

1 KAMALA D. HARRIS
Attorney General of California
2 PETER K. SOUTHWORTH
Supervising Deputy Attorney General
3 ANTHONY R. HAKL, State Bar No. 197335
Deputy Attorney General
4 1300 I Street, Suite 125
P.O. Box 944255
5 Sacramento, CA 94244-2550
Telephone: (916) 322-9041
6 Fax: (916) 324-8835
E-mail: Anthony.Hakl@doj.ca.gov
7 *Attorneys for Defendant Stephen Lindley*

8
9
10 IN THE UNITED STATES DISTRICT COURT
11 FOR THE EASTERN DISTRICT OF CALIFORNIA
12

13 **IVAN PEÑA, ROY VARGAS, DOÑA**
14 **CROSTON, BRETT THOMAS, SECOND**
15 **AMENDMENT FOUNDATION, INC. and**
THE CALGUNS FOUNDATION, INC.,

16 Plaintiffs,

17 v.

18 **STEPHEN LINDLEY,**

19 Defendant.
20

Case No. 2:09-CV-01185-KJM-CMK

**ANSWER TO SECOND AMENDED
COMPLAINT**

Dept: No. 3 – 15th Floor
Judge Honorable Kimberly J. Mueller
Trial Date: None
Action Filed: April 30, 2009

21 Defendant Stephen Lindley (“Lindley”) answers plaintiffs Ivan Peña, Roy Vargas, Doña
22 Croston, Brett Thomas, Second Amendment Foundation, Inc., and The Calguns Foundation,
23 Inc.’s second amended complaint as follows:

24 **ANSWER TO PLAINTIFFS’ DESCRIPTION OF THE PARTIES**

25 1. Answering paragraphs 1 through 6 of the second amended complaint, Lindley lacks
26 sufficient information or knowledge to form a belief about the truth of each and every allegation
27 of these paragraphs and denies them on that basis.
28

1 2. Answering paragraph 7 of the second amended complaint, Lindley admits that he is the
2 current Chief of the California Department of Justice Bureau of Firearms, and as such is
3 responsible for enforcing the law. To the extent the paragraph contains any other material
4 allegations of fact, Lindley denies the allegations.

5 **ANSWER TO ALLEGATIONS REGARDING JURISDICTION AND VENUE**

6 3. Answering paragraph 8 of the second amended complaint, Lindley avers the allegations
7 are conclusions of law to which no response is required. To the extent that a response is required,
8 Lindley denies each and every allegation.

9 4. Answering paragraph 9 of the second amended complaint, Lindley admits these
10 allegations.

11 **ANSWER TO PLAINTIFFS' STATEMENT OF FACTS**

12 5. To the extent the unnumbered italicized headings contained throughout plaintiffs'
13 statement of facts constitute material allegations of fact, Lindley denies the allegations.

14 6. Answering paragraphs 10 through 40 of the second amended complaint, Lindley states
15 that the matters asserted in those paragraphs constitute plaintiffs' arguments regarding the law,
16 particularly the Second Amendment to the United States Constitution, California Penal Code, and
17 California Code of Regulations, as opposed to allegations of fact. Because the Second
18 Amendment, state Penal Code, state regulations, and the legal authorities addressing those
19 provisions speak for themselves, no response to the legal and policy arguments in paragraphs 10
20 through 40 is required. To the extent those paragraphs contain any material allegations of fact,
21 Lindley denies the allegations.

22 7. Answering paragraphs 41 and 42 of the second amended complaint, Lindley admits that
23 the Para USA (Para Ordnance) P1345SR / Stainless Steel .45 ACP 4.25" is not currently listed on
24 the Roster of Handguns Certified for Sale. As to the remaining allegations of paragraphs 41 and
25 42, Lindley lacks sufficient information or knowledge to form a belief about the truth of each and
26 every allegation and denies them on that basis.

1 particularly the Second Amendment to the United States Constitution, California Penal Code, and
2 California Code of Regulations, as opposed to allegations of fact. Because the Second
3 Amendment, state Penal Code, state regulations, and the legal authorities addressing those
4 provisions speak for themselves, no response to the legal and policy arguments in paragraphs 58
5 through 63 is required. To the extent those paragraphs contain any material allegations of fact,
6 Lindley denies the allegations.

7 **ANSWER TO SECOND CLAIM FOR RELIEF**

8 14. Answering paragraph 64 of the second amended complaint, Lindley incorporates by
9 reference his responses to paragraphs 1 through 63 of the second amended complaint to the same
10 extent plaintiffs have incorporated the allegations of those paragraphs into the First Claim For
11 Relief.

12 15. Answering paragraph 65 of the second amended complaint, Lindley states that the
13 matters asserted in the paragraph constitutes plaintiffs' arguments regarding the law, particularly
14 the Second Amendment to the United States Constitution, California Penal Code, and California
15 Code of Regulations, as opposed to allegations of fact. Because the Second Amendment, state
16 Penal Code, state regulations, and the legal authorities addressing those provisions speak for
17 themselves, no response to the legal and policy arguments in paragraph 65 is required. To the
18 extent those paragraphs contain any material allegations of fact, Lindley denies the allegations.

19 **FIRST AFFIRMATIVE DEFENSE**

20 (No Ripe Controversy)

21 The complaint fails to present a case or controversy that is ripe for this Court's
22 consideration.

23 **SECOND AFFIRMATIVE DEFENSE**

24 (Lack of Standing)

25 All of the plaintiffs lack standing to bring this action because there is no injury or credible
26 threat of injury. Second Amendment Foundation, Inc., and The Calguns Foundation, Inc. also
27 lack associational standing.
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

THIRD AFFIRMATIVE DEFENSE

(Eleventh Amendment Immunity)

Plaintiffs' claims are barred by the Eleventh Amendment.

PRAYER FOR RELIEF

Lindley prays for judgment as follows:

1. That plaintiffs take nothing by way of their complaint;
2. That the Court enter judgment in favor of Lindley on all claims and causes of action alleged in the complaint;
3. For costs incurred in the defense of this action; and
4. For such other and further relief as the Court may deem proper.

Dated: July 1, 2013

Respectfully submitted,

KAMALA D. HARRIS
Attorney General of California
PETER K. SOUTHWORTH
Supervising Deputy Attorney General

/s/ ANTHONY R. HAKL

ANTHONY R. HAKL
Deputy Attorney General
Attorneys for Defendant Stephen Lindley

SA2009310413
11119279.docx