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5 **NATIONAL SHOOTING SPORTS FOUNDATION, INC.**
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9 Attorneys for Petitioners U.S. Firearms Company LLC, Eric Fisher, and
 10 The National Shooting Sports Foundation, Inc.

SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF SANTA CLARA

<p>13 U.S. FIREARMS COMPANY LLC, a 14 limited liability company; ERIC W. FISHER; and THE NATIONAL 15 SHOOTING SPORTS FOUNDATION, INC., a non-profit trade association, 16 Petitioners, 17 v. 18 19 CITY OF SUNNYVALE; THE SUNNYVALE CITY COUNCIL; and 20 DOES 1 through 30, inclusive, 21 Respondents.</p>	<p>) CASE NO.)) DECLARATION OF ERIC W. FISHER IN) SUPPORT OF PETITIONERS' EX PARTE) APPLICATION FOR TEMPORARY) RESTRAINING ORDER AND ORDER TO) SHOW CAUSE RE: PRELIMINARY) INJUNCTION)) Date:) Time:) Dept:) Judge:)) Complaint Filed;) Trial Date: None</p>
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Eric W. Fisher declares:

1. I am the managing member for U.S. Firearms Company LLC ("U.S. Firearms"), a California limited liability company maintaining its sole place of business at 590 S. Mary Street, Sunnyvale, California 94086.
2. Since October 2010, I have been involved in all aspects of the day-to-day operations of U.S. Firearms, including sale of firearms and ammunition.

1 3. U.S. Firearms operates a full service retail gun store offering firearms
2 training and gunsmithing services, as well as the sale of firearms, ammunition, and
3 firearms accessories.

4 4. U.S. Firearms is licensed under federal law by the Bureau of Alcohol,
5 Tobacco, Firearms and Explosives. A true and correct copy of U.S. Firearms' federal
6 license is attached as Exhibit "A."

7 5. U.S. Firearms opened for business at its current address in October 2010.
8 Since then, the company has fully complied with all federal, state, and local laws
9 applicable to the sale of firearms and ammunition.

10 6. U.S. Firearms is mindful of its customers' privacy, and does not share
11 customer personal information with third parties unless authorized by the customer,
12 except as required under federal and state regulations applicable to firearms sellers.

13 7. I closely followed the arguments put forward by Sunnyvale Citizens for
14 Sensible Gun Measures ("SV4SGM"), the proponents of the ballot measure approving
15 certain firearms-related regulations in Sunnyvale ("Measure C"), during the run-up to the
16 November 2013 special election. SV4SGM's website stated the group's position on the
17 various provisions of Measure C. A true and correct copy of a printout from SV4SGM's
18 website explaining its position on the ammunition sales recordkeeping and reporting
19 requirements, http://www.sv4sgm.org/ammunition_records.html, is attached as Exhibit
20 "B."

21 **IRREPARABLE INJURY**

22 8. In 2011, U.S. Firearms ammunition sales were about \$43,500. In 2011,
23 ammunition sales were about \$54,400. In 2013 to date, ammunition sales have been
24 about \$119,100. Ammunition sales have been an important, profitable part of the
25 business.

26 9. During the last several months, I have had numerous conversations with
27 U.S. Firearms ammunition customers about the recordkeeping and reporting
28 requirements on ammunition sales mandated by section 9.44.060 of Measure C.

1 Without exception, these customers have objected to the collection of their personal
2 information for tracking and monitoring their ammunition purchases. Many have told me
3 that if Measure C passes, they will purchase ammunition from stores in adjacent cities
4 which do not have a requirement for collecting personal information in connection with
5 the purchase of ammunition.

6 10. Within about five miles of U.S. Firearms, there are at least four other sellers
7 of ammunition located in cities without ammunition sales disclosure requirements:

8 (a) Kerley's Hunting & Outfitting, 20301 Stevens Creek Boulevard, Cupertino,
9 California 95014;

10 (b) Eddy's Shooting Sports, 400 Moffett Boulevard, Mountain View, California
11 94043;

12 (c) Bay Area Gun Vault, 363 West El Camino Real, Mountain View, California
13 94040; and

14 (d) Reed's Indoor Range, 1100 Duane Avenue, Santa Clara, California 95054.

15 11. Based on my conversations with customers, I presently believe that the
16 ammunition sales recordkeeping and reporting requirements mandated by section
17 9.44.060 in Measure C will deter law-abiding, regular customers of U.S. Firearms from
18 buying ammunition here.

19 12. As a result of these conversations with customers, I believe that U.S.
20 Firearms will lose ammunition sales, and will lose these customers altogether to out-of-
21 town sellers. If that occurs, not only will U.S. Firearms ammunition sales be negatively
22 impacted, but sales of firearms as well. Many customers first enter U.S. Firearms to
23 purchase ammunition and then, as a result of seeing firearms in the store, purchase
24 firearms there. If this Ordinance remains in effect, U.S. Firearms will lose those firearms
25 sales. It would be very difficult to determine an amount which would adequately
26 compensate U.S. Firearms for all of these losses, including the loss of goodwill value to
27 the company resulting from lost customers.

28

1 13. I am familiar with the buying habits of many U.S. Firearms ammunition
2 customers, who shop regularly at the store. If a person were to collect information
3 concerning each customer's ammunition purchases, such as the type and quantity of
4 ammunition bought and the date of sale, they could create a database with individual
5 profiles on each customer. The profiles would necessarily reveal the type of firearms
6 owned by each customer and the frequency of use. Collection of such data over time
7 would enable that person to monitor customers' firearm use on a permanent basis.
8 Federal and state laws do not require the dissemination to law enforcement of such
9 information on firearms sales.

10 **LOST AMMUNITION SALES DUE TO REGISTRATION REQUIREMENT**

11 14. On December 5, 2013, I received an Ammunition Registration Form from
12 the City of Sunnyvale, a true and correct copy of which is attached as Exhibit C.

13 15. On December 6, 2013, I began using the Ammunition Registration Form at
14 U.S. Firearms. During the first four hours of operation, four customers came into the
15 store to buy ammunition. Three of the customers were unwilling to purchase when they
16 learned of the requirement that they provide the personal information required on the
17 Ammunition Registration Form. As a result, U.S. Firearms lost about \$1,100 in
18 ammunition sales.

19 16. I regularly purchase ammunition from U.S. Firearms for my personal use. I
20 consider the information required by section 9.44.060 in Measure C to be an invasion of
21 my right of privacy.

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

24 Executed on December 9, 2013, at Sunnyvale, California.

25
26 
27 _____
28 Eric W. Fisher

EXHIBIT A

U.S. Department of Justice
Bureau of Alcohol, Tobacco, Firearms and Explosives

Federal Firearms License (18 U.S.C. Chapter 44)

In accordance with the provisions of Title I, Gun Control Act of 1968, and the regulations issued thereunder (27 CFR Part 478), you are licensed to engage in the business specified in this license, within the limitations of Chapter 44, Title 18, United States Code, and the regulations issued thereunder, until the expiration date shown. **THIS LICENSE IS NOT TRANSFERABLE UNDER 27 CFR 478.51.** See "WARNINGS" and "NOTICES" on reverse.

Direct ATF Correspondence To	ATF - Chief, FFLC 244 Needy Road Martinsburg, WV 25405-9431	License Number	9-77-085-01-6F-02138
Chief, Federal Firearms Licensing Center (FFLC)	<i>Tracy Robertson</i>	Expiration Date	June 1, 2016
Name	U S FIREARMS COMPANY LLC		

Premises Address (Changes? Notify the FFLC at least 30 days before the move.)
**590 S MARY AVE
 SUNNYVALE, CA 94087-**

Type of License
01-DEALER IN FIREARMS OTHER THAN DESTRUCTIVE DEVICES

Purchasing Certification Statement
 The licensee named above shall use a copy of this license to assist a transferor of firearms to verify the identity and the licensed status of the licensee, as provided by 27 CFR Part 478. The signature on each copy must be an original signature. A faxed, scanned or e-mailed copy of the license with a signature intended to be an original signature is acceptable. The signature must be that of the Federal Firearms Licensee (FFL) or a responsible person of the FFL. I certify that this is a true copy of a license issued to the licensee named above to engage in the business specified above under "Type of License."

Mailing Address (Changes? Notify the FFLC of any changes.)

U.S. FIREARMS COMPANY LLC
590 S MARY AVE
SUNNYVALE, CA 94087-

Licensee/Responsible Person Signature <i>EW FISHER</i>	Position/Title OWNER
Printed Name EW FISHER	Date 7-16-13

Federal Firearms License (FFL) Customer Service Information

Federal Firearms Licensing Center (FFLC) 244 Needy Road Martinsburg, WV 25405-9431	Toll-free Telephone Number: (866) 662-2750 Toll-free Fax Number: (866) 257-2749 E-mail: NLC@atf.gov	ATF Homepage: www.atf.gov FFL eZ Check: www.atfonline.gov/fflcheck
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Change of Address (27 CFR 478.52). Licensees may during the term of their current license remove their business or activity to a new location at which they intend regularly to carry on such business or activity by filing an Application for an Amended Federal Firearms License, ATF Form 5300.38, in duplicate, not less than 30 days prior to such removal with the Chief, Federal Firearms Licensing Center. The application must be executed under the penalties of perjury and penalties imposed by 18 U.S.C. 924. The application shall be accompanied by the licensee's original license. The license will be valid for the remainder of the term of the original license. (The Chief, FFLC, shall, if the applicant is not qualified, refer the application for amended license to the Director of Industry Operations for denial in accordance with § 478.71.)

Right of Succession (27 CFR 478.56). (a) Certain persons other than the licensee may secure the right to carry on the same firearms or ammunition business at the same address shown on, and for the remainder of the term of, a current license. Such persons are: (1) The surviving spouse or child, or executor, administrator, or other legal representative of a deceased licensee; and (2) A receiver or trustee in bankruptcy, or an assignee for benefit of creditors. (b) In order to secure the right provided by this section, the person or persons continuing the business shall furnish the license for that business for endorsement of such succession to the Chief, FFLC, within 30 days from the date on which the successor begins to carry on the business.

Put Here X

(Continued on reverse side)

Federal Firearms License (FFL) Information Card

License Name: **U S FIREARMS COMPANY LLC**

Business Name:

License Number: **9-77-085-01-6F-02138**

License Type: **01-DEALER IN FIREARMS OTHER THAN DESTRUCTIVE DEVICES**

Expiration: **June 1, 2016**

Please Note: Not Valid for the Sale or Other Disposition of Firearms.

FFL Newsletter - Electronic Version Available

Sign-Up Today!

FFLs interested in receiving the electronic version of the FFL Newsletter, along with occasional additional information, should submit name, FFL number, and e-mail address to: FFLNewsletter@atf.gov.

The electronic FFL Newsletter will enable ATF to communicate information to licensees on a periodic basis.

EXHIBIT B



Yes on C

GUN SAFETY FOR SUNNYVALE

December 4, 2013

DONATE

home

Measure C

Report stolen firearms

Lock your guns

No high-capacity magazines

Keep records of ammunition sales

state bills

links

contact

UPCOMING EVENTS

Yes on C Kickoff Event:

Sunday, September 8, 2 p.m.
Flower Cottage
465 N. Wolfe Road
Sunnyvale
[Download flyer!](#)

To support this effort, contact us at info@sv4sgm.org.

Vote YES on Measure C in November!

Sunnyvale Citizens for Sensible Gun Measures is an active organization of Sunnyvale residents supporting reasonable gun measures.

We're lucky—there is relatively little gun violence in Sunnyvale. In other parts of the Bay Area, guns destroy lives every day; across America, unspeakable mass shootings continue to happen. And special interests which place their own economic gain and political power above our national safety and sanity have so far made sure that Congress does nothing.

We refuse to do nothing. *Sunnyvale Citizens for Sensible Gun Measures* is asking you to support the following measure on the November ballot in Sunnyvale. The key provisions are:

1. Lost or stolen firearms must be reported to the DPS within 48 hours of the time that the owner knows or reasonably should know that a firearm is lost or stolen. [More details](#)

2. No person may keep a firearm within a residence owned or controlled by that person unless the firearm is stored in a locked container or disabled with a trigger lock or other safety device, unless the firearm is in the person's immediate possession and control. [More details](#)

3. No person may own or possess ammunition magazines that have the capacity to hold more than 10 rounds of ammunition. [More details](#)

4. Dealers must procure a permit to sell ammunition and must keep a record of ammunition sales that includes name, date, identity of purchaser, and the type, amount, and brand of ammunition purchased. [More details](#)

Sunnyvale Mayor
Tony Spitaleri



"Every gun tragedy saddens us, but Newtown made me angry. We can no longer keep believing that nothing can or should be done. As an elected representative, I want to bring my energy to bear on our community's safety. I'm proposing a package of sensible local gun safety measures, and together, we can bring these to pass."

GET INVOLVED!

SUPPORT MEASURE C



Yes on C

GUN SAFETY FOR SUNNYVALE

December 4, 2013

<ul style="list-style-type: none"> › home › Measure C <ul style="list-style-type: none"> › Report stolen firearms › Lock your guns › No high-capacity magazines › Keep records of ammunition sales › state bills › gun safety links › contact 	<p>4. Dealers must procure a permit to sell ammunition and must keep a record of ammunition sales that includes name, date, identity of purchaser, and the type, amount, and brand of ammunition purchased.</p> <p>This measure will help law enforcement address the crime of people possessing guns that they are prohibited from legally owning. There is a list of reasons such as having a criminal record, being the subject of a restraining order, or being on record as mentally ill or a substance abuser, which should prevent such persons from buying guns in California.(1) But unfortunately, there is no universal background check system in our country yet. So a prohibited person can be in possession of a firearm by having stolen it, by failing to relinquish a weapon that was obtained legally before s/he became disqualified, or by buying it from an illegal source.</p> <p>An ordinance requiring ammunition dealers to take the names of bullet buyers and make them available to law enforcement is one prong in the attack on these illegal guns in the hands of criminals. "The ammunition case is slam-dunk solid," says the police detective who reviews the ammunition sales records in Sacramento. Since 2008 he has regularly turned up illegal guns at homes he would otherwise have had no reason to search. As of January 2013, these searches had resulted in 154 felony convictions and 92 misdemeanor convictions.(2) In other California cities that require these records, Los Angeles being the other big one, law enforcement officials estimate that 2 to 3 percent of ammunition buyers are people who should not have a gun.(2)</p> <p>Back in 1986 the head of the Bureau of Alcohol, Tobacco and Firearms was quoted as saying that "current recordkeeping requirements for ammunition have no substantial law enforcement value." Recently he recalled that "we were just struggling to get enough people to deal with the gun part of it. I don't remember doing much in the ammunition area." Of course the difference now is the power-of-magnitude improvement in our ability to compile, maintain, access, and cross-reference data. It is appropriate for our Silicon Valley community to be an early adopter of this tool in our country's effort to reduce the proliferation of illegal guns and gun violence.</p> <p>Other jurisdictions with a similar law: Alameda County, Marin County, San Francisco, Berkeley, East Palo Alto, Hayward, Oakland, Sacramento, Los Angeles</p> <p>References:</p> <p>1 Penal Code § 12021, Penal Code § 12316(b), Welfare and Institutions Code § 8100 2 http://www.reuters.com/article/2013/01/20/us-usa-guns-ammunition-idUSBRE90702K20130120</p>	
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EXHIBIT C



CITY OF SUNNYVALE AMMUNITION REGISTRATION FORM

ALL INFORMATION WILL BE COPIED FROM THE CUSTOMER'S ID AND RECORDED BY THE SALES PERSON

ALL INFORMATION MUST BE LEGIBLE AND PRINTED IN INK

DEALER NAME _____ PURCHASE DATE (MM/DD/YY) _____ TIME OF PURCHASE _____

Form with fields for LAST NAME, FIRST NAME, MI, DOB (MMDDYY), LICENSE/I.D. NUMBER, LICENSE/I.D. STATE, STREET ADDRESS, APT, CITY, STATE, ZIP, CUSTOMER'S SIGNATURE, SALESPERSON'S NAME (PRINT), SALESPERSON'S SIGNATURE

Signed under penalty of perjury that this is my true identity

Signed under penalty of perjury that information is as presented to me.

AMMUNITION PURCHASED

Table with columns: Qty, Caliber/Gauge, Brand, OTHER Qty, Caliber/Gauge, Brand. Lists various ammunition types like 22 cal, 25 cal, .32 cal, .38 cal, .380 auto, 9 mm, .40 cal, 9 mm, 5.56 mm / .223 cal, 7.62 x39 mm, 30-30 Win, 30:06, .308Win, 270, 12 GA #2 Buckshot, 12 GA 00 Buckshot, 20 GA #2 Buckshot, 20 GA #2 00 Buckshot.

RIGHT THUMBPRINT box