Presented to the Court by the foreman of the Grand Jury in open Court, in the presence of the Grand Jury and FILED in the U.S. DISTRICT COURT at Seattle, Washington.

APRIL 28 20 11

WILLIAM M. McCOOL, Clerk

By _____ Deputy

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

UNITED STATES OF AMERICA, Plaintiff, v. DAVID DEVENNY, Defendant.	)	CASE NO. CR11-5235BHS INDICTMENT

The grand jury charges that:

COUNT 1
(Unlawful Dealing in Firearms)

1. Beginning at a time unknown, but within the last five years, and continuing until on or about November 15, 2010, within the Western District of Washington, and elsewhere, DAVID DEVENNY did willfully engage in the business of dealing firearms without a license.

Object of the Offense

2. The object of the offense was to purchase and resell firearms for a profit, while avoiding the record keeping, reporting, and other requirements imposed on a Federal Firearms Licencee.

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Manner and Means in the Commission of the Offense

At all times material to this Indictment, DAVID DEVENNY used the following manner and means to commit this offense.

3. DAVID DEVENNY would engage in the business of dealing firearms, that is, he purchased, received, transported, sold, and delivered numerous firearms, without being properly licensed to do so.

4. The primary locations at which the Defendant unlawfully engaged in the business of dealing firearms were various guns shows within the Western District of Washington, where he displayed, advertised, and sold firearms from his inventory. He purchased approximately 60 handguns from various FFL's from September 2006 to March 2010, with the majority being purchased from January 2009 to March 2010.

5. DAVID DEVENNY would also sell firearms to others from his home in Olympia, Washington.

6. The Defendant engaged in the business of dealing firearms without complying with the requirements imposed on FFLs. For example, the Defendant did not have purchasers fill out ATF form 4473, which allows law enforcement agencies to trace the ownership of a particular firearm.

Acts During the Commission of the Offense

At all times material to this Indictment, DAVID DEVENNY committed the following acts, among others, during the commission of this offense.

7. On or about October 17, 2009, DAVID DEVENNY attended a gun show in Centralia, Washington, where he displayed multiple handguns and rifles for sale. While at the gun show, DEVENNY sold a Taurus .44 caliber handgun for $395.00 to an undercover agent from the Bureau of Alcohol, Tobacco and Firearms (ATF).

8. On or about October 24, 2009, DAVID DEVENNY attended a gun show in Puyallup, Washington, where he displayed numerous handguns and rifles for sale. While at this gun show, DEVENNY sold a FEG .45 caliber handgun for $450.00 to a

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undercover ATF agent. Later at this same gun show, DEVENNY sold a Ruger .357 revolver for $475.00 to a undercover ATF agent.

9. On or about November 14, 2009, DAVID DEVENNY attended a gun show in Puyallup, Washington, where he displayed multiple firearms for sale. While at the gun show, DEVENNY sold a Star 9 mm handgun for $350.00 to an undercover ATF agent.

10. On or about December 5, 2009, DAVID DEVENNY attended a gun show in Centralia, Washington, where he displayed multiple firearms for sale. While at the gun show, DEVENNY sold a Taurus .38 caliber handgun for $415.00 to an undercover ATF agent.

11. On or about January 22, 2010, DAVID DEVENNY, at his residence in Olympia, Washington, sold one Taurus Judge .45/.410 caliber revolver and one Sig Sauer .45 caliber pistol for a total of $1,175.00 to an undercover ATF agent.

12. On or about February 5, 2010, DAVID DEVENNY, at his residence in Olympia, Washington, sold one Glock .40 caliber pistol for $475.00 and a Norinco, model SKS rifle for $400.00 to a prohibited individual.

13. On February 5, 2010, DAVID DEVENNY, at his residence in Olympia, Washington, sold one Glock .40 caliber pistol for $475.00 to an undercover ATF agent.

14. On or about November 15, 2010, DAVID DEVENNY, at his residence in Olympia, Washington, sold one Wilkerson 9mm pistol and a Llama 9mm pistol to a prohibited individual for a total $850.00. DEVENNY also sold a High Standard Revolver for $310.00 to an ATF Undercover Agent.

All in violation of Title 18, United States Code, Sections 922(a)(1)(A).

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COUNT 2
(Sale of a Firearm to a Prohibited Person)

On or about February 5, 2010, at Olympia, within the Western District of Washington, DAVID DEVENNY willfully sold a firearm, to wit: one Glock, .40 caliber pistol and one Norinco, model SKS, 7.62x39mm caliber rifle, to a person, knowing and having reasonable cause to believe, that this person was subject to a court order restraining him from harassing, stalking, and threatening an intimate partner.

All in violation of Title 18, United States Code, Section 922(d)(8).

COUNT 3
(Sale of a Firearm to a Prohibited Person)

On or about November 15, 2010, at Olympia, within the Western District of Washington, DAVID DEVENNY willfully sold a firearm, to wit: one Wilkerson, 9mm pistol and one Llama, 9mm pistol, to a person, knowing and having reasonable cause to believe that this person had been convicted of a crime punishable by imprisonment for a term exceeding one year.

All in violation of Title 18, United States Code, Section 922(d)(1).

ASSET FORFEITURE ALLEGATION

The allegations in Counts 1-3 of the Indictment are hereby realleged and incorporated herein by reference for the purpose of alleging forfeiture to the United States pursuant to Title 18, United States Code, Section 924(d) and Title 28, United States Code, Section 2461(c).

Upon conviction of the offenses in violation of Title 18, United States Code, Section 922, the Defendant, DAVID DEVENNY shall forfeit to the United States pursuant to Title 18, United States Code, Section 924(d) and Title 28, United States Code, Section 2461(c), any firearms and ammunition involved in the commission of the offenses, including, but not limited to the following:

1. All firearms and ammunition acquired, possessed, and distributed during the commission of the offenses; and

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2. All firearms and ammunition seized from the Defendant's residence on November 18, 2010.

SUBSTITUTE ASSETS

If any of the above-described forfeitable property, as a result of any act or omission of the Defendant –

a. cannot be located upon the exercise of due diligence;

b. has been transferred or sold to, or deposited with, a third party;

c. has been placed beyond the jurisdiction of the Court;

d. has been substantially diminished in value; or

e. has been commingled with other property which cannot be subdivided without difficulty,

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it is the intent of the United States, pursuant to Title 21, United States Code, Section 853(p), to seek the forfeiture of any other property of the Defendants up to the value of the above-described forfeitable properties.

A TRUE BILL:

DATED:

Signature of Foreperson redacted pursuant to the policy of the Judicial Conference of the United States.

FOREPERSON

JENNY A. DURKAN
United States Attorney

TODD GREENBERG
Assistant United States Attorney

BRUCE MIYAKE
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