

JAMES VICTOR KENNEDY 's FCI

FCI-25014

11/15/2022 10:05 AM

IOI: (b)(6), Springfield II (IO) Satellite Office

LICENSEE INFORMATION

Applicant Name: JAMES VICTOR KENNEDY (Sole Proprietor)
Applicant Name: GAYLE S KENNEDY

RDS Key
5-43-09474

License Permit Number
5-43-039-02-1J-09474

License Type
02 - Pawnbroker License

Business Type
Sole Proprietorship

Premises Ownership Type: Owned
Premises Address: 16015 S HWY 39, Unit N/A, STOCKTON, Missouri 65785

Premises Location Type Required
Store Front

Address
16015 S HWY 39
Unit N/A
STOCKTON, Missouri 65785
CEDAR
United States

Address
16015 S HWY 39
Unit N/A
STOCKTON, Missouri 65785
CEDAR
United States

Phone Type	Phone Number	Remarks
Business	+1 417-276-7726	
Mobile	(b)(6)	

Email Address: (b)(6) Email Remarks:

RECOMMENDATIONS

Final Decision Date
Revocation 10/06/2022

Details

FCI-25014

Lead IOI: (b)(6)

Inspection Date: 7/19/2021

Summary: A compliance inspection was conducted for the above referenced licensee.

A warning letter was initially issued to and received by the licensee on 9/21/2021.

Per the President's June 2021 Comprehensive Strategy to Prevent and Respond to Gun Crime and Ensure Public Safety, the inspection meets revocation standards. The licensee was cited for a single instance of failing to conduct a NICS background check prior to the transfer of a firearm. The licensee incorrectly accepted a Nebraska concealed carry permit in lieu of the NICS check.

Notice to Revoke: 12/8/2021

Revocation Hearing Held: 6/20/2022

Final Notice to Revoke : 9/26/2022

MCP Suspended: 9/26/2022

Licensee provided additional instructions on inventory liquidation and address for submission of FFL records: 11/14/2022

Recommendation: Revoked

Email to: (b)(6) forwarded to: (b)(6)

Out of Business Records and Inventory Management

Licensee Records

✓ Submitted to the Federal Licensing Center

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

Details

I concur with the recommendation of revocation as the FFL failed to conduct a NICS check.

Special Agent in Charge Frederic Winston's Recommendation

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

Division Counsel: (b)(6) Review

Details

Legally, the elements for willfulness on the 102(a) violation appear to have been met, necessitating initial notice of revocation in accordance with the DOJ Comprehensive Strategy to Prevent and Respond to Gun Crime and Ensure Public Safety.

Industry Operations Investigator (b)(6) Recommendation
Revocation

Details

In accordance with the DOJ Comprehensive Strategy to Prevent and Respond to Gun Crime and Ensure Public Safety, I recommend revocation of the licensee based, in part, on the following:

- The licensee was cited for an instance of failing to conduct a NICS background check prior to the transfer of a firearm. The licensee incorrectly accepted a Nebraska concealed carry permit in lieu of conducting a NICS check.

Additional violations include:

- The licensee license was engaged in manufacturing firearms without a firearms license
- The licensee has repeated similar violations in the past.

Area Supervisor (b)(6) Recommendation
Warning Letter

Details

Inspection was previously closed on 9/20/2021 but was re-opened by ATF Headquarters.

A warning letter has already been issued to and received by the licensee on 9/21/2021.

Per the President's June 2021 Comprehensive Strategy to Prevent and Respond to Gun Crime and Ensure Public Safety, the inspection meets revocation standards. The licensee was cited for a single instance of failing to conduct a NICS background check prior to the transfer of a firearm. The licensee incorrectly accepted a Nebraska concealed carry permit in lieu of the NICS check.

The licensee was aware of the need to confirm that transferees are not prohibited prior to completing a transfer, but incorrectly accepted a Nebraska CCW permit in lieu of a NICS background check. Investigator (b)(6) subsequent background check confirmed the buyer was not prohibited. There were no State prohibitions related to the buyer's possession of the firearm involved.

The licensee's other violations do not meet the standard for administrative action. The licensee showed remorse and a willingness to become compliant, which is demonstrated by the licensee's continued improvement with each successive inspection. The licensee is a mid-volume pawnbroker in rural Missouri. There were no ties to violent crime or prohibited persons. If allowed to continue operating, the licensee will continue to be inspected on a minimum 4-year cycle.

Industry Operations Investigator (b)(6) Recommendation
Warning Letter

Details

Licensee accepted a NE state permit at the word of the customer who also claimed to be an officer. Mr. Kennedy stated that he showed him a badge, but none of this information could be corroborated. IOI (b)(6) did confirm that the purchaser was not prohibited and explained to Mr. Kennedy that the State of Missouri does not recognize anyother states POC. All firearm transfers to individuals need to have a NICS check attached to it. Mr. Kennedy stated that he understood and would not conduct a transfer like that again.

Inspection Findings

License Type

1. FFL is engaged in an activity not authorized by the Federal firearms license (e.g., engaging in manufacturing firearms without a manufacturer's license).

NICS

4. Failure to conduct a NICS check or obtain an alternate permit.

ELIGIBILITY VERIFICATION

Business Information Verification

Property Ownership Verification

Premises Ownership Type: Owned Premises Location Type: Store Front Has the property ownership been verified?: Yes

Address:
16015 S HWY 39
Unit N/A
STOCKTON, Missouri 65785
CEDAR
United States

Attachment(s):
Purchase Agreement 001.jpg
fiddlers green gun & pawn property record.png

Trade Name/DBA Verification

Trade Name/DBA: FIDDLERS GREEN GUN & PAWN Is the trade name/DBA registered?: Yes

Attachment(s):
fiddlers green gun & pawn dba.pdf

Zoning Information Verification

Is the proposed business activity in compliance with zoning?
Yes

Contact Information

Name: (b)(6) Date Contacted: 03/05/2021
Organization: Cedar County
Job Title: Voting Registration Deputy Clerk

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

Attachment(s):

APPOINTMENT DETAILS

Interview Date: 07/19/2021

Address: 16015 S HWY 39, Unit N/A, STOCKTON, Missouri 65785

Remarks: IOI (b)(6) to assist.

Responsible Attendee(s): JAMES VICTOR KENNEDY Non-Responsible Person(s):

GAYLE S KENNEDY No Items

RESPONSIBLE PERSON(S)

JAMES VICTOR KENNEDY

Name	Gender	Race	Ethnicity
JAMES VICTOR KENNEDY	Male	White	Hispanic or Latino

Date of Birth	SSN	Job Title
(b)(6)		OWNER

Physical Identifiers

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

Place of Birth

Country: United States Of America State: Kansas City:

Home Address

(b)(6)

United States

Additional Names

Citizenship

United States

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

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

Criminal History Check

Date Criminal History Check Conducted: 03/03/2021

Criminal History Check Comments: (b)(6)
no hits nforce

GAYLE S KENNEDY

Name: GAYLE S KENNEDY Gender: Female Race: Ethnicity: Date of Birth: (b)(6) SSN: Job Title: MGR

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

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

Email Address: (b)(6) Email Remarks:

Criminal History Check

Date Criminal History Check Conducted
03/03/2021

Criminal History Check Comments
no hits nforce

INTERVIEW QUESTIONNAIRE

What is the proposed business activity?

The licensee buys, sells, and pawns firearms. The shop will also buy, sell and pawn jewelry, tools, electronics, collectable coins, and antique household items. This licensee was manufacturing ammunition as well as AR-style firearms (See Report of Violations). Mr. Kennedy was unaware that he could not put firearms together without the 07 license.

Do they need an additional license or permit?

No

Who are their primary suppliers?

(b)(4) and internet transfers

Other State or Local Permits

Type	Number	Expiration
State/Local Business License	Merchant's License 468	
State Sales Tax	(b)(3)(26 USC § 6103)	

Business Activities

Selected Operational Security Measures

- Controlled Access to ATF Recordkeeping
- Controlled Access to Keys

Pawnbroker

Drop Shipments

Retail

SECURITY WALKTHROUGH

Inspection Area Description

The licensee operates from a commercial building in rural Cedar County, MO. Firearms are kept in a dedicated, lockable, room and pawned firearms are stored in the back office (most of which are in a gun safe). This license was issued on 8/23/2012.

Primary Activity

Retail

Selected Physical Security Measures

(b)(4)

GPS Coordinates

Latitude

37.66517

Longitude

-093.81682

ONSITE SUMMARY

Total Number of ATF Form 4473s for Inspection Review Period

Total Number of ATF 4473 Reviewed

(b)(4)

Total Number of Open Dispositions in A & D Record

(b)(4)

Total Number of Firearms in Inventory

94

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

Number Of Traces Resolved By IOI

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

Additional Comments

The Licensee utilizes a tagging system for the inventory. ATF F 4473s are kept in a serial order. Denials and non-transfers are kept separate.

Attachment(s)

Report of Violations.pdf

Report of Violations.pdf

Licensee Response to Violations Report.pdf

REPORT OF VIOLATIONS

Regulation	Corrective Actions	Instance Details
1 27 CFR 478.102(a)(1): Failure to contact NICS or POC	Execute a required NICS/POC background check for all future over-the-counter firearm transactions.	NICS Violation, (b)(6)
2 27 CFR 478.41(b): Failure to be licensed as a dealer, manufacturer or importer of firearms	Cease and desist engaging in activities not authorized by current license type.	Licensee manufactured AR-style firearms as well as ammunition without being properly licensed by ATF.
3 27 CFR 478.125(e): Failure to maintain an accurate/complete/timely acquisition and disposition record of firearms	Accurately, completely & timely record all required future firearm acquisition information. Accurately, completely & timely record all required future firearm disposition information. Amend/Update A&D Record to accurately record all required firearm acquisition information. Amend/Update A&D Record to accurately record all required firearm disposition information. Resume proper maintenance of required acquisition and disposition record.	(b)(3) (112 Public Law 55 125 Stat 552)
4 27 CFR 478.21(a): Failure to complete forms as prescribed	Complete all forms as prescribed.	(b)(3) (112 Public Law 55 125 Stat 552),(b)(6)
5 27 CFR 478.124(c)(3)(iv): Failure to record NICS contact information on an ATF F 4473	Execute and retain a complete and accurate ATF Form 4473 on all future firearm transactions. Ensure that all required transferee/buyer identification information is obtained and accurately recorded on all future ATF Forms 4473, Section B. Ensure that all required NICS/POC background check information is obtained and accurately recorded on all future ATF Forms 4473, Section B.	(b)(3) (112 Public Law 55 125 Stat 552),(b)(6)
6 27 CFR 478.124(c)(1): Failure to obtain a completed ATF F 4473	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.	(b)(3) (112 Public Law 55 125 Stat 552),(b)(6)
27 CFR 478.124(c)(5): Failure by		

<p>transferor to sign and/or date an ATF F 4473</p>	<p>Execute and retain a complete and accurate ATF Form 4473 on all future firearm transactions. Ensure that the required transferor/seller signature and date of transfer is obtained, validated and accurately recorded on all future ATF Forms 4473, Section D.</p>	<p>(b)(3) (112 Public Law 55 125 Stat 552), (b)(6)</p>
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LICENSEE RESPONSE REPORT

Regulation	Corrective Actions	Licensee Response	Status Details
<p>1 27 CFR 478.102(a)(1): Failure to contact NICS or POC</p>	<p>Execute a required NICS/POC background check for all future over-the-counter firearm transactions.</p>	<p>Licensee was not happy about the NE resident claiming he did not have to do the background check. He stated that he would do NICS check on all firearm transfers from this point forward.</p>	<p>Status Licensee Notified Verified Method In Person Date Licensee Notified 07/19/2021</p>
<p>2 27 CFR 478.41(b): Failure to be licensed as a dealer, manufacturer or importer of firearms</p>	<p>Cease and desist engaging in activities not authorized by current license type.</p>	<p>Licensee stated that he will stop putting firearms together, but did not know that constituted manufacturing per the ATF.</p>	<p>Status Licensee Notified Verified Method In Person Date Licensee Notified 07/22/2021</p>
<p>3 27 CFR 478.125(e): Failure to maintain an accurate/complete/timely acquisition and disposition record of firearms</p>	<p>Accurately, completely & timely record all required future firearm acquisition information. Accurately, completely & timely record all required future firearm disposition information. Amend/Update A&D Record to accurately record all required firearm acquisition information. Amend/Update A&D Record to accurately record all required firearm disposition information. Resume proper maintenance of required acquisition and disposition record.</p>	<p>The licensee stated that he will try to do a better job of finding the correct manufacturer and importer; though he was really disappointed in himself for not logging (b)(3) (112 Public Law 55 125 Stat 552) but in a timely manner.</p>	<p>Status Correction Verified Verified Method In Person Date Correction Verified 07/22/2021</p>
<p>4 27 CFR 478.21(a): Failure to complete forms as prescribed</p>	<p>Complete all forms as prescribed.</p>	<p>Mr. Kennedy stated that he will make sure all blanks are filled in on the 4473 in the future.</p>	<p>Status Licensee Notified Verified Method In Person Date Licensee Notified 07/22/2021</p>
<p>5 27 CFR 478.124(c)(3)(iv): Failure to record NICS contact information on an ATF F 4473</p>	<p>Execute and retain a complete and accurate ATF Form 4473 on all future firearm transactions. Ensure that all required transferee/buyer identification information is obtained and accurately recorded on all future ATF Forms 4473, Section B. Ensure that all required NICS/POC background check information is obtained and accurately recorded on all future ATF Forms 4473, Section B.</p>	<p>Mr. Kennedy stated that he will make sure all blanks are filled in on the 4473 in the future.</p>	<p>Status Licensee Notified Verified Method In Person Date Licensee Notified 07/22/2021</p>
<p>27 CFR 478.124(c)(1): Failure to obtain a completed ATF F 4473</p>	<p>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.</p>	<p>Mr. Kennedy stated that he will make sure all blanks are filled in on the 4473 in the future.</p>	<p>Status Licensee Notified Verified Method In Person Date Licensee Notified</p>

6			07/22/2021
7	27 CFR 478.124(c)(5): Failure by transferor to sign and/or date an ATF F 4473	Execute and retain a complete and accurate ATF Form 4473 on all future firearm transactions. Ensure that the required transferor/seller signature and date of transfer is obtained, validated and accurately recorded on all future ATF Forms 4473, Section D.	Mr. Kennedy stated that he will make sure all blanks are filled in on the 4473 in the future.
			Status Licensee Notified Verified Method In Person Date Licensee Notified 07/22/2021

CLOSING CONFERENCE

(7/22/2021)
07/22/2021

Closing Conference Additional Notes

On 7/22/21 IOI: (b)(6) conducted a closing conference with Vic Kennedy. IOI: (b)(6) reviewed the Acknowledgement of Federal Firearms Regulations with him.

IOI: (b)(6) issued Kennedy the Report of Violations (ROV). IOI: (b)(6) explained each violation and the required corrective actions. Mr. Kennedy signed the ROV. Each document was sent to Mr. Kennedy electronically.

Attachment(s)

Attendee(s)

JAMES VICTOR KENNEDY

EXHIBITS

Inspection

Category	Attachment Name
Correspondence	Spartan Notification RE: 5-43-09474 Inspection Results
Correspondence	Spartan Notification RE: 5-43-09474 Inspection Results
FinalDecision	Notice to Revoke - Kennedy.pdf
Correspondence	Spartan Notification RE: 5-43-09474 Monitored Case
Correspondence	Spartan Notification RE: 5-43-09474 Monitored Case
Correspondence	Spartan Notification RE: 5-43-09474 Monitored Case
Correspondence	Spartan Notification RE: 5-43-09474 Monitored Case
Correspondence	Spartan Notification RE: 5-43-09474 Monitored Case
Correspondence	Spartan Notification RE: 5-43-09474 Monitored Case
Correspondence	Spartan Notification RE: 5-43-09474 Special Attention Flag (SAF)
Correspondence	Spartan Notification RE: 5-43-09474 Monitored Case
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Correspondence	Spartan Notification RE: 5-43-09474 Special Attention Flag (SAF)
Correspondence	Spartan Notification RE: 5-43-09474 Monitored Case
Correspondence	Spartan Notification RE: 5-43-09474 Monitored Case
Correspondence	Spartan Notification RE: 5-43-09474 Monitored Case
UpdateLicensingCenter	8c FCI-25014 - Kennedy James dba Fiddlers Green.pdf
Correspondence	
Correspondence	DIO William Miller Returned Inspection FCI-25014
Correspondence	Spartan Notification RE: 5-43-09474 Monitored Case
Correspondence	Spartan Notification RE: 5-43-09474 Monitored Case
Correspondence	Spartan Notification RE: 5-43-09474 Inspection Results
UpdateLicensingCenter	8c FCI-25014 - Kennedy James dba Fiddlers Green - Amended.docx
PostInspection	FCI-25014 Inspection Findings.pdf
PostInspection	FW_ Spartan Notification RE_ 5-43-09474 Inspection Results.msg

PostInspection	Spartan Notification RE_5-43-09474 Inspection Results.msg
Correspondence	Spartan Notification RE: 5-43-09474 Inspection Results
WarningLetterReturnSlip	USPS - Delivery Confirmation WL (second attempt).pdf
ViolationsPDF	Report of Violations.pdf
WarningLetter	Warning Letter.pdf
PropertyOwnershipVerification	Purchase Agreement 001.jpg
ClosingConferenceSummary	Acknowledgment of Regulations.pdf
LicenseeResponseToViolationsPDF	Licensee Response to Violations Report.pdf
ViolationCorrection	
Correspondence	Information Concerning Your Federal License/Permit
Correspondence	
ViolationsPDF	Report of Violations.pdf
PropertyOwnershipVerification	fiddlers green gun & pawn property record.png
TradeNameVerification	fiddlers green gun & pawn dba.pdf

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

In the matter of License Number 5-43-039-02-4J-09474, as a/an A Dealer of Firearms Other Than Destructive Devices

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

James V. Kennedy d/b/a Fiddlers Green Gun & Pawn
16015 S Hwy 39
Stockton, MO 65758

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
12/8/2021	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 by

- Certified mail to the address shown below.
Tracking Number: 7020 1810 0000 5121 7081 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 James V. Kennedy d/b/a Fiddlers Green Gun & Pawn (“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, “GCA”) as described herein.

Compliance History

ATF first issued a Federal firearms license to Licensee in 2012. The laws and regulations issued under the GCA were reviewed as part of the application inspection. Subsequently, ATF conducted compliance inspections of Licensee in 2015, 2016, 2018, and 2019. As a result of the 2016 inspection, Licensee received a warning letter from ATF in which violations and proposed corrective actions were reviewed. In the warning letter, ATF stated “any future violations, either repeat or otherwise, could be viewed as willful and may result in revocation of [its] license.”

Current Inspection

On July 19, 2021, ATF began a compliance inspection of Licensee’s premises that revealed the following:

Acquisition and Disposition Record Violations:

1. On occasions, 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 occasion, 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 1 occasion, 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.

ATF Form 4473 Violations:

4. On occasion, Licensee willfully failed to obtain a complete and/or accurate Firearms Transaction Record, ATF Form 4473, from the transferee prior to making an over-the-counter transfer of a firearm to a non-licensee, in violation of 18 U.S.C. § 923(g)(1)(A) and 27 C.F.R. § 478.124(c)(1). See Appendix ¶ D.
5. On occasion, Licensee willfully transferred a firearm to a non-licensee without recording the date the Licensee contacted NICS, any response provided by the system and/or any identification number provided by the system information on the 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)(iv). See Appendix ¶ E.
6. On occasion, Licensee willfully failed to sign and/or date the Firearms Transaction Record, ATF Form 4473 certifying that Licensee does not know or have reason to believe the transferee is disqualified by law from receiving the firearm described on the Form, in violation of 18 U.S.C. § 923(g)(1)(A) and 27 C.F.R. § 478.124(c)(5). See Appendix ¶ F.
7. On occasion, Licensee willfully failed to obtain/execute the Firearms Transaction Record, ATF Form 4473 as indicated by the headings on the Form and the instructions on or pertaining to the Form, in violation of 18 U.S.C. § 922(m) and 27 C.F.R. § 478.21(a). See Appendix ¶ G.

Appendix ¶ A

Firearm Description	Date	Discrepancy
(b)(3) (112 Public Law 55 125 Stat 552)		

Appendix ¶ B

Firearm Description	Date	Discrepancy
(b)(3) (112 Public Law 55 125 Stat 552)		

Appendix ¶ C

Transferee's Name	Date	Discrepancy
(b)(3) (112 Public Law 55 125 Stat 552), (b)(6)		

Appendix ¶ D

Transferee's Name	Date	Discrepancy
(b)(3) (112 Public Law 55 125 Stat 552), (b)(6)		

Appendix ¶ E

Transferee's Name	Date	Discrepancy
(b)(3) (112 Public Law 55 125 Stat 552), (b)(6)		

Appendix F

Transferee's Name	Date	Discrepancy
(b)(3) (112 Public Law 55 125 Stat 552),(b)(6)		

Appendix G

Transferee's Name	Date	Discrepancy
(b)(3) (112 Public Law 55 125 Stat 552),(b)(6)		

**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 5-43-039-02-4J-09474 as a/an
Dearler in Firearms, Including Pawnbroker, Other Than Destructive Devices, issued to:

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

James V. Kennedy
d/b/a Fiddlers Green Gun & Pawn
16015 S Highway 39
Stockton, Missouri 65758

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, Missouri 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 or 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 09/26/2022	Name and Title of Bureau of Alcohol, Tobacco, Firearms and Explosives Official William J. Miller, Director, Industry Operations, Kansas City Field Division	Signature (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. Or Delivering a copy of the notice to the address shown below.
 Tracking Number: _____

Date Notice Served	Title of Person Serving Notice Administrative Assistant	Signature of Person Serving Notice
Print Name and Title of Person Served James V. Kennedy d/b/a Fiddlers Green Gun & Pawn		Signature of Person Served
Address Where Notice Served 16015 S Highway 39, Stockton, Missouri 65758		

Note: Previous Edition is Obsolete

James V. Kennedy d/b/a Fiddlers Green Gun & Pawn
16015 S Hwy 39
Stockton, Missouri 65758

RE: FFL# 5-43-039-02-4J-09474

James V. Kennedy d/b/a Fiddlers Green Gun & Pawn, 16015 S Hwy 39, Stockton, Missouri 65758 (“Licensee”) holds a Federal firearms license, under number 5-43-039-02-4J-09474, as a dealer in firearms, including pawnbroker, 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 July 19, 2021. Licensee timely requested a hearing to review the Initial Notice.

The hearing was held on June 20, 2022, at the ATF Kansas City Field Office located in Springfield, 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 Senior Attorney: (b)(6) ATF Industry Operations Investigator (“IOI”) (b)(6) appeared as a witness on behalf of the Government.

Licensee James V. Kennedy, a sole proprietor and responsible person for the license, appeared at the hearing. (b)(6) also attended the hearing as (b)(6) of Mr. Kennedy. 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 its current Federal firearms license since 2012.¹ Since 2012, ATF conducted compliance inspections of Licensee in 2015, 2016, 2018, and 2019. [Gov. Exs. 1, 12, 13]. During each inspection, ATF reviewed the pertinent Federal firearms laws and regulations with Licensee and provided him with resources and reference information regarding the requirements for a Federal firearms licensee. [See Gov. Ex. 2]. Licensee further acknowledged at these inspections his responsibilities to be aware and familiar with all the laws and regulations governing a licensed firearms business. [Id.] Several reference sources and resource materials regarding the GCA requirements were also provided to Licensee.

Following the 2016 inspection, Licensee received a warning letter. [Gov. Ex. 12]. Following the 2019 inspection, Licensee was issued a report of violations, but no further action was taken at

¹ During the hearing, Licensee referenced possessing numerous prior Federal firearms licenses prior to 2012 and that he has held a license for approximately forty years. However, specific evidence as to the nature and quantity of those licenses was neither elicited nor admitted.

that time. [Gov. Ex. 13]. Licensee was informed at the conclusion of these two inspection reviews that future violations, repeat or otherwise, could be considered willful and may result in a revocation of the license.

Beginning on July 19, 2021, ATF conducted a compliance inspection at Licensee’s business premises. The violations found during this inspection were the basis for the Initial Notice of Revocation and corresponding Appendix, as incorporated herein and discussed more thoroughly as follows:

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

As to Violation #1, on [redacted] occasions, Licensee willfully failed to timely and/or accurately 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 [redacted] firearms in inventory that were inaccurately labeled as to the importer of the firearms in the acquisition and disposition records (“A&D book”). [Gov. Ex. 5; Hearing Transcript (“HT”) pgs. 32-34]. At the inspection, Licensee admitted the violation and indicated that he would try to do a better job of entering information accurately moving forward. [Gov. Ex. 3].

As to Violation #2, on [redacted] occasion, 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).

The hearing testimony and evidence established that an [redacted (b)(3) (112 Public Law 55 125 Stat 552)] was transferred, but several spaces of required information for the firearm were left blank in the A&D book. [Gov. Ex. 6; HT pgs. 39-40]. During the inspection, Licensee stated that he was disappointed in himself for not logging that firearm out correctly. [Gov. Ex. 3; HT pg. 44].

Upon reviewing Government Exhibits 3, 5, and 6, along with the testimony provided at the hearing for these violations, I find that Licensee failed to properly record the acquisition of [redacted] firearms located in inventory at the time of the inspection. I also find that Licensee failed to accurately record all information required of dispositions in [redacted] instance. Licensee was previously cited for acquisition and disposition violations, pursuant to 27 C.F.R. § 478.125, following the 2019 inspection. [Gov. Ex. 13]. 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, which is further indicative of his knowledge of the requirements for proper record keeping.

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

Violation #3 – Background Checks

On one occasion, Licensee willfully transferred a firearm to an unlicensed person without first contacting the National Instant Criminal Background Check System (NICS)² 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).

At the hearing, the Government presented Exhibit 7, which was an ATF Form 4473 concerning (b)(6) and dated November 5, 2020. In lieu of conducting a NICS check, Exhibit 7 shows that a Nebraska permit was reviewed and accepted. Testimony was adduced indicating that there may be some states that allow permits in lieu of a NICS check, but that Missouri does not, and there are no circumstances in which a Missouri Federal firearms licensee may accept an out-of-state permit under the GCA. [Gov. Ex. 7; HT pgs. 49-50]. There was further testimony that this would have been a topic covered during an application inspection and at subsequent inspections, and moreover that there are specific instructions in that regard contained within the ATF Form 4473. [HT pgs. 50-51]. Licensee admitted that he simply thought it was permissible to accept an out-of-state permit and agreed that he could have availed himself of numerous resources if he had a concern about the legality of doing so. [HT pgs. 57-58].

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. 4]. Directly above the sections for NICS information, ATF Form 4473 states that a licensee must complete these sections and the NICS background prior to the transfer of the firearm(s). The corresponding instructions on the ATF 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)]. Alternatively, and as IOI (b)(6) testified at the hearing, Item 29 has explicit instructions that say “no NICS check is required because the transferee/buyer has a valid permit from the State where the transfer is to take place, which qualifies as an exemption to NICS.” The importance of background check compliance is stressed throughout the ATF Form 4473 and instructions to ensure a prohibited person does not receive a firearm from a licensee.

Given the evidence in the record, 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.

Violations #4, #5, #6, and #7 – ATF Forms 4473

Regarding Violation #4, on [] occasion, Licensee willfully failed to obtain a complete and/or accurate Firearms Transaction Record, ATF Form 4473, from the transferee prior to making an over-the-counter transfer of a firearm to a non-licensee, in violation of 18 U.S.C. § 923(g)(1)(A) and 27 C.F.R. § 478.124(c)(1).

Specifically, [] ATF Form 4473 regarding purchaser (b)(6) was completed without having Items 30 and 31 completed. The Government offered Exhibit 8, reflecting this

² NICS is operated by the Federal Bureau of Investigation (FBI).

transaction. Exhibit 8 shows that a NICS check was completed on February 11, 2021, but that Licensee transferred the firearm on February 12, 2021. The purchaser certified that he took possession on February 12, 2021, in Items 22 and 23, but Items 30 and 31 were left blank. This form therefore contains [redacted] errors: 1) Item 23, the purchaser's initial certification, should have indicated February 11, 2021, which is the date the NICS check was completed; and 2) because the transfer took place a day later, Mr. Crane should have recertified in Items 30 and 31 with the date February 12, 2021, but those Items were left blank. [Gov. Ex. 8; HT pgs. 60-61].

Licensee offered the explanation that the date listed in Item 27.a, indicating when the NICS check took place, should have read February 12, 2021, and that the Government was misreading his handwriting. [HT pgs. 61-62]. Licensee offered Licensee's Exhibit 1, which was a purported copy of the ATF Form 4473 concerning [redacted] (b)(3) (112 Public Law 55 125 Stat 552) but with a distinctly different number present in Item 27.a, as compared to Government's Exhibit 8. Licensee confirmed that he did not allege the Government altered his records and could not offer any explanation as to why the two looked different, except that he insisted his document was the original and the date was properly recorded as February 12, 2021, in Item 27.a on Licensee's Exhibit 1, which would eliminate any possible violation. [HT pgs. 66-70]. Licensee further agreed that the purported "2" written within the "12" on February 12, 2021, contained in Licensee's Exhibit 1 looked different than any other "2" written on the remainder of the form. [HT pg. 70]. Of note, Licensee admitted this violation when originally presented with all the violations by IOI (b)(6) [Gov. Ex. 3]. Moreover, this § 478.124(c)(1) violation is a repeat violation from the 2019 inspection. [Gov. Ex. 13].

Regarding Violation #5, on [redacted] occasion, Licensee willfully transferred a firearm to a non-licensee without recording the date Licensee contacted NICS, any response provided by the system and/or any identification number provided by the system information on the 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)(iv).

Concerning this violation, the Government offered Exhibit 9, which was identified as an ATF Form 4473, concerning a transaction [redacted] (b)(3) (112 Public Law 55 125 Stat 552), (b)(6) Exhibit 9 shows certification dates from both purchaser and transferor of November 2, 2020. While information was listed in Items 27.b, 27.c, and 27.d, indicating a NICS check had been completed, Item 27.a was blank. Based on the Exhibit and the testimony, Item 27.a should have read November 2, 2020, and Licensee did not dispute this violation. [Gov. Exs. 3, 9; HT pgs 74-75]. This was also a repeat violation from 2019. [Gov. Ex. 13].

As to Violation #6, on [redacted] occasion, Licensee willfully failed to sign and/or date the Firearms Transaction Record, ATF Form 4473 certifying that Licensee does not know or have reason to believe the transferee is disqualified by law from receiving the firearm described on the form, in violation of 18 U.S.C. § 923(g)(1)(A) and 27 C.F.R. § 478.124(c)(5).

Upon reviewing an unmarked exhibit provided by Licensee, the Government withdrew this violation. As such, I do not consider it for revocation.

Concerning Violation #7, on [redacted] occasion, Licensee willfully failed to obtain/execute the Firearms Transaction Record, ATF Form 4473 as indicated by the headings on the form and the

instructions on or pertaining to the form, in violation of 18 U.S.C. § 922(m) and 27 C.F.R. § 478.21(a).

Specifically, the Government introduced Exhibit 11, which is an ATF Form 4473 that concerned a purchase (b)(3) (112 Public Law 55 125 Stat 552), (b)(6). Based on the exhibit and testimony, it was shown that while (b)(6) signed the certification in Item 14, she failed to date said certification in Item 15. [Gov. Ex. 11; HT 82-83]. Licensee acknowledged this violation when presented with IOI (b)(6) findings. [Gov. Ex. 3].

Upon reviewing Government Exhibits 8, 9, and 11, along with the testimony provided for Violations #4, #5, and #7, I find that Licensee committed these violations. I further find that Licensee was properly made aware as to how to complete ATF Forms 4473 and had in fact properly completed them in many circumstances, demonstrating the wherewithal to do so successfully. I find that, by his own admission, Licensee could have and should have completed the forms at issue properly. Lastly, as noted above, Licensee has previously been cited and warned about errors specifically concerning 27 C.F.R. §§ 478.124(c)(1), 478.124(c)(3)(iv), and 478.21(a).

Therefore, upon considered all the information provided in the record, I conclude that Violations #4, #5 and #7 were committed willfully.

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 its legal obligation 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 plain indifference 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 including the failure to keep proper records on acquisition and disposition of firearms; ATF inspectors had informed the licensee's owner of the record-keeping and firearm 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 that 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). The Government is also 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.

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. *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, Inc. v. U.S. Department of Justice, Bureau of Alcohol, Tobacco, Firearms, and Explosives*, 979 F.3d 1271, 1280 (10th Cir. 2020), *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 ten years.³ [See Gov. Ex. 2]. ATF provided Licensee with guidance and information on corrective actions for the violations to ensure compliance. ATF also warned Licensee following at least two of the prior inspections that future violations could be considered willful and could result in revocation of the license, including going so far as to issue an explicit Warning Letter. [Gov. Exs. 12, 13]. 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

³ Licensee himself offered that he has numerous licenses, and numerous inspections over the course of 40 years, but that he has trouble remembering meetings where IOIs would explain the legal requirements for a licensee's conduct of business. [HT pg. 86].

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. However, the conduct of Licensee also cannot be considered to be excusable mistakes.

As discussed during the hearing, Licensee attributed many of the violations to business being too busy. [See HT pg. 86]. Although I do appreciate that business can be busy and that can be difficult to manage, 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 being busy, Licensee nonetheless continued to acquire firearms and conduct transactions since his last inspection without addressing or correcting the violations he was warned against committing. Ultimately, there is no legal justification for a licensee's claim that circumstances, such as being busy or overwhelmed, excuses the failure to correctly keep the A&D book, to properly complete 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 will do better in the future. However, this type of subsequent action does 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). Moreover, in response to each and every violation in 2019, Licensee vowed to be more vigilant in keeping his A&D book or diligent in filling out Forms 4473 properly. [Gov. Ex. 13]. Licensee's actions since 2019 show that he will not follow through in doing so.

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, as discussed by IOI: (b)(6) at multiple points in the hearing. A critical responsibility of a licensee is to help ensure that the Gun Control Act requirements are met, and accurate completion of Forms 4473, contacting NICS to do background checks and properly maintaining A&D books are among those requirements. *See A-TAC Gear Guns Uniforms LLC v. U.S. Department of Justice, Bureau of Alcohol, Tobacco, Firearms, and Explosives*, 530 F.Supp.3d 1033, 1039 (D. Colo. Mar. 31, 2021) ("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 to do so 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 administrative 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 #7 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 James V. Kennedy d/b/a Fiddlers Green Gun & Pawn, 16015 S Hwy 39, Stockton, Missouri 65758, under Federal firearms license number 5-43-039-02-4J-09474, is hereby **REVOKED**.