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**LOS ANGELES
SUPERIOR COURT**

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THE PEOPLE OF THE STATE OF CALIFORNIA

SUPERIOR COURT OF THE STATE OF CALIFORNIA

CITY AND COUNTY OF LOS ANGELES

THE PEOPLE OF THE STATE OF CALIFORNIA,
by and through JAMES K. HAHN, City Attorney of the
City of Los Angeles, LEGRAND H. CLEGG II,
City Attorney of Compton, and MICHAEL JENKINS,
City Attorney of West Hollywood; and THE GENERAL
PUBLIC by and through Legrand H. Clegg II,
City Attorney of the City of Compton, and John Heilman,
Mayor of the City of West Hollywood

Plaintiffs,

ARCADIA MACHINE & TOOL, BRYCO ARMS,
DAVIS INDUSTRIES, LORCIN ENGINEERING
CO., INC., PHOENIX ARMS, RAVEN ARMS,
SMITH & WESSON CORP., STURM, RUGER &
COMPANY, INC., BERETTA U.S.A., PIETRO
BERETTA SP. A., COLT'S MANUFACTURING CO.,
GLOCK, INC., TAURUS INTERNATIONAL
MARKETING, INC. SIGARMS, INC., B.L. JENNINGS,
INC., NAVEGAR, INC. (D/B/A/ "INTRATEC"),
FULL METAL JACKET, INC., ARMS TECHNOLOGY,
INCORPORATED, AMERICAN SHOOTING SPORTS
COUNCIL, INC., NATIONAL SHOOTING SPORTS
FOUNDATION, INC., SPORTING ARMS AND
AMMUNITION MANUFACTURERS INSTITUTE,
INC., TRADER'S SPORTING EXCHANGE,
and DOES 1-250,

Defendants,

Case No. BC210894

**COMPLAINT FOR UNFAIR,
UNLAWFUL, AND DECEPTIVE
BUSINESS PRACTICES AND
PUBLIC NUISANCE; REQUEST
FOR CIVIL PENALTIES,
INJUNCTIONS
AND OTHER EQUITABLE
RELIEF**

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The People of the State of California, for a cause of action against Defendants, and each of them, allege as follows, upon information and belief:

INTRODUCTION

1. This action is brought on behalf of the People of the State of California against handgun manufacturers, distributors, and retailers and trade associations that most adversely impact Southern California. These Defendants design, market, promote, and supply handguns in a manner which facilitates the easy access of criminals to handguns and their use in crime, and also allows their operation by children with the resulting yearly toll of injury and loss of life in the Southern California communities of Los Angeles, Compton, and West Hollywood.

2. Defendants' conduct constitutes a pattern of unlawful and unfair business acts and practices, the basis upon which defendants have been unjustly enriched.

3. Defendants have also engaged in conduct which has created and maintained a public nuisance in Southern California, and specifically in Los Angeles, Compton and West Hollywood, by interfering with the comfortable enjoyment of life in these communities.

4. Defendants market, distribute, and promote handguns -- a dangerous instrument that is the primary tool for violent crime -- in a manner that facilitates their easy access and misuse by felons,

minors under age 21, and other prohibited or unauthorized purchasers or users, who thereafter use those guns in crime. Defendants also design, market, distribute and promote handguns that fail to incorporate reasonable safety features, and over promote the purported self-defense and home protection benefits of handguns, in a manner that undercuts the minimal warnings or instructions provided by Defendants regarding safe storage of guns and results in the irresponsible storage and handling of guns as well.

5. Defendants' unlawful, unfair, and deceptive business acts and practices have had the effect of undermining federal, state and local gun laws and the public policies embodied in those laws. Defendants have unjustifiably enriched themselves through these practices, and have shifted the burden of the true costs of Defendants' products to the victims of gun violence and to the taxpayers. The resulting levels of shooting deaths and injuries in California and the entire nation exceed those in almost every other area of the world, impose enormous economic costs, and unreasonably interfere with the safety, health, well-being and quality of life of the People of the State of California.

6. As a result of the unlawful, unfair and/or deceptive business practices of Defendants thousands of California residents have died, suffered serious bodily injury, or been exposed to increased criminal activity involving handguns.

7. Young people throughout the State and in cities including Los Angeles, Compton, and West Hollywood, are particularly vulnerable to gun violence. Handguns are the leading cause of death for young people ages 1-19 in California. 669 young people between the ages of 0-19 died as a result of firearms in 1996. Of these, 520 were homicides; 107 were suicides; 35 resulted from an unintentional shootings, and in 7 cases the reason for the killing could not be determined.

8. In Los Angeles, 136 young people aged 19 or younger were killed in 1997 and an additional 413 were hospitalized for firearms-related injuries.

9. In Compton, a city with a population of approximately 95,000, 16 young people aged 19 or younger were killed in 1997 and an additional 48 were hospitalized for firearms-related injuries.

10. In West Hollywood, a city with a population of approximately 37,000, 2 young people aged 19 or younger were hospitalized in 1997 for firearms-related injuries.

11. Homicides committed with handguns is the leading cause of firearms related injuries

and death in California. In 1997 alone, there were 1,835 homicides committed with a firearm in California and over 25,000 firearms-related injuries. The vast majority of these deaths and injuries are attributable to handguns.

12. In the City of Los Angeles, in 1997 there were 374 firearms deaths caused by homicides, including 116 homicide deaths of Los Angeles residents under the age of 21. Additionally, in 1997 there were 1,119 hospitalizations related to non-fatal, homicide attempts.

13. In 1997, in Compton, there were 51 homicides, and 151 hospitalizations related to non-fatal, homicide attempts and in West Hollywood, eight residents were killed by handguns and there were nine hospitalizations for non-fatal firearms injuries.

14. In addition to homicides, handguns are also used in a significant number of other crimes. In 1998, for example, there were more than 13,000 crimes, including assaults and armed robberies, most of which were committed with handguns, of which a significant percentage were obtained and possessed illegally.

15. These statistics demonstrate the magnitude of the problem caused by Defendants' conduct.

16. In order to reduce the endless succession of handgun-related tragedies, Plaintiffs bring this action to enjoin the unlawful and unfair business practices of Defendants, to obtain disgorgement of Defendants' wrongfully-obtained monies, to collect civil penalties, and abate the nuisance caused by Defendants' conduct explained herein.

JURISDICTION AND VENUE

17. The authority of James K. Hahn, City Attorney of Los Angeles, Legrand H. Clegg II, City Attorney of Compton, and John Heilman, Mayor of West Hollywood, to bring this action is derived from common law and the statutory law of the State of California, specifically Business and Professions Code Sections 17200, 17203, 17204 and 17206 and Civil Code Section 3480 and Code of Civil Procedure Section 731.

18. Defendants, and each of them, at all times mentioned in this Complaint have transacted business within the cities of Los Angeles, Compton and West Hollywood and elsewhere

throughout the State of California. The violations of law herein alleged have been committed in the cities of Los Angeles, Compton and West Hollywood and elsewhere throughout the State of California.

PARTIES

PLAINTIFFS

19. This action is brought on behalf of the People of the State of California by Los Angeles City Attorney James K. Hahn and Compton City Attorney Legrand H. Clegg II, pursuant to California Business and Professions Code Section 17204 and by West Hollywood City Attorney Michael Jenkins pursuant to California Business and Professions Code Section 17204, and California Code of Civil Procedure Section 731.

20. This action is also brought on behalf of the general public of the State of California by Compton City Attorney Legrand H. Clegg II and West Hollywood Mayor John Heilman, pursuant to California Business and Professions Code Section 17204.

DEFENDANTS

21. Defendants, and each of them, are sued individually as a primary violator and as an aider and abettor. In acting to aid and abet the commission of the unlawful, unfair and deceptive business practices complained of herein, each Defendant acted with the actual or constructive awareness of the wrongfulness of such practices and nonetheless rendered substantial assistance or encouragement to accomplishment of the wrongful practices and was aware of the overall contribution to the common course of wrongful conduct alleged herein.

22. Each Defendant was the agent and employee of each remaining Defendant and was acting within the scope of such agency and employment in performing the acts herein alleged.

23. Whenever in this Complaint reference is made to any act or omission of a corporate Defendant, such allegation refers to the officers, directors, employees and agents of the corporate Defendant who did or do authorize such act or omission while actively engaged in the management,

direction, operation or control of the affairs of the corporate Defendant, and while acting in the course and scope of their agency and employment.

24. The following Defendants, and each of them, manufacture handguns that have been wrongfully marketed, distributed, and sold in California (hereinafter referred to as the "Defendant Manufacturers"):

25. Defendant Excel Industries, Inc., a/k/a Accu-tek ("Accu-tek") is a corporation organized and existing under the laws of the State of California with its principal place of business in California.

26. Defendant Arcadia Machine & Tool ("AMT") is a corporation organized and existing under the laws of the State of California with its principal place of business in California.

27. Defendant Bryco Arms, Inc. ("Bryco") is a corporation organized and existing under the laws of the State of Nevada with its principal place of business in California.

28. Defendant Davis Industries, Inc. ("Davis") is a corporation organized and existing under the laws of the State of California with its principal place of business in California.

29. Defendant Lorcin Engineering Co., Inc. ("Lorcin") is a corporation organized and existing under the laws of the State of California with its principal place of business in California.

30. Defendant China North Industries (a/k/a "Norinco") is a corporation organized and existing under the laws of the State of California with its principal place of business in California.

31. Defendant Phoenix Arms ("Phoenix") is a corporation organized and existing under the laws of the State of California with its principal place of business in California.

32. Defendant Raven Arms, Inc. ("Raven Arms") is a corporation organized and existing under the laws of the State of California, with its principal place of business in California.

33. Defendant Sundance Industries, Inc. ("Sundance") is a corporation organized and existing under the laws of the State of California with its principal place of business in California.

34. Defendant Arms Technology, Inc. ("Arms") is a corporation organized and existing under the laws of the State of Utah with its principal place of business in Utah.

35. Defendant Beretta U.S.A. Corp. ("Beretta U.S.A.") is a corporation organized and

existing under the laws of the State of Maryland with its principal place of business in Maryland, and imports handguns manufactured by defendant Pietro Beretta Sp. A., a corporation organized and existing, under the laws of Italy with its principal place of business in Italy.

35. Defendant Pietro Beretta Sp. A. ("Pietro Beretta") is a corporation organized and existing under the laws of Italy with its principal place of business in Italy.

36. Defendant B.L. Jennings, Inc. ("Jennings") is a corporation organized and existing under the laws of the State of Nevada with its principal place of business in Nevada.

38. Defendant Browning Arms Co. ("Browning") is a corporation organized and existing under the laws of the State of Utah with its principal place of business in Utah.

39. Defendant Carl Walther GmbH ("Carl Walther") is a corporation organized and existing under the laws of the Federal Republic of Germany with its principal place of business in the Federal Republic of Germany.

40. Defendant Charter Arms, Inc. ("Charter Arms") is a corporation organized and existing under the laws of the State of Connecticut, with its principal place of business in New Jersey.

41. Defendant Cobray Firearms is a corporation organized and existing under the laws of the State of Georgia, with its principal place of business in Georgia.

42. Defendant Colt's Manufacturing Company, Inc. ("Colt") is a corporation organized and existing under the laws of the State of Delaware with its principal place of business in Connecticut.

43. Defendant FMJ (a.k.a. "Full Metal Jacket") is a corporation organized and existing under the laws of the State of Tennessee with its principal place of business in Tennessee.

44. Defendant Forjas Taurus, S.A. ("Forjas Taurus") is a corporation organized and existing under the laws of Brazil with its principal place of business in Brazil.

45. Defendant Glock, Inc. is a corporation organized and existing under the laws of the State of Georgia with its principal place of business in Georgia, and imports handguns manufactured by defendant Glock GmbH, an Austrian corporation with its principal place of business in Austria.

46. Defendant Glock GmbH is a corporation organized and existing under the laws of Austria with its principal place of business in Austria.

47. Defendant H&R 1871 Inc. ("H&R") is a corporation organized and existing under the laws of the State of Massachusetts with its principal place of business in Massachusetts.

48. Defendant Heckler & Koch, Inc. ("Heckler & Koch") is a subsidiary of Heckler & Koch, GmbH, organized in the Federal Republic of Germany, with its principle place of business in Virginia. Defendant Heckler & Koch, GmbH is a corporation organized and existing under the laws of the Federal Republic of Germany with its principal place of business in the Federal Republic of Germany.

49. Defendant High Standard Mfg., Inc. and existing under the laws of the State of Texas place of business in Texas.

50. Defendant MKS Supply Inc. d/b/a Hi-Point Firearms ("Hi-Point") is a corporation organized and existing under the laws of the State of Ohio, with its principal place of business in Ohio.

51. Defendant Mossberg & Sons, O.F., is a corporation organized and existing under the laws of the State of Connecticut with its principal place of business in Connecticut.

52. Defendant International Armament Corp. d/b/a Interarms Industries, Inc. ("Interarms") is a corporation organized and existing under the laws of the State of Delaware with its principal place of business in Virginia, and imports handguns manufactured by defendant Carl Walther GmbH, a German corporation with its principal place of business in Germany.

53. Defendant Kel-Tec CNC Industries, Inc. ("Kel-Tec") is a corporation organized and existing under the laws of the State of Florida, with its principal place of business in Florida.

54. Defendant Navegar, Inc. d/b/a Intratec U.S.A., Inc. ("Intratec") is a corporation organized and existing under the laws of the State of Florida with its principal place of business in Florida.

55. Defendant North American Arms, Inc. is a corporation Organized and existing under the laws of the State of Utah with its principal place of business in Utah.

56. Defendant Rohm GmbH is a corporation organized and existing under the laws of the Federal Republic of Germany with its principal place of business in the Federal Republic of Germany.

57. Defendant Sigarms, Inc. ("Sigarms") is a corporation organized in the State of New

Hampshire, with its principal place of business in New Hampshire.

58. Defendant Smith & Wesson Corp. ("Smith & Wesson") is a corporation organized and existing under the laws of the State of Delaware with its principal place of business in Massachusetts.

59. Defendant Star Bonifacio Echeverria, S.A. is a corporation organized and existing under the laws of Spain with its principal place of business in Spain.

60. Defendant Sturm, Ruger & Company, Inc. ("Sturm Ruger") is a corporation organized and Existing under the laws of the State of Delaware with its principal place of business in Connecticut.

61. Defendant S.W. Daniel, Inc. is a corporation organized and existing under the laws of the State of Georgia, with its principal place of business in Georgia.

61. Defendant Taurus International Manufacturing, Inc. ("Taurus") is a corporation organized and existing under the laws of the State of California with its principal place of business in California, and imports handguns manufactured by defendant Forjas Taurus, S.A., a Brazilian corporation with its principal place of business in Brazil.

63. Defendant U.S. Repeating Arms Co., Inc. (a/k/a Westchester) is a corporation organized and existing under the laws of the State of Connecticut with its principal place of business in Connecticut.

64. At all times relevant herein, DOES I-100, inclusive were business entities, the status of which are currently unknown. DOES 1-100 manufactured handguns that are or were distributed, marketed, and/or sold within the jurisdictional limits of California (hereinafter referred to as part of the "Defendant Manufacturers"):

65. The following Defendants are industry trade associations (hereinafter referred to as the "Defendant Trade Associations") that are composed of handguns manufacturers, distributors, and sellers, including some or all of the Defendant Manufacturers:

66. Defendant American Shooting Sports Council, Inc. (hereinafter referred to as the "ASSC") is a tax exempt business league under section 501(c)(6) of the Internal Revenue Code organized and existing under the laws of the State of Georgia with its principal office in Georgia. ASSC is an industry trade association composed of handgun manufacturers and sellers, including some or all of the

Defendant Manufacturers.

67. Defendant National Shooting Sports Foundation, Inc. (hereinafter referred to as the "NSSF") is a tax exempt business league under section 501(c)(6) of the Internal Revenue Code organized and existing under the laws of the State of Connecticut with its principal office in Connecticut. NSSF is an industry trade association composed of firearm manufacturers and sellers, including some or all of the Defendant Manufacturers.

68. Defendant Sporting Arms and Ammunition Manufacturers' Institute, Inc. (hereinafter referred to as the "SAAMI") is a tax exempt business league under section 501(c)(6) of the Internal Revenue Code organized and existing under the laws of the State of Connecticut with its principal office in Connecticut. SAAMI is an industry trade association composed of handgun manufacturers and sellers, including some or all of the Defendant Manufacturers.

69. At all times relevant herein, DOES 101-125, inclusive were business entities, the status of which are currently unknown. DOES 101-125 are industry trade associations (hereinafter referred to as the "Defendant Trade Associations"), which are composed of handgun manufacturers, distributors, and sellers, including some or all of the Defendant Manufacturers.

70. The following Defendants, and each of them, distribute and market handguns that are or were found within the jurisdictional limits of California (hereinafter referred to as the "Defendant Distributors"):

71. Defendant B.L. Jennings is a corporation organized and existing under the laws of the State of Nevada with its principal place of business in Nevada. B.L. Jennings distributes guns made by Defendant Manufacturer Jennings in California.

72. Defendant Ellett Brothers is a corporation organized and existing under the laws of the State of South Carolina with its principal place of business in South Carolina. Ellett Brothers telemarkets handguns nationwide, including in California.

73. Defendant International Armament Corp. d/b/a Interarms Industries, Inc. ("Interarms") is a corporation organized and existing under the laws of the State of Delaware with its principal place of business in Virginia. Interarms imports and/or distributes handguns made by several

different manufacturers, including defendant Carl Walther GmbH. Interarms distributes its products to at least 46 California dealers, which are identified on its internet site.

74. RSR Wholesale Guns, Inc. is a corporation organized and existing under the laws of the State of New York with its principal place of business in New York. Based on information and belief, RSR Wholesale Guns, Inc., distributes firearms in California, including guns manufactured by defendant Taurus International Manufacturing, Inc.

75. Southern Ohio Gun Distributors is a corporation organized and existing under the laws of the State of Ohio with its principal place of business in Ohio. Based on information and belief, Southern Ohio Gun Distributors distributes firearms in California.

76. At all times relevant herein, DOES 126-200, inclusive were business entities, the status of which are currently unknown. DOES 126-200 distribute and/or market firearms that are or were found within California (hereinafter referred to as the "Defendant Distributors").

77. The following defendants, and each of them, distribute and market handguns that are or were found within the jurisdictional limits of California;

78. Defendant B & B Group, Inc., is a corporation organized and existing under the laws of the State of California with its principal place of business in California.

79. Defendant Andrews Sporting Goods, Inc., is a corporation organized and existing under the laws of the State of California with its principal place of business in California.

80. Defendant National Gun Sales, Inc., is a corporation organized and existing under the laws of the State of Florida with its principal place of business in California.

81. Defendant S. G. Distributing, Inc., is a corporation organized and existing under the laws of the State of California with its principal place of business in California.

82. Defendant Hawthorne Distributors, Inc., is a corporation organized and existing under the laws of the State of California with its principal place of business in California.

83. At all times relevant herein, DOES 201-300, inclusive were business entities, the status of which are currently unknown. DOES 201-300 distribute, market and/or sell handguns that are or were found within California (hereinafter referred to as the "Defendant Dealers").

1-300. Plaintiff alleges that each of the fictitiously named Defendants is responsible in some manner for the violations herein alleged. Plaintiff will seek leave to amend this complaint to allege such names and capacities when such have been ascertained. All of the above-named Defendants, DOES I 300, and the agents and/or employees of those Defendants, were responsible in some manner for the obligations, liabilities and violations herein mentioned, which were legally caused by the aforementioned Defendants and DOES 1-300.

GENERAL ALLEGATIONS

I.

HANDGUN-RELATED CRIME IS A NATIONAL PROBLEM THAT VICTIMIZES THOUSANDS OF CALIFORNIANS

85. The widespread availability and misuse of firearms by minors, convicted criminals, and other unauthorized users is one of the most serious problems facing this nation. In 1996, the most recent year for which final nationwide statistics are available, more than 34,000 people were killed with firearms. Of these, more than 14,300 were homicides and about 18,100 were suicides, with more than 1,100 deaths from unintentional shootings. In addition, based on 1992 data, approximately 99,000 individuals are treated annually in hospital emergency rooms for non-fatal firearm injuries, with about one-fifth of these for accidental shootings. Handguns cause most of these injuries and deaths. By comparison, in other industrialized nations, no more than a few hundred people are killed each year by handguns.

86. Statewide statistics for California reveal similar patterns of handgun violence. In 1997 alone, there were 1,835 homicides committed with firearms, the majority of which are handguns. In 1997, firearms were the predominant means of committing homicide, constituting 72.3% of total homicides. Handguns alone represented over 64% of the total homicides and 89% of firearm homicides. During the five-year period 1992 through 1997, handguns were used in over 62% of the total homicides.

In addition, in 1997, there were over 25,000 incidents in California in which a victim suffered serious injuries from a firearm.

87. This pattern of handgun violence is repeated in Los Angeles as well. For example, in 1997 there were 502 firearm deaths, of which 303 were homicides. In Compton, in 1997, there were 56 firearms deaths, 51 of which were homicides, and in West Hollywood, there were 5 firearms deaths.

88. For each of these fatal shootings, there are roughly three non-fatal shootings that require emergency room care. Indeed, the Los Angeles City Fire Department responded to the scene of 1,365 firearm incidents in 1997 after 911 was called. Furthermore, there were 1,928 hospitalizations due to firearms, of which 676 were fatal.

89. These deaths and injuries are devastating for the individuals involved, for their families and communities, and for the State of California. Moreover, the pervasive threat of handgun violence affects the tenor and quality of everyday life, even for those who are not direct victims.

II.

THE HIGH LEVELS OF FIREARM CRIME IN CALIFORNIA IS FUELED BY THE EASY AVAILABILITY OF HANDGUNS TO ILLEGITIMATE USERS

90. Defendants, and each of them, employ a two-tier distribution system to market handguns to the public. Through a two-tier distribution system, handguns flow from the manufacturer to distributor to dealer to purchaser. A two-tier distribution system facilitates, and, in fact, is designed to facilitate, handgun acquisition by persons not authorized or intended to use, sell or possess handguns, such as criminals and children. In short, it is an inappropriate manner to market a lethal product such as a handgun, since it encourages distribution to the broadest market possible without employing safeguards against the illegal sale and use of handguns by illegitimate users.

91. A substantial percentage of the handguns used to inflict harm and injury on California residents are obtained through the illegitimate secondary market created and promoted by the conduct of Defendants. That Defendants' acts and omissions have created and promoted the illegitimate secondary market is a matter of common knowledge to Defendants, as is demonstrated by the following

"The company [Smith & Wesson] and the industry as a whole are fully aware of the extent of the criminal misuse of handguns. The company and the industry are also aware that the black market in handguns is not simply the result of stolen guns but is due to the seepage of guns into the illicit market from multiple thousands of unsupervised federal handgun licensees. In spite of their knowledge, however, the industry's position has consistently been to take no independent action to insure responsible distribution practices, to maintain that the present minimal federal regulation of federal handgun licensees is adequate and to call for greater criminal enforcement of those who commit crimes with guns as the solution to the firearm crime problem. . . . I am familiar with the distribution and marketing practices of the [sic] all of the principal U.S. handgun manufacturers and wholesale distributors and none of them, to my knowledge, take additional steps, beyond determining the possession of a federal handgun license, to investigate, screen or supervise the wholesale distributors and retail outlets that sell their products to insure that their products are distributed responsibly."

92. National surveys demonstrate that minors and convicted criminals have easy access to handguns through the illegitimate secondary market. For example, a recent survey showed that approximately 29% of 10th grade boys and 23% of 7th grade boys have at one time carried a concealed handgun. Another survey showed that 70% of all prisoners felt that they could easily obtain a firearm upon their release. Similarly, a recent study of 27 cities by the federal Bureau of Alcohol, Tobacco and Firearms ("ATF"), which analyzed more than 75,000 firearm trace requests, reported that more than 11 % of firearms picked up in crime in major urban centers throughout the United States were possessed by juveniles under age 18. In Los Angeles, the percentage of crime guns seized from juveniles was higher,

at 13.4%. The same ATF study indicated that in the United States another 15% of crime guns were seized from persons 18-20 years old, more than from any other three-year age group, adult or juvenile. Moreover, ATF tracing of trafficked crime guns found that more than 45% of the weapons seized were illegally possessed by convicted felons. Large percentages of these guns have been used in assaults, robberies, homicides, and other violent crimes. More than 80% of the firearms seized in crime are handguns.

93. Despite these statistics, Defendants have not taken reasonable steps to keep handguns out of the hands of minors. To the contrary, Defendants market their products in such a way that they appeal to minors. For example, one of the gun industry's leading trade associations, Defendant National Shooting Sports Foundation (NSSF), announced in 1992 a "new focus on women and youngsters." NSSF started a "Youth Education Program" in a search for new customers and expansion of the gun market. The September/October 1992 issue of NSSF's magazine S.H.O.T. Business carried a column by a noted celebrity in the industry, Grits Gresham, in which he said:

"There's a way to help insure that new faces and pocketbooks will continue to patronize your business: Use the schools [I]t's time to make your pitch for young minds, as well as for the adult ones."

94. The ease with which guns are moved into the illegitimate marketplace is also demonstrated by the short time between retail sale and criminal misuse for a significant percentage of firearms. ATF tracing data indicates that as many as 43% of firearms traced to crime in cities across America have been bought from retail dealers less than three years earlier, which according to ATF is a strong indication that the firearm has been trafficked. An ATF study of Southern California crime guns, including those picked up in Los Angeles, found that 31% of the guns traced had been purchased from a licensed dealer less than one year earlier. This same study noted that pistols were especially prone to quick turnaround: a third of the crime guns that were pistols were seized within one year of being purchased, and more than half were seized within two years.

III.

DEFENDANTS' CONDUCT HAS CREATED A DISTRIBUTION SYSTEM THAT FACILITATES AND SUPPLIES AN ILLEGITIMATE SECONDARY MARKET OF HANDGUNS

95. Defendants' marketing and distribution policies and practices facilitate, promote and yield high volume sales, widespread availability and easy access without any meaningful attention to or concern for the consequences.

96. Defendants know and have known for years that a substantial percentage of the handguns they manufacture, distribute, market and sell are purchased by unauthorized persons, including minors and convicted criminals. Many of the guns illegally sold in this market are -subsequently used in the commission of crime. Defendants knew or should have known that their conduct would facilitate and encourage their handguns to fall into an illegal market and be used by unauthorized persons, and further, it was foreseeable that defendants' conduct would facilitate and encourage their handguns to fall into an illegal market and be used by unauthorized persons.

A. Over-Saturation of the Legitimate Market

97. Defendants produce, market and distribute substantially more handguns than they reasonably expect to sell to legal purchasers. There are about 65 million handguns in the United States, and about 2.5 million more are added each year. This sales volume is well in excess of the sales volume that can be supported by the legitimate market. A substantial percentage of these sales is diverted to the secondary market. By their actions, defendants thus knowingly participate in and facilitate the secondary market for handguns.

B. Over-Saturation of Weak Gun Control Jurisdictions

98. Handguns move from jurisdictions with relatively weak gun control laws to jurisdictions; with stronger gun control laws. Defendants are aware of and profit from this illegal trafficking

movement, yet do nothing to control or monitor sales in weak gun control jurisdictions to curb illegal trafficking of guns from those jurisdictions into more heavily regulated jurisdictions. To the contrary, Defendants eagerly sell as many handguns as are necessary to feed the secondary market in weak- gun control jurisdictions. As an example of this problem, Arizona and Nevada both border California and have weaker gun control laws than this State. According to ATF statistics, approximately 30% of the firearms traced in Southern California were originally sold at retail locations outside of California, principally Nevada and Arizona. Although this migration of handguns across state lines contravenes federal law as well as reduces the efficacy of California and local law, Defendants continue to facilitate and encourage this migration by oversupplying those jurisdictions with weak gun control laws.

C. Distributing Handguns Without Exercising Adequate Control

99. Defendants' unrestrained distribution practices maximize their sales without any check or precaution, and without placing effective controls on their distributors or dealers, which include disreputable gun shops, pawnshops, gun shows, and telemarketers. Although Defendants' distribution practices increase sales volumes and hence profits, they minimize contacts between Defendant manufacturers and their distributors and dealers, and prevent any meaningful monitoring of compliance with federal, state and local laws.

100. Defendants do not monitor or supervise their distributors or dealers, except in ways aimed at maximizing profits. Some Defendants have distribution agreements that provide for the right of termination, and occasionally have terminated or warned distributors or dealers. However, engaging in a dangerous sales practice that would make handguns easily available for potential criminal use has not been the basis for termination and is not included in the terms of the agreements. The only reasons contemplated for termination are: not maintaining minimum prices, advertising the price that the distributor pays to the manufacturer, or, in some instances, selling to law enforcement or making foreign sales. There is no mention of termination for selling to or facilitating the crime market.

101. Defendants do not require that their dealers and retailers be trained or instructed to:

(1) detect inappropriate purchasers; (2) educate purchasers about the safe and proper use and storage of handguns, or to require any training or instruction; or (3) inquire or investigate purchasers' level of knowledge or skill or purposes for buying handguns. Defendant Manufacturers do not provide their distributors and retailers with any feedback, require their distributors to monitor or supervise their dealers, or train their distributors and dealers regarding the dangers and practices alleged herein.

102. Defendants purposely avoid any connection to or vertical integration with the distributors and dealers that sell their products. They offer high volume monetary incentives and generally refuse to accept returns, and they contractually attempt to shift all liability and responsibility for the harm done by their products to the distributors and dealers.

103. Defendants do not use available computerized inventory and sales tracking systems that are commonly and inexpensively used throughout American industry to limit and screen customers, particularly in industries that produce dangerous or harmful products.

104. Other manufacturers of dangerous or harmful products, including manufacturers of chemicals and paints, place restrictions and limits on the distribution, distributors, and dealers of their products to avoid known detrimental consequences. In sharp contrast, Defendants have completely failed and refused to adopt any such limits or to engage in even minimal monitoring or supervision of their distributors and dealers.

D. Facilitating Straw Purchases and Multiple Sales

105. Defendants do not limit, or require or encourage their distributors and dealers to limit, the number, purpose or frequency of handgun purchases, nor do they monitor or supervise their distributors or dealers to encourage practices or policies that limit access to handguns for criminal purposes. As a direct, foreseeable and known result of defendants' conduct, a large number of handguns are regularly diverted to the illegal market through "straw purchases."

106. A "straw purchase" occurs where the purchaser of the handgun as reflected in the governmental application forms is a "dummy" purchaser for someone else, most often a person who is

not qualified to purchase the handgun under the applicable federal, state and local laws. In some situations, the real purchaser will be present during the sale of the handgun. He or she may select the handgun, handle it and even provide the cash for the purchase. In other situations, for example in a straw purchase for a gang, the straw purchaser will purchase a number of handguns within a short period of time. In this situation, a straw purchaser may engage in repeated multiple handgun purchases.

107. Straw purchases account for a substantial percentage of handguns diverted into the illegal market. According to a recent study, more than one-half of the firearms subject to firearm trafficking investigations were initially acquired as part of a straw purchase. Another study, this one involving firearms seized by law enforcement officials in Southern California, revealed that more than 80% of the guns retrieved by law enforcement were in the possession of a person other than the original purchaser.

108. Similarly, the level of multiple sales is substantial. One recent law enforcement study of Southern California analyzed 5,743 instances of multiple sales over a nine-month period involving the purchase of 13,181 guns. A significant percentage of these transactions involved the purchase of three or more guns at a time. The report concluded that "[m]ultiple purchases seem relatively common in California, where there has been no set limit to the number of guns that a private person can purchase." More recent data indicates that as many as 22% of all handguns purchased in California in 1998 were part of multiple sales.

109. Although straw purchases often occur under circumstances that indicate or should indicate that a straw purchase is being made, Defendants take no steps to prevent these straw purchases from occurring or to limit the number of straw purchases that occur. For example, Defendants offer no training or guidance to enable the store clerk to recognize when a straw purchase is occurring. Similarly, Defendants undertake no remedial actions to prevent a known straw purchaser from continuing to make purchases. Defendant Manufacturers also fail to adequately supervise and monitor both their distributors

and dealers with respect to straw purchases. Additionally, they do not investigate their distributors and dealers or review their records to determine whether straw purchases are occurring or the extent to which they are. Finally, Defendant Manufacturers fail to impose any sanctions, including possible termination of the relationship, upon their distributors or dealers upon learning that a straw purchase or a series of straw purchases has occurred.

E. Allowing Sales to "Kitchen Table" Dealers

110. "Kitchen table" dealers are handgun dealers who do not sell handguns from an established retail store but rather sell firearms in informal settings, including but not limited to a house, car, flea market, gun show, or even on the street. Many of these kitchen table dealers operate illegally, in violation of state and local licensing and zoning laws. Many of these dealers also engage in other corrupt practices, including but not limited to selling handguns without completing the appropriate and necessary background checks on the purchaser, failing to report sales, failing to keep records of sales, falsifying records of sales, obliterating serial numbers on firearms, and/or falsely claiming that sold guns were stolen. A recent report of Southern California crime guns discussed several cases where corrupt dealers had diverted well over 1,000 firearms apiece to the criminal market.

111. Defendants know or should know about the practices of kitchen table dealers set forth herein. Defendants have nevertheless sold thousands of guns to kitchen table dealers, without taking appropriate steps to reduce unlawful resale by such dealers. Such steps include but are not limited to supervising and monitoring such dealers, tracking crime gun trace requests relating to such dealers, reviewing dealer records for inaccuracies and falsified information, requiring distributors to resell guns only to dealers with a permanent store location, and requiring all dealers to maintain a permanent store location.

F. Designing Weapons Without Features to Discourage Unauthorized Use

112. Illegal handguns trafficking depends upon the ability of unauthorized users to operate weapons obtained from traffickers. Use of designs and features that preclude this ability, such as designs

and features that prevent unauthorized use or facilitate tracking of handguns, would discourage trafficking and reduce the flow of weapons to the illegal market. Notwithstanding the availability and feasibility of such designs and features, Defendants have continued to manufacture, distribute and sell handguns that do not include a design or feature preventing unauthorized.

113. Thousands of handguns diverted to crime also have had their serial numbers obliterated to prevent tracing of the firearm by law enforcement. Such guns are more useful to criminals who seek to eliminate the tracks of their crimes. Defendants are aware of this problem, and the ease with which serial numbers can be obliterated, but have taken no initiative to make their serial numbers tamper-proof. The recent ATF study of 27 cities found, on average, that more than 11% of the guns traced to crime had obliterated serial numbers. In Los Angeles, another study identified a single corrupt dealer in Southern California who obliterated the serial numbers on a major portion of 1,200 guns the dealer diverted to the criminal marketplace.

IV.

DEFENDANTS HAVE DESIGNED HANDGUNS TO APPEAL TO CRIMINALS AND HAVE INCREASED PRODUCTION TO MEET DEMAND FROM THE ILLEGAL MARKET

114. Over the last 20 years, Defendants have changed certain design features and the production output of handguns. Previously, most handguns produced were revolvers, with six bullets stored in a rotating cylinder that could not be reloaded quickly. Now most handguns are semi-automatic pistols with bullets stored in magazines. These pistols fire at a faster rate, and their magazines typically can be detached and replaced very quickly, allowing for sustained firing against multiple targets.

115. Many of the pistols produced by Defendants and many of the recent revolvers are increasingly smaller, easier to conceal, more powerful, and rapid-firing. Hence, these weapons are ever more lethal. Many are also considerably cheaper than in the past.

116. The production of cheap handguns was especially prevalent among Defendants AMT, Lorcin, Bryco Davis, Phoenix and Raven Arms. This group of California manufacturers are all within 45 miles of the City of Los Angeles and has been dubbed by a well-known researcher as the "Ring of Fire." The older, established companies, like Defendants Smith & Wesson, Sturm, Ruger & Co., and Colt, have followed the lead of the "Ring of Fire" companies, producing similar handguns, while also making more expensive models.

117. Defendants have increased the production of particular handguns that are popular for use by criminals. For example, over the past decade, during which the overall demand for handguns has declined, Defendants increased their production of 9-millimeter handguns although their own market research showed that the market for 9 millimeters among law-abiding purchasers was already saturated. Nine-millimeter handguns are popular in the illicit drug trade and, according to most national studies, are among the handguns used most frequently in crime. A recent study concluded that 9 millimeter handguns are the weapons of choice for criminals, accounting for almost a third of all homicides.

118. Defendants know or should know that they manufacture and market handguns, the design of which stresses concealability, lethality, or other design features, which make these handguns attractive to criminals. Defendants' emphasis on concealability is particularly problematic in California, because state law bans possession of a concealed weapon without a concealed carry permit, and few such permits have been issued.

V.

DEFENDANTS' CONDUCT UNDERMINES THE PUBLIC POLICY

EMBODIED IN LOCAL, STATE AND FEDERAL LAWS

119. Federal, state and local firearm laws have been enacted in an effort to curb the abuses of gun violence and to protect the general public's health and safety. Despite the fact that all level of government have implemented statutes and/or ordinances to lessen the incidences of gun violence, Defendants have manufactured, designed, distributed, marketed and sold handguns in ways that undermine and frustrate the public policies embodied in both state and local law. The conduct and practices of Defendants as set forth herein have undermined and frustrated the restrictions, prohibitions, and public policies set forth in local, state and federal laws and regulations including, but not limited to: Title 18, United States Code Sections 921 - 930 et seq. (Chapter 44 - Firearms); California Penal Code Sections 12020-12040 et seq. (Chap. 1, Article 2 - Unlawful Carrying and Possession of Weapons); 12050 - 12054 et seq. (Chap. 1, Article 3- Licenses to Carry Pistols and Revolvers); 12070 - 12085 et seq. (Chap. 1, Article 4 - Licenses to Sell Firearms); 12200 -12250 et seq. (Chap. 2 - Machine Guns); 12270 -12290 et seq. (Roberti-Roos Assault Weapons Control Act of 1989); 12100 et seq. (Chap. 1, Article 7 - Juveniles -Sale or Transfer of Concealable Firearm to Minor); 12500 -12520 et seq. (Chap. 5, Articles 1 and 2 - Unlawful Possession of Firearm Silencers/Misc.); 12800 - 12809 et seq. (Chap. 6, Article 8 Basic Firearms Safety Instruction and Certificate); Los Angeles Municipal Code ("LAMC") Section 45.0l.Firearms -Sale to Minors; LAMC - Public Safety and Protection Section 55.00, Guns – Permits;

LAMC Section 55.01, Concealed Weapons - Permit; LAMC Section 55.05, Assault Weapons - Sale or Possession Prohibited; LAMC Section 103.314. Seller of Firearms (Prohibition on Sale of Saturday Night Specials).

120. For example, the California Roberti-Roos Assault Weapons Control Act of 1989, California Penal Code sections 12275 -12290, and the United States 1968 Gun Control Act, 18 U.S.C. 925 et seq., ban the importation, manufacture, sale, and possession of "assault weapons," which includes handguns. As the California legislature found and declared, this ban is based on the conclusion that such assault weapons "are particularly dangerous in the hands of criminals and serve no necessary hunting or sporting purpose for honest citizens." The ban enacted by the California legislature explicitly applies to both listed weapons and "any other models which are only variations of those weapons with minor differences, regardless of manufacturer."

121. Despite this statute, Defendant Navegar has marketed and sold in California assault weapon handguns substantially similar to or identical to the one banned by the statutes. In fact, Defendant Navegar has made only minor modifications to the banned assault weapon handguns or renamed the ones enumerated in the above-referenced statutes in order to avoid these laws. For example, after the California legislature banned the TEC-9 assault weapon, defendant Navegar continued to distribute and sell the identical assault weapon handgun in California under the name "TEC-DC9." Navegar later distributed and sold a handgun under the name "TEC-DC9" that was the same design as the banned TEC-9, with only cosmetic modifications. At all relevant times, Defendant Navegar has been on notice of the lethal consequences of this practice. Navegar's assault weapon handguns have frequently been used in multiple homicides, including the 101 California Street massacre in which a gun man killed eight and injured six law firm employees at a San Francisco office building.

122. Additionally, numerous local ordinances prohibit the sale of "junk guns" or "Saturday Night Specials," including but not limited to ordinances adopted by the City of Los Angeles, Los Angeles Municipal Code Chapter X, Article 3, Section 103.314 and West Hollywood Municipal Code Section 4122. The "Saturday Night Special" ("SNS") ordinances enacted in over 40 jurisdictions throughout

California were designed to protect the public from poorly made, easily concealable handguns. These handguns have been and continue to be used frequently in the commission of crimes. Notwithstanding these ordinances, certain Defendants unlawfully market, distribute or sell prohibited "Saturday Night Specials" adjacent to jurisdictions banning such sales.

VI.

DEFENDANTS HAVE FAILED TO INCORPORATE FEASIBLE AND EXISTING SAFETY TECHNOLOGY INTO THE DESIGN AND DISTRIBUTION OF FIREARMS

A. Adequate Warning and Safety Features Would Prevent Many Unintentional Shootings

123. Defendants, and each of them, contribute to the serious harm inflicted on Los Angeles residents and citizens throughout the State, by failing to adequately warn users and to incorporate feasible and existing safety technology into the design of handguns, which would prevent shootings and their unauthorized use.

124. Defendants, and each of them, have designed, manufactured, made or sold handguns that are defective because they lack basic safety features and contain inadequate warnings that result in unintentional shootings. Defendants continue to distribute their handguns without adequate warnings and instructions that inform the users of the risks of guns, including proper storage and use of the weapons, even though it is known or should be known by Defendants that approximately half of California residents who keep a firearm at home, a substantial percentage of which includes children, store their guns in an unsafe manner. Defendants also over-promote the purported self-defense and home protection benefits of their guns, in a manner that undercuts any warnings or instructions regarding safe storage of guns, and which results not only in irresponsible people possessing guns, but in the irresponsible storage and handling of guns as well. Despite this knowledge, Defendants market and promote their handguns in a manner that ignores or understates the risks that such handguns pose to their

owners and to other members of the household. Defendants' marketing practices encourage unsafe storage practices and unsafe use of their products.

125. Defendants also manufacture, distribute and sell handguns that are defective and dangerous in that their design lacks safety features or contains inadequate safety features. For example, it was and continues to be foreseeable and known by Defendants that users of semi-automatic handguns would not understand or appreciate that an undetectable round of ammunition may be housed in the firing chamber of a semi-automatic gun even though the ammunition magazine had been removed or emptied. Consequently, it was and continues to be reasonably foreseeable that this hazardous design would result in preventable, unintentional shootings. This hazardous design could be easily corrected through the use of a "magazine-disconnect safety" that would prevent the gun from firing with the magazine removed. These tragic, foreseeable shootings could also be prevented by use of "chamber loaded indicator" that would warn a user when a bullet was in the firing chamber. Defendant Manufacturers have failed to incorporate such devices into their firearms.

126. The unsafe design of Defendants' guns results in 1,400-1,500 unintentional shooting deaths and over 18,000 non-fatal injuries from unintentional shootings every year. The U.S. General Accounting Office estimates that each year, 23% of the unintentional shooting deaths occur because the user of the gun was not aware that a round of ammunition had been loaded into the gun's firing chamber. This results in as many as 320 to 345 deaths nationwide each year. For each of these deaths, there are countless other unintentional shooting injuries that are not fatal.

127. Unintentional shootings with Defendants' unsafe handguns often involve adolescents. Adolescents are foreseeably attracted to guns and typically do not understanding the risks associated with handling a firearm. According to the U.S. General Accounting Office, approximately 35% of all unintentional shooting deaths involve users of guns who were between the ages of 13 and 16. Many such shootings have occurred in the State of California.

128. A number of these preventable shootings have occurred in Los Angeles. For example:

- August 1998 - A 23-year-old man in Pacoima was shot and killed by his 4-year-old neighbor

who found the gun under a bed and thought it was a toy.

- February 1998 - A 12-year-old girl in Wilmington committed suicide with a handgun she obtained from an unknown source.
- July 1997 - A 3-year-old boy in Southwest Los Angeles accidentally shot himself with a handgun he found in his home.
- December 1995 - A 13-year-old Rowland Heights girl was severely injured by her 14-year-old brother when accidentally shot with a handgun he was playing with.
- September 1994 - A 14-year-old was shot in the head by a 12-year-old friend in Van Nuys. The shooter found the .38 caliber revolver and believed the gun to be unloaded when he fired it.
- January 1993 - A 15-year-old student at Fairfax High School was playing with a gun in his backpack when it fired, injuring one classmate and killing another. The gun was taken from the shooter's home where his grandfather kept it for protection.
- January 1990 - A 15-year-old Pacoima boy accidentally shot and killed his neighbor while handling a 9mm semi-automatic pistol he believed to be unloaded.

129. Defendants have failed to take reasonable steps to guard against such foreseeable unintentional shootings by designing their handguns with basic safety features and giving adequate warnings that would prevent or reduce such unintentional shootings. Defendants were aware of, and had available to them, devices, features, warnings, and other measures, which would prevent and decrease the dangers of their products. Defendants failed to remedy the deficiencies in their guns, or warnings, instructions, promotions and advertisements of the handguns. Defendants further failed to adequately warn customers of these dangers, failed to inform distributors, dealers and buyers of available devices and measures that could prevent or decrease these dangers, failed to incorporate safety devices and features into their handguns and discouraged the development and implementation of safety devices and features into their handguns. Defendant Trade Associations failed to adopt adequate guidelines or

standards relating to the development and inclusion of such features in handguns. Defendants knew or should have known that, as a consequence of their actions, California residents have been and will continue to be killed or seriously injured.

B. Personalized Safety Technology Would Prevent Access to Firearms by Unauthorized Users

130. The unsafe and defective design of Defendants' handguns results in thousands of shootings each year by persons who are not authorized by law, or by reason of immaturity or other disability, to possess a handgun. Such shootings often occur when an adolescent or a criminal improperly obtains possession of a firearm.

131. Adolescent homicides and suicides are usually committed with a handgun that the adolescent has obtained from his or her home. In California, millions of minors live in homes where handguns are present. Studies have indicated that the odds that potentially suicidal minors will kill themselves double when a gun is kept in the home. Moreover, for many years, a youth aged 10- 19 has committed suicide with a firearm at a rate of about once every six hours. Firearms are used in 65% of male teen suicides and 47% of female teen suicides. Among 15-19 year-olds, firearm-related suicides have been estimated to account for 81% of the increase in the overall rate of suicide from 1980-1992. In California, in 1996, there were 107 suicides of youth aged 19 and below.

132. At all pertinent times, it was reasonably foreseeable that Defendants' handguns would fall into the hands of unauthorized users. There are guns in approximately one-half of the homes in this country. One survey reports that 30% of gun-owners who have minors in the home keep their guns loaded. Another survey reports that 36% of gun owners with minors in the home keep their guns unlocked. The Federal Centers for Disease Control and Prevention estimates that 1.2 million elementary-aged, latchkey children have access to guns in their homes. Moreover, nearly 60% of juveniles between the ages of 10 and 19 have responded in surveys that they can acquire a handgun should they want one.

133. At all pertinent times, Defendants have also been aware, or should have been aware, that when unauthorized users gained access to Defendants' handguns, tragic and preventable shootings

would result. Many teen suicides and shootings by minors and other unauthorized users could be prevented had Defendants cared to implement safer handgun designs, including personalized handgun technology that would prevent an unauthorized user from being able to fire the handgun. The Defendants further knew that by failing to make and sell handguns with the means to prevent their firing by unauthorized users, it was reasonably foreseeable that handguns stolen from private residences, gun stores and other locations could be employed by unauthorized users in violent criminal acts.

134. A study by the Johns Hopkins University School of Hygiene and Public Health's Center for Gun Policy and Research concluded that "[p]ersonalized handguns can eliminate many deaths and injuries by preventing the unauthorized firing of the firearm.... [and] can be especially effective in preventing teenage [deaths], unintentional deaths and injuries of children, and shootings of police officers."

135. Defendants' dangerous and unsafe products have repeatedly victimized California residents. At the time the Defendants manufactured, distributed, marketed, designed, promoted and/or sold their handguns, Defendants knew or should have known of the dangers of their handguns, including those described herein. Defendants were also aware of, and had available to them, personalized safety features, warnings, and other measures, which would prevent and decrease the dangers of their products. Defendant Manufacturers nevertheless failed to remedy the deficiencies in their handguns. Defendant Manufacturers further failed to incorporate personalized safety features into their handguns and discouraged the development and implementation of personalized safety features. Defendant Trade Associations similarly failed to adopt adequate guidelines or standards relating to the development and inclusion of such personalized safety features in handguns. Defendants knew or should have known that, as a consequence of their actions, California residents would be killed or seriously injured.

C. Defendants Have Failed to Compete to Develop Firearms with Personalized Safety Technology

135. A handgun with personalized safety features sufficient to prevent or significantly reduce the risk of unauthorized use would have obvious appeal to a large segment of the legitimate handgun

market. Despite this market appeal, Defendant Manufacturers have failed to compete with each other to develop and market handguns with such safety features.

136. Defendant Trade Associations have likewise discouraged the development of such safety features. For example, Defendant SAAMI holds itself out to the public as having been, since 1926, "the principle organization in the United States actively engaging in the development and promulgation of product standards for firearms and ammunition." Although SAAMI has promulgated numerous product standards for the firearms industry, it has failed to develop any standards relating to personalized safety devices.

137. Instead of encouraging Defendant manufacturers to develop safer products and distribution practices, defendant Trade Associations have in the past sought to discipline industry members who attempted to address safety issues. For example, when Defendant Smith & Wesson was faced in 1976 with a public outcry that might have resulted in a ban of most handguns in Massachusetts, Smith & Wesson announced that, as an alternative, it would support screening and registration of handgun owners. For this breach of industry policy, Smith & Wesson faced censure or ouster from SAAMI. To avoid possible action by SAAMI, Smith & Wesson for a time withdrew from SAAMI, then conformed its proposals and positions to industry policies.

VII.

DEFENDANTS' UNFAIR, FALSE, DECEPTIVE

AND/OR MISLEADING STATEMENTS UNDERMINE

MINIMUM WARNINGS ON PROPER STORAGE OF HANDGUNS

138. For years, and continuing to date, Defendants have misled, deceived and confused members of the general public in California regarding the safety of handguns and the need for firearms within the home. To increase sales and profits, Defendants have falsely and deceptively claimed through advertising and promotion of their handguns that the ownership and possession of handguns in the home increases one's security. For example, handgun manufacturers have promoted handguns with slogans

such as "homeowner's insurance," "tip the odds in your favor," and "your safest choice for personal protection." Research demonstrates that, to the contrary, handguns actually increase the risk and incidence of homicide, suicide and intentional and unintentional injuries to gun owners and their families and friends. Defendants' over-promotional efforts have negated and undercut any warnings they have provided regarding the risks of handguns in the home.

139. Defendants have made these false and deceptive statements even though they knew and/or should have known that studies and statistics demonstrate that the presence of handguns in the home increase the risk of harm to firearm owners and their families, as set forth in the following statistics:

- a. One out of three handguns is kept loaded and unlocked in the home;
- b. Studies that control for the relevant variables have demonstrated that the homicide of a household member is almost three times more likely in homes with guns than in homes without them, suicide is five times more likely; and for homes with teenagers, a suicide is ten times more likely;
- c. Studies have also shown that a gun in the home is at least 22 times more likely to kill or injure a household member than it is to kill or injure an intruder in self defense;
- d. A firearm is used for protection in fewer than two percent of home invasion crimes; and
- e. For every time a gun in the home was used for self-defense or a legally justifiable shooting, there were four unintentional shootings, seven criminal assaults or homicides, and eleven attempted or completed suicides.

140. Defendants' advertising and promotion activities deceptively convey the message that possession of a handgun, along with the enhanced lethality of particular handguns, will increase the personal safety of the owner and owner's household. Defendants fail to include any information or warning about the relative risk of keeping a handgun in the home. By failing to disclose such risks, the advertisements and promotions fail to correct a material misrepresentation in the minds of many consumers.

142. The U.S. Commission on the Causes and Prevention of Violence in a 1968 article entitled "Handguns and Violence in American Life," noted an increasing number of firearm deaths and injuries and concluded:

[Americans] may seriously overrate the effectiveness of guns in protection of their homes. In our urbanized society the gun is rarely an effective means of protecting the home against either the burglar or the robber [A gun in the home] provides a measure of comfort to a great many Americans, but, for the homeowner, this, comfort is largely an illusion bought at the high price of increased accidents, homicides, and more widespread illegal use of guns When the number of handguns increases, gun violence increases.
(Pages xiii, 139.)

143. In California, a substantial number of deaths and injuries have occurred each year because handguns were purchased for home protection but were thereafter used in unintentional shootings, teen suicides, domestic disputes and other acts of violence as set forth herein. Defendants choose to disregard these well-known statistics and data in an effort to promote their firearms as security or "insurance" for the home, and to increase their sales and profits.

144. Moreover, although Defendants state publicly that they seek to preclude minors and criminals from possessing handguns, they in fact are engaging in practices that facilitate the illegal possession of handguns by minors and criminals through the secondary market. Defendants then utilize the threat posed by the criminal misuse of handguns -- a threat that their own practices have helped to create - to market and sell more handguns to the "home protection" market.

VIII.

DEFENDANTS HAVE PROFITED FROM THEIR UNFAIR, UNLAWFUL OR FRAUDULENT BUSINESS PRACTICES AT THE EXPENSE OF CALIFORNIA AND ITS RESIDENTS

145. Defendants' practices have contributed to the overall success and profit for the \$2 - \$3

billion firearm industry. Defendants, and each of them, knew or should have known that the thousands of handguns distributed through the illegitimate secondary market cause substantial injury and harm to California residents. Defendants' actions and omissions set forth herein facilitate violations of federal, state and local laws or negate and undermine the public policies established by those laws, contribute to physical harm, fear and inconvenience to California residents, and are injurious to the public health, wellbeing and safety of California residents, and in general contribute to the degradation of the quality of life of communities throughout the State of California . Defendants' conduct has directly and indirectly injured and harmed California residents in the form of loss of life, injury, increased criminal activity involving handguns, law enforcement costs, medical costs and emergency response costs. Defendants' conduct has allowed Defendants to profit from their unfair, unlawful and fraudulent business practices thereby contributing to Defendants' overall financial success and vitality at the expense of California and its residents.

FIRST CAUSE OF ACTION

VIOLATION OF CALIFORNIA BUSINESS AND PROFESSIONS CODE SECTION 17200

ET SEQ. FOR UNLAWFUL, UNFAIR OR FRAUDULENT BUSINESS PRACTICES

(Supplying Firearms To An Illegitimate, Illegal Secondary Market)

BY PLAINTIFF THE PEOPLE AGAINST DEFENDANTS AND DOES 1-300

146. Paragraphs 1 through 145 are repeated and realleged as if set forth herein.

147. Within the four years preceding the filing of this Complaint, Defendants, and each of them, individually and in concert, have engaged in unfair business practices within the meaning of Business and Professions Code Section 17200. These acts of unfair competition have caused handguns to be distributed to an illegal market of users and additionally have resulted in intentional and accidental shootings by unauthorized users. In particular, these acts of unfair competition include, but are not limited to, the following:

148. Defendants, and each of them, have distributed, promoted, advertised, sold and

marketed handguns using practices that encourage sales to unauthorized users, including minors and criminals;

149. Defendant Manufacturers and Distributors, and each of them, sell their handguns without adequately screening, supervising, monitoring or regulating their employees, distributors and dealers;

150. Defendant Manufacturers and Distributors, and each of them, sell their handgun without adequately training, instructing, advising or setting standards for distributors and/or dealers of handguns, regarding how to legally and responsibly sell handguns;

151. Defendant Manufacturers and Distributors, and each of them, have continued to make sales to distributors and dealers, even though they knew or should have known that such distributors and dealers had distributed handguns to illegal purchasers and the illegitimate secondary market;

152. Defendants, and each of them, knew or should have known that their distribution practices were unsafe, however, but despite this knowledge defendants have failed to change their practices or to adopt procedures to curb the flow of handguns to the illegitimate secondary market;

153. Defendants, and each of them, knew or should have known that by distributing handguns without adequate self-supervision and regulation that they were creating, maintaining, or supplying the illegitimate secondary market in handguns;

154. Defendants, and each of them, have failed to conduct research, or review existing research, which would allow them to monitor and control the distribution of handguns and help to prevent the creation of an illegitimate secondary market. This includes, but is not limited to, Defendants' failure to implement a product marketing plan, an electronic inventory and sales tracking system, and customer coverage policies;

155. Defendants, and each of them, have caused, permitted, and allowed their lethal handguns to be promoted, marketed, distributed, and disseminated to unauthorized persons, including criminals and minors, and have failed or refused to take reasonable steps to ensure that their handguns were not acquired by unauthorized persons;

156. Defendant Manufacturers and Distributors, and each of them, have adopted distribution

policies that allow and encourage distributors and dealers to make sales to likely straw purchasers, including sales involving large numbers of handguns in a single transaction;

Certain Defendant Manufacturers and Distributors have adopted distribution policies that allow sales to dealers who do not maintain a retail place of business for the resale of the handguns;

157. Defendants, and each of them, have marketed their products in such away as to appeal to minors;

158. Defendants, and each of them, produce, market and distribute substantially more handguns than they reasonably expect to sell to legitimate purchasers. In particular, defendants over saturate markets with handguns in jurisdictions with relatively weak gun control laws to meet the demand of the illegitimate secondary market in jurisdictions with more restrictive gun control laws;

159. Defendant Manufacturers and Distributors, and each of them, have distributed handguns to dealers without requiring dealers to ensure that purchasers' identification, documentation and/or address is accurate;

160. Defendants, and each of them, have designed their handguns to appeal to criminals and have increased production to meet the illegal demand;

161. Defendants, and each of them, do not monitor tracing data from the Bureau of Alcohol, Tobacco and Firearms, in order to discover and prevent trafficking;

162. Defendant Manufacturers, and each of them, have designed and sold handguns without incorporating feasible safety features and personalized gun technology which would prevent unintentional shootings and unauthorized and unintended users from gaining access to the handguns, have discouraged the development and implementation of such features and devices, and have not competed with each other by introducing handguns utilizing such technology Defendant Manufacturers, and each of them, have designed and sold handguns without incorporating feasible technology that would prevent persons from unlawfully obliterating the serial numbers required by law to be placed on those guns;

163. Defendants, and each of them, sell their handguns without providing adequate warnings and instructions regarding the storage or use of their handguns;

164. Defendant Manufacturers, and each of them, have over-promoted the purported selfdefense and home protection benefits of their handguns in a manner that negates or undercuts any warnings or instructions regarding safe storage of handguns.

165. Certain Defendants have engaged in unlawful business practices by evading and undermining the public policies and prohibitions contained in California Penal Code section 12020.5, which bans any advertising in California of certain unlawful weapons, including assault weapons;

166. Defendants' conduct undermines the public policies embodied in local, state, and federal laws.

167. Defendants, and each of them, knew or should have known that by engaging in the foregoing distribution and marketing practices that it was foreseeable that handguns would be acquired and used by persons not authorized or intended to use, sell or possess handguns, such as criminals and minors, and that such usage could be in a manner involving unreasonable, and foreseeable risk to the user and others.

SECOND CAUSE OF ACTION

**VIOLATION OF CALIFORNIA BUSINESS AND PROFESSIONS
CODE SECTION 17200 ET SEQ. FOR UNLAWFUL, UNFAIR OR
FRAUDULENT BUSINESS PRACTICES**

**(Failing to Provide Adequate Warnings and Failing to Incorporate
Technologically Feasible Safety Features in Firearms, All of Which
Would Prevent Intentional and Accidental Shootings)**

BY PLAINTIFF THE PEOPLE AGAINST DEFENDANTS AND DOES 1-300

168. Plaintiff hereby incorporates by reference paragraphs I through 167 as though fully set forth herein.

169. Within the four years preceding the filing of this Complaint, Defendants, and each of them, individually and in concert, have engaged in unfair competition within the meaning of Business and Professions Code Section 17200. Defendants' business practices are unlawful and unfair in that handguns are manufactured and marketed without incorporating technologically feasible safety features without providing adequate warnings, all of which would prevent intentional and accidental shootings. Defendants business practices are also unlawful and unfair in that Defendants have over promoted the purported self-defense and home protection benefits of handguns, the effect of which has been to undercut any warnings or instructions regarding the safe storage of handguns, and which has led to intentional and accidental shootings. In particular, these acts of unfair competition include, but are not limited to, the following:

170. Defendant Manufacturers, and each of the em, have failed to incorporate feasible safety features and personalized gun technology which would prevent unintentional shootings and unauthorized and unintended users from gaining access to the handguns, and have discouraged the development and implementation of such features and devices;

171. Defendants, and each of them, have failed to provide adequate warnings and instructions regarding the storage and usage of their handguns; and

172. Defendants, and each of them, have deceived, misled, and confused the citizens of California regarding the safety of handguns by marketing their product in a manner that promotes the fallacy that the use of handguns will increase home safety and security, without mentioning the fact that handguns actually increase the risk and incidence of homicide, suicide, and unintentional injuries to handgun owners, their families and friends.

THIRD CAUSE OF ACTION

VIOLATION OF CALIFORNIA BUSINESS AND PROFESSIONS

CODE SECTION 17200 ET SEQ. FOR UNLAWFUL BUSINESS PRACTICES

(Defendants have unlawfully created a public nuisance as defined by

Penal Code Section 370 and Civil Code Sections 3479 and 3480)

BY PLAINTIFF THE PEOPLE AGAINST DEFENDANTS AND DOES 1-300

173. Plaintiff hereby incorporates by reference paragraphs I through 172 as though fully set forth herein.

174. Within the four years preceding the filing of this Complaint, Defendants, and each of them, individually and in concert, have engaged in unfair competition within the meaning of Business and Professions Code Section 17200 by unlawfully creating a public nuisance as defined by Penal Code section 370 and Civil Code sections 3479 and 3480.

FOURTH CAUSE OF ACTION

VIOLATION OF CALIFORNIA BUSINESS AND PROFESSIONS

CODE SECTION 17200 FOR UNLAWFUL BUSINESS PRACTICES

Defendants have unlawfully created a private nuisance as defined by -

Civil Code sections 3479 and 3481)

BY PLAINTIFF THE PEOPLE AGAINST DEFENDANTS AND DOES 1-300

175. Plaintiff hereby incorporates by reference paragraphs 1 through 174 as though fully set forth herein.

176. Within the four years preceding the filing of this Complaint, Defendants, and each of them, individually and/or in concert, have engaged in unfair competition within the meaning of Business and Professions Code Section 17200 by unlawfully creating a public nuisance as defined by Penal Code section 370 and Civil Code sections 3479 and 3480.

FIFTH CAUSE OF ACTION

(PUBLIC NUISANCE)

BY PLAINTIFF THE PEOPLE AGAINST DEFENDANTS AND DOES 1-300

177. Paragraphs 1 through 176 are repeated and realleged as if set forth herein.

177. The citizens of the Cities of Los Angeles, Compton, and West Hollywood, have a common right to be free from conduct that creates an unreasonable jeopardy to the public health, welfare and safety and to be free from conduct that creates a disturbance and reasonable apprehension of danger to person and property.

179 Defendants' ongoing conduct relating to their supply of an illegitimate secondary market for handguns has created and maintained a public nuisance in the Cities of Los Angeles, Compton and West Hollywood and throughout Southern California, as thousands of handguns that they directly or indirectly supply to the illegitimate handguns market are thereafter used and possessed in connection with criminal activity in the cities of Los Angeles, Compton and West Hollywood and throughout Southern California. As a result of the continued use of many of these handgun after they enter Cities, residents of Los Angeles, Compton, and West Hollywood, have been and will continue to be killed and injured by these handguns and residents will continue to fear for their health, safety and welfare and will be subjected to conduct that creates a disturbance and reasonable apprehension of danger to their person and property.

180. Defendants' conduct, as set forth above, constitutes a public nuisance in the Cities of

Los Angeles, Compton and West Hollywood, because it is an unreasonable interference with common rights enjoyed by the general public.

181. Defendants' conduct, as set forth above, is an unreasonable interference with common rights enjoyed by the general public in the Cities of Los Angeles, Compton and West Hollywood, because it significantly interferes with the public's health, safety, peace, comfort and convenience.

182. Defendants' conduct, as set forth above, is an unreasonable interference with common rights enjoyed by the general public in the Cities of Los Angeles, Compton and West Hollywood, because Defendants knew or should have known that conduct to be of a continuous and long-lasting nature that produces a permanent and long-lasting significant negative effect on the rights of the public.

183. Defendants' ongoing conduct produces an ongoing nuisance, as thousands of handguns that they directly or indirectly supply to the illegitimate handguns market which 'are thereafter illegally used and possessed in the Cities of Los Angeles, Compton and West Hollywood will remain in the hands of persons who will continue to use and possess them illegally for many years. As a result of the continued use and possession of many of these handguns, residents of the Cities of Los Angeles, Compton and West Hollywood will continue to be killed and injured by these handguns and the public will continue to fear for its health, safety and welfare and will be subjected to conduct that creates a disturbance and reasonable apprehension of danger to person and property. The City has a clearly ascertainable right to abate conduct that perpetuates this nuisance.

184. The presence of illegitimately possessed and used handguns in the Cities of Los Angeles, Compton and West Hollywood proximately results in significant costs to the Cities in order to enforce the law, arm its police force and treat the victims of handgun crime. Stemming the flow of handguns into the illegitimate handguns market will help to abate the nuisance, will save lives, prevent injuries and will make the Cities of Los Angeles, Compton and West Hollywood a safer place to live.

185. Defendants' conduct constitutes a public nuisance in the Cities of Los Angeles, Compton and West Hollywood, because it significantly interferes with the public's health, safety, peace, comfort and convenience. Defendants knew or should have known that conduct to be of a continuous

nature that produces a permanent and significant negative effect on the rights of the public. Defendants' conduct constitutes a public nuisance within the meaning of Civil Code § 3480 and this action is brought under Civil Code § 3490, et seq., and Code of Civil Procedure § 731. The affected cities have a clearly ascertainable right to abate conduct that perpetuates this nuisance. Stemming the flow of handguns into the illegitimate handguns market will help to abate the nuisance, will save lives, prevent injuries and will make the Cities of Los Angeles, Compton and West Hollywood a safer place to live.

PRAYER FOR RELIEF

Wherefore, Plaintiff prays for relief and judgment against the Defendants jointly and severally, as follows:

1. For injunctive and declaratory relief pursuant to Business and Professions Code § 17203.
 - a. Declaring that Defendants have engaged in unlawful, unfair, and deceptive business acts and practices in violation of Business and Professions Code Section §§ 17200 et seq.
 - b. Permanently enjoining Defendants, and each of them, and their respective successors, agents, servants, officers, directors, employees and all persons acting in concert with them directly or indirectly from engaging in conduct in the manner alleged in the first through fourth causes of actions in the Complaint.
2. On the fifth cause of action, alleging Public Nuisance, that the Court grant a permanent injunction to abate the public nuisance as alleged in the Complaint.
3. For pre-judgment and post-judgment interest as provided by law.
4. For civil penalties in the sum of \$2,500 for each separate act in violation of Business and Professions Code Section 17200, pursuant to Section 17206, according to proof.
5. For restitution and/or disgorgement of wrongfully obtained monies pursuant to Business and Professions Code § 17203.
6. For costs of suit as provided by law.

7. For attorneys' fees as provided by law.
8. For such further relief as the Court deems equitable and just.

Dated: May 25, 1999

Respectfully submitted,

JAMES K. HAHN, City Attorney
CARMEL SELLA, Special Assistant City Attorney
DON KASS, Deputy City Attorney
MARK FRANCIS BURTON, Deputy City Attorney

BY _____

JAMES K. HAHN, City Attorney
Attorney for the PEOPLE OF
THE STATE OF CALIFORNIA