

Freedom Tactical LLC's FCI
FCI-27558
07/20/2022 02:15 PM
IOI (b)(6), Rochester (IO) Satellite Office

LICENSEE INFORMATION

Licensee Name	RDS Key	License/Permit Number	License Type
Freedom Tactical LLC	6-16-04897	6-16-117-01-3L-04897	01 - Dealer License

Business Type
Limited Liability Company (LLC)

Premises Address

Mailing Address

Premises Ownership Type
Owned

Same as Premises Address

Premises Location Type
Single Family Dwelling

Address
7748 AUTUMN BREEZE LANE
Unit N/A
ONTARIO, New York 14519
WAYNE United States

Phone Type	Phone Number	Remarks
Business	+1 585-520-0100	

Email Address	Email Remarks
(b)(6)	

RECOMMENDATIONS

Final Decision
Revocation
Date
07/14/2022

Details

On July 14, 2022, IOI (b)(6) made an onsite visit to the business premises of Freedom Tactical LLC. IOI (b)(6) confirmed that business operations have ceased and no firearms remained in inventory. Required records were retrieved, and will be forwarded to the ATF OOB Records Center.

Out of Business Records and Inventory Management

Licensee Records

Licensee Inventory

✔ Submitted to an ATF Employee

✔ No inventory on hand

ATF Employee Name
(b)(6)

Deputy Assistant Director - Industry Operations Hans Hummel's Recommendation
Revocation

Details

Concur.

Special Agent in Charge John Devito's Recommendation

I concur with the recommendation

Division Counsel (b)(6) Review

Details

There is sufficient evidence for the Director of Industry Operation to believe that there were willful violations of the Gun Control Act.

Director of Industry Operation (b)(6) Recommendation
Revocation

Details

DIO recommends revocation based on the licensee knowingly participating in a straw purchase transaction. The evidence supports that the licensee transferred a shotgun to a recipient, knowing that the recipient was not the actual buyer. Although the intended transferee was not ultimately found to be prohibited, the licensee effectuated the false 4473 and false entry in the A&D Record.

Area Supervisor: (b)(6) Recommendation
Revocation

Details

A/S (b)(6) concurs with Revocation for a straw purchase violation.

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

Details

A federal firearms compliance inspection was initiated by Investigator (b)(6) of the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) on licensee Freedom Tactical, LLC of Ontario, NY, on August 19, 2021. Samuel Joseph Ross, the sole owner and Member of Freedom Tactical, LLC was interviewed and assisted with the inspection. The inspection focused on the licensee's inventory, record keeping, premises security, and the licensee's understanding of firearms laws and regulations. The period of inspection was October 19, 2020, the date the license was originally issued, to August 19, 2021.

Two (2) Violations were cited as a result of the inspection conducted. The violations cited include a violation of 27 CFR 478.128(c) instances, where the licensee made false statements in both his Acquisition and Disposition Record, on an ATF Form 4473, and ultimately facilitated a straw purchase. Specifically, the licensee transferred a firearm to a customer after an initial "Delayed" response was received from NICS and after no response was provided within 3 business days. The transfer was in violation of NY State law which requires licensee's wait 30 days before transferring a firearm without receiving a response from NICS. When the FFL learned of this requirement after the initial transfer, he instructed the original transferee to return the firearm and then immediately transferred the firearm to the original transferee's wife knowing she was not the actual transferee/buyer of the firearm. When asked about the transfer on September 16, 2021, Freedom Tactical, LLC owner Samuel Ross stated that it was his idea to transfer the firearm to the actual transferee/buyers wife because she had a pistol permit and he assumed she could pass the background check. After the review of the Report of Violations during the course of the closing conference on September 21, 2021, Samuel Ross changed his recollection of events and stated that he was not sure whose idea it was to transfer the firearm to the actual transferee/buyers wife. Screen shots of text messages between the licensee and actual transferee/buyer were obtained from the licensee during the course of the inspection and document a conversation where the actual transferee/buyer and licensee discuss if there is "any benefit" to changing the gun over to his name; further establishing that the licensee knew all along that firearm was intended for the original transferee/buyer. As a result, the licensee falsified both the ATF Form 4473 and his Acquisition and Disposition Record when he facilitated the transfer of the firearm to the actual transferee/buyers wife. Based on the inspection findings and violations cited, a recommendation of Revocation is warranted.

Inspection Findings

Miscellaneous

- 6. Actively engage in a straw purchase transaction (i.e., the licensee knows or has reasonable cause to believe that the transferee of record is not the actual buyer).

ELIGIBILITY VERIFICATION

Business Information Verification

Licensee Name	Business Type	Is the business valid?
Freedom Tactical LLC	Limited Liability Company (LLC)	Yes

Additional Findings

The business is valid. A query was conducted via the NY Department of State website and confirmation that Freedom Tactical, LLC is a registered Domestic Limited Liability Company operation in NY was made. See attached.

During the course of the on-site inspection, the licensee was also able to provide a copy of a "Statement of Organizer" documenting the business structure of the LLC. See attached.

Attachment(s):

- Business Information Verification - Statement of Organizer - Freedom Tactical, LLC.pdf
- Business Information Verification - NY Department of State Query - Freedom Tactical, LLC.pdf

Property Ownership Verification

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

Address

7748 AUTUMN BREEZE LANE
Unit N/A
ONTARIO, New York 14519
WAYNE United States

Additional Findings

The property is owned by the licensee. A query of the Wayne County Real Property Services website was conducted and confirmed that the licensed premises is owned by Freedom Tactical, LLC Managing Member and Owner Samuel Ross. See attached.

Attachment(s):

- Property Ownership Verification - Wayne County Real Property Services Query - Freedom Tactical, LLC.pdf

Zoning Information Verification

Is the proposed business activity in compliance with zoning?

Yes

Additional Findings

According to the licensee's file, the licensee is in compliance with local zoning laws. Zoning was verified by ATF in October of 2020, less than one year ago, during the licensee's original qualification inspection. According to the licensee's file, Town of Ontario Code Enforcement Office (b)(6) was contacted via telephone and zoning compliance was verified.

On September 14, 2021, IOI (b)(6) spoke with Town of Ontario Code Enforcement Office (b)(6) via telephone. (b)(6) advised that the licensee is in compliance with local zoning laws and that his business activity is considered a (b)(6) under local zoning laws. (b)(6) also stated that as long as the business does not have any employees and does not occupy more than 35% of the structure then the licensee is in compliance.

Contact Information

Name
(b)(6)

Date Contacted
09/14/2021

Organization
Town of Ontario

Job Title
Code Enforcement Officer

Phone Type	Phone Number	Remarks
Business	(b)(6)	Ext. 300

Contact Remarks

Licensee is in compliance. Activity is considered a (b)(6) and as long as the business does not occupy more than 35% of the structure and there are no employees, the licensee is in compliance.

Attachment(s):

APPOINTMENT DETAILS

Interview Date
08/19/2021

Address
7748 AUTUMN BREEZE LANE, Unit N/A, ONTARIO, New York 14519

Responsible Attendee(s)

Non-Responsible Person(s)

SAMUEL JOSEPH ROSS

No Items

RESPONSIBLE PERSON(S)

SAMUEL JOSEPH ROSS

Name	Gender	Race	Ethnicity
SAMUEL JOSEPH ROSS	Male	White	Not Hispanic or Not Latino
Date of Birth	SSN	Job Title	
(b)(6)	(b)(6)	OWNER / Managing Meber	

Physical Identifiers

Height	Weight	Hair Color	Eye Color
(b)(6)	(b)(6)	(b)(6)	(b)(6)

Place of Birth

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

Home Address

(b)(6)

Additional Names

Citizenship

United States

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

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

Email Address	Email Remarks
(b)(6)	

Criminal History Check

Date Criminal History Check Conducted
08/17/2021

Number Of Traces Resolved By IOI

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

Number of Transferee Background Checks

1

Attachment(s)

Report of Violations.pdf

Report of Violations.pdf

Licensee Response to Violations Report.pdf

REPORT OF VIOLATIONS

Regulation	Corrective Actions	Instance Details
27 CFR 478.58: Unlawful conference of rights and privileges under State or other law 1 Number of Instances: <input type="text"/>	Comply with State or other laws.	Licensee failed to comply with NYS Penal Law Article 400.20 which requires "...a waiting period before a firearm, shotgun or rifle may be delivered to a person; requires either the National Instant Criminal Background Check System (NICS) or its successor has issued a "proceed" response to the licensee, or thirty calendar days have elapsed since the date the licensee, seller, transferor or dealer contacted NICS to initiate a national instant criminal background check and NICS has not notified the licensee, seller, transferor or dealer that the transfer of the firearm, rifle or shotgun to such person should be denied. "
27 CFR 478.128(c): False statement made by a licensee on any ATF record 2 Number of Instances: <input type="text"/>	Cease and desist from engaging in deceptive practices.	Licensee falsified an ATF Form 4473 and facilitated a straw purchase, in order to circumvent NY State 30 day waiting period after a "Delay" response from NICS, by having the original transferee return the gun and then, at the licensee's suggestion, transferring the firearm to the actual transferee's spouse. Licensee falsified his Acquisition and Disposition Record by recording the disposition of a firearm after completing a straw purchase to someone other than the actual purchaser of the firearm.

LICENSEE RESPONSE REPORT

Regulation	Corrective Actions	Licensee Response	Status Details
27 CFR 478.58: Unlawful conference of rights and privileges under State or other law 1 Number of Instances: <input type="text"/>	Comply with State or other laws.	Licensee was unaware of the NY State 30 day waiting period after receiving an initial delayed response from NICS, and not receiving a proceed response, before transferring a firearm. Licensee contacted transferee as soon as he learned of the requirement and instructed him to return the firearm.	Status Licensee Notified Verified Method In Person Date Licensee Notified 09/21/2021
27 CFR 478.128(c): False statement made by a licensee on any ATF record 2 Number of Instances: <input type="text"/>	Cease and desist from engaging in deceptive practices.	Licensee stated that he did not believe that he was conducting a straw purchase and that he assumed it was okay to transfer the firearm to his wife.	Status Licensee Notified Verified Method In Person Date Licensee Notified 09/21/2021

CLOSING CONFERENCE

(9/21/2021)

09/21/2021

Attachment(s)

Attendee(s)

SAMUEL JOSEPH ROSS

EXHIBITS

Inspection

Category	Attachment Name
Correspondence	Spartan Notification RE: 6-16-04897 Inspection Results
Correspondence	Spartan Notification RE: 6-16-04897 Inspection Results
Correspondence	Spartan Notification RE: 6-16-04897 Monitored Case
Correspondence	Spartan Notification RE: 6-16-04897 Inspection Results
Correspondence	Spartan Notification RE: 6-16-04897 Monitored Case
Correspondence	Spartan Notification RE: 6-16-04897 Monitored Case
Correspondence	Spartan Notification RE: 6-16-04897 Monitored Case
Correspondence	Spartan Notification RE: 6-16-04897 Monitored Case
Correspondence	Spartan Notification RE: 6-16-04897 Special Attention Flag (SAF)
Correspondence	
Correspondence	DIO John Curtis Returned Inspection FCI-27558
Correspondence	Spartan Notification RE: 6-16-04897 Monitored Case
Correspondence	
Correspondence	DIO John Curtis Returned Inspection FCI-27558
BusinessVerification	Business Information Verification - Statement of Organizer - Freedom Tactical, LLC.pdf
Correspondence	Information Concerning Your Federal License/Permit
LicenseeResponseToViolationsPDF	Licensee Response to Violations Report.pdf
Correspondence	
Correspondence	Information Concerning Your Federal License/Permit
ViolationsPDF	Report of Violations.pdf
ClosingConferenceSummary	Acknowledgment of Regulations.pdf
Correspondence	
Correspondence	Information Concerning Your Federal License/Permit
ViolationsPDF	Report of Violations.pdf
AdditionalBackgroundCheck	CHC (b)(6)
PropertyOwnershipVerification	Property Ownership Verification - Wayne County Real Property Services Query - Freedom Tactical, LLC.pdf
BusinessVerification	Business Information Verification - NY Department of State Query - Freedom Tactical, LLC.pdf
ApplicationPDF	Freedom Tactical FLS.pdf

SAR-1229

Category	Attachment Name
Correspondence	Industry Operations Report of Suspicious Activity(SAR-1229)

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

In the matter of License Number 6-16-117-01-3L-04897, as a/an Dealer in Firearms

issued to:

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

Freedom Tactical LLC
7748 Autumn Breeze Lane
Ontario, New York 14519

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 32 Old Slip, Suite 3500, New York, New York 10005, 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 <u>2/3/22</u>	Name and Title of Bureau of Alcohol, Tobacco, Firearms and Explosives Official John A. Curtis, Director, Industry Operations	Signature (b)(6)
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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: 7018 1130 0000 4736 0490
- Delivering a copy of the notice to the address shown below.

Date Notice Served <u>2/8/22</u>	Title of Person Serving Notice <u>Investigative Analyst</u>	Signature of Person Served (b)(6)
Print Name and Title of Person Served Samuel Ross, Owner		

Address Where Notice Served
7748 Autumn Breeze Lane, Ontario, New York 14519

Samuel Ross
 Freedom Tactical LLC
 7748 Autumn Breeze Lane
 Ontario, New York 14519
 FFL 6-16-117-01-3L-04897

Your Federal Firearms License (FFL), number 6-16-117-01-3L-04897, as a Dealer in Firearms, issued under Title 18, United States Code, Chapter 44, is being revoked. This Notice explains the basis for the revocation.

Authorization for Revocation

Title 18, United States Code, Section 923(e), provides that the Attorney General may, after notice and opportunity for a hearing, revoke any license issued under [section 923] if the holder of such license has willfully violated any provision of [Chapter 44] or any rule or regulation prescribed by the Attorney General under [Chapter 44].

Basis for Revocation:

1. On or about March 25, 2021, in willful violation of 18 U.S.C. § 922(b)(2), you did sell or deliver a firearm in New York State where the purchase or possession by such person would be in violation of State law applicable to the place of sale, delivery or other disposition.

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

(b)(3) (112 Public Law 55 125 Stat 552),(b)(6) three business days after receiving a response of "Delayed" from the National Instant Criminal Background Check System ("NICS"), but without receiving either (i) a "proceed" response from NICS, or (ii) waiting 30 calendar days from the date on which the NICS check was initiated, in violation of New York Penal Law § 400.20.

2. On or about March 31, 2021, in willful violation of 18 U.S.C. §§ 922(m), 923(g)(1)(A), and 924(a)(1)(A), and 27 C.F.R. §§ 478.124 and 478.128(c), you did make a false statement or representation with respect to the information required by Title 18, United States Code, Chapter 44, to be kept in your records. You directed (b)(6)

(b)(6) to return the (b)(3) (112 Public Law 55 125 Stat 552) to your licensed premises for the purpose of executing a purported transfer of the (b)(3) (112 Public Law 55 125 Stat 552) to (b)(6). You directed (b)(6) to falsely state and certify on the ATF Firearms Transfer Record ("F. 4473") that she was the actual purchaser of the firearm, and you did also certify that it was your belief that it was not unlawful to transfer the firearm to (b)(6), knowing that (b)(6) was not the actual purchaser the firearm and that the transfer of the (b)(3) (112 Public Law 55 125 Stat 552) was in violation of NY Penal Law § 400.20.

3. On or about March 31, 2021, in willful violation of 18 U.S.C. §§ 922(m), 923(g)(1)(A), and 924(a)(1)(A), and 27 C.F.R. §§ 478.125(e) and 478.128(c), you did make a false statement or representation with respect to the information required by Title 18, United States Code, Chapter 44, to be kept in your records. You directed (b)(6) and (b)(6) to return the (b)(3) (112 Public Law 55 125 Stat 552) to your licensed premises for the purpose of executing a purported transfer of the (b)(3) (112 Public Law 55 125 Stat 552) to (b)(6) bs. You falsely recorded in your Acquisition and Disposition (A&D) Record an acquisition from (b)(6) and a disposition to (b)(6) knowing that (b)(6) was the actual purchaser of the

Samuel Ross
Freedom Tactical LLC
7748 Autumn Breeze Lane
Ontario, New York 14519
FFL 6-16-117-01-3L-04897

firearm, and that the transfer of the (b)(3) (112 Public Law 55 125 Stat 552) of **(b)(6)** on March 25, 2021, was in violation of NY Penal Law § 400.20.

For these reasons, pursuant to 18 U.S.C. § 923(e), your license is subject to revocation.

FREEDOM TACTICAL LLC

SETTLEMENT AGREEMENT

UNITED STATES OF AMERICA
IN THE MATTER OF THE NOTICE
TO REVOKE OR SUSPEND LICENSE
AND/OR IMPOSE A CIVIL FINE:

* U.S. DEPARTMENT OF JUSTICE
* BUREAU OF ALCOHOL, TOBACCO,
* FIREARMS AND EXPLOSIVES
*
* NEW YORK FIELD DIVISION
*

FREEDOM TACTICAL LLC
7748 AUTUMN BREEZE LANE
ONTARIO, NEW YORK 14519
FFL 6-16-117-01-3L-04879

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The Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) and Freedom Tactical LLC (FT LLC) Federal Firearms License (FFL) number 6-16-117-01-3L-04879, hereby agree as follows:

1. FT LLC hereby agrees to withdraw his request for a hearing in this matter. The withdrawal shall be effective upon execution of this Agreement and shall be with prejudice.
2. ATF will issue to FT LLC a Final Notice of Revocation. The effective date of revocation will be **Thursday, July 14, 2022**. The period in between the date of issuance and the effective date of revocation shall be considered a stay.
3. ATF agrees that the Final Notice of Revocation shall include findings only with respect to Count One of the Notice to Revoke or Suspend License and/or Impose a Civil Fine. ATF shall make no findings with respect to Counts Two and Three of the Notice of Revocation.
4. While the stay is in effect, FT LLC remains obligated to comply with all applicable statutory and regulatory requirements imposed by Title 18, United States Code, Chapter 44 and Title 27, Code of Federal Regulations, Part 478. Failure to comply with these requirements or the terms of this agreement while the stay is in effect may lead to withdrawal of the stay by ATF.
5. Pursuant to 18 U.S.C. § 923(g), FT LLC remains subject to inspection by ATF while the stay is in effect. Further, FT LLC hereby waives the restrictions imposed on ATF by 18 U.S.C. § 923(g)(1)(A)(ii)(I) while the stay is in effect.
6. FT LLC shall refrain from placing any new orders for firearms or ammunition during the stay. The stay period shall be used for the orderly wind-down of operations. However, FT LLC may, in accordance with the provisions of Federal and State law, facilitate private party firearms transfers while the stay is in effect, and may receive firearms or ammunition ordered prior to execution of this Agreement.

FREEDOM TACTICAL LLC

SETTLEMENT AGREEMENT

7. Not later than **Saturday, August 12, 2022**, in accordance with 18 U.S.C. § 923(g)(4) and 27 C.F.R. § 478.127, the records maintained by FT LLC shall be delivered to the ATF Out of Business Records Center or the local ATF office.

Agreed to by:

(b)(6)

Samuel Ross
Managing Member

04/15/22
Date

(b)(6)

(b)(6)

Counsel for Freedom Tactical LLC

4/18/22
Date

(b)(6)

John Curtis
Director of Industry Operations
Bureau of Alcohol, Tobacco, Firearms and Explosives
New York Field Division

4/18/22
Date

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 6-16-117-01-3L-04897 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)

Freedom Tactical LLC
7748 Autumn Breeze Lane
Ontario, New York 14519

Notice Is Hereby Given That:

- A request for hearing pursuant to 18 U.S.C. § 923(f)(2) and/or 922(t)(5) was ~~received~~ ^{withdrawn.} 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 July 14, 2022,
- 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 04/19/2022	Name and Title of Bureau of Alcohol, Tobacco, Firearms and Explosives Official John Curtis, Director, Industry Operations	(b)(6)
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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: 7022 0410 0002 4723 4991
- Delivering a copy of the notice to the address shown below.

Date Notice Served 4/20/22	Title of Person Serving Notice Investigative Analyst	(b)(6)
Print Name and Title of Person Served Samuel Ross, Owner (b)(6) counsel for Freedom Tactical, LLC		Signature of Person Served

Address Where Notice Served
7748 Autumn Breeze Lane, Ontario, New York 14519 / One East Main Street, Rochester, New York 14614

Note: Previous Edition is Obsolete

Samuel Ross
Freedom Tactical LLC
7748 Autumn Breeze Lane
Ontario, New York 14519
FFL 6-16-117-01-3L-04897

In the Matter of the Notice to Revoke or Suspend License and/or Impose a Civil Fine (NTR) issued to Freedom Tactical LLC (FT LLC), 7748 Autumn Breeze Lane, Ontario, New York, Federal Firearms License (FFL) 6-16-117-01-3L-04897, the Director, Industry Operations (DIO), New York Field Division, Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), hereby determines that FFL 6-16-117-01-3L-04897 is hereby revoked, with such revocation stayed until July 14, 2022.

This Notice provides a summary of my finding and conclusions.

Authorization for Revocation

Title 18, United States Code, Section 923(e), provides that the Attorney General may, after notice and opportunity for a hearing, revoke any license issued under [section 923] if the holder of such license has willfully violated any provision of [Chapter 44] or any rule or regulation prescribed by the Attorney General under [Chapter 44].

Procedural History

On February 8, 2022, I issued to FT LLC the NTR. The NTR was received by FT LLC on February 12, 2022. On February 23, 2022, ATF timely received a written request for hearing. On March 7, 2022, I issued a Notice of Hearing (NOH) setting the hearing date for April 28, 2022.

On April 18, 2022, FT LLC, pursuant to a settlement agreement with ATF, withdrew its request for a hearing.

Findings of Fact and Conclusions of Law

On or about March 25, 2021, FT LLC transferred a (b)(6) 12 ga shotgun, serial number (b)(6) through the Federal Bureau of Investigation (FBI) National Instant Criminal Background Check System (NICS) on March 21, 2021, and received a response of "Delayed". FBI NICS communicated to FT LLC that the authorized transfer date under Federal law was March 25, 2021.

However, pursuant to New York Penal Law § 400.20, before delivering a rifle or shotgun, a licensed firearms dealer must either (i) receive a "proceed" response from NICS, or (ii) wait 30 calendar days from the date on which the NICS check was initiated.

27 C.F.R. § 478.58 provides that an FFL confers no right or privilege to conduct business or activity contrary to State law or other law. 18 U.S.C. § 922(b) prohibits the holder of a FFL from transferring any firearm to any person in any State where the purchase or possession by

Samuel Ross
Freedom Tactical LLC
7748 Autumn Breeze Lane
Ontario, New York 14519
FFL 6-16-117-01-3L-04897

such person would be in violation of any State law applicable at the place of sale, delivery, or other disposition, unless the licensee knows or has reasonable cause to believe that the purchase or possession would not be in violation of such State law or such published ordinance.

FT LLC applied for its FFL in September of 2020. In October of 2020, an ATF Industry Operations Investigator met with owner Samuel Ross to assess FT LLC's qualifications for licensing. At the time of the meeting, the ATF Investigator discussed the various requirements and obligations of a licensee, to include the requirement to comply with State and local law, and basic local requirements, including the additional waiting period imposed under New York State law when NICS responds to a background check inquiry with a response of "delayed". Mr. Ross signed an acknowledgment form affirming that the information was explained to him.

The ATF Firearms Transaction Record (F. 4473), in box 27.c., provides the appropriate area to record the response from FBI NICS and provides an area to record the authorized Federal transfer date when a NICS check is delayed. Next to the space provided to record the federally authorized transfer date, the form states "if State law permits". Similarly, the instructions on the F. 4473, with respect to box 27, provides that "State law may impose a waiting period or other requirements on transferring a firearm.", and the licensee certification on the F. 4473 also references State or local legal requirements. This further reinforced for FT LLC to be cognizant of the applicable New York State waiting periods which are different and stricter than federal requirements.

Accordingly, I find that FT LLC had been informed of the legal requirements pertaining to waiting periods under New York law and the parallel federal prohibition on engaging in a firearm transfer where the purchase or possession by the transferee would be in violation of any State law applicable at the place of sale, delivery, or other disposition. I find further that FT LLC's conduct was willful insofar as it acted with plain indifference to a known legal obligation with respect to the transfer of the (b)(3) (112 Public Law 55 125 Stat 552) to (b)(6)

With respect to the remaining counts in the NTR, I make no findings with respect to the allegations therein.

Basis for Revocation:

1. On or about March 25, 2021, in willful violation of 18 U.S.C. § 922(b)(2), you sold or delivered a firearm in New York State where the purchase or possession by such person would be in violation of State law applicable to the place of sale, delivery or other disposition. On March 25, 2021, you transferred the (b)(3) (112 Public Law 55 125 Stat 552) to (b)(6) three business days after receiving a response of "Delayed" from NICS, but without receiving either (i) a "proceed" response from NICS, or (ii) waiting 30 calendar days from the date on which the NICS check was initiated, in violation of New York Penal Law § 400.20.

Samuel Ross
Freedom Tactical LLC
7748 Autumn Breeze Lane
Ontario, New York 14519
FFL 6-16-117-01-3L-04897

For these reasons, FT LLC has committed a willful violation of Title 18, U.S.C. § 922(b)(2), and FT LLC's FFL 6-16-117-01-3L-04897 is hereby **REVOKED** pursuant to 18 U.S.C. § 923(e), with such revocation **STAYED** until July 14, 2022.



U.S. Department of Justice

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

Washington DC

www atf gov

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.

**CURTIS
GILBERT** Digitally signed by
CURTIS GILBERT
Date: 2022.04.04
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Curtis Gilbert
Deputy Assistant Director (Industry Operations)
Field Operations