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8 *official capacity as Director of the California*
Department of Tax and Fee Administration
9

10 SUPERIOR COURT OF THE STATE OF CALIFORNIA
11 COUNTY OF SACRAMENTO
12 CIVIL DIVISION
13

14 **POWAY WEAPONS & GEAR, INC. and**
15 **SGR VENTURES LLC (D/B/ A**
16 **SACRAMENTO GUN RANGE),**
Plaintiffs,
17
18 v.
19 **CALIFORNIA DEPARTMENT OF TAX**
20 **AND FEE ADMINISTRATION; TRISTA**
21 **GONZALEZ, in her official capacity as**
Director of the California Department of
22 **Tax and Fee Administration,**
Defendants.
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**Exempt from filing fees per Government
Code § 6103**

Case No. 25CV018964

**DEFENDANTS' ANSWER TO
PLAINTIFFS' VERIFIED AMENDED
COMPLAINT FOR DECLARATORY,
INJUNCTIVE, AND OTHER RELIEF**

Dept: 54
Judge: The Honorable Christopher E.
Krueger
Trial Date: Not set
Action Filed: August 11, 2025

1 Defendants California Department of Tax and Fee Administration and Trista Gonzalez,¹ in
2 her official capacity as Director of the California Department of Tax and Fee Administration, file
3 this answer in response to Plaintiffs' Verified Amended Complaint for Declaratory, Injunctive,
4 and Other Relief (Amended Complaint).

5 Defendants answer, in paragraphs that correspond to the Amended Complaint's
6 paragraphs,² as follows:

7 INTRODUCTION³

8 1. Paragraph No. 1. Defendants admit that, in this action, Plaintiffs sue to challenge
9 the constitutionality of Assembly Bill 28, which imposes an 11 percent excise tax on gross
10 receipts from the retail sale of firearms, firearm precursor parts, and ammunition. Defendants
11 admit that this excise tax is levied directly on the sellers of firearms, "firearm precursor parts,"
12 and ammunition in California. Defendants admit that firearm precursor parts are defined by
13 section 16531(a) of the California Penal Code as, "any forging, casting, printing, extrusion,
14 machined body or similar article that has reached a stage in manufacture where it may readily be
15 completed, assembled or converted to be used as the frame or receiver of a functional firearm, or
16 that is marketed or sold to the public to become or be used as the frame or receiver of a functional
17 firearm once completed, assembled or converted." The remaining allegations in this paragraph
18 consist of legal conclusions that require no response, but to the extent a response is required,
19 Defendants deny each and every such allegation.

20 2. Paragraph No. 2. This paragraph consists of legal conclusions to which no
21 response is required. To the extent that a response is required, Defendants deny the allegations
22 contained in paragraph 2.

25 ¹ Plaintiffs misspell Trista Gonzalez's name as Gonzales. Defendants use the correct
26 spelling of Ms. Gonzalez's name.

27 ² The following responses to each paragraph include responses to any footnotes that may
28 be contained in the relevant paragraph.

³ For the convenience of the Court and the parties, Defendants utilize certain headings as
set forth in the Complaint. In doing so, Defendants neither admit nor deny any allegations that
may be suggested by the Complaint's headings.

3. Paragraph No. 3. This paragraph consists of legal conclusions to which no response is required. To the extent that a response is required, Defendants deny the allegations contained in paragraph 3.

4. Paragraph No. 4. This paragraph consists of legal conclusions to which no response is required. To the extent that a response is required, Defendants deny the allegations contained in paragraph 4.

5. Paragraph No. 5. Defendants admit that Paragraph 5 accurately quotes, in part, from *McCulloch v. Maryland*, 17 U.S. 316, 391 (1819). Defendants deny all remaining allegations contained in Paragraph 5.

6. Paragraph No. 6. This paragraph consists of legal conclusions to which no response is required. To the extent that a response is required, Defendants deny the allegations contained in paragraph 6.

7. Paragraph No. 7. Defendants admit that Plaintiffs PWG, Inc. and Sacramento Gun Range are state licensed firearm dealers in California. Defendants lack sufficient information or belief to respond to the remaining allegations in this paragraph, and on that basis deny each and every allegation.

8. Paragraph No. 8. This paragraph consists of legal conclusions to which no response is required. To the extent that a response is required, Defendants deny the allegations contained in paragraph 8.

JURISDICTION AND VENUE

9. Paragraph No. 9. This paragraph consists of legal conclusions to which no response is required. To the extent that a response is required, Defendants deny the allegations contained in paragraph 9.

10. Paragraph No. 10. Defendants admit that this paragraph accurately quotes, in part, from section 55243 of the California Revenue and Taxation Code. Defendants admit that venue in this Court is appropriate.

11. Paragraph No. 11. Defendants admit that this paragraph accurately quotes, in part, from Cal. Rev. & Tax Code § 55243. Defendants admit that Plaintiffs filed their suit “within 90

1 days after the mailing of the notice of the [Department's] action upon a claim for refund or
2 credit." *id.*, which occurred on May 14, 2025. The remainder of the paragraph consists of legal
3 conclusions to which no response is required. To the extent that a response is required,
4 Defendants deny the remaining allegations contained in paragraph 11.

5 **THE PARTIES**

6 12. Paragraph No. 12. Defendants admit that Plaintiff PWG, Inc. is a state licensed
7 firearm dealer in California. Defendants lack sufficient information or belief to respond to the
8 remaining allegations in this paragraph, and on that basis deny each and every allegation.

9 13. Paragraph No. 13. Defendants lack sufficient information or belief to respond to the
10 allegations in this paragraph, and on that basis deny each and every allegation.

11 14. Paragraph No. 14. Defendants admit the allegations of Paragraph 14.

12 15. Paragraph No. 15. Defendants admit the allegations of Paragraph 15.

13 16. Paragraph No. 16. Defendants admit the allegations of Paragraph 16.

14 17. Paragraph No. 17. Defendants admit the allegations of Paragraph 17 as to Plaintiff
15 PWG. Defendants deny the remaining allegations of Paragraph 17.

16 18. Paragraph No. 18. Defendants admit the allegations of Paragraph 18.

17 19. Paragraph No. 19. Defendants admit the allegations of Paragraph 19.

18 20. Paragraph No. 20. Defendants admit the allegations of Paragraph 20.

19 21. Paragraph No. 21. Defendants admit that on January 31, 2025, PWG remitted
20 payment for \$54,990 under the excise tax. The remaining allegations in this paragraph consist of
21 legal conclusions to which no response is required. But to the extent that a response is required,
22 Defendants deny each and every such allegation.

23 22. Paragraph No. 22. Defendants admit that Plaintiff Sacramento Gun Range is a state
24 licensed firearm dealer in California. Defendants lack sufficient information or belief to respond
25 to the remaining allegations in this paragraph, and on that basis deny each and every allegation.

26 23. Paragraph No. 23. Defendants lack sufficient information or belief to respond to the
27 allegations in this paragraph, and on that basis deny each and every allegation.

28 24. Paragraph No. 24. Defendants admit the allegations of Paragraph 24.

1 25. Paragraph No. 25. Defendants admit the allegations of Paragraph 25.

26. Paragraph No. 26. Defendants admit the allegations of Paragraph 26.

3 || 27. Paragraph No. 27. Defendants admit the allegations of Paragraph 27.

4 || 28. Paragraph No. 28. Defendants admit the allegations of Paragraph 28.

5 29. Paragraph No. 29. Defendants admit the allegations of Paragraph 29.

6 30. Paragraph No. 30. This paragraph consists of allegations that contain legal
7 conclusions that require no response by Defendants. To the extent that a response is required,
8 Defendants deny each and every allegation.

9 31. Paragraph No. 31. Defendants admit that the California Department of Tax and Fee
10 Administration is charged with administering and collecting the 11% excise tax. Defendants
11 admit that a portion of this paragraph accurately quotes, in part, from Cal. Rev. & Tax Code §
12 55243. Defendants deny that the term “board” refers to the California Tax and Fee
13 Administration. Defendants admit that the term “board” refers to the California Department of
14 Tax and Fee Administration.

32. Paragraph No. 32. Defendants admit that Trista Gonzalez is the Director of the California Department of Tax and Fee Administration and is sued in her official capacity. Defendants further admit that CDTFA administers and collects the excise tax pursuant to Revenue and Taxation Code section 36031. Defendants deny the remaining allegations of this paragraph.

20 **GENERAL ALLEGATIONS**

21 33. Paragraph No. 33. Defendants admit the allegations of Paragraph 33.

22 34. Paragraph No. 34. Defendants admit the allegations of Paragraph 34.

23 35. Paragraph No. 35. This paragraph consists of legal conclusions to which no
24 response is required. To the extent that a response is required, Defendants deny the allegations
25 contained in paragraph 35.

26 36. Paragraph No. 36. This paragraph consists of legal conclusions to which no
27 response is required. To the extent that a response is required, Defendants deny the allegations
28 contained in paragraph 36.

1 37. Paragraph No. 37. Defendants admit that the first sentence of Paragraph 37
2 accurately quotes a portion from Cal. Rev. & Tax Code § 36041. The remainder of paragraph 37
3 contains legal conclusions, to which no response is required. To the extent that a response is
4 required, Defendants deny the remaining allegations of paragraph 37.

5 38. Paragraph No. 38. Defendants deny the allegations contained in paragraph 38.

6 39. Paragraph No. 39. Defendants lack sufficient information or belief to respond to
7 the allegations in this paragraph, and on that basis deny each and every allegation.

8 40. Paragraph No. 40. Defendants admit that this paragraph quotes accurately from the
9 Senate Public Safety Committee Hearing Report on AB 28 on July 11, 2023. Defendants deny
10 any remaining allegations in Paragraph 40.

11 41. Paragraph No. 41. Defendants lack sufficient information or belief to respond to
12 the allegations in this paragraph, and on that basis deny each and every allegation.

13 42. Paragraph No. 42. Defendants lack sufficient information or belief to respond to
14 the allegations in this paragraph, and on that basis deny each and every allegation.

15 43. Paragraph No. 43. This paragraph consists of legal conclusions to which no
16 response is required. To the extent that a response is required, Defendants lack sufficient
17 information or belief to respond to the allegations in this paragraph, and on that basis deny each
18 and every allegation.

19 44. Paragraph No. 44. Defendants admit that Cal Rev. & Tax Code § 36011 provides
20 that “an excise tax is hereby imposed upon licensed firearms dealers, firearms manufacturers, and
21 ammunition vendors, at the rate of 11 percent of the gross receipts from the retail sale in this state
22 of any firearm, firearm precursor part, or ammunition.” Defendants admit that Cal Rev. & Tax
23 Code § 36011 provides that “the taxes imposed by this part are due and payable to the department
24 quarterly.” Defendants admit that Cal Rev. & Tax Code § 36011 provides that “a return for the
25 preceding quarterly period shall be filed with the department”. Defendants lack sufficient
26 information or belief to respond to the allegation that “Plaintiffs are collecting the 11% excise tax
27 through a line item added to customer receipts,” and on that basis deny that allegation.
28 Defendants deny all remaining allegations.

1 45. Paragraph No. 45. Defendants admit that portions of this paragraph quote
2 accurately from Cal Rev. & Tax Code §§ 36001, 36038, 36039. The remainder of paragraph 45
3 consists of legal conclusions to which no response is required. To the extent that a response is
4 required, Defendants deny the remaining allegations of paragraph 45.

5 46. Paragraph No. 46. This paragraph consists of legal conclusions to which no
6 response is required. To the extent that a response is required, Defendants deny the allegations
7 contained in paragraph 46.

8 47. Paragraph No. 47. This paragraph consists of legal conclusions to which no
9 response is required. To the extent that a response is required, Defendants deny the allegations
10 contained in paragraph 37.

11 48. Paragraph No. 48. This paragraph consists of legal conclusions to which no
12 response is required. To the extent that a response is required, Defendants deny the allegations
13 contained in paragraph 48.

14 49. Paragraph No. 49. Defendants lack sufficient information or belief to respond to
15 the allegations in this paragraph, and on that basis deny each and every allegation.

16 50. Paragraph No. 50. This paragraph consists of legal conclusions to which no
17 response is required. To the extent that a response is required, Defendants deny the allegations
18 contained in paragraph 50.

19 51. Paragraph No. 51. This paragraph consists of legal conclusions to which no
20 response is required. To the extent that a response is required, Defendants deny the allegations
21 contained in paragraph 51.

22 52. Paragraph No. 52. This paragraph consists of legal conclusions to which no
23 response is required. To the extent that a response is required, Defendants deny the allegations
24 contained in paragraph 52.

25 53. Paragraph No. 53. This paragraph consists of legal conclusions to which no
26 response is required. To the extent that a response is required, Defendants deny the allegations
27 contained in paragraph 53.
28

1 54. Paragraph No. 54. Defendants admit that the excise tax is 11 percent. The
2 remainder of the paragraph consists of legal conclusions to which no response is required. To the
3 extent that a response is required, Defendants deny the allegations contained in paragraph 54.

4 55. Paragraph No. 55. Defendants deny the allegations contained in paragraph 55.

5 56. Paragraph No. 56. This paragraph consists of legal conclusions to which no
6 response is required. To the extent that a response is required, Defendants deny the allegations
7 contained in paragraph 56.

8 57. Paragraph No. 57. Defendants lack sufficient information or belief to respond to
9 the allegations in this paragraph, and on that basis deny each and every allegation.

10 58. Paragraph No. 58. Defendants lack sufficient information or belief to respond to
11 the allegations in this paragraph, and on that basis deny each and every allegation.

12 59. Paragraph No. 59. Defendants lack sufficient information or belief to respond to
13 the allegations in this paragraph, and on that basis deny each and every allegation.

14 60. Paragraph No. 60. Defendants lack sufficient information or belief to respond to
15 the allegations in this paragraph, and on that basis deny each and every allegation.

16 61. Paragraph No. 61. Defendants lack sufficient information or belief to respond to
17 the allegations in this paragraph, and on that basis deny each and every allegation.

18 62. Paragraph No. 62. This paragraph consists of legal conclusions to which no
19 response is required. To the extent that a response is required, Defendants deny the allegations
20 contained in paragraph 62.

21 63. Paragraph No. 63. This paragraph contains legal conclusions to which no response
22 is required. To the extent that a response is required, Defendants deny the allegations contained in
23 paragraph 63. Defendants otherwise deny the allegations contained in this paragraph.

24 64. Paragraph No. 64. Defendants admit that on March 31, 2025, PWG remitted
25 payment for \$39,841 under the excise tax. Defendants deny the remaining allegations contained
26 in paragraph 64.

1 65. Paragraph No. 65. Defendants admit that on June 30, 2025, PWG remitted
2 payment for \$30,223 under the excise tax. Defendants deny the remaining allegations contained
3 in paragraph 65.

4 66. Paragraph No. 66. Defendants admit that on September 30, 2025, PWG remitted
5 payment for \$34,004 under the excise tax. Defendants deny the remaining allegations contained
6 in paragraph 66.

7 67. Paragraph No. 67. Defendants admit that on December 31, 2025, PWG remitted
8 payment for \$49,742 under the excise tax. Defendants deny the remaining allegations contained
9 in paragraph 67.

10 68. Paragraph No. 68. Defendants admit that on April 30, 2026, PWG remitted
11 payment for \$44,926.00 under the excise tax. Defendants deny the remaining allegations
12 contained in paragraph 68.

13 69. Paragraph No. 69. Defendants admit that on March 31, 2025, SGR remitted
14 payment for \$44,950 under the excise tax. Defendants deny the remaining allegations contained
15 in paragraph 69.

16 70. Paragraph No. 70. Defendants admit that on June 30, 2025, SGR remitted payment
17 for \$33,065 under the excise tax. Defendants deny the remaining allegations contained in
18 paragraph 70.

19 71. Paragraph No. 71. Defendants admit that on September 30, 2025, SGR remitted
20 payment for \$35,857 under the excise tax. Defendants deny the remaining allegations contained
21 in paragraph 71.

22 72. Paragraph No. 72. Defendants admit that on December 31, 2025, SGR remitted
23 payment for \$49,647 under the excise tax. Defendants deny the remaining allegations contained
24 in paragraph 72.

25 73. Paragraph No. 73. Defendants admit that on April 30, 2026, SGR remitted
26 payment for \$41,488.00 under the excise tax. Defendants deny the remaining allegations
27 contained in paragraph 73.

28 74. Paragraph No. 74. Defendants deny the allegations contained in Paragraph 74.

1 **CLAIMS FOR RELIEF**

2 **COUNT 1**

3 75. Paragraph No. 75. Defendants incorporate by reference their responses to all
4 preceding paragraphs, as if fully set forth herein.

5 76. Paragraph No. 76. Defendants admit that Paragraph 76 accurately quotes the
6 Second Amendment of the United States Constitution. This paragraph otherwise consists of legal
7 conclusions to which no response is required. To the extent that a response is required,
8 Defendants deny the allegations contained in paragraph 76.

9 77. Paragraph No. 77. This paragraph consists of legal conclusions to which no
10 response is required. To the extent that a response is required, Defendants deny the allegations
11 contained in paragraph 77.

12 78. Paragraph No. 78. This paragraph consists of legal conclusions to which no
13 response is required. To the extent that a response is required, Defendants deny the allegations
14 contained in paragraph 78.

15 79. Paragraph No. 79. This paragraph consists of legal conclusions to which no
16 response is required. To the extent that a response is required, Defendants deny the allegations
17 contained in paragraph 79.

18 **COUNT 2**

19 80. Paragraph No. 80. Defendants incorporate by reference their responses to all
20 preceding paragraphs, as if fully set forth herein.

21 81. Paragraph No. 81. This paragraph consists of legal conclusions to which no
22 response is required. To the extent that a response is required, Defendants deny the allegations
23 contained in paragraph 81.

24 82. Paragraph No. 82. Defendants admit that Plaintiffs Poway Weapons & Gear Inc.
25 and Sacramento Gun Range have requested a refund of the excise tax. Defendants lack sufficient
26 information or belief to respond to the remaining allegations in this paragraph, and on that basis
27 deny each and every allegation.
28

1 83. Paragraph No. 83. This paragraph consists of legal conclusions to which no
2 response is required. To the extent that a response is required, Defendants deny the allegations
3 contained in paragraph 83.

4 **PRAYER FOR RELIEF**

5 Pages 13 through 14 contain Plaintiffs' prayer for relief, to which no response is required.
6 To the extent that a response is required, Defendants deny each and every allegation contained
7 therein and specifically deny that Plaintiffs are entitled to any relief whatsoever

8 In addition, and without admitting any allegations contained in the Answer, Defendants
9 assert the following affirmative defenses based on information and belief:

10 **AFFIRMATIVE DEFENSES**

11 Defendants further allege the following affirmative defenses:

12 First Affirmative Defense

13 1. The Complaint fails to state facts sufficient to constitute any valid causes of action.

14 Second Affirmative Defense

15 2. The Complaint and each cause of action therein are uncertain.

16 Third Affirmative Defense

17 3. The Complaint and each cause of action are barred as the lawsuit prevents and enjoins
18 the collection of tax in violation of article XIII, section 32, of the California Constitution.

19 Fourth Affirmative Defense

20 4. The Complaint and each cause of action are barred as Plaintiffs lack standing to bring
21 this action.

22 Fifth Affirmative Defense

23 5. The action is barred, in whole or in part, because Defendants are immune from
24 liability pursuant to California Government Code section 860.2.

25 Sixth Affirmative Defense

26 6. All actions taken by Defendants with respect to Plaintiffs were rendered in
27 accordance with law and in good faith.

28 Additional Affirmative Defenses

8. Defendants reserve the right to amend this answer and assert additional affirmative defenses should any further affirmative defenses become apparent in the course of this action.

PRAAYER

WHEREFORE, Defendants pray for judgment as follows:

1. That Plaintiffs' claims be denied in their entirety;
2. That judgment be rendered in favor of Defendants and against Plaintiffs;
3. That Defendants be awarded the costs of suit incurred; and
4. For such other and further relief as the court may deem just and proper.

Dated: August 20, 2026

Respectfully submitted,

ROB BONTA
Attorney General of California
ANNA FERRARI
Supervising Deputy Attorney General

/s/ Asha Albuquerque
ASHA ALBUQUERQUE
Deputy Attorney General
Attorneys for Defendants

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I declare:

On August 20, 2026, I served the attached **DEFENDANTS' ANSWER TO PLAINTIFFS' VERIFIED AMENDED COMPLAINT FOR DECLARATORY, INJUNCTIVE, AND OTHER RELIEF**

by transmitting a true copy via electronic mail, addressed as follows:

David H. Thompson,* Managing Partner
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I declare under penalty of perjury under the laws of the State of California and the United States of America the foregoing is true and correct and that this declaration was executed on August 20, 2026, at San Francisco, California.

/s/ Asha Albuquerque

Signature