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July 21, 2023

BY EMAIL TRANSMISSION

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Re: **E/O Allison Roebke v. ADCO Firearms, et al.**

Dear Bob, Lee, and Decision Maker at Auto Owners Mutual Insurance Company:

ADCO Firearms (“ADCO”) and its owner, Steven Thompson, sold a gun to a straw purchaser, Jerry Zohn. Zohn bought the gun for 37-year-old Allison Roebke, who suffered from mental illness. Six days later, Allison used that gun to end her life. Her father, Paul, found her dead in her bedroom. As expert testimony will establish, ADCO recklessly failed to act in the face of clear red flags that a straw purchase was underway. And that recklessness caused Allison’s death. ADCO and Thompson are liable for the Estate’s damages.

The following sets out Defendants’ liability and the Estate’s damages. In short, while we anticipate Defendants will move for summary judgment, there is little doubt this case will be tried as Mr. Thompson’s testimony will undoubtably conflict with Jerry Zohn’s testimony. To be clear, this is not a \$500,000 case. Rather, a jury will award a seven-figure verdict commensurate with the destruction Defendants caused.

I. BACKGROUND

Allison Roebke was a bright and talented young woman. She received her Bachelor’s and Master’s degrees from the University of Toledo, was fluent in Spanish and Greek, and studied and traveled internationally. Yet she struggled, as so many do, with mental illness. After being diagnosed with Multiple Sclerosis (MS), she found friendship in an older man named Jerry Zohn, who had been diagnosed with Parkinson’s.

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Zohn would later say that buying Allison a gun was the greatest mistake of his life. Zohn did his time for that mistake. But ADCO and Thompson have not been held accountable. And for them—as discussed below—selling the gun to Zohn was much more than a mistake.

A. Allison Could Not Have Lawfully Purchased a Firearm.

While it is not dispositive to ADCO’s liability, it is worth noting up front that Allison could not have legally purchased a gun herself. Relevant here, under R.C. 2923.13(A)(5)

no person shall knowingly acquire, have, carry, or use any firearm . . . , if . . . the person is under adjudication of mental incompetence, has been adjudicated as a mental defective, has been committed to a mental institution, has been found by a court to be a mentally ill person subject to court order, *or is an involuntary patient other than one who is a patient only for purposes of observation.*

R.C. 2923.13(A)(5) (emphasis added).

Allison was “pink slipped” numerous times between January 2019 and her death in 2020. A “pink slip” references R.C. 5122.10, which governs emergency hospitalization for an individual who is: 1) mentally ill subject to hospitalization by court order; and 2) represents a substantial risk of physical harm to him/herself or others if allowed to remain at liberty pending examination. “Pink slip” is the common term for the paperwork used to detain an individual for the purpose of emergency hospitalization.

In other words, being “pink-slipped” means being an involuntary patient. Allison was first pink-slipped to Mercy Health St. Charles from Harbor Behavioral Health on January 30, 2019. During an outpatient visit with Dr. Singh, she remained fixated on possible parasite infection and believed neighbors implanted a device in her to listen to and track her. From January 2019 until just before her death in 2020, Allison pink slipped at least twice for delusional behavior with suicidal ideations. Thus, while not dispositive to Defendants’ liability, Allison could *not* possess or purchase a gun under R.C. 2923.13(A)(5).

B. ADCO and Steven Thompson Recklessly Sold Jerry Zohn a Firearm Despite Red Flags Indicating an Illegal Straw Purchase.

70-year-old Jerry Zohn and 37-year-old Allison visited several gun shops in the summer of 2020. First, in June 2020, the two visited ADCO. (Zohn Dep., p. 28.) After that, Zohn and Allison visited a gun shop in Michigan. (*Id.* at p. 29.) Then they visited Cabela’s. (*Id.*) But it was not until they went back to ADCO on July 2, 2020, that they left with a gun. On that day, Zohn and Allison drove to ADCO together. (*Id.* at p. 32.) They parked their car in front of the store and walked in together. (*Id.* at p. 33.) The only other person in the store at the time was ADCO’s owner, Steven Thompson. (*Id.*)

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Allison and Thompson spoke about different firearm options. (*Id.* at pp. 35–36.) Specifically, Thompson showed Allison a few different guns from the case and discussed each with Allison. (*Id.* at p. 36.) Zohn did not speak with Thompson about the purchase because he “wasn’t interested in any of them.” (*Id.* at pp. 36–37.) Allison also handled the firearm while at ADCO, and Thompson observed her doing so—right there, watching. (*Id.* at pp. 40–41.) Ultimately Allison chose a firearm—a Ruger, Model Wrangler, .22 Long Rifle caliber revolver. And she conveyed her choice to Thompson. (*Id.* at p. 42.)

Yet Zohn completed the Form 4473 while Allison stood nearby. (*Id.* at p. 44.) On the form, Zohn represented that he was the actual buyer of the firearm. (Pl’s Ex. 3 to Zohn Dep.) After he completed the form, Zohn handed the form back to Thompson. (Zohn Dep., p. 45.)

Importantly, Allison paid for the gun. In fact, she physically handed the cash to Thompson for the gun and two boxes of ammunition. (*Id.* at pp. 45–46.) Zohn and Allison then left ADCO together, got into Zohn’s car, and drove away.

As discussed below, the circumstances of this purchase presented clear red flags that required Thompson to do more. He didn’t. And six days later, on July 8, 2020, Ms. Roebke used the gun to fatally shoot herself.

After Allison’s death, Steven Thompson told the police that he remembered Allison and Zohn at ADCO on a previous occasion. (Police Report, Sylvania Township, p. 2 of 3.) He remembered them because there seemed to be a “strange dynamic” between them. (*Id.*)

On May 1, 2021, Zohn was indicted for making a false statement in acquisition of a firearm in violation of 18 U.S.C. §922(a)(6) and 924(a)(2). He was sentenced to 10 months home confinement.

Paul and Elaine Roebke were left without their 37-year-old daughter. Defendants are liable for that loss.

II. LIABILITY

ADCO holds a Federal Firearms License (“FLL”). In exchange for being granted that license, it agreed to assume certain responsibilities. One responsibility is to follow all federal and state firearms laws and regulations. Those laws and regulations, as well as industry standards, have a common purpose: to prevent violence by ensuring that guns do not end up in the wrong hands.

Federal law prohibits any person, including ADCO, from selling or otherwise disposing of firearms or ammunition to any person who is prohibited from purchasing, receiving, or possessing a firearm. 18 U.S.C. § 922(d). Ohio law, too, prohibits ADCO from recklessly selling, lending, giving, or furnishing any firearm to someone who is prohibited under R.C. 2923.13 from acquiring, having, carrying, or using any firearm. R.C. 2923.20(A)(1). Additionally, Ohio law prohibits

anyone from possessing a firearm with the purpose of disposing of it in violation of R.C. 2923.13. R.C. 2923.20(A)(2).

Gun dealers like ADCO are tasked as the primary agents enforcing these laws. One of those duties is to refuse to sell a gun when the gun dealer has reason to know that a “straw” or otherwise illegal sale is occurring. Specifically, ADCO knew that, as a federally licensed gun dealer, it had a duty to independently assess the lawfulness of every firearms transfer, and to certify the accuracy of the information provided to ADCO by each purchaser on the Form 4473. As explained below, expert testimony will establish Thompson and ADCO breached that duty, causing Allison’s death.

A. Allison’s Suicide was a Foreseeable Consequence of Defendants’ Reckless Failure to Follow Relevant Laws and Safety Protocols.

Firearms are the most frequent means by which individuals attempt to commit suicide.¹ Indeed, suicide by firearm is more common than suicide by all other means combined. A suicide attempt using a firearm is also more likely to result in death than an attempt by any other common means.

Given this, actors both within and outside the firearms industry recognize the importance of implementing and enforcing reasonable safeguards at the point of sale to minimize the significant risk of firearm suicide. Because many individuals with mental illness, like Allison, cannot legally purchase a gun, they often turn to someone else to buy the gun for them. That is an unlawful straw purchase. And ADCO had a duty to act as a gatekeeper to identify and prevent dangerous straw purchases. Yet as discussed below, it failed to do so.

B. ADCO, as a Federally Licensed Gun Dealer, Chose to Act as an Agent of Law Enforcement Tasked with Restricting Dangerous Access to Guns.

Federal law regulates sales by licensed firearms dealers like ADCO “principally to prevent guns from falling into the wrong hands.” *Abramski v. United States*, 573 U.S. 169, 172 (2014), citing Gun Control Act of 1968, 18 U.S.C. §921, et seq. And the way the law seeks to ensure statutorily restricted classes of people, including those with mental illness like Allison, do not purchase or possess guns is by forbidding a licensed dealer from selling a gun to anyone it knows, or has reasonable cause to believe, is such a prohibited buyer. So “Congress chose to make the dealer the ‘principal agent of federal enforcement’ in restricting” these individuals’ access to firearms.” *Abramski*, quoting *Huddleston v. United States*, 415 U.S. 814, 825 (1974).

¹ See Gun: The Hidden Toll, https://www.hsph.harvard.edu/magazine/magazine_article/guns-suicide/; see also Handguns linked to increased suicide risk, Stanford Medicine, <https://med.stanford.edu/news/all-news/2020/06/handgun-ownership-associated-with-much-higher-suicide-risk.html>.

In other words, gun dealers bear “the responsibility to ‘[e]nsure that, in the course of sales or other dispositions . . . , weapons [are not] obtained by individuals whose possession of them would be contrary to the public interest.’” *Abramski* at 172, quoting *Huddleston* at 825. ADCO, a federally licensed gun shop, knew or should have known of that weighty responsibility.

Part of that responsibility includes following industry standards aimed at preventing straw sales. NSSF, the gun industry trade association, and the ATF recommend protocols to federally licensed gun dealers to screen for potential straw purchasers. These protocols include asking a set of questions beyond those on Form 4473.

These questions and protocols are industry standard and circulated and publicized through NSSF and ATF’s joint program, “Don’t Lie for the Other Guy.” That program emphasizes that gun dealers have an obligation not to blindly rely upon a prospective purchaser’s representations on Form 4473. Instead, reasonably responsible gun shop salespeople know to look for suspicious circumstances or red flags indicating an attempted straw purchase. These red flags include, among other things:

- more than one person purchasing a gun together;
- any strange dynamics between the pair purchasing the gun (the “odd couple”);
- a perceived lack of experience with guns;
- circumstances indicating that one individual is purchasing the gun for the other;
- and other indicators of suspicious circumstances for which trained and responsible gun dealers should be on the lookout.

Once a salesperson picks up on any red flags, they should ask the prospective purchaser a series of questions to flesh out the true purchaser, including for example, the individual’s intended use for the gun and experience with guns.

C. ADCO Recklessly Breached its Duties and Violated State and Federal Law when it Sold Zohn the Firearm Despite Blatant Red Flags of a Straw Purchase.

Steven Thompson, who opened ADCO over two decades ago, was presented with numerous red flags that gave him actual or constructive knowledge of a straw purchase on July 2, 2020. These red flags included:

- two individuals purchasing a single gun together;
- the “strange dynamic” Thompson observed between Zohn and Allison;
- Allison—not Zohn—speaking with Thompson about gun options;
- Thompson showing Allison—not Zohn—several guns from the case;
- Allison—not Zohn—handling at least one gun in Thompson’s presence;
- Allison—not Zohn—choosing which gun to purchase;
- Allison—not Zohn—providing the money to pay for the gun; and

- Zohn—not Allison—filling out the Form 4473, which requires the individual completing the form to swear that the gun is intended for that person.

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Each of these red flags gave Thompson actual or constructive knowledge that the gun was intended for Allison—not Zohn. Accordingly, Thompson and ADCO had a duty to take the next reasonable steps to investigate further. Thompson had a legal duty question Zohn and Allison as to:

- Zohn’s experience with guns and what type of gun he was interested in or most comfortable with;
- the nature of Zohn’s and Allison’s relationship
- Zohn’s intended use for the gun, such as personal protection, deer hunting, or target shooting;
- whether the gun was actually intended for Zohn or someone else, for example, Allison;
- why Allison and not Zohn was choosing which gun to buy;
- why Allison and not Zohn was handling the guns and asking Thompson questions about the guns;
- why Zohn and not Allison was filling out the Form 4473;
- whether Zohn was being truthful on the Form 4473, including as to whether the gun was intended for him;
- why Allison and not Zohn was paying for the gun; and
- Allison’s current mental state, including whether she was considering suicide.

Had Thompson appropriately probed Zohn and Allison, Thompson would have easily at least suspected that Allison was the true purchaser of the gun. And with that suspicion, Thompson had a duty to deny the sale or contact the authorities to further investigate.

The jury will hear evidence that Thompson took none of these steps. He did not ask Allison questions about the firearm while she was handling the gun or browsing the guns. He did not ask Zohn or Allison who was purchasing the gun. He did not ask who the gun was for. He did not ask either of them the intended purpose for the gun. He did not ask about Zohn’s and Allison’s relationship or how they know each other. He did not say anything before handing over the Form 4473 or while Zohn filled it out. He did not say anything or ask any questions when Allison handed him the cash for the gun. (Zohn Dep., pp. 37–48.)

Instead, he simply provided Zohn with the Form 4473 and left it at that. On the form, Zohn represented that he was the actual buyer of the firearm. The two then left the store together, got into Zohn’s car, and drove away.

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ADCO and Thompson’s sale of the gun to Zohn was, at the very least, reckless. At least one Ohio court has considered the definition of “reckless” in the context of a gun sale:

Before a seller can be reckless, he must “[fail] to exercise any care whatsoever toward those to whom he owes a duty of care, and his failure occurs under circumstances in which there is a great probability that harm will result. . . .”

Bolus v. Saybrook Gunshop, Inc., 30 Ohio App. 3d 23, 506 N.E.2d 523 (Ohio Ct. App. Ashtabula Dec. 20, 1985), citing *Hawkins v. Ivy* (1977), 50 Ohio St. 2d 114, syllabus.

That is what we have here. ADCO and Thompson, at a minimum, chose to remain willfully blind to red flags surrounding the purchase in order to maximize profit and not lose a sale or potential future sales, regardless of the great probability that someone like Allison would pay the price. Thompson knew something was not right with Zohn and Allison—he told the police as much. Still, he went ahead with the sale. The jury will hold Defendants liable. And as set forth below, the damages in this case far exceed policy limits.

III. HARM

Allison was in treatment for her mental health. She wanted to get better, and her loving family supported her recovery. Tragically, she acted in the moment because she had access to gun she would not have had but for Defendants’ recklessness. And Paul and Elaine Roebke lost their only daughter. The loss of Allison destroyed the Roebke family. Paul Roebke found his daughter dead in her bedroom. A part of him died with his daughter. After finding Allison, Paul was hospitalized for over a month. (E. Roebke Dep., p. 14.) He underwent roughly 11 electroconvulsive therapies just in order to cope with life. (*Id.*) He has been diagnosed with major depression. (*Id.*; see also P. Roebke Dep., pp. 35–36.)

Elaine lost her only daughter and travel partner. She needs prescription sleep aids to get through the night. (E. Roebke Dep., p. 39.) And their only living child, Eric Roebke, had a “mental breakdown” because of his only sibling’s death and “didn’t work for over a year.” (*Id.* at p. 40.) Eric was admitted to a mental health treatment center and was placed on psychiatric medications to cope with the loss of his sister. (*Id.* at pp. 41–42.)

This is a case that will anger jurors. Thompson and ADCO have been in business for decades and had an obligation to take reasonable steps to prevent straw sales. Yet Thompson did not even do the bare minimum. Quite the opposite. Expert testimony will establish that there were clear indicators that the gun was not intended for Zohn. Yet Thompson did nothing when faced with these obvious red flags. And the jury will award a large verdict for the loss of a bright young woman and the destruction of a family due to Defendants’ choice to do nothing when they could have simply asked a series of basic questions or made a call to the authorities. These small yet crucial steps would have saved Allison’s life.

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IV. DEMAND

Should this case proceed to trial, we expect that a jury will deliver a verdict well over \$500,000.00. Instead, there is a good likelihood that the jury will award a verdict in excess of \$2 million dollars for the loss of 37-year-old Allison. More difficult cases against gun dealers who endanger the community have led to verdicts and settlements far in excess of the norm for those jurisdictions, as jurors across the political and economic spectrum recognize the broad dangers to the community that come with irresponsible gun sales.

That said, our clients are willing to resolve the Estate's claim for a lump sum payment of ADCO's policy limits—\$500,000. We certainly understand and respect that Mr. Thompson feels strongly that he did nothing wrong, but the facts simply do not support his position. Auto Owners now has the opportunity to resolve this case within policy limits and avoid the potential for an excess verdict that very well could put the future of Mr. Thompson's company at risk. We look forward to Auto Owners' response.

Very truly yours,



Chelsea C. Weaver

CCW/lls