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UNITED STATES OF AMERICA

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HELENA DIVISION
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PATRICK E. DUFFY, CLERK
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DEPUTY CLERK

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
BUTTE DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs.

MODEL 1911, .45 CALIBER PISTOL,
UNKNOWN MANUFACTURER, SERIAL
NUMBER KTO 03041002;
MODEL AR15, .223 CALIBER FIREARM,
UNKNOWN MANUFACTURER, NO
SERIAL NUMBER;
MODEL 1911, .45 CALIBER PISTOL,
UNKNOWN MANUFACTURER, SERIAL
NUMBER 03041001; and
RIFLE, NO CALIBER, UNKNOWN
MANUFACTURER, NO SERIAL
NUMBER,

Defendants.

CV 06- 85 -BU- BEA

VERIFIED COMPLAINT FOR
FORFEITURE *IN REM*

Plaintiff, United States of America, by and through its counsel, Paulette L. Stewart, Assistant United States Attorney for the District of Montana, brings this complaint and alleges upon information and belief as follows:

1. This is an *in rem* action to forfeit and condemn to the use and benefit of the United States of America the following property: (a) Model 1911, .45 Caliber Pistol, Unknown Manufacturer, Serial Number KTO 03041002; (b) Model AR15, .223 Caliber Firearm, Unknown Manufacturer, No Serial Number; (c) Model 1911, .45 Caliber Pistol, Unknown Manufacturer, Serial Number 03041001; and (d) Rifle, No Caliber, Unknown Manufacturer, No Serial Number (hereinafter "defendant property"). Said firearms were used in a willful violation of 18 U.S.C. § 922(a)(1), which prohibits any person from engaging in the business of manufacturing and/or selling firearms without a license, and are thereby forfeitable pursuant to 18 U.S.C. § 924(d)(1).

2. This Court has jurisdiction over this action under 28 U.S.C. §§ 1345 and 1355.

3. Venue is proper in this division pursuant to 28 U.S.C. §§ 1355 and 1395 because the acts giving rise to the forfeiture began in New Hampshire and continued in this district, and the defendant firearms were located in Dillon, Montana.

4. The defendants in rem in this action are (a) Model 1911, .45 Caliber Pistol, Unknown Manufacturer, Serial Number KTO 03041002; (b) Model AR15, .223 Caliber Firearm, Unknown Manufacturer, No Serial Number; (c) Model 1911, .45 Caliber Pistol, Unknown Manufacturer, Serial Number 03041001; and (d) Rifle, No Caliber, Unknown Manufacturer, No Serial Number; which are in the possession of the Bureau of Alcohol, Tobacco, Firearms & Explosives (ATF).

5. The facts and circumstances which support the seizure and forfeiture of the defendant property are as follows:

(a) In or around August 2003, ATF in New Hampshire initiated an investigation into the activities of Richard Celata, who at the time resided at 74 Crystal Lane, Wakefield, New Hampshire. The investigation also involved "Subject 2" from Florida.

(b) On or about August 19, 2003, the Wakefield (New Hampshire) Police Department advised ATF that an individual identified as Richard Celata owned and operated a business identified as Kristi Tool & Ordnance (KTO), also known as Kristi Tool Company, out of his residence located at 74 Crystal Lane, Wakefield, New Hampshire. The business related to the manufacturing and distribution of firearms and firearms frames.

(c) On September 2, 2003, Ruth Poole of the ATF Federal Licensing Center confirmed that Richard Celata, Doing Business As: Kristi Tool & Ordnance (KTO), Kristi Tool Company, or KT Ordnance, of 74 Crystal Lane, Wakefield, New Hampshire, did not have a license to manufacture or sell firearms.

(d) On October 10, 2003, an ATF undercover agent assigned to the Boston (Massachusetts) Field Division contacted KTO by telephone at telephone number 888-574-7848, which was the telephone number advertised on KTO's internet website. The ATF undercover agent conducted a recorded conversation with an individual identified as "Fred".¹ The ATF undercover agent ordered a colt 1911 .45

¹Agents believe that Celata identified himself as "Fred" in the conversation. This belief is based on subsequent conversations in which the person identified himself as

caliber frame/firearm. "Fred" said the price was \$160, and that it had to be paid in the form of a postal money order. Agents obtained a bank money order in the amount of \$160 and mailed it to KTO, P.O. Box 665, Sanbornville, New Hampshire, as payment for the 1911 .45 caliber frame/firearm. The mailing address was provided by "Fred" during the recorded conversation.

(e) On or about November 17, 2003, an ATF undercover agent received the purchased 1911 .45 caliber frame/firearm (ATF Exhibit 1) through the U.S. mail via an undercover P.O. Box located in Massachusetts. The bank money order previously sent as payment was returned.

(f) On November 24, 2003, an ATF undercover agent placed a recorded telephone call to KTO at the same number called on October 10, 2003. The ATF agent spoke with a person who identified himself as "Rick." This person confirmed that he was the same person who spoke with the agent in the earlier conversation. During the conversation, "Rick" told the undercover agent that he was not able to cash the bank money order previously sent because he did not have a checking account. "Rick" requested that the undercover agent send payment in the form of a postal money order. Subsequently, ATF sent a postal money order in the amount of \$160 via mail to KT Ordnance, P.O. Box 665, Sanbornville, New Hampshire 03872, as payment for the 1911 .45 caliber frame/firearm.

"Rick" and had the same voice. In addition, as noted in paragraph "f", "Rick" confirmed that he was the person who earlier spoke with the agent.

(g) On or about December 31, 2003, ATF Firearms Enforcement Officer Michael Curtis, Firearms Technology Branch, determined that the 1911A1 type frame (ATF Exhibit 1) with identifying marks "AGSN TAC 45" manufactured by Kristi Tool of Wakefield, New Hampshire, "can be readily modified to accept all parts necessary to expel a projectile by the action of an explosive through the performance of simple machine operations, which include cutting frame rails and drilling an ejector retaining pinhole." Firearms Enforcement Officer Curtis determined that the frame could be "finished into a complete firearm in approximately 2 hours." He therefore determined the 1911A1 type frame to be a firearm and also determined that it did not possess required markings, such as a valid serial number, as required by 27 CFR § 478.92.

(h) From March 19, 2004, through April 13, 2004, an ATF undercover agent in New Hampshire made twelve (12) undercover e-mail communications to Rick Celata at e-mail address KT@kristitool.com and info@ktordnance.com. The communications concerned information relative to the potential purchase of an AR-10 frame/firearm from "Rick" at Kristi Tool company located in Wakefield, New Hampshire. The e-mail communications received from "Rick" relative to what type of tools were needed to complete the AR-10 frame/firearm, indicated that a "small milling machine was best but a drill press would work." Further, the e-mail communications from "Rick" indicated that the cost of the AR-10 frame/firearm was \$235 and that a postal money order would be accepted as a form of payment. The e-mails stated that the company was moving sometime in the fall (of 2003) and that payment could be sent to P.O. Box 665, Sanbornville, New Hampshire 03872.

(i) On July 7, 2004, an FBI cooperating witness (CW-1) placed two (2) consensually recorded telephone calls to Kristi Tool Company at telephone number 603-522-6821. During the two (2) recorded calls, CW-1 spoke with "Rick" about employment opportunities within Kristi Tool Company/ Kristi Tool & Ordnance. During the conversations, "Rick" stated that the company made frames which came with blueprints and that orders were placed via an order form on the website. "Rick" stated that he shipped all over the world. During the conversation, "Rick" stated that the company had 1911, Sig 228 and Ruger Mark .22 pistols, as well as AR-15 and AR-10 rifles. "Rick" further stated that what he did was legal and that before "we" do anything, his sales associate, identified as Subject 2, gets approval from ATF. "Rick" further stated that the company was moving to Montana over the weekend.

(j) On July 9, 2004, CW-1 agreed to conduct a consensually recorded meeting at Celata's residence located at 74 Crystal Lane, Wakefield, New Hampshire. CW-1 was equipped with a recording and monitoring device, and was transported to the residence where he entered under surveillance. During the conversation about the firearms, Celata told CW-1 that there were two types of people who do this: "There's the type who wanna do it because there's no numbers and they don't want the government to know . . . and then there's the people who do it because they enjoy gunsmithing. The added benefit is that the government doesn't know about it." Celata further stated that the problem was that once "this gets really well known . . . they're (ATF) are probably gonna squash it." During the same meeting Celata showed CW-1 a fully functioning .45 caliber firearm he called "Abigail," which Celata stated he made himself.

(k) From August 4, 2004, through November 2, 2004, an ATF undercover agent operating as CW-1 sent nine (9) undercover e-mails to Celata at info@ktordnance.com and Subject 2 at froderuas@hotmail.com. The ATF undercover agent ordered four (4) KT-228 Sigs from Celata and pre-ordered two (2) KT 10/15's, two (2) KT 15's, and two (2) KT 1911 frames. In addition, the agent ordered eight (8) instructional videos from Subject 2. FBI undercover credit card information was e-mailed to Subject 2, along with a request for confirmation of the cost of the four (4) KT-228 Sigs and eight (8) videos on two (2) separate invoices. Subject 2 verified that the cost of the four (4) KT-228 Sigs was \$661, and the cost of the eight (8) videos was \$114. Subject 2 placed the order.

(l) On August 5, 2004, CW-1 placed a consensually recorded telephone call to Subject 2 at 813-264-0579. (CW-1 attempted several numbers known to be associated with Subject 2 before reaching him at the aforementioned number). During the call, Subject 2, a sales associate of Celata, told CW-1 that he ran credit card purchases for Celata and had posted frames/firearms to be sold on his website for Celata. Subject 2 stated that if someone wanted to pay with a credit card, they paid him and then Subject 2 turned around and gave the money back to Celata. Subject 2 confirmed that Celata paid him a small "cut" on each frame/firearm sold on his website. Subject 2 further told CW-1 that he processed the orders for Celata and handled customer complaints. Subject 2 told CW-1 that he produced and sold videos which displayed how to complete AR-15, 1911 and AK-47 firearms.

(m) On August 20, 2004, CW-1 placed another call to Subject 2 at 813-269-8210, which was one of the numbers attempted on August 5, 2004. During the

consensually recorded call, Subject 2 explained to CW-1 the method of obtaining an ATF variance letter in order to sell Celata's manufactured frames so that he couldn't "get in any trouble." During the same conversation, Subject 2 stated that Celata had never submitted his frames to ATF for examination. With respect to Celata obtaining a variance letter from ATF for his frames, Subject 2 stated that "Rick just doesn't do that stuff; forgiveness is easier to get than permission."

(n) On August 26, 2004, CW-1 placed a consensually recorded call to Celata at 406-660-1461, which is Celata's Montana telephone number. During the call, Celata told CW-1 that he and Subject 2 printed up ATF variance letters that they displayed at a gun show in Kentucky. When a potential customer at the show would ask if it was "legal," Celata and Subject 2 would hand them the ATF letter. Celata told CW-1 that most of the ATF letter was on his website. During the same conversation, Celata stated that he did ninety-eight to ninety-nine percent (98-99%) of his sales over the internet and that most of "the stuff" comes in as an e-mail or a phone call. Celata stated that he could do "a hundred a month" just over the internet. Celata told CW-1 that militant-type people purchase the frames/firearms because they do not want the government to know that they have them.

(o) On August 30, 2004, a check with ATF Firearms Technology Branch confirmed that Richard Celata, dba KT Ordnance, or Kristi Tool, 74 Crystal Road, Wakefield, New Hampshire, at no time submitted a sample of what he was manufacturing to be evaluated by ATF's Firearms Technology Branch, nor at any time has ATF issued a variance letter to Celata.

(p) On August 31, 2004, CW-1 placed a consensually recorded telephone call to Subject 2. During the call, Subject 2 told CW-1 that the person who sells the "illegal" frames would be the one "they" locked up. Subject 2 stated that as far as he knew Celata did not have an approval letter from ATF for his frames/firearms.

(q) From September 15, 2004, through November 5, 2004, an ATF undercover agent operating as "Liam Callahan" engaged in fifteen (15) undercover e-mail communications to and from Subject 2 (Subject 2@tampabay.rr.com) and one William Snelling (William.r.snelling@us.army.mil). The ATF undercover agent attempted to purchase a KT Ordnance 1911 stainless steel frame, item #1096262328, from an internet gun show auction site www.internetgunshow.com. The e-mail transmissions revealed that the KT Ordnance 1911 stainless steel frame/firearm was a KT Tool frame made by "Rick" (Celata). Subject 2 ran the auction site, and William Snelling was identified as the seller of the frame/firearm.

(r) On September 22, 2004, CW-1 placed a consensually recorded telephone call to Celata. During the call, Celata told CW-1 that he had materials for one hundred (100) AR's, forty (40) 1911's, and forty (40) to fifty (50) Sigs. Celata further stated that he had at least twenty (20) or thirty (30) Sigs on back order, more than forty (40) 1911's on back order, and approximately thirty (30) or forty (40) AR's on back order.

(s) From October 2, 2004, through November 17, 2004, an ATF undercover agent engaged in five (5) undercover e-mails to and from Celata (KT@kristitool.com) concerning the purchase of an AR-10/15 frame/firearm. ATF purchased a postal money order in the amount of \$235 and mailed it to Celata at 382

Adams Lane, Dillon, Montana. The KT-10/15 frame/firearm (ATF Exhibit 54) was shipped from Montana to the ATF undercover P.O. Box in Manchester, New Hampshire, and was received by the ATF undercover agent on or about November 16, 2004.

(t) On October 5, 2004, CW-1 agreed to engage in a consensually recorded meeting at Subject 2's residence located in Florida. CW-1 was equipped with a recording and monitoring device and observed under surveillance entering the residence. During the meeting, Subject 2 told the CW-1 that some time ago, Celata asked him for a copy of an ATF variance letter for a frame approved by ATF. Subject 2 sent him one from a different casting, gave him the phone number and address, and told Celata to send a copy to ATF along with a sample frame. After months went by, Celata told Subject 2 he received the letter. Subject 2 did not realize that Celata was referring to the letter Subject 2 sent Celata as a sample. According to Subject 2, Celata had a photocopy of a letter for a frame that was approved by ATF, but the approval letter was not for Celata's frame. Celata said to Subject 2 about a variance letter, "Oh, I have one. I'll just put it in the box with everyone I sell." Subject 2 said that Celata knew what the letter looked like but had never submitted his frame/firearm to ATF. Subject 2 said that it was possible Celata's frames would not qualify for a variance letter because Celata's frames were much more complete.

(u) On October 19, 2004, CW-1 placed a consensually recorded call to Celata. During the call, Celata confirmed that he was aware of where to send frames to be approved by ATF.

(v) On November 1, 2004, CW-1 placed a consensually recorded call to Subject 2. During the call, CW-1 told Subject 2 that he wanted to order some Sigs, AR's and 1911's from "Rick" using a credit card. Subject 2 told CW-1 he would have to process the order. Subject 2 told CW-1 that even though he placed the order with "Rick," the charge on his credit card would come back to Subject 2.

(w) On or about November 22, 2004, the eight (8) videos previously ordered from Subject 2 were received at the ATF undercover P.O. Box in Manchester, New Hampshire. The videos included two (2) home gunsmithing cd's, four (4) instructional videos related to building AR-15 frames/rifles, two (2) Subject 2 Production DVD's, one (1) home gunsmithing pamphlet on parts, supplies, tools and machines, and a receipt from Subject 2 in the amount of \$114.

(x) From November 18, 2004, through December 23, 2004, an ATF undercover agent engaged in eight (8) undercover e-mails to and from Celata (KT@kristitool.com) concerning the purchase of a second AR-10/15 frame/firearm. A postal money order in the amount of \$235 was purchased and mailed to Kristi Tool Company at Celata's Dillon, Montana, address. The KT-10/15 frame/firearm was received at the ATF undercover P.O. Box in Manchester, New Hampshire, on or about December 22, 2004.

(y) From December 14, 2004, through February 28, 2005, an ATF undercover agent operating as CW-1 engaged in fifteen (15) undercover e-mail communications to and from Celata (kt@kristitool.com) relative to the purchase of the four (4) 228 KT frames/firearms previously ordered from Celata. Celata confirmed that he received the money for the four (4) frames. The order was subsequently changed to

two (2) 228 KT frames/firearms and two (2) AR-15 frames. Celata agreed to the change in the order. Two (2) KT-228 frames/firearms (one of which was marked ATF Exhibit 109) and three (3) instruction diagrams were received at the ATF undercover P.O. Box in Manchester, New Hampshire, on or about February 28, 2005.

(z) From January 5, 2005, through January 18, 2005, an ATF undercover agent operating as CW-1 engaged in fourteen (14) undercover e-mail communications to and from one Wayne Blaine relative to the purchase of a KT 45 acp frame/firearm which he had advertised for sale. Blaine confirmed that he had purchased the frame/firearm from KT before the company moved to Montana. A postal money order in the amount of \$170 was mailed to Wayne Blaine in Great Falls, Montana. The KT 45 acp frame/firearm was received at the ATF undercover P.O. Box in Manchester, New Hampshire, on or about January 18, 2005.

(aa) From March 15, 2005, through April 11, 2005, an ATF undercover agent operating as CW-1 engaged in nine (9) undercover e-mails communications to and from Celata (kt@kristitool.com) relative to the status of the previously purchased KT-15 frame/firearms. One (1) KT-15 frame/firearm with an instruction diagram was sent via US mail to the ATF undercover P.O. Box in Manchester, New Hampshire, and was received by ATF on or about April 11, 2005.

(bb) From April 12, 2005, through August 1, 2005, an ATF undercover agent operating as CW-1 engaged in eighteen (18) undercover e-mail communications to and from Celata (kt@ktordnance.com; kt@kristitool.com) relative to the remaining KT-15 frame/firearm which was previously purchased. In an e-mail dated July 18, 2005, Celata advised that he had shipped two (2) frames/firearms. In a July 21, 2005,

e-mail, the undercover agent advised Celata that he only owed one previously purchased frame/firearm. In a July 21, 2005, e-mail, Celata suggested that the agent sell the extra frame/firearm and send him the money for it. Two (2) KT-15 frames/firearms (one of which was marked ATF Exhibit 142) with two (2) instruction diagrams were sent via U.S. mail to the ATF undercover P.O. Box in Manchester, New Hampshire, and were received by ATF on or about July 26, 2005.

(cc) On or about April 13, 2005, Sheriff William Briggs, Beaverhead County (Montana) Sheriff's Office, advised the FBI in Helena, Montana, that he had a conversation with Celata in the Sheriff's Office. According to Sheriff Briggs, during the conversation Celata described his home gunsmithing business to the Sheriff and showed him a 1911 frame/firearm. Celata informed the Sheriff that he had contacted the ATF and obtained their "blessing" to produce gun parts and allow clients to come to his shop to use his equipment to assemble new weapons using the components that he manufactured. Also during the conversation, Celata commented on his study of the Constitution, particularly the Second Amendment.

(dd) On or about July 1, 2005, American Axle and Manufacturing, Buffalo, New York, informed the FBI that they received a package from Kristi Tool & Ordnance through the U.S. mail which contained a KT 1911A-1 frame/firearm, one (1) key seat cutter, two (2) pages of diagrams and one (1) 5¼" by 1" pipe. The package was given to FBI Buffalo and transferred to FBI Boston. FBI Boston transferred the package to ATF for laboratory analysis.

(ee) On or about September 23, 2005, Michael R. Curtis, ATF Firearms Enforcement Officer, determined that the AR-10 type unfinished receiver (ATF Exhibit

54) with no manufacturer's markings or serial number, received by ATF on or about November 16, 2004 (see paragraph "s" above), is a "firearm" because it had "reached the stage of manufacture where all critical machining operations [had] been completed to make it recognizable as a frame or receiver of a firearm" as defined in 18 U.S.C. § 921(a)(3). Firearms Enforcement Officer Curtis performed simple drilling operations, including drilling a selector hole, hammer and sear pin holes, and a pivot and take down hole. He then threaded the buffer tube hole, installed various parts, and successfully test-fired the firearm. The drilling steps, assembly, and test-firing were all completed in approximately 44 minutes.

(ff) On November 7, 2005, Firearms Enforcement Officer Michael Curtis determined that the 1911A1-type frame with markings "KTO" and February 2005 A.D, received from American Axle and Manufacturing (see paragraph "dd" above), is a frame or receiver of a weapon that could be readily converted to expel a projectile by the action of an explosive, and is therefore a firearm as defined in 18 U.S.C. § 921(a)(3).

(gg) On November 17, 2005, an ATF undercover agent went to Celata's residence/place of business located at 382 Adams Lane, Dillon, Montana. While at the location, the undercover agent observed a number of firearms on several large tables in varying states of construction. He also observed various pieces of machining equipment, including what the agent recognized as a drill press. The undercover agent further observed that Celata was armed with a stainless steel revolver on his right hip.

(hh) On January 20, 2006 an ATF undercover agent in New Hampshire made one (1) e-mail communication to Rick Celata at e-mail address KT@kristitool.com relative to the reason for the price increase for frames. The e-mail requested

confirmation that the cost of a 1911 frame with a 1911 parts kit was \$650 with payment in the form of a postal money order. On this same date, "Rick" at info@ktordnance.com sent an e-mail confirming the cost and confirming that postal money orders were preferred. The e-mail further stated that "we did add a few things to the frame (mainspring housing, iatrical plunger tube, etc.) plus the cost material."

(ii) On January 24, 2006, Firearms Enforcement Officer Michael Curtis determined that Exhibit 109 described as an aluminum Sig Sauer P228-type frame with no serial number (see paragraph "y" above) and Exhibit 142 described as an aluminum AR-15 type frame with no serial number (see paragraph "bb" above) both had "reached a stage in the manufacturing process whereby [they each have] the design features and [are] clearly identifiable as a frame/receiver of a "firearm." Therefore both are firearms as defined in 18 U.S.C. 921(a)(3). With regard to the Sig Sauer P228-type frame (ATF Exhibit 109), Firearms Enforcement Officer Curtis determined that the only processes remaining to be completed were the cutting or rail slots and the drilling of the take down lever hole. The balance of the operations were already completed on the frame. With regard to the aluminum AR-15 type frame, the only remaining operations to be performed are: (1) final drilling of the hammer, trigger, selector, and take down and pivot pin holes, which had already been counter-sunk; (2) drilling of a circular cavity on the left side of the frame in the pistol grip area to accommodate the selector detent and spring; (3) tapping and drilling a hole in the frame to attach the pistol grip; and (4) complete the threading of the buffer tube.

(jj) On February 4, 2006, Richard Celata was a guest on the John Moore radio show aired on the Republican Broadcast Network (www.rbnlive.com), St. Louis, Missouri. During the show a conversation took place between Celata and host John Moore. John Moore introduced Richard Celata from KT Ordnance in Dillon, Montana. Moore informed his audience that KT Ordnance worked closely with DIYguns.com and provided professional expertise to help people build their own firearms. Celata stated that he previously worked in machinery and had to do something else so "why not guns?" Celata informed the audience that he utilizes a computerized numerical control (CNC) machine, on which all their firearms are built. Celata's frames are made out of billet, a solid piece of material, which makes them structurally strong. According to Celata, he sells a 1911 .45 caliber frame, which includes main spring housing, for \$300 and the builder's kit for \$350. Moore commented that the advantage (to buying Celata's product) is that "when you are done, you have a pistol which has no serial numbers on it and there is no paper trail generated by the BATF or local authorities saying that the pistol even exists let alone that you own it." Celata confirmed Moore's statement and stated that he gets a lot of customers who build for two reasons. One reason is just to build because they build, and the other is because the government doesn't know what they are doing. Celata informed the audience that their USA Patriot package for \$835 includes a 1911 .45 frame, an AR-15 frame, and an AR-10 frame. The cost includes all the tools required to build the three firearms plus a one year membership to Homegunsmith.com, which has all the information needed on building your own "80%" guns. Celata stated that in two weeks, they would have a USA Patriot Pack 2 which will include all the finishing kits and

all the parts you need to build all three firearms. According to Celata, Homegunsmith.com is a message board and DIYGuns.com is where you buy all the products. Homegunsmith.com and DIYGuns.com are both owned by Subject 2. Celata stated that he has links to both sites on his website. During the show, Celata stated that KT Ordnance was having DIYGUNS do the DVD's for building 1911's. The DVD shows a complete step-by-step process "from when you open the box to when you shoot it." Celata said DIYGUNS also did one DVD for his KT 15B, which is a bolt-together AR-15 lower receiver.

(kk) On February 18, 2006, Subject 2 was a guest on the John Moore radio show aired on the Republican Broadcast Network (www.rbnlive.com), St. Louis, Missouri. During the show, a conversation took place between Subject 2 and host John Moore. Subject 2 identified himself as the proprietor of DIY Guns.com (Do it yourself guns.com), telephone number 1-888-525-6889, and described it as a place on the "internet where people can get videos, instructions, blueprints, parts and tools to make firearms yourself." Subject 2 discussed that his business involved producing videos which "teach the manufacture/fabrication of firearms yourself." Subject 2 stated that KT Ordnance, telephone number 406-834-3611, "sold a lot of the frames/receivers." Subject 2 confirmed that he worked closely with KT Ordnance to create instructional videos that showed people how to complete "their" (KT Ordnance) frames/receivers. Subject 2 commented that if an individual purchases a frame from "Rick" (KT Ordnance), he includes a video with it. Subject 2 confirmed that there is a "symbiotic relationship between DIY Guns.com and KT Ordnance and that they work very well together." Subject 2 expected to release his next video which illustrates how to

fabricate a 1911 firearm in April 2006. Subject 2 stated that the 1911 is the most popular design because it has so many parts available. Subject 2 commented that he would put any of "his (home built) 1911's or AR-15's on a table beside any brand (firearm) and you wouldn't be able to tell the difference."

(ll) On February 28, 2006, KT Sovereign posted that its account with ebay/paypal had been terminated. KT Sovereign (KT Ordnance) stated that ebay/paypal's Acceptable Use Policy on firearms parts and accessories states:

You may not use PayPal to purchase or sell any firearm receivers or frames, components and parts of receivers and frames, or "cut" or "80%" receivers. PayPal also does not permit assault weapon-related parts and accessories, firearm silencers, and kits designed to convert a firearm to have automatic firing capability. This includes the sale of any parts or accessories prohibited for sale by the National Firearms Act (NFA) or other federal or state law, including items related to short-barreled shotguns or short-barreled rifles, fully automatic weapons, large-capacity magazines, multi-burst trigger activators and camouflaging firearm containers. For more information about the National Firearms Act (NFA) and its requirements, please refer to the Bureau of Alcohol, Tobacco and Firearms website."

(mm) On March 10, 2006, information revealed that on February 12, 2005, KT Sovereign (Celata) posted that he had a Wal-mart reloadable gift card number (6016 6756 0754 8380) and that individuals could pay him by adding the money for the purchase to his card with a check, credit card, ATM or other payment types accepted by Wal-mart. Once the money is put on the card, the process is complete; and the purchaser receives a receipt with a transaction number on it. The purchaser then e-mails the transaction number to him (Celata), and he checks the balance and cross references the transaction number.

(nn) On March 10, 2006, information revealed that a post by "grasshopper" dated February 15, 2006, advised KT to check the amount limit on cash

inflow to his account because it could trigger an investigation by the Department of Treasury. KT Sovereign's response dated February 15, 2006, was that he did not keep a customer list, and that after the post office confirms delivery, all paperwork is purged.

KT Sovereign further responded that if the "alphabet gang shows up", all they get is what was just sent and the back orders. KT Sovereign stated that he did not have "income" as defined in the "code" so he is not "liable" and that by law he would "not have to declare anything."

(oo) On March 10, 2006, information retrieved from KristiTool.com website in the "order" section, revealed a drop-down menu regarding payments via a Wal-mart reloadable gift card. The instructions indicate that at the check-out or customer service desk, the purchaser places the amount of their KTO (KT Ordnance) purchase on the Wal-mart reloadable card (6019 4071 9341 8260). Once the transaction numbers on the receipt are received by KTO and are verified via the on-line account manager, KTO will ship the product.

(pp) In or around September 2005, ATF Special Agent John Komora went to 382 Adams Lane, Dillon, Montana 59725, and took photographs of the Celata residence/business in order to prepare an operational/tactical plan for the execution of a search warrant. The structures located at 382 Adams Lane, Dillon, Montana, were described as:

a one (1) story wood structure with white steel siding, part of which serves as a residence and part of which serves as a business with an office and a manufacturing area. The structure is located next to a brown log cabin-type structure and a free-standing brown shed intersection.

(qq) On April 3, 2006, Pvt. Ryan (a nickname used by Subject 2 on the website) posted on Subject 2 Custom Guns forum that "we" opened the online auction site, identified as <http://www.internetgunshow.com> to sell items utilizing "bids" instead of a flat fee and that there were "no stupid e-bay rules either."

(rr) On April 7, 2006, a review of www.kristitool.com, Richard Celata, revealed that the product identified as the Patriot Pack 1, containing 3 frames/receivers and finishing kits came with a one year membership to www.homegunsmith.com (owned by Subject 2).

(ss) On April 14, 2006, Sharon Brooks of the ATF Federal Licensing Center confirmed that Richard Patrick Celata or (Celata) located at 74 Crystal Lane Sanbornville, New Hampshire, or Wakefield, New Hampshire, or 382 Adams Lane Dillon, Montana, dba: Kristi Tools, KT Ordnance (KTO), Kristi Tool Company, telephone number (888) 574-7848, did not have a license to sell, manufacture, import, export, firearms, (receivers/ Frames) and did not have a pending application.

(tt) On June 7, 2006, ATF special agents served a search warrant at Celata's Dillon, Montana, property. The defendant property was seized. The defendant property is consistent with items previously sold by Celata to ATF discussed above. As such, they are believed to be evidence of Celata's manufacturing of firearms in violation of the Gun Control Act.

(uu) In Celata's Seized Asset Claim Form's attached affidavit, Celata admits to manufacturing the two defendant 1911, .45 caliber pistols, "I traded to obtain the barrels, slides, springs another materials, and I made the receivers myself. Therefore, I have no receipts for them. Further, I made the receivers myself and the

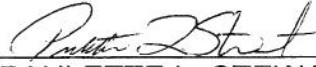
serial number on them consist of the date "0304" (which represents the approximate time frame when they were created) and the consecutive frame numbers of '001' and '002.'"

6. The foregoing facts demonstrate there is probable cause to believe the defendant property in this action constitutes property used or intended to be used to facilitate one or more violations of the Gun Control Act (18 U.S.C. § 921 *et seq.*), and is therefore subject to forfeiture to the United States pursuant to 18 U.S.C. § 942(d). Specifically, pursuant to 18 U.S.C. 922(a)(1), it shall be unlawful for any person except a licensed importer, licensed manufacturer, or licensed dealer, to engage in the business of importing, manufacturing, or dealing in firearms, or in the course of such business to ship, transport, or receive any firearm in interstate or foreign commerce. Pursuant to 18 U.S.C. § 924(d)(1), any firearm involved or used in any knowing violation of 18 U.S.C. § 922(a)(1), shall be subject to seizure and forfeiture.

WHEREFORE, plaintiff prays that process issue to enforce the forfeiture and to give notice to interested parties to appear and show cause why the forfeiture should not be decreed, that the defendant property be forfeited to plaintiff for disposition according to law, that plaintiff recover the costs and expenses of this action, and for such other and further relief as the court may deem just and proper.

DATED this 1st day of December, 2006.

WILLIAM W. MERCER
United States Attorney



PAULETTE L. STEWART
Assistant U.S. Attorney
United States Attorney's Office
Attorneys for Plaintiff


VERIFICATION

I, Special Agent John Komora, hereby verify and declare under penalty of perjury that I am a Special Agent with the United States Bureau of Alcohol, Tobacco, Firearms and Explosives, that I have read the foregoing Verified Complaint *In Rem* and know the contents thereof, and that the matters contained in the complaint are true to my knowledge, except those matters not within my own personal knowledge are alleged on information and belief, and as to those matters I believe them to be true.

The sources of my knowledge and information and the grounds of my belief are the official files and records of the United States, information supplied to me by other law enforcement officers, as well as my investigation of this case, together with other officers, as a Special Agent of the Bureau of Alcohol, Tobacco, Firearms and Explosives.

I hereby verify and declare under penalty of perjury that the foregoing is true and correct.

DATED this 1st day of December, 2006.



JOHN KOMORA, Special Agent
Bureau of Alcohol, Tobacco, Firearms
and Explosives

CERTIFICATE OF SERVICE

I hereby certify that on December 1, 2006, a copy of the foregoing was served on the following persons by the following means:

1 CM/ECF

_____ Hand Delivery

2 Mail

_____ Overnight Delivery Service

_____ Fax

_____ E-mail

1. Clerk, U.S. District Court
2. Quentin M. Rhoades
Sullivan, Tabaracci & Rhoades
2075 Charlotte Street, Suite 1A
Bozeman, MT 59718



Paulette L. Stewart
Assistant U.S. Attorney
United States Attorney's Office
Attorney for Plaintiff