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April 17, 2014

Ms. Kimberly Ann McMullen
Perry County Auditor
Center Square
P.O. Box 37
New Bloomfield, PA 17068

RE: License to Carry Firearms Applicant Information Disclosure

Dear Perry County Auditor McMullen,

I represent Firearms Owners Against Crime ("FOAC"), a Pennsylvania organization with members throughout the state, including Perry County ("County"). FOAC objects to your attempts as the County Auditor to collect information concerning Licenses to Carry Firearms ("LTCF"), as that information is expressly declared confidential under Pennsylvania's Uniform Firearms Act ("UFA").

According to an article in the *Perry County Times* on April 12, 2014, it appears that you have requested records pertaining to LTCF applications in order to conduct an audit. A copy of the article is available at <http://www.pennlive.com/perry-county-times/index.ssf/2014/04/perry-county-sheriff-wont-give.html>. While you are reported as stating that "[the Office of the Auditor has] no vested interest in knowing who or who doesn't have a carry permit," your intent is irrelevant - no disclosure is authorized under the law.

The UFA provides that all information furnished by the applicant for purposes of obtaining a Pennsylvania LTCF is confidential:

All information provided by the ... applicant, including, but not limited to, the ... applicant's name or identity, furnished by ... any applicant for a license to carry a firearm as provided by section 6109 shall be confidential and not subject to public disclosure. In addition to any other sanction or penalty imposed by this chapter, any person, licensed dealer, State or local governmental agency or department that violates this subsection shall be liable in civil damages in the amount of \$1,000 per occurrence or three times the actual damages incurred as a result of the violation, whichever is greater, as well as

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reasonable attorney fees.

18 Pa.C.S.A. § 6111(i) (emphasis added). Therefore, regardless of the ultimate intent of the Office of the Auditor, as Sheriff Carl Nace and Commissioner Stephen Naylor correctly stated, the disclosure of confidential LTCF information is a violation of the UFA, constituting a criminal offense with civil liability. See 18 Pa.C.S.A. §§ 6111, 6119.

Notably lacking in the statutory provisions is any exception for auditors (or anyone, for that matter) who have no intent to reveal or use the names of the applicants. The statute expressly prohibits disclosure and provides for both civil and criminal penalties for violations. Section 6111 provides for a minimum of \$1,000 in damages for each violation - that is, for each time an individual's information is disclosed. That means that for every individual whose information is disclosed to the Office of the Auditor, an offense occurs. In addition to the civil liability, breaches of confidentiality are considered misdemeanors of the first degree. See 18 Pa.C.S.A. § 6119. In Pennsylvania, first degree misdemeanors are punishable by up to five years imprisonment. 18 Pa.C.S.A. § 106(b)(6).

The statutory penalties - \$1,000 minimum fine in addition to a maximum five (5) years imprisonment - demonstrate the seriousness with which the Legislature considered the confidentiality of LTCF information. FOAC and Prince Law Offices, P.C. also take the confidentiality of firearms owners across the Commonwealth very seriously. That is why we are fully prepared to file a class action civil suit against Perry County and its Departments, employees and agents involved in any disclosure of LTCF, or other firearms-related, records. It should be noted that I am currently litigating a class action lawsuit against the City of Philadelphia and a number of its departments, employees and agents in relation to the disclosure of confidential LTCF applicant information - *John Doe, et al. v. City of Philadelphia, et al*, Case Id No. 121100593.

Additionally, it appears that you are under the impression that the confidentiality laws have recently changed. This is inaccurate, as the last amendment to § 6111(i) occurred in 1997. 1997, April 22, P.L. 73, No. 5, § 1. Even then, the substance remained the same. The prior language stated: "Information furnished by a potential purchaser or transferee under this section or any applicant for a license to carry a firearm as provided by section 6109 shall be confidential and not subject to public disclosure." *Id.* Thus, the confidentiality of firearms license information is nothing new and the County and its respective Departments, employees and agents are liable for any disclosures that have occurred. Based on your statement to reporter Sean Sauro that prior to a year ago, all this information was available via right-to-know law requests, I am requesting all information on previous LTCF applicant disclosures by the County and its respective Departments, employees and agents.

I hope this clarifies the issues involved and the seriousness with which Pennsylvania takes the confidentiality of its law-abiding firearms owners. I am confident that your office will respect

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both the confidentiality of Perry County's firearms owners and the UFA, as well as provide me with the above-requested documentation.

Thanking you for your time and attention to this matter, I am

Yours truly,
Prince Law Offices, P.C.,

jp/web

Matter No. 28178

cc: Mr. Carl Nace by mail and fax
Mr. Stephen Naylor by mail and fax



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