

1 [Contingent Fee Agreement in Gun Litigation]

2 APPROVING CONTINGENCY FEE AGREEMENT IN PEOPLE OF THE STATE OF
3 CALIFORNIA, ET AL. V. ARCADIA MACHINE & TOOL, INC., ET AL.

4 WHEREAS, the City Attorney has instituted litigation on behalf of the People of the
5 State of California against the gun industry to enjoin certain practices, including but not limited
6 to a) the wrongful marketing and improper distribution of guns; b) the design and distribution
7 of guns without reasonable safety features, and c) the use of deceptive claims in advertising
8 and promotion of guns regarding the purported increase in home security relating to having a
9 gun in the home; and to seek civil penalties and restitution/disgorgement of profits; and,

10 WHEREAS, the litigation may require expenditure of considerable time and money and
11 would benefit from the efficiency of having the assistance of outside counsel who are
12 experienced in similar litigation relating to this and other products, including but not limited to
13 the tobacco litigation brought by various states and the City and County of San Francisco and
14 other California cities and counties; and,

15 WHEREAS, the other municipal entities who have instituted similar litigation against the
16 gun industry have retained outside counsel to assist them, generally on a contingent fee
17 basis, in order to conserve scarce monetary and legal staff resources; and

18 WHEREAS, the law firms of Lieff, Cabraser, Heimann & Bernstein, LLP, Milberg Weiss
19 Bershad Hynes & Lerach, LLP, Cohen, Milstein, Hausfeld & Toll, P.L.L.C., Bushnell, Caplan &
20 Fielding, LLP, and McCue & McCue have experience in this type of litigation, having
21 previously been retained by various public entities, including the Attorneys General of
22 Massachusetts and Louisiana, the City and County of San Francisco, and other California
23 cities and counties, to represent those entities in their tobacco litigation; and

24 WHEREAS, the above-mentioned law firms are also being retained to represent
25 several other California cities and counties in the gun litigation, including cities and counties

1 with which the San Francisco City Attorney's Office is jointly prosecuting People of the State
2 of California, et al., v. Arcadia Machine & Tool, Inc., et al.; and

3 WHEREAS, the City Attorney has approved the retainer of each of the above-
4 mentioned firms as special counsel to co-counsel the gun litigation with the City Attorney on a
5 contingent fee basis, whereby the firms will advance all expenses in the litigation excepting
6 expenses of up to \$250,000 per annum, which amount is to be paid jointly by those California
7 cities and counties whose attorneys are prosecuting the gun litigation, with the sole
8 contingency upon which the above-mentioned law firms will receive compensation for their
9 services and reimbursement of additional expenses being recovery and collection of moneys
10 in the litigation by way of settlement or judgment, with the City Attorney retaining the right to
11 add additional firms under the retainer agreement; and

12 WHEREAS, the contingent percentage set forth in the retainer agreement is lower than
13 the typical contingent fee and lower than that agreed to by most states which were actively
14 involved in the tobacco litigation; and

15 WHEREAS, approval by the Board of Supervisors of the contingent fee agreement is
16 desirable; now, therefore, be it

17 RESOLVED, That the Board of Supervisors of the City and County of San Francisco
18 hereby approves the attached Engagement and Contingency Agreement in The People of the
19 State of California, et al. v. Arcadia Machine & Tool, Inc., et al.

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City and County of San Francisco

City Hall
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4689

Tails
Resolution

File Number: 992204

Date Passed:

Resolution approving contingency agreement in People of the State of California, et al. v. Arcadia Machine & Tool, Inc., et al.

January 24, 2000 Board of Supervisors — ADOPTED

Ayes: 11 - Ammiano, Becerril, Bierman, Brown, Katz, Kaufman, Leno, Newsom, Teng, Yaki, Yee

File No. 992204

I hereby certify that the foregoing Resolution was ADOPTED on January 24, 2000 by the Board of Supervisors of the City and County of San Francisco.

Gloria L. Young
Clerk of the Board

Date Approved

Mayor Willie L. Brown Jr.