

ABSOLUTELY OUTDOORS INC's FCI
FCI-24184
12/17/2021 10:42 AM
IO: (b)(6) Richmond II (IO) Field Office

LICENSEE INFORMATION

Licensee Name	RDS Key	License/Permit Number	License Type
ABSOLUTELY OUTDOORS INC	1-54-04428	1-54-127-01-2L-04428	01 - Dealer License

Business Type
Corporation

Premises Address

Mailing Address

Premises Ownership Type
Leased/Rented

Same as Premises Address

Premises Location Type
Store Front

Address
10500 A NEW KENT HWY
Unit N/A
NEW KENT, Virginia 23124
NEW KENT United States

Phone Type	Phone Number	Remarks
Business	+1 804-966-8462	
Fax	+1 804-966-8398	

Email Address	Email Remarks
(b)(6)	

RECOMMENDATIONS

Final Decision
Revocation
Date
12/07/2021

Details

RP Baker was served with the notice of revocation on 11/17/2021. At that time, Mr. Baker advised that he was not planning to challenge the Revocation, and as of December 2, 2021, licensee had not requested a hearing. On December 7, 2021, the licensee was served with the Final Notice of Revocation. At that time Mr. Baker conducted a background check to move the firearms inventory into his personal collection. Mr. Baker stated that he needed time to close out his books and gather his records and was advised that all records needed to be submitted to ATF OOBRC within 30 days of discontinuance of business.

Out of Business Records and Inventory Management

Licensee Inventory

✓ Inventory transferred to self

Deputy Assistant Director Megan Bennett's Recommendation
Revocation

Details

I concur with the recommendation of revocation as the licensee falsified ATF Forms 4473.

Special Agent in Charge Charlie Patterson's Recommendation

I concur with the recommended action of revocation proposed by the IO, AS, and DIO. On at least (b)(3) separate occasions, the FFL falsified ATF Form 4473 when (b)(3) (112 Public Law 55 125 Stat 552), (b)(6)

Attorney-Advisor (Litigation) (b)(6) Review

Details

I concur with the recommended administrative action of revocation proposed by the IO, AS, and DIO. On at least (b)(3) separate occasions, the FFL falsified ATF Form (b)(3) (112 Public Law 55 125 Stat 552), (b)(6)

(b)(3) (112 Public Law 55 125 Stat 552), (b)(6) The prior 2020 settlement agreement will be introduced in the event of a hearing to demonstrate the willfulness of the current violations. Specifically, the 2020 settlement agreement unequivocally required that (b)(6) have "no involvement in the firearms portion of the business activities conducted by Absolutely Outdoors including, but not limited to, any involvement in the recordkeeping requirements of the Gun Control Act or its implementing regulations for a period of 1 year." Thus, the settlement agreement shows that the FFL knew (b)(6) was not supposed to conduct firearms transactions or complete any firearms records within a 1 year time frame, yet on at least (b)(3) occasions within that time frame, she knowingly and willfully used (b)(6) unique (b)(3) (112 Public Law 55 125 Stat 552)

The Administrative Action Policy strongly recommends revocation when a FFL has willfully falsified records required to be kept under the Gun Control Act, as was the case here. The litigation risk is low because the element of willfulness can be established through strong evidence of intentional falsification, including the 2020 settlement agreement showing that the FFL was fully aware (b)(6) was not to conduct firearms sales or complete GCA records within a 1 year time period, as well as SA (b)(6) interviews of four purchasers, each of whom stated that (b)(6) handled the firearms, conducted the background checks, and completed the forms. One customer even stated that (b)(6) was present assisting (b)(6) with the sale. Moreover, the FFL had multiple other repeat violations for which it received Warning Letters after inspections in 2012, 2014, and 2018. A Notice of Revocation was issued to the licensee in 2020 after the 2019 inspection revealed that the FFL had transferred a firearm to a prohibited person without conducting a background check, failed to conduct background checks on a total of six occasions, and falsified ATF Forms 4473 by recording a background check approval code for prior unrelated transfers. As stated above, the parties resolved the 2019 violations via settlement agreement. However, the falsifying of ATF records is a repeat, deliberate and egregious violation that poses a significant risk to public safety, as it obstructs ATF's ability to conduct accurate and timely traces and hinders ATF's mission of fighting violent crime. The licensee has shown that it is not only unable, but totally unwilling, to achieve and maintain voluntary compliance with the GCA. Accordingly, for the foregoing reasons, the recommended administrative action of revocation is warranted.

Director of Industry Operations Michael Fronczak's Recommendation
Revocation

Details

The inspection merits revocation per the Federal Firearms Administrative Action Policy and Procedures after the licensee was cited for three (3) violations that rise to the level of revocation.

(1) 27 CFR 478.128(c): False statement made by a licensee on any ATF record

On (b)(6) occasions, licensee willfully and knowingly made a false statement or representation with respect to information required by the GCA, in violation of 18 U.S.C. 924(a)(1)(A) and 27 CFR 478.128(c). On (b)(3) (112 Public Law 55 125 Stat 552) (b)(3) (112 Public Law 55 125 Stat 552), (b)(6)

(2) 27 CFR 478.121(c) and 18 U.S.C. 922(m): Making false entry, omitting entry, or failing to properly maintain required recordkeeping. On (b)(6) transactions ATF Forms 4473 falsified when the Virginia State Police (POC) background check and transfer section were completed using Eric S. Baker's information even though the transfer was actually conducted by (b)(3) (112 Public Law 55 125 Stat 552)

On (b)(6) occasions, licensee willfully and knowingly made a false statement or representation with respect to information required by the GCA, in violation of 18 U.S.C. 922(m) and 27 CFR 478.121(c).

(3) 27 CFR 478.125(e): Failure to maintain an accurate/complete/timely acquisition and disposition record of firearms.

This is a repeat violation from the two (2) previous inspections, FCI-10678 and 768035-2018-0187-B1B. In the current inspection and the two previous inspections an ATF F 3310.11 was submitted to report firearms for which dispositions could not be accounted.

In addition the licensee was cited for four (4) additional violations, two (2) of which are repeat violations:

27 CFR 478.21(a) – Failure to complete forms as prescribed

27 CFR 478.124(c)(5) – Failure by transferor to sign and/or date and ATF F 4473

NOTE: The violation of 18 U.S.C. 1001 - false statement made by anyone in a matter with jurisdiction of the Government of the United States. The license lied throughout the inspection to the Lead IOI, however the Spartan database does not allow the lead IOI to document this violation on the report of violations. This will be included on the Notice to Revoke.

The FFL doesn't appear willing or able to achieve and maintain voluntary compliance with the GCA, and not take responsibility for the violations cited during the inspection. In addition, the FFL poses a threat to public safety by falsifying required information, failing to make appropriate entries in required records and unable to account for (b)(6) firearms in the physical inventory.

Area Supervisor (b)(6) Recommendation
Revocation

Details

The licensee's last inspection resulted in a settlement agreement in lieu of Revocation.

During this current inspection, the licensee was cited for eight (8) violations, three of which rise to the level of Revocation: 18 U.S.C. 922(m), 27 CFR 478.121(c), 27 CFR 478.128(c). Forward traces were conducted on four (4) transactions by ATF SA (b)(6) who confirmed that the licensee made false entry and/or statements with regards to the ATF Form 4473, background checks and transfer of the firearm to the transferee. The licensee had four repeat violations from one or more past inspections: 478.128(c)– 11/13/19; 478.121(c)– 11/13/19; 478.21(a)– 11/13/19, 7/30/18, 4/10/14, 3/26/12; 478.125(c)– 11/13/19, 7/30/18, 4/10/14.

Due to false statements and falsification of documents with regards to the firearms transactions and the repeated violations, AS concurs with the IOI recommendation of Revocation.

Industry Operations Investigator (b)(6) Recommendation
Revocation

Details

Recommendation: Revocation

The inspection merits revocation after the licensee was cited for four (4) violations that rise to the level of revocation (one [1] violations could not be cited in SPARTAN on the Report of Violations). This inspection also found at least four (4) violations of the Settlement Agreement signed by Eric S. Baker Sr. on 8/25/2020 that took effect on 8/31/2020. According to the Settlement Agreement, (b)(6) was to have no involvement in the firearms portion of business activities conducted by Absolutely Outdoors Inc. for a period of one (1) year commencing on the effective date of the agreement, 8/31/2020.

(1) 27 CFR 478.128(c): False statement made by a licensee on any ATF record

(2) 27 CFR 478.121(c) and 18 U.S.C. 922(m): Making false entry, omitting entry, or failing to properly maintain required recordkeeping

On (b)(6) occasions, licensee willfully and knowingly made a false statement or representation with respect to information required by the GCA, in violation of 18 U.S.C. 924(a)(1)(A) and 27 CFR 478.128(c) and 18 U.S.C. 922(m) and 27 CFR 478.121(c). Four (4) forward traces conducted of (b)(6) transactions by Special Agent (b)(6) at IOI (b)(6) request confirmed that (b)(6) conducted the transactions instead of Eric S. Baker Sr. as indicated on the ATF Forms 4473. The (b)(6) transaction dates were (b)(3) (112 Public Law 55 125 Stat 552) in violation of the Settlement Agreement.

(3) 18 U.S.C. 1001: False statement made by anyone in a matter within the jurisdiction of the Government of the United States. 18 U.S.C. 1001 was not an option to be cited in Spartan and therefore was not cited on the ROV but was included in the Monitored Case Summary –

Eric S. Baker Sr. stated several times during this inspection that (b)(6) was not an employee of Absolutely Outdoors Inc., but forward traces conducted with (b)(6) transferees indicate that (b)(6) was an employee during the year she was to have no involvement in the firearms portion of business activities conducted by Absolutely Outdoors Inc. (b)(6) selling/transferring firearms for Absolutely Outdoors Inc. is a violation of the Settlement Agreement signed by Eric S. Baker Sr. on 8/25/2020.

(4) 27 CFR 478.125(e): Failure to maintain an accurate/complete/timely acquisition and disposition record of firearms.

This is a repeat violation from the two (2) previous inspections. In the current inspection and the two previous inspections an ATF F 3310.11 was submitted to report firearms for which dispositions could not be accounted. This will affect traceability of firearms. FCI-24184: (b)(6) instances firearms dispositions were not recorded, and (b)(6) dispositions could not be reconciled, reported on a Form 3310.11 (b)(3) (112 Public Law 55 125 Stat 552). FCI-10678: (b)(6) instances firearms dispositions were not recorded and (b)(6) dispositions could not be reconciled, reported on ATF F 3310.11 (b)(3) (112 Public Law 55 125 Stat 552). 768035-2018-0187-B1B: (b)(6) instances firearms dispositions were not recorded, and (b)(6) dispositions could not be reconciled, reported on a Form 3310.11 (b)(3) (112 Public Law 55 125 Stat 552).

Absolutely Outdoors Inc. had repeat violations of violations found in the current inspection (FCI-24184):

- 27 CFR 478.128(c) – Cited on 8/24/21, and 11/13/19
- 27 CFR 478.121(c) – Cited on 8/24/21, and 11/13/19
- 27 CFR 478.21(a) – Cited on 8/24/21, 11/13/19, 7/30/18, 4/10/14, and 3/26/12
- 27 CFR 478.125(e) – Cited on 8/24/21, 11/13/19, 7/30/18, and 4/10/14

During the previous firearms compliance inspection (FCI-10678) IO (b)(6) recommended revocation of Absolutely Outdoors, Inc.'s FFL. IO (b)(6) based this recommendation on the findings of the firearms compliance inspection (FCI-10678) conducted between 9/25/19 (commencement of on-site work) and 11/13/19 (date of Closing Conference). Revocation of the FFL was justified, based on the following findings:

- (1) 27 CFR 478.99(c): The licensee transferred (b)(3) (112 Public Law 55 125 Stat 552), (b)(6) firearm to (b)(6). IO (b)(6) could find no documentation that the licensee conducted a background check via the Virginia State Police (VSP) Firearms Transaction Center (FTC) prior to the transfer. The licensee did execute the ATF Form 4473 and the Virginia State Police form SP-65 but failed to conduct a background check.
- (2) 27 CFR 478.102(a): The licensee failed to conduct background checks in 6 total instances, prior to the transfer of a firearm to a nonlicensee. One of the instances resulted in the transfer of a firearm to (b)(6). The other five transfers did not involve prohibited persons.
- (3) 27 CFR 478.128(c): The licensee falsified Forms 4473 executed by (b)(3) (112 Public Law 55 125 Stat 552), (b)(6). In each instance, the licensee made entries at Questions 19.a. (date); 19.b. (approval code); 19.c. (initial response) despite having failed to conduct background checks prior to disposing (b)(3) (112 Public Law 55 125 Stat 552), (b)(6). Additionally, the approval codes that the licensee entered at Question 19.b. had been issued by VSP in the course of prior transfers. (b)(3) (112 Public Law 55 125 Stat 552), (b)(6)

Inspection Findings

Records and Forms

- 2. Failure to timely and/or correctly maintain records of sales or other dispositions of (b)(6) percent or more of the licensee's total dispositions during the inspection period, with a minimum of (b)(6) instances.
- 11. Failure to retain required GCA records for transferred firearms for period of time specified by regulation.
- 12. Failure to account for acquired firearms which records indicate were in inventory within the previous 5 years after reconciliation for which disposition could not be accounted for in required GCA records (e.g. acquisition and disposition record, F 4473) and is a repeat violation of increased frequency.
- 13. Falsify records required under the GCA or making a false or fictitious written statement in the FFL's required records or in applying for a firearms license.

Firearms

- 1. Missing firearms after inventory reconciliation (e.g., no records of disposition, required or otherwise).

Failure to Report

- 3. Failure to timely report upon discovery of the theft or loss of a firearm to either ATF or local law enforcement.

FFL History

- 1. The current inspection reveals repeated similar violation(s) for which the FFL has been cited in a Report of Violations within the previous 5 years and there has been NO significant improvement.
- 2. The current inspection reveals repeated similar violation(s) for which the FFL has previously been the subject of a Warning Letter or Warning Conference within the previous 5 years and there has been NO significant improvement.

ELIGIBILITY VERIFICATION

Business Information Verification

Licensee Name	Business Type	Is the business valid?

Additional Findings

Absolutely Outdoors Inc. (AOI) is a corporation that was formed in Virginia on 8/17/2006. Eric Steven Baker is the President and a director of AOI and the Registered Agent of AOI for the Virginia State Corporation Commission (VA SCC).

Attachment(s):

FCI-24184-AOI-VA SCC Information 6-07-21.pdf

Property Ownership Verification

Premises Ownership Type	Premises Location Type	Has the property ownership been verified?
Leased/Rented	Store Front	Yes

Address

10500 A NEW KENT HWY
Unit N/A
NEW KENT, Virginia 23124
NEW KENT United States

Additional Findings

The property located at 10500A New Kent Hwy., New Kent, VA 23124 is owned by Eric S. Baker. Eric Steven Baker is the President and director of AOI and the Registered Agent of AOI for the Virginia State Corporation Commission (VA SCC).

Attachment(s):

FCI-24184-AOI-New Kent, VA Real Estate Info 6-07-21.pdf

FCI-24184-AOI-VA SCC Information 6-07-21.pdf

Rental/Lease Verification

Is the proposed business activity permitted by the property owner?

Yes

Additional Findings

IOI (b)(6) confirmed that AOI is authorized to be operating at 10500A New Kent Hwy. in New Kent Va. with Eric S. Baker Sr. on 8/24/2021 (in person) and on 7/20/21 (by telephone).

The property located at 10500A New Kent Hwy., New Kent, VA 23124 is owned by Eric S. Baker. Eric Steven Baker is the President and director of AOI and the Registered Agent of AOI for the Virginia State Corporation Commission (VA SCC).

Contact Information

Name: Eric S Baker Sr. Date Contacted: 07/20/2021

Organization: Absolutely Outdoors Inc.

Job Title: President and Director

Phone Type	Phone Number	Remarks
Business	+1 804-966-8462	

Email Address	Email Remarks
(b)(6)	

Attachment(s):

FCI-24184-AOI-New Kent, VA Real Estate Info 6-07-21.pdf

FCI-24184-AOI-VA SCC Information 6-07-21.pdf

Zoning Information Verification

Is the proposed business activity in compliance with zoning?

Yes

Additional Findings

Zoned business and identified as "Strip Stores" in the online real estate data for New Kent County.

Contact Information

Name: (b)(6) Date Contacted: 08/27/2019

Organization: New Kent County, VA Planning Dept.

Job Title: Planning Coordinator

Phone Type	Phone Number	Remarks
Business	(b)(6)	

Contact Remarks

IO (b)(6) contacted (b)(6) on 8/27/2019. Absolutely Outdoors is allowed by Zoning at 10500A New Kent Hwy., New Kent, VA 23124.

Attachment(s):

FCL-24184-AOI-New Kent, VA Real Estate Info 6-07-21.pdf

APPOINTMENT DETAILS

Interview Date

07/27/2021

Address

10500 A NEW KENT HWY, Unit N/A, NEW KENT, Virginia 23124

Remarks

On 7/21/2021 IO (b)(6) and IOI (b)(6) attempted to begin an on-site firearms compliance inspection at Absolutely Outdoors Inc. (AOI) at 10:30 AM but the store was not available, shut down for remodel according to a sign taped to a blue tarp that blocked access to the store premises. After phone and text message contact with Eric Baker, the president of AOI, on 7/21/2021 arrangements were made to conduct a firearms compliance inspection starting on 7/26/2021. IO (b)(6) IOI (b)(6) and Area Supervisor (b)(6) began the firearms compliance inspection on 7/26/2021 at 10:00 AM inventorying firearms and examining Forms 4473. IOI (b)(6) and IOI (b)(6) continued the inspection on 7/27/2021 at 11:00 AM by examining Forms 4473 and reconciling the inventory to the A&D Record.

Responsible Attendee(s)

ERIC S BAKER Sr.

Non-Responsible Person(s)

(b)(6) (Deactivated)

(b)(6) (Deactivated)

RESPONSIBLE PERSON(S)

ERIC S BAKER Sr.

Name	Gender	Race	Ethnicity
Mr. ERIC S BAKER Sr.	Male	White	Not Hispanic or Not Latino
Date of Birth	SSN	Job Title	
(b)(6)	(b)(6)	PRES	

Physical Identifiers

Height	Weight	Hair Color	Eye Color
			Brown

Place of Birth

Country	State	City
United States Of America	(b)(6)	

Home Address

(b)(6)

Additional Names

Citizenship

United States

ID Type	Country	State	ID Number
Driver's License	United States	Virginia	(b)(6)

Phone Type	Phone Number	Remarks
Mobile	(b)(6)	

Email Address	Email Remarks
(b)(6)	

Criminal History Check

Date Criminal History Check Conducted
07/16/2021

Criminal History Check Comments

IO (b)(6) conducted NCIC and NLETS queries on Eric S. Baker on 7/16/21. No prohibiting information was found.

NON-RESPONSIBLE PERSON(S)

(b)(6)

Name	Date of Birth	Job Title
(b)(6)		
(b)(6)		

Name	Date of Birth	Job Title
(b)(6)		

Email Address	Email Remarks
(b)(6)	

INTERVIEW QUESTIONNAIRE

What is the proposed business activity?

At no time during this inspection prior to 8/24/21 has the only responsible person (RP) named on the FLS Report been on-site during the inspection. The RP is Eric S. Baker Sr., President of Absolutely Outdoors Inc. Based on the A&D Records and Forms 4473 and other documents found on the premises, the business sells firearms, transfers and receives transferred firearms and provides gunsmith services. IO (b)(6) and IO (b)(6) spoke to Eric S. Baker Sr. in person during the Closing Conference on 8/24/2021, and Mr. Baker did confirm that the business activity is retail sales, gunsmith work and firearms transfers.

Do they need an additional license or permit?

No

Who are their primary suppliers?

At no time during this inspection prior to 8/24/21 has the only responsible person (RP) named on the FLS Report been on-site during the inspection. The RP is Eric S. Baker Sr., President of Absolutely Outdoors Inc. IO (b)(6) and IO (b)(6) spoke to Eric S. Baker Sr. in person during the Closing Conference on 8/24/2021, and Mr. Baker did confirm that the two (2) current primary suppliers are (b)(4)

Other State or Local Permits

Type	Number	Expiration
Other	Va. State Corporation Comm. ID #06636328	
Other	Va. State Police (b)(4)	
Other	EIN (b)(3)(26 USC § 6103)	
State Sales Tax	(b)(3)(26 USC § 6103)	

Business Activities

Selected Operational Security Measures

No items

Internet Sales/Transfers

Retail

Gunsmith

Internet Sales/Transfers Website

gunbroker.com

SUPPLEMENTAL QUESTIONNAIRE

General Business Operations

If there is a security system, who has access to the security codes?

At no time during this inspection prior to 8/24/21 has the only responsible person (RP) named on the FLS Report been on-site during the inspection. The RP is Eric S. Baker Sr., President of Absolutely Outdoors Inc. IO (b)(6) and IO (b)(6) spoke to Eric S. Baker Sr. in person during the Closing Conference on 8/24/2021, and Mr. Baker did confirm that the person with the security codes is Eric S. Baker Sr.

Who has keys to the premises?

At no time during this inspection prior to 8/24/21 has the only responsible person (RP) named on the FLS Report been on-site during the inspection. The RP is Eric S. Baker Sr., President of Absolutely Outdoors Inc. IO (b)(6) and IO (b)(6) spoke to Eric S. Baker Sr. in person during the Closing Conference on 8/24/2021, and Mr. Baker did confirm that the person with the keys is Eric S. Baker Sr.

Who has keys to locked inventory?

At no time during this inspection prior to 8/24/21 has the only responsible person (RP) named on the FLS Report been on-site during the inspection. The RP is Eric S. Baker Sr., President of Absolutely Outdoors Inc. IO (b)(6) and IO (b)(6) spoke to Eric S. Baker Sr. in person during the Closing Conference on 8/24/2021, and Mr. Baker did confirm that the person with the keys to the inventory is Eric S. Baker Sr.

Who is operating the business on a day-to-day basis?

At no time during this inspection prior to 8/24/21 has the only responsible person (RP) named on the FLS Report been on-site during the inspection. The RP is Eric S. Baker Sr., President of Absolutely Outdoors Inc. IO (b)(6) and IO (b)(6) spoke to Eric S. Baker Sr. in person during the Closing Conference on 8/24/2021, and Mr. Baker did confirm that Eric S. Baker Sr. operates the business day-to-day.

Is financial backing provided by anyone that is not a responsible person on the license/permit?

At no time during this inspection prior to 8/24/21 has the only responsible person (RP) named on the FLS Report been on-site during the inspection. The RP is Eric S. Baker Sr., President of Absolutely Outdoors Inc. IO (b)(6) and IO (b)(6) spoke to Eric S. Baker Sr. in person during the Closing Conference on 8/24/2021, and Mr. Baker did confirm that the person who provides the financial backing is Eric S. Baker Sr.

Are any employees known to be prohibited?

At no time during this inspection prior to 8/24/21 has the only responsible person (RP) named on the FLS Report been on-site during the inspection. The RP is Eric S. Baker Sr., President of Absolutely Outdoors Inc. IO (b)(6) and IO (b)(6) spoke to Eric S. Baker Sr. in person during the Closing Conference on 8/24/2021, and Mr. Baker did not

identify any employees who were prohibited.

Are any employees associated with a previously denied/revoked/surrendered license/permit?

At no time during this inspection prior to 8/24/21 has the only responsible person (RP) named on the FLS Report been on-site during the inspection. The RP is Eric S. Baker Sr., President of Absolutely Outdoors Inc. IO# (b)(6) and IO# (b)(6) spoke to Eric S. Baker Sr. in person during the Closing Conference on 8/24/2021, and Mr. Baker did not identify any employees associated with a previously denied/revoked/surrendered license.

PREMISES INFORMATION

Inspection Area Description

The premises for Absolutely Outdoors Inc. is located on one of the building at the address, 10500 New Kent Hwy., New Kent, VA 23124. The business is in Suite A of the building. Suite A also has a barber shop on the premises.

Six Decimal Point GPS:

Latitude 37.524175N

Longitude 77.008046W

Primary Activity

Retail

GPS Coordinates

Latitude

37.52417

Longitude

-77.00804

Selected Physical Security Measures

Window Film/Tinting/Mirroring

Bars on Doors

Deadbolts

Lockable Display Rack(s)/Case(s)

Security Cameras

Alarm Monitoring (with Cellular Back-Up)

Motion Sensors

INTERVIEW NOTES

(b)(6) (president of Absolutely Outdoors, Inc. [AOI]) was present on 7/26/21 to represent AOI and to allow access to the inventory and Forms 4473 and A&D Record books. IO# (b)(6), IO# (b)(6) and A/S (b)(6) were told on 7/26/21 by (b)(6) that Eric Baker (president of AOI) was (b)(6) and was not available to be at the compliance inspection.

ONSITE SUMMARY

Total # of ATF F 4473 Reviewed

(b)(6)

Total # of Open Dispositions in A & D Record

(b)(6)

Total # of Firearms in Inventory

246

Total # of Firearms Missing after Reconciliation

(b)(6)

Total # of Acquisitions in the Last 12 Months

(b)(4)

Total # of Dispositions in the Last 12 Months

(b)(4)

Additional Comments

Acquisitions and dispositions are comprised of firearms sold, transferred and received for gunsmith work.

Reference AOI_ONSITE SUMMARY_FCI-24184, attached below.

Attachment(s)

Report of Violations.pdf

Report of Violations.pdf

Report of Violations.pdf

Report of Violations.pdf

Licensee Response to Violations Report.pdf

REPORT OF VIOLATIONS

Regulation	Corrective Actions	Instance Details
27 CFR 478.129(b): Failure to retain ATF F 4473 ATF Forms 4473: (b)(6) Number of Instances: (b)(6)	Create and maintain ATF Forms 4473 for transactions with all non-licensees. Identify and separately retain all denied (completed and future) ATF Forms 4473, for a period not less than 5 years. Organize and maintain ATF Forms 4473 in alphabetical, chronological, or numerical order where NICS was contacted, but no firearm transfer took place, for a period not less than 5 years. Retain ATF Forms 4473 for a period of not less than 20 years after the date of sale or disposition.	(b)(3) (112 Public Law 55 125 Stat 552)
27 CFR 478.128(c): False statement made by a licensee on any ATF record Number of Instances: (b)(6)	Cease and desist from engaging in deceptive practices.	(b)(3) (112 Public Law 55 125 Stat 552), (b)(6)

2		(b)(3) (112 Public Law 55 125 Stat 552),(b)(6)
3	<p>27 CFR 478.121(c): Making false entry, omitting entry, or failing to properly maintain required recordkeeping</p> <p>Number of Instances: <input type="text"/></p>	(b)(3) (112 Public Law 55 125 Stat 552),(b)(6)
4	<p>18 U.S.C. 922(m): FFL omits or falsifies required information</p> <p>Number of Instances: <input type="text"/></p>	(b)(3) (112 Public Law 55 125 Stat 552),(b)(6)
5	<p>27 CFR 478.58: Unlawful conference of rights and privileges under State or other law</p> <p>Number of Instances: <input type="text"/></p>	(b)(3) (112 Public Law 55 125 Stat 552),(b)(6)
6	<p>27 CFR 478.21(a): Failure to complete forms as prescribed</p> <p>ATF Forms 4473: <input type="text"/></p> <p>Number of Instances: <input type="text"/></p>	(b)(3) (112 Public Law 55 125 Stat 552),(b)(6)
	<p>27 CFR 478.125(e): Failure to maintain an accurate/complete/timely acquisition and disposition record of firearms</p> <p>Number of Instances: <input type="text"/></p>	(b)(3) (112 Public Law 55 125 Stat 552)

7

(b)(3) (112 Public Law 55 125 Stat 552)

8

27 CFR 478.124(c)(5): Failure by transferor to sign and/or date an ATF F 4473

Execute and retain a complete and accurate ATF Form 4473 on all future firearm transactions. Ensure that the required transferor/seller signature and date of transfer is obtained, validated and accurately recorded on all future ATF Forms 4473, Section D.

(b)(3) (112 Public Law 55 125 Stat 552)

ATF Forms 4473
Number of Instances

LICENSEE RESPONSE REPORT

Regulation	Corrective Actions	Licensee Response	Status Details
<p>27 CFR 478.129(b): Failure to retain ATF F 4473</p> <p>ATF Forms 4473 Number of Instances</p>	<p>Create and maintain ATF Forms 4473 for transactions with all non-licensees.</p> <p>Identify and separately retain all denied (completed and future) ATF Forms 4473, for a period not less than 5 years.</p> <p>Organize and maintain ATF Forms 4473 in alphabetical, chronological, or numerical order where NICS was contacted, but no firearm transfer took place, for a period not less than 5 years.</p> <p>Retain ATF Forms 4473 for a period of not less than 20 years after the date of sale or disposition.</p>	<p>Eric S. Baker Sr. originally received a Report of Violations on 8/24/2021 during the Closing Conference at the licensed premises. Documents that were found at Absolutely Outdoors Inc. (AOI) between 8/12/2021 and 8/24/2021 were presented to IOF and IOI on 8/24/2021 by Eric S. Baker Sr. (Baker Sr.) and provided dispositions for firearms. An amended Report of Violations was prepared and sent to Baker Sr. by email on 9/10/2021.</p>	<p>Status Licensee Notified</p> <p>Verified Method In Person</p> <p>Date Licensee Notified 08/24/2021</p>
<p>27 CFR 478.128(c): False statement</p>		<p>This violation was related to</p>	<p>Status</p>

<p>made by a licensee on any ATF record</p> <p>Number of Instances: <input type="text"/></p>	<p>Cease and desist from engaging in deceptive practices.</p>	<p>transactions for transfers where ATF Special Agent (b)(6) interviewed (b)(6) transferees who confirmed that the transactions had been conducted by (b)(6) not Baker Sr. as indicated on the ATF Forms 4473. On 8/24/2021 IOI (b)(6) told Baker Sr. that forward traces had been conducted and that transferees were interviewed who confirmed that the transactions had been conducted by (b)(6) not Baker Sr. as indicated on the ATF Forms 4473. After hearing this Baker Sr. asked if (b)(6) had just been there. IOI (b)(6) stated that the transferees stated that (b)(6) had conducted the transactions, completed paperwork, conducted background checks and handled the firearms.</p>	<p>Licensee Notified</p> <p>Verified Method In Person</p> <p>Date Licensee Notified 08/24/2021</p>
<p>27 CFR 478.121(c): Making false entry, omitting entry, or failing to properly maintain required recordkeeping</p> <p>Number of Instances: <input type="text"/></p>	<p>Cease and desist from engaging in deceptive practices.</p>	<p>This violation was related to transactions for transfers where ATF Special Agent (b)(6) interviewed (b)(6) transferees who confirmed that the transactions had been conducted by (b)(6) not Baker Sr. as indicated on the ATF Forms 4473. On 8/24/2021 IOI (b)(6) told Baker Sr. that forward traces had been conducted and that transferees were interviewed who confirmed that the transactions had been conducted by (b)(6) not Baker Sr. as indicated on the ATF Forms 4473. After hearing this Baker Sr. asked if (b)(6) had just been there. IOI (b)(6) stated that the transferees stated that (b)(6) had conducted the transactions, completed paperwork, conducted background checks and handled the firearms.</p>	<p>Status Licensee Notified</p> <p>Verified Method In Person</p> <p>Date Licensee Notified 08/24/2021</p>
<p>18 U.S.C. 922(m): FFL omits or falsifies required information</p> <p>Number of Instances: <input type="text"/></p>	<p>Cease and desist from engaging in deceptive practices.</p>	<p>This violation was related to transactions for transfers where ATF Special Agent (b)(6) interviewed (b)(6) transferees who confirmed that the transactions had been conducted by (b)(6) not Baker Sr. as indicated on the ATF Forms 4473. On 8/24/2021 IOI (b)(6) told Baker Sr. that forward traces had been conducted and that transferees were interviewed who confirmed that the transactions had been conducted by (b)(6) not Baker Sr. as indicated on the ATF Forms 4473. After hearing this Baker Sr. asked if (b)(6) had just been there. IOI (b)(6) stated that the transferees stated that (b)(6) had conducted the transactions, completed paperwork, conducted background checks and handled the firearms.</p>	<p>Status Licensee Notified</p> <p>Verified Method In Person</p> <p>Date Licensee Notified 08/24/2021</p>
<p>27 CFR 478.58: Unlawful conference of rights and privileges under State or other law</p> <p>Number of Instances: <input type="text"/></p>	<p>Comply with State or other laws.</p>	<p>Eric S. Baker Sr. did not respond to this violation.</p>	<p>Status Licensee Notified</p> <p>Verified Method In Person</p> <p>Date Licensee Notified 08/24/2021</p>
<p>27 CFR 478.21(a): Failure to complete forms as prescribed</p> <p>ATF Forms 4473</p> <p>Number of Instances: <input type="text"/></p>	<p>Complete all forms as prescribed. Ensure that all ATF Form 4473 items, as required by form headings and instructions, are accurately completed on all future transactions. Ensure that all required ATF Form 4473 Section A items are</p>	<p>Eric S. Baker Sr. did not respond to this violation.</p>	<p>Status Licensee Notified</p> <p>Verified Method In Person</p> <p>Date Licensee Notified</p>

6		completed/provided by the transferee/buyer on all future transactions. Ensure that the required transferor/seller printed name and title is obtained, validated and accurately recorded on all future ATF Forms 4473, Section D. Ensure that the most up-to-date version of the ATF Form 4473 is used for all future over-the-counter transactions. Execute and retain a complete and accurate ATF Form 4473 on all future firearm transactions.	08/24/2021	
7	27 CFR 478.125(e): Failure to maintain an accurate/complete/timely acquisition and disposition record of firearms Number of Instances [redacted]	Accurately, completely & timely record all required future firearm acquisition information. Accurately, completely & timely record all required future firearm disposition information. Amend/Update A&D Record to accurately record all required firearm acquisition information. Amend/Update A&D Record to accurately record all required firearm disposition information. Resume proper maintenance of required acquisition and disposition record. Complete and submit ATF Form 3310.11 - Firearms Inventory Theft/Loss Report.	Eric S. Baker Sr. originally received a Report of Violations on 8/24/2021 during the Closing Conference at the licensed premises. Documents that were found at Absolutely Outdoors Inc. (AOI) between 8/12/2021 and 8/24/2021 were presented to IOI (b)(6) and IOI (b)(6) on 8/24/2021 by Eric S. Baker Sr. (Baker Sr.) and provided untimely dispositions for (b)(6) firearms. An amended Report of Violations was prepared and sent to Baker Sr. by email on 9/10/2021.	Status Licensee Notified Verified Method In Person Date Licensee Notified 08/24/2021
8	27 CFR 478.124(c)(5): Failure by transferor to sign and/or date an ATF F 4473 ATF Forms 4473 Number of Instances [redacted]	Execute and retain a complete and accurate ATF Form 4473 on all future firearm transactions. Ensure that the required transferor/seller signature and date of transfer is obtained, validated and accurately recorded on all future ATF Forms 4473, Section D.	Eric S. Baker Sr. asked how IOI (b)(6) knew the signature was from a hand stamp. IOI (b)(6) showed Baker Sr. a picture of one of the forms with a hand stamp signature that was clearly from a hand stamp (b)(6). Baker Sr. stated this would be a good thing to know in the future.	Status Licensee Notified Verified Method In Person Date Licensee Notified 08/24/2021

REFERRAL(S)

ID	Status	Agency	Outcome
R-1775	Referral Approved	Virginia State Police	Referral sent

CLOSING CONFERENCE

Review Regulations conducted offline

(8/24/2021)
08/24/2021

Closing Conference Additional Notes

On 8/24/2021 IOI (b)(6) and IOI (b)(6) of the Richmond IFO and Special Agent (b)(6) of the Richmond IFO went to Absolutely Outdoors Inc. for a Closing Conference at 12:00 PM. All three (3) arrived at about 11:50 AM. In attendance for Absolutely Outdoors Inc. was Eric S. Baker Sr. (Baker Sr.) and (b)(6). At the end of the Closing Conference (b)(6) joined the meeting. At the beginning of the Closing Conference Baker Sr. looked at the ATF credential of IOI (b)(6) and IOI (b)(6) and asked Special Agent (b)(6) who he was. Special Agent (b)(6) explained that he was new. Baker Sr. insisted on seeing Special Agent (b)(6) ATF credentials. Baker Sr. made the comment that Special Agent (b)(6) sometimes wore a tie. Special Agent (b)(6) replied that sometimes he wore a suit also. Special Agent (b)(6) remained quiet throughout most of the Closing Conference, until the end when Baker Sr. asked question about how to get a firearm that had been stolen from Absolutely Outdoors Inc. back from the law enforcement agency (possibly in Washington State) that currently had the firearm.

At the beginning of the meeting IOI (b)(6) asked Eric S. Baker Sr. (Baker Sr.) how (b)(6) at the beginning of this inspection Baker Sr. was reported to be (b)(6) with (b)(6). Baker Sr. told IOI (b)(6) that he had had (b)(6). When he (b)(6) Baker Sr. said that it was (b)(6). Baker Sr. did not mention (b)(6).

Then Baker Sr. gave IOI (b)(6) and IOI (b)(6) documents and one firearm in a manila envelope. Baker Sr. stated they "had been found". The documents and firearms provided (b)(6) firearm in inventory, disposition records for (b)(6) firearms (Forms 4473 - 3, Transfer Documents to FFLs - 3, Repair/Appraisal Tickets - 9) (b)(6) firearm that was an antique and (b)(6) firearm that was a double entry on the ATF F 3310.11A. (b)(6) firearms were left on the ATF F 3310.11 and 3310.11A that did not have disposition entries. After the Closing Conference IOI (b)(6) sent an updated ATF F 3310.11 to the ATF Stolen Firearms Program email address and to Baker Sr.'s email address. IOI (b)(6) stated after the Closing Conference that the display case said to contain the found handgun did not have the handgun in it when she had looked at everything that had been in the display case.

IOI (b)(6) reviewed the violations on the Report of Violations (ROV) with Baker Sr.

27 CFR 478.129(b) - Failure to retain ATF F 4473 - Three entries on the 365 day Virginia State Police (POC) dealer transactions list of had no Forms 4473 found during the compliance inspection. IOI (b)(6) later determined that (b)(6) (12 Pub. L. 95-125 Stat 552) per ATF (b)(6) Forms 4473 that had been found were for (b)(6) of these Forms 4473.

27 CFR 478.128(c) [false statement made by licensee], 27 CFR 478.121(c) [making false entry required recordkeeping] and 18 U.S.C. 922(m) [FFL omits or falsifies required information] - These three violations were all related to (b)(6) transactions for (b)(6) transfers where Special Agent (b)(6) interviewed (b)(6) transferees who confirmed that the transactions had been conducted by (b)(6) not Baker Sr. as indicated on the (b)(6) ATF Forms 4473. All IOI (b)(6) told Baker Sr. was that forward traces had been conducted and that (b)(6) transferees were interviewed who confirmed that the transactions had been conducted by (b)(6) not Baker Sr. as indicated on the (b)(6) ATF Forms 4473. After hearing this Baker Sr. asked (b)(6) had just been there. IOI (b)(6) stated that the transferees stated that (b)(6) had conducted the transactions, completed paperwork, conducted background checks and handled the firearms. After this Baker Sr. got very quiet, was less amiable, did not appear to look up or make eye contact and appeared to be carefully reading the ROV that had been given to him at the beginning of the Closing Conference.

27 CFR 478.58 [violation of Virginia law] - IOI (b)(6) explained that it was against Virginia law to have another person use the Seller ID Number assigned to someone else (b)(6) (b)(6) had used Baker Sr.'s Seller ID Number to sell the (b)(6) firearms mentioned in 27 CFR 478.128(c), 27 CFR 478.121(c), and 18 U.S.C. 922(m). Baker Sr. said nothing.

27 CFR 478.21(a) [failure to follow instructions on the Form 4473] - IOI (b)(6) explained that (b)(6) of the 2016 version ATF Forms 4473 had been used after the cutoff date of 11/01/2020. IOI (b)(6) showed Baker Sr. documents from the ATF public website that clearly showed that the 2016 version of the ATF Form 4473 could not be used after 10/31/2020.

27 CFR 478.125(e) - IOI (b)(6) reviewed the types of incorrect or incomplete entries found during the compliance inspection by IOI (b)(6), IOI (b)(6) and Area Supervisor (b)(6).

27 CFR 478.124(c)(5) [failure by transferor to sign an ATF Form 4473] - IOI (b)(6) explained that on (b)(6) Forms 4473 the signature was a hand stamp signature. IOI (b)(6) explained that signatures on the Form 4473 have to be real signatures, not hand stamp signatures. Baker Sr. asked how IOI (b)(6) knew the signature was from a hand stamp. IOI (b)(6) showed Baker Sr. a picture of one of the forms with a hand stamp signature that was clearly from a hand stamp. (b)(6) stated this would be a good thing to know in the future.

IOI (b)(6) asked Baker Sr. to sign the ROV. Baker Sr. would not sign the ROV. IOI (b)(6) showed Baker Sr. where Baker Sr. would sign the ROV and explained that Baker Sr. signing did not indicate that Baker Sr. agreed with the ROV, just that Baker Sr. had received it. Baker Sr. stated that he "Did not agree" and did not sign the ROV. IOI (b)(6) told Baker Sr. that Baker Sr. did not have to sign the ROV.

Then IO (b)(6) quickly reviewed the information on the Acknowledgement of Federal Firearms Regulations. Baker Sr. did sign the Acknowledgement. Baker Sr. also asked several questions about when and where an FFL would be needed. Baker Sr. asked questions about just being a gunsmith and leasing out the sales area of the store to another company/FFL. Would the other company have to have their own FFL? IO (b)(6) and IO (b)(6) explained that any company engaging in business as a firearms dealer or gunsmith would have to have an FFL. If the companies were separate entities, each entity would have to apply for their own FFL. IO (b)(6) also asked about forming a separate company to only repair firearms. Baker Sr. even stated a name for a company, Gun Fixers, LLC. IO (b)(6) and IO (b)(6) explained that a business entity engaged in business as a gunsmith would have to have its own FFL. If two separate companies on the same premises were both engaged in business as firearms dealers/gunsmiths each would have to have its own FFL. After the Closing Conference, on the same day in the Richmond II Field Office, Area Supervisor (b)(6) checked with the Va. State Corporation Commission website and found no entity such as Gun Fixers LLC.

Baker Sr. asked questions about how to get a firearm that had been stolen from Absolutely Outdoors Inc. back from the law enforcement agency (possibly in Washington State) that currently had the firearm. The firearm had been traced to Absolutely Outdoors Inc. according to Baker Sr. IO (b)(6) suggested that Baker Sr. needed to contact the law enforcement agency and ask what Absolutely Outdoors Inc. need to do. If necessary, contact the ATF Tracing Center to make contact with the law enforcement agency that had the firearm. Baker Sr. stated that Baker Sr. had already been in touch with the ATF Tracing Center. Special Agent (b)(6) explained things that could delay having a firearm returned. A person on trial who is found guilty could file an appeal, therefore a law enforcement agency may have to keep a firearm for one (1) or more years after a trial. Also, the law enforcement agency may require the owner of the firearm to come to the agency's premises to get the firearm and bring proof that firearm belongs to the person or company that wants the firearm. IO (b)(6) agreed with this and stated that contacting the law enforcement agency would be necessary to determine what forms, documents and procedures would have to be followed to get the firearm back. Each agency may have its own requirements.

Then IO (b)(6), IO (b)(6) and Special Agent (b)(6) left, and the Closing Conference ended.

Attachment(s)

Attendee(s)

ERIC S BAKER Sr.

EXHIBITS

Inspection

Category	Attachment Name
Correspondence	Spartan Notification RE: 1-54-04428 Inspection Results
Correspondence	Spartan Notification RE: 1-54-04428 Monitored Case
Correspondence	Spartan Notification RE: 1-54-04428 Monitored Case
Correspondence	Spartan Notification RE: 1-54-04428 Monitored Case
Correspondence	Spartan Notification RE: 1-54-04428 Monitored Case
Correspondence	Spartan Notification RE: 1-54-04428 Monitored Case
Correspondence	Spartan Notification RE: 1-54-04428 Monitored Case
Correspondence	Spartan Notification RE: 1-54-04428 Monitored Case
Correspondence	Spartan Notification RE: 1-54-04428 Monitored Case
Correspondence	DIO Michael Fronczak Returned Inspection FCI-24184
Correspondence	Spartan Notification RE: 1-54-04428 Monitored Case
UpdateLicensingCenter	INTITIAL 8C_Washington FD_Absolutely Outdoors Inc_FCI-24184.pdf
OnSiteSummaryInformation	AOI_ONSITE SUMMARY_FCI-24184.docx
RentalLeaseVerification	FCI-24184-AOI-New Kent, VA Real Estate Info 6-07-21.pdf
RentalLeaseVerification	FCI-24184-AOI-VA SCC Information 6-07-21.pdf
LicenseeResponseToViolationsPDF	Licensee Response to Violations Report.pdf
Correspondence	
Correspondence	Information Concerning Your Federal License/Permit
ViolationsPDF	Report of Violations.pdf
ZoningVerification	FCI-24184-AOI-New Kent, VA Real Estate Info 6-07-21.pdf
PropertyOwnershipVerification	FCI-24184-AOI-New Kent, VA Real Estate Info 6-07-21.pdf
PropertyOwnershipVerification	FCI-24184-AOI-VA SCC Information 6-07-21.pdf
BusinessVerification	FCI-24184-AOI-VA SCC Information 6-07-21.pdf

License

Category	Attachment Name
StipulatedAgreements	Absolutely Outdoors Inc_Settlement Agreement_DIO.pdf

R-1775

Category	Attachment Name
ReferralDocument	Referral.pdf
Correspondence	Referral of Information from the Bureau of Alcohol, Tobacco, Firearms and Explosives

Notice to Revoke or Suspend License and/or Impose a Civil Fine

In the matter of License Number 1-54-127-01-9L-04428, as a/an

Dealer in Firearms Other than Destructive Devices issued to:

Name and Address of Licensee (Show number, street, city, State and ZIP Code)

Absolutely Outdoors, Inc.
10500-A New Kent Highway
New Kent, Virginia 23124

Notice Is Hereby Given That:

Pursuant to the statutory provisions and reasons stated in the attached page(s), the Director or his/her designee, Bureau of Alcohol, Tobacco, Firearms and Explosives, intends to take action on the license described above.

The above identified license may be revoked pursuant to 18 U.S.C. 923(e), 922(t)(5) or 924(p).

The above identified license may be suspended pursuant to 18 U.S.C. 922(t)(5) or 924(p).

The above identified licensee may be fined pursuant to 18 U.S.C. 922(t)(5) or 924(p).

Pursuant to U.S.C. 923(f)(2) and/or 922(t)(5), you may file a request with the Director of Industry Operations, Bureau of Alcohol, Tobacco, Firearms and Explosives, at michael.fronczak@atf.gov, in duplicate, for a hearing to review the revocation, suspension and/or fine of your license. The request must be received at the above address within 15 days of your receipt of this notice. Where a timely request for a hearing is made, the license shall remain in effect pending the outcome of the hearing; and if the license is due to expire, the license will remain in effect provided a timely application for renewal is also filed. The hearing will be held as provided in 27 CFR Part 478.

If you do not request a hearing, or your request for a hearing is not received by ATF on time, a final notice of revocation, suspension, and/or imposition of civil fine (ATF Form 5300.13) shall be issued.

Please see included brochure

Date	Name and Title of Bureau of Alcohol, Tobacco, Firearms and Explosives Official	Signature
11/10/2021	Michael F. Fronczak - Director, Industry Operations	MICHAEL FRONCZAK <small>Digitally signed by MICHAEL FRONCZAK Date 2021.11.10 13:08:00 -0500'</small>

I certify that on the date shown below I served the above notice on the person identified below by:

Certified mail to the address shown below.
Tracking Number: _____

Or

Delivering a copy of the notice to the address shown below.

Date Notice Served	Title of Person Serving Notice	Signature of Person Serving Notice
11/17/2021	AREA SUPERVISOR	(b)(6)
Print Name and Title of Person Served		(b)(6)
Eric Baker - Owner		

Address Where Notice Served

10500 New Kent Hwy, New Kent, VA 23124

Absolutely Outdoors, Inc.
10500-A New Kent Highway
New Kent, Virginia 23124

1-54-127-01-9L-04428

Under the provisions of 18 U.S.C. § 923(e) and 27 C.F.R. § 478.73(a), the Attorney General may, after notice and opportunity for hearing, revoke a license issued under 18 U.S.C. § 923 if the holder of the license has willfully violated any provision of the Gun Control Act or regulations issued under the authority of the Gun Control Act (GCA). The license as a dealer in firearms other than destructive devices under Title 18, United States Code, Chapter 44, Firearms, held by Absolutely Outdoors, Inc. (“Absolutely Outdoors”) is subject to revocation. This Notice explains the basis for the revocation.

Legal Authorization for Revocation and Fine

18 U.S.C. § 923(e) provides in applicable part:

The Attorney General may, after notice and opportunity for hearing, revoke any license issued under this section if the holder of such license has willfully violated any provision of this chapter or any rule or regulation prescribed by the Attorney General under this chapter...

Absolutely Outdoors’ Corporate Liability for Acts of Employees

“Under the Act [Gun Control Act], ‘where . . . the licensee is a corporation, it is chargeable with the conduct and knowledge of its employees.’” *Fairmont Cash Management, LLC v. James*, 858 F.3d 356, 363 (5th Cir. 2017)(rejecting licensee’s claim that the business was not responsible for the actions of a “rogue employee”) *citing Stein’s, Inc. v. Blumenthal*, 649 F.2d 463, 467-68 (7th Cir. 1980); *Moreno v. ATF*, 113 F. Supp. 916, 923 (W.D. Tex. 2015); *Arwady Hand Trucks Sales, Inc. v. Vander Werf*, 507 F. Supp. 2d. 754, 763, n.12 (S.D. Tex. 2007).

Compliance History

ATF issued a Federal Firearms License to the licensee on October 4, 2007, following a qualification inspection.

In March 2012, the licensee was subject to its first compliance inspection by ATF Industry Operations Investigators. At the conclusion of the inspection, the licensee was cited for, among other things:

- a) Violation of 27 C.F.R. § 478.99(c)(9) for selling a firearm, on [REDACTED] occasion, to an individual who the licensee knew or had reasonable cause to believe was subject to Federal firearms disabilities.
- b) Violations of 27 C.F.R. § 478.21(a) for transferring a firearm, on [REDACTED] occasions, after using an outdated version of ATF Form 4473.

- c) Violations of 27 C.F.R. § 478.124(c)(1) for transferring a firearm, on (b)(3) (112 Public Law 93 125 Stat 552) occasions, without first requiring the transferee provide certain identifying and residence information required by ATF Form 4473.
- d) Violation of 27 C.F.R. § 478.124(c)(3)(iv) for failing, on (b)(3) (112 Public Law 93 125 Stat 552) occasion, to record all NICS/Virginia Firearms Transaction Program (“VFTP”) transaction information on ATF Form 4473 prior to the transfer of a firearm.

On March 26, 2012, the owner of the FFL, Eric Baker, was provided with a copy of the Report of Violations (ROV) detailing the problems ATF found during the inspection. Mr. Baker signed the ROV, acknowledging that he had received it and that the ATF investigator had discussed the violations with him.

The ATF investigator then reviewed federal firearms regulations and recordkeeping requirements with Mr. Baker and provided him with the Federal Firearms Regulations Reference Guide and a package of ATF Forms. Mr. Baker stated he understood the regulations and signed the Acknowledgment of Federal Firearms Regulations. The ATF investigator provided a copy of the signed Acknowledgment to Mr. Baker.

The licensee received a warning letter on or around March 29, 2012, which again detailed the violations discovered during the inspection. The letter also reminded the licensee that future violations may be considered willful and could result in the revocation of its federal firearms license.

In April 2014, the licensee was subject to a compliance inspection by ATF Industry Operations Investigators. At the conclusion of the inspection, the licensee was cited for, among other things:

- e) Violations of 27 C.F.R. § 478.21(a) for transferring a firearm, on (b)(3) (112 Public Law 93 125 Stat 552) occasions, without first completing accurately all appropriate sections (such as questions 11a, 24, and 25) of ATF Form 4473.
- f) Violation of 27 C.F.R. § 478.124(c)(1) for transferring a firearm, on (b)(3) (112 Public Law 93 125 Stat 552) occasion, without first requiring the transferee provide the personal identifying information (question 17, certification date) required by ATF Form 4473.
- g) Violation of 27 C.F.R. § 478.124(c)(3)(i) for failing to complete question 20a, the purchaser’s identification information, on (b)(3) (112 Public Law 93 125 Stat 552) ATF Form 4473.
- h) Violations of 27 C.F.R. § 478.124(c)(5) for failing, on (b)(3) (112 Public Law 93 125 Stat 552) occasions, to record or properly record the correct date of transfer of a firearm on ATF Form 4473.
- i) Violations of 27 C.F.R. § 478.125(e) for failing, on (b)(3) (112 Public Law 93 125 Stat 552) occasions, to completely, accurately, and timely record information (such as the fact of acquisition, the fact of disposition, and recording the disposition of a firearm while the firearm remained in inventory) into the Acquisition and Disposition record.

On April 10, 2014, Mr. Baker was provided with a copy of the ROV detailing the problems ATF found during the inspection. Mr. Baker signed the ROV, acknowledging that he had received it and that the ATF investigator had discussed the violations with him.

The ATF investigator then reviewed federal firearms regulations and recordkeeping requirements with Mr. Baker and provided him with an opportunity to ask questions. Mr. Baker stated he understood the regulations and signed the Acknowledgment of Federal Firearms Regulations. The ATF investigator provided a copy of the signed Acknowledgment to Mr. Baker.

In June 2018, the licensee was subject to a compliance inspection by ATF Industry Operations Investigators. At the conclusion of the inspection, the licensee was cited for, among other things:

- j) Violations of 27 C.F.R. § 478.21(a) for transferring a firearm, on [REDACTED] occasions, without first completing accurately all appropriate sections (such as questions 11a, 22, 23, 34, and 36) of ATF Form 4473.
- k) Violations of 27 C.F.R. § 478.124(c)(3)(i) for failing to provide a complete response to question 18.a, which requires that the licensee verify and properly record the identity of the transferee by examining a valid government-issued identification document (as defined in 27 C.F.R. § 478.11), on [REDACTED] ATF Forms 4473.
- l) Violations of 27 C.F.R. § 478.124(c)(3)(iv) for failing, on [REDACTED] occasions, to record all NICS/VFTP transaction information on ATF Form 4473 prior to the transfer of a firearm.
- m) Violations of 27 C.F.R. § 478.124(c)(4), on [REDACTED] occasions, for failing to record certain information about the firearm to be transferred (between questions 24-28) on ATF Form 4473 prior to transfer of the firearm.
- n) Violations of 27 C.F.R. § 478.124(c)(5) for failing, on [REDACTED] occasions, to sign and/or record the date of transfer of a firearm on ATF Form 4473.
- o) Violations of 27 C.F.R. § 478.125(e) for failing, on [REDACTED] occasions, to completely, accurately, and timely record information (such as the fact of disposition [REDACTED] of which could not be reconciled and resulted in the filing of a theft/loss report) into the Acquisition and Disposition record.
- p) Violations of 27 C.F.R. § 478.126a for failing, on [REDACTED] occasions involving [REDACTED] handguns, to timely and accurately report the sale of two (2) or more pistols and/or revolvers to an unlicensed person on the same day or within five (5) consecutive business days.

On July 20, 2018, [REDACTED] (b)(6) acting on Mr. Baker's behalf, was provided with a copy of the ROV detailing the problems ATF found during the inspection. Ms. Baker signed the ROV, acknowledging that she had received it and that the ATF investigator had discussed the violations with her.

The ATF investigator then reviewed federal firearms regulations and recordkeeping requirements with [REDACTED] (b)(6) and provided her with an opportunity to ask questions. [REDACTED] (b)(6) stated she understood the regulations and signed the Acknowledgment of Federal Firearms Regulations. The ATF investigator provided a copy of the signed Acknowledgment to Ms. Baker.

The licensee received a warning letter on or about July 30, 2018, which detailed the violations discovered during the inspection. The letter also reminded the licensee that future violations may be

considered willful and could result in the revocation of its federal firearms license.

In September 2019, the licensee was subject to a compliance inspection by ATF Industry Operations Investigators. At the conclusion of the inspection, the licensee was cited for, among other things:

- q) Violation of 18 U.S.C. §§ 922(d) and 922(t)(1), as well as 27 C.F.R. §§ 478.99(c)(9) and 478.102(a)(1), by knowingly transferring [REDACTED] (b)(3) (112 Public Law 55 125 Stat 552)

[REDACTED] (b)(3) (112 Public Law 55 125 Stat 552), (b)(6)

(b)(3) (112 Public Law 55 125 Stat 552), (b)(6)

[REDACTED] Therefore, as provided in 18 U.S.C. § 922(t)(5), the Director, Industry Operations, determined that the licensee is subject to a fine of \$8,831.00.

- r) Violations of 18 U.S.C. § 922(t)(1) and 27 C.F.R. § 478.102(a)(1) on approximately 6 occasions by transferring a firearm to an unlicensed person without conducting a NICS/VFTP background check on the purchaser of the firearm.
- s) Violations of 18 U.S.C. § 922(m) and 27 C.F.R. § 478.128(c) on [REDACTED] occasions by making a false statement or representation with respect to the information required to be kept on ATF Form 4473 (questions 19.a, 19.b, and 19.c) by recording a background check approval code for prior unrelated transfers.
- t) Violations of 18 U.S.C. §§ 922(m) and 923(g)(1)(A), and 27 C.F.R. § 478.125(e), on approximately [REDACTED] (b)(3) (112 Public Law 55 125 Stat 552) occasions for failing to completely, accurately, and/or timely record information into the Acquisition and Disposition record.
- u) Violations of 18 U.S.C. § 922(g)(3) and 27 C.F.R. § 478.126a, on approximately [REDACTED] occasions involving [REDACTED] (b)(3) (112 Public Law 55 125 Stat 552) handguns, for failing to timely and accurately report the sale of two (2) or more pistols and/or revolvers to an unlicensed person on the same day or within five (5) consecutive business days.
- v) Violations of 18 U.S.C. §§ 922(m) and 923(g)(1)(A), and 27 C.F.R. § 478.21(a), involving approximately [REDACTED] (b)(3) (112 Public Law 55 125 Stat 552) occasions (or [REDACTED] (b)(3) (112 Public Law 55 125 Stat 552) ATF Forms 4473) for failing to obtain/execute ATF Form 4473 as indicated by the headings on the form and the instructions on or pertaining to the form (such as questions 11.a, 16, 29, 33, 34 and 36).
- w) Violations of 18 U.S.C. §§ 922(m), 922(t)(1)(c), and 923(g)(1)(A), and 27 C.F.R. § 478.124(c)(3)(i) on [REDACTED] ATF Form 4473 by failing to provide a complete response to question 18.a, which requires that the licensee verify and properly record the identity of the transferee by examining a valid government-issued identification document (as defined in 27 C.F.R. § 478.11).

- x) Violations of 18 U.S.C. §§ 922(m), 922(t), and 923(g)(1)(A), and 27 C.F.R. § 478.124(c)(3)(iv) on approximately [REDACTED] occasions (on [REDACTED] ATF Forms 4473) for failing to record background check information on ATF Form 4473 prior to the transfer of a firearm. The licensee conducted background checks in these instances but failed to provide responses on the ATF Forms 4473.
- y) Violations of 18 U.S.C. §§ 922(m) and 923(g)(1)(A), and 27 C.F.R. § 478.124(c)(4), on approximately [REDACTED] occasions for failing to record certain information about the firearm to be transferred (between questions 24-28) on the ATF Form 4473 prior to transfer of the firearm.
- z) Violations of 18 U.S.C. §§ 922(m) and 923(g)(1)(A), and 27 C.F.R. § 478.124(c)(5), on approximately [REDACTED] occasions (on [REDACTED] ATF Forms 4473) by failing to properly sign and/or record the correct date of transfer of a firearm on ATF Form 4473 certifying that the licensee does not know or have reason to believe the transferee is disqualified by law from receiving the firearm described on the form.

On November 13, 2019, Mr. Baker was provided with a copy of the ROV detailing the problems ATF found during the inspection. Mr. Baker signed the ROV, acknowledging that he had received it and that the ATF investigator had discussed the violations with him.

The ATF investigator then reviewed federal firearms regulations and recordkeeping requirements with Mr. Baker and provided him with an opportunity to ask questions. Mr. Baker stated he understood the regulations and signed the Acknowledgment of Federal Firearms Regulations. The ATF investigator provided a copy of the signed Acknowledgment to Mr. Baker.

On June 30, 2020, ATF served the licensee with a Notice to Revoke and/or Impose a Civil Fine pursuant to 18 U.S.C. §§ 923(e) and 922(t)(5). The licensee made a timely request for a hearing; however, the parties entered a settlement agreement on or about August 25, 2020. *See* Appendix A. Pursuant to the settlement agreement, ATF agreed not to revoke Absolutely Outdoors' Federal firearms license, and Absolutely Outdoors agreed to pay a civil fine of \$8,831.00, to voluntarily cease firearms transfers for a period of 60 days, and to ensure that [REDACTED] would have **“no involvement in the firearms portion of the business activities conducted by Absolutely Outdoors including, but not limited to, any involvement in the recordkeeping requirements of the Gun Control Act or its implementing regulations for a period of 1 year.”** (Emphasis added.)

Notably, Paragraph 3 of the settlement agreement states: “Notwithstanding the restrictions in the preceding paragraph, ATF may introduce this Agreement and its Appendix at any future administrative proceeding against Absolutely Outdoors, any of its responsible persons, or any of its employees, to help demonstrate the willfulness of any alleged future violation of the Gun Control Act, or regulations promulgated thereunder, by Absolutely Outdoors, its responsible persons, or any of its employees.” *See* Appendix A, p. 2, ¶ 3. Moreover, the licensee stipulated in Paragraph 4 of the settlement agreement that “the violations happened as set forth in the Notice; the violations were committed “willfully” within the meaning of this term as it applies to administrative violations of the Gun Control Act; and the violations were in or affecting interstate or foreign commerce.”

Current Inspection

On July 20, 2021, ATF Industry Operations Investigator (b)(6) conducted a compliance inspection of the licensee's premises that covered the period July 26, 2020, through July 26, 2021. The inspection revealed the following willful violations of the Gun Control Act and Gun Control Act regulations.

Legal and Factual Ground for Revocation

1. You violated 18 U.S.C. §§ 924(a)(1)(A), 923(g)(1)(A), and 922(m), as well as 27 C.F.R. §§ 478.128(c), 478.121(c), and 478.58 on at least (b)(6) occasions when (b)(6) willfully and knowingly used Eric Baker's unique seller ID number (b)(6) to conduct background checks in violation of Virginia law and willfully and knowingly made a false statement or representation with respect to the information required to be kept on at least (b)(6) ATF Forms 4473 when (b)(6) recorded Eric Baker's name and signature under questions 34 and 35, falsely representing that it was Eric Baker who had conducted the firearm transfers. This is a repeat violation. The licensee was previously cited for other violations of 18 U.S.C. § 922(m) and 27 C.F.R. § 478.128(c) during the 2019 compliance inspection. *See* Appendix B, ¶ 1.
2. You violated 18 U.S.C. §§ 922(m) and 923(g)(1)(A), and 27 C.F.R. § 478.21(a), by willfully failing to obtain/execute ATF Form 4473 as indicated by the headings on the form and the instructions on or pertaining to the form on approximately (b)(6) occasions (b)(6) of which you used a handstamp of Eric Baker's signature on Item 35 of ATF Form 4473 instead of handwriting the signature in ink and (b)(6) of which you transferred a firearm after using an outdated version of ATF Form 4473). This is a repeat violation. The licensee was previously cited for other violations of 27 C.F.R. § 478.21(a) during the 2012, 2014, 2018, and 2019 compliance inspections. *See* Appendix B, ¶ 2.
3. You violated 18 U.S.C. § 923(g)(1)(A) and 27 C.F.R. § 478.129(b) by willfully failing to retain ATF Form 4473 for a period of not less than 20 years after the date of sale or disposition on (b)(6) occasion. *See* Appendix B, ¶ 3.
4. You violated 18 U.S.C. §§ 922(m) and 923(g)(1)(A), and 27 C.F.R. § 478.125(e), on approximately (b)(6) occasions by willfully failing to completely, accurately, and/or timely record information into the Acquisition and Disposition record. This is a repeat violation. The licensee was previously cited for other violations of 27 C.F.R. § 478.125(e) during the 2014, 2018, and 2019 compliance inspections. *See* Appendix B, ¶ 4.

**Final Notice of Denial of Application, Revocation
Suspension and/or Fine of Firearms License**

In the matter of:

- The application for license as a/an _____, filed by:
or
 License Number 1-54-127-01-9L-04428 as a/an
Dealer in Firearms Other than Destructive Devices, issued to:

Name and Address of Applicant or Licensee (Show number, street, city, state and Zip Code)

Absolutely Outdoors, Inc.
10500-A New Kent Highway
New Kent, Virginia 23124

Notice is Hereby Given That:

- A request for hearing pursuant to 18 U.S.C. § 923(f)(2) and/or 922(t)(5) was not timely filed. Based on the findings set forth in the attached document, your
 license described above is revoked pursuant to 18 U.S.C., 923(e), 922(t)(5) or 924(p), effective:
 15 calendar days after receipt of this notice, or December 7, 2021,
 license is suspended for _____ calendar days, effective _____, pursuant to 18 U.S.C. § 922(t)(5) or 924(p).
 licensee is fined \$ _____, payment due: _____, pursuant to 18 U.S.C. § 922(t)(5) or 924(p)
- After due consideration following a hearing held pursuant to 18 U.S.C. § 923(f)(2) and/or 922(t)(5), and on the basis of findings set out in the attached copy of the findings and conclusions, the Director or his/her designee concludes that your
 application for license described above is denied, pursuant to 18 U.S.C., 923(d).
 application for renewal of license described above is denied pursuant to 18 U.S.C. 923(d), effective:
 15 calendar days after receipt of this notice, or _____
 license described above is revoked pursuant to 18 U.S.C., 923(e), 922(t)(5) or 924(p), effective:
 15 calendar days after receipt of this notice, or _____
 license is suspended for _____ calendar days, effective _____, pursuant to 18 U.S.C. § 922(t)(5) or 924(p).
 licensee is fined \$ _____, payment due: _____, pursuant to 18 U.S.C. § 922(t)(5) or 924(p).

If, after the hearing and receipt of these findings, you are dissatisfied with this action you may, within 60 days after receipt of this notice, file a petition pursuant 18 U.S.C. § 923(f)(3), for judicial review with the U.S. District Court for the district in which you reside or have your principal place of business. If you intend to continue operations after the effective date of this action while you pursue filing for judicial review or otherwise, you must request a stay of the action from the Director of Industry Operations (DIO), Bureau of Alcohol, Tobacco, Firearms and Explosives, at _____

prior to the effective date of the action set forth above. You may not continue licensed operations unless and until a stay is granted by the DIO.

Records prescribed under 27 CFR Part 478 for the license described above shall either be delivered to ATF within 30 days of the date the business is required to be discontinued or shall be documented to reflect delivery to a successor. See 18 U.S.C. 923(g)(4) and 27 CFR § 478.127.

After the effective date of a license denial of renewal, revocation, or suspension, you may not lawfully engage in the business of dealing in firearms. Any disposition of your firearms business inventory must comply with all applicable laws and regulations. Your local ATF office is able to assist you in understanding and implementing the options available to lawfully dispose of your firearms business inventory.

Date 12/6/21	Name and Title of Bureau of Alcohol, Tobacco, Firearms and Explosives Official Michael F. Fronczak - Director, Industry Operations	Signature MICHAEL FRONCZAK	Digitally signed by MICHAEL FRONCZAK Date: 2021.12.06 12:39:23 -05'00'
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I certify that, on the date below, I served the above notice on the person identified below by:

Certified mail to the address shown below.
Tracking Number: _____

Or

Delivering a copy of the notice to
the address shown below.

Date Notice Served	Title of Person Serving Notice Industry Operations Investigator	Signature of Person Serving Notice
Print Name and Title of Person Served Eric Baker - Owner		Signature of Person Served
Address Where Notice Served		

Note: Previous Edition is Obsolete

Absolutely Outdoors, Inc.
10500-A New Kent Highway
New Kent, Virginia 23124

1-54-127-01-9L-04428

Findings of Fact and Conclusions of Law

Background and Procedural History

On or about November 10, 2021, the Director of Industry Operations, Washington Field Division, Bureau of Alcohol, Tobacco, Firearms and Explosives (“ATF”) issued a Notice of Revocation of License and/or Civil Fine, ATF Form 4500, (“the Notice”) to Absolutely Outdoors, Inc. The Notice was served on Mr. Eric Baker by Area Supervisor [REDACTED] (b)(6) via personal delivery in accordance with 27 C.F.R. § 478.75 on November 17, 2021. The Notice informed Absolutely Outdoors, Inc. that ATF intended to revoke its Federal license as a dealer in firearms because the licensee willfully violated the Gun Control Act (GCA) and its implementing regulations. The Notice also advised Absolutely Outdoors, Inc. that it could file a request for a hearing to review the revocation of its license within 15 days after receipt of the Notice.

Absolutely Outdoors, Inc. failed to make a timely request for a hearing within 15 days after receipt of the Notice. Accordingly, I am issuing this Final Notice of Revocation with Findings and Conclusions as prescribed by 27 C.F.R. § 478.73(b).

Findings and Conclusions

In the absence of any evidence to the contrary, I find that the violations alleged in the Notice took place as stated therein. Specifically, I find that the licensee was an experienced Federal Firearms licensee who knew and understood its obligations under the Gun Control Act and Gun Control Act regulations, but nevertheless displayed plain indifference and purposeful

disregard for these obligations. As such, in the aforementioned instances the licensee willfully violated the Gun Control Act. *American Arms Int'l v. Herbert*, 563 F. 3d 78, 83 (4th Cir. 2009); *RSM v. Herbert*, 466 F. 3d 316, 321 (4th Cir. 2006).

Current Inspection

On July 20, 2021, ATF Industry Operations Investigator (b)(6) conducted a compliance inspection of the licensee's premises that covered the period July 26, 2020, through July 26, 2021. The inspection revealed the following willful violations of the Gun Control Act and Gun Control Act regulations.

Legal and Factual Ground for Revocation

1. You violated 18 U.S.C. §§ 924(a)(1)(A), 923(g)(1)(A), and 922(m), as well as 27 C.F.R. §§ 478.128(c), 478.121(c), and 478.58 on at least (b)(6) occasions when (b)(6) willfully and knowingly used Eric Baker's unique seller ID number (b)(6) to conduct background checks in violation of Virginia law and willfully and knowingly made a false statement or representation with respect to the information required to be kept on at least (b)(6) ATF Forms 4473 when (b)(6) recorded Eric Baker's name and signature under questions 34 and 35, falsely representing that it was Eric Baker who had conducted the firearm transfers.
2. You violated 18 U.S.C. §§ 922(m) and 923(g)(1)(A), and 27 C.F.R. § 478.21(a), by willfully failing to obtain/execute ATF Form 4473 as indicated by the headings on the form and the instructions on or pertaining to the form on approximately (b)(6) occasions (b)(6) of which you used a handstamp of Eric Baker's signature on Item 35 of ATF Form 4473 instead of handwriting the signature in ink and (b)(6) of which you transferred a firearm after using an outdated version of ATF Form 4473).
3. You violated 18 U.S.C. § 923(g)(1)(A) and 27 C.F.R. § 478.129(b) by willfully failing to retain ATF Form 4473 for a period of not less than 20 years after the date of sale or disposition on (b)(6) occasion.
4. You violated 18 U.S.C. §§ 922(m) and 923(g)(1)(A), and 27 C.F.R. § 478.125(e), on approximately (b)(6) occasions by willfully failing to completely, accurately, and/or timely record information into the Acquisition and Disposition record.

Revocation

Accordingly, the Federal firearms license held by Absolutely Outdoors, Inc. shall be revoked at close of business on the date stated on the first page of this Final Notice of Revocation.

12/6/21

Date

Michael F. Fronczak
Director, Industry Operations
Washington Field Division