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1 2 3 4 5 6 7 8	KAMALA D. HARRIS Attorney General of California PETER K. SOUTHWORTH Supervising Deputy Attorney General ANTHONY R. HAKL, State Bar No. 197335 Deputy Attorney General 1300 I Street, Suite 125 P.O. Box 944255 Sacramento, CA 94244-2550 Telephone: (916) 322-9041 Fax: (916) 324-8835 E-mail: Anthony.Hakl@doj.ca.gov Attorneys for Defendant Stephen Lindley		
9			рт
10	IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF CALIFORNIA		
11	TOR THE EASTERN DR		
12	IVAN PEÑA, ROY VARGAS, DOÑA	Case No. 2:09-CV-0	1185-KJM-CMK
13	CROSTON, BRETT THOMÁS, SECOND AMENDMENT FOUNDATION, INC. and		
14	THE CALGUNS FOUNDATION, INC.,	ANSWER TO AME	ENDED COMPLAINT
15	Plaintiffs,		
16	V.	Doute No. 2	154h Elece
17	STEPHEN LINDLEY, ¹		15th Floor ble Kimberly J. Mueller
18	Defendant.	Action Filed: April	30, 2009
19 20			
20 21			
21			
23			
24			
25			
26			
27 28	¹ Stephen Lindley, in his official capacity as Chief of the California Department of Justice Bureau of Firearms, has been substituted for defendant Wilfredo Cid. (Minute Order filed Sept. 6, 2012.)		
-0	1		
	ANSWER TO AMENDED COMPLAINT (2:09-CV-01185-KJM-CKD)		

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1	Defendant Stephen Lindley ("Lindley") answers plaintiffs Ivan Peña, Roy Vargas, Doña		
2	Croston, Brett Thomas, Second Amendment Foundation, Inc., and The Calguns Foundation,		
3	Inc.'s amended complaint as follows:		
4	ANSWER TO PLAINTIFFS' DESCRIPTION OF THE PARTIES		
5	1. Answering paragraphs 1 through 6 of the amended complaint, Lindley lacks sufficient		
6	information or knowledge to form a belief about the truth of each and every allegation of these		
7	paragraphs and denies them on that basis.		
8	2. Answering paragraph 7 of the amended complaint, Lindley denies those allegations.		
9	Lindley alleges that he is the current Chief of the California Department of Justice Bureau of		
10	Firearms.		
11	ANSWER TO ALLEGATIONS REGARDING JURISDICTION AND VENUE		
12	3. Answering paragraph 8 of the amended complaint, Lindley avers the allegations are		
13	conclusions of law to which no response is required. To the extent that a response is required,		
14	Lindley denies each and every allegation.		
15	4. Answering paragraph 9 of the amended complaint, Lindley admits these allegations.		
16	ANSWER TO PLAINTIFFS' STATEMENT OF FACTS		
17	5. To the extent the unnumbered italicized headings contained throughout plaintiffs'		
18	statement of facts constitute material allegations of fact, Lindley denies the allegations.		
19	6. Answering paragraphs 10 through 36 of the amended complaint, Lindley states that the		
20	matters asserted in those paragraphs constitute plaintiffs' arguments regarding the law,		
21	particularly the Second Amendment to the United States Constitution, California Penal Code, and		
22	California Code of Regulations, as opposed to allegations of fact. Because the Second		
23	Amendment, state Penal Code, state regulations, and the legal authorities addressing those		
24	provisions speak for themselves, no response to the legal and policy arguments in paragraphs 10		
25	through 36 is required. To the extent those paragraphs contain any material allegations of fact,		
26	Lindley denies the allegations.		
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	ANSWER TO AMENDED COMPLAINT (2:09-CV-01185-KJM-CKD		

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7. Answering paragraphs 37 and 38 of the amended complaint, Lindley admits that the
 Para USA (Para Ordnance) P1345SR / Stainless Steel .45 ACP 4.25" is not currently listed on the
 Roster of Handguns Certified for Sale. As to the remaining allegations of paragraphs 37 and 38,
 Lindley lacks sufficient information or knowledge to form a belief about the truth of each and
 every allegation and denies them on that basis.

8. Answering paragraphs 39 through 44 of the amended complaint, Lindley admits that the
Glock 21 SF with an ambidextrous magazine release is not currently listed on the Roster of
Handguns Certified for Sale whereas the Glock 21 SF-STD is listed. As to the remaining
allegations of paragraphs 39 through 44, Lindley lacks sufficient information or knowledge to
form a belief about the truth of each and every allegation of these paragraphs and denies them on
that basis.

9. Answering paragraphs 45 through 49 of the amended complaint, Lindley admits that the
Springfield Armory XD-45 Tactical 5" B-Tone stainless steel/black handgun in .45 ACP, model
number XD9623, is not currently listed on the Roster of Handguns Certified for Sale. As to the
remaining allegations of paragraphs 45 through 49, Lindley lacks sufficient information or
knowledge to form a belief about the truth of each and every allegation of these paragraphs and
denies them on that basis.

18 10. Answering paragraphs 50 through 51 of the amended complaint, Lindley admits that a
19 "High Standard Buntline style revolver" is not currently listed on the Roster of Handguns
20 Certified for Sale. As to the remaining allegations of paragraphs 50 through 51, Lindley lacks
21 sufficient information or knowledge to form a belief about the truth of each and every allegation
22 of these paragraphs and denies them on that basis.

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ANSWER TO FIRST CLAIM FOR RELIEF

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11. Answering paragraph 52 of the amended complaint, Lindley incorporates by reference
his responses to paragraphs 1 through 51 of the amended complaint to the same extent plaintiffs
have incorporated the allegations of those paragraphs into the First Claim For Relief.

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1 12. Answering paragraphs 53 through 57 of the amended complaint, Lindley states that the 2 matters asserted in those paragraphs constitute plaintiffs' arguments regarding the law, 3 particularly the Second Amendment to the United States Constitution, California Penal Code, and 4 California Code of Regulations, as opposed to allegations of fact. Because the Second 5 Amendment, state Penal Code, state regulations, and the legal authorities addressing those 6 provisions speak for themselves, no response to the legal and policy arguments in paragraphs 53 7 through 57 is required. To the extent those paragraphs contain any material allegations of fact, 8 Lindley denies the allegations.

9

ANSWER TO SECOND CLAIM FOR RELIEF

10 13. Answering paragraph 58 of the amended complaint, Lindley incorporates by reference
11 his responses to paragraphs 1 through 57 of the amended complaint to the same extent plaintiffs
12 have incorporated the allegations of those paragraphs into the First Claim For Relief.

13 14. Answering paragraph 59 of the amended complaint, Lindley states that the matters 14 asserted in the paragraph constitutes plaintiffs' arguments regarding the law, particularly the 15 Second Amendment to the United States Constitution, California Penal Code, and California 16 Code of Regulations, as opposed to allegations of fact. Because the Second Amendment, state 17 Penal Code, state regulations, and the legal authorities addressing those provisions speak for 18 themselves, no response to the legal and policy arguments in paragraph 59 is required. To the 19 extent those paragraphs contain any material allegations of fact, Lindley denies the allegations. 20 FIRST AFFIRMATIVE DEFENSE 21 (No Ripe Controversy) 22 The complaint fails to present a case or controversy that is ripe for this Court's 23 consideration. 24 /// 25 111 26 111 27 28 4 ANSWER TO AMENDED COMPLAINT (2:09-CV-01185-KJM-CKD)

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1	SECOND AFFIRMATIVE DEFENSE			
2	(Lack of Standing)			
3	All of the plaintiffs lack standing to bring this action because there is no injury or credible			
4	threat of injury. Second Amendment Foundation, Inc., and The Calguns Foundation, Inc. also			
5	lack associational standing.			
6	THIRD AFFIRMATIVE DEFENSE			
7	(Eleventh Amendment Immunity)			
8	Plaintiffs' claims are barred by the Eleventh Amendment.			
9	PRAYER FOR RELIEF			
10	Lindley prays for judgment as follows:			
11	1. That plaintiffs take nothing by way of their complaint;			
12	2. That the Court enter judgment in favor of Lindley on all claims and causes of action			
13	alleged in the complaint;			
14	3. For costs incurred in the defense of this action; and			
15	4. For such other and further relief as the Court may deem proper.			
16	Dated: March 26, 2012 Respectfully submitted,			
17		KAMALA D. HARRIS		
18		Attorney General of California PETER K. SOUTHWORTH		
19		Supervising Deputy Attorney General		
20		/s/ ANTHONY R. HAKL		
21		ANTHONY R. HAKL Deputy Attorney General		
22	Attorneys for Defendant Stephen Lindley			
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