

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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FREDDIE HAMILTON, Administratrix  
of the Goods, Chattels and  
Credits of NJUZI RAY, Deceased;  
FREDDIE HAMILTON, Individually;  
KATINA JOHNSTONE, Administratrix  
of the Goods, Chattels and Credits  
of DAVID JOHNSTONE, Deceased;  
KATINA JOHNSTONE, Individually,

AFFIDAVIT OF  
ROBERT I. HASS

95 CV 0049 (JBW)

Plaintiffs,

-against-

ACCU-TEK, et al.

Defendants.

-----x  
STATE OF CONNECTICUT )

ss:

COUNTY OF )

ROBERT I. HASS, being duly sworn, deposes and says:

1. I am the former Senior Vice-President of Marketing and Sales for Smith & Wesson, the world's largest manufacturer of handguns, and a leading supplier of law enforcement equipment in the United States and around the world. Smith & Wesson is headquartered in Springfield, Massachusetts.

2. Since graduating from the Harvard Graduate School of Business Administration with an MBA (with a concentration in Marketing), my business career has been primarily devoted to establishing and managing complex marketing and distribution networks. Before joining Smith & Wesson, for example, I worked in marketing, sales and distribution positions for Sony Corporation of America and the Royal Typewriter Co., a division of Litton Industries. Since leaving Smith & Wesson, in 1989, I established and have been the President of the Windsor Group Inc., which

imports and distributes in the United States, German-made writing instruments. This business was sold in 1992.

3. At the time I joined Smith & Wesson, in January 1978, it was operated as a division of the Bangor Punta Corporation. By the time I left eleven years later, in January 1989, Smith & Wesson had been sold first to Lear Siegler, Inc. in 1987, then to Forstman, Little & Co. and then to a British holding company, Tompkins PLC.

4. I first joined Smith & Wesson as Vice-President of Marketing. I was responsible for U.S. sales and had overall responsibility for Smith & Wesson's domestic sporting goods and law enforcement sales forces. I oversaw the company's advertising and sales promotions. Also, I was Smith & Wesson's spokesman on delicate issues affecting the company, such as gun control, product recalls, and the Army's retesting of Smith & Wesson's 9 mm semiautomatic pistols in 1988.

5. In January 1982, I was promoted to Senior Vice-President of Marketing and Sales, and remained in that position until I left in January 1989. To my previous duties were added the responsibility for Smith & Wesson's international sales, particularly to foreign governments. Also, I took over responsibility for physical distribution of the company's products including service and parts sales.

6. Among my major accomplishments in my eleven years at Smith & Wesson were:

increasing the company's overall handgun market share to 35 percent despite a 38 percent reduction in the U.S. market from 1982 to 1988;

maintaining Smith & Wesson's overall marketing expense level at under 8 percent of sales through

such major innovations as an in-house advertising and promotional agency;

switching the company's sales effort from a system of costly manufacturer's representatives to a company sales force, and recruiting and training new sales forces of regional managers and salespeople; and

creating Smith & Wesson's highly successful sales effort to the female market using national sampling, warranty card analysis, and focus groups to determine product specifications, advertising approach and product introduction publicity.

#### ADVERTISING IN THE NATIONAL RIFLE ASSOCIATION MAGAZINES

7. A key part of Smith & Wesson's marketing effort during all of the years I was responsible for advertising and promotion was the advertising we bought in the magazines published by the National Rifle Association (NRA) -- The American Rifleman and The American Hunter -- and distributed free of charge to the NRA's many members.

8. Advertising our products in the NRA's magazines served several purposes. Our advertising in those magazines demonstrated our participation in the industry and our acceptance by the major consumer organization. The shooters, hunters and collectors, and others who read those magazines, of course, are an important market for Smith & Wesson and other firearms manufacturers. But in addition, Smith & Wesson, like others in the firearms industry, also regarded the NRA as the most effective champion of the rights of firearms owners and a valuable ally in fighting restrictive firearms legislation and regulation. And we knew that the NRA's magazines helped attract and maintain the NRA's large dues-paying membership and were pleased that by purchasing advertising we were

publicly supporting the NRA.

THE FIREARMS INDUSTRY'S RELIANCE  
ON THE NATIONAL RIFLE ASSOCIATION'S  
LOBBYING

9. Like most of the principal U.S. firearms manufacturers, Smith & Wesson belonged to the industry's trade associations, the Sporting Arms and Ammunition Manufacturers' Institute, Inc. (SAAMI) and the National Shooting Sports Foundation (NSSF). We also belonged to the Wildlife Management Institute, a non-profit organization which is largely funded by the firearms and ammunition industry and is dedicated to the restoration and improved management of wildlife.

10. SAAMI and, especially NSSF, from time to time took public positions on proposed firearms legislation and regulation. But for the most part, we in the firearms industry relied on the NRA because of its extensive and active membership and its effectiveness in presenting its positions.

11. The unified position of the firearms industry and the NRA to the proliferation of illegal firearms and the rising gun related crime rate has been to call for stricter enforcement of criminal penalties rather than enactment of laws that would limit access to firearms, either through registration, licensing of gun owners, more stringent dealer requirements or other distribution regulations.

12. We, at Smith & Wesson, were reluctant to take positions contrary to those of firearms industry and the NRA after our proposal to license handgun owners ran afoul of the industry's stance in 1976.

13. In 1976, gun-control advocates in Massachusetts, where Smith & Wesson is headquartered, forced a statewide referendum on a law that would have essentially banned handguns. The NRA led the fight against the proposal. Although I did not join the company until two years later, it is my understanding that Smith & Wesson and its parent company, Bangor Punta Corp., rather than simply opposing the measure, proposed legislation to license prospective handgun purchasers as an effective way of keeping handguns out of the hands of criminals.

14. After Smith & Wesson announced its proposal to license handgun purchasers, it was subjected to continual harassment by those inside the trade and consumers. Members of the firearms community advocated a boycott of Smith & Wesson products. And SAAMI threatened to censure Smith & Wesson. Smith & Wesson eventually withdrew its proposal. After that, Smith & Wesson was extremely reluctant to take public positions on firearms that did not conform to those advocated by the rest of the firearms community and the NRA.

15. Sometime in the mid 1980s, Nicholas Gladding, an attorney for Winchester -- a division of Olin Corp.-- and I worked on a proposal that NSSF open a Washington office to present the views of the firearms industry on issues affecting us. The proposal was rejected by the NSSF Board of Governors on the grounds that it would be a waste of money because the NRA already effectively lobbied for the industry.

#### SMITH & WESSON'S DISTRIBUTION PRACTICES

16. Smith & Wesson sold very few guns designed for the

civilian sporting and self protection market directly to sporting goods stores, gun shops, and other retail firearms dealers. Instead, Smith & Wesson relied on independent wholesale distributors who in turn distributed the company's firearms to retail dealers.

17. Aside from verifying that they possessed a valid federal firearms license, Smith & Wesson made no systematic effort to supervise, monitor, or oversee the operations of these wholesale distributors to whom we sold our firearms in order to insure that Smith & Wesson firearms were distributed responsibly. The company did not determine that distributors maintained the records required of them by federal firearms laws, or ask them to identify the retail dealers to whom they in turn distributed our firearms. The company made no efforts to insure that Smith & Wesson firearms were ultimately sold by the distributors to retailers who complied with all local, state and federal laws and distributed firearms responsibly.

18. Smith & Wesson salesmen did inspect the records of their distributors from time to time but solely for business purposes, to verify that distributors were operating within their designation as law enforcement or commercial vendors -- a designation affecting pricing.

19. From time to time the federal Bureau of Alcohol, Tobacco, and Firearms asked the company to assist it in tracing guns allegedly used in the commission of crimes. Despite such reports however, Smith & Wesson made no systematic effort to identify and investigate the retailers and wholesalers who


distributed Smith & Wesson guns that were involved in criminal transactions.

20. The company and the industry as a whole are fully aware of the extent of the criminal misuse of firearms. The company and the industry are also aware that the black market in firearms is not simply the result of stolen guns but is due to the seepage of guns into the illicit market from multiple thousands of unsupervised federal firearms licensees. In spite of their knowledge, however, the industry's position has consistently been to take no independent action to insure responsible distribution practices, to maintain that the present minimal federal regulation of federal firearms licensees is adequate and to call for greater criminal enforcement of those who commit crimes with guns as the solution to the firearm crime problem.

21. I am familiar with the distribution and marketing practices of the all of the principal U.S. firearms manufacturers and wholesale distributors and none of them, to my knowledge, take additional steps, beyond determining the possession a federal firearms license, to investigate, screen or supervise the wholesale distributors and retail outlets that sell their products to insure that their products are distributed responsibly.

  
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ROBERT I. HASS

Sworn to before me this  
20th day of February, 1996.

  
Notary Public

My Commission Expires Dec. 31, 1997