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10  
11 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
12 COUNTY OF SAN DIEGO

13 Coordination Proceeding  
14 Special Title (Rule 1550(b))

15 FIREARM CASE

16 This Document Relates to:

17 *The People of the State of California, et al.*  
*v. Arcadia Machine & Tool, Inc., et al.*, San  
18 Francisco Superior Court, Case No. 303753;  
City of Los Angeles Case No. BC210894;  
19 County of Los Angeles Case No. BC214794

) 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 JONANN E. CONIGLIO**  
) **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**  
)

) DATE: July 19, 2002  
) TIME: 8:30 a.m.  
) DEPT: 65  
) TRIAL: April 23, 2003  
)  
) Hon. Vincent P. DiFiglia

1 I, Jonann E. Coniglio, declare as follows:

2 1. I am admitted pro hac vice in this case and am counsel for Browning Arms  
3 Company.

4 2. Browning Arms Company has received documents from plaintiffs in discovery  
5 which have been produced in purported compliance with the Court's March 26, 2001 order. The  
6 March 26, 2001 order, titled "Order Compelling Plaintiffs to Disclose Facts and Documents  
7 Relating to the Acquisitional Firearms Recovered by Plaintiffs," required plaintiffs to produce  
8 "documents in their possession in response to Browning Arms Company Requests for Production  
9 Nos. 1, 3 and 4 which reflect

- 10 a) how criminals and others acquired the firearms  
11 manufactured and/or sold by defendants and previously  
12 identified by plaintiffs and  
13 b) whether the manner of acquisition has a factual nexus to  
14 defendants' "alleged conduct."

15 3. The documents produced by plaintiffs in alleged compliance with this Court's  
16 March 26, 2002 order which identify Browning Arms Company firearms are described below:

17 a) City of Berkeley. Documents have been produced which reflect the  
18 recovery of perhaps five Browning Arms Company firearms from 1996 to 1999. The documents  
19 appear to be Police Department incident reports.

20 b) City of San Francisco. Documents have been produced which reflect the  
21 recovery of perhaps eighty-five Browning Arms Company firearms from 1996 to 1999. The  
22 documents appear to be Police Department incident reports.

23 c) City of Oakland. Documents have been produced which reflect the  
24 recovery of perhaps eighty-two Browning Arms Company firearms from 1996 to 1999. The  
25 documents appear to be Police Department incident reports.

26 d) City of Sacramento. Documents have been produced which reflect the  
27 recovery of perhaps one hundred twenty-nine Browning Arms Company firearms from 1996 to  
28 1999. The documents appear to be Police Department incident reports.

1 e) City of East Palo Alto. Documents have been produced which reflect the  
2 recovery of perhaps three Browning Arms Company firearms from 1996 to 1999. The  
3 documents appear to be Police Department incident reports.

4 f) County of San Mateo. Documents have been produced which reflect the  
5 recovery of perhaps thirty Browning Arms Company firearms from 1996 to 1999. The  
6 documents appear to be Police Department incident reports.

7 g) County of Alameda. Documents have been produced which reflect the  
8 recovery of perhaps three Browning Arms Company firearms from 1996 to 1999. The  
9 documents appear to be Police Department incident reports.

10 h) City of Inglewood. Documents have been produced which reflect the  
11 recovery of perhaps eleven Browning Arms Company firearms from 1996 to 1999. The  
12 documents appear to be Police Department incident reports.

13 i) City of Compton. Documents have been produced which reflect the  
14 recovery of perhaps six Browning Arms Company firearms from 1996 to 1999. The documents  
15 appear to be Police Department incident reports.

16 j) County of Los Angeles. Documents have been produced which reflect the  
17 recovery of perhaps three hundred sixty one Browning Arms Company firearms from 1996 to  
18 1999. The documents appear to be Police Department incident reports.

19 k) City of Los Angeles. Documents have been produced which reflect the  
20 recovery of perhaps two hundred forty-three Browning Arms Company firearms from 1996 to  
21 1999. The documents appear to be Police Department incident reports.

22 4. The documents described above have been reviewed by me and individuals under  
23 my direct supervision. The documents were reviewed for information which the Court ordered  
24 produced in its March 26, 2001 order: factual evidence demonstrating the manner in which a  
25 criminal or some other person acquired the firearm and factual evidence demonstrating a factual  
26 nexus between the manner of acquisition and Browning Arms Company's alleged conduct.

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6. A comprehensive and detailed review of the documents produced by plaintiffs under this Court's March 26, 2001 order reveals the following acquisitional evidence as to identified Browning Arms Company firearms:

(i) **Straw Purchases.** There is **no evidence** in the documents produced identified Browning Arms Company firearms recovered by the Berkeley Police as sold to a straw purchaser.

(iii) Gun Show Sales. There is **no evidence** in the documents produced that any of the identified Browning Arms Company firearms recovered by the Berkeley Police Department was sold at a gun show.

(v) Theft. There is evidence that **one** of the identified Browning Arms Company firearms recovered was acquired as a result of a theft. The specific circumstances surrounding the theft are not noted. [Bates # BER 5114-5140]

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1                   b)     City of San Francisco.

2                   (i)     Straw Purchases. There is **no evidence** in the documents produced  
3 that any of the identified Browning Arms Company firearms recovered was sold to a straw  
4 purchaser.

5                   (ii)    Illegal Sales By Federally Licensed Dealers. There is **no evidence**  
6 in the documents produced that any of the identified Browning Arms Company firearms was  
7 illegally sold by a federally licensed dealer.

8                   (iii)   Gun Show Sales. There is **no evidence** in the documents produced  
9 that any of the identified Browning Arms Company firearms was sold at a gun show.

10                  (iv)    Sales By Licensed Kitchen Table Dealers. There is **no evidence** in  
11 the documents produced that any of the identified Browning Arms Company firearms recovered  
12 was sold by a licensed dealer operating out of his and her residential dwelling.

13                  (v)     Theft. There is evidence that **three** of the identified Browning  
14 Arms Company firearms recovered were acquired as a result of a theft. One theft was from the  
15 suspect's employer. [Bates # SFC 00354-03393]. The specific circumstances surrounding the  
16 other two thefts are not noted. [Bates # SFC 02888-02943; 03335-03349]

17                   c)     City of Oakland.

18                   (i)     Straw Purchases. There is **no evidence** in the documents produced  
19 that any of the identified Browning Arms Company firearms recovered was sold to a straw  
20 purchaser.

21                   (ii)    Illegal Sales By Federally Licensed Dealers. There is **no evidence**  
22 in the documents produced that any of the identified Browning Arms Company firearms was  
23 illegally sold by a federally licensed dealer.

24                   (iii)   Gun Show Sales. There is **no evidence** in the documents produced  
25 that any of the identified Browning Arms Company firearms was sold at a gun show.

26                   (iv)    Sales By Licensed Kitchen Table Dealers. There is **no evidence** in  
27 the documents produced that any of the identified Browning Arms Company firearms recovered  
28 was sold by a licensed dealer operating out of his and her residential dwelling.

1 (v) Theft. There is evidence that **four** of the identified Browning Arms  
2 Company firearms recovered were acquired as a result of a theft. One instance involved  
3 burglary of an office [Bates # OAK 013647-013698] The specific circumstances surrounding  
4 the other thefts are not noted.[Bates # OAK 031647-031698; 031033-031053; 025925-025931;  
5 006707-006727]

6 d) City of Sacramento.

7 (i) Straw Purchases. There is **no evidence** in the documents produced  
8 that any of the identified Browning Arms Company firearms recovered was sold to a straw  
9 purchaser.

10 (ii) Illegal Sales By Federally Licensed Dealers. There is **no evidence**  
11 in the documents produced that any of the identified Browning Arms Company firearms was  
12 illegally sold by a federally licensed dealer.

13 (iii) Gun Show Sales. There is evidence in the documents produced that  
14 **one** identified Browning Arms Company firearm was sold at a gun show. [Bates # SAC  
15 0005373-0005463]

16 (iv) Sales By Licensed Kitchen Table Dealers. There is **no evidence** in  
17 the documents produced that any of the identified Browning Arms Company firearms recovered  
18 was sold by a licensed dealer operating out of his and her residential dwelling.

19 (v) Theft. There is evidence that **five** of the identified Browning Arms  
20 Company firearms recovered were acquired as a result of a theft. The specific circumstances  
21 surrounding the thefts are not noted. [Bates #SAC 0013938-0013967; 0007891-0007912;  
22 0007684-0007703; 0003466-0003468; 0028397-0028403]

23 e) City of East Palo Alto.

24 (i) Straw Purchases. There is **no evidence** in the documents produced  
25 that any of the identified Browning Arms Company firearms recovered by the East Palo Alto  
26 Police Department was sold to a straw purchaser.

27 (ii) Illegal Sales By Federally Licensed Dealers. There is **no evidence**  
28 in the documents produced that any of the identified Browning Arms Company firearms

1 recovered by the East Palo Alto Police Department was illegally sold by a federally licensed  
2 dealer.

3 (iii) Gun Show Sales. There is **no evidence** in the documents produced  
4 that any of the identified Browning Arms Company firearms recovered by the East Palo Alto  
5 Police Department was sold at a gun show.

6 (iv) Sales By Licensed Kitchen Table Dealers. There is **no evidence** in  
7 the documents produced that any of the identified Browning Arms Company firearms recovered  
8 by the East Palo Alto Police Department was sold by a licensed dealer operating out of his and  
9 her residential dwelling.

10 (v) Theft. There is evidence that **two** of the identified Browning Arms  
11 Company firearms recovered by the East Palo Alto Police Department were possessed by  
12 individuals who knew the guns had been stolen. In one instance, a firearm was stolen from the  
13 National Shooting Club after thieves broke out glass, cut a heavy duty case hardened pad lock,  
14 opened metal gates and violated an alarm. The specific circumstances surrounding the other theft  
15 is not disclosed. [Bates # EPA 122-161]

16 f) County of San Mateo.

17 (i) Straw Purchases. There is **no evidence** in the documents produced  
18 that any of the identified Browning Arms Company firearms recovered was sold to a straw  
19 purchaser.

20 (ii) Illegal Sales By Federally Licensed Dealers. There is **no evidence**  
21 in the documents produced that any of the identified Browning Arms Company firearms was  
22 illegally sold by a federally licensed dealer.

23 (iii) Gun Show Sales. There is **no evidence** in the documents produced  
24 that any of the identified Browning Arms Company firearms was sold at a gun show.

25 (iv) Sales By Licensed Kitchen Table Dealers. There is **no evidence** in  
26 the documents produced that any of the identified Browning Arms Company firearms recovered  
27 was sold by a licensed dealer operating out of his and her residential dwelling.

28 (v) Theft. There is evidence that **one** of the identified Browning Arms

1 Company firearms recovered was acquired as a result of a theft. The specific circumstances  
2 surrounding the theft are not noted. [Bates # SMC 04083-04086]

3 g) County of Alameda.

4 (i) Straw Purchases. There is **no evidence** in the documents produced  
5 that any of the identified Browning Arms Company firearms recovered was sold to a straw  
6 purchaser.

7 (ii) Illegal Sales By Federally Licensed Dealers. There is **no evidence**  
8 in the documents produced that any of the identified Browning Arms Company firearms was  
9 illegally sold by a federally licensed dealer.

10 (iii) Gun Show Sales. There is **no evidence** in the documents produced  
11 that any of the identified Browning Arms Company firearms was sold at a gun show.

12 (iv) Sales By Licensed Kitchen Table Dealers. There is **no evidence** in  
13 the documents produced that any of the identified Browning Arms Company firearms recovered  
14 was sold by a licensed dealer operating out of his and her residential dwelling.

15 (v) Theft. There is **no evidence** in the documents produced that any of  
16 the identified Browning Arms Company firearms recovered was acquired by theft.

17 h) City of Inglewood.

18 (i) Straw Purchases. There is **no evidence** in the documents produced  
19 that any of the identified Browning Arms Company firearms recovered was sold to a straw  
20 purchaser.

21 (ii) Illegal Sales By Federally Licensed Dealers. There is **no evidence**  
22 in the documents produced that any of the identified Browning Arms Company firearms was  
23 illegally sold by a federally licensed dealer.

24 (iii) Gun Show Sales. There is **no evidence** in the documents produced  
25 that any of the identified Browning Arms Company firearms was sold at a gun show.

26 (iv) Sales By Licensed Kitchen Table Dealers. There is **no evidence** in  
27 the documents produced that any of the identified Browning Arms Company firearms recovered  
28 was sold by a licensed dealer operating out of his and her residential dwelling.



1 (v) Theft. There is evidence that **two** of the identified Browning Arms  
2 Company firearms recovered were acquired as a result of a theft. The specific circumstances  
3 surrounding the thefts are not noted. [Bates # ING 000952-000960; 1003-1014]

4 i) City of Compton.

5 (i) Straw Purchases. There is **no evidence** in the documents produced  
6 that any of the identified Browning Arms Company firearms recovered was sold to a straw  
7 purchaser.

8 (ii) Illegal Sales By Federally Licensed Dealers. There is **no evidence**  
9 in the documents produced that any of the identified Browning Arms Company firearms was  
10 illegally sold by a federally licensed dealer.

11 (iii) Gun Show Sales. There is **no evidence** in the documents produced  
12 that any of the identified Browning Arms Company firearms was sold at a gun show.

13 (iv) Sales By Licensed Kitchen Table Dealers. There is **no evidence** in  
14 the documents produced that any of the identified Browning Arms Company firearms recovered  
15 was sold by a licensed dealer operating out of his and her residential dwelling.

16 (v) Theft. There is **no evidence** in the documents produced that any of  
17 the identified Browning Arms Company recovered was acquired as a result of a theft.

18 j) County of Los Angeles.

19 (i) Straw Purchases. There is **no evidence** in the documents produced  
20 that any of the identified Browning Arms Company firearms recovered was sold to a straw  
21 purchaser.

22 (ii) Illegal Sales By Federally Licensed Dealers. There is **no evidence**  
23 in the documents produced that any of the identified Browning Arms Company firearms was  
24 illegally sold by a federally licensed dealer.

25 (iii) Gun Show Sales. There is **no evidence** in the documents produced  
26 that any of the identified Browning Arms Company firearms was sold at a gun show.

27 (iv) Sales By Licensed Kitchen Table Dealers. There is **no evidence** in  
28 the documents produced that any of the identified Browning Arms Company firearms recovered

1 was sold by a licensed dealer operating out of his and her residential dwelling.

2 (v) Theft. There is evidence that **three** of the identified Browning  
3 Arms Company firearms recovered were acquired as a result of a theft. The specific  
4 circumstances surrounding the thefts are not noted. [Bates # LA CO 0031488-0031504; 003157-  
5 0031522; 0034985-0034994

6 k) City of Los Angeles.

7 (i) Straw Purchases. There is **no evidence** in the documents produced  
8 that any of the identified Browning Arms Company firearms recovered was sold to a straw  
9 purchaser.

10 (ii) Illegal Sales By Federally Licensed Dealers. There is **evidence** in  
11 the documents produced that **one** Browning firearm was improperly sold by a federally licensed  
12 dealer. [LA City 003661-0036632; 024990-025012]

13 (iii) Gun Show Sales. There is **no evidence** in the documents produced  
14 that any of the identified Browning Arms Company firearms was sold at a gun show.

15 (iv) Sales By Licensed Kitchen Table Dealers. The documents  
16 produced indicate **three** Browning firearms were sold by a licensed dealer operating out of his  
17 and her residential dwelling. [LA CITY 027366-027452; LA CITY 0038988-0039074]. **Seven**  
18 guns were confiscated due to the seller not having a local business permit to sell firearms. [LA  
19 CITY 027366- 027391; 027392-027452; 038988-039325]

20 (v) Theft. There is evidence that **twenty-four** of the identified  
21 Browning Arms Company firearms recovered were acquired as a result of a theft. Nine of those  
22 guns appear to have been stolen during the course of burglaries variously from businesses,  
23 residents, and a car.[LA CITY 0032888-0032109; 2 LACITY 010356-010358 and DR 98-  
24 1034467; LA CITY 044870-0044876; DR 98-1730045; DR 981425667; DR98-1800697; DR 98-  
25 1060778; DR 98-1028665; DR 99-1024916; 2 LA CITY 000468-000484; 2 LA CITY 000237-  
26 000241] The specific circumstances surrounding the other thefts are not noted. [Bates # 2 LA  
27 City 006055-006065; LA CITY 0042890-0042903; DR98-1750252; DR 980818851; DR 98-  
28 0513590; DR 991627932; LA CITY 0035410-0035426; LA CITY 0033429-0033430; DR

1 981215356; DR 98-0313541; DR 98-0211082; 2LA CITY 012830-012848; 2LA CITY 009762-  
2 009767]

3  
4 **THERE IS NO EVIDENCE OF A FACTUAL NEXUS BETWEEN**  
5 **THE MANNER OF ACQUISITION AND**  
6 **BROWNING ARMS COMPANY'S**  
7 **ALLEGED BUSINESS PRACTICES**

8 7. In their complaints, plaintiffs allege that criminal and improper acquisition of  
9 Browning Arms Company firearms was caused by Browning Arms Company's business practices.  
10 In sum, review of the documents produced by plaintiffs under this Court's March 26, 2001 order  
11 reveals absolutely no factual nexis between any action by Browning Arms Company, direct or  
12 indirect, and the criminal or otherwise improper acquisition and use of firearms.

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

15 Dated: June 28, 2002

16 Jonann Coniglio  
17 JONANN E. CONIGLIO  
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