

LESLIE E GIFFORD 's FCI
 FCI-30547
 12/21/2022 01:19 PM
 IOI: (b)(6), Kansas City III (IO) Field Office

LICENSEE INFORMATION

Applicant Name
 LESLIE E GIFFORD
 (Sole Proprietor)

RDS Key
 5-48-04040

License/Permit Number
 5-48-031-01-2F-04040

License Type
 01 - Dealer License

Business Type
 Sole Proprietorship

Premises Ownership Type
 Owned Premises Address
 318 S 3RD ST, Unit N/A,
 BURLINGTON, Kansas 66839

Premises Location Type Required

Address
 318 S 3RD ST
 Unit N/A
 BURLINGTON, Kansas 66839
 COFFEY
 United States

Address
 318 S 3RD ST
 Unit N/A
 BURLINGTON, Kansas 66839
 COFFEY
 United States

Phone Type	Phone Number	Remarks
Business	+1 620-364-9148	

RECOMMENDATIONS

Final Decision Date
 Revocation 10/03/2022

Details

FCI-30547

Lead IOI: (b)(6)

Inspection Date: 1/5/2022

Per the DOJ Comprehensive Strategy to Prevent and Respond to Gun Crime and Ensure Public Safety, the inspection meets revocation standard

Failure to contact NICS or POC

Violation #5 - 27 CFR 478.102(a)(1) – Failure of the license to contact NICS or POC, the licensee accepted a NE Concealed Carry Permit in lieu of the required NICS check (1 instance). This licensee was cited for a similar violation in his 2020 compliance inspection (FCI-15504) which resulted in a Warning Conference Call (due to Covid)

Licensee has a history of similar, repeat violations

Violation #1 - 27 CFR 478.125(e) – Failure of the licensee to maintain an accurate/complete/timely acquisition and disposition record of firearms (1 instances). (REPEAT violation from 2020 compliance inspection, FCI-15504)

Violation #2 – 27 CFR 478.124(c)(3)(i) – Failure of the licensee to verify or record Identification document on the ATF F 4473 (1 instances). (REPEAT violation from the 2020 compliance inspection, FCI-15504)

Violation #3 – 27 CFR 478.124(c)(1) – Failure of the licensee to obtain a completed ATF F4473 (1 instance). (REPEAT violation from the 2020 compliance inspection, FCI-15504).

In addition to the violations, per Section 7.b of the Federal Firearms Administrative Action Policy and Procedures, licensee met the threshold for issuance of a Report of Violations for:

Violation #4 – 27 CFR 478.21(a) – Failure of the licensee to complete forms as prescribed (1 instances).

Notice of Revocation 3/9/22

Revocation Hearing held 7/20/22

Final Notice of Denial (renewal submitted after Revocation Notice sent)

10/3/2022

No District Court De Novo Review requested.

Inspection Closed.

Out of Business Records and Inventory Management

Licensee Records

Licensee Inventory

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

Details

Concur with Field Division recommendation to proceed with revocation.

Special Agent in Charge Frederic Winston's Recommendation

Based upon the new strategy I concur

Division Counsel (b)(6)'s Review

Details

The elements to establish a willful violation of the GCA appear to have been satisfied.

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 for failing to conduct a NICS check; the licensee used an out-of-state CCW in lieu of completing a NICS check. The FFL had previously been cited for this violation.

Other violations include: untimely acquisition/disposition entries and incomplete/incorrect 4473 forms .

wm

Area Supervisor (b)(6)'s Recommendation
Revocation

Details

The inspection meets the standard for **Revocation** under the current Federal Firearms Administrative Action Policy and Procedures, ATF O 5370.1E (1/28/2022).

Per Section 7.e.(6)(b) - Failure to contact NICS or POC

Violation #5 - 27 CFR 478.102(a)(1) – Failure of the licensee to contact NICS or POC, the licensee accepted a NE Concealed Carry Permit in lieu of the required NICS check (1 instance). This licensee was cited for a similar violation in his 2020 compliance inspection (FCI-15504) which resulted in a Warning Conference Call (due to Covid)

Per Section 7.e.(4)(a) - Licensee has a history of similar, repeat violations

Violation #1 - 27 CFR 478.125(e) – Failure of the licensee to maintain an accurate/complete/timely acquisition and disposition record of firearms (1 instances). (REPEAT violation from 2020 compliance inspection, FCI-15504)

Violation #2 – 27 CFR 478.124(c)(3)(i) – Failure of the licensee to verify or record Identification document on the ATF F 4473 (1 instances). (REPEAT violation from the 2020 compliance inspection, FCI-15504)

Violation #3 – 27 CFR 478.124.124(c)(1) – Failure of the licensee to obtain a completed ATF F4473 (1 instance). (REPEAT violation from the 2020 compliance inspection, FCI-15504).

In addition to the violations, per Section 7.b of the Federal Firearms Administrative Action Policy and Procedures, licensee met the threshold for issuance of a Report of Violations for:

Violation #4 – 27 CFR 478.21(a) – Failure of the licensee to complete forms as prescribed (1 instances).

Industry Operations Investigator (b)(6)'s Recommendation
Revocation

Details

In accordance to ATF Order 5370.1D, Federal Firearms Administration Action Policy states that in absent of extraordinary circumstances, FFLs failing to conduct a required background check shall result in a Revocation recommendation.

Inspection Findings

Records and Forms

12. Failure to account for acquired firearms which records indicate were in inventory within the previous 5 years after reconciliation for which disposition could not be accounted for in required GCA records (e.g. acquisition and disposition record, F 4473) and is a repeat violation of increased frequency.

Firearms

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

NICS

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

FFL History

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

ELIGIBILITY VERIFICATION

Business Information Verification

Property Ownership Verification

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

Address
318 S 3RD ST
Unit N/A
BURLINGTON, Kansas 66839
COFFEY
United States

Attachment(s):
Gifford Property.docx

Trade Name/DBA Verification

Trade Name/DBA	Is the trade name/DBA registered?
GIFFORD GUN SHOP	Yes

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

Zoning Information Verification

Is the proposed business activity in compliance with zoning?
Yes

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

APPOINTMENT DETAILS

Interview Date
12/29/2021
Address
318 S 3RD ST, Unit N/A, BURLINGTON, Kansas 66839

Responsible Attendee(s)	Non-Responsible Person(s)
LESLIE E GIFFORD	No Items

RESPONSIBLE PERSON(S)

LESLIE E GIFFORD

Name	Gender	Race	Ethnicity
LESLIE E GIFFORD	Male	White	Not Hispanic or Not Latino

Date of Birth 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)	

Criminal History Check

Date Criminal History Check Conducted
12/09/2021

Criminal History Check Comments
No Criminal Records.

INTERVIEW QUESTIONNAIRE

What is the proposed business activity?
Buy and sell firearms to retail customers.

Do they need an additional license or permit?
No

Who are their primary suppliers?
(b)(4)

Business Activities

Selected Operational Security Measures
No items

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?
Licensee and (b)(6)

Who has keys to locked inventory?
Licensee.

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

Is financial backing provided by anyone that is not a responsible person on the license/permit?
No.

Are any employees known to be prohibited?
No.

Are any employees associated with a previously denied/revoked/surrendered license/permit?
No.

SECURITY WALKTHROUGH

Inspection Area Description
(b)(6)

Primary Activity
Retail

Selected Physical Security Measures

(b)(6)

GPS Coordinates

Latitude
38.19212

Longitude
-95.73753

ONSITE SUMMARY

Total Number of ATF Form 4473s for Inspection Review Period

Total Number of ATF F 4473 Reviewed

(b)(6)

Total Number of Open Dispositions in A & D Record

(b)(6)

Total Number of Firearms in Inventory

149

Actual Number of Firearms Verified

Number of Firearms Missing Before Reconciliation

Total Number of Firearms Missing After Reconciliation

(b)(6)

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](#)

Additional Comments

FIREARMS INSPECTION REPORT

Name: Gifford, Leslie UI#: FCI-30547

Trade Name: Gifford Gun Shop FFL#: 5 48 04040

318 S 3RD ST
BURLINGTON, KS

1 - Introduction

Inspection Profile:

On 11/29/2021, IOI **(b)(6)** conducted an unannounced compliance Recall Inspection at Gifford Gun Shop. Licensee is located inside the city limits of Burlington, Kansas. The scope of the inspection was to determine licensee's compliance with Federal Firearms Laws and Regulations. The inspection period covered was from 11/29/2020 to 11/29/2021. Interviewed during the inspection was Responsible Persons, Leslie Gifford (Identified by KSDL # **(b)(6)**).

Business Profile:

Gifford Gun Shop is a retail storefront that is in **(b)(6)**. Licensee specializes in selling and acquiring older shotguns and long guns. Licensee is also a collector and displays his collection thru out the shop. These firearms were properly tagged and not reflected in inventory.

In the past 12 months the licensee has acquired approximately **(b)(6)** firearms while disposing of approximately **(b)(4)** firearms during the last 12 months. Long guns represent **(b)(4)** of their business while handguns make up **(b)(4)**.

New firearms currently represent **(b)(4)** of the business. New firearms are acquired **(b)(4)**. Used firearms make up **(b)(4)** and are acquired through trade-ins, Gun shows, Internet transfers, walk-in sales, and auctions.

The Type 01 license held is appropriate for the business activities. Licensee holds no other ATF licensee and is not a Special Occupational Tax holder.

Licensee follows all local requirements, including permits and zoning laws. The licensee holds a valid Kansas State sales tax number.

Please Note that the information provided was taken directly from the narrative provided in Spartan (FCI-15504) and is as follows: The licensee has held this Type 01 License since

2016. The licensee previously held FFL #5-48-33492 from 1990 until 2011. He voluntarily surrendered that license as the result of inspection #779025-12-00863 that disclosed numerous violations, including evidence of conducting business at out of state gun shows. The licensee had [redacted] firearms in his inventory when he surrendered his license in 2011. On 2/4/16, ATF CE contacted the licensee, in person, to advise him that information had been received that he was conducting business at gun shows without a license.

No off-sight storage is utilized by the licensee.

The licensee reports attending out of state gunshows in Oklahoma. Licensee further reports that he rents a table only to purchase firearms for his business. Licensee acknowledged that he could not sell from out of state location.

Ownership and Control:

The licensee is a sole proprietor. Leslie Gifford is properly listed as the only responsible persons in the Federal Licensing System (FLS). FLS was reviewed with no changes made. There have been no changes in ownership. No hidden ownership is suspected.

Variance:
None.

2 - Recommendation

According to ATF Order 5370.1D, Federal Firearms Administration Action Policy states that in absent of extraordinary circumstances, FFLs failing to conduct a required background check shall result in a Revocation recommendation.

3 - Inspection History

Date of Inspection: 12/9/2019

Type of Inspection: Compliance Inspection

UI#: FCI-15504

Inspection Results: Warning Conference

- Cited Violations: 1. 27 CFR 478.102 (d)(1) - [redacted] Incidents
- 2. 27 CFR 478.99 (b)(2) - [redacted] Incident
- 3. 27 CFR 478.100(a)(1) - [redacted] Incidents
- 4. 27 CFR 478.125 (e) - [redacted] Incidents
- 5. 27 CFR 478.99(c) - [redacted] Incident
- 6. 27 CFR 478.124 (c)(1) - [redacted] Incidents
- 7. 27 CFR 478.124 (c)(3)(i) - [redacted] Incidents

4 - Acquisition & Disposition (A&D) Record - Inventory

A full inventory was conducted on licensee's inventory. There were 149 firearms found in inventory. There were [redacted] open entries and [redacted] firearms that were not recorded in the A and D book. Discrepancies were found when comparing the physical inventory to the acquisition and disposition books. Licensee is in violation of 27 CFR 478.125(e) by failing to maintain a proper acquisition and disposition record. Discrepancies are as follows:

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

Open dispositions of the above firearms were able to be reconciled by reviewing ATF F 4473s on file before and during the inspection period.

Please refer to Violation #2 as outlined in Spartan.

A Theft Loss report was filed on [redacted] (b)(3) (112 Public Law 55 125 Stat 552). These guns were not reconciled during inspection. Copy of the Report is submitted in Spartan.

Licensee utilizes four separate A&D books to maintain his inventory. Book was proper formatted. Book also maintained log numbers

During the inspection, a sampling from the A&D record entries were compared to information recorded in the ATF F 4473's for accuracy. No discrepancies were discovered between the above records.

No obliterated serial numbers and other illegal firearms were discovered at inspection.

As a standard operating procedure, Gifford reports entering firearms in A and D record as soon as they are received and logged out as soon as they are sold. Firearms are tagged with the model and a log number.

5 - ATF Forms 4473 – NICS & Other Dispositions

IOI [redacted] viewed all ATF F 4473's on file covering the inspection period between. There were approximately [redacted] ATF F 4473s on file. This accounted for the disposition of firearms transferred to non-licensee during this period. Discrepancies were discovered while reviewing ATF F 4473's and are as follows:

Licensee is in violation of 27 CFR 478.124 (c)(3)(i) by failure of the licensee to record Identification documents in Item #26a. ([redacted] (b)(3) (112 Public Law 55 125 Stat 552), (b)(6) [redacted]) of ATF F 4473.

Please refer to Violation #3 as outlined in Spartan.

Licensee is in violation of 27 CFR 478.124 (c)(1) by failure of the licensee complete item #30 [redacted] of ATF F 4473 (REPEAT Violation). Please refer to Violation #2 as outlined in Spartan.

Licensee is in violation of 27 CFR 478.21 (a) by failure of the licensee to properly record information Item #31 ([redacted] (b)(3) (112 Public Law 55 125 Stat 552), (b)(6) [redacted]) of ATF F4473. Please refer to Violation #2 as outlined in Spartan.

Licensee is in Violation of 27 CFR 478.102(d)(1) by failure of licensee to obtain a valid alternative permit in lieu of a NICS check (REPEAT Violation). Please refer to Violation #2 as outlined in Spartan.

Forms were serialized by a consecutive number was assigned to each disposition and filled in chronological order in accordance with when a firearm was sold. Licensee kept copies of FFLs from previous transactions and logged information in A and D record.

No transfers to law enforcement agencies were conducted during the current inspection period.

No trafficking issues relating to purchases were discovered.

The FFL Audit Log provided by NICS contained two months of proceeds. There were two denials, 10 proceeds, and three open/delay responses. The NICS responses checked corresponded with the NICS transfer numbers (NTN). There was no discrepancy in reviewing the FFL audit log to ATF Form 4473s. Audit Log is submitted in Spartan.

Denied individuals were compared with other transferees who purchased firearms during the same period of each denial. No straw purchases were uncovered.

6 - Multiple Sales

No multiple sale of handguns report was discovered during the inspection period. VCAB report shows no unreported multiple sales. VCAB report is submitted in Spartan.

7 - Suspicious/Prohibited Purchasers

No suspicious purchasers were identified during the inspection.

8 - Trace Activity

A query of the Violent Crimes Analysis Branch (VCAB) revealed that the licensee had no traces during the inspection period. Licensee reported that [redacted] firearms were lost or stolen on 12/18/2019.

A "secondary market analysis" was conducted on 10 firearms. No hits were generated as a result of queries thru NCIC. No individuals were discovered making multiple firearm purchases during the inspection report.

9 - NFA/Importer/Collector/Manufacturer

Licensee does not conduct NFA/Importer/Collect or Manufacturer Activities.

10 - Referrals

No Referrals of Information was submitted to ATF or any other federal, state, or local agencies.

11-Other

On 12/9/2021, SIOI [redacted] submitted Theft/Loss report on [redacted] (b)(3) (112 Public Law 55 125 Stat 552) . Licensee does not have a computer to file Theft/Loss report electronically. SIOI [redacted] personally E-mailed Theft/Loss form to ensure that it was properly and timely received by the Tracing Center.

During the closing of the Inspection, SIOI [redacted] informed Gifford that the violations he incurred meets Revocation per ATF Order 5370.1D, Federal Firearms Administration Action Policy. It was apparent licensee was upset, Licensee stated "I had a license and the Gal that was working for you took it from me because I reached a point system that would make me lose my license" Gifford also said " So you're going to take my license again? Go ahead I will keep selling gun whether I have one or not." Gifford further stated that he was going to purchase more guns before he loses his license.

The licensee was made aware of the regulations governing Secure Gun Storage, the Youth Handgun Safety Act, and the Child Safety Lock Act of 2005.

Loss Prevention for firearms was discussed with applicant. IOI [redacted] provided ATF Pamphlet ATF 5380.1 for the applicant to further review.

Public Safety Advisory regarding exploding targets was reviewed and discussed. Applicant was further informed that it is illegal to store explosives once it is mixed and ready to use. A Criminal History check was conducted by querying Responsible Persons, Leslie Gifford. No Prohibited information was discovered for the above RPs.

12 - Closing Actions

A closing conference was held with Licensee on 1/5/2022. Conduct of business, record keeping requirements, theft/loss procedures, secure gun storage and safety devices, ATF right of entry, and all applicable laws and regulations were discussed in detail. Licensee reviewed the Acknowledgement of Federal Firearms Regulations, and they were provided with the following reference material: an example of an acquisition/disposition record, Youth Handgun Safety Act information, NICS information, gun show information, and ATF Forms 4473, 3310.4 and 3310.11. Violations were discussed in great length and a Report of Violations was issued.

Attachment(s)

Report of Violations.pdf

Licensee Response to Violations Report.pdf

Firearm Theft Loss List.pdf

REPORT OF VIOLATIONS

Regulation	Corrective Actions	Instance Details
27 CFR 478.125(e): Failure to maintain an accurate/complete/timely acquisition and disposition record of firearms Number of Instances: 8	Amend/Update A&D Record to accurately record all required firearm disposition information. Complete and submit ATF Form 3310.11 - Firearms Inventory Theft/Loss Report.	(b)(3) (112 Public Law 55 125 Stat 552)
27 CFR 478.124(c)(3)(i): Failure to verify or record Identification document on ATF F 4473 ATF Forms 4473: <input type="checkbox"/> Number of Instances: <input type="checkbox"/>	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.	(b)(3) (112 Public Law 55 125 Stat 552),(b)(6)
27 CFR 478.124(c)(1): Failure to obtain a completed ATF F 4473 ATF Forms 4473: <input type="checkbox"/> Number of Instances: <input type="checkbox"/>	Ensure that all required ATF Form 4473 Section A items are completed/provided by the transferee/buyer on all future transactions. Execute and retain a complete and accurate ATF Form 4473 on all future firearm transactions.	(b)(3) (112 Public Law 55 125 Stat 552),(b)(6)
27 CFR 478.21(a): Failure to complete forms as prescribed ATF Forms 4473: <input type="checkbox"/> Number of Instances: <input type="checkbox"/>	Complete all forms as prescribed. Ensure that all ATF Form 4473 items, as required by form headings and instructions, are accurately completed on all future transactions. Execute and retain a complete and accurate ATF Form 4473 on all future firearm transactions.	(b)(3) (112 Public Law 55 125 Stat 552),(b)(6)
27 CFR 478.102(a)(1): Failure to contact NICS or POC ATF Forms 4473: 1 Number of Instances: 1	Execute a required NICS/POC background check for all future over-the-counter firearm transactions. Retrieve and accurately record (on an ATF Form 4473) a required final NICS/POC background check response prior to all future over-the-counter firearm transactions.	NICS Violation, 181B00594, (b)(3) (112 Public Law 55 125 Stat 552),(b)(6) 8/1/2021

THEFT/LOSS REPORT

Acquisition Date	Category	Type	Manufacturer	Importer	Model	Caliber/Gauge	Serial Number
(b)(3) (112 Public Law 55 125 Stat 552)							

LICENSEE RESPONSE REPORT

Regulation	Corrective Actions	Licensee Response	Status Details
27 CFR 478.125(e): Failure to maintain an accurate/complete/timely acquisition and disposition record of firearms Number of Instances: 8	Amend/Update A&D Record to accurately record all required firearm disposition information. Complete and submit ATF Form 3310.11 - Firearms Inventory Theft/Loss Report.	Licensee stated "I guess I over looked them."	Status Correction Verified Verified Method In Person Date Correction Verified 01/05/2022

<p>27 CFR 478.124(c)(3)(i): Failure to verify or record Identification document on ATF F 4473</p> <p>ATF Forms 4473: [] Number of Instances: []</p>	<p>Execute and retain a complete and accurate ATF Form 4473 on all future firearm transactions.</p> <p>Ensure that all required transferee/buyer identification information is obtained and accurately recorded on all future ATF Forms 4473, Section B.</p>	<p>Licensee stated that he didn't know he had to do that.</p>	<p>Status Licensee Notified</p> <p>Verified Method In Person</p> <p>Date Licensee Notified 01/05/2022</p>
<p>27 CFR 478.124(c)(1): Failure to obtain a completed ATF F 4473</p> <p>ATF Forms 4473: [] Number of Instances: []</p>	<p>Ensure that all required ATF Form 4473 Section A items are completed/provided by the transferee/buyer on all future transactions.</p> <p>Execute and retain a complete and accurate ATF Form 4473 on all future firearm transactions.</p>	<p>Licensee stated that he thought it was part of the CCW questions.</p>	<p>Status Licensee Notified</p> <p>Verified Method In Person</p> <p>Date Licensee Notified 01/05/2022</p>
<p>27 CFR 478.21(a): Failure to complete forms as prescribed</p> <p>ATF Forms 4473: [] Number of Instances: []</p>	<p>Complete all forms as prescribed.</p> <p>Ensure that all ATF Form 4473 items, as required by form headings and instructions, are accurately completed on all future transactions.</p> <p>Execute and retain a complete and accurate ATF Form 4473 on all future firearm transactions.</p>	<p>Licensee stated "no response" however, further stated that he thought it was part of CCW questions.</p>	<p>Status Licensee Notified</p> <p>Verified Method In Person</p> <p>Date Licensee Notified 01/05/2022</p>
<p>27 CFR 478.102(a)(1): Failure to contact NICS or POC</p> <p>ATF Forms 4473: 1 Number of Instances: 1</p>	<p>Execute a required NICS/POC background check for all future over-the-counter firearm transactions.</p> <p>Retrieve and accurately record (on an ATF Form 4473) a required final NICS/POC background check response prior to all future over-the-counter firearm transactions.</p>	<p>Licensee stated that he figured that he could take it since it was a CCW.</p>	<p>Status Licensee Notified</p> <p>Verified Method In Person</p> <p>Date Licensee Notified 01/05/2022</p>

CLOSING CONFERENCE

Review Regulations conducted offline

(1/5/2022)

01/05/2022

Attachment(s)

Attendee(s)

LESLIE E GIFFORD

EXHIBITS

Inspection

Category	Attachment Name
PostInspection	Gifford_ Leslie 5-48-04040.msg
PostInspection	FW_ Spartan Notification RE_ 5-48-04040 Inspection Results.msg
Correspondence	Spartan Notification RE: 5-48-04040 Inspection Results
Correspondence	Spartan Notification RE: 5-48-04040 Monitored Case
Correspondence	Spartan Notification RE: 5-48-04040 Monitored Case
Correspondence	Spartan Notification RE: 5-48-04040 Monitored Case
Correspondence	Spartan Notification RE: 5-48-04040 Monitored Case
Correspondence	Spartan Notification RE: 5-48-04040 Monitored Case
Correspondence	Spartan Notification RE: 5-48-04040 Special Attention Flag (SAF)
Correspondence	Spartan Notification RE: 5-48-04040 Monitored Case
Correspondence	Spartan Notification RE: 5-48-04040 Monitored Case

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Correspondence	Spartan Notification RE: 5-48-04040 Monitored Case
Correspondence	Spartan Notification RE: 5-48-04040 Monitored Case
UpdateLicensingCenter	GIFFORD 8C (FINAL).pdf
Correspondence	Spartan Notification RE: 5-48-04040 Monitored Case
Correspondence	Spartan Notification RE: 5-48-04040 Monitored Case
Correspondence	Spartan Notification RE: 5-48-04040 Monitored Case
UpdateLicensingCenter	GIFFORD 8C.docx
LicenseeResponseToViolationsPDF	Licensee Response to Violations Report.pdf
ViolationsPDF	Report of Violations.pdf
FirearmTheftLossList	Firearm Theft Loss List.pdf
ZoningVerification	KSA 12-16 124 - Firearms and Ammo; Regulation by City or County Limitations (2015).pdf
TradeNameVerification	Trade Names Registration Not Required - Kansas Sec of State.pdf
PropertyOwnershipVerification	Gifford Property.docx

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

In the matter of License Number 5-48-031-01-2F-04040, 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*)

Leslie Gifford d/b/a Gifford Gun Shop
318 S. 3rd Street
Burlington, Kansas 66839

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
03/09/2022	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 1290 0001 6240 9346 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
03/09/2022	Administrative Assistant	(b)(6)

Print Name and Title of Person Served
Leslie Gifford d/b/a Gifford Gun Shop

Address Where Notice Served
318 S. 3rd Street, Burlington, Kansas 66839

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 Leslie Gifford d/b/a Gifford Gun Shop (“Licensee”), a Dealer in Firearms 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 issued a previous Federal firearms license to Licensee in 1996. The laws and regulations issued under the GCA were reviewed as part of the application inspection. Licensee voluntarily surrendered that Federal firearms license in 2011 in lieu of revocation.

Licensee was issued a new Federal firearms license in 2016 at which time the laws and regulations under the GCA were again reviewed with Licensee. Subsequently, ATF conducted a compliance inspection of Licensee in 2019. As a result of the 2019 inspection, Licensee attended a warning conference with ATF in which violations and proposed corrective actions were reviewed. Following the warning conference, ATF sent a letter stating “future violations, repeat or otherwise, could be viewed as willful and may result in the revocation of the store's firearms license.”

Current Inspection

On November 29, 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 record the acquisition of firearms, in violation of 18 U.S.C. § 923(g)(1)(A) and 478.125(e). See Appendix ¶ 1.
2. On occasions, Licensee willfully failed to timely 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 ¶ 2.

Background Check Violation:

3. On one occasion, Licensee willfully transferred a firearm to an unlicensed person without first contacting the National Instant Criminal Background Check System (“NICS”) and obtaining a unique identification number before allowing the transfer, in violation of 18 U.S.C. § 922(t) and 27 C.F.R. § 478.102(a). See Appendix ¶ 3.

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 nonlicensee, in violation of 18 U.S.C. § 923(g)(1)(A) and 27 C.F.R. § 478.124(c)(1). See Appendix ¶ 4.
5. On occasions, Licensee willfully transferred a firearm to a nonlicensee without verifying the identity of the transferee by examining the 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 ¶ 5.

Appendix

Appendix ¶ 1

Notice Paragraph 1 [478.125(e) Acquisitions Not Timely Recorded Violations]:

Firearm Description

Serial Number

Status

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

Appendix ¶ 2

Notice Paragraph 2 [478.125(e) Dispositions Not Timely Recorded Violations]:

Firearm Description

Serial Number

Status

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

Appendix ¶ 3

Notice Paragraph 3 [478.102(a) Failure to Conduct NICS Check Violation]:

Transferee's Name

Date

1	(b)(6)	8/1/2021
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Appendix ¶ 4

Notice Paragraph 4 [478.124(c)(1) Failure to Obtain Completed Form 4473 Violation]:

Transferee's Name

Date

Discrepancy

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

Appendix ¶ 5

Notice Paragraph 5 [478.124(c)(3)(i) Failure to Verify Identification on Form 4473 Violations]:

Transferee's Name

Date

Discrepancy

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

EXPLANATION OF THE HEARING PROCESS



The Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) has decided to deny your original or renewal application for a Federal firearms license, or to revoke, suspend and/or impose a civil fine on your existing license.

As stated on the enclosed Notice of Denial, Revocation, Suspension and/or Fine, you have the right to request a hearing. This brochure provides general guidance to assist you in making a decision on requesting a hearing, and to appropriately prepare for a hearing should you request one.

Background

27 C.F.R. §§ 478.71 – 478.73

The Gun Control Act of 1968 (GCA) and its implementing regulations specify certain licensing requirements for those intending to engage in the business of importing, manufacturing, or dealing in firearms, or importing or manufacturing ammunition.

The GCA authorizes ATF to deny a license application when an inspection reveals the applicant is not qualified to receive or continue to hold the license. ATF may revoke a license when a licensee willfully violates the GCA or its implementing regulations.

For purposes of the regulatory provisions of the GCA, a “willful” violation occurs when the licensee knew of his or her legal obligations and either purposefully disregarded or was plainly indifferent to those requirements. ATF is not required to prove a licensee *intended* to violate the law.

Under limited circumstances, ATF may revoke or suspend a license and/or impose a civil fine against a licensee who knowingly violates certain provisions of the GCA.

Hearing Request and Representation

27 C.F.R. §§ 478.74 and 478.76

You have the right to request a hearing. If you wish to do so, you must file a request, in writing, with the Director, Industry Operations (DIO) within 15 days after the receipt of the enclosed Notice.

An applicant or licensee may be represented at the hearing by an attorney, certified public accountant or other person recognized to practice before ATF as provided in 31 C.F.R. Part 8.

Pre-Hearing Resolution

27 C.F.R. §§ 478.72 and 478.74

You may submit an offer to settle or other proposed resolution prior to the hearing. If you wish to present your offer in person, you must request to do so within the same 15 days as allotted for a hearing. A request for a pre-hearing resolution should be made in writing to the DIO. ATF is not obligated to grant requests for in-person meetings or proposals for resolution.

You may also submit offers of potential resolution to the DIO after the hearing, but before a final decision is rendered; however, the DIO will not entertain settlement offers at the hearing.

EXPLANATION OF THE HEARING PROCESS

Hearing Overview

27 C.F.R. §§ 478.72, 478.74, 478.76, 478.77

Upon receipt of a timely request and after consultation with you, ATF will set the date, time and place of the hearing. You will then receive formal notification via certified mail, return receipt request. Please be advised that ATF may reschedule a hearing for good cause, as determined by the DIO.

The DIO will preside over the hearing. The purpose of the hearing is to allow both parties to present, in an orderly manner, all relevant evidence and arguments regarding the proposed licensing action.

The hearing itself is informal in nature which means that formal courtroom procedures, including sworn testimony and rules of evidence are not followed. During the hearing, you will have the opportunity to submit facts and arguments for review and consideration. An ATF-hired court reporter will be present to transcribe the hearing. The resulting transcript, along with the exhibits presented at the hearing, constitute the official record of the hearing. You may order a copy of the transcript at your own expense. Video recording of the hearing is not permitted.

An ATF attorney will present evidence in support of the licensing action. The ATF industry operations investigator(s) who conducted your inspection and/or other ATF employees who have relevant information concerning your case may testify.

At the conclusion of the government's presentation, you will have the opportunity to respond. You should state your case as clearly and factually as possible. Your presentation should focus on the violation(s) described in the Notice you received. You may also bring other witnesses who are able to speak to the violation(s) cited in the Notice. Both you and the government have

the right to question all witnesses. Please note that all persons attending the hearing must bring a valid form of state or federal government issued identification (e.g., driver's license or passport) for entry.

In addition to oral testimony, you may also present written documentation. Regardless of its form, all evidence presented at the hearing must be relevant. Relevant evidence is evidence that tends to prove or disprove an issue at the hearing, such as whether the alleged violation occurred as stated in the Notice.

NOTE: It is a violation of law to possess or cause to be present a firearm or other dangerous weapon in a Federal facility. 18 U.S.C. § 930(a). Violation of this law will result in termination of hearing proceedings and a referral to law enforcement.

After the Hearing

27 C.F.R. §§ 478.72, 478.74, 478.78

Following completion of the hearing, the court reporter will prepare a transcript of the hearing. After reviewing the transcript and all evidence submitted at the hearing, the DIO will make the final licensing decision for ATF.

Should the DIO determine that the allegation(s) contained in the Notice are substantiated, he or she may issue a Final Notice of Denial, Revocation, Suspension and/or Fine of Firearms License, which ATF would send to you via certified mail, return receipt requested.

You may appeal the DIO's final decision to the appropriate Federal district court within 60 days for de novo judicial review.

If you have any questions concerning the hearing, please contact the DIO for the ATF division in which you are located.



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
16:12:22 -04'00'

Curtis Gilbert
Deputy Assistant Director (Industry Operations)
Field Operations

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 5-48-031-01-2F-04040 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)

Leslie Gifford
d/b/a Gifford Gun Shop
318 S. 3rd Street
Burlington, Kansas 66839

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 10/03/2022	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.
Tracking Number: 7020 1810 0000 5121 7449 Or Delivering a copy of the notice to the address shown below.

Date Notice Served <u>10/3/22</u>	Title of Person Serving Notice Administrative Assistant	Signature (b)(6)
Print Name and Title of Person Served Leslie Gifford d/b/a Gifford Gun Shop		Signature of Person Served
Address Where Notice Served 318 S. 3rd Street, Burlington, Kansas 66839		

Note: Previous Edition is Obsolete

Leslie Gifford d/b/a Gifford Gun Shop
318 S. 3rd Street
Burlington, Kansas 66839

RE: FFL# 5-48-031-01-2F-04040

Leslie Gifford d/b/a Gifford Gun Shop, 318 S. 3rd Street, Burlington, Kansas 66839 (“Licensee”) holds a Federal firearms license, under number 5-48-031-01-2F-04040, as a dealer in firearms 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 March 9, 2022, ATF issued a Notice to Revoke License, ATF Form 4500 (“Initial Notice”) based upon violations discovered during an inspection commencing on November 29, 2021. Licensee timely requested a hearing to review the Initial Notice.

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

Licensee Leslie Gifford, a sole proprietor and responsible person for the License, appeared at the hearing. 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 2016.¹ Since 2016, ATF conducted a compliance inspection of Licensee in 2019. [Gov. Exs. 1, 10, 11]. During both the qualification and compliance inspection, 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. [Gov. Exs. 2, 10]. During these inspections, Licensee further acknowledged 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 2019 inspection, Licensee received a warning letter. [Gov. Ex. 11]. Licensee was informed at the conclusion of this compliance inspection that future violations, repeat or otherwise, could be considered willful and may result in a revocation of the license.

¹ Licensee previously held a Federal Firearms license that was surrendered in 2011 in lieu of revocation.

Beginning on November 29, 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 two occasions, 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 [redacted] firearms in inventory that were not included in his Acquisition and Disposition bound book (“A&D book”). [Gov. Ex. 5; Hearing Transcript (“HT”) pgs. 37-38]. During the inspection, Licensee admitted the violation and indicated that he “guess[ed] he overlooked them.” [Gov. Ex. 3].

As to Violation #2, on [redacted] occasions, Licensee willfully failed to timely 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 demonstrated that [redacted] firearms were transferred, but the required disposition information was left blank in the A&D book. [Gov. Ex. 5; HT pg. 40]. Additionally, [redacted] firearms that were listed as acquired could not be found in inventory and could not be reconciled through review of ATF Forms 4473. [HT pg. 41]. This required the completion of a theft and loss report. [Gov. Ex. 6; HT pg. 41-44]. During the inspection, Licensee admitted the violation and indicated that he “guess[ed] he overlooked them.” [Gov. Ex. 3].

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 timely record all disposition information required in [redacted] instances, including [redacted] for which the firearms remain unaccounted. Licensee was previously cited for acquisition and disposition violations, pursuant to 27 C.F.R. § 478.125(e), following the 2019 inspection. [Gov. Ex. 11]. Licensee was aware of the requirements related to A&D record keeping and exhibited the ability to comply with these requirements on several other occasions, which is further indicative of Licensee’s knowledge of the requirements for proper record keeping, yet Licensee 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 one occasion, Licensee willfully transferred a firearm to an unlicensed person without first contacting the National Instant Criminal Background Check System (“NICS”)² and obtaining a

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

unique identification number 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 a firearm purchase by (b)(6) and dated August 1, 2021. In lieu of conducting a NICS check, Exhibit 7 shows that a Nebraska permit was reviewed and accepted. Testimony established that there are some states that allow permits in lieu of a NICS check, including Kansas, but that the permit must be a Kansas permit. [Gov. Ex. 7; HT pgs. 47-48]. 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. 48-49]. At the hearing, Licensee stated, “. . . I apologize for it. I’m guilty of it . . . And I guess I was totally wrong. And I’ll just have to take my consequences.” [HT pg. 49].

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]. 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 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)]. 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. Licensee had previously been cited for violating this provision when he impermissibly accepted out-of-State concealed carry permits and was advised continued failures to comply with this regulation would be considered willful. [Gov. Ex. 11].

Given the evidence in the record, including Licensee’s recognition of the violation and failure to avail himself of the resources at his disposal, 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 and #5 – ATF Forms 4473

Regarding Violation #4, on one 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, a purchase by (b)(6) on January 31, 2021, was completed despite Item 30 of the ATF Form 4473 being incomplete. The Government offered Exhibit 8, which was the form reflecting this transaction. Exhibit 8 shows that (b)(6) initially certified on January 30, 2021, but that Licensee transferred the firearm on January 31, 2021, due to initially receiving a “delay” response from NICS. [Gov. Ex. 8; HT pgs. 53-54]. Because the transfer did not take place on the same day as the initial certification, recertification by the purchaser was required in Item 30. Licensee did not dispute this violation, but asked questions about the process that

indicated a lack of understanding of the requirements of completing an ATF Form 4473. [HT pgs. 55-58]. Upon being confronted with the fact that the ATF Form 4473 gives explicit instructions for recertification directly above Item 30, Licensee responded, “I guess I hadn’t read it. I apologize for that. I guess it’s my mistake.” [HT pgs. 58-59].

Regarding Violation #5, on [redacted] occasions, Licensee willfully transferred a firearm to a nonlicensee without verifying the identity of the transferee by examining the 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).

In support of this violation, the Government presented Exhibit 9, which contained three ATF Forms 4473, pertaining to purchases by [redacted] (b)(6). Exhibit 9 showed that Item 26.a was blank in all [redacted] forms. [Gov. Ex. 9]. Additionally, in all [redacted] instances, conceal and carry permits, via Item 29, were used in lieu of recording a valid government issued identification in Item 26.a. [*Id.*; HT pgs. 61-62]. IOI [redacted] (b)(6) explained that this is an impermissible practice and that there is no exception to completing Item 26.a. [HT pg. 62]. In response, Licensee stated, “[I]f I messed up, I messed up big time.” [HT pg. 63].

Upon reviewing Government Exhibits 8 and 9, along with the testimony provided for Violations #4 and #5, I find that Licensee committed these violations. I further find that Licensee was properly made aware as to how to complete ATF Forms 4473. Licensee had in fact properly completed this information 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, and his failure to do so was due to, at a minimum, plain indifference to the rules for completing ATF Forms 4473. Lastly, as noted above, Licensee has previously been cited and warned about errors specifically concerning 27 C.F.R. §§ 478.124(c)(1) and 478.124(c)(3)(i), and that continued failures to abide by those regulations would be considered willful in nature. [Gov. Ex. 11].

Therefore, upon considered all the information provided in the record, I conclude that Violations #4 and #5 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 both at the qualification and compliance inspection in 2019. [See Gov. Exs. 2, 10]. ATF provided Licensee with guidance and information on corrective actions for the violations that should have ensured compliance. ATF also warned Licensee following the prior inspection 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. Ex. 11]. 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 as well as 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 his business being too busy. [See, e.g., HT pg. 50]. 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. 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 that he would try to do better in the future. [HT pg. 66]. 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). Despite his statement that he would do better in the future, Licensee's actions, since being warned for each and every violation cited in the 2019 inspection, 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 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 [sic] 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, 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.

Therefore, I find and conclude Licensee willfully committed Violations #1, #2, #3, #4, and #5 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 Leslie Gifford d/b/a Gifford Gun Shop, 318 S. 3rd Street, Burlington, Kansas 66839, under Federal firearms license number 5-48-031-01-2F-04040, is hereby **REVOKED**.

U.S. DEPARTMENT OF JUSTICE
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