

PENNSYLVANIA STATEWIDE HIGH SCHOOL
MOCK TRIAL COMPETITION

1999

Lee Smith

v.

Lou Lorcin, t/d/b/a Lorcin's Pawn Shop

Sponsored by:

*The Young Lawyers Division of
The Pennsylvania Bar Association*

THE UNIVERSITY OF CHICAGO
DEPARTMENT OF CHEMISTRY

1951

RESEARCH REPORT

THE EFFECT OF TEMPERATURE ON THE
RATE OF REACTION OF

PERMANGANATE IONS

WITH HYDROGEN PEROXIDE IN
ACIDIC SOLUTION

TABLE OF CONTENTS

	Page
Website Information	iii
Problem Questions & Contact Information	iv
Introduction & Acknowledgements	1
Complaint	3
Answer	7
Stipulated Facts	10
Evidentiary Stipulations	12
Applicable Law	13
Memorandum and Order	14
List of Witnesses	19
Witness Statements	
Lee Smith	20
Bobbie Jennings	23
J.T. Davis	26
Lou Lorcin	29
Agent A.J. Chambers	33
Tyler Berretta	36
Exhibits	
Exhibit A: Map of scene at Lorcin's Pawn Shop	39

Exhibit B:	Lorcin's receipt given to Patrick Smith	40
Exhibit C:	Lorcin's receipt given to Hercules Weson	41
Exhibit D:	Smith family phone bill for July 1, 1998	42
Exhibit E:	Agent Chambers' Interview Record	43
Exhibit F:	BATF Report	45
Exhibit G:	Criminal Record of Bobbie Jennings	46

WEBSITE INFORMATION

This year we are pleased to be able to include the mock trial problem and competition information on the Pennsylvania Bar Association's website. Teams may download the information from:

<http://www.pa-bar.org/mock.shtml>

Although this information is available on the internet, please be aware that this version of the mock trial problem is not official. The only documents considered official will be those sent from the Pennsylvania Bar Association. This is necessary so as not to put those schools without internet access at a disadvantage.

PROBLEM QUESTIONS & CONTACT INFORMATION

In an effort to accommodate questions from all regions regardless of competition dates, we have made some changes in the manner in which questions relating to the problem will be handled.

All questions regarding the problem should be submitted (preferably in writing so as to avoid any miscommunications) to Temple-LEAP. Questions may be received in the following manners:

Fax: 215-204-5455
Email: dtrevask@thunder.ocis.temple.edu
Mail: Temple-LEAP
Temple University School of Law
1719 N. Broad St
Philadelphia PA 19122-6098
Phone: 215-204-1887

Deadline for submission of any and all questions relating to the problem is December 18, 1998. No questions will be accepted after this date.

Once the question submission deadline has passed, the problem committee will begin its review. All questions will be handled in one (1) memo to be distributed to all schools and coordinators no later than January 12, 1999. **This will be the only question and answer memo distributed.**

Questions regarding local competitions, Rules of Competition, and Rules of Evidence should be directed to your Regional Coordinators or your District/Local Coordinators.

INTRODUCTION & ACKNOWLEDGEMENTS

The 1999 Statewide High School Mock Trial Competition is modeled after a competition sponsored by Street Law, Inc., formerly known as the National Institute for Citizen Education in the Law (NICEL), in Washington, D.C. Temple-LEAP supported by the Young Lawyers Division of the Philadelphia Bar Association began the first mock trial efforts in Pennsylvania with a Philadelphia competition that is now entering its nineteenth year. The Pennsylvania Bar Association's Young Lawyers Division took the program statewide in 1984.

This year's case materials were created by Ron Pingitore, a fourth year evening student at Temple Law School. William Bowe, Temple Law School Visiting Professor and Director of the LL.M. in Trial Advocacy Program at Temple, supervised the writing of the problem during the summer of 1998. Temple-LEAP sincerely thanks Mr. Pingitore and Professor Bowe for their wonderful efforts in drafting the problem.

The problem centers around Lorcin's Pawn Shop in Owlville, New Temple County. On trial is Lorcin's Pawn Shop owner, Lou Lorcin, who is being sued by Lee Smith for negligence on behalf of Smith's deceased son, Patrick Smith. Smith, age 14, accidentally shoots himself after Hercules Weson, a well-known Olympic athlete, acts as a straw purchaser by trading Smith's CD player for a handgun at Lorcin's Pawn Shop. Earlier in the day, Lorcin had refused to allow Smith and his friend, Bobbie Jennings, to trade-in Smith's CD player for a handgun. However, through the straw purchase, Weson bought the same handgun and gave it to Smith in exchange for \$25. While loading the handgun, Smith drops it and is fatally wounded. Immediately after Smith's death, Weson dies of a heart attack while being interviewed by BATF Agent A.J. Chambers. Lorcin, who sold the handgun to Weson, denies any knowledge of the straw purchase transaction and denies any negligence. J.T. Davis, Lorcin's former employee, maintains that s/he attempted to warn Lorcin that Weson was buying the handgun for Smith, but Lorcin ignored Davis' warnings. Tyler Beretta, Lorcin's new employee, claims that Lorcin had no way of knowing that Weson was a straw purchaser. The only issue in the case is whether Lorcin is civilly liable for the shooting death of Smith.

The 1999 case materials were revised and edited for competition purposes by Temple-LEAP staffer and Temple Law School alumnus Greg Wiegand under the auspices of the Young Lawyers Division of the Pennsylvania Bar Association (PBA/YLD). A number of Philadelphia and statewide volunteers helped fine tune the problem. Susan Donmoyer of the Pennsylvania Bar Association provided administrative assistance to the competition. Members of the PBA/YLD Mock Trial Committee headed by Harrisburg attorneys Deborah Spertzel Freeman and Jane Meyer provided support in producing the problem and coordinating the statewide competition. Anne Panfil and Jennifer Degenfelder, counsel for the Criminal Procedural Rules Committee of the Pennsylvania Supreme Court, reviewed the

problem in its earliest stages and offered many helpful suggestions to the problem committee. Harrisburg attorney Alan Boynton, chairperson of the 1996 National Mock Trial Competition that was held in Pittsburgh, provided his usual expert assistance in preparing the problem for competition purposes. Many others who reviewed drafts and offered their suggestions are also owed a debt of gratitude for their support of the young people of Pennsylvania. We especially thank Dr. Morris Jenkins, an Administration of Justice Professor at Pennsylvania State University - Abington College, Bucks County attorney Harry Cooper, Montgomery County attorney Donna Adelsberger, Pittsburgh attorney G. Daniel Carney, Captain Joseph O'Donnell and Detective Dennis Donlon of the Philadelphia Police Department, and Richard A. Zappile, City of Philadelphia Deputy Mayor, Mayor's Office of Gun Violence.

A special word of thanks goes to Ann Marie Scarpino, a former state champion teacher coach at North Pocono High School and now a second-year Dickinson Law student. Ms. Scarpino reviewed numerous drafts of the problem and made significant contributions to its final form. Additionally, heartfelt thanks are given to LEAP Program Director Roberta West and the LEAP law student staff who made this problem come alive.

LEE SMITH, Administrator of the
Estate of Patrick Smith, Deceased,
Plaintiff

: NEW TEMPLE COUNTY
: COURT OF COMMON PLEAS
:

v.

: CIVIL DIVISION
:

LOU LORCIN, t/d/b/a
LORCIN'S PAWN SHOP,
Defendant

: CASE NO.: _____
:
:

COMPLAINT

1. Plaintiff, Lee Smith ("Plaintiff"), is the Administrator of the Estate of Patrick Smith (hereinafter "Decedent"), deceased, and resides at 345 Constitution Street, New Temple County, Pennsylvania.

2. Defendant, Lou Lorcin ("Lorcin"), is an adult individual residing at 123 Freeman Avenue, New Temple County, Pennsylvania.

3. At all times relevant hereto, Lorcin was trading and doing business as Lorcin's Pawn Shop, a business organized under the laws of Pennsylvania with its primary place of business located at 353 Trigger Street, New Temple County.

4. At all relevant times hereto, Lorcin t/d/b/a Lorcin's Pawn Shop was an authorized firearms dealer and was in the business of buying and selling firearms.

5. On July 1, 1998 at approximately 11:30 a.m., Decedent, a minor, visited Lorcin's Pawn Shop with Bobbie Jennings with the intent of selling a CD player and using the proceeds to purchase a handgun.

6. The proposed transaction was denied by Defendant due to the Decedent's status as a minor.

7. On July 1, 1998 at approximately 1:15 p.m., Hercules Weson, an adult, visited Lorcin's Pawn Shop and successfully sold Decedent's CD player to Defendant.

8. Weson used the proceeds of the sale of the CD player to purchase from Defendant the same handgun that Decedent had attempted to purchase earlier that day. Weson was also given a box of ammunition by Defendant.

9. Immediately upon exiting the store on July 1, 1998, Weson gave the handgun and the box of ammunition to Decedent.

10. Moments after receiving the handgun, Decedent attempted to load the handgun.

11. While Decedent was attempting to load the handgun, Decedent dropped the handgun and the handgun fired on its impact with the concrete walkway.

12. The discharged bullet from the handgun struck and killed Decedent.

COUNT I: NEGLIGENCE

13. Plaintiff incorporates by reference the allegations set forth in paragraphs 1 through 12 as though same were fully set forth at length herein.

14. As a licensed firearm dealer, Defendant had a duty to exercise reasonable care in the sale of firearms.

15. By participating in an illegal straw purchase transaction which allowed Weson to provide Decedent, a minor, with a handgun, Defendant breached a legal duty to exercise reasonable care.

16. Defendant and/or his/her agents, employees, and/or servants of Lorcin's Pawn Shop participated in a handgun transaction which they knew or should have known was an illegal straw purchase transaction.

17. The negligence of Defendant including, but not limited to his/her agents, servants and/or employees, consisted of the following:

(a) failing to take reasonable steps to prevent an illegal straw purchase transaction for a minor; and

(b) failing to conduct his business as a licensed firearms dealer in a reasonable and proper manner.

18. Decedent's death was the direct and proximate result of the negligence and carelessness of Defendant.

19. As a direct and proximate result of Defendant's negligence, Decedent suffered a gunshot wound and died, for which damages are claimed by Plaintiff on behalf of Decedent's estate.

20. Plaintiff claims, on behalf of the Decedent's estate, all pecuniary damages suffered by reason of the death of the Decedent, including the loss of earning capacity, as well as damages for the physical pain and/or emotional pain suffered by Decedent.

WHEREFORE, Plaintiff LEE SMITH, Administrator of the Estate of Patrick Smith, Deceased, demands judgment against Defendant, Lou Lorcin, t/d/b/a Lorcin's Pawn Shop, in

an amount in excess of Fifty Thousand Dollars (\$50,000.00) to be determined at the time of trial.

/s/ Charles Connors, Esquire
Attorney for the Plaintiff

Dated: September 2, 1998

10. Denied. After reasonable investigation, Defendant is without sufficient information or knowledge to form a belief regarding the truth of the averments set forth in this paragraph and the same are denied and proof is demanded at trial if material and relevant.

11. Denied. After reasonable investigation, Defendant is without sufficient information or knowledge to form a belief regarding the truth of the averments set forth in this paragraph and the same are denied and proof is demanded at trial if material and relevant.

12. Denied. After reasonable investigation, Defendant is without sufficient information or knowledge to form a belief regarding the truth of the averments set forth in this paragraph and the same are denied and proof is demanded at trial if material and relevant.

COUNT I: NEGLIGENCE

13. Defendant incorporates its response to Paragraphs 1 through 12 of the Complaint as if fully set forth herein at length.

14. Denied. This averment sets forth a legal conclusion to which no response is required. To the extent that any response is required, Defendant acted in accordance with his/her legal obligations.

15. Denied. This averment sets forth a legal conclusion to which no response is required. To the extent that any response is required, Defendant denies that he/she acted contrary to law in any manner.

16. Denied. Defendant and/or the agents/employees, and/or servants of Lorcin's Pawn Shop, did not participate in a handgun transaction which they knew or should have known was an illegal straw purchase transaction.

17. Denied. Defendant specifically denies that he/she was negligent or careless.

18. Denied. Defendant specifically denies that he/she was negligent or careless and further denies that the death of Plaintiff's Decedent was the result of any wrongful act of Defendant.

19. Denied. Defendant specifically denies that he/she was negligent or careless and further denies that the death of the Plaintiff's Decedent was the result of any wrongful act of Defendant. Defendant further denies that Plaintiff is entitled to any damages from Defendant.

20. Admitted in part and denied in part. It is admitted that Plaintiff is seeking damages. It is denied that Plaintiff is entitled to any damages.

/s/ Sharon Colt, Esquire
Attorney for the Defendant

Dated: September 18, 1998

LEE SMITH, Administrator of the
Estate of Patrick Smith, Deceased,
Plaintiff

: NEW TEMPLE COUNTY
: COURT OF COMMON PLEAS

v.

: CIVIL DIVISION

LOU LORCIN, t/d/b/a
LORCIN'S PAWN SHOP,
Defendant

: CASE NO.:98-1116
:
:
:
:
:
:

STIPULATED FACTS

1. On July 1, 1998, at approximately 11:30 a.m., two minors, Patrick Smith, age 14, and Bobbie Jennings, age 15, entered Lorcin's Pawn Shop with the intent of selling Smith's CD player for cash.
2. Patrick Smith and Jennings approached Lou Lorcin, the pawn shop owner, and asked for an offer for the purchase of Smith's CD player.
3. Lorcin provided Patrick Smith with a store receipt showing an offer of \$115 to purchase the CD player.
4. While in the pawn shop, a handgun displayed in a glass case caught Patrick Smith's attention.
5. The handgun that Patrick Smith was attracted to was priced at \$90.
6. Patrick Smith proposed to trade the CD player for the handgun and \$25 in cash.
7. Lorcin refused the proposed transaction because the Gun Control Law prohibits the sale of a firearm, other than a shotgun or rifle, to anyone under the age of 21.

8. At approximately 1:15 p.m. on July 1, 1998, Hercules Weson entered Lorcin's Pawn Shop and offered to trade a CD player for the same handgun identified by Smith and \$25 in cash.

9. The CD player was the same CD player as the one Patrick Smith attempted to sell earlier in the day.

10. Lorcin completed the sale to Weson after filling out the necessary New Temple County Bureau of Alcohol Tobacco and Firearms (BATF) buyer's application and running a National Instant Criminal Background Check (NICBC).

11. The NICBC confirmed Weson was an eligible firearms purchaser.

12. As part of a promotion, Lorcin included a box of ammunition with the sale.

13. Lorcin gave Weson a \$20 and a \$5 bill as part of the exchange.

13. After exiting the store, Weson delivered the handgun and the box of ammunition to Patrick Smith.

14. As Patrick Smith attempted to load the handgun, he dropped it.

15. The gun discharged upon striking the concrete walkway.

16. The bullet discharged from the gun struck Patrick Smith in the chest, killing him.

17. While being interviewed by BATF Agent A.J. Chambers, Weson suffered a massive heart attack and died.

LEE SMITH, Administrator of the
Estate of Patrick Smith, Deceased,
Plaintiff

: NEW TEMPLE COUNTY
: COURT OF COMMON PLEAS

v.

LOU LORCIN, t/d/b/a
LORCIN'S PAWN SHOP,
Defendant

: CIVIL DIVISION

: CASE NO.:98-1116

EVIDENTIARY STIPULATIONS

The parties have stipulated to the authenticity of the following items:

1. The Complaint and Answer to the Complaint.
2. Map of Lorcin's Pawn Shop is a fair and accurate representation of the area.
3. The receipt of the pawn shop offer for the CD player given to Patrick Smith. The receipt was found at the scene of Patrick's death.
4. The receipt of the pawn shop exchange of the CD player for the handgun and money given to Hercules Weson. The receipt was found on Hercules Weson after his collapse and death.
5. Smith family phone bill for July 1, 1998.
6. Agent Chambers' Interview Record from his investigation of the incident on July 1, 1998.
7. BATF Report completed by Hercules Weson while in Lorcin's pawn shop.
8. Bobbie Jennings' criminal record.
9. Contributory negligence shall not be argued at trial.

The parties reserve the right to dispute any legal or factual conclusions based on these items and to make objections other than to authenticity.

APPLICABLE LAW

COMMONWEALTH GUN CONTROL LAW

Statute 1 - It shall be unlawful for any licensed firearms dealer to (a) sell or deliver any firearm to anyone whom the seller knows or has reasonable cause to believe is mentally impaired or incompetent, or (b) sell or deliver any firearm, other than a rifle or shotgun, to anyone under the age of 21.

Statute 2 - The sale or delivery of a firearm by a licensed firearms dealer to an eligible purchaser who is acting as an agent, intermediary or "straw purchaser" for someone whom the licensee knows or has reasonable cause to believe is ineligible to purchase the firearm directly is a violation of the Gun Control Law.

DEFINITIONS

Straw purchaser: A third party who takes part in a transaction as an agent for another for the purpose of obtaining property and executing whatever documents are required to transfer ownership of the property to the ultimate recipient of the property.

LEE SMITH, Administrator of the
Estate of Patrick Smith, Deceased,
Plaintiff

: NEW TEMPLE COUNTY
: COURT OF COMMON PLEAS

:
: CIVIL DIVISION

v.

: CASE NO.:98-1116

LOU LORCIN, t/d/b/a
LORCIN'S PAWN SHOP,
Defendant

MEMORANDUM AND ORDER

This matter stems from a series of events that culminated on July 1, 1998, with the accidental shooting death of the minor Patrick Smith, a fourteen year old. The death occurred when Patrick Smith dropped a loaded handgun that discharged on impact. The discharged bullet struck Patrick Smith in the chest and caused instant death. As a result of the incident, the Estate of Patrick Smith, represented by Lee Smith, has filed a civil lawsuit against Lou Lorcin, t/d/b/a Lorcin's Pawn Shop, alleging that Lorcin negligently sold the handgun to a "straw purchaser" who then gave the gun to Patrick Smith, who was an ineligible purchaser under the Commonwealth Gun Control Law. Plaintiff is seeking damages representing the earnings that Patrick Smith will never realize due to his untimely death.

Since the parties have consented to bifurcate the proceedings, our focus is limited to the question of liability. The question of damages will be addressed only upon the finding of liability. The Court is presently faced with a motion for summary judgment filed by the Defendant.

SUMMARY JUDGMENT STANDARD

Summary judgment is a means available to litigants for prompt and expeditious disposition of a controversy without a trial when there is no dispute as to material facts, or if only a question of law is involved. Summary judgment may be granted when all the evidence submitted to the Court shows that there is no triable issue as to any material fact and that the moving party is entitled to a judgment as a matter of law. Here, Defendant contends that even if he violated the Gun Control Law, Defendant cannot be held civilly liable to the Plaintiff based upon the violation of a criminal statute.

The issue before this Court on the Defendant's motion for summary judgment is whether the Gun Control Law can be used to establish the legal duty owed by a firearms dealer to others.

APPLICABLE GUN CONTROL LAW

The following statutes of the Commonwealth Gun Control Law are at issue in this case:

Statute 1 - It shall be unlawful for any licensed firearms dealer to (a) sell or deliver any firearm to anyone whom the seller knows or has reasonable cause to believe is mentally impaired or incompetent, or (b) sell or deliver any firearm, other than a rifle or shotgun, to anyone under the age of 21.

Statute 2 - The sale or delivery of a firearm by a licensed firearms dealer to an eligible purchaser who is acting as an agent, intermediary or "straw purchaser"¹ for someone whom the licensee knows or has reasonable cause to believe is ineligible to purchase the firearm directly is a violation of the Gun Control Law.

ANALYSIS

Defendant argues that the Gun Control Law intended only to impose criminal penalties. We disagree. A statute usually prohibits certain conduct and makes it a crime, without reference to civil liability. Obviously, if the legislation was enacted for the protection of others, the criminal penalty implies that its violation constitutes a breach of the duty of care one owes to those intended to be protected. The primary purpose of the Gun Control Law is to make it possible to keep firearms out of the hands of those not legally entitled to possess them because of age or mental incompetence. We conclude that, where a firearm is put into the hands of an ineligible purchaser, as defined by the Gun Control Law, the firearms dealer may be held civilly liable to the extent the sale was in violation of the Gun Control Law.

Our decision today is consistent with this Court's decision in *Flint v. Heston's Sporting Guns* where the defendant, Heston's Sporting Guns, sold a rifle to a twenty-one year old Pat Flint who was allegedly confused and distraught at the time of purchase. Shortly after the purchase, Flint used the rifle to commit suicide. The decedent's heirs,

¹This Court defines "straw purchaser" as a "third party who takes part in a transaction as an agent for another for the purpose of obtaining property and executing whatever documents are required to transfer ownership of the property to the ultimate recipient of the property."

relying on the Gun Control Law, which prohibits the sale of a firearm to a purchaser whom the seller knows or has reasonable cause to believe is mentally impaired or incompetent, brought a civil suit against Heston's Sporting Guns. We held that there was a triable issue of fact as to whether Heston's Sporting Guns had reasonable cause to believe Pat Flint was mentally impaired and that the Gun Control Law established the applicable standard of care for the jury to apply in determining negligence.

It is this Court's decision that Statute #2 of the Gun Control Law may be invoked to hold a licensed firearms dealer civilly liable for the negligent sale of a handgun to a straw purchaser where the dealer knew or had reasonable cause to believe that the handgun was being purchased for an ineligible purchaser. Defendant had a duty not to sell weapons to minors, either directly or indirectly. The standard of care required of a reasonable person when dealing with the sale of firearms is so great that a slight deviation therefrom will constitute negligence. The negligence or misconduct of the plaintiff is not a defense which may be asserted by the defendant in an action for violation of the statute.

Our decision today leaves one question to be resolved. Was the sale of the handgun by Lorcin in violation of Statute #2 of the Gun Control Law? The answer to that question cannot be found in the law. Rather, it is for the fact finder to determine whether this particular sale was in violation of the Gun Control Law. That determination will be left to the jury.

LEE SMITH, Administrator of the : NEW TEMPLE COUNTY
Estate of Patrick Smith, Deceased, : COURT OF COMMON PLEAS
Plaintiff :
v. : CIVIL DIVISION
LOU LORCIN, t/d/b/a : CASE NO.:98-1116
LORCIN'S PAWN SHOP, :
Defendant :

ORDER

Defendant's motion for summary judgment is denied. This matter is hereby ordered to trial.

The sole issue for the jury is to determine whether Defendant knew or had reasonable cause to believe Weson was acting as a straw purchaser for Patrick Smith, in violation of the Gun Control Law. If yes, Defendant is liable for the death of Patrick Smith.

/s/Alan R. Browning, Judge
Court of Common Pleas, New Temple County

Dated: November 12, 1998

LIST OF WITNESSES

Please note that the 1999 Mock Trial packet provides witness statements from three witnesses on each side. The plaintiff and defense may only call two of the three witnesses. The selection of which witnesses to use is up to each team, but must be communicated to the other side prior to the start of the trial. The failure to call a particular witness may be noted at trial and inference may be made from that failure.

For the Plaintiff

- * Lee Smith, Plaintiff, Parent of Patrick Smith, deceased
- * Bobbie Jennings, Friend of Patrick Smith, deceased
- * J.T. Davis, Former employee of Lorcin's Pawn Shop

For the Defendant

- * Lou Lorcin, Defendant, Owner of Lorcin's Pawn Shop
- * Agent A.J. Chambers, BATF Agent
- * Tyler Berretta, Current employee of Lorcin's Pawn Shop

WITNESS STATEMENT: LEE SMITH

Witness for Plaintiff

1 My name is Lee Smith. My only child, Patrick, was killed because of the greed-
2 driven actions of Lou Lorcin. I am 45 years old and have been happily married to Sammie
3 Smith for 22 years. I am suing Lou Lorcin because Lorcin turned his/her back on an illegal
4 transaction that allowed my child to get a handgun and ammunition. My life ended within a
5 span of two hours on July 1, 1998. Patrick had just turned 14 years old.

6 We celebrated Patrick's birthday the day before in a grand style. Patrick was allowed
7 to invite 15 close friends for the celebration and they could sleep over. We were usually
8 very strict with Patrick, but that was only because we loved him so much. Patrick was a
9 straight A student with an extremely bright future. However, about a year ago, Patrick
10 started hanging out with a bad crowd. That may be too broad of a statement. The real
11 problem was Bobbie Jennings, one of the neighborhood children. Jennings was always
12 getting into trouble within the community. In fact, over the past few months, Jennings made
13 the Police Log in the paper after being arrested for throwing a stone through a church
14 window and for stealing bicycles. It wouldn't surprise me if Jennings did a whole lot of
15 other things that never made the newspaper. After all, it wasn't until the last election when
16 the police were required to report juvenile offenders by name in the local paper. That little
17 criminal probably got away with murder! Jennings was trouble, and was often left without
18 supervision due to a single parent home life.

19 Anyway, the birthday party was grand. Patrick's grandparents, aunts, and uncles
20 attended, as well as local families. I have not seen Patrick that happy in many years. I
21 started to feel bad about being so strict with Patrick when I saw how much fun was being
22 had by everyone. Patrick opened all the presents in front of the crowd. We all cheered and
23 laughed as each gift was opened. The highlight of the day was when both sets of
24 grandparents got Patrick the same CD player. Everyone got a real laugh from that. I was a
25 little surprised myself. I know that the CD players are very expensive and couldn't believe
26 my parents spent so much money on Patrick. When I was growing up, they never gave me
27 such gifts. Even for my wedding they disappointed us with a bottom of the line blender.
28 But the celebration moved forward.

29 That night, I made sure the kids had sleeping bags and movies for the evening. I
30 went out to get them some pizza and soft drinks. As I came toward the room with the pizza,
31 I heard Patrick talking about returning one of the CD players. This upset me, because to do
32 so was going to have to upset one set of grandparents. I asked Patrick to come to the
33 kitchen. I explained that to return one of the CD players was going to cause a problem with
34 the family. I suggested we keep both players. The one could stay in the house and the other
35 could go with Patrick wherever he liked. Patrick was reluctant at first and wanted to use the
36 extra cash to purchase more CD's for the remaining player. Finally, I just had to say no and
37 end the discussion. Patrick obviously did not understand what I was trying to convey.

1 Patrick returned to the TV room and the kids watched movies until 4:00 a.m. I did
2 not complain even though the volume of the TV kept me awake all night as well. As I said,
3 I wanted to be more relaxed with Patrick and see if that could be accomplished without
4 losing the parent-child respect. I had to get up at 6:00 a.m. to get ready for work. It took
5 everything I had to get out of bed after just two hours of sleep. As a precaution, as soon as
6 I got up, I called Patrick's grandparents and warned them about Patrick's idea to trade-in one
7 of the CD players for new CD's. I was shocked when neither of them opposed the idea and
8 both volunteered to drive the sales receipt to our house that morning. I explained that I
9 thought it was disrespectful to even suggest returning one of the CD players. They could not
10 understand my position. I still cannot understand why both sets of grandparents were so easy
11 and understanding with Patrick. In any event, the grandparents agreed not to cooperate with
12 Patrick by providing the sales receipts for either CD player. It was a small victory.

13 The next item of business was to call work. I am a social worker for the County
14 Human Services Commission. There was no way I was going to be there by 9:00 a.m. I
15 told my supervisor that I was going to be late, and that the sleep over party kept me up all
16 night. We started talking about the CD players and why I was so against returning one. My
17 supervisor agreed with me, and suggested that I also call Lorcin's Pawn Shop to warn them
18 about the possibility that Patrick might try to trade a CD player in for something else. Lou
19 Lorcin was very well known in the community, and constantly told everyone that Lorcin's
20 Pawn Shop would exchange cash, guns or whatever for quality merchandise. In addition,
21 Lorcin sponsored many local gun club activities to get the shop's name out into the
22 community. As a social worker, I witness the devastating effects of gun violence on children
23 and families every day. Unscrupulous gun dealers, like Lorcin, make my job even harder.
24 Lorcin had no difficulty encouraging the proliferation of handguns on the streets of Owlville.
25 He aggressively advertised his pawn shop as the place to buy or trade for all types of guns.
26 According to my supervisor, Lorcin's advertising obviously worked because nearly everyone
27 knew Lorcin was an authorized gun dealer. I thanked my supervisor for his advice.

28 Just before leaving for work, I called Lorcin's Pawn Shop. I spoke with Lou Lorcin
29 for roughly 5 minutes and explained the situation. Lorcin knew what Patrick looked like
30 from Cub Scouts, and agreed to call me if Patrick attempted to trade-in the CD player. With
31 that call, I figured I had all the bases covered. I finished getting ready and even played the
32 CD player in my bathroom. I left for work around 10:00 a.m.

33 While I was at work, I told all my friends about the situation and started to think
34 twice. Over lunch, I decided to allow Patrick to return one of the CD players and buy a few
35 CD's with the money. I could not wait to get home and make Patrick happy with my change
36 of mind. However, I would never get a chance to talk to Patrick again.

37 At roughly 1:50 p.m., I received an emergency call at work from the Bureau of
38 Alcohol, Tobacco and Firearms. They asked me if I was the parent of Patrick Smith and my
39 heart hit the floor. They told me Patrick was involved in an accidental shooting outside of
40 Lorcin's Pawn Shop. The person on the phone told me that an Agent Chambers would be
41 coming to take me from my office to the hospital.

1 Agent Chambers arrived a short time later. He told me that my son was dead from a
2 gunshot wound to the chest. I dropped to the floor and cried. I could not move. After I
3 regained my composure, we traveled to the hospital where I had to identify my poor little
4 child. Patrick was under a white sheet. It looked like he was asleep. I was hoping he
5 would wake up and say it was just a joke. But that did not happen. I identified Patrick, and
6 Agent Chambers took me home.

7 On the way home, Agent Chambers told me about interviews with several people who
8 witnessed my son's death. I demanded to know how he got the gun. Agent Chambers told
9 me Patrick was part of a straw purchase transaction, and that a person named Weson actually
10 bought the gun for him. I was still confused. Then Agent Chambers explained that Lorcin's
11 Pawn Shop sold the gun to Weson after Patrick tried to trade a CD player for the gun but
12 was rejected. I hit the roof. I was too crushed to even talk. I just started to say, "That
13 rotten Lorcin..." and Agent Chambers stopped me. Agent Chambers told me that I should
14 be upset with Weson and that Lorcin was really not at fault. Then, Agent Chambers told me
15 Weson also died at the scene from a heart attack. I was furious at Lorcin for allowing
16 Weson to buy a handgun on Patrick's behalf. My office lobbied hard to enact the Gun
17 Control Law. Unfortunately, it wasn't enough to protect Patrick from a heartless gun dealer
18 like Lorcin. By this time I was at home and all I wanted to do was cry. I ran from the car
19 and collapsed on the living room floor. My phone was ringing all night. The local news
20 had picked up the story on the 5 o'clock news and blamed Patrick's death on Weson only. It
21 was a big story, the story of an "Olympic hero gone bad". The next morning, I went to my
22 parents' house. They told me to hire a lawyer. I did. Now, here I am in the middle of a
23 lawsuit. I told the lawyer that I called Lorcin and warned about the possibility that Patrick
24 might try to trade-in the CD player. Lorcin agreed to call me if Patrick even entered the
25 store, and failed to do so. Ultimately, I felt that Lorcin should have been charged
26 criminally, but the District Attorney's office disagreed. My lawyer told me that the civil
27 courtroom was the right place to take care of Lorcin; that I needed to hit Lorcin in the
28 pocketbook if I wanted to be heard. The tragic death of my child is especially painful
29 because Patrick had so much potential. Lorcin should pay severely for his negligence. I
30 need vindication on behalf of my child and all other children in the country who are enticed
31 into buying guns at shops like Lorcin's. I need to put Lorcin out of business, and put all
32 others like Lorcin on notice.

Signed and sworn to under oath this 26th day of October, 1998

/s/ Lee Smith

Signed before me this 26th day of October, 1998

/s/ Henry Remington
Notary Public

WITNESS STATEMENT: BOBBIE JENNINGS

Witness for Plaintiff

1 I was a friend of Patrick Smith's since we were 4 years old. My name is Bobbie
2 Jennings. I am 15 years old, I was with Patrick on July 1, 1998, the day Patrick died.
3 Along with several other friends, I spent the night of June 30th at Patrick's house for a
4 birthday party. Patrick just turned 14 and received many gifts from his friends and family.
5 Actually, both sides of the family gave Patrick a CD player. His grandparents purchased the
6 CD players without talking to each other first. Patrick was very happy with all of the gifts,
7 especially the CD players. We were always listening to CDs and Patrick's grandparents only
8 bought the best for him. I guess Patrick was a spoiled kid in that sense. The grandparents
9 really took care of him and tried to help out with everything. Patrick told me that this really
10 upset his parents because they were not treated with similar gifts and affection when they
11 were children.

12 After the family guests left, we settled down to watch some movies in our sleeping
13 bags. The parents left the room so we started talking freely like we do at school. Patrick
14 was joking about the fact that both grandparents got the same gift and said that one was
15 going to be returned in the morning. Patrick wanted to buy new CDs with the money and
16 said that he would call the grandparents in the morning to get a sales receipt. There was no
17 need to have two of the same CD player. Suddenly, his parents came busting into the room
18 and scared all of us half to death. They took Patrick to another room. They must have been
19 spying on us. Otherwise, they never would have heard Patrick's plan to return one of the
20 CD players. We were whispering. Patrick returned to the TV room and told us that one of
21 the CD players was taken and placed in his parents' room. They apparently intended on
22 keeping the CD player for themselves. This enraged Patrick and all of our friends. Patrick
23 immediately hatched a plan to take the CD player from his parents' room and pawn it at the
24 local pawn shop. This time, we kept our voices down real low and turned the TV volume up
25 to make sure the spies couldn't hear our plans. We walked by Lorcin's Pawn Shop everyday
26 on our way to the playground and figured we could sell it there for cash. That way, a sales
27 receipt would not be needed and we wouldn't have to involve Patrick's grandparents.
28 Everyone agreed that it was a good idea not to involve the grandparents. Early the next
29 morning, Patrick's parent called both sets of grandparents and warned them about the foiled
30 plan to return the CD player with the receipt to the store. Patrick's parent thought we were
31 successfully blocked.

32 After Patrick's parents left for work, we found the CD player on top of Patrick's
33 parents' bathroom sink. Patrick grabbed the CD player and we ran to the playground. We
34 listened to several CD's and even scratched the side of the player to make it look used. We
35 figured if we were selling a used CD player the pawn shop would be more likely not to
36 question the sale. Then, around 11:30 a.m., we entered Lorcin's Pawn Shop. Our mouths
37 dropped to the floor. There were all kinds of things for sale and we had never been in a
38 pawn shop before. We started looking at all of the electronics for sale and some of the
39 guitars. An employee ran up to us and started asking our names. The employee's name was
40 Davis. It was a very odd situation. Davis kept asking us if we knew a kid at school and

1 told us about car troubles. Like we cared. We also told Davis our ages. After all, Davis
2 knew we were still in school. Fortunately, Lorcin rescued us from the grasp of Davis. We
3 knew Lorcin from the neighborhood and started talking about all the neat stuff in the shop.
4 After browsing for a few minutes at least, Patrick approached Lorcin to buy the CD player
5 Patrick was carrying. Lorcin started asking a lot of questions which made us very nervous.
6 I guess Lorcin was trying to make sure it was not stolen. Lorcin took down the serial
7 number and played the CD player to make sure it worked. The scratches did not even seem
8 to be noticed by Lorcin. A shiny handgun was right under the glass display case. Patrick
9 and I started whispering about purchasing the gun. I told him that I could not be involved in
10 the transaction. I am on juvenile supervision for stealing two bicycles from the local
11 swimming pool a few months ago. It has been a rough year for me. The judge said if I
12 keep my record clean for two years I can avoid going to a juvenile detention facility. A little
13 over a year ago, I was arrested for throwing a rock through a bank window. Needless to
14 say, I am on thin ice. One more mistake and I will be taken from my family. They say I
15 am acting out because I am from a single parent family. I say I am just a normal kid that
16 happened to get caught being normal. In any event, I intend to keep my nose clean, and I
17 wasn't going to let Patrick or anyone else screw things up for me.

18 Minutes later, Patrick approached Lorcin and offered to trade the CD player for the
19 handgun with the difference in cash. I know the handgun was priced at \$90. I am not sure
20 what Lorcin had offered for the CD player. Lorcin laughed as if Patrick was joking. Once
21 it was clear that Patrick really wanted the handgun, Lorcin said gun laws would not let
22 Patrick buy the gun. Lorcin seemed to be disappointed at not being able to trade Patrick the
23 gun for the CD player. We left the store with the CD player. Patrick was very upset with
24 Lorcin. I, on the other hand, was relieved that we avoided the situation.

25 As soon as we left the pawn shop, Patrick started discussing a plan B. We talked
26 about dressing older, waiting for Lorcin to go off shift and trying another employee or
27 asking an adult to buy the gun. Patrick liked the idea of getting an adult to buy the gun.
28 We ran to my good friend Hercules Weson's house to pitch the idea. Weson was a great
29 guy and always helped the kids in the neighborhood. He had been a big star as a kid athlete
30 and I think he always liked kids more than adults. He always said being around kids made
31 him feel young again. I had come to Weson on several occasions when my life was not
32 going too well. Weson was a wise old man; he was always there to lend a hand. Patrick
33 wasted no time in approaching Weson. Patrick told Weson that we wanted the handgun.
34 Actually, it was Patrick that wanted the handgun. Weson asked why we couldn't just buy it
35 from Lorcin. Much to my surprise, Patrick told Weson the truth. The fact was, we were
36 too young. This shocked Weson. Weson told us that, in the old days, kids got guns,
37 especially hunting rifles, as soon as they could stand. Determined to be the first one to put a
38 gun in Patrick's hands, Weson offered to buy the handgun, using the CD player as a trade-
39 in. The thought of buying Patrick his first gun seemed to make Weson swell up with pride.
40 We proceeded to walk back to the pawn shop. Patrick told Weson that he could keep the
41 change.

42 Weson told Patrick and me to stand around the corner so that Lorcin and the other
43 employees could not see us. It was after 1:00 p.m. when Weson entered the shop. Patrick
44 was very excited about the prospect of having a handgun. Patrick inched closer to the shop

1 window. I reluctantly followed. We were trying to look natural outside of the window and
2 at the same time get a feel for how the sale was going. Weson and Lorcin were talking like
3 old friends and they kept shaking hands. Weson laughed out loud several times. At one
4 point, I know the store employee, Davis, saw us standing outside the store. It was really
5 weird, I thought our cover was blown at that point. While Weson was exchanging
6 paperwork, Davis started to motion to Lorcin with eye movements and shoulder shrugs that
7 Patrick and I were outside the store. Davis even seemed to be pointing at us and saying
8 something to Lorcin. I still can't explain why Lorcin did not pick up on the gestures and
9 blow the whistle on Weson. Finally, Weson walked out with a brown bag. Weson pulled
10 the handgun from the bag and handed it to Patrick right out in the open. Then, Weson
11 handed Patrick a fresh box of ammunition. Patrick quickly thanked Weson and we started to
12 walk at a very fast pace back toward the playground. We were going to shoot some tin cans
13 off a fence. As soon as we started to walk, Patrick tore into the ammunition and started to
14 load the handgun. Patrick's hands were shaking out of excitement. Before I could even look
15 at the handgun, Patrick tripped over the empty brown bag and the handgun fell to the
16 ground. A loud shot fired from the gun and I heard a thump which was the bullet hitting
17 Patrick. Instantly, Patrick fell to the ground with blood surrounding his chest. Patrick was
18 not moaning or moving. I knew immediately that Patrick was dead. This was not the
19 movies with some long, drawn out death scene. Patrick was on the ground as blood quickly
20 poured from his chest. Death must have been instantaneous.

21 Several people ran to Patrick when they heard the shot. Knowing that we were going
22 to be in big trouble, I thought about running away. As I turned to run, I saw a cop running
23 from across the street. I was ordered to stand still and to not say a word. Lorcin also ran
24 out of the pawn shop with Davis and another person. Agent Chambers was the cop's name.
25 I was scared to death. All I needed was another bust and I was going to be sent away for
26 several months. I kept my mouth shut and did as the cop said. The cop held Patrick's head
27 and tried to bring Patrick back to life. Patrick just laid limp in the cop's arms. I started to
28 cry at that point. I realized that I just lost a friend. The cop started asking everyone
29 questions. Lorcin and Davis started arguing about something. It got to the point where the
30 cop had to stand between the two of them. They were not screaming but you could tell they
31 were very angry. I was nervous about giving a statement because I did not want to get
32 myself in trouble. I knew something like this was going to happen. I should have never
33 allowed myself to get involved. The cop looked right into my eyes and told me to start
34 talking. I told the cop about Patrick's plan with Weson and said that I was against the idea.
35 I did not tell the cop about my prior problems with the law or where we got the CD player.
36 I realize I was not very helpful. I gave my statement and ran all the way home. I never
37 looked back.

Signed and sworn to under oath this 28th day of October, 1998

/s/ Bobbie Jennings

Signed before me this 28th day of October, 1998

/s/ Henry Remington
Notary Public

WITNESS STATEMENT: J.T. DAVIS

Witness for Plaintiff

1 My name is J.T. Davis. I am 28 years old and live in the outskirts of Owlville, New
2 Temple County. Prior to July 1, 1998, I worked as a sales clerk for Lorcin's Pawn Shop.
3 This was a full-time job that I maintained for eight years. My employment ended on July 1st
4 because my employer wanted to blame me for the results of an illegal handgun transaction. I
5 was told that my attendance and poor customer service skills were the reason for the firing.
6 However, it was clear to me that I was fired in retaliation for telling the truth during the
7 investigation of the accidental shooting death earlier in the day.

8 I am a single parent and have a nine year old child. It is not easy to maintain a job,
9 parental duties, and a household. The \$7 per hour salary Lorcin was paying me did not help
10 my situation. I was forced to rely on a junker car for transportation, and friends to baby-sit
11 my child. For these reasons, I will admit I was occasionally late for work, but always for
12 good cause. I would also discuss my personal dilemmas at the pawn shop. Work was my
13 only opportunity to engage in adult conversation. I have little time in my life for socializing.
14 Besides, I think people enjoyed hearing about my child, and they always wished me the best
15 of luck. It is very common to talk about your personal life at work. Everybody does it.

16 I arrived at work at 10:15 on July 1st, 15 minutes late. My baby-sitter was late, and
17 my car battery died. It was a trying morning. Lorcin greeted me at the door of the shop
18 and I started to explain why I was late. I did not get much sympathy. Lorcin continued to
19 wash the display glass while I apologized for my late arrival. Around 11:15 a.m., a
20 customer entered the store. The customer's name was Tyler Berretta. Berretta browsed for
21 a few minutes and asked to talk to the owner. I called Lorcin over to the counter. It turned
22 out that Berretta was looking for a part-time job and asked for an Employment Application.
23 Lorcin told me to get Berretta an application. I realized that I knew Berretta from the local
24 mall. Berretta was a sales person at the Radio Hut. I used to shop at Radio Hut for Lorcin
25 in order to get a feel for the cost of new appliances. That way, Lorcin would have an idea
26 where to price the used appliances we sold at the shop.

27 While Berretta was completing the Employment Application, two minors entered the
28 store. I approached them and asked their age. I was curious if they knew my child and
29 what sports they played, if any. I guess my parental instincts took over. Lorcin promptly
30 interrupted my conversation with the minors and asked to help them. One was named
31 Patrick Smith and the other was Bobbie Jennings. Smith was carrying a CD player. It was
32 in very good shape and was obviously a new model. A few minutes later, I saw Lorcin
33 giving Smith a store receipt. Standard business practice was to write any purchase offer on a
34 store receipt to avoid any misunderstandings. It was clear to me that Lorcin offered to buy
35 the CD player. Smith then pointed to a handgun in a display case. I was instantly troubled
36 because a minor should not have an interest in guns. All I could do was picture my child
37 pointing to a gun in a display case a few years down the road. It was a chilling thought.

1 Fortunately, Lorcin told the minors that they were too young to legally buy the handgun. I
2 was impressed. They left the store with the CD player. It was roughly 12 noon.

3 At roughly 1:15 p.m., Hercules Weson entered the pawn shop. Weson is a local hero
4 and years ago brought national attention to the community as a celebrated Olympic athlete. I
5 believe Weson was a long distance runner. Weson was a recognized and respected member
6 of the community. However, I immediately noticed something peculiar. Weson was
7 carrying a CD player that looked to be identical to the one Patrick Smith and Bobbie
8 Jennings brought to the store earlier in the day. My senses were definitely heightened along
9 with my curiosity. Lorcin immediately pounced on Weson in the hopes of making another
10 gun sale. I say another gun sale because Weson had purchased guns from the shop in the
11 past. I sold Weson a rifle in my first year on the job.

12 I started talking to Berretta who was observing the business of the store and
13 completing the application. Out of the corner of my eye, I saw Smith and Jennings in front
14 of the store window. They were casually looking inside and then at the ground. It dawned
15 on me that the children may have put Weson up to trading Smith's CD player for the
16 handgun. I immediately tried to get Lorcin's attention. I shrugged my shoulders toward the
17 outside hoping Lorcin would look out the window and see the children. I even tried to
18 interrupt the conversation by pointing and saying, "Look out there," but Lorcin literally
19 pushed me away seemingly intent on making a sale. I thought for sure Lorcin would realize
20 that Weson was carrying the same CD player Smith had offered for sale earlier. Although
21 Lorcin told me the pawn shop was falling on difficult financial times, I thought common
22 sense would take over.

23 Moments later, Lorcin pointed to a \$90 handgun in the display case. It was the same
24 handgun Smith wanted earlier. Lorcin started to push paperwork in front of Weson and
25 moved forward with the sale. I continued to motion with my eyebrows and shoulders to the
26 outside where the children were still standing. Lorcin refused to pay attention to me. I
27 finally just bit my tongue and went about my business. I watched Lorcin exchange the
28 handgun and cash for the CD player. Lorcin was smiling and was obviously pleased with
29 the sale. Weson left the store. Before I could convey my suspicions to Lorcin, a gun shot
30 rang through the street. Lorcin, Berretta, and myself ran outside and found Smith laying in
31 a pool of blood. The gun Weson just purchased was laying next to Smith with smoke
32 coming from the barrel. A police officer also appeared. We quickly learned that it was
33 Agent Chambers with the Bureau of Alcohol Tobacco and Firearms. Agent Chambers
34 secured the scene and started taking witness statements. The handgun was retained as
35 evidence along with the ammunition. No other guns were found.

36 Agent Chambers took my statement first. I was anxious to tell somebody what had
37 happened in the store. I told Agent Chambers that Weson had just purchased the \$90
38 handgun from Lorcin's Pawn Shop and that it was part of a trade-in with a CD player. I
39 also shared my belief that Patrick Smith and Bobbie Jennings put Weson up to the purchase
40 since they were not of age to buy a handgun. Lorcin overheard my discussion with Agent

1 Chambers and blew up. Lorcin was very angry at my suggestion that Weson was purchasing
2 the gun for Smith. I explained to Agent Chambers and Lorcin that I saw the children outside
3 the window and tried to get Lorcin's attention. I also explained the striking similarity in the
4 CD players that originally caused my suspicion. Agent Chambers started talking about a
5 straw purchase situation. It was explained that a straw purchaser is someone who buys for
6 someone else. That was exactly what Weson did. Agent Chambers tried to calm Lorcin and
7 was eventually successful. At that point, Agent Chambers took my name and number. I was
8 excused from the scene.

9 Before I left, Lorcin pulled me aside and told me not to report for work the following
10 day or ever again. I was fired on the spot. Agent Chambers had already started taking
11 Weson's witness statement. Lorcin tried to blame the firing on my late arrival to work that
12 day. However, I had been late before and was never told it was a problem. I just wasn't
13 paid for the time missed. In fact, I could not even call to warn Lorcin of my being late.
14 Lorcin rarely answered the pawn shop phone. The primary use for the phone was instant
15 criminal background checks prior to gun sales. Lorcin ran a criminal check on Weson prior
16 to the sale once the BATF purchase form was completed. Lorcin was a stickler for
17 following the administrative requirements of the Gun Control Law.

18 I later learned that Lorcin hired Berretta as my full-time replacement. I do not harbor
19 bad feelings toward Lorcin for the decision to fire me. I was paid two weeks severance pay
20 and have since found another job. I just wish Lorcin would have paid attention to my
21 warnings. This tragedy could have been avoided if Lorcin's eyes would have been opened as
22 wide as the cash register.

Signed and sworn to under oath this 29th day of October, 1998

/s/ J.T. Davis

Signed before me this 29th day of October, 1998

/s/ Henry Remington

Notary Public

WITNESS STATEMENT: LOU LORCIN (PRONOUNCED LORSIN)

Witness for Defense

1 My name is Lou Lorcin. I am 53 years old and own Lorcin's Pawn Shop at 353
2 Trigger Street in Owlville, New Temple County. I have been the sole owner of the shop for
3 35 years, during which time I have been licensed by New Temple County to deal in
4 firearms. Thanks to a loan from my parents, I bought the store right out of high school.
5 Given my interest in the vitality of Owlville, I have remained active in local causes, and have
6 given my life to the community. I am a Den Leader for Cub Scout Pack #4 and have
7 sponsored the Owlville rifle and gun association for the past 20 years. Of course, I benefit
8 from this exposure by way of getting my pawn shop's name into the community, but I feel it
9 has been a mutually rewarding exchange. The community has certainly benefitted from my
10 personal and financial donations. However, the community seems to be losing its charm
11 lately. I believe the recent decline in the neighborhood's fiber can be attributed to the influx
12 of large corporate chains and absentee owners. It is not like the good old days when the
13 local businesses would wash the sidewalks each day before opening and know their neighbors
14 by first name.

15 Of course, I am not here today to discuss the community at large. I am giving my
16 statement as it relates to the tragic deaths of one of Owlville's children and a celebrated
17 athlete who put our town on the map. The deaths of Patrick Smith and Hercules Weson on
18 July 1, 1998 were a terrible loss for the community. I will never forget that day. The day
19 started at 8:00 a.m. for me. I start every day by balancing the books and taking an
20 inventory of the unsold merchandise. This was a typical day. I opened the store at 9:00
21 a.m. and continued with my routine. I washed the glass display cases and vacuumed the
22 show room. J.T. Davis, my sole full-time employee for the past eight years, arrived at
23 10:15 a.m. I specifically recall the time because Davis was supposed to start at 10:00 a.m.
24 In true form, starting time was delayed because of some personal issue. I have to admit,
25 there were so many personal issues with Davis that I tended to turn my hearing off when the
26 excuses started to fly. Otherwise, there was nothing out of the ordinary. Oh, yes, the phone
27 did ring that morning between 9:30 and 10:00. I am not sure when exactly. I did not
28 answer the phone and let the answering machine take the call. I do not get involved with
29 telephone calls during the work day. For one reason, if I didn't answer the phone, Davis
30 wouldn't have an opportunity to relay some extravagant story about being late or not being
31 able to work at all that day. I will say that I have started answering the phone since I fired
32 Davis. I should have made that employment decision a long time ago. I guess the death of
33 Patrick Smith forced me to come to grips with the shortcomings of Davis as an employee.

34 Anyway, back to the morning of July 1, 1998. At roughly 11:30 a.m., Smith and a
35 friend, Bobbie Jennings, entered the pawn shop. Davis pounced on them and started sharing
36 some frantic story about the events of the morning. I quickly excused Davis and assisted the
37 two friends. I recognized both Patrick and Bobbie from the Cub Scouts. After browsing
38 around the store, Smith handed me a CD player and asked for an offer to purchase the

1 player. I took a CD from behind the counter, listened to the sound quality and ultimately
2 gave Patrick a written offer of \$115 for the CD player. I wrote the offer on a pawn shop
3 receipt to avoid any confusion or misunderstandings. I was sure to note the serial number,
4 10 digits in all, on the receipt. For each receipt I write, I make a copy for my records as
5 well. I am very particular about my inventory and carefully document the source of the
6 goods I purchase for resale. After conferring with Jennings, Smith offered to trade the CD
7 player for a handgun in my display case. The handgun was priced at \$90. Smith offered to
8 take the handgun and \$25 in cash in exchange for the CD player. Although I was anxious to
9 sell the handgun which had been on the shelf for nearly a year, I knew Smith and Jennings
10 were under the age of 21. Having been a licensed firearms dealer for 35 years, it was clear
11 to me that the Gun Control Law prohibited the transaction given the age of the friends. I
12 have a clean record with the Bureau of Alcohol, Tobacco and Firearms for all my years in
13 business. They have audited my books on at least 6 occasions during the past 35 years and
14 have always found them to be in top shape. Smith and Jennings seemed to understand and
15 left the store with the CD player. I did not give the situation any more thought. Of course,
16 I did regret not being able to complete the sale. Local competition has really hurt my
17 handgun business. These large corporations are able to sell at lower prices and have little
18 regard for the Gun Control Law. While I do not have a problem with the BATF, they
19 cannot monitor every gun transaction. I read in the newspapers that many guns find their
20 way into the hands of minors. If I were so inclined, I could break the laws and prosper
21 without fear of getting caught by the BATF. They are simply not effective when it comes to
22 curbing the illegal sale of handguns in this county. But I remain honest, and what do I get
23 for it? Falling handgun sales are threatening to put my life-long business into bankruptcy.

24 At roughly 1:15 p.m., Hercules Weson entered my shop. Weson was a local hero,
25 and was an accomplished track athlete as a teenager during the 1950 summer Olympic
26 Games. I sold at least three rifles to Weson over the years. On this particular occasion,
27 Weson was looking to add a handgun to the gun collection. It was at least 7 years since the
28 last rifle was purchased and I am always happy to accommodate a returning customer.
29 Weson was carrying a CD player and offered to trade it in for a \$90 handgun and \$25 in
30 cash. Since I only had one handgun priced at \$90, I showed Weson the same handgun Smith
31 and Jennings were interested in buying. Weson handed me the CD player and asked for the
32 necessary paperwork in order to complete the transfer and sale. As usual, I copied the serial
33 number of the CD player into my records and tested the sound quality. Then I asked Weson
34 to complete a BATF purchase form. In the meantime, I ran a National Instant Criminal
35 Background Check that confirmed by fax Weson was an eligible purchaser. I gave the
36 NICBC fax to the BATF. Weson and I exchanged the paperwork, goods and cash. I
37 included a box of ammunition as part of a sales promotion. Weson left the store by 1:40
38 p.m. As I look back on the sale, I remember Davis trying to interrupt my conversation with
39 Weson. I did not pay much attention given Davis' annoying habit of talking about
40 everything but business. I was always afraid of Davis' constant personal talk offending
41 customers. In fact, several customers have commented on Davis' need to pry into their
42 personal affairs while they are shopping. I nicely pushed Davis away and stayed focused on
43 making the sale to Weson, my customer. Davis did not offer any resistance.

1 I saw Weson leave the store with the handgun in my brown sales bag and walk out of
2 my line of sight. Not more than a minute later, I heard a gun shot. I ran outside and saw
3 Smith laying on the sidewalk with blood coming from the chest area. The \$90 handgun was
4 laying next to Smith's lifeless body. Weson was running toward Smith from the opposite
5 direction. Jennings was screaming for help. Somebody in a blue uniform came running
6 across the street and tried to take Smith's pulse. It was apparent that Smith was dead. The
7 uniform was that of a BATF agent, whom I later learned was Agent Chambers. Agent
8 Chambers quickly secured the scene and started taking everyone's name, address and witness
9 statement. After finishing with Davis' statement and before getting to me, Agent Chambers
10 approached Weson. They talked for 30 seconds when Weson suddenly started breathing
11 deep. I could not hear what was being discussed at that point. A few seconds later, Weson
12 grabbed Agent Chambers and fell to the ground. Agent Chambers quickly determined that
13 Weson was also dead. Just before the final labored breath, I heard Weson gasp and say "I
14 killed a child for \$25." At that point, I realized that Weson was a front man for Smith and
15 that the handgun transaction was a scam. My instant reaction was anger. I was upset that
16 Weson got involved with such deception and that my goodwill was exploited.

17 Weson's indiscretion has cost me dearly. My pawn shop's reputation has been
18 scarred for life and I am now faced with mounting legal bills defending what little assets I
19 have left. What is even more unfortunate is that Smith's parents are trying to cash in on the
20 loss of their child by suing me. If they knew me, they would know that I would never
21 knowingly take part in a sham transaction such as they have represented. They have even
22 gone to the extent of lying about a phone call to my shop on July 1, 1998, just before 10:00
23 a.m. All I can say is that their phone bill shows a three minute call which they recall as a
24 five minute call. They recall warning me about Smith's intention to pawn a CD player from
25 their home. I don't even recall having such a conversation. My answering machine message
26 is 50 seconds and the phone records show a three minute call. The fact is I was conducting
27 business as usual and probably did not even answer the phone. My focus needs to be on the
28 customer in my shop while the opportunity is there. I need to focus on buying low and
29 selling high. My shop buys and sells 40 items a day on average. That is 5 items an hour.
30 You will see from my offer to Patrick for the purchase of the CD Player and the receipt to
31 Weson for the handgun that there were 4 sales between the two visits. The receipt numbers
32 prove it. That doesn't include customers who are simply browsing and asking questions.

33 Most of the items that I buy and sell are small appliances such as CD players, cassette
34 players, televisions and the like. I do not recall every appliance that is presented to me for
35 purchase during the course of a day. I did not realize that Patrick and Weson presented the
36 same CD player for my purchase offer. I know now that the CD players had the same serial
37 number but, as I said, I deal with a lot of merchandise on a daily basis. I feel very bad for
38 the loss of life that resulted from this senseless tragedy. However, I am not willing to allow
39 my reputation to be marred by the wrongdoings of others. Weson should have never gotten
40 involved with Smith and Jennings. If fault must be assigned, it must lay with Weson. It is
41 difficult to be so hard on a local legend.

1 As I look back on the situation, I don't know if there is anything I could have done to
2 avoid this loss. I followed the laws governing the sale of handguns and even refused to sell
3 the handgun to Patrick earlier in the day knowing that the law prohibited the transaction. I
4 understand Davis now feels the impropriety of the transaction was open and obvious. That
5 was the nature of the witness statement Davis gave Agent Chambers. I overheard Davis'
6 statement and it upset me. I should expect this from a disgruntled former employee. I have
7 already said enough about Davis and the troubles I had with that employee. If anything good
8 came of this, I can say that Davis has been replaced with a very able employee named Tyler
9 Berretta. In fact, Berretta was in the store on July 1st from 11:15 a.m. until the tragedy.
10 Berretta was interviewing for a part-time job and wanted to observe a day's business. I am
11 sure you will get the statement of Berretta for the record. I feel comfortable that an accurate
12 series of events will be told, unlike those of a disgruntled employee who quickly forgot all
13 my patience over the years in dealing with a variety of issues. I should have known that my
14 kindness would be exploited. With any luck, I will be able to reclaim my pawn shop's
15 reputation in the community. Berretta has experience in the small appliance business and has
16 proven to be a very good business person with a strong work ethic. Things are looking up.
17 I just hope this lawsuit goes my way.

Signed and sworn to under oath this 21st day of October, 1998

/s/ Lou Lorcin

Signed before me this 21st day of October, 1998

/s/ Charles Glock
Notary Public

WITNESS STATEMENT: AGENT A.J. CHAMBERS
Witness for Defense

1 I am giving this statement as an Agent of the New Temple County Bureau of Alcohol,
2 Tobacco and Firearms. My name is A.J. Chambers and I have been a member of the BATF
3 for the past 15 years. I am 36 years old and graduated first in my class from the Law
4 Enforcement Academy. I have investigated over fifty shooting deaths during my career.

5 I investigated the accidental shooting death of Patrick Smith, a 14 year old minor, on
6 July 1st, 1998. By chance, I had been staking out a bar at 357 Trigger Street, which is two
7 doors down from Lorcin's Pawn Shop. The bar had been under investigation for distributing
8 illegal fireworks. I noticed two minors hanging outside of the bar and pawn shop and
9 followed their movements. The minors were later identified as Patrick Smith and Bobbie
10 Jennings. Smith was carrying a CD player. They entered the pawn shop around 11:30 a.m.
11 and exited shortly before 12 noon. At 12:50 p.m., the minors returned to the store front
12 with a third person, Hercules Weson. Weson was well known throughout the community
13 and was easily identified by me. Weson was an Olympic track star and was my idol from
14 my days on the high school track team.

15 A few seconds later, Weson took the CD player from Smith's hands and briskly
16 walked into Lorcin's Pawn Shop. I was thoroughly confused. A short time later, Weson
17 exited the pawn shop and handed Smith a handgun and a box. I later determined that the
18 box contained ammunition for the handgun. Before I could react, Smith loaded the handgun
19 and started walking away from Weson toward the playground. Weson walked in the opposite
20 direction. The handgun suddenly dropped from Smith's hand and struck the concrete. It
21 fired on impact. I saw this with my own eyes. Smith fell to the ground, and I ran to help
22 the minor.

23 When I arrived, Jennings was screaming and crying. Weson was running toward
24 Smith, and several people from the pawn shop came to Smith's aid. I tried to take Smith's
25 pulse but it was too late. Death must have been instantaneous. I proceeded to secure the
26 scene. As an Agent, I was trained to provide emergency medical assistance. I announced
27 my position with the BATF and started taking the names, numbers, and statements of
28 witnesses. Eventually, I obtained information from Jennings, Weson, Lou Lorcin, Tyler
29 Berretta, and J.T. Davis. Jennings was the minor with Smith. Weson purchased the gun for
30 Smith. Lorcin was the pawn shop owner, and Davis was an employee at the pawn shop.
31 Berretta was applying for a job at the pawn shop. The information obtained from each of the
32 witnesses is contained in my New Temple County Investigation Interview Record.

33 I was very careful with the investigation of this accidental shooting. It was obvious to
34 me that Weson supplied a handgun to Smith, who was a minor. I started with the statement
35 of Davis, the pawn shop employee. Davis immediately started to accuse the pawn shop
36 owner, Lorcin, of taking part in an illegal gun sale. You could tell that Davis was overcome

1 with emotion. Davis told me that the minors were hanging outside the pawn shop when
2 Weson presented the same CD player Smith tried to exchange hours earlier. I did recall
3 seeing Smith and Jennings enter the pawn shop earlier in the day with a CD player. Davis'
4 story made sense from that perspective. Lorcin interrupted my interview with Davis and
5 started yelling. Lorcin overheard Davis' statement and was extremely upset because Davis
6 did not bring the suspicious circumstances to Lorcin's attention. Davis claimed to have tried
7 to get Lorcin's attention when the minors were spotted outside the shop seemingly waiting
8 for Weson. Davis felt as if Lorcin was ignoring the warnings. This was according to Davis'
9 statement. I left Lorcin and Davis alone and approached Weson for a statement.

10 Weson looked nervous and was sweating profusely. Based on what Davis had to say,
11 I knew that Weson was the heart of the case. I did not waste any time. I told Weson I was
12 watching the store fronts from across the street the entire day, and that I saw Weson give the
13 handgun to Smith. Almost instantly, Weson began shaking and gasped for air. Weson tried
14 to grab me for support but fell to the ground. I tried to help but Weson was suffering from
15 a heart attack. Weson died in minutes. Just before he died, I heard Weson say "I killed a
16 boy for \$25." I subsequently learned from my interview with Lorcin that Weson got \$25 in
17 cash and the handgun priced at \$90 in exchange for the CD player. That explained the dying
18 confession. Lorcin gave Weson \$25 in cash as part of the transaction.

19 Lorcin was not very cooperative with my investigation but was obviously deeply
20 troubled with the loss of Smith's life. Lorcin reluctantly admitted that the CD player traded
21 by Weson was the same one that Smith tried to pawn earlier in the day. Lorcin explained
22 that 40 customers a day visit the shop wanting to buy and sell small appliances. It would not
23 be unusual for the shop to buy or sell three similar CD players in one day. They were fast-
24 selling items and Lorcin said the profit margin was high. Lorcin acknowledged a realization
25 that the transaction was a scam when the handgun was found next to the body.

26 Both as a personal friend and as a BATF agent, I have known Lorcin for many years.
27 I have personally audited numerous gun sales made by Lorcin's Pawn Shop, and always
28 found the paperwork to be properly administered. From what I have observed, Lorcin plays
29 by the rules. I have also purchased guns from Lorcin in the past, and was impressed that
30 even I was put through the criminal background checks. Lorcin is more reputable than many
31 of the firearm dealers of America. I know Lorcin has been having troubles this past year.
32 As a BATF agent, I get copies of all gun purchase applications. Lorcin's Pawn Shop is
33 selling fewer and fewer guns while new corporate competitors are increasing sales. Lorcin is
34 sure the new competitors are breaking the Gun Control Laws in order to boost sales. I am
35 sure Lorcin will find a way to save the business.

36 We haven't had a chance to investigate the new firearms dealers. It is very difficult
37 to keep pace with all of the gun sales and violations in the county. We are a small
38 department and, quite frankly, we are not equipped to handle the job. Even if we knew for a
39 fact that a dealer was in violation of the Gun Control Law, it would be difficult to leave our

1 current duties and address the problem. That is why it is nice to know we have dealers like
2 Lorcin in the county.

3 At the conclusion of every investigation, the agent in charge has to recommend to the
4 District Attorney whether or not a criminal action should be pursued against the firearms
5 dealer. After considering the evidence and circumstances surrounding this case, I
6 recommended not to pursue a criminal action based on my reading of Statute #2 of the Gun
7 Control Law. This recommendation was submitted to the District Attorney's office and they
8 agreed with my recommendation. They did not offer any reasoning. They never do. In
9 fact, they have never disagreed with my recommendations or those of my fellow agents; but
10 that is a different story. They are probably as bogged down in work as we are.

11 Several items of evidence were retained from the scene. They were the gun,
12 ammunition, trade-in receipt, trade-in offer and \$25 in cash from Weson's pocket. If you
13 have any further questions, please refer to my investigation record.

Signed and sworn to under oath this 23rd day of October, 1998

/s/ A.J. Chambers

Signed before me this 23rd day of October, 1998

/s/ Charles Glock

Notary Public

WITNESS STATEMENT: TYLER BERRETTA
Witness for Defense

1 My name is Tyler Berretta. I am 59 years old, and somehow got myself in the
2 middle of a tragic situation. I was a witness to the events leading up to the accidental
3 shooting death of a minor. That minor's name was Patrick Smith, and he died on the
4 afternoon of July 1, 1998.

5 As of July 1st, I was an employee of Radio Hut at the mall. I had been working
6 there for 27 years as a sales person. I received a technical degree in electronics from
7 Gatling Technical Institute when I was 22 years old. I have always had a passion for
8 electronics and was a top sales person at the Radio Hut. I knew my product line in and out,
9 and was more than qualified to build the stuff, let alone sell it. On June 30th, I had learned
10 of Radio Hut's unfortunate economic status and a pending bankruptcy filing. My long term
11 employer was going out of business. I was not in a financial position to consider retirement,
12 so I hit the newspaper. I saw that Lorcin's Pawn Shop was looking for a part-time
13 employee. Everyone knew Lorcin was a good person, so I decided to inquire further. It
14 would have at least been a short term fix for my pending employment problem. I had a lot
15 of bills and desperately needed to keep the income flowing.

16 I went to the store around 11:00 a.m. on July 1st just to see what the working
17 conditions would be like. I really did not intend on applying, but for some reason I asked to
18 talk to the owner. Lorcin greeted me and asked another employee, J.T. Davis, to get me an
19 Employment Application. While I was completing the application, two minors entered the
20 store carrying a CD player. The CD player caught my eye because it was obviously top of
21 the line equipment. I was surprised to see someone in a pawn shop with such a new model.
22 Davis greeted the minors and started pestering them about their age and asking if they knew
23 Davis' kid from school. I was not impressed with the sales technique, if that is what it was.
24 Anyway, Lorcin quickly greeted the minors and handled their questions. Lorcin recognized
25 the minors from the Cub Scouts. I kept my head down and completed the application.

26 A short time later, the minors left the store with the CD player. Lorcin started telling
27 me that the minors wanted to trade the CD player for a handgun. Lorcin wondered why two
28 kids would want a handgun. I asked Lorcin if I could stay for a while and watch a few more
29 customers. I wanted to make sure the place was doing a business. Most of a sales person's
30 income is based on commissions. Without customer traffic, there are no sales and no
31 commissions.

32 Sometime after 1:00 p.m., Hercules Weson entered the store. We all knew Weson
33 from years back when Weson was an Olympic track star. Weson was a well known and
34 respected member of the community. Weson was carrying a CD player that looked identical
35 to the one the minors brought in a few hours earlier. At first, my curiosity was peaked. I
36 thought to myself why was Weson carrying the same CD player as the minors. I discounted

1 my suspicion because I knew there are literally hundreds of thousands of the CD players on
2 the market. In fact, several manufacturers are producing the same model and the only
3 difference is the chrome label. I did not pay much more attention. I just watched Lorcin
4 handle the transaction. Lorcin was smooth and got right to the point. Weson must have
5 wanted a handgun because Lorcin started to point to a shiny one in the display case. It was
6 priced at \$90. The two exchanged some paperwork, Lorcin tested the CD player, and
7 Weson walked out of the store with the handgun.

8 Just moments later, we heard a gunshot and ran outside. On the sidewalk was one of
9 the minors that was in the pawn shop earlier in the day. I later learned that the minor's
10 name was Patrick Smith. Smith was laying face down on the sidewalk, and Weson's pistol
11 was on the ground. Smoke was still coming out of the barrel, and blood surrounded Smith's
12 upper body. People started swarming around the area. Lorcin and Davis ran to Smith. I
13 was right behind them. A police officer was already administering emergency first aid to
14 Smith. The officer told everyone to remain at the scene for questioning. The officer was
15 Agent Chambers with the Bureau of Alcohol, Tobacco and Firearms.

16 Agent Chambers started taking Davis' statement first. Davis was very emotional and
17 started rambling. I could hear Davis' voice but could not understand what was being said.
18 Lorcin then walked over to Davis and interrupted the statement. Davis continued to talk and
19 got louder. Davis told Agent Chambers that Smith and the other minor were outside of the
20 store window while Weson was buying the handgun. Davis said it looked like a straw
21 purchase situation. I heard this part of the conversation loud and clear. It seemed like Davis
22 was trying to get Lorcin in trouble. This upset Lorcin. Lorcin started asking why Davis did
23 not say anything about Smith and the other minor being outside the store window. I
24 wondered about the same thing. I was in the store too and did not notice anything out of the
25 ordinary with Davis. All that had to be done was pull Lorcin aside. Agent Chambers
26 stopped the statement and told Lorcin to relax. Agent Chambers took Davis' name and
27 telephone number and approached Weson.

28 Lorcin pulled me and Davis to the side. Lorcin continued to criticize Davis for
29 failing to bring the suspicious circumstances to Lorcin's attention. Lorcin then pulled me
30 aside separately and asked if I wanted the job on a full-time basis. I was offered a
31 substantial commission schedule and a healthy base salary. I jumped at the opportunity,
32 although it felt weird given the circumstances. Everything happened so quickly. Lorcin then
33 told me to go watch the shop while things were being sorted out. I learned from Lorcin the
34 next day that Davis was fired. Lorcin said it was because of Davis' attendance record and
35 poor customer service skills. I can't say I disagree. Plus, Davis really should have made
36 the suspicious circumstances known to Lorcin. Lorcin was too busy focusing on the
37 customer, Weson.

38 While I was watching the pawn shop the phone was ringing. Before I could find the
39 receiver, it stopped ringing so I played the messages. On the tape was a message from
40 Smith's parent. The voice sounded very tired and asked that Lorcin call Lee Smith at work

1 and the caller left a telephone number. Lorcin later told me that Lee Smith claimed a
2 conversation actually took place in the morning before Patrick came to the store. Lorcin
3 says the phone is rarely answered during business hours and that the machine takes
4 messages. Unfortunately, Lorcin accidentally erased the message or you could hear it for
5 yourself.

6 I hope this statement doesn't get Lorcin in trouble. Lorcin was really just a victim of
7 circumstances. I really enjoy my new job and Lorcin is very happy with my performance to
8 date. I have finally regained some financial strength. Lorcin constantly says that I am going
9 to save the business. I think that may be too big a statement:

Signed and sworn to under oath this 26th day of October, 1998

/s/ Tyler Berretta

Signed before me this 26th day of October, 1998

/s/ Charles Glock

Notary Public

EXHIBIT A

MAP OF LORCIN'S PAWN SHOP FLOOR PLAN AND
OUTSIDE AREA OF SHOP - JULY 1, 1998

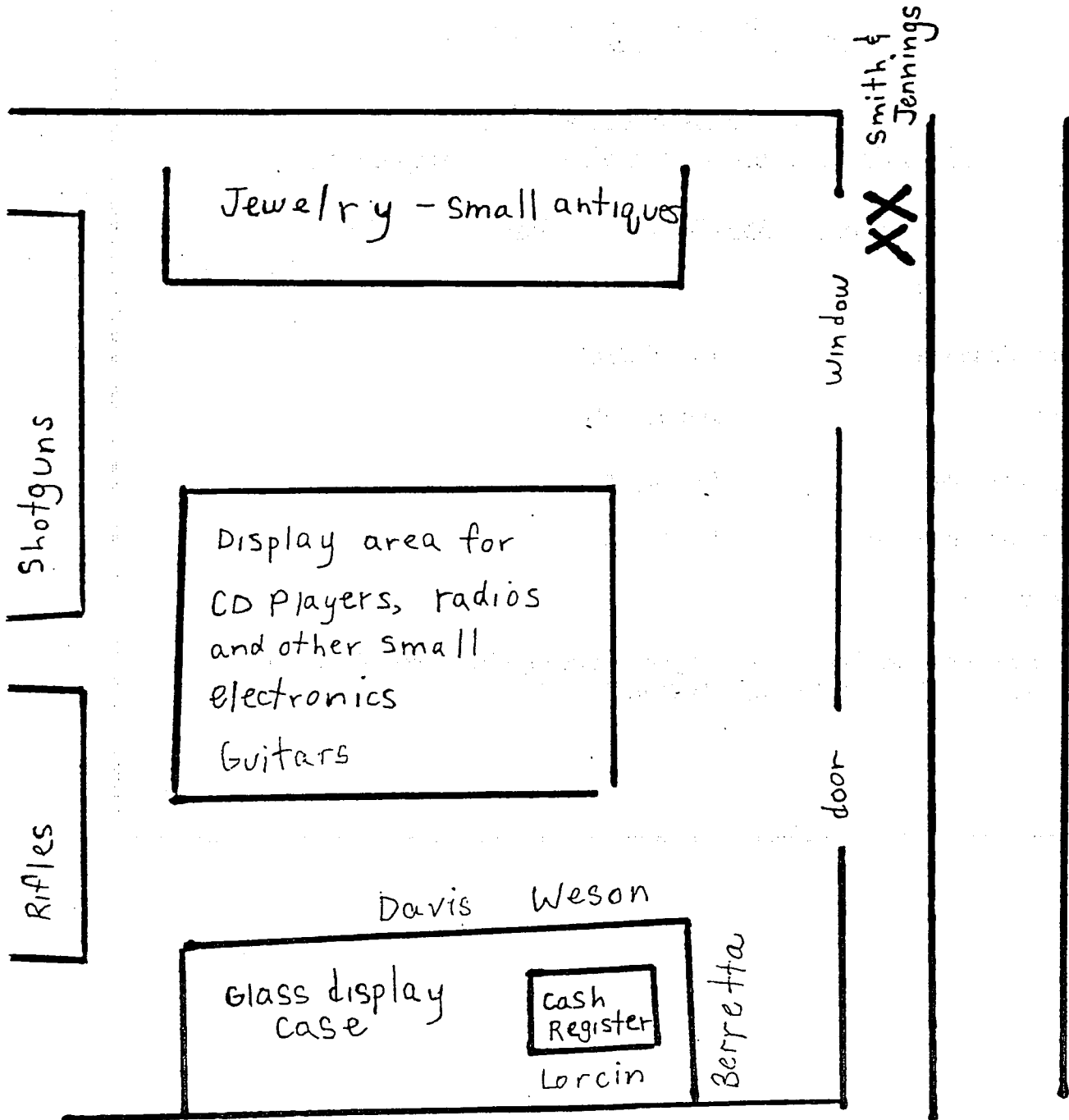


EXHIBIT B

Number 1310

R E C E I P T

LORCIN'S PAWN SHOP
353 Trigger Street -- Owlville, New Temple County

Phone: 555-7296 Fax: 555-2666

Buyer's name: *Patrick Smith*

Date: *July 1, 1998*

Type of good: *CD Player*

Employee's name: *Lou Lorcin*

Comments:

Lorcin's Pawn Shop offers \$115 for purchase of CD Player with serial number 253-1479-522 owned by Patrick Smith.

EXHIBIT C

Number 1315

R E C E I P T

LORCIN'S PAWN SHOP
353 Trigger Street -- Owlville, New Temple County

Phone: 555-7296 Fax: 555-2666

Buyer's name: *Hercules Weson*
Date: *July 1, 1998*
Type of good: *CD Player & Nug Handgun*
Employee's name: *Lou Lorcin*

Comments:

Lorcin's Pawn Shop purchased Hercules Weson's CD Player with serial number 253-1479-522 in exchange for \$25 in cash and a Nug model handgun valued at \$90 for a total purchase/exchange value of \$115. Weson completed all required forms and passed the criminal background check.

EXHIBIT D

New Temple County Phone Service

Account name: Lee Smith **Service period:** 6/15/98 - 7/15/98

Account number: 555-1716 72G

Wednesday, July 1, 1998

Time Start	Time End	Number called	Charge
6:10 a.m.	6:23 a.m.	555-9876	\$1.30
6:25 a.m.	6:35 a.m.	555-3478	\$1.00
8:30 a.m.	8:45 a.m.	555-4357	\$1.50
9:37 a.m.	9:40 a.m.	555-7296	\$.30

Page 3 of 19

End of Page

EXHIBIT E

BATF INVESTIGATIVE INTERVIEW RECORD

INVESTIGATING AGENT: A.J. Chambers
CASE: Smith, Patrick (Deceased)
CASE NO.: 0809
PAGE: 1

NAME: J.T. Davis (former employee, Lorcin's Pawn Shop)

Davis is 28 years old. Davis has worked as a sales clerk at Lorcin's Pawn Shop for 8 years until Davis' termination on July 1, 1998. Lou Lorcin, shop owner, interrupted the interview and was upset that Davis did not make Lorcin aware of the suspicious circumstances. The circumstances, according to Davis, were that the minors, Smith and Jennings, were outside the store while Weson was buying the handgun and Weson was trading the same CD player for the same handgun the minor Smith wanted earlier in the day. Davis asserts that s/he attempted to warn Lorcin of the illegal transaction by gesturing but that Lorcin ignored Davis' signals. Interview interrupted.

NAME: Lou Lorcin (owner, Lorcin's Pawn Shop)

Lorcin is 53 years old. Lorcin is the sole owner of Lorcin's Pawn Shop at 353 Trigger Street in Owlville, New Temple County. Lorcin is a licensed gun dealer. Lorcin stated that s/he refused to sell a handgun to Patrick Smith because of his age. Lorcin asserted that Weson got \$25 in cash and a Nug handgun in exchange for a CD player which Weson traded. Lorcin confirmed that Weson was given a \$20 and \$5 bill as part of the sale. Lorcin denied any knowledge of a straw purchase transaction. End of interview.

NAME: Hercules Weson (Deceased)

Weson was a 62 year old male. He was a former Olympic athlete, who was well-known in the community. According to Davis' interview, Weson acted as a straw purchaser for the decedent, Smith. Weson appeared nervous as I initiated the interview. I told Weson that I saw the entire transaction. Weson gasped for air and fell to the ground. I suspected Weson was experiencing the symptoms of a massive heart attack. Despite CPR efforts, Weson died within minutes. Prior to expiring, Weson stated, "I killed a boy for \$25." I found a \$20 and \$5 bill in Weson's pocket. There was no other money. End of interview.

BATF INVESTIGATIVE INTERVIEW RECORD (CONT.)

INVESTIGATING AGENT: A.J. Chambers
CASE: Smith, Patrick (Deceased)
CASE NO.: 0809
PAGE: 2

NAME: Tyler Berretta (employee, Lorcin's Pawn Shop)

Berretta is 59 years old. Berretta was present at Lorcin's Pawn Shop on July 1, 1998. Berretta, a store visitor, witnessed the transaction. Berretta offered no new information.

NAME: Bobbie Jennings (friend of decedent)

Jennings is 15 years old. Jennings was a friend of the decedent, Patrick Smith. Jennings offered no new information.

RECOMMENDATION: No criminal charges should be filed against Lou Lorcin by the District Attorney's Office. This recommendation is according to my reading of Statute #2 of the Gun Control Law and the totality of my investigation. All fault must be assigned to Weson for knowingly participating in a straw purchase transaction for an ineligible buyer.
END.

BUREAU OF ALCOHOL, TOBACCO AND FIREARMS
FIREARMS TRANSACTION RECORD
PART I - OVER-THE-COUNTER

SERIAL NUMBER

019

NOTE: Prepare in original only. All entries on this form must be in ink. See Notices and Instructions on back.

SECTION A - MUST BE COMPLETED PERSONALLY BY TRANSFEREE (BUYER). WHERE TRANSACTION IS A SALE, THIS SECTION MUST BE COMPLETED BY ACTUAL BUYER. READ NOTICES AND INSTRUCTIONS ON REVERSE, INCLUDING WARNING ABOUT ILLEGAL "STRAW PURCHASES" IN PARAGRAPH 2.

1. TRANSFEREE'S (Buyer's) NAME (Last, First, Middle) Weson, Hercules Mars	<input checked="" type="checkbox"/> MALE <input type="checkbox"/> FEMALE	2. HEIGHT 5' 10"	3. WEIGHT 175 lb	4. RACE Caucasian
5. RESIDENCE ADDRESS (No., Street, City, County, State, ZIP Code) 35 Rifle St., Owlville		6. DATE OF BIRTH MONTH DAY YEAR 6 25 36		7. PLACE OF BIRTH City Owlville State or Foreign Country PA

8. CERTIFICATION OF TRANSFEREE (Buyer) - An untruthful answer may subject you to criminal prosecution. Each question must be answered with a "yes" or a "no" inserted in the box at the right of the question:

a. Are you under indictment or information in any court for a crime punishable by imprisonment for a term exceeding one year? *A formal accusation of a crime made by a prosecuting attorney, as distinguished from an indictment presented by a grand jury.	NO	c. Are you a fugitive from justice?	NO
b. Have you been convicted in any court of a crime punishable by imprisonment for a term exceeding one year? (NOTE: A "yes" answer is necessary if the judge could have given a sentence of more than one year. A "yes" answer is not required if you have been pardoned for the crime or the conviction has been expunged or set aside, or you have had your civil rights restored and, under the law where the conviction occurred, you are not prohibited from receiving or possessing any firearm).	NO	d. Are you an unlawful user of, or addicted to, marijuana, or any depressant, stimulant, or narcotic drug, or any other controlled substance?	NO
		e. Have you ever been adjudicated mentally defective or have you been committed to a mental institution?	NO
		f. Have you been discharged from the Armed Forces under dishonorable conditions?	NO
		g. Are you an alien illegally in the United States?	NO
		h. Are you a person who, having been a citizen of the United States, has renounced his/her citizenship?	NO
		i. Are you subject to a court order restraining you from harrasing, stalking, or threatening an intimate partner or child of such partner? (See paragraph 4 on reverse).	NO

I HEREBY CERTIFY THAT THE ANSWERS TO THE ABOVE ARE TRUE AND CORRECT. IF THE TRANSACTION IS A SALE, I ALSO CERTIFY THAT I AM THE ACTUAL BUYER. I ALSO UNDERSTAND THAT A PERSON WHO ANSWERS "YES" TO ANY OF THE ABOVE QUESTIONS IS PROHIBITED FROM PURCHASING AND/OR POSSESSING A FIREARM, EXCEPT AS OTHERWISE PROVIDED BY FEDERAL LAW. I ALSO UNDERSTAND THAT THE MAKING OF ANY FALSE ORAL OR WRITTEN STATEMENT OR THE EXHIBITING OF ANY FALSE OR MISREPRESENTED IDENTIFICATION WITH RESPECT TO THIS TRANSACTION IS A CRIME PUNISHABLE AS A FELONY.

TRANSFEREE'S (Buyer's) SIGNATURE - EXECUTE AT TIME OF ACTUAL TRANSFER OF FIREARM(S) Hercules Weson	DATE 7-1-98
--	-----------------------

SECTION B - TO BE COMPLETED BY TRANSFEROR (SELLER). READ NOTICE AND INSTRUCTIONS ON REVERSE.
THIS PERSON DESCRIBED IN SECTION A HAS IDENTIFIED HIMSELF/HERSELF TO ME IN THE FOLLOWING MANNER

9. TYPE OF IDENTIFICATION (Driver's license or identification which shows name, date of birth, place of residence, and signature.) Driver's License	10. NUMBER ON IDENTIFICATION 21-964-795
---	---

On the basis of (1) the statements in Section A; (2) the verification of identity noted in Section B; and (3) the information in the current list of Published Ordinances, it is my belief that it is not unlawful for me to sell, deliver, transport, or otherwise dispose of the firearm(s) described below to the person identified in Section A.

11. TYPE (Pistol, Revolver, Rifle, Shotgun, etc.)	12. MODEL	13. CALIBER OR GAUGE	14. SERIAL NO.	15. MANUFACTURER (and importer, if any)
1. Handgun	Nug	35	013779001134	Gotcha, Inc.
2.				
3.				
4.				

Complete ATF F 3310.4 for multiple purchases of handguns (see item 11 on the back)

16. TRADE/CORPORATE NAME AND ADDRESS OF TRANSFEROR (Seller) (Hand stamp may be used) Lorcin's Pawn Shop	17. FEDERAL FIREARMS LICENSE NO. (Hand stamp may be used) 019
---	---

THE PERSON MAKING THE ACTUAL FIREARMS SALE MUST COMPLETE ITEMS 18 THROUGH 20.

18. TRANSFEROR'S (Seller's) SIGNATURE - EXECUTE AT TIME OF ACTUAL TRANSFER OF FIREARM(S) Lou Lorcin	19. TRANSFEROR'S TITLE Owner	20. TRANSACTION DATE 7-1-98
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EXHIBIT G

JUVENILE ARREST AND DISPOSITION RECORD

Name: Bobbie Jennings	D.O.B.: 5/14/83
SSN: 545-65-5995	P.O.B.: Owlville, New Temple County

Date	Address	Offense	Disposition
2/26/98	45 Caliber St. Owlville, New Temple County	Malicious Mischief 29 Owlville G.S. §99(b) - Vandalism (bank window)	Delinquent Fine: \$250
12/21/98	12 Luggar Rd. Owlville, New Temple County	Petit Larceny 22 Owlville G.S. §45(c) - Theft of personal property (bicycle)	Delinquent Probation: 1 year
12/21/98	12 Luggar Rd. Owlville, New Temple County	Petit Larceny 22 Owlville G.S. §45(c) - Theft of personal property (bicycle)	Delinquent Probation: 1 year

Certified as of the 4th day of Jan 1999

/s/ Jane Safety

Jane Safety

Superintendent of Documents

/s/ Harold Bolt

Notary Public