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ELECTRONICALLY FILED
Superior Court of California
County of Sacramento
08/20/2026
By: K. Fay Deputy

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SACRAMENTO

CIVIL DIVISION

POWAY WEAPONS & GEAR, INC. and SGR VENTURES LLC (D/B/ A SACRAMENTO GUN RANGE),

Plaintiffs,

v.

CALIFORNIA DEPARTMENT OF TAX AND FEE ADMINISTRATION; TRISTA GONZALEZ, in her official capacity as Director of the California Department of Tax and Fee Administration,

Defendants.

Exempt from filing fees per Government Code § 6103

Case No. 25CV018964

DEFENDANTS' ANSWER TO PLAINTIFFS' VERIFIED AMENDED COMPLAINT FOR DECLARATORY, INJUNCTIVE, AND OTHER RELIEF

Dept: 54
Judge: The Honorable Christopher E. Krueger
Trial Date: Not set
Action Filed: August 11, 2025

Defendants California Department of Tax and Fee Administration and Trista Gonzalez,[1] in her official capacity as Director of the California Department of Tax and Fee Administration, file this answer in response to Plaintiffs' Verified Amended Complaint for Declaratory, Injunctive, and Other Relief (Amended Complaint).

Defendants answer, in paragraphs that correspond to the Amended Complaint's paragraphs,[2] as follows:

INTRODUCTION[3]

1. Paragraph No. 1. Defendants admit that, in this action, Plaintiffs sue to challenge the constitutionality of Assembly Bill 28, which imposes an 11 percent excise tax on gross receipts from the retail sale of firearms, firearm precursor parts, and ammunition. Defendants admit that this excise tax is levied directly on the sellers of firearms, "firearm precursor parts," and ammunition in California. Defendants admit that firearm precursor parts are defined by section 16531(a) of the California Penal Code as, "any forging, casting, printing, extrusion, machined body or similar article that has reached a stage in manufacture where it may readily be completed, assembled or converted to be used as the frame or receiver of a functional firearm, or that is marketed or sold to the public to become or be used as the frame or receiver of a functional firearm once completed, assembled or converted." The remaining allegations in this paragraph consist of legal conclusions that require no response, but to the extent a response is required, Defendants deny each and every such allegation.

2. Paragraph No. 2. This paragraph consists of legal conclusions to which no response is required. To the extent that a response is required, Defendants deny the allegations contained in paragraph 2.

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[1] Plaintiffs misspell Trista Gonzalez's name as Gonzales. Defendants use the correct spelling of Ms. Gonzalez's name.

[2] The following responses to each paragraph include responses to any footnotes that may be contained in the relevant paragraph.

[3] For the convenience of the Court and the parties, Defendants utilize certain headings as set forth in the Complaint. In doing so, Defendants neither admit nor deny any allegations that may be suggested by the Complaint's headings.

3. Paragraph No. 3. This paragraph consists of legal conclusions to which no response is required. To the extent that a response is required, Defendants deny the allegations contained in paragraph 3.

4. Paragraph No. 4. This paragraph consists of legal conclusions to which no response is required. To the extent that a response is required, Defendants deny the allegations contained in paragraph 4.

5. Paragraph No. 5. Defendants admit that Paragraph 5 accurately quotes, in part, from *McCulloch v. Maryland,* 17 U.S. 316, 391 (1819). Defendants deny all remaining allegations contained in Paragraph 5.

6. Paragraph No. 6. This paragraph consists of legal conclusions to which no response is required. To the extent that a response is required, Defendants deny the allegations contained in paragraph 6.

7. Paragraph No. 7. Defendants admit that Plaintiffs PWG, Inc. and Sacramento Gun Range are state licensed firearm dealers in California. Defendants lack sufficient information or belief to respond to the remaining allegations in this paragraph, and on that basis deny each and every allegation.

8. Paragraph No. 8. This paragraph consists of legal conclusions to which no response is required. To the extent that a response is required, Defendants deny the allegations contained in paragraph 8.

JURISDICTION AND VENUE

9. Paragraph No. 9. This paragraph consists of legal conclusions to which no response is required. To the extent that a response is required, Defendants deny the allegations contained in paragraph 9.

10. Paragraph No. 10. Defendants admit that this paragraph accurately quotes, in part, from section 55243 of the California Revenue and Taxation Code. Defendants admit that venue in this Court is appropriate.

11. Paragraph No. 11. Defendants admit that this paragraph accurately quotes, in part, from Cal. Rev. & Tax Code § 55243. Defendants admit that Plaintiffs filed their suit "within 90

days after the mailing of the notice of the [Department's] action upon a claim for refund or credit." *id.*, which occurred on May 14, 2025. The remainder of the paragraph consists of legal conclusions to which no response is required. To the extent that a response is required, Defendants deny the remaining allegations contained in paragraph 11.

THE PARTIES

12. Paragraph No. 12. Defendants admit that Plaintiff PWG, Inc. is a state licensed firearm dealer in California. Defendants lack sufficient information or belief to respond to the remaining allegations in this paragraph, and on that basis deny each and every allegation.

13. Paragraph No. 13. Defendants lack sufficient information or belief to respond to the allegations in this paragraph, and on that basis deny each and every allegation.

14. Paragraph No. 14. Defendants admit the allegations of Paragraph 14.

15. Paragraph No. 15. Defendants admit the allegations of Paragraph 15.

16. Paragraph No. 16. Defendants admit the allegations of Paragraph 16.

17. Paragraph No. 17. Defendants admit the allegations of Paragraph 17 as to Plaintiff PWG. Defendants deny the remaining allegations of Paragraph 17.

18. Paragraph No. 18. Defendants admit the allegations of Paragraph 18.

19. Paragraph No. 19. Defendants admit the allegations of Paragraph 19.

20. Paragraph No. 20. Defendants admit the allegations of Paragraph 20.

21. Paragraph No. 21. Defendants admit that on January 31, 2025, PWG remitted payment for $54,990 under the excise tax. The remaining allegations in this paragraph consist of legal conclusions to which no response is required. But to the extent that a response is required, Defendants deny each and every such allegation.

22. Paragraph No. 22. Defendants admit that Plaintiff Sacramento Gun Range is a state licensed firearm dealer in California. Defendants lack sufficient information or belief to respond to the remaining allegations in this paragraph, and on that basis deny each and every allegation.

23. Paragraph No. 23. Defendants lack sufficient information or belief to respond to the allegations in this paragraph, and on that basis deny each and every allegation.

24. Paragraph No. 24. Defendants admit the allegations of Paragraph 24.

25. Paragraph No. 25. Defendants admit the allegations of Paragraph 25.

26. Paragraph No. 26. Defendants admit the allegations of Paragraph 26.

27. Paragraph No. 27. Defendants admit the allegations of Paragraph 27.

28. Paragraph No. 28. Defendants admit the allegations of Paragraph 28.

29. Paragraph No. 29. Defendants admit the allegations of Paragraph 29.

30. Paragraph No. 30. This paragraph consists of allegations that contain legal conclusions that require no response by Defendants. To the extent that a response is required, Defendants deny each and every allegation.

31. Paragraph No. 31. Defendants admit that the California Department of Tax and Fee Administration is charged with administering and collecting the 11% excise tax. Defendants admit that a portion of this paragraph accurately quotes, in part, from Cal. Rev. & Tax Code § 55243. Defendants deny that the term "board" refers to the California Tax and Fee Administration. Defendants admit that the term "board" refers to the California Department of Tax and Fee Administration.

32. Paragraph No. 32. Defendants admit that Trista Gonzalez is the Director of the California Department of Tax and Fee Administration and is sued in her official capacity. Defendants further admit that CDTFA administers and collects the excise tax pursuant to Revenue and Taxation Code section 36031. Defendants deny the remaining allegations of this paragraph.

GENERAL ALLEGATIONS

33. Paragraph No. 33. Defendants admit the allegations of Paragraph 33.

34. Paragraph No. 34. Defendants admit the allegations of Paragraph 34.

35. Paragraph No. 35. This paragraph consists of legal conclusions to which no response is required. To the extent that a response is required, Defendants deny the allegations contained in paragraph 35.

36. Paragraph No. 36. This paragraph consists of legal conclusions to which no response is required. To the extent that a response is required, Defendants deny the allegations contained in paragraph 36.

37. Paragraph No. 37. Defendants admit that the first sentence of Paragraph 37 accurately quotes a portion from Cal. Rev. & Tax Code § 36041. The remainder of paragraph 37 contains legal conclusions, to which no response is required. To the extent that a response is required, Defendants deny the remaining allegations of paragraph 37.

38. Paragraph No. 38. Defendants deny the allegations contained in paragraph 38.

39. Paragraph No. 39. Defendants lack sufficient information or belief to respond to the allegations in this paragraph, and on that basis deny each and every allegation.

40. Paragraph No. 40. Defendants admit that this paragraph quotes accurately from the Senate Public Safety Committee Hearing Report on AB 28 on July 11, 2023. Defendants deny any remaining allegations in Paragraph 40.

41. Paragraph No. 41. Defendants lack sufficient information or belief to respond to the allegations in this paragraph, and on that basis deny each and every allegation.

42. Paragraph No. 42. Defendants lack sufficient information or belief to respond to the allegations in this paragraph, and on that basis deny each and every allegation.

43. Paragraph No. 43. This paragraph consists of legal conclusions to which no response is required. To the extent that a response is required, Defendants lack sufficient information or belief to respond to the allegations in this paragraph, and on that basis deny each and every allegation.

44. Paragraph No. 44. Defendants admit that Cal Rev. & Tax Code § 36011 provides that "an excise tax is hereby imposed upon licensed firearms dealers, firearms manufacturers, and ammunition vendors, at the rate of 11 percent of the gross receipts from the retail sale in this state of any firearm, firearm precursor part, or ammunition." Defendants admit that Cal Rev. & Tax Code § 36011 provides that "the taxes imposed by this part are due and payable to the department quarterly." Defendants admit that Cal Rev. & Tax Code § 36011 provides that "a return for the preceding quarterly period shall be filed with the department". Defendants lack sufficient information or belief to respond to the allegation that "Plaintiffs are collecting the 11% excise tax through a line item added to customer receipts," and on that basis deny that allegation. Defendants deny all remaining allegations.

45. Paragraph No. 45. Defendants admit that portions of this paragraph quote accurately from Cal Rev. & Tax Code §§ 36001, 36038, 36039. The remainder of paragraph 45 consists of legal conclusions to which no response is required. To the extent that a response is required, Defendants deny the remaining allegations of paragraph 45.

46. Paragraph No. 46. This paragraph consists of legal conclusions to which no response is required. To the extent that a response is required, Defendants deny the allegations contained in paragraph 46.

47. Paragraph No. 47. This paragraph consists of legal conclusions to which no response is required. To the extent that a response is required, Defendants deny the allegations contained in paragraph 37.

48. Paragraph No. 48. This paragraph consists of legal conclusions to which no response is required. To the extent that a response is required, Defendants deny the allegations contained in paragraph 48.

49. Paragraph No. 49. Defendants lack sufficient information or belief to respond to the allegations in this paragraph, and on that basis deny each and every allegation.

50. Paragraph No. 50. This paragraph consists of legal conclusions to which no response is required. To the extent that a response is required, Defendants deny the allegations contained in paragraph 50.

51. Paragraph No. 51. This paragraph consists of legal conclusions to which no response is required. To the extent that a response is required, Defendants deny the allegations contained in paragraph 51.

52. Paragraph No. 52. This paragraph consists of legal conclusions to which no response is required. To the extent that a response is required, Defendants deny the allegations contained in paragraph 52.

53. Paragraph No. 53. This paragraph consists of legal conclusions to which no response is required. To the extent that a response is required, Defendants deny the allegations contained in paragraph 53.

54. Paragraph No. 54. Defendants admit that the excise tax is 11 percent. The remainder of the paragraph consists of legal conclusions to which no response is required. To the extent that a response is required, Defendants deny the allegations contained in paragraph 54.

55. Paragraph No. 55. Defendants deny the allegations contained in paragraph 55.

56. Paragraph No. 56. This paragraph consists of legal conclusions to which no response is required. To the extent that a response is required, Defendants deny the allegations contained in paragraph 56.

57. Paragraph No. 57. Defendants lack sufficient information or belief to respond to the allegations in this paragraph, and on that basis deny each and every allegation.

58. Paragraph No. 58. Defendants lack sufficient information or belief to respond to the allegations in this paragraph, and on that basis deny each and every allegation.

59. Paragraph No. 59. Defendants lack sufficient information or belief to respond to the allegations in this paragraph, and on that basis deny each and every allegation.

60. Paragraph No. 60. Defendants lack sufficient information or belief to respond to the allegations in this paragraph, and on that basis deny each and every allegation.

61. Paragraph No. 61. Defendants lack sufficient information or belief to respond to the allegations in this paragraph, and on that basis deny each and every allegation.

62. Paragraph No. 62. This paragraph consists of legal conclusions to which no response is required. To the extent that a response is required, Defendants deny the allegations contained in paragraph 62.

63. Paragraph No. 63. This paragraph contains legal conclusions to which no response is required. To the extent that a response is required, Defendants deny the allegations contained in paragraph 63. Defendants otherwise deny the allegations contained in this paragraph.

64. Paragraph No. 64. Defendants admit that on March 31, 2025, PWG remitted payment for $39,841 under the excise tax. Defendants deny the remaining allegations contained in paragraph 64.

65. Paragraph No. 65. Defendants admit that on June 30, 2025, PWG remitted payment for $30,223 under the excise tax. Defendants deny the remaining allegations contained in paragraph 65.

66. Paragraph No. 66. Defendants admit that on September 30, 2025, PWG remitted payment for $34,004 under the excise tax. Defendants deny the remaining allegations contained in paragraph 66.

67. Paragraph No. 67. Defendants admit that on December 31, 2025, PWG remitted payment for $49,742 under the excise tax. Defendants deny the remaining allegations contained in paragraph 67.

68. Paragraph No. 68. Defendants admit that on April 30, 2026, PWG remitted payment for $44,926.00 under the excise tax. Defendants deny the remaining allegations contained in paragraph 68.

69. Paragraph No. 69. Defendants admit that on March 31, 2025, SGR remitted payment for $44,950 under the excise tax. Defendants deny the remaining allegations contained in paragraph 69.

70. Paragraph No. 70. Defendants admit that on June 30, 2025, SGR remitted payment for $33,065 under the excise tax. Defendants deny the remaining allegations contained in paragraph 70.

71. Paragraph No. 71. Defendants admit that on September 30, 2025, SGR remitted payment for $35,857 under the excise tax. Defendants deny the remaining allegations contained in paragraph 71.

72. Paragraph No. 72. Defendants admit that on December 31, 2025, SGR remitted payment for $49,647 under the excise tax. Defendants deny the remaining allegations contained in paragraph 72.

73. Paragraph No. 73. Defendants admit that on April 30, 2026, SGR remitted payment for $41,488.00 under the excise tax. Defendants deny the remaining allegations contained in paragraph 73.

74. Paragraph No. 74. Defendants deny the allegations contained in Paragraph 74.

CLAIMS FOR RELIEF

COUNT 1

75. Paragraph No. 75. Defendants incorporate by reference their responses to all preceding paragraphs, as if fully set forth herein.

76. Paragraph No. 76. Defendants admit that Paragraph 76 accurately quotes the Second Amendment of the United States Constitution. This paragraph otherwise consists of legal conclusions to which no response is required. To the extent that a response is required, Defendants deny the allegations contained in paragraph 76.

77. Paragraph No. 77. This paragraph consists of legal conclusions to which no response is required. To the extent that a response is required, Defendants deny the allegations contained in paragraph 77.

78. Paragraph No. 78. This paragraph consists of legal conclusions to which no response is required. To the extent that a response is required, Defendants deny the allegations contained in paragraph 78.

79. Paragraph No. 79. This paragraph consists of legal conclusions to which no response is required. To the extent that a response is required, Defendants deny the allegations contained in paragraph 79.

COUNT 2

80. Paragraph No. 80. Defendants incorporate by reference their responses to all preceding paragraphs, as if fully set forth herein.

81. Paragraph No. 81. This paragraph consists of legal conclusions to which no response is required. To the extent that a response is required, Defendants deny the allegations contained in paragraph 81.

82. Paragraph No. 82. Defendants admit that Plaintiffs Poway Weapons & Gear Inc. and Sacramento Gun Range have requested a refund of the excise tax. Defendants lack sufficient information or belief to respond to the remaining allegations in this paragraph, and on that basis deny each and every allegation.

83. Paragraph No. 83. This paragraph consists of legal conclusions to which no response is required. To the extent that a response is required, Defendants deny the allegations contained in paragraph 83.

PRAYER FOR RELIEF

Pages 13 through 14 contain Plaintiffs' prayer for relief, to which no response is required. To the extent that a response is required, Defendants deny each and every allegation contained therein and specifically deny that Plaintiffs are entitled to any relief whatsoever

In addition, and without admitting any allegations contained in the Answer, Defendants assert the following affirmative defenses based on information and belief:

AFFIRMATIVE DEFENSES

Defendants further allege the following affirmative defenses:

First Affirmative Defense

1. The Complaint fails to state facts sufficient to constitute any valid causes of action.

Second Affirmative Defense

2. The Complaint and each cause of action therein are uncertain.

Third Affirmative Defense

3. The Complaint and each cause of action are barred as the lawsuit prevents and enjoins the collection of tax in violation of article XIII, section 32, of the California Constitution.

Fourth Affirmative Defense

4. The Complaint and each cause of action are barred as Plaintiffs lack standing to bring this action.

Fifth Affirmative Defense

5. The action is barred, in whole or in part, because Defendants are immune from liability pursuant to California Government Code section 860.2.

Sixth Affirmative Defense

6. All actions taken by Defendants with respect to Plaintiffs were rendered in accordance with law and in good faith.

Additional Affirmative Defenses

8. Defendants reserve the right to amend this answer and assert additional affirmative defenses should any further affirmative defenses become apparent in the course of this action.

PRAYER

WHEREFORE, Defendants pray for judgment as follows:

1. That Plaintiffs' claims be denied in their entirety;
2. That judgment be rendered in favor of Defendants and against Plaintiffs;
3. That Defendants be awarded the costs of suit incurred; and
4. For such other and further relief as the court may deem just and proper.

Dated: August 20, 2026

Respectfully submitted,

ROB BONTA
Attorney General of California
ANNA FERRARI
Supervising Deputy Attorney General

/s/ Asha Albuquerque
ASHA ALBUQUERQUE
Deputy Attorney General
Attorneys for Defendants

DECLARATION OF SERVICE BY E-MAIL

Case Name: **POWAY WEAPONS & GEAR, INC. and SGR VENTURES LLC (D/B/A SACRAMENTO GUN RANGE) v. CALIFORNIA DEPARTMENT OF TAX AND FEE ADMINISTRATION; TRISTA GONZALEZ**

Case No.: **25CV018964**

I declare:

I am employed in the Office of the Attorney General, which is the office of a member of the California State Bar, at which member's direction this service is made. I am 18 years of age or older and not a party to this matter. My business address is: 455 Golden Gate Avenue, Suite 11000, San Francisco, CA 94102-7004. My electronic service address is asha.albuquerque@doj.ca.gov.

On August 20, 2026, I served the attached **DEFENDANTS' ANSWER TO PLAINTIFFS' VERIFIED AMENDED COMPLAINT FOR DECLARATORY, INJUNCTIVE, AND OTHER RELIEF**

by transmitting a true copy via electronic mail, addressed as follows:

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I declare under penalty of perjury under the laws of the State of California and the United States of America the foregoing is true and correct and that this declaration was executed on August 20, 2026, at San Francisco, California.

Asha Albuquerque	***/s/ Asha Albuquerque***
Declarant	Signature