999. Prior to this production, plaintiffs produced a property room
10 database that identified eleven (11) Kel-Tec firearms by serial number and report date only. The
11 property room database does not contain any information regarding how these firearms were
12 acquired.

13 A comprehensive and detailed review of the documents produced under this Court's
14 March 26, 2001 Order reveals the following acquisitional evidence as to identified Kel-Tec
15 firearms:

16 Straw Purchases	None
17 Illegal Sales by Federal Licensed Dealers	None
18 Gun Show Sales	None
19 Licensed Kitchen Table Dealer Sales	None

20 Theft - Plaintiffs produced an incident report that suggests one of the Kel-Tec firearms
21 recovered by the LACPD was reported stolen prior to its recovery (LA-CO 69750-69755).
22 However, the incident report does not contain any details or information that would suggest that
23 Kel-Tec's alleged conduct or business practices in any way contributed to, or could have
24 prevented this theft.

25 As illustrated above, plaintiffs have not produced any evidence demonstrating a factual
26 nexus between the manner of firearm acquisition in the County of Los Angeles and Kel-Tec's
27 alleged business practices.

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1 k.) City of Los Angeles

2 Plaintiffs have produced documents that appear to be Los Angeles Police Department
3 ("LAPD") incident reports that reflect the recovery of four (4) Kel-Tec firearms by the LAPD
4 from 1996 to 1999. Prior to this production, plaintiffs produced a property room database that did
5 not identify any Kel-Tec firearms recovered by the LAPD.

6 A comprehensive and detailed review of the documents produced under this Court's
7 March 26, 2001 Order reveals the following acquisitional evidence as to identified Kel-Tec
8 firearms:

9 Straw Purchases	None
10 Illegal Sales by Federal Licensed Dealers	None
11 Gun Show Sales	None
12 Licensed Kitchen Table Dealer Sales	None

13 Theft - Plaintiffs produced an incident report that suggests one of the Kel-Tec firearms
14 recovered by the LAPD may have been reported stolen (2 LA CITY 013361, Police Case # 99-
15 1737904). However, the documents do not provide the circumstances surrounding the alleged
16 theft. As such, there has been no evidence presented which suggests that Kel-Tec caused,
17 contributed to, or could have prevented this theft.

18 As illustrated above, plaintiffs have not produced any evidence demonstrating a factual
19 nexus between the manner of firearm acquisition in the City of Los Angeles and Kel-Tec's alleged
20 business practices.

21 I declare under penalty of perjury under the laws of the State of California that the
22 foregoing is true and correct.

23
24 June 28, 2002

Christopher J. Sovak
Christopher J. Sovak

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