

MAX D. WHEELER (A3439)

STANLEY J. PRESTON (A4119)

LARRY R. LAYCOCK (A4868)

SNOW, CHRISTENSEN & MARTINEAU

Attorneys for Defendants

10 Exchange Place, Eleventh Floor

Post Office Box 45000

Salt Lake City, Utah 84145

Telephone: (801) 521-9000

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH
CENTRAL DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

MOTION FOR PROTECTIVE ORDER

VS.

CHARLES WILLIAM GOFF, SR.,

CHARLES WILLIAM GOFF, JR.,

AMERICAN RESEARCH AND

DEVELOPMENT COMPANY, INC., and

AMERICAN ARMS INTERNATIONAL,

Defendants.

Defendants hereby move this Court to issue a Protective Order ordering Special Agent Stephen J. Bauer of the Bureau of Alcohol, Tobacco and Firearms ("BATF") not to make further contact with Frank Nisenboim, of Chicago, Illinois, and further ordering BATF and its other agents not to discuss defendants or their products in any way with Mr. Nisenboim.

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This Motion is made pursuant to the Court's inherent power to protect the integrity of the process in this action. This Motion is made on the following grounds:

1. Frank Nisenboim has recently entered into an agreement with the Goffs to purchase the Goffs' patents relating to the American 180 machine guns previously manufactured by defendants.

2. Frank Nisenboim has no knowledge or evidence which could be relevant in any way to this pending action.

3. Special Agent Bauer has contacted Nisenboim on several occasions wherein he has disparaged defendants and their products and cautioned Nisenboim not to go through with his agreement with the Goffs to purchase the machine gun patents.

4. These contacts were unsolicited and Special Agent Bauer has not made any effort to obtain evidence or information from Mr. Nisenboim for use in this case or otherwise. Accordingly, these contacts were made in an apparent and obvious effort by Mr. Bauer to scuttle the agreement between the Goffs and Nisenboim.

5. Special Agent Bauer's efforts to interfere with the contract between Nisenboim and the Goffs are improper, serve no legitimate purpose, and have a substantially adverse impact on defendants' ability to defend this case.

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Defendants also request that oral argument be heard on this Motion on a date to be scheduled by the Clerk of the Court.

In support of this Motion, defendants rely upon the Affidavit of Charles william Goff, Jr., and the pleadings, files and records in this action.

DATED this 15th day of April, 1987.

SNOW, CHRISTENSEN & MARTINEAU

By _____

STANLEY J. PRESTON

Attorneys for Defendants

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IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH
CENTRAL DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

AFFIDAVIT OF CHARLES WILLIAM
GOFF, JR.

vs.

CHARLES WILLIAM GOFF, SR.,

CHARLES WILLIAM GOFF, JR.,
AMERICAN RESEARCH AND
DEVELOPMENT COMPANY, INC., and
AMERICAN ARMS INTERNATIONAL,
INC.,

No. 86-CR-0168S

Defendants.

STATE OF UTAH)
 : ss.
COUNTY OF SALT LAKE)

CHARLES WILLIAM GOFF, JR., being first duly sworn, states the following upon the basis of his own personal knowledge except as may be stated otherwise:

1. I am the Vice President of American Research and Development Company, Inc. ("ARDCO"), and the President of American Arms International, Inc.

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2. In the late spring and early summer of 1986, my father Charles William Goff, Sr., and I entered into negotiations with a Mr. Frank Nisenboim of Chicago, Illinois, to sell our patents relating to the American 180 machine gun which we have manufactured

through our companies ARDCO and American Arms International, Inc. We were interested in selling these patents for the purpose of raising capital.

3. My father and I did not know, nor had we had any contact with, Mr. Nisenboim before we began negotiating the sale of these patents. Mr. Nisenboim has never had any involvement whatsoever in the manufacture, registration, or sale of our machine guns or any other products manufactured by ARDCO and American Arms International, Inc.

4. To our knowledge, Mr. Nisenboim does not, nor could he have any knowledge or evidence which would relate in any way to the subject matter of the indictment in this case.

5. During the summer of 1986, we were close to reaching an agreement with Mr. Nisenboim for the sale of the patents in question. However, in August 1986, Mr. Nisenboim decided not to enter into an agreement with us. I am informed and believe that Mr. Nisenboim decided not to enter into an agreement with us as a direct result of statements and contacts made by Bureau of Alcohol, Tobacco and Firearms ("BATF") Special Agent Stephen J. Bauer and other BATF agents.

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6. On February 11, 1987, we finally reached an agreement with Mr. Nisenboim for the sale of these patents. This agreement was for

substantially less money than was originally contemplated. A motivating factor in our decision to sell these patents at this time was to raise money to assist us in defending this action.

7. Once this new agreement was made, Mr. Nisenboim contacted BATF for the purpose of obtaining a license, thereby alerting BATF that an agreement had been reached by Nisenboim and ourselves. Mr. Nisenboim informed me that while going through the process of applying for his license, the Chicago office of BATF told him that Special Agent Bauer had requested that they obtain copies of the agreement and transactions between Nisenboim and ourselves. Pursuant to this request, Mr. Nisenboim supplied these documents to the Chicago office of BATF.

8. Subsequently, Mr. Nisenboim informed me that, approximately 45 days ago, he was contacted by Special Agent Bauer. On that occasion, Special Agent Bauer told Mr. Nisenboim that our American 180 machine gun was poorly designed and was not a good gun. Special Agent Bauer further said that he had had an unidentified expert look at the American 180 machine gun and this expert confirmed that it was of poor design. Mr. Bauer said that he would not give it to any law enforcement agency

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that he cared about. Finally, Special Agent Bauer told Mr. Nisenboim that if he intended to obtain inventory from us as part of the agreement, he would never get it because we did not have any inventory.

9. On or about April 3, 1987, Special Agent Bauer again contacted Mr. Nisenboim and told him that he was calling because he did not want Mr. Nisenboim to get into any trouble dealing with us. He told Mr. Nisenboim that we cannot handle or transport guns because of the indictment. He warned Mr. Nisenboim to be very careful in dealing with us and that he would be willing to assist Mr. Nisenboim or help him in any way by answering any questions Mr. Nisenboim might have in his dealing with us. He also said that he wanted to make sure that Mr. Nisenboim did not do anything to have problems with BTAF similar to those we were having.

10. Mr. Nisenboim informs me that all of these contacts from Special Agent Bauer were unsolicited. To my knowledge, at no time did Mr. Bauer ever request from Mr. Nisenboim any information or evidence whatsoever.

11. In my opinion, Special Agent Bauer's communications with Mr. Nisenboim constitute an obvious effort to interfere with our contract with Mr. Nisenboim, for the purpose of convincing Mr. Nisenboim not to go through with our

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agreement. As a result, Mr. Bauer's contacts are having a substantially adverse impact on our ability to defend this case.

DATED this 15th day of April, 1987.

CHARLES WILLIAM GOFF, JR.

SUBSCRIBED AND SWORN to before me this 15th day of April,
1987.

NOTARY PUBLIC

Residing at: SLC, Utah

My Commission Expires:

8-1-88

SCMSJP18

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IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH
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UNITED STATES OF AMERICA,

Plaintiff,

ORDER

VS.

CHARLES WILLIAM GOFF, SR.,

CHARLES WILLIAM GOFF, JR.,

AMERICAN RESEARCH AND

DEVELOPMENT COMPANY, INC., and

AMERICAN ARMS INTERNATIONAL,

INC.,

No. 86-CR-0168S

Defendants.

This matter came before the Court for hearing on defendants' Motion for Protective Order on April 20, 1987. The Government was represented by Assistant United States Attorney Bruce Lubeck, and the defendants were represented by Max D. Wheeler and Stanley J. Preston. After hearing the arguments of counsel, and being otherwise fully advised in the premises, it is hereby

ORDERED that Special Agent Steve Bauer and all other BATF agents associated in any way with this case be, and are

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hereby, enjoined from contacting or communicating with Frank Nisenboim of Chicago, Illinois, or any other business associate of the defendants not identified as a witness in the investigative reports unless approval is first obtained either from this Court or from Assistant United States Attorney Bruce Lubeck.

DATED this 24th day of April, 1987.

BY THE COURT:

cc: attys 4/28/87:dp

Bruce C. Lubeck, AUSA

Max D. Wheeler, Esq.

DAVID SAM

UNITED STATES DISTRICT JUDGE

DISTRICT OF UTAH

APPROVED AS TO FORM:

BRUCE LUBECK

