

**AFFIDAVIT OF SPECIAL AGENT JARROD PASCIUCCO IN SUPPORT OF  
AN APPLICATION FOR A CRIMINAL COMPLAINT**

I, Jarrod Pasciucco, state:

**INTRODUCTION AND AGENT BACKGROUND**

1. I am a Special Agent (SA) of the United States Department of Homeland Security, Immigration and Customs Enforcement (ICE), Homeland Security Investigations (HSI). I have been an ICE Special Agent since May 2009. I am assigned to HSI's Document and Benefit Fraud Task Force in Boston, Massachusetts. In that capacity, I am responsible for conducting investigations into crimes related to frauds related to the visa process and crimes related to unlawfully obtained benefits. Prior to this, I was assigned to ICE Headquarters in Washington, DC overseeing the Visa Security Program in Europe, Africa, and the Levant for approximately two years. Prior to that I was assigned to San Ysidro, California for approximately seven years investigating drug smuggling. Prior to becoming an ICE agent, I completed a 22-week academy at the Federal Law Enforcement Training Center, where I received instruction in conducting criminal investigations. I also have a bachelor's degree in Criminal Justice and in Psychology from Stonehill College.

2. I submit this affidavit in support of an application for a criminal complaint against Daniel WHITMAN (“WHITMAN”) and Bin LU (“LU”) for conspiracy to violate provisions of the National Firearms Act (NFA), 26 U.S.C. §§ 5861(c-d & f)<sup>1</sup>, by making, possessing, and failing

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<sup>1</sup> The applicable provisions of the National Firearms Act (NFA) include: 26 U.S.C. § 5861(c), possession of an NFA firearm made in violation of the NFA; 26 U.S.C. § 5861(d), possession of an NFA firearm not registered to them in the National Firearms Registration and Transfer Record; and, 26 U.S.C. § 5861(f), making a firearm in violation of the NFA.

to register short-barreled rifles, as well as possessing a suppressor without proper registration; in violation of Title 18, United States Code, Section 371.

3. The facts in this affidavit were developed in the course of this investigation from my personal observations, review of records, my training and experience, and information obtained from other agents and witnesses. This affidavit is intended to show merely that there is sufficient probable cause for the requested complaint and does not set forth all my knowledge about this matter.

#### **PROBABLE CAUSE**

4. In or about February 2018, Special Agents from HSI in Boston, Massachusetts began a criminal investigation into various activities of WHITMAN, LU, and others. WHITMAN is currently a full-time police officer with the Tyngsborough Police Department.

5. According to records from the Massachusetts Secretary of State, Division of Corporations, WHITMAN is also the owner and principal manager of Hitman Firearms, LLC (Hitman Firearms). Hitman Firearms is a retail gun shop located in Tyngsborough, MA. WHITMAN maintains a Type 01 Federal Firearms License (FFL): Dealer in Firearms Other Than Destructive Devices. A Type 01 FFL allows for buying, selling, transferring and gunsmithing, i.e. servicing, of firearms. This type of license does not permit manufacturing of any type of firearms. LU is listed on the FFL as a responsible person and manager of Hitman Firearms. LU is also an investor in Hitman Firearms and has worked at the store.

#### **NATIONAL FIREARMS ACT**

6. The NFA regulates the manufacture, possession, and registration of certain weapons defined under the Act, generally referred to as NFA Firearms. NFA Firearms include, among other things, short-barreled rifles (SBRs), suppressors, short-barreled shotguns, and

machineguns. See 26 U.S.C. § 5845(a). A rifle is “a firearm designed to be fired from the shoulder and designed to use the energy of an explosive in a fixed cartridge to fire only a single projectile through a rifled barrel for each single pull of the trigger.” See 26 U.S.C. § 5845(c). A rifle is defined as being “Short-barrel” and subject to the NFA when the barrel is less than 16 inches, or when its overall length is less than 26 inches. See 26 U.S.C. § 5845(a).

7. The NFA imposes taxes on the making and transfer of NFA Firearms, as well as a special occupational tax on FFLs engaged in the business of importing, manufacturing, and dealing in NFA firearms. See 26 USC 5801 and 5821. The NFA requires registration of all NFA firearms with the Attorney General in the National Firearms Registration and Transfer Record (NFRTR). See 26 U.S.C. § 5841.

8. The purpose of the NFA is to regulate transactions in NFA firearms, which are deemed to be more dangerous than those not regulated by the NFA due to their proliferation in criminal activity at the time the NFA was enacted. Further prohibitions and limitations are implemented by states. For example, possession of a suppressor is illegal in Massachusetts by “any person, other than a federally licensed firearms manufacturer, an authorized agent of the municipal police training committee, or a duly authorized sworn law enforcement officer while acting within the scope of official duties....” M.G.L. ch. 269, § 10(a).

9. The NFA also requires that an FFL be a Special Occupational Taxpayer (SOT) or file additional paperwork with ATF in order to buy, sell, transfer, or manufacture items regulated by the NFA. The NFA further prohibits an FFL who is not an SOT to manufacture or change a firearm that originally was not an NFA weapon to create an NFA weapon. For example, creating a short-barreled rifle out of pistol parts without fulfilling the registration and taxing requirements is a violation of the NFA because such a firearm is subject to all those requirements of the NFA.

Non-SOT holders cannot make an NFA Firearm without receiving prior ATF approval. Upon successful conversion of a non-NFA firearm into an NFA Firearm, the firearm must be appropriately registered in the NFRTR and logged into the FFL's acquisition and disposition (A&D) record.

10. Possession of an NFA firearm by a Type 01 FFL, to whom the NFA firearm is not registered, for the purpose of repair (followed by return to the registered owner), is permitted by ATF, provided that all other requirements of the NFA and Gun Control Act (GCA) are met, including that the firearm is logged into (and then out of) the FFL's (A&D) book.

11. A Type 07 FFL: Manufacturer of firearms other than destructive devices, is required in order to manufacture firearms. Hitman Firearms does not maintain a Type 07 FFL which prevents them from manufacturing any type of firearm. Additionally, Hitman Firearms is not an SOT, limiting Hitman Firearms' ability to legally deal in NFA items. See 26 U.S.C. § 5801 et seq. In an interview with agents, LU mentioned future plans to obtain SOT status and a Type 07 FFL with the hope of securing government contracts.

12. LU and WHITMAN have sought to build a large indoor shooting range, Freedom Alley Shooting Sports (FASS), which would service both regional and international customers, and offer shooting clinics and other services using funding from Chinese investors. LU and WHITMAN have, on several occasions, run firearms training camps under the FASS name for Chinese tourists consisting of shooting and tactics trainings. The Department of State has reviewed some of these training modules and determined they are defense articles as outlined in the Arms Export Control Act (AECA). Providing such trainings to foreign nationals requires a license from the Directorate of Defense Trade Controls. WHITMAN and LU never applied for nor received the required license.

13. As set forth below, LU, WHITMAN and others have participated in videos on a YouTube channel run by LU that promotes Hitman Firearms, FASS, and the training camps using NFA items.

#### SEARCH WARRANT AT HITMAN FIREARMS

14. On October 2, 2020 a search warrant was executed at Hitman Firearms pursuant to a warrant signed by the Honorable M. Page Kelley. During the search, a complete CMMG MK9 rifle bearing serial number (S/N) SMT02721 (hereinafter, "SBR1") was found on a shelf in the storage room. A search of the A&D book of Hitman Firearms listed SBR1 as having been acquired from Sports South, LLC on March 23, 2016 as a lower receiver only. Records from Sports South, LLC confirm SBR1 was transferred to Hitman Firearms as a complete lower receiver with a stock attached. This firearm was seized by HSI during the execution of the search warrant, because it was possessed in violation of 26 U.S.C. § 5861(c), and is in the custody of the Bureau of Alcohol, Tobacco, and Firearms (ATF) for analysis. ATF has analyzed SBR1 and classified it as an SBR with a rifled barrel that was measured at 8.625 inches, and a collapsible stock.

15. A search of the NFRTR was performed and SBR1 was not identified as having ever been registered as an SBR, in violation of 26 U.S.C. § 5861(d).

16. While agents were conducting the search at Hitman Firearms, LU arrived at the shop. LU gave agents permission to search the vehicle he was driving. The vehicle contained several firearms including a Sig Sauer MCX bearing S/N 63C043389 (hereinafter, "SBR2") with a folding stock attached. The A&D book of Hitman Firearms shows SBR2 was acquired from Jerrys Sports Inc. on August 18, 2018 as a pistol. Records from Jerrys Sports Inc. confirmed SBR2 was sent to Hitman Firearms as a pistol. The A&D book lists SBR2 as still being in the

store with no other dispositions. However, during the execution of the search warrant, SBR2 had a stock attached to the rear creating a rifle, in violation of 26 U.S.C. § 5861(c). HSI seized SBR2 and turned it over to ATF for further analysis. ATF classified SBR2 as an SBR with a folding stock and an 11.5-inch rifled barrel. A search of the NFRTR was conducted and SBR2 was not identified as having ever been registered as an SBR, in violation of 26 U.S.C. § 5861(d).

17. While agents were searching the vehicle, agents asked LU if he would speak to them. LU agreed and the conversation took place in the parking lot of the store. While pointing at the stock of SBR2, agents asked LU who put a “thing” on its end. LU replied: “Dan did it.” Based on the investigation, I believe this to be in violation of 26 U.S.C. § 5861(f). LU also stated he was at the store to drop off SBR2, which had been at his house, along with some other firearms. Agents permitted LU to leave the firearms in the store and he left soon after.

#### BORDER SEARCH OF WHITMAN’S PHONE

18. Earlier in the investigation, a border search was conducted on the phone of WHITMAN when he entered the US from Iceland on March 3, 2020 at Logan Airport in Boston, MA. During the search, agents found a document entitled “Audit Sheet 8.29.19”. This document was created on August 30, 2019 and appears to list all the firearms in the possession of Hitman Firearms, when they were purchased, where they were purchased, and where they are stored as of the date of the document. Also identified during this search were numerous conversations via text message, iMessage, and WeChat.

19. The document entitled “Audit Sheet 8.29.19” lists a total of 45 firearms. A total of 25 of these firearms are identified as being in the possession of “Bin.” Those firearms listed in LU’s possession include SBR1 and SBR2. Seven of the other firearms list their location as “?”.

20. On August 30, 2019, WHITMAN messaged LU via WeChat: “As soon as you get home buddy have to confirm guns that you have at the house. Did an audit today and need to make sure we know where they’re ... Something may not have been registered to you which we can do as soon as you’re home too”. On September 2, 2019, LU wrote to WHITMAN “Dropped many guns to store last night”.

#### YOUTUBE ACCOUNT

21. During this investigation, a YouTube account/channel, Sig Shooter, was identified as having numerous videos featuring LU and his nephew. LU’s nephew is illegally present in the United States after overstaying his visa and he is prohibited from possessing firearms based on his immigration status. See 18 U.S.C. §§ 922(d)(5) and 922(g)(5). The account is controlled by LU. Publicly available information on the account shows it has over 60,000 subscribers and was created on January 24, 2016. The target account has over 400 videos uploaded to YouTube as of July 30, 2020. This account was subject of a search warrant signed by the Honorable M. Page Kelley on July 23, 2020.

22. cursory examination of the videos has identified that most of the videos are done in Mandarin. The videos are almost all related to shooting and most often feature LU as the main subject. Many the videos also contain LU’s nephew. WHITMAN is also featured in several of the videos. The channel as a whole appears informational and promotional in nature. Some videos are attempting to sell products and others appear to be targeting Chinese citizens who might be interested in coming to the United States for shooting camps run by WHITMAN and LU. Many videos contain logos for FASS and Hitman Firearms.

23. In a video uploaded May 22, 2019, LU and his nephew are seen shooting SBR2 with a suppressor attached. In the video, SBR2 appears to have the same folding stock attached as when

it was seized. The video is also clear enough to retrieve the serial number from the attached Yankee Hill Machine suppressor, T-02945 (hereinafter, "Suppressor 1"). The Groton Police Department (GPD) confirmed Suppressor 1 is registered to them. The location of this video has been tentatively identified as the Shirley Rod and Gun Club in Shirley, MA. Records from YouTube indicate this video was deleted on October 2, 2020, the date of the search warrant at Hitman Firearms.

24. During the course of the investigation, I learned how WHITMAN came to possess a GPD suppressor. I learned that WHITMAN sought to obtain a contract with GPD to supply it with new service weapons. He improperly marketed himself as an FFL who could obtain and manufacture such weapons, which included suppressors, which many police departments use for hearing protection, and night sights. As a result of this marketing campaign, WHITMAN sought to put together sample weapons for a demonstration to GPD and in order to effectuate a potential contract with GPD as its supplier. In connection with those efforts, WHITMAN sought to obtain parts already in GPD's possession to create new rifles for GPD's consideration.

25. In interviews on July 29, 2020, July 31, 2020, and December 7, 2020 a GPD Officer in charge of the firearms inventory stated that the GPD provided WHITMAN with two GPD-owned suppressors to set up some rifles for department testing and evaluation as part of a potential sale. The GPD Officer did not know the make of the rifles or parts, but stated they were both black SBRs that shot 5.56mm bullets with collapsible stocks with different configurations. Although the officer did not know precisely when WHITMAN came to possess the suppressors, he provided agents with a February 28, 2019 email stating that WHITMAN would provide a demonstration of two rifle setups for GPD on March 5, 2019. The officer stated WHITMAN came to the demonstration with LU. The officer also stated he subsequently picked up the



suppressors from WHITMAN. The officer could not recall exactly when he did so, but believed it was in June 2019. The officer stated he believed the suppressors were given to WHITMAN in their boxes, as they were brand new, but upon receipt, they were in a black bag. When agents inspected Suppressor 1, it was retrieved from in a black bag with another suppressor in it while the others were all still in original boxes. Suppressor 1 was not found listed in the A&D book of Hitman Firearms, which is a violation of the Gun Control Act, 18 U.S.C. § 922(m) and 923(g)(1)(A) and possession of the suppressor is a violation of 26 U.S.C. § 5861(d).

26. On February 22, 2019, WHITMAN texted the officer: “Will have a 7.5" and 10" AR to demo next week for you boys. Will need to get 2 eotechs and 2 cans before”. “Can” is another term for a suppressor and “eotechs” are sights for aiming. The officer responds: “Want me to bring them by tomorrow am?” WHITMAN replies: “Yeah if you don't mind. You can leave them with your boy . . . .”

27. On March 4, 2019, LU sent WHITMAN four pictures via WeChat of the nephew holding what appears to be an AR-15 with a suppressor, in violation of 18 U.S.C. §§ 922(d)(5) and 922(g)(5), however no serial numbers are visible. WHITMAN responds “Looks like you boys had a fun day haha Do you have the other suppressor at your house? . . . I'm meeting GPD at 1230 but have an appointment from 930 to 1130 in Waltham”. It is likely the suppressor in the picture and the other suppressor WHITMAN is referring to are the GPD suppressors.

28. In an email WHITMAN sent to GPD on March 20, 2019, WHITMAN thanks GPD for “the opportunity to help Groton PD get some new equipment.” The email provides price quotes for two Ruger rifle options, both with 10.5-inch barrels. Additionally, the email also includes the cost of suppressors and optics for the rifles. The quote breaks down the costs into two orders,

with the first order including eight SBRs and the second order including 10 SBRs and nine suppressors.

29. In an email from WHITMAN to GPD dated April 2, 2019, WHITMAN provides an estimate for 18 Ruger rifles, 18 sights, and nine Yankee Hill Machine Suppressors. The estimate also includes credit that GPD would earn by turning in rifles the GPD already owned.

30. In a video uploaded April 23, 2019, LU and his nephew are seen shooting a Noveske Rifle with the serial number B20430. LU's nephew is wearing a jacket with the FASS logo on the sleeve. This firearm appears to have a Yankee Hill Machine suppressor on it, however at no point in the video is there a clear view of the serial number, but it is believed to be one of the two suppressors from GPD. A Noveske N4 with the same serial number is listed on the Hitman Firearms self-audit and lists a purchase date of July 31, 2018. There is no record of Hitman Firearms having sold this firearm. Records from YouTube indicate this video was deleted on October 15, 2020.

31. A video uploaded June 29, 2019 was reviewed by a Mandarin speaking Task Force Officer (TFO) assigned to HSI Boston. In the video, LU is seen with several rifles, including one with a suppressor attached. The serial numbers of the rifles and suppressor are not visible at any point. LU explains which rifles people will be permitted to use at various trainings they provide. LU further explains that the trainees will train like police officers and have to wear a heavy bullet proof vest. The FASS logo is seen in the bottom right of the video for most of the video. This video can be seen at <<https://www.youtube.com/watch?v=mONPXwzGC1k>>.

32. Many of the videos, are believed to have been used as marketing videos to Chinese citizens who would come to the United States for shooting clinics run by WHITMAN and LU or to promote other aspects of businesses with which they are involved.

KNOWLEDGE OF GUN LAWS

33. WHITMAN runs several trainings out of his gun shop, including license to carry training. He also runs a Police Academy that is certified by the Commonwealth of Massachusetts to train part time police officers. These trainings include explanations of gun laws, both federal and state.

34. The Hitman Firearms Facebook page has posts indicating that WHITMAN has been providing license to carry trainings since at least 2016. The Hitman Firearms page also links to a book that is available in the Apple Store entitled "Safe Carry Firearms Training Law Guide: A Guide to Federal and Massachusetts Firearms Laws". This book was written by WHITMAN and has been available since August 1, 2016.

CONCLUSION

35. Based on the foregoing, I have probable cause to believe that beginning in or about March 2016 until in or about October 2, 2020, within the District of Massachusetts, defendants Daniel WHITMAN and Bin LU did conspire to violate provisions of 26 U.S.C. § 5861, the National Firearms Act, specifically 26 U.S.C. §§ 5861(c-d & f) by making, possessing, and failing to register short-barreled rifles, as well as possessing a suppressor not registered to Whitman, Lu, or Hitman; all in violation of Title 18, United States Code, Section 371.

Respectfully submitted,  
/s/ Jarrod Pasciucco

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Jarrod Pasciucco  
Special Agent  
Homeland Security Investigations

January 4, 2021

Sworn before me by telephone in accordance with the requirements of Federal Rule of Criminal Procedure 4.1 on this \_\_\_\_ day of January 2021.

  
Honorable M. Page Kelley  
Chief United States Magistrate Judge

