

CHARLES A HARTER 's FCI  
FCI-15551  
01/12/2023 03:05 PM  
IO# (b)(6), Kansas City III (IO) Field Office

**LICENSEE INFORMATION**

Applicant Name  
CHARLES A HARTER  
(Sole Proprietor)

RDS Key  
5-48-12857

License/Permit Number  
5-48-113-02-0H-12857

License Type  
02 - Pawnbroker License

Business Type  
Sole Proprietorship

Premises Ownership Type  
Owned

Premises Address  
368 NAVAJO RD, Unit N/A,  
MCPHERSON, Kansas 67460

Premises Location Type Required  
Single Family Dwelling

Address  
368 NAVAJO RD  
Unit N/A  
MCPHERSON, Kansas 67460  
MCPHERSON  
United States

Address  
368 NAVAJO RD  
Unit N/A  
MCPHERSON, Kansas 67460  
MCPHERSON  
United States

Phone Type	Phone Number	Remarks
Business	+1 620-489-9407	
Fax	+1 620-489-6291	

**RECOMMENDATIONS**

Final Decision Date  
Revocation 06/20/2022

Details

**FCI-15551**

Lead IOI# (b)(6)

Inspection Date: 6/2/2021

Per the DOJ Comprehensive Strategy to Prevent and Respond to Gun Crime and Ensure Public Safety, the inspection meets revocation standards based upon the FFL failing to wait three business days (with no NICS response (delayed)) to transfer a firearm. On 6/7/2020, the licensee conducted a NICS check and received a "delayed" response from NICS. On 6/11/2020, the licensee transferred the firearm. On 7/19/2020, the licensee checked #19 d "no response was provided within 3 business days" and also incorrectly checked the "proceed" box and date of 7/19/2020, as the secondary NICS response. When asked about this instance the licensee stated that "he always just figures the 3 business days on his own and never writes the date from NICS. He stated that he "originally didn't call into NICS until the day after the customer came in (6/6/2020) because the customer came in late, and he just called it in the next day". He stated, "he must have figured the days wrong and didn't mean to transfer it early. The licensee failed to conduct the NICS check and accepted law enforcement credentials in lieu of Kansas concealed carry permits in 4 separate transactions. When asked about these instances the licensee did not understand why a concealed carry permit could be used in lieu of the NICS check but not a police officer's credentials. "They carry firearms all the time." IO# (b)(6) conducted a criminal history inquiry on these 5 purchasers and determined they are not prohibited. The licensee has been re-educated on the NICS requirements and the licensee and has taken responsibility for the violations. The firearm trace history for the inspection period (b)(3) (112 Public Law 55 125 Stat 552) There is no known nexus to gang violence nor criminal activities. Additional violations include failing to properly document the identification of the transferee, failure to retain 4473s in order, failure to timely record the acquisition/disposition of firearms, and failure to report the multiple sales of handguns.

**Recommendation: REVOCATION**

Notice of Revocation sent 12/8/2021  
Hearing Requested 12/20/2021  
Revocation Hearing held 3/29/2021

Final Notice of Revocation sent 6/10/22

Final Notice of Revocation received 6/18/22

Licensee records received at OOBRC on 9/29/22

Email to: (b)(6)

Forwarded to: (b)(6)

**Out of Business Records and Inventory Management**

**Licensee Records**

**Licensee Inventory**

✔ Submitted to the Federal Licensing Center

✔ Inventory transferred to self

Deputy Assistant Director - Industry Operations Megan Bennett's Recommendation  
Revocation

Details

I concur with the recommendation of revocation as the FFL transferred a firearm within 3 days after receiving a delayed response from NICS.

Special Agent in Charge Frederic Winston's Recommendation

I concur with revocation, based upon the violations listed above.

Division Counsel: (b)(6) Review

Details

Revocation in this matter appears legally supported after Acting ACC (b)(6) and I reviewed. I suggest citing the other repeat willful violations in the notice along with the 102(a) violation.

Director of Industry Operations William Miller's Recommendation  
Revocation

Details

Per the DOJ Comprehensive Strategy to Prevent and Respond to Gun Crime and Ensure Public Safety, the inspection meets revocation standards based upon the FFL failing to wait three business days (with no NICS response (delayed)) to transfer a firearm. The licensee also failed to conduct the NICS check and accepted law enforcement credentials in lieu of Kansas concealed carry permits in 4 separate transactions.

Additional violations include failing to properly document the identification of the transferee, failure to retain 4473s in order, failure to timely record the acquisition/disposition of firearms, and failure to report the multiple sales of handguns.

Area Supervisor: (b)(6) Recommendation  
Warning Conference

Details

FCI-15551

LEAD IO: (b)(6)

Inspection date: 6/2/2021

The inspection findings meet the standard for Warning Letter under the current Federal Firearms Administrative Action Policy and Procedures (ATF O 5370.1D) dated 10/19/2019, however under the July 14, 2021, Memorandum outlining the Implementation of the Administration's Comprehensive Strategy to Prevent and Respond to Gun Crime and Ensure Public Safety, the following violations now meet the standard for REVOCATION:

VIOLATION 1 – 27 CFR 478.102(a) – Failure of the licensee to conduct a NICS check. (4 instances)

VIOLATION 2 – 27 CFR 478.102(a)(2)(ii) – Failure of the licensee to wait 3 business days (with no NICS response) to transfer a firearm. (1 instance)

JUSTIFICATION FOR ALTERNATE OF DIO WARNING CONFERENCE IN LIEU OF REVOCATION:

Although the inspection findings appear to meet the standard of revocation under the new memorandum guidelines because of the licensee's failure to conduct the NICS check (s) as required, the establishment of actual willfulness is difficult to prove. In the first 4 instances where the licensee failed to conduct a NICS check, licensee articulated that he accepted LE credentials in lieu of a Kansas concealed carry permit, which is allowed in lieu of a NICS check for Kansas Federal firearms licensees. The licensee did not understand why a concealed carry permit could be used in lieu of a NICS check but not a police officer's credentials... They carry guns all the time". In the second instance where the licensee failed to wait 3 business days (with no NICS response) to transfer a firearm, the licensee articulated that he "always just figures the 3 business days on his own and never writes the date from NICS". He stated that he "originally didn't call into NICS until the day after the customer came in because the customer came in late, and he just called it in the next day." He stated, he "must have figured the days wrong and didn't mean to transfer it early." It is noted, however, that this licensee has been cited for failing to conduct the NICS check on more than one occasion since becoming licensed.

This assignment was submitted and reviewed under the guidelines established under the Federal Firearms Administrative Action Policy and Procedures without the Area Supervisor's knowledge of the July 14, 2021, Memorandum. The licensee has already received a Warning Letter on July 28, 2021, as a result of this inspection. It is understood that this request for alternate is being made after this fact.

The licensee's firearms trace activity: (b)(3) (112 Public Law 55 125 Stat 552)  
(b)(3) (112 Public Law 55 125 Stat 552)

IO (b)(6) conducted criminal background checks on the five individuals identified under these violations and found no derogatory or prohibiting "hits".

Industry Operations Investigator: (b)(6) Recommendation  
Revocation

Details

Revocation, previous compliance history is more than 5 years, but had repeat violations and previous warning conference.

**Inspection Findings**

**Transfer of Firearm**

2. Transfer of a firearm prior to receiving a final NICS response (or applicable State POC background check) and 3 business days have not elapsed since the FFL contacted the system and the purchaser is NOT prohibited.

**NICS**

2. Failure to conduct a NICS check or obtain alternative permit for the transfer of a firearm to a law enforcement officer for personal use.

**Failure to Report**

1. Failure to file Reports of Multiple Sale or Other Disposition of Pistols and Revolvers (F 3310.4) or Reports of Multiple Sales or Dispositions of Certain Rifles (F 3310.12) (Southwest Border states only) when legally required and with a minimum of [redacted] instances.

**ELIGIBILITY VERIFICATION**

**Business Information Verification**

**Property Ownership Verification**

Premises Ownership Type	Premises Location Type	Has the property ownership been verified?
Owned	Single Family Dwelling	Yes

Address  
368 NAVAJO RD  
Unit N/A  
MCPHERSON, Kansas 67460  
MCPHERSON  
United States

Additional Findings  
The business premises is suitable for the activities conducted [redacted (b)(6)] It is located in a rural area outside the City limits of McPherson, KS in McPherson County. Harter has a shedon premise set up as a storefront location with an outdoor shooting range on the same property that is open to the public. According to the MCPherson County Appraiser’s Office, the business premises is owned by Charles Harter. Off-site storage is not utilized.

Attachment(s):  
property.pdf

**Trade Name/DBA Verification**

Trade Name/DBA	Is the trade name/DBA registered?
C & H GUNS	Yes

Additional Findings  
Kansas does not require the registration of trade names.

Attachment(s):  
Kansas Sec of State - Trade Names Registration Not Required.pdf

**Zoning Information Verification**

Is the proposed business activity in compliance with zoning?  
Yes

Additional Findings  
There are no zoning regulations prohibiting the licensee’s business activities per KSA 12-16,124 which states, “No city or county shall adopt any ordinance, resolution or regulation, and no agent of any city or county shall take any administrative action, governing the purchase, transfer, ownership, storage or transporting of firearms or ammunition, or any component or combination thereof.”

Attachment(s):  
KSA 12-16, 124 - Firearms and Ammo; Regulation by City or County, Limitations (2015).pdf

**APPOINTMENT DETAILS**

Interview Date  
06/02/2021  
Address  
368 NAVAJO RD, Unit N/A, MCPHERSON, Kansas 67460

<b>Responsible Attendee(s)</b>	<b>Non-Responsible Person(s)</b>
CHARLES A HARTER	No Items

**RESPONSIBLE PERSON(S)**

CHARLES A HARTER

Name: CHARLES A HARTER      Gender: Male      Race:      Ethnicity:      Date of Birth: (b)(6)      SSN: (b)(6)      Job Title: OWNER

**Physical Identifiers**

Height:      Weight:      Hair Color:      Eye Color:

**Place of Birth**

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

**Home Address**

(b)(6)

United States

**Additional Names**

**Citizenship**

United States

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

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

Email Address	Email Remarks
(b)(6)	

**Criminal History Check**

Date Criminal History Check Conducted: 05/17/2021

Criminal History Check Comments: No NCIC hit

**INTERVIEW QUESTIONNAIRE**

What is the proposed business activity?

Charles Harter is a sole proprietor. He has held the FFL since 1982. He has a trade name of C & H Guns. Harter stated that he started the firearms business when he came back to the US as a veteran. He said he knew guns well and decided to make some money of it. Over 20 years ago he had a storefront location in town. About 20 years ago, he moved out to the country and opened the public shooting range. He stated that the firearms business has provided him steady income. This is Harter's main source of income. C & H Guns is a firearms retail sales business as well as (b)(3)(26 USC § 6103) firearms operated from a shop on the property. At the firearms range Harter provides Kansas Conceal Carry training and (b)(3)(26 USC § 6103) Harter is licensed as a Type-02 Pawnbroker but had not taken in any firearms on pawn since the storefront location over 20 years ago. Harter deals in both new and used firearms. The licensee acts as an in-state transfer dealer for Kansas residents, does special orders for customers and also takes used guns in on trade. The licensee does not conduct business at gun shows although he does rent a booth at certain shows as a way to advertise the shooting range. Harter also stated the business does not conduct internet sales and does not conduct gunsmith activities. There is a website for the business, THEOUTBACKPARK.COM, but no firearm sales are conducted through this website. The business uses the social media and word of mouth to advertise. Harter stated that he usually carries around 100 firearms in inventory, including his (b)(3)(26 USC § 6103) He also sells ammunition and firearms accessories. He estimated (b)(4) of his firearms business to be new firearms and (b)(4) used. He also thought that (b)(4) were handgun sales and only (b)(4) long guns. Harter stated that (b)(4) are his main suppliers of new firearms. The company also pays the (b)(3)(26 USC § 6103). Harter noted that the main reason for the (b)(4) firearms on the range- mainly fully automatic firearms. However, he does occasionally sell/ transfer silencers to individuals. Harter is in charge of all business records and day to day operations. There are no employees at this time. The license applied for is appropriate for the business. The licensee is in compliance with all state/local laws. There is no offsite storage of records or firearms.

Do they need an additional license or permit?

No

Who are their primary suppliers?

Harter stated that (b)(4) are his main suppliers of new firearms.

**Business Activities**

Selected Operational Security Measures

No items

Pawnbroker

(b)(3)(26 USC § 6103)

Retail

**SUPPLEMENTAL QUESTIONNAIRE**

**General Business Operations**

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

(b)(6)

Who has keys to the premises?

Only Charles Harter has keys to premise.

Who has keys to locked inventory?

Only Charles Harter has keys to locked inventory.

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

Charles Harter operates the business on a day to day basis.

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

No financial backing provided.

Are any employees known to be prohibited?

No employees.

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

No employees.

**SECURITY WALKTHROUGH**

Inspection Area Description

The licensed business premises is Charles Harter's residence. He has a shop set up on the same premise. However, the shop is set up as a storefront. He also runs a public shooting range that is open to the public during business hours on the same premise. It is located in a rural area outside the City Limits of McPherson, KS in McPherson County. All transfers take place at the front counter of the shop. Inventory is kept (b)(4). Records are also kept in the shop (b)(6). (b)(6) Investigators (b)(6) met with Harter on 6/2/21, at his shop. All records and inventory were reviewed here. There was a dog that roamed the premise. There were loaded firearms behind the counter. There were no hidden rooms. The inspection was not recorded.

Primary Activity

Retail

Selected Physical Security Measures

(b)(6)

GPS Coordinates

Latitude  
38.42119

Longitude  
-97.85747

**ONSITE SUMMARY**

Total Number of ATF Form 4473s for Inspection Review Period

Total Number of ATF F 4473 Reviewed

Total Number of Open Dispositions in A & D Record

Total Number of Firearms in Inventory

114

Actual Number of Firearms Verified

Number of Firearms Missing Before Reconciliation

Total Number of Firearms Missing After Reconciliation

0

Total Number of Acquisitions in the Last 12 Months

(b)(4)

Total Number of Dispositions in the Last 12 Months

(b)(4)

Onsite Start Date

Onsite End Date

Number of Reported Lost/Stolen Firearms During Inspection Period

Total Number of Traces During Inspection Review Period

Total Number of Those Traces That Were Unresolved

Inspection Period Start Date

Inspection Period End Date

Number Of Traces Resolved By IOI

[Click Here to See List of Perfected Traces](#)

(b)(3)(26 USC § 6103)

NFA Documents Verified

(b)(3)(26 USC § 6103)

Additional Comments

Prior to the inspection, a check in E-Trace returned no significant findings. An N-FORCE check also returned no hits. There are no variances held and none were requested.

INSPECTION HISTORY

August 2015 – Recall Compliance Inspection

UI#: 779025-2015-0036-B1B

Inspection Results: Violations, ROV Only, No Recall

Cited Violations: 27 CFR 478.125(e)- Failure to record disposition of firearms

27 CFR 478.102(c)- Failure to conduct a new NICS check after 30 days

27 CFR 478.124(c)(5)- Failure correctly date the date of transfer on the 4473

January 2013- Compliance Inspection

UI#: 779025-2013-0306

Inspection Results: Violations, Warning Conference with Warning Letter and Recall

Cited Violations: 27 CFR 478.124(c)(5)- Failure to correctly date the date of transfer on the 4473

27 CFR 478.124(c)(3)(i)- Failure to record proper identification on 4473

27 CFR 478.21a- Failure to follow instructions on the form

27 CFR 124(c)(1)- Failure to have transferee certify the 4473

ACQUISITION & DISPOSITION (A&D) RECORD – INVENTORY

The licensee maintains a handwritten A&D book that meets the formatting requirements of 27 CFR 478.125. The licensee acquired approximately (b)(4) firearms in the last year and disposed of approximately (b)(4) firearms in the last year.

When examining the inventory against the A&D book, there were (b)(4) open entries in the A&D book and 114 firearms in inventory. There was (b)(4) firearm in inventory that was not recorded in the A&D book. Licensee stated that he had taken that firearm in over a year ago brand new from a supplier. He could not believe the firearm had not been logged in the A&D book. He could not find an invoice for the firearm so called his three main suppliers- (b)(4). All three of those suppliers stated that they have never had the firearm and did not transfer it to him. Harter then called (b)(4) who he has not used in years. They also stated that they have never transferred that firearm to him. Harter stated that he does not use any other suppliers and does not know who else he would have acquired the firearm from. He stated that one of the supplier's records must be wrong and hopefully they will realize they have made a mistake in their records and call him back. THIS IS A REPEAT VIOLATION FROM THE 2015 INSPECTION.

A sample of ATF F 4473s were compared to the A&D book for accuracy. (b)(4) discrepancies were found. The date the firearm was logged out in the A&D book did not match the transfer date on the ATF F 4473. Harter stated that he must have recorded the date that he actually logged the gun out and not the date the transfer was made as he often does not log the guns out of the A&D book on the same day.

All other entries appeared to be accurately and timely entered in the A&D book. Harter was reminded (b)(3)(26 USC § 6103)

(b)(3)(26 USC § 6103)

There were no reports of thefts or losses for the past year. Harter is responsible for logging firearms in and out of the A&D book. There is no double check system.

There were no trafficking issues found while reviewing the A&D book. Also, there were no firearms with obliterated serial numbers or illegal firearms found.

ATF FORMS 4473 –NICS & OTHER DISPOSITIONS

There were (b)(4) ATF F 4473s on file for the last year. All (b)(4) forms were reviewed. ATF F 4473s are kept in numerical order by transaction serial number. However, there are several numbers that are skipped and jumped around.

There were multiple errors found while reviewing ATF F 4473s. Licensee failed to follow instructions on the ATF F 4473 and left blank multiple items, including total number of firearms transferred, and the transferor's name and title. THIS IS A REPEAT VIOLATION FROM THE 2013 INSPECTION.

Licensee failed to have the transferor certify the 4473, with blank answers to prohibiting questions, and failing to sign and date the 4473 or recertify the 4473. THIS IS A REPEAT VIOLATION FROM THE 2013 INSPECTION.

Also, the licensee failed to record a valid identification document on the ATF F 4473. Harter stated that he always gets additional identification when the address on the ID does not match the address on the front of the form, but that sometimes governmental issued is hard to get. THIS IS A REPEAT VIOLATION FROM THE 2013 INSPECTION.

The licensee also failed to record NICS information on the ATF F 4473.

The licensee failed to wait 3 business days after calling into NICS and receiving a delayed to transfer a firearm. Harter stated that he often calls the NICS check in the next day, especially if the customer comes in late. He stated that he just tried to figure out the 3 day waiting period on his own and didn't take into account weekends as state business days. Harter stated that he thinks NICS gives him delayed responses all the time on purpose just to mess with him to push him into the NICS echeck. Harter stated that he has no internet access and can't do anything via the Internet.

The license also failed to conduct a NICS check when transferred a firearm to a law enforcement officer for off duty purposes.

Also, the licensee failed to record transferor information and correct date of firearm transfer on the ATF F 4473. Harter stated that the ATF guy that was here before told him that the transfer date had to match the date that the customer originally signed and dated the 4473, so he has put that date down ever since. He thought it was weird since it wasn't the date transferred but that is what the guy told him so he did it. He said he got in trouble last time because he dated the form with the date he logged it out of his book and not the date he transferred the firearm and that is what the ATF told him to do. Investigator (b)(6) told Harter that the transfer date should match either the customer certification date or the recertification date and that it should be the exact date the firearm is actually transferred. THIS IS A REPEAT VIOLATION FROM THE 2015 and 2013 INSPECTION.

The licensee also failed to record all firearm identification information on the ATF F 4473.

Harter is responsible for completing ATF F 4473s and NICS checks. There is no double check system.

There were no transfers to law enforcement officers for official duty. FFL copies were on file for all transfers to other FFLs. There were 24 transferred NTN's on the ATF FFL Audit Log for the inspection period, with no discrepancies. There were no denied NTN's, with no discrepancies.

MULTIPLE SALES

Per VCAB, there were no multiple sale reported for the inspection period. However, there were (b)(6) unreported multiple sales. Harter stated that he never sells two handguns on the same day. Investigator (b)(6) explained to him that it was 2 or more within 5 of his business days. Harter stated that he never knew that and that he thought it was only on the same day and that is why he would always have them come in on different days. Harter stated that his customers do not want the government to have their information and was upset he was going to have to do the multiple sale on them. He stated in the future he would make sure he waited 6 days so he doesn't have to fill out the form in the future.

SUSPICIOUS / PROHIBITED PURCHASERS

There were no traffickers, straw purchasers, or other suspicious purchasers identified within the inspection period. Further, no other computerized criminal history checks were conducted than previously mentioned.

TRACE ACTIVITY

Per VCAB, there were (b)(4) trace requests for the inspection period. All traces were successfully completed by the dealer.

MANUFACTURING

Not applicable.

NFA

(b)(3)(26 USC § 6103)

OTHER

There were no referrals made. Licensee had the Youth Handgun Safety Act pamphlets and had the YHSA poster displayed. The business also had their FFL posted. Licensee does not sell exploding targets. Licensee had trigger locks for sale.

Attachment(s)

Report of Violations.pdf

Licensee Response to Violations Report.pdf

Regulation	Corrective Actions	Instance Details
1 27 CFR 478.124(c)(1): Failure to obtain a completed ATF F 4473  ATF Forms 4473: [ ] Number of Instances: [ ]	Ensure that all required ATF Form 4473 Section A items are completed/provided by the transferee/buyer on all future transactions. Ensure that the transferee/buyer provides required signature and date, on ATF Form 4473 Section C, for all transactions taking place on a date different from when Section A was certified.	
2 27 CFR 478.21(a): Failure to complete forms as prescribed  ATF Forms 4473: [ ] Number of Instances: [ ]	Complete all forms as prescribed.	
3 27 CFR 478.124(c)(5): Failure by transferor to sign and/or date an ATF F 4473  ATF Forms 4473: [ ] Number of Instances: [ ]	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.	
4 27 CFR 478.124(c)(3)(i): Failure to verify or record Identification document on ATF F 4473  ATF Forms 4473: [ ] Number of Instances: [ ]	Ensure that all required transferee/buyer identification information is obtained, validated and accurately recorded on all future ATF Forms 4473, Section B.	
5 27 CFR 478.124(c)(3)(iv): Failure to record NICS contact information on an ATF F 4473  ATF Forms 4473: [ ] Number of Instances: [ ]	Ensure that all required NICS/POC background check information is obtained, validated and accurately recorded on all future ATF Forms 4473, Section B.	
6 27 CFR 478.126a: Failure to report multiple sales or other dispositions of pistols and revolvers  ATF Forms 4473: [ ] Number of Instances: [ ]	Complete and submit ATF Form 3310.4 (Report of Multiple Sale or Other Disposition of Pistols and Revolvers) for all non-reported multiple sales identified as a result of this inspection. Complete and submit ATF Form 3310.4 (Report of Multiple Sale or Other Disposition of Pistols and Revolvers) by close of the same business day, for all applicable future multiple sales.	
7 27 CFR 478.102(a)(2)(ii): Failure to wait 3 business days (with no NICS/POC response) to transfer a firearm  ATF Forms 4473: 1 Number of Instances: 1	Ensure that the minimum time period of three business days (meaning days on which State offices are open).	
8 27 CFR 478.124(c)(4): Failure to record firearm information on an ATF F 4473  ATF Forms 4473: [ ] Number of Instances: [ ]	Ensure that all required firearm identification information is obtained, validated and accurately recorded on all future ATF Forms 4473, Section D.	
9 27 CFR 478.102(a): Failure to complete a NICS/POC background check  ATF Forms 4473: 4	Execute a required NICS/POC background check for all future over-the-counter firearm transactions.	

	Number of Instances: 4		
10	27 CFR 478.125(e): Failure to maintain an accurate/complete/timely acquisition and disposition record of firearms  Number of Instances: [ ]	Accurately, completely & timely record all required future firearm acquisition information. Accurately, completely & timely record all required future firearm disposition information.	
11	27 CFR 478.124(b): Failure to retain ATF Forms 4473 in alphabetical, numerical or chronological order  ATF Forms 4473: [ ] Number of Instances: [ ]	Organize and maintain ATF Forms 4473 in alphabetical, chronological, or numerical order.	

**LICENSEE RESPONSE REPORT**

	Regulation	Corrective Actions	Licensee Response	Status Details
1	27 CFR 478.124(c)(1): Failure to obtain a completed ATF F 4473  ATF Forms 4473: [ ] Number of Instances: [ ]	Ensure that all required ATF Form 4473 Section A items are completed/provided by the transferee/buyer on all future transactions.  Ensure that the transferee/buyer provides required signature and date, on ATF Form 4473 Section C, for all transactions taking place on a date different from when Section A was certified.	Licensee did not have a response as to why this wasn't completed other than he just missed it.	Status Licensee Notified  Verified Method In Person  Date Licensee Notified 06/02/2021
2	27 CFR 478.21(a): Failure to complete forms as prescribed  ATF Forms 4473: [ ] Number of Instances: [ ]	Complete all forms as prescribed.	Licensee did not have a response as to why this wasn't completed other than he just missed it.	Status Licensee Notified  Verified Method In Person  Date Licensee Notified 06/02/2021
3	27 CFR 478.124(c)(5): Failure by transferor to sign and/or date an ATF F 4473  ATF Forms 4473: [ ] Number of Instances: [ ]	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.	Licensee stated that the last ATF guy here told him that the transfer date had to match the date the customer signed the form. So that is what he did. He stated that previously he was finishing the form after the transaction and would date it whenever he completed the form and the ATF guy told him he couldn't do that and the transfer date had to match the date the customer signed the form so that is what he did.	Status Licensee Notified  Verified Method In Person  Date Licensee Notified 06/02/2021
4	27 CFR 478.124(c)(3)(i): Failure to verify or record Identification document on ATF F 4473  ATF Forms 4473: [ ] Number of Instances: [ ]	Ensure that all required transferee/buyer identification information is obtained, validated and accurately recorded on all future ATF Forms 4473, Section B.	Licensee stated that he always gets something more when the customer's address doesn't match their ID, but that government issued supplemental documents are hard to get.	Status Licensee Notified  Verified Method In Person  Date Licensee Notified 06/02/2021
	27 CFR 478.124(c)(3)(iv): Failure to record NICS contact information on an ATF F 4473  ATF Forms 4473: [ ] Number of Instances: [ ]	Ensure that all required NICS/POC background check information is obtained, validated and accurately recorded on all future ATF Forms 4473, Section B.	Licensee stated that he normally always makes sure the form is all complete and doesn't know why the information wasn't recorded.	Status Licensee Notified  Verified Method In Person  Date Licensee Notified

5				06/02/2021
6	<p>27 CFR 478.126a: Failure to report multiple sales or other dispositions of pistols and revolvers</p> <p>ATF Forms 4473: [ ] Number of Instances: [ ]</p>	<p>Complete and submit ATF Form 3310.4 (Report of Multiple Sale or Other Disposition of Pistols and Revolvers) for all non-reported multiple sales identified as a result of this inspection. Complete and submit ATF Form 3310.4 (Report of Multiple Sale or Other Disposition of Pistols and Revolvers) by close of the same business day, for all applicable future multiple sales.</p>	<p>Licensee stated that he never sells 2 guns on the same day to the same person because the customer doesn't want to have their name sent in. Harter stated that once he waits his 3 days and gets a gun, he lets the customer get the next gun. He stated that he didn't realize he had to wait 5 days. He stated that he will just wait longer next time before letting the customer get the second gun so that he doesn't have to fill the form out.</p>	<p>Status Correction Verified</p> <p>Verified Method Fax</p> <p>Date Correction Verified 06/06/2021</p>
7	<p>27 CFR 478.102(a)(2)(ii): Failure to wait 3 business days (with no NICS/POC response) to transfer a firearm</p> <p>ATF Forms 4473: 1 Number of Instances: 1</p>	<p>Ensure that the minimum time period of three business days (meaning days on which State offices are open).</p>	<p>Harter stated that he always just figures the 3 business days on his own and never writes in the date from NICS. He stated that he didn't originally call into NICS until the day after the customer came in because the customer came in late and he just called it in the next day. He stated that he must have figured the days wrong and didn't mean to transfer it early.</p>	<p>Status Licensee Notified</p> <p>Verified Method In Person</p> <p>Date Licensee Notified 06/02/2021</p>
8	<p>27 CFR 478.124(c)(4): Failure to record firearm information on an ATF F 4473</p> <p>ATF Forms 4473: [ ] Number of Instances: [ ]</p>	<p>Ensure that all required firearm identification information is obtained, validated and accurately recorded on all future ATF Forms 4473, Section D.</p>	<p>Harter stated that he messed this form up and never finished it out.</p>	<p>Status Licensee Notified</p> <p>Verified Method In Person</p> <p>Date Licensee Notified 06/02/2021</p>
9	<p>27 CFR 478.102(a): Failure to complete a NICS/POC background check</p> <p>ATF Forms 4473: 4 Number of Instances: 4</p>	<p>Execute a required NICS/POC background check for all future over-the-counter firearm transactions.</p>	<p>Licensee stated that he didn't agree that a police officer couldn't use their credentials to purchase a firearm. And didn't understand why a conceal carry permit could be used in lieu of a NICS check but not a police officers credentials. They carry firearms all the time.</p>	<p>Status Licensee Notified</p> <p>Verified Method In Person</p> <p>Date Licensee Notified 06/02/2021</p>
10	<p>27 CFR 478.125(e): Failure to maintain an accurate/complete/timely acquisition and disposition record of firearms</p> <p>Number of Instances: [ ]</p>	<p>Accurately, completely &amp; timely record all required future firearm acquisition information. Accurately, completely &amp; timely record all required future firearm disposition information.</p>	<p>Licensee stated that he had no idea how this gun slipped by him and didn't get logged in the book. He said that he called all of his suppliers to figure out who it came from but they all said they didn't send it. He said their records must be wrong because they are the only people he does business with.</p> <p>Harter also said that the reason the dates didn't match is because he was dating the A&amp;D with the date he actually logged the gun out instead of the date that was on the 4473.</p>	<p>Status Correction Verified</p> <p>Verified Method In Person</p> <p>Date Correction Verified 06/02/2021</p>
11	<p>27 CFR 478.124(b): Failure to retain ATF Forms 4473 in alphabetical, numerical or chronological order</p> <p>ATF Forms 4473: [ ] Number of Instances: [ ]</p>	<p>Organize and maintain ATF Forms 4473 in alphabetical, chronological, or numerical order.</p>	<p>Licensee stated that he must have gotten off on his numbers.</p>	<p>Status Licensee Notified</p> <p>Verified Method In Person</p> <p>Date Licensee Notified 06/02/2021</p>

Review Regulations conducted offline

( 6/2/2021 )

06/02/2021

Attachment(s)

**Attendee(s)**

CHARLES A HARTER

**EXHIBITS****Inspection**

Category	Attachment Name
PostInspection	FW_ Spartan Notification RE_ 5-48-12857 Inspection Results.msg
Correspondence	Spartan Notification RE: 5-48-12857 Inspection Results
Correspondence	Spartan Notification RE: 5-48-12857 Inspection Results
FinalDecision	HARTER 48-02-12857 NOTICE OF HEARING.pdf
FinalDecision	HARTER 48-02-12857 REQUEST FOR HEARING.pdf
FinalDecision	HARTER 48-02-12857 FINAL NOTICE OF REVOCATION.pdf
FinalDecision	HARTER 48-02-12857 REVOCATION NOTICE.pdf
FinalDecision	HARTER 48-02-12857 - CERT RECEIPT OF FINAL NOTICE OF REVOCATION 6-18-2022.pdf
Correspondence	Spartan Notification RE: 5-48-12857 Special Attention Flag (SAF)
Correspondence	Spartan Notification RE: 5-48-12857 Monitored Case
Correspondence	Spartan Notification RE: 5-48-12857 Monitored Case
Correspondence	Spartan Notification RE: 5-48-12857 Monitored Case
Correspondence	Spartan Notification RE: 5-48-12857 Monitored Case
Correspondence	Spartan Notification RE: 5-48-12857 Monitored Case
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Correspondence	Spartan Notification RE: 5-48-12857 Monitored Case
Correspondence	Spartan Notification RE: 5-48-12857 Monitored Case
Correspondence	Spartan Notification RE: 5-48-12857 Monitored Case
Correspondence	Spartan Notification RE: 5-48-12857 Monitored Case
UpdateLicensingCenter	HARTER 8C.pdf
Correspondence	DIO William Miller Returned Inspection FCI-15551
Correspondence	
PostInspection	FCI-15551 Inspection Findings.pdf
PostInspection	FW Spartan Notification RE 5-48-12857 Inspection Results.msg
Correspondence	Spartan Notification RE: 5-48-12857 Inspection Results
WarningLetterReturnSlip	HARTER WL.docx
WarningLetterReturnSlip	HARTER Return Receipt.pdf
WarningLetter	Warning Letter.pdf
LicenseeResponseToViolationsPDF	Licensee Response to Violations Report.pdf
ViolationCorrection	ms corrected.pdf
ViolationsPDF	Report of Violations.pdf
OnSiteSummaryInformation	Charles HARTER-NFA Query.pdf
OnSiteSummaryInformation	vcab.docx
OnSiteSummaryInformation	audit log- may 2021.pdf
OnSiteSummaryInformation	nfa needs corrected.pdf
OnSiteSummaryInformation	fls.pdf
OnSiteSummaryInformation	Harter amended app.pdf
OnSiteSummaryInformation	vcab stats.docx
ZoningVerification	KSA 12-16, 124 - Firearms and Ammo; Regulation by City or County, Limitations (2015).pdf
TradeNameVerification	Kansas Sec of State - Trade Names Registration Not Required.pdf
PropertyOwnershipVerification	property.pdf

SAR-2072

**Category**  
Correspondence

**Attachment Name**  
Industry Operations Report of Suspicious Activity(SAR-2072)

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

In the matter of License Number 5-48-113-02-3H-12857, as a/an A Dealer of Firearms, Including Pawn,

Other Than Destructive Devices issued to:

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

Charles A. Harter  
d/b/a C&H Guns  
368 Navajo Road  
McPherson, Kansas 67460

### 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 1251 NW Briarcliff Parkway, Suite 600 Kansas City MO 64116, 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
12/08/2021	William J. Miller Director, Industry Operations ATF Kansas City Field Division	(b)(6)

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

- Certified mail to the address shown below.  
Tracking Number: 7020 1810 0000 5121 7098 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
12.8.21	Investigative Analyst	(b)(6)

Print Name and Title of Person Served

Address Where Notice Served

Under the provisions of 18 U.S.C. § 923(e) and 27 C.F.R. § 478.73, notice is hereby given that the Bureau of Alcohol, Tobacco, Firearms and Explosives ("ATF") intends to revoke the Federal firearms license held by Charles A. Harter d/b/a C & H Guns ("Licensee"), a Dealer in Firearms, Including Pawn, Other Than Destructive Devices.

Specifically, the Director, Industry Operations, United States Department of Justice, ATF Kansas City Field Division, has reason to believe that Licensee willfully violated the provisions of the Gun Control Act of 1968, as amended, 18 U.S.C. Chapter 44, and the regulations issued thereunder, 27 C.F.R. Part 478 (collectively the "GCA") as described herein.

### **Compliance History**

ATF first issued a Federal firearms license to Licensee in 1982. Subsequently, ATF conducted compliance inspections of Licensee in 1983, 1987, 2007, 2008, 2013 and 2015. The 2007 inspection resulted in a warning letter. The 2008 inspection resulted in a warning conference. The 2012 inspection resulted in a warning letter. During these inspections, ATF reviewed and explained the federal firearms laws and GCA regulations and requirements with Licensee, who was also informed that future violations could be considered willful and result in a revocation of the license.

### **Current Inspection**

On June 2, 2021, ATF began a compliance inspection of Licensee's premises that revealed the following:

#### **Acquisition and Disposition Record Violations:**

1. On  occasion, Licensee willfully failed to timely and/or accurately record the acquisition of firearms, in violation of 18 U.S.C. § 923(g)(1)(A) and 27 C.F.R. § 478.125(e). See Appendix ¶ A.
2. On  occasions, Licensee willfully failed to timely and/or accurately record the disposition of firearms, in violation of 18 U.S.C. § 923(g)(1)(A) and 27 C.F.R. § 478.125(e). See Appendix ¶ B.

#### **Background Check Violations:**

3. On six occasions, Licensee willfully transferred a firearm to an unlicensed person without first contacting the National Instant Criminal Background Check System ("NICS") and waiting three days before allowing the transfer, in violation of 18 U.S.C. § 922(t) and 27 C.F.R. § 478.102(a). See Appendix ¶ C.

Failure to Report Multiple Sales Violation:

4. On  occasions, Licensee willfully failed to timely and/or accurately report the sale or other disposition of two or more pistols and/or revolvers during any five consecutive business days to an unlicensed person, in violation of 18 U.S.C. § 923(g)(3)(A) and 27 C.F.R. § 478.126a. See Appendix ¶ D.

ATF Form 4473 Violations:

5. On  occasions, Licensee willfully transferred a firearm to a non-licensee without verifying the identity of the transferee by examining an identification document presented and noting the type on a Firearms Transaction Record, ATF Form 4473, in violation of 18 U.S.C. § 923(g)(1)(A) and 27 C.F.R. § 478.124(c)(3)(i). See Appendix ¶ E.
6. On  occasions, Licensee willfully transferred a firearm to a non-licensee without recording on the Firearms Transaction Record, ATF Form 4473, the date Licensee contacted NICS, any response provided by the system and/or any identification number provided by the NICS system, in violation of 18 U.S.C. § 923(g)(1)(A) and 27 C.F.R. § 478.124(c)(3)(iv). See Appendix ¶ F.

Failure to Retain Records in Order

7. Licensee willfully failed to retain each ATF Form 4473 in alphabetical, chronological or numerical order in violation of 18 U.S.C. § 923(g)(1)(A) and 27 C.F.R. § 478.124(b).

**APPENDIX**

**Notice Violation 1, Appendix ¶ A [478.125(e) Acquisition Violation]:**

**Firearm Located in Inventory but Not Entered as Acquisition**

Manufacturer	Serial Number
<b>(b)(3) (112 Public Law 55 125 Stat 552),(b)(6)</b>	

**Notice Violation 2, Appendix ¶ B [478.125(e) Disposition Violations]:**

**Firearm Disposition Date Incorrectly Recorded**

Manufacturer	Serial Number
<b>(b)(3) (112 Public Law 55 125 Stat 552),(b)(6)</b>	

**Notice Violation 3, Appendix ¶ C [478.102(a) NICS Violations]:**

Form 4473 /Transferee	Date	Violation
<b>(b)(6)</b>	2/3/2021	No NICS check conducted
	2/3/2021	No NICS check conducted
	2/3/2021	No NICS check conducted
	2/17/2021	No NICS check conducted
	3/31/2021	No NICS check conducted
	6/11/2021	No NICS check conducted

**Notice Violation 4, Appendix ¶ D [478.126a Multiple Sale Violations]:**

Form 4473 /Transferee	Date	Violation
<b>(b)(6)</b>	10/3/2020	No Multiple Sale Form Completed
	10/4/2020	
	3/18/21	No Multiple Sale Form Completed
	3/19/21	
	8/13/21	No Multiple Sale Form Completed
	8/19/21	
	4/4/21	No Multiple Sale Form Completed
	4/9/21	
	4/24/21	No Multiple Sale Form Completed
4/28/21		

6	<b>(b)(6)</b>	4/29/2021	No Multiple Sale Form Completed
7		5/1/2021	No Multiple Sale Form Completed
8		5/2/2021	No Multiple Sale Form Completed
9		3/5/21 3/11/21	No Multiple Sale Form Completed

**Notice Violation 5, Appendix ¶ E [478.124(c)(3)(i) Form 4473 Violations]:**

Form 4473/Transferee	Date	Violation
<b>(b)(3) (112 Public Law 55 125 Stat 552),(b)(6)</b>		

**Notice Violation 6, Appendix ¶ F [478.124(c)(3)(iv) Form 4473 Violations]:**

Transferee	Date	Violation
<b>(b)(3) (112 Public Law 55 125 Stat 552),(b)(6)</b>		

**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 5-48-113-02-3H-12857 as a/an dealer in firearms, including pawn,  
other than destructive devices, issued to:

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

Charles A. Harter d/b/a C&H Guns  
368 Navajo Road  
McPherson, Kansas 67460

**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  \_\_\_\_\_,
  - 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  upon receipt \_\_\_\_\_,
  - 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 1251 NW Briarcliff Parkway Suite 600 Kansas City MO 64116, 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 06/10/2022	Name and Title of Bureau of Alcohol, Tobacco, Firearms and Explosives Official William J. Miller Director, Industry Operations ATF Kansas City Field Division	Signature <b>(b)(6)</b>
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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 Administrative Assistant	Signature of Person Serving Notice
Print Name and Title of Person Served Charles A. Harter d/b/a C&H Guns		Signature of Person Served

Address Where Notice Served  
368 Navajo Road, McPherson, Kansas 67460

Note: Previous Edition is Obsolete

Charles A. Harter d/b/a C&H Guns  
368 Navajo Road  
McPherson, Kansas 67460

RE: FFL# 5-48-113-02-3H-12857

Charles A. Harter d/b/a C&H Guns, 368 Navajo Road, McPherson, Kansas 67460 (Licensee) holds a Federal firearms license, under number 5-48-113-02-3H-12857, as a dealer in firearms, including pawn, other than destructive devices, issued by the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) pursuant to the Gun Control Act of 1968 (GCA), as amended, 18 U.S.C. Chapter 44, and the regulations issued thereunder, 27 C.F.R. Part 478.

On December 8, 2021, ATF issued a Notice to Revoke License, ATF Form 4500 (Initial Notice) based upon violations discovered during an inspection commencing on June 2, 2021. Licensee timely requested a hearing to review the Initial Notice. [Gov. Ex. 10].

The hearing was held on March 29, 2022, at the ATF Kansas City Field Division Office located in Kansas City, Missouri. The hearing was conducted by ATF Kansas City Field Division Director, Industry Operations (DIO) William J. Miller. The Government was represented by ATF Kansas City Field Division Counsel (b)(6) ATF Industry Operations Investigator (IOI) (b)(6) appeared as witnesses on behalf of the Government.

Licensee Charles A. Harter, a sole proprietor and responsible person for the license, appeared at the hearing. (b)(6) also attended the hearing as a friend/associate of Mr. Harter. The hearing was recorded and transcribed through a court reporting service. The testimony and exhibits provided by the parties at the hearing constitute the administrative record for this matter.

### **Findings and Conclusions**

Having considered the record in this proceeding, I make the following findings and conclusions:

Licensee has operated under the current Federal firearms license since at least 1982.<sup>1</sup> During the history of this license, ATF conducted compliance inspections of Licensee in 1983, 1987, 2007, 2008, 2013 and 2015. [Gov. Ex. 8]. During these inspections, ATF reviewed the pertinent Federal firearms laws and regulations with Licensee and provided him with resources and reference information regarding the expectations and requirements for a Federal firearms licensee. Licensee further acknowledged at these inspections his responsibilities to be aware and familiar with all the laws and regulations governing a licensed firearms business. Several reference sources and resource materials regarding the GCA requirements were also provided to Licensee.

Following the 2007 and 2013 inspections Licensee received a warning letter. After the 2008 inspection Licensee attended a warning conference. Licensee was informed at the conclusion of these inspection reviews that future violations, repeat or otherwise, could be considered willful and may result in a revocation of the license. [*Id.*].

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<sup>1</sup> Licensee had a separate license issued in the 1970s that is no longer active.

Beginning on June 2, 2021, ATF conducted a compliance inspection at Licensee's business premises. The violations found during this inspection were the basis for the Initial Notice and corresponding Appendix, as incorporated herein and discussed more thoroughly as follows:<sup>2</sup>

Violations #1 and #2 - Failure to Maintain Required Records

As to Violation #1, on [ ] occasion, Licensee willfully failed to timely record the acquisition of a firearm, in violation of 18 U.S.C. § 923(g)(1)(A) and 27 C.F.R. § 478.125(e). Specifically, Hearing testimony and evidence revealed that Licensee had [ ] firearm in inventory that was not recorded as an acquisition in the acquisition and disposition records (also known as the A&D book). [Gov. Ex. 1]. At the inspection, Licensee was surprised he missed entering this firearm in the book but had no further explanation for the violation. [Gov. Ex. 7; Hearing Transcript (HT), pgs. 13-14].

As to Violation #2, on [ ] occasions, Licensee willfully failed to accurately record the disposition of firearms, in violation of 18 U.S.C. § 923(g)(1)(A) and 27 C.F.R. § 478.125(e). Specifically, the hearing testimony and evidence demonstrated that [ ] firearms were transferred to non-licensees, but the dates recorded for the dispositions were incorrectly entered in the A&D book. [Gov. Ex. 2]. During the inspection, Licensee stated that for these two entries, he used the date he logged the gun out of the book instead of using the actual date of transfer as listed on the respective ATF Form 4473. [Gov. Ex. 7].

Upon reviewing Government Exhibits 1 and 2, along with the testimony provided at the hearing for these violations, I find that Licensee failed to record a firearm acquisition of [ ] firearm located in inventory at the time of the inspection. I also find that Licensee failed to accurately record the date of disposition on [ ] firearms. Licensee was previously cited for acquisition or disposition violations, pursuant to 27 C.F.R. § 478.125(e), following the 2007 and 2015 inspections.<sup>3</sup> [Gov. Ex. 8]. Licensee was aware of the requirements related to the A&D book/records and exhibited the ability to comply with these requirements on several other occasions yet failed to properly do so in these instances.

Therefore, I find Licensee willfully failed to comply with the regulatory requirements as stated in Violations #1 and #2.

Violation #3 – Background Checks

On six occasions, Licensee willfully transferred a firearm to an unlicensed person without first contacting the National Instant Criminal Background Check System (NICS)<sup>4</sup> and waiting three days before allowing the transfer, in violation of 18 U.S.C. § 922(t) and 27 C.F.R. § 478.102(a).

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<sup>2</sup> Although several other violations were documented on the Report of Violations (ROV) issued to Licensee, the violations cited in the Initial Notice are the basis for the license revocation action.

<sup>3</sup> At the 2015 inspection, Licensee was also specifically cited for failure to record the acquisition of a firearm located in his inventory.

<sup>4</sup> NICS is operated by the Federal Bureau of Investigation (FBI).

Upon reviewing Government Exhibit 3, along with the testimony provided at the hearing for these violations, I find insufficient evidence of a willful violation and therefore do not consider these five specific instances as a basis for revocation as to the following:

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

However, I find sufficient evidence of willfulness as to the sale to transferee (b)(3) (112 Public Law 55 125 Stat 552),(b)(6)

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

(b)(3) (112 Public Law 55 125 Stat 552),(b)(6) The NICS audit log was available to review for this time period and shows that FBI NICS was contacted and FBI created NTN (b)(6) for this transaction on April 5, 2021, at 6:42 p.m. Licensee recorded on this form that he received a delayed response, with an authorized transfer date of April 9, 2021. Licensee also recorded that a proceed was received from FBI NICS on April 10, 2021. The transferee recertified the Form 4473 on March 31, 2021, and Licensee signed and recorded the date of transfer as March 24, 2021. From a review and discussion of the A&D record at the hearing, the disposition and firearm transfer to purchaser (b)(6) as recorded in the A&D book as occurring on March 31, 2021. [HT, pg. 63-65]. At the hearing, Licensee could not explain how or why the transfer dates show that the transfer occurred prior to the NICS background check. [HT, pg. 66].

In summary, the transfer date recorded on the (b)(6) Form 4473 and recorded in the A&D record establishes that the transfer occurred prior to a properly completed NICS background check, as further verified per the NICS audit log. In this instance, the certification date, the recertification date, and the date transferred all occurred prior to the NICS contact date listed on the Form 4473 and confirmed via the NICS audit log.

Although Licensee indicated confusion on how to properly record the date of transfer on the Form 4473, the correct process for this requirement was explicitly reviewed with Licensee following the 2015 inspection. [Gov. Ex. 8]. At that time, Licensee was using the date that NICS was contacted and not the date the firearm was actually transferred. As a corrective action, Licensee was specifically instructed to put the date the firearm was in fact transferred in Item 36 (for the Form 4473 version used in 2015) for the date of transfer. [*Id.*; HT, pg. 30-31]. I also find Licensee was cited for NICS violations, under 27 C.F.R. § 478.102, following the 2007, 2008 and 2015 inspections. [Gov. Ex. 8]. Licensee has demonstrated the ability to properly follow the NICS background requirements on other occasions as well.

The ATF Form 4473 has explicit directions and instructions on the form to guide a licensee on the proper completion and timeline for recording all the necessary information and dates. [Gov. Ex. 9]. The ATF Form 4473 states, directly above the sections for the NICS information, that a licensee must complete these sections and the NICS background prior to the transfer of the

firearm(s). The corresponding instructions on the Form 4473 further provide guidance to licensees on the NICS process and clearly state 18 U.S.C. § 922(t) requires that *prior* to transferring any firearm to an unlicensed person a dealer must first contact NICS. [*Id.* (emphasis added)]. The importance of background check compliance is stressed throughout the Form 4473 and instructions to ensure a prohibited person does not receive a firearm from a licensee.

Given the evidence in the record, and further considering that Licensee offered no explanation or documentation to refute the Government’s presented information, I conclude that the NICS violation involving the transfer to purchaser (b)(6) occurred as documented and discussed and that this violation was willfully committed. Furthermore, all of these violations, even the ones for which I ultimately found insufficient evidence of a willful violation, highlight the importance of timely contacting NICS and properly recording the information so as to ensure a lawful background check is done. These forms are also an example of how Licensee’s own record keeping problems, and failure to comply with the directions on the Form 4473, added confusion to the circumstances and the legality the transactions.

Violation #4 – Failure to Report Multiple Sales

On [redacted] occasions,<sup>5</sup> Licensee willfully failed to timely and/or accurately report the sale or other disposition of two or more pistols and/or revolvers during any five consecutive business days to an unlicensed person, in violation of 18 U.S.C. § 923(g)(3)(A) and 27 C.F.R. § 478.126a. Upon reviewing Government Exhibit 4, along with the testimony provided at the hearing, it is established that on these occasions, Licensee willfully transferred more than one handgun to the same purchaser within five consecutive business days without completing the necessary multiple sale forms.

Licensee explained that he was aware of the need to complete a multiple handgun sale form but believed it was only necessary for handguns sold on the same day or within a three-day timeframe, instead of within five consecutive business days as required. [Gov. Ex. 7]. Licensee also indicated that in the future he would circumvent the requirement by waiting longer before transferring additional handguns to the purchaser, e.g. six days, so he would not need to complete the multiple sale form. [*Id.*; HT, pgs. 38-39].

Although Licensee claimed confusion regarding the number of days (three versus five) for the multiple sale requirement and asserted he did not intend to do anything wrong or illegal, he has demonstrated his ability to properly comply with this requirement on other occasions. [HT, pg. 35]. The inspection revealed that Licensee transferred handguns to purchaser (b)(3) (112 Public Law 55 125 Stat 552),(b)(6)

(b)(3) (112 Public Law 55 125 Stat 552),(b)(6) Licensee also conducted handgun transfers to (b)(3) (112 Public Law 55 125 Stat 552),(b)(6) (b)(3) (112 Public Law 55 125 Stat 552),(b)(6)

these handgun transfers/sales occurred within one or two days of the prior transfer to those

<sup>5</sup> The Initial Notice cited [redacted] occasions, however, the [redacted] occasion listed in the Appendix regarding transferee [redacted] with transfer dates of (b)(3) (112 Public Law 55 125 Stat 552) was removed from consideration at the hearing.

respective purchasers. Therefore, any alleged confusion as to the timing of transfers requiring the multiple sales form seems implausible and, at a minimum, Licensee did not comply with his own asserted belief that the multiple sale form need only be completed on the same day or within three days.

Further, in the instances cited involving transferee (b)(6), Licensee admitted that he was attempting to structure the transfer of the handguns at the request of the purchaser who did not want to be “red-flagged as a person buying a lot of firearms to sell somewhere else” and wanted to get the firearms out of the store “as soon as possible”. [HT, pgs. 36-39]. Despite stating that this idea was brought up by the transferee, Licensee admitted that he acquiesced to the transferee’s wishes and thus willfully avoided compliance with this known reporting requirement. For all these reasons, Licensee’s belated remorse is not persuasive. [HT, pg. 37].

As additional supportive evidence of Licensee’s knowledge of the multiple sale reporting requirement, both the 2016 and 2020 versions of the ATF Form 4473 explicitly provide a reminder that “By the Close of Business [Licensees Must] Complete ATF Form 3310.4 for Multiple Sales of Handguns Within 5 Consecutive Business Days”.<sup>6</sup> [Gov. Ex. 9]. Licensee was also previously cited for a multiple sale violation, pursuant to 27 C.F.R. § 478.126a, following the 2007 inspection. [Gov. Ex. 8].

Therefore, I find that Licensee willfully failed to complete the multiple sales form on the eight occasions as documented in the Initial Notice and reviewed within the record.

#### Violations #5 and #6 – ATF Form 4473

Regarding Violation #5, on [redacted] occasions, Licensee willfully transferred a firearm to a non-licensee without verifying the identity of the transferee by examining an identification document presented and noting the type on a Firearms Transaction Record, ATF Form 4473, in violation of 18 U.S.C. § 923(g)(1)(A) and 27 C.F.R. § 478.124(c)(3)(i). Specifically, [redacted] ATF Forms 4473 were completed in which the transferee’s identification information was left blank or not fully completed as required. [Gov. Ex. 5]. This failure by Licensee did not ensure a complete record of the purchaser’s identity as required. At the inspection, Licensee stated he knows that the law requires supplemental documents in these situations but attempted to excuse his acceptance of non-qualifying documents by saying that government-issued supplemental documents are hard to get. [Gov. Ex. 7].

Regarding Violation #6, on [redacted] occasions, Licensee willfully transferred a firearm to a non-licensee without recording on the Firearms Transaction Record, ATF Form 4473, the date Licensee contacted NICS, any response provided by the system and/or any identification number provided by the NICS system, in violation of 18 U.S.C. § 923(g)(1)(A) and 27 C.F.R. § 478.124(c)(3)(iv).

Specifically, Licensee either did not record or failed to correctly record the required information for the NICS background check on [redacted] ATF Forms 4473 as required. Due to this failure by Licensee, complete and accurate records of the required background check process, and the

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<sup>6</sup> ATF Form 4473 (2020 version) quoted.

respective dates or information necessary to ensure a proper and complete background check, were not obtained. At the inspection, Licensee stated he normally makes sure the form is all complete and did not know why the information was not recorded in these instances. [*Id.*].

Upon reviewing the Government Exhibits 5 and 6, along with the testimony provided for both these violations, I find that Licensee demonstrated the knowledge and ability to properly complete these sections on other Forms 4473 reviewed during the inspection.

Licensee was also previously cited for violations of 27 C.F.R. § 478.124(c)(3)(i) following the 2007, 2008 and 2013 inspections, and was cited for violations of 27 C.F.R. § 478.124(c)(3)(iv) following the 2007 inspection.

Therefore, upon considered all the information provided in the record, I conclude that both Violations #5 and #6 were willfully committed.

#### Violation #7 - Failure to Retain Records in Order

Licensee willfully failed to retain each ATF Form 4473 in alphabetical, chronological, or numerical order in violation of 18 U.S.C. § 923(g)(1)(A) and 27 C.F.R. § 478.124(b).

I find insufficient evidence of willfulness as to this violation and do not consider it as a basis for revocation.

#### **Application of Legal Standard for Federal Firearms License Revocations**

ATF may, after notice and opportunity for a hearing, revoke a Federal firearms license if it has reason to believe a licensee has willfully violated any provision of the GCA or the regulations issued thereunder. *See* 18 U.S.C. §§ 923(e) and (f)(3); 27 C.F.R. §§ 478.73 and 478.74.

For the Government to prove a willful violation of the Federal firearms statutes, it need only establish that a licensee knew of the legal obligations and “purposefully disregarded or was plainly indifferent” to the legal requirements. *See Borchardt Rifle Corp. v. Cook*, 684 F.3d 1037, 1042-43 (10th Cir. 2012) (holding that plain indifference towards a known legal obligation meets the willfulness requirement and that this may be shown with circumstantial evidence); *see also Lewin v. Blumenthal*, 590 F.2d 268, 269 (8th Cir.1979); *On Target Sporting Goods, Inc. v. Attorney General of the United States*, 472 F.3d 572 (8th Cir. 2007) (violations by Federal firearms licensee were deemed willful and justified ATF’s licensing action when the licensee committed violations such as failure to keep proper acquisition and disposition records; ATF informed the licensee's owner of the firearms record-keeping duties and the owner admitted falling behind in these responsibilities); *Trader Vic's v. O'Neill*, 169 F.Supp.2d 957, 965 (N.D. Ind. 2001) (finding a licensee has a duty to be cognizant of the rules and regulations issued by ATF and has a duty to follow those mandates in the course of his regulated business activities).

Although not required, repeated violations can constitute sufficient evidence to establish the requisite state of mind under the willfulness standard. *A-TAC Gear Guns Uniforms LLC v. U.S. Department of Justice, Bureau of Alcohol, Tobacco, Firearms and Explosives*, 530 F.Supp.3d

1033, 1040 (D. Colo., 2021) (holding that repeated violations can establish sufficient circumstantial evidence of willfulness). After a dealer is informed of the GCA requirements and warned of violations, subsequent repeat violations can suffice to at least show plain indifference to the statutory requirements. *Borchardt*, 684 F.3d at 1043. See *RSM, Inc. v. Herbert*, 466 F.3d 316, 322 (4th Cir.2006) (“[W]hen such errors continue or even increase in the face of repeated warnings ... one may infer as a matter of law that the licensee simply does not care about the legal requirements. At that point, the failures show the licensee's plain indifference and therefore become willful.”); see also *Borgelt v. Bureau of Alcohol, Tobacco and Firearms*, 2009 WL 3149436, 4 (W.D. Wash.) (“[T]he government often proves willfulness by showing that a licensee repeatedly violated regulations despite knowledge of them and repeated warnings.”).

Additionally, any single willful violation of the Federal statutes or regulations controlling the firearms industry can be a basis for revoking or denying a license. *CEW Properties, Inc. v. U.S. Department of Justice, Bureau of Alcohol, Tobacco, Firearms, and Explosives*, 979 F.3d 1271, 1280 (10th Cir. 2020), citing *Fairmont Cash Mgmt., L.L.C. v. James*, 858 F.3d 356, 362 (5th Cir. 2017) (“A single willful violation authorizes the ATF to revoke the violator's [license], regardless how severe, though the frequency and severity of the violations can be relevant to willfulness.”). See *Gun Shop, LLC v. United States Dep't of Justice*, No. 4:10-CV-1459 (MLM), 2011 WL 2214671, at \*6 (E.D. Mo. June 3, 2011) (“By the statute's plain language, even a single willing violation can trigger ATF's power of revocation.”), citing *American Arms Int'l v. Herbert*, 563 F.3d 78, 86 (4th Cir. 2009); see also *General Store, Inc. v. Van Loan*, 560 F.3d 920, 924 (9th Cir. 2009); *Armalite, Inc. v. Lambert*, 544 F.3d 644, 647 (6th Cir. 2008); *Article II Gun Shop, Inc. v. Gonzales*, 441 F.3d 492, 498 (7th Cir. 2006).

Furthermore, “[i]mproper recordkeeping is a serious violation.” *Fin & Feather Sport Shop, Inc. v. U. S. Treasury Dept.*, 481 F.Supp. 800, 806 (Neb. 1979) quoting *Huddleston v. United States*, 415 U.S. 814, 824 (1974). “Thus, a firearms dealer, by failing to keep the required records, seriously undermines the effectiveness and purpose of the Act and ultimately endangers society.” *Fin & Feather*, 482 F.Supp at 806. ATF has the right to insist on total compliance with the GCA to retain the privilege of dealing in firearms. *Willingham Sports, Inc. v. ATF*, 348 F.Supp.2d 1299, 1309 n.14 (S.D. Ala. 2004) (“gravity of the policy objectives of the Gun Control Act, from both a law enforcement standpoint and a safety standpoint, strongly militates in favor of allowing the ATF to insist on total compliance as a condition of retaining the privilege of dealing in firearms.”); *Dick's Sport Center, Inc. v. Alexander*, No. 2:04-CV-74482, 2006 WL 799178, at \*5 (E.D. Mich. Mar. 29, 2006) (licensee's “failure to comply with exacting book keeping regulations may hinder the ATF's ability to perform its mandated function.”). Periodic compliance, such as a licensee's occasional adherence to regulatory obligations, can also support a finding of willfulness. *CEW Properties*, 979 F.3d at 1280, citing *Simpson v. Att'y Gen.*, 913 F.3d 110, 115-16 (3d Cir. 2019) (noting that a licensee's “full compliance with [Gun Control Act] requirements in some instances belies his assertion that he did not understand those requirements,” and his “inconsistent conduct suggests both that [he] knew of his obligations and was indifferent to complying with them.”).

The evidence and testimony presented at the hearing revealed that Licensee understood the legal requirements concerning the violations documented in the Initial Notice. In this regard, ATF reviewed the applicable laws and regulations with Licensee throughout the multiple inspections

conducted on his licensed business over the past thirty years. ATF provided Licensee with guidance and information on corrective actions for the violations to ensure compliance. ATF also warned Licensee following at least three of the prior inspections that future violations could be considered willful and result in revocation of the license. [Gov. Ex. 8]. Licensee acknowledged awareness of the legal requirements and responsibilities to hold a Federal firearms license. Licensee demonstrated on other occasions the ability to properly complete, and ensure proper completion by the transferee of, the required records and forms and to conduct a background check on a non-licensed transferee/purchaser.

Licensee asserted that any violations committed were not intentional and he never intended to hide anything or do anything illegally. However, the GCA does not require an intentional bad act to establish willfulness and the Government is not required to show that the violations occurred with any bad purpose. *Lewin*, 590 F.2d at 269; *On Target*, 472 F.3d at 575. Instead, a purposeful disregard or plain indifference to a known legal obligation is legally sufficient to show willfulness. As discussed during the hearing, Licensee attributed many of the violations to becoming too busy or distracted handling external factors in his life, such as helping with his wife's health issues. He stated that these circumstances put a burden upon him, which also apparently then impacted his compliance with the GCA requirements. However, the conduct of Licensee also cannot be considered to be excusable mistakes.

Although I do appreciate the situations that were occurring in Mr. Harter's personal life, these factors do not mitigate or alleviate the responsibility for a licensee to comply with the requirements under the GCA. Such distractions or other external factors cannot excuse a licensee's responsibilities to known legal obligations. *Taylor v. Hughes*, 2013 WL 752838, at \*3 (M.D. Pa., 2013) (being "overwhelmed" is not a justifiable excuse for a licensee's noncompliance with mandated laws and regulations and does not negate a finding of willfulness). Despite these personal issues, Licensee nonetheless continued to acquire firearms and conduct transactions over a significant time period since his last inspection without addressing or correcting these current compliance problems. Ultimately, there is no legal justification for a licensee's claim that circumstances, such as poor health or being overwhelmed, excuses the failure to correctly keep the A&D book, to properly complete multiple sale forms and ATF Forms 4473, or to conduct compliant background checks. This continued failure to comply with the GCA requirements shows a purposeful disregard or, at a minimum, a plain indifference to the known legal obligations as a Federal firearms licensee.

Licensee offered assurances that he now has the licensed business in compliance and brought in (b)(6) to assist him with the business activities. However, these subsequent actions do not otherwise mitigate or change the fact that the willful violations occurred as documented during the inspection. *Post hoc* remedial efforts have little bearing on a licensee's willfulness at the time of the violations. *CEW Properties*, 979 F.3d at 1281 n.12 (disregarding a licensee's claim of no willfulness due to subsequent efforts to remedy noncompliance by compiling A&D records into a bound book); *see also Shawano Gun & Loan, LLC v. Hughes*, 650 F.3d 1070, 1079 (7th Cir. 2011) (noting that "workplace changes to ensure compliance with Federal firearms laws" following a revocation notice "come too late," and that the promise to "do better if given another chance is not an argument that reaches the merits of the case"); *Cucchiara v. Sec'y of Treasury*, 652 F.2d 28, 30 (9th Cir. 1981) (concluding that a licensee's attempt to "correct his faulty

recordkeeping system, after the violations ... is immaterial to the question of willfulness at the time the violations occurred”); *Sturdy v. Bensten*, 129 F.3d 122 (8th Cir.1997) (a licensee’s after-the-fact efforts to correct the specific violations cited are irrelevant to the issue of willfulness at the time the errors occurred).

Furthermore, every section of the Form 4473 is important. The required information is on the form for specific reasons to ensure the traceability of firearms and promote public safety and therefore must be afforded care and attention. Although each of the cited violations are significant and must be considered, what I find the most troubling from the record is the willful and purposeful disregard, or at a minimum plain indifference, Licensee exhibited by shirking his responsibilities as a firearms licensee and acquiescing to the wishes of a customer to avoid having the multiple handgun sales reporting form completed. Licensee did not deny that he was allowing the customer to structure the timeframe of the purchases so that the form would not need to be completed and indicated at the inspection that he would essentially structure handgun transfers on future transactions so the form could be avoided. The multiple handgun sale form is an essential reporting requirement for a licensee to help ATF identify and potentially investigate illegal firearms traffickers, yet Licensee willfully avoided this legal obligation.

A critical responsibility of a licensee is to help ensure that the Gun Control Act requirements are met, and multiple handgun sale reporting is one of those requirements. *See A-TAC Gear*, 530 F.Supp.3d at 1039 (“ATF cannot monitor every single firearms dealer at every moment. The Act’s effectiveness thus rests largely on dealers’ taking its regulations seriously.”). This failure by Licensee undermines the public safety directive of the GCA. Licensee’s systemic problems with recording and maintaining compliant records as a whole, and failure to properly conduct and record background checks, further undermine the essential purposes of the GCA.

After presiding over the hearing and giving a full review and consideration of all the testimony and exhibits provided in the hearing record, I find and conclude that Licensee willfully violated the provisions of the GCA, and the regulations issued thereunder. Even though Licensee understood the responsibilities under the GCA, the evidence reveals that Licensee was plainly indifferent to, or purposefully disregarded, the firearms laws and regulations as documented and thoroughly discussed and reviewed herein.

Despite the knowledge and awareness of these obligations under his license, Licensee failed to maintain legally compliant records of acquisition and disposition, failed to comply with the background check requirement, and did not properly complete ATF Forms 4473 and multiple sale report forms despite the explicit directions and instructions of the forms.

Therefore, I find and conclude Licensee willfully committed Violations #1, #2, #3, #4, #5 and #6 and my findings and conclusions are the basis for my determination to revoke the license.

Accordingly, under the provisions as provided by 18 U.S.C. § 923(e) and 27 C.F.R. § 478.73, the Federal firearms license held by Licensee Charles A. Harter d/b/a C&H Guns, 368 Navajo Road, McPherson, Kansas 67460, under Federal firearms license number 5-48-113-02-3H-12857, is hereby **REVOKED**.

Dated this \_\_\_\_ day of June, 2022.

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William J. Miller  
Director, Industry Operations - Kansas City Field Division  
Bureau of Alcohol, Tobacco, Firearms and Explosives  
United States Department of Justice



**U.S. Department of Justice**

**Bureau of Alcohol, Tobacco,  
Firearms and Explosives**

*Washington DC*

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**IMPORTANT NOTICE**

**Selling Firearms AFTER Revocation, Expiration, or Surrender of an FFL**

Former Federal Firearms licensees (FFLs) who continue to sell firearms after the revocation, expiration, or surrender of their license are subject to the same rules as persons who have never been licensed in determining whether they are "engaged in the business" of selling firearms without a license in violation of 18 U.S.C. § 922(a)(1)(A). Accordingly, former licensees who wish to dispose of any remaining business inventory must adhere to the following guidance:

Business inventory must be disposed of by the former FFL in a manner that, objectively, does not constitute being engaged in the business of dealing in firearms using the same facts and circumstances test that would apply to persons who have never been licensed.

The preferred manner of disposition is for the former licensee to:

- Arrange for another FFL to purchase the business inventory (and other assets) of the business; or
- Consign the inventory to another FFL to sell on consignment, or at auction.

Should a former FFL decide against those options, he/she should be aware that future sales - whether from his/her personal firearms collection or otherwise - will be evaluated for a potential violation of 18 U.S.C. § 922(a)(1)(A), just as would occur with a person who had never been licensed.

If a former FFL is disposing of business inventory, the fact that no purchases are made after the date of license revocation, expiration, or surrender does not immunize him/her from potential violations of 18 U.S.C. § 922(a)(1)(A). Instead, business inventory acquired through repetitive purchases while licensed are attributed to the former FFL when evaluating whether subsequent sales constitute engaging in the business of dealing in firearms without a license.

ATF remains committed to assisting former licensees in complying with Federal firearms laws. If you have questions, please contact your local ATF office.

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Curtis Gilbert  
Deputy Assistant Director (Industry Operations)  
Field Operations