

ROBERT RAY MCKINNEY 's FCI
FCI-33188
08/26/2022 10:22 AM
IOI: (b)(6), Bridgewater SO (IO)

GENERAL INFORMATION

IOI Hours Spent on Inspection
576.0

LICENSEE INFORMATION

Applicant Name
ROBERT RAY MCKINNEY
(Sole Proprietor)
Applicant Name
Henson CHUA Ong
Applicant Name
Henson CHUA Ong
RDS Key
6-06-04407
License/Permit Number
6-06-009-07-1H-04407
License Type
07 - Manufacturer of Firearms License
Business Type
Sole Proprietorship

Premises Address

Premises Ownership Type
Leased/Rented
Premises Location Type
Other
Other
Warehouse unit
Address
1669 THOMASTON AVE
Unit N/A
WATERBURY, Connecticut 06704
NEW HAVEN
United States

Mailing Address

Address
61 OAK AVE
Unit N/A
SHELTON, Connecticut 06484

United States

Phone Type	Phone Number	Remarks
Business	+1 203-525-6951	
Email Address	Email Remarks	
(b)(6)		

RECOMMENDATIONS

Final Decision
Revocation
Date
08/18/2022
Details

On April 13, 2022, A Notice of Revocation was issued and mailed to the FFL via USPS certified mail.
On April 27, 2022, the FFL requested a pre?revocation meeting to appeal the revocation.
On May 12, 2022, a pre?revocation meeting was held with the FFL's RPs Robert McKinney, Henson Ong and ATF Boston Field Division personnel, including DIO Nicholas O'Leary, Senior Attorney (b)(6) AS (b)(6), and IOI (b)(6).
On June 6, 2022, the FFL signed a settlement agreement whereby they agreed to the Final Revocation of their license as of August 18, 2022, and the liquidation of their inventory as of that date.
On June 9, 2022, a Final Notice of Revocation was issued to the FFL with an effective date of August 18, 2022.
On August 18, 2022, RP Henson Ong contacted AS (b)(6) by email to notify the FFL destroyed remaining (b)(3)(26 USC § 6103) by converting to GCA (pistol grip removed).

On August 22, 2022, AS (b)(6) and IOI (b)(6) met with the FFL's RP Henson Ong to conduct a final walkthrough and to obtain their ATF required records. While verifying the FFLs A&D records to ensure all firearms were properly logged out, IOI (b)(6) noticed RPA had one (b)(6) that the FFL did not record disposition/transfer information. FFL was not able to locate the (b)(6) pistol or provide ATF with transfer information. The FFL immediately filed an ATF 3310.11 FFL Theft/Loss report for the missing pistol. IOI (b)(6) verified the remaining inventory had been transferred out of the business as required by the agreement. RP Henson Ong signed a Notice of Discontinuance of Business and turned over their required records to IOI (b)(6). AS (b)(6) and IOI (b)(6) verified FFL had properly destroyed (b)(3)(26 USC § 6103) RP Henson Ong provided AS (b)(6) with the FFL's written requests to (b)(3)(26 USC § 6103) (b)(3)(26 USC § 6103) converted to GCA, which was emailed to (b)(3)(26 USC § 6103)

On August 22, 2022, AS (b)(6) contacted CT State Police SLFU to notify this FFL has been officially revoked and NICS account should be deactivated.

On August 24, 2022, ATF IOI (b)(6) forwarded the FFL's discontinued records and license to the ATF's Out of Business Records Center/National Tracing Center.

License revoked. FFL records secured. Licensee is out of business. No further action.

Post inspection information (PII) forwarded to FFCL (b)(6) by email on August 26, 2022.

Out of Business Records and Inventory Management

Licensee Records

Licensee Inventory

Deputy Assistant Director - Industry Operations Curtis Gilbe (b)(6) Recommendation

Revocation

Details

Per ATF O 5370.1E the violations cited during this inspection meet the issuance of a notice of revocation.

Special Agent in Charge James Ferguson's Recommendation

This FFL has been operating under a formal agreement with ATF because of numerous previously documented violations. The most recent inspection revealed nine repeat violations. As a result, it appears that this FFL is not willing or able to follow the necessary policies needed to protect the public. As a result, SAC Ferguson concurs with the revocation of this FFL.

Senior Attorney (b)(6)'s Review

Details

i have reviewed this case.

Director of Industry Operations Nicholas O'Leary's Recommendation

Revocation

Details

DIO concurs with revocation. The FFL was cited for 13 violations, nine of which are repeat violations from the prior inspection. As a result of the prior inspection, McKinney entered into an agreement in lieu of having his license revoked. He failed to abide by the terms of that settlement agreement and was falsifying information reported to ATF. The written agreement includes that he stipulated that all violations cited during the last inspection were willful and his violating the agreement during the term of it may result in revocation. He also falsified ATF Forms 4473, failed to mark firearms as required, and reported (b)(6) firearms as missing. Allowing him to remain in business will negatively impact traceability of firearms and public safety overall. One of the responsible persons on this license, Henson Ong, holds a license under Mad Smiths LLC at the same location and entered into the same settlement agreement with ATF is also facing revocation.

Area Supervisor (b)(6)'s Recommendation

Revocation

Details

AS (b)(6) recommends revocation. On 1/5/2022, an onsite compliance inspection was initiated for this FFL and concluded on 2/24/2022. Thirteen (13) violations were cited, nine of which were repeated violations previously cited during inspection in 2019. In addition, during records reconciliation the licensee filed an ATF F 3310.11 FFL Theft/Loss Report involving (b)(6) firearms missing from inventory on 1/18/2022.

The FFL including RPs MCKINNEY and ONG were subject to an ATF settlement agreement in lieu of Revocation signed on 04/19/2020. The agreement outlined a number of conditions including "violation of this agreement by any McKinney and/or Ong license during the agreement's two year term, may result in the revocation of the RPA, Mad Smith, or other McKinney and/or Ong federal firearms license." Inspection revealed that several of the agreement's terms were not followed.

This recall inspection revealed that the licensee understood its responsibility maintain accurate and complete records, yet failed to do so. The nature and quantity of recordkeeping violations significantly affects firearms traceability; in some cases firearms were acquired and disposed of with no records. RPA's failure to account for firearms in their records poses a public safety issue.

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

Revocation

Details

IOI (b)(6) recommends that Robert Ray McKinney DBA: Red Planet Arsenal's federal firearms license be revoked (b)(5) DPP (b)(5) DPP be denied. It is also recommended that any and all licenses associated with ONG and MCKINNEY also be revoked. The licensee specifically falls within the guidelines for revocation for multiple instances of falsifying Federal Firearm Records in violation of the Gun Control Act. In these instances, Robert McKinney admitted to altering the buyer's information on the Firearms ATF Form 4473 when they had made errors or omission on the form. In these instances, MCKINNEY stated "I make corrections so I know it's right."

The FFL has been the subject of a WC [revocation hearing] in lieu of Revocation within the previous 5 years and the current inspection reveals repeated similar violations(s) with no significant improvement; examples from the current inspection include:

- 27 CFR 478.92(a)(1)(ii)(D): Failure to properly mark firearm(s) with manufacturer city and state
- 27 CFR 478.123(b): Failure to maintain an accurate/complete/timely licensee disposition record
- 27 CFR 478.123(a): Failure to maintain an accurate/complete/timely manufacture or acquisition record
- 27 CFR 478.124(c)(1): Failure to obtain a completed ATF F 4473
- 27 CFR 478.21(a): Failure to complete forms as prescribed
- 27 CFR 478.124(c)(3)(i): Failure to verify or record Identification document on ATF F 4473
- 27 CFR 478.124(c)(3)(iv): Failure to record NICS contact information on an ATF F 4473

27 CFR 478.124(c)(4): Failure to record firearm information on an ATF F 4473

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

This recall inspection revealed that the licensee understood its responsibility maintain accurate and complete records, yet failed to do so. The nature and quantity of recordkeeping violations significantly affects firearms traceability; in some cases firearms were acquired and disposed of with no records. RPA's failure to account for firearms in their records poses a public safety issue.

MCKINNEY and ONG were subject to an ATF settlement agreement in lieu of revocation signed by them on 04/19/2020. The agreement outlined a number of terms including "violation of this agreement by any McKinney and/or Ong license during the agreement's two year term, may result in the revocation of the RPA, Mad Smith, or other McKinney and/or Ong federal firearms license." Inspection revealed that several of the agreement's terms were not followed, including the requirements to:

- conduct quarterly inventories
- mark (tag) firearms belonging to each license
- have at least two people review ATF form 4473s
- submit quarterly reports to the ATF Area Supervisor

In total RPA was cited for 13 violations of the Gun Control Act in over [redacted] instances.

Inspection Findings

Records and Forms

1. Failure to timely and/or correctly maintain records of receipt, manufacture, importation or other acquisition on [redacted] percent or more of the licensee's total acquisitions during the inspection period, with a minimum of [redacted] instances.
2. Failure to timely and/or correctly maintain records of sales or other dispositions of [redacted] percent or more of the licensee's total dispositions during the inspection period, with a minimum of [redacted] instances.
13. Falsify records required under the GCA or making a false or fictitious written statement in the FFL's required records or in applying for a firearms license.

Firearms

1. Missing firearms after inventory reconciliation (e.g., no records of disposition, required or otherwise).
2. Failure to mark imported or manufactured firearms appropriately.

Failure to Report

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

FFL History

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

Miscellaneous

4. Any other GCA violation not specifically addressed in the Federal Firearms Administrative Action Policy and Procedures, ATF O 5370.1C, where revocation may be appropriate.

ELIGIBILITY VERIFICATION

Business Information Verification

Property Ownership Verification

Premises Ownership Type
 Leased/Rented
 Premises Location Type
 Warehouse unit
 Has the property ownership been verified?
 Yes
 Address
 1669 THOMASTON AVE
 Unit N/A
 WATERBURY, Connecticut 06704

NEW HAVEN

United States

Additional Findings

Premises is owned by (b)(4) as verified by the city of Waterbury's online database.

Attachment(s):

Mad Smith LLC - property ownership.pdf

Trade Name/DBA Verification

Trade Name/DBA

RED PLANET ARSENAL

Is the trade name/DBA registered?

Yes

Additional Findings

Read Planet Arsenal is a registered LLC in Connecticut, which satisfies the need to register a trade name.

Attachment(s):

Red Planet Arsenal CT SOS.pdf

Rental/Lease Verification

Is the proposed business activity permitted by the property owner?

Yes

Additional Findings

Attached lease agreement provided by RP ONG.

Attachment(s):

Lease Agreement - Red Planet signed on 1-16-2019.pdf

Zoning Information Verification

Is the proposed business activity in compliance with zoning?

Yes

Additional Findings

Zoning for manufacturing approved by the City of Waterbury

Attachment(s):

1669 Thomaston Ave- Building sketch and map(1).pdf

APPOINTMENT DETAILS

Interview Date

01/06/2022

Address

1669 THOMASTON AVE, Unit N/A, WATERBURY, Connecticut 06704

Remarks

Date entered late. IOIs (b)(6) began onsite inspection on 1/5/2022 at approximately 10:00 am

Responsible Attendee(s)

ROBERT RAY MCKINNEY

Henson.CHUA.One

(b)(6)

(Deactivated)

Non-Responsible Person(s)

No Items

RESPONSIBLE PERSON(S)

ROBERT RAY MCKINNEY

Name

ROBERT RAY MCKINNEY

Gender

Male

Race

White

Ethnicity

Not Hispanic or Not Latino

Date of Birth

(b)(6)

SSN

(b)(6)

Job Title

Owner

Physical Identifiers

Height

(b)(6)

Weight

(b)(6)

Hair Color

(b)(6)

Eye Color

(b)(6)

Place of Birth

Country
United States Of America
State

(b)(6)

City
(b)(6)

Home Address

(b)(6)

United States

Additional Names

Citizenship

United States

ID Type	Country	State	ID Number
Driver's License	United States	Connecticut	(b)(6)
Phone Type	Phone Number	Remarks	
Mobile	(b)(6)		
Email Address	Email Remarks		
(b)(6)			
(b)(6)			
Online Presence Type	Online Presence URL	Remarks	
Website	www.redplanetarsenal.com		

Criminal History Check

Date Criminal History Check Conducted

01/05/2022

Criminal History Check Comments

NCIC revealed hits for Mckinney that were non-disabling. See attachment.

Henson CHUA Ong

Name
Henson CHUA Ong
Gender
Male
Race
Asian or Pacific Islander
Ethnicity
Not Hispanic or Not Latino

Date of Birth

(b)(6)

SSN

(b)(6)

Job Title

Business Partner

Physical Identifiers

Height

(b)(6)

Weight

(b)(6)

Hair Color

(b)(6)

Eye Color

(b)(6)

Place of Birth

Country

(b)(6)

State, Province, Region, or Territory

(b)(6)

City

(b)(6)

Home Address

(b)(6)

United States

Additional Names

Citizenship

United States

ID Type	Country	State	ID Number
Driver's License	United States	Connecticut	(b)(6)
Phone Type	Phone Number		Remarks
Mobile	(b)(6)		
Email Address		Email Remarks	
(b)(6)			
(b)(6)			
Online Presence Type	Online Presence URL		Remarks
Website	www.redplanetarsenal.com		

Criminal History Check

Date Criminal History Check Conducted

01/05/2022

Criminal History Check Comments

NCIC - no hits. NFORCE revealed open case. Case agent deconflicted. See attachment.

(b)(6)

(Deactivated)

Name

(b)(6)

Gender

(b)(6)

Race

(b)(6)

Ethnicity

(b)(6)

Date of Birth

(b)(6)

SSN

(b)(6)

Job Title

BUSINESS PARTNER

Physical Identifiers

Height

(b)(6)

Weight

(b)(6)

Hair Color

(b)(6)

Eye Color

(b)(6)

Place of Birth

Country

(b)(6)

State, Province, Region, or Territory

(b)(6)

City

(b)(6)

Home Address

(b)(6)

United States

Additional Names

Citizenship

United States

ID Type	Country	State	ID Number
Driver's License	United States	Connecticut	(b)(6)
Phone Type	Phone Number	Remarks	
Mobile	(b)(6)		
Email Address	Email Remarks		
(b)(6)			
(b)(6)			
Online Presence Type	Online Presence URL	Remarks	
Website	www.redplanetarsenal.com		

Criminal History Check

Date Criminal History Check Conducted

01/05/2022

Criminal History Check Comments

NCIC - no hits. NFORCE revealed open case. Case agent deconflicted. See attachment.

INTERVIEW QUESTIONNAIRE

What is the proposed business activity?

Red Planet Arsenal (RPA) holds a type-07 license and (b)(3)(26 USC § 6103) they have held the license since July, 2018. Approximately (b)(4) of their inventory is made up of new firearms. RPA responsible persons describe their primary business activity as a "custom gun shop." RPs ONG and MCKINNEY explained that customers contact the shop with specifications (i.e. barrel length, caliber, grips, arm brace, etc...) of the type of firearm that they would like to purchase, and RPA manufactures the firearms for the customers. Through inspection and interviews with the RPs, IOIs learned that this is typically done using an existing firearm or frame that is reconfigured and/or built to specification. A review of records and inventory revealed that a majority of these firearms are classified as "other" in the A&D as well as 4473s. RPA refers to these firearms as "CT compliant." These firearms typically have a less-than 16" barrel, a vertical forward grip, and an arm brace. During the inspection, approximately (b)(4) firearms were seized by Hartford CE as suspected AOWs or SBRs. ATF Firearms and Ammunition Technology Division declined to classify any firearm fitted with an arm brace due to a pending ATF proposed rulemaking decision. The firearms were subsequently returned.

RPA sells firearms to customers from the licensed premises, as well as online via other FFLs. They have participated in limited gun shows, and intend to do so in the future if they are available. RPA has not made any direct sales to law enforcement. They do frequently transfer firearms to other FFLs. Inspection revealed that in numerous cases, transfers to FFLs were not properly recorded (or at all) in their A&D book. Notably, RPA engaged in at least one consignment agreement with another local FFL.

RPA also manufactures (b)(3)(26 USC § 6103) in inventory. RPA sells these to customers on a by-order basis. Inspection revealed that only (b)(3)(26 USC § 6103) (b)(3)(26 USC § 6103) Also, approximately (b)(3)(26 USC § 6103) RPA's A&D book with no date of acquisition and were not found in inventory. Some had names and/or addresses in the disposition section. RP ONG stated that these were never manufactured and were being used as placeholders in his records. Approximately (b)(4) were seized by Hartford CE for having duplicate serial numbers (b)(4) pairs). ONG stated to IOIs that he did not know that firearms with differing model names could not share the same serial number. ONG was educated by IOIs that a manufacturer can never duplicate a serial number on any firearm.

RPA and Mad Smith A&D books are being maintained on Microsoft Excel. When IOIs initially requested all A&D records, ONG provided three records. After a team inventory was underway, it was revealed that there were at least two more A&D books. Further complicating inventory, some books have multiple tabs with different versions of the record. Both licensees transfer firearms in an inconsistent fashion between the books/tabs. As a result, there are many duplicate entries which made inventory and reconciliation very difficult. Inspection revealed many firearms not logged in, sold "off-book," as well as firearms sold but not logged out.

RP ONG reported that RPA was not registered with DDTC. IOI (b)(6) provided RPA with US Department of State letter dated July 22, 2016, which provides guidance on registration requirements (see attachment).

Do they need an additional license or permit?

No

Who are their primary suppliers?

Licensee response: Brokers, makers, deal direct as much as we can. (b)(4)

Other State or Local Permits

Type	Number	Expiration
State/Local Business License		
State/Local Business License	N/A	11/20/23

Business Activities

(b)(3)(26 USC § 6103)

- Internet Sales/Transfers
- Retail
- Gunsmith
- Gun Show Participant

gunbroker.com

Selected Operational Security Measures

- Controlled Access to ATF Recordkeeping
- Controlled Access to Keys
- Formal Employee Training

SUPPLEMENTAL QUESTIONNAIRE

General Business Operations

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

N/A

Who has keys to the premises?

MCKINNEY, ONG and (b)(6) (b)(4)

Who has keys to locked inventory?

MCKINNEY, ONG and (b)(6) (b)(4)

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

MCKINNEY and ONG

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

RP's MCKINNEY and ONG stated that they received approximately (b)(4) in two payments from (b)(6) owner of (b)(4). ONG, MCKINNEY, and (b)(6) were inconsistent with their accounts of how much money was loaned and for what purpose. MCKINNEY provided a contract (see attachment) stating that a (b)(4) loan was made from (b)(6) to MCKINNEY and ONG for the purpose of purchasing firearms and parts. In addition to the loan amount, the proceeds from the sale of goods were to be split, with a total repayment of (b)(4) to (b)(6).

Are any employees known to be prohibited?

Inspection revealed that RPA employee (b)(6) was prohibited due to (b)(6). ONG was notified that (b)(6) may be prohibited and (b)(6) was subsequently terminated from employment. ONG was advised that it is his responsibility to ensure that he does not employ prohibited persons in a position where they may have access to firearms. When questioned as to whether he knew that (b)(6) was prohibited, ONG stated that (b)(6) had no prohibiting factors "in the last 20 years." IOI (b)(6) informed ONG that prohibition due to (b)(6) does not expire with time.

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

(b)(6) DBA: (b)(4)

PREMISES INFORMATION

Inspection Area Description

Red Planet Arsenal (RPA) is located at 1669 Thomaston Avenue in Waterbury, CT. The building is brick mill-style structure in an urban/industrial area that houses many other tenant businesses. The building is "U" shaped with active loading docks in the center. The area is fenced (not locked) and parking is available. IOIs noticed after spending many days on site that people appear to be living in the building.

RPA occupies a large space on the second floor of the building. It consists of a small store front and office area, with the majority of space occupied by a manufacturing area. The manufacturing area houses long shelves with firearms parts and accessories and several workbenches for firearms assembly and other manufacturing processes.

During on-site inspection, IOIs observed, and ONG confirmed that ONG lives in the shop. ONG's living quarters occupy a square area in the corner of the manufacturing floor demarcated by two tarps hanging from the ceiling. Also residing on premises is a cat, which was friendly.

RPA is co-located with Mad Smith, LLC, of which Henson ONG is the sole responsible person. Also of note, FFL #6-06-05274, (b)(4) is directly across the hall, and an inspection of records revealed frequent transfers between RPA and (b)(4). Arcana, RPA, and Mad Smith share a common outer door.

No off-site storage was identified.

Safety concerns:

- Smoking: At the time of inspection, IOIs observed four employees (including ONG) who smoke cigarettes quite heavily inside the shop. The smell is palpable and may bother ATF employees who enter the premises.
- The clearing barrel: IOIs observed a clearing barrel next to a workbench. ONG stated that he regularly uses it to test-fire firearms for functionality. Upon identifying a bullet-sized hole in the steel mouth of the barrel, IOI (b)(6) was informed that it was due to a negligent discharge. IOI (b)(6) and Hartford CE advised ONG that this is an unsafe practice and recommended that he stop. ATF personnel requested that no firearms be discharged while ATF is on site.

Primary Activity

Manufacturing

GPS Coordinates

Latitude

41.59033

Longitude

-73.05414

Selected Physical Security Measures

- Deadbolts
- Safe(s)/Vault(s)
- Security Cameras

ONSITE SUMMARY

Total Number of ATF Form 4473s for Inspection Review Period

()

Total Number of ATF F 4473 Reviewed

()

Total Number of Open Dispositions in A & D Record

()

Total Number of Firearms in Inventory

442

Actual Number of Firearms Verified

()

Number of Firearms Missing Before Reconciliation

()

Total Number of Firearms Missing After Reconciliation

()

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

0

Total Number of Traces During Inspection Review Period

0

Total Number of Those Traces That Were Unresolved

Inspection Period Start Date

01/05/2021

Inspection Period End Date

01/05/2022

Number Of Traces Resolved By IOI

0

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

(b)(3)(26 USC § 6103)

AFMER Verified

No

(b)(3)(26 USC § 6103)

Compliance History

Red Planet Arsenal (RPA) was the subject of a recall inspection due to a contemplated revocation which closed on 19 June, 2019. A settlement agreement with ATF was signed by MCKINNEY and ONG on 19 April, 2020. Among other conditions, RPA agreed that their violations of the GCA were willful, and agreed to take specific steps to stay in compliance with ATF laws and regulations. One agreement of note was the requirement to conduct a quarterly inventory to be reported to ATF.

During the inventory, IOIs asked ONG if he had been conducting quarterly 100% inventories as he had been reporting to ATF. ONG reported that he had not, and further advised that he had not done so in as long as a year. IOIs asked ONG if he was aware of the requirement to conduct quarterly inventories; ONG stated that he was aware. ONG further stated that he "spot checked" his inventory. Having certified in writing on several occasions that inventories were conducted, RPs for RPA falsified those reports.

Inspection revealed numerous repeat violations from the prior referenced inspection.

Additional Comments

** Onsite work summary: the number of firearms open in the A&D compared to the number of firearms verified do not match due to the number of record-keeping discrepancies including: multiple entries for the same firearm, firearms logged out but found in inventory, firearms disposed but not logged out, firearms intermingled between two licenses, and firearms found in inventory that were never logged in. The [redacted] missing firearms that were reported on the theft/loss were taken from open A&D entries that could not be verified. The number of [redacted] missing firearms after reconciliation is an error that IOI [redacted] is not able to fix due to Spartan limitations.**

- Onsite start: 01/05/2022 - onsite end: 02/24/2022

- Due to the significant disorganization in record keeping, the numbers reported above should be considered approximate.

- No trafficking issues identified.

- RAC deconfliction on 01/05/2022

- IOIs verified through the Licensing Center that no AFMERs were filed for 2019 or 2020.

(b)(3)(26 USC § 6103)

Attachment(s)

Report of Violations.pdf

Report of Violations.pdf

Report of Violations.pdf

Licensee Response to Violations Report.pdf

REPORT OF VIOLATIONS

Regulation	Corrective Actions	Instance Details
1 27 CFR 478.126a: Failure to report multiple sales or other dispositions of pistols and revolvers ATF Forms 4473: [redacted] Number of Instances: [redacted]	Complete and submit ATF Form 3310.4 (Report of Multiple Sale or Other Disposition of Pistols and Revolvers) for all non-reported multiple sales identified as a result of this inspection. Complete and submit ATF Form 3310.4 (Report of Multiple Sale or Other Disposition of Pistols and Revolvers) by close of the same business day, for all applicable future multiple sales.	(b)(3) (112 Public Law 55 125 Stat 552),(b)(6)
2 27 CFR 478.92(a)(1)(i): Failure to properly mark firearm(s) with a serial number Number of Instances: [redacted]	Cease and desist transacting firearms until required identification markings are properly engraved, casted, stamped or otherwise conspicuously placed on each firearm.	(b)(3) (112 Public Law 55 125 Stat 552)
3 18 U.S.C. 923(g)(5)(A): Failure to timely file required AFMER Number of Instances: 1	Submit AFMERs for 2019, 2020, and 2021 Complete and submit required ATF Form 5300.11 (Annual Firearms Manufacturing and Exportation Report).	Licensee failed to file AFMERs in 2019 and 2020 as verified by the Firearms Licensing Center. Notably, they did file one for 2018.

4

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

Number of Instances:

Sections "B" and "D" of ATF form 4473 can only be made by the transferee and only in accordance with 27 CFR 478.21

Cease and desist engaging in activities not authorized by current license type.

Cease and desist from engaging in deceptive practices.

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

5

27 CFR 478.92(a)(1)(ii)(D): Failure to properly mark firearm (s) with manufacturer city and state

Number of Instances:

This is a REPEAT VIOLATION cited in a compliance inspection on 6/18/2019.

Cease and desist transacting firearms until required identification markings are properly engraved, casted, stamped or otherwise conspicuously placed on each firearm.

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

27 CFR 478.123(b): Failure to maintain an accurate/complete/timely licensee disposition record

Number of Instances:

This is a REPEAT VIOLATION cited in a compliance inspection on 6/18/2019.

Accurately, completely & timely record all required future firearm disposition information.

Amend/Update A&D Record to accurately record all required firearm disposition information.

Amend/Update consolidated A&D record to conform with conditions set forth under ATF Ruling 2016-3.

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

27 CFR 478.123(a): Failure to maintain an accurate/complete/timely manufacture or acquisition record

Number of Instances:

This is a REPEAT VIOLATION cited in a compliance inspection on 6/18/2019. Accurately, completely & timely record all required future firearm acquisition information. Amend/Update A&D Record to accurately record all required firearm acquisition information. Amend/Update consolidated A&D record to conform with conditions set forth under ATF Ruling 2016-3.

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

27 CFR 478.124(e)(4): Failure to record firearm information on an ATF F 4473

ATF Forms 4473:
Number of Instances:

This is a REPEAT VIOLATION cited in a compliance inspection on 6/18/2019. Execute and retain a complete and accurate ATF Form 4473 on all future firearm transactions. Ensure that all required firearm identification information is obtained and accurately recorded on all future ATF Forms 4473, Section D.

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

(b)(6)

(b)(6)

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

8

27 CFR 478.124(e)(1): Failure to obtain a completed ATF F 4473

ATF Forms 4473:
Number of Instances:

This is a REPEAT VIOLATION cited in a compliance inspection on 6/18/2019.
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.
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)

9

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

ATF Forms 4473:
Number of Instances:

Do not execute ATF form 4473 when acquiring firearms from non-licensees.

This is a REPEAT VIOLATION cited in a compliance inspection on 6/18/2019.
Complete all forms as prescribed.
Correct/Update photocopies of all specified ATF Form 4473 discrepancies, in accordance with form headings and instructions.
Ensure that all ATF Form 4473 items, as required by form headings and instructions, are accurately completed on all future transactions.
Ensure that all required ATF Form 4473 Section A items are 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)

10

27 CFR 478.124(e)(3)(i): Failure to verify or record Identification document on ATF F 4473

ATF Forms 4473:
Number of Instances:

This is a REPEAT VIOLATION cited in a compliance inspection on 6/18/2019.
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)

11

27 CFR 478.124(e)(3)(iv): Failure to record NICS contact information on an ATF F 4473

ATF Forms 4473:
Number of Instances:

This is a REPEAT VIOLATION cited in a compliance inspection on 6/18/2019.
Execute and retain a complete and accurate ATF Form 4473 on all future firearm transactions.
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)

12

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

This is a REPEAT VIOLATION cited in a compliance inspection on 6/18/2019.
 Execute and retain a complete and accurate ATF Form 4473 on all future firearm transactions.
 Ensure that the required transferor/seller signature and date of transfer is obtained, validated and accurately recorded on all future ATF Forms 4473, Section D.

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

13 ATF Forms 4473: []
 Number of Instances: []

LICENSEE RESPONSE REPORT

Regulation	Corrective Actions	Licensee Response	Status Details
27 CFR 478.126a: Failure to report multiple sales or other dispositions of pistols and revolvers ATF Forms 4473: [] Number of Instances: []	Complete and submit ATF Form 3310.4 (Report of Multiple Sale or Other Disposition of Pistols and Revolvers) for all non-reported multiple sales identified as a result of this inspection. Complete and submit ATF Form 3310.4 (Report of Multiple Sale or Other Disposition of Pistols and Revolvers) by close of the same business day, for all applicable future multiple sales.	Will take care if the issue immediately. Need to pay more attention. Hired a new employee who is very organized.	Status Licensee Notified Verified Method In Person Date Licensee Notified 02/24/2022
27 CFR 478.92(a)(1)(i): Failure to properly mark firearm(s) with a serial number Number of Instances: []	Cease and desist transacting firearms until required identification markings are properly engraved, casted, stamped or otherwise conspicuously placed on each firearm.	Did not know that serial numbers cannot be duplicated on different models. Will use a prefix on serial numbers of different models in the future.	Status Licensee Notified Verified Method In Person Date Licensee Notified 02/24/2022
18 U.S.C. 923(g)(5)(A): Failure to timely file required AFMER Number of Instances: 1	Submit AFMERs for 2019, 2020, and 2021 Complete and submit required ATF Form 5300.11 (Annual Firearms Manufacturing and Exportation Report).	Did not think they needed to submit AFMER because "other" was not an option for firearm type. Will submit them in the future.	Status Licensee Notified Verified Method In Person Date Licensee Notified 02/24/2022
27 CFR 478.128(c): False statement made by a licensee on any ATF record Number of Instances: []	Sections "B" and "D" of ATF form 4473 can only be made by the transferee and only in accordance with 27 CFR 478.21 Cease and desist engaging in activities not authorized by current license type. Cease and desist from engaging in deceptive practices.	Did not know the proper way to correct forms. Will not change buyers' responses in the future.	Status Licensee Notified Verified Method In Person Date Licensee Notified 02/24/2022
27 CFR 478.92(a)(1)(ii)(D): Failure to properly mark firearm(s) with manufacturer city and state Number of Instances: []	This is a REPEAT VIOLATION cited in a compliance inspection on 6/18/2019. Cease and desist transacting firearms until required identification markings are properly engraved, casted, stamped or otherwise conspicuously placed on each firearm.	Forgot to engrave the firearm. Will now mark firearms prior to manufacturing.	Status Licensee Notified Verified Method In Person Date Licensee Notified 02/24/2022
27 CFR 478.123(b): Failure to maintain an accurate/complete/timely licensee disposition record	This is a REPEAT VIOLATION cited in a compliance inspection on 6/18/2019. Accurately, completely & timely record all required future	Will no longer use A&D book for recording customer orders.	Status Licensee Notified Verified Method

6	Number of Instances: <input type="text"/>	firearm disposition information. Amend/Update A&D Record to accurately record all required firearm disposition information. Amend/Update consolidated A&D record to conform with conditions set forth under ATF Ruling 2016-3.	In Person Date Licensee Notified 02/24/2022
7	27 CFR 478.123(a): Failure to maintain an accurate/complete/timely manufacture or acquisition record Number of Instances: <input type="text"/>	This is a REPEAT VIOLATION cited in a compliance inspection on 6/18/2019. Accurately, completely & timely record all required future firearm acquisition information. Amend/Update A&D Record to accurately record all required firearm acquisition information. Amend/Update consolidated A&D record to conform with conditions set forth under ATF Ruling 2016-3.	Status Licensee Notified Verified Method In Person Date Licensee Notified 02/24/2022
8	27 CFR 478.124(c)(4): Failure to record firearm information on an ATF F 4473 ATF Forms 4473: <input type="text"/> Number of Instances: <input type="text"/>	This is a REPEAT VIOLATION cited in a compliance inspection on 6/18/2019. Execute and retain a complete and accurate ATF Form 4473 on all future firearm transactions. Ensure that all required firearm identification information is obtained and accurately recorded on all future ATF Forms 4473, Section D.	Status Licensee Notified Verified Method In Person Date Licensee Notified 02/24/2022
9	27 CFR 478.124(c)(1): Failure to obtain a completed ATF F 4473 ATF Forms 4473: <input type="text"/> Number of Instances: <input type="text"/>	This is a REPEAT VIOLATION cited in a compliance inspection on 6/18/2019. 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. Execute and retain a complete and accurate ATF Form 4473 on all future firearm transactions.	Status Licensee Notified Verified Method In Person Date Licensee Notified 02/24/2022
10	27 CFR 478.21(a): Failure to complete forms as prescribed ATF Forms 4473: <input type="text"/> Number of Instances: <input type="text"/>	Do not execute ATF form 4473 when acquiring firearms from non-licensees. This is a REPEAT VIOLATION cited in a compliance inspection on 6/18/2019. Complete all forms as prescribed. Correct/Update photocopies of all specified ATF Form 4473 discrepancies, in accordance with form headings and instructions. Ensure that all ATF Form 4473 items, as required by form headings and instructions, are accurately completed on all future transactions. Ensure that all required ATF Form 4473 Section A items are 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.	Status Licensee Notified Verified Method In Person Date Licensee Notified 02/24/2022
11	27 CFR 478.124(c)(3)(i): Failure to verify or record Identification document on ATF F 4473 ATF Forms 4473: <input type="text"/> Number of Instances: <input type="text"/>	This is a REPEAT VIOLATION cited in a compliance inspection on 6/18/2019. 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.	Status Licensee Notified Verified Method In Person Date Licensee Notified 02/24/2022
	27 CFR 478.124(c)(3)(iv): Failure to record NICS contact information on an ATF F 4473 ATF Forms 4473: <input type="text"/> Number of Instances: <input type="text"/>	This is a REPEAT VIOLATION cited in a compliance inspection on 6/18/2019. Execute and retain a complete and accurate ATF Form 4473 on all future firearm transactions. Ensure that all required NICS/POC background check information is obtained and accurately recorded on all future	Status Licensee Notified Verified Method In Person Date Licensee Notified

12	ATF Forms 4473, Section B.		02/24/2022
13	<p>27 CFR 478.124(e)(5): Failure by transferor to sign and/or date an ATF F 4473</p> <p>ATF Forms 4473 [redacted] Number of Instances [redacted]</p>	<p>This is a REPEAT VIOLATION cited in a compliance inspection on 6/18/2019.</p> <p>Execute and retain a complete and accurate ATF Form 4473 on all future firearm transactions.</p> <p>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>Will use e-4473 and have all forms check by two employees</p> <p>Status Licensee Notified Verified Method In Person Date Licensee Notified 02/24/2022</p>

CLOSING CONFERENCE

Review Regulations conducted offline
(2/24/2022)
02/24/2022

Closing Conference Additional Notes

Red Planet Arsenal (RPA) was the subject of a recall inspection due to a contemplated revocation which closed on 19 June, 2019. A settlement agreement with ATF was signed by MCKINNEY and ONG on 19 April, 2020. Among other conditions, RPA agreed that their violations of the GCA were willful, and agreed to take specific steps to stay in compliance with ATF laws and regulations. One agreement of note was the requirement to conduct a quarterly inventory to be reported to ATF.

On site inspection started on 05 January, 2021 and the closing conference was held on 24 February, 2022. IOIs requested all A&D records to begin a team inventory. ONG provided three A&D records; it was later discovered that at least two A&D records were not provided at the initial request. During the inventory, IOIs asked ONG if he had been conducting quarterly 100% inventories as he had been reporting to ATF. ONG reported that he had not, and further advised that he had not done so in as long as a year. IOIs asked ONG if he was aware of the requirement to conduct inventories; ONG stated that he was aware. ONG further stated that he "spot checked" his inventory.

Inspection revealed numerous repeat violations from the prior referenced inspection.

The general state of RPA's A&D books significantly impacted ATF's ability to conduct an inventory and has an overall negative effect on firearms traceability. Due to the large number of A&D discrepancies, ONG was educated by IOIs (b)(6) on the proper way to make corrections on spreadsheet-style books in compliance with ATF ruling 2016-1. During the inspection, ONG reported that he had purchased a new electronic A&D book.

After physical inventory was conducted by ATF, over [redacted] open dispositions in their records were not accounted for. After reconciliation, approximately [redacted] firearms were reported as lost/stolen. At the time of the closing conference, ONG was still in the process of reconciling missing firearms with the National Tracing Center.

Upon review of ATF form 4473s, IOIs noticed the regular use of white-out to make corrections to the forms. MCKINNEY and ONG were interviewed by IOIs (b)(6). MCKINNEY, who had certified the vast majority of the forms, was shown a sampling of forms that he had signed with white-out on them. Upon questioning, MCKINNEY stated that he had made corrections to the buyers' responses in all instances of the examples he was shown (see ROV and associated exhibits). MCKINNEY stated and records confirm that this was a regular practice. In at least [redacted] instances, MCKINNEY stated that he had changed the buyers' answer from "no" to "yes" in block 21.a. MCKINNEY and ONG were educated on the proper procedure for making corrections to form 4473 and advised that in no case should they alter a buyer's response.

Through a review of A&D records, IOIs noticed that it was a common practice for customers to purchase a frame/receiver and return it to RPA a short time later. RPA would then dispose of a complete firearm bearing the same serial number as the frame to the customer. ONG was interviewed about this procedure, and he stated that if the customer brought in their own receiver and RPA assembled a complete firearm, it was not manufacturing, but gunsmithing. Ong further advised that this procedure put the tax burden on the customer instead of RPA. ONG was advised that the assembling of firearms from parts is manufacturing, regardless of the source of the parts.

The Federal Firearms Licensing Center confirmed that RPA failed to file required AFMERs for 2019 and 2020. When IOI (b)(6) asked ONG why they had not, ONG replied that "other" was not an option for firearm type. IOI (b)(6) advised ONG that he is still required to file the AFMER, and that there is an option of "miscellaneous firearms."

After being issued a report of violations, ONG stated that the shop had become very busy and he could not keep up with the paperwork. IOIs advised MCKINNEY and ONG to conduct a 100% inventory as soon as possible. MCKINNEY stated that the last time they had done an inventory was a year ago, again confirming their lack of adherence to the settlement agreement.

Attachment(s)

Attendee(s)

ROBERT RAY MCKINNEY
Henson CHUA Ong

EXHIBITS

Inspection

Category	Attachment Name
Correspondence	Spartan Notification RE: 6-06-04407
UpdateLicensingCenter	Inspection Results FCI-33188 Post Inspection- Close out of RPA revocation summary.pdf
UpdateLicensingCenter	FedEx label - OOB RPA records to NTC 8-24-2022.pdf Notice of discontinuance-

UpdateLicensingCenter	Red Planet Arsenal signed 8-22-2022.pdf
UpdateLicensingCenter	(b)(3)(26 USC § 6103) registration letter 4-27-2022.pdf
UpdateLicensingCenter	(b)(3)(26 USC § 6103) 8-18-2022.pdf
UpdateLicensingCenter	Destroyed silencers photo on 8-22-2022.pdf
UpdateLicensingCenter	(b)(3)(26 USC § 6103) 8-22-2022.pdf
UpdateLicensingCenter	RPA- 3310.11 FFL Theft Loss report for missing
UpdateLicensingCenter	8-22-2022.pdf Notification to CTSP SLFU- FFL Red Planet Arsenal revoked.pdf
Correspondence	Spartan Notification RE: 6-06-04407 Monitored Case
LicenseeResponseToViolationsPDF	Licensee Response to Violations Report.pdf
ViolationsPDF	Report of Violations.pdf
ViolationsPDF	Report of Violations.pdf
ViolationsPDF	Report of Violations.pdf
ZoningVerification	1669 Thomaston Ave- Building sketch and map (1).pdf
TradeNameVerification	Red Planet Arsenal CT SOS.pdf
PropertyOwnershipVerification	Mad Smith LLC - property ownership.pdf
Correspondence	Spartan Notification RE: 6-06-04407 Monitored Case
Correspondence	Spartan Notification RE: 6-06-04407 Inspection Results
RentalLeaseVerification	Lease Agreement - Red Planet signed on 1-16-2019.pdf
ApplicationPDF	6-06-04407 McKinney Robert Ray dba Red Planet Arsenal Compliance22.pdf

Category	Attachment Name
Correspondence	Spartan Notification RE: 6-06-04407 Special Attention Flag (SAF)
StipulatedAgreements	McKinney 60604407 Signed Settlement Agreement.pdf



U.S. Department of Justice

Bureau of Alcohol, Tobacco,
Firearms and Explosives

Boston Field Division
10 Causeway St., Suite 791
Boston, Massachusetts 02222
www.atf.gov

EXPLANATION LETTER re:
NOTICE OF REVOCATION

Certified Mail – Return Receipt Requested

April 13, 2022

Robert McKinney
Henson Ong
Red Planet Arsenal
1669 Thomaston Ave
Second Floor
Waterbury, Connecticut 06704

Re: FFL # 6-06-009-07-1H-04407

Dear Mr. McKinney & Mr. Ong:

As you are aware, beginning in January 2022, Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) investigators conducted an inspection of your licensed firearms business under the Gun Control Act of 1968, as amended (GCA), Title 18, United States Code, Chapter 44 and its implementing regulations, Title 27, Code of Federal Regulations, Part 478. As a result, ATF has made a determination to revoke your federal firearms license.

Courts have held that ATF may revoke a federal firearms license for willful violations of the GCA and its implementing regulations. “Willfulness,” as defined by the courts, means the purposeful disregard or plain indifference to a licensee’s known legal obligations. ATF is not required to prove you *intended* to violate the law, only that you knew your legal obligation as a licensee, and you purposefully disregarded or were plainly indifferent to this obligation.

Accordingly, enclosed are a Notice to Revoke or Suspend License and/or Impose a Civil Fine, ATF Form 4500 (5300.4), and a Notice to Deny [Renewal] Application for License, ATF Form 4498 (5300.43), citing willful violations of the GCA as the bases for the revocation of your federal firearms license. The attachments referenced in the notice can be found on the enclosed thumb drive.¹

¹ The password for the thumb drive is being emailed to you.

Red Planet Arsenal
FFL # 6-06-009-07-1H-04407

Your Response to this Notice: As indicated on the enclosed form, you may request a hearing to contest the revocation by submitting a written request to me – the Director of Industry Operations (DIO) – within 15 days from your receipt of this Notice. *If you do not request a hearing within 15 days, the revocation of your license will become final at the end of those 15 days, and all of your firearms business activity must cease on that date.*

If you submit a letter requesting a hearing, ATF will begin to make arrangements for the hearing. Please let us know immediately if you will be represented at the hearing so that we can expeditiously schedule the hearing at a time mutually convenient to all parties involved, including your representative.² Once the date, time and place are set, ATF will notify you via certified mail. Under limited circumstances, the DIO may reschedule the hearing for good cause.

Before the Hearing (if one is requested): Prior to the hearing date you may request a meeting with the DIO to address the violations cited in the Notice. You may be represented by counsel at this meeting if you so desire. The purpose of the meeting will be to try to resolve this matter without conducting a hearing. While ATF is not obligated to grant such requests, if it does, at or before the meeting, you may submit mitigating facts, arguments, and proposals for settlement for review and consideration. Settlement proposals may include a business wind-down period. You may also submit offers of potential resolution to me after the hearing, however, I will not entertain settlement offers at the hearing itself.

If you would like to schedule such a meeting, please contact the undersigned at (617) 557-1200 within 15 days of the receipt of this letter. If we do not receive a timely meeting request, we will schedule the hearing if you have requested one in writing.

What to Expect at the Hearing: *Under no circumstances may you, your representative, your witnesses, or anyone else, bring firearms or any other weapons to the hearing.* The hearing will not begin, or will cease, if it is determined that this policy has been violated.

The hearing itself is informal in nature and does not require adherence to civil court rules and formal courtroom procedures. An ATF-hired stenographer will be present to transcribe the hearing; however, there is no sworn testimony. 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. You may also make an audio recording of the proceedings or have them recorded by an additional stenographer at your own expense, provided this recording is not disruptive to the proceedings. *ATF does not make a video recording of the hearing proceedings. You may not do so either.*

The DIO will preside over the hearing and ensure that it occurs in an orderly and professional manner. The primary purpose of the hearing is to give the DIO the opportunity to hear your explanation/argument in response to the proposed licensing action.

² See 27 C.F.R. § 478.76 for information regarding who may represent you at the hearing.

Red Planet Arsenal
FFL # 6-06-009-07-1H-04407

During the hearing, ATF, through an attorney, will enter in the official record all evidence establishing the violations cited in the enclosed Notice. The ATF attorney will generally ask the ATF investigator(s) who conducted the inspection, or other ATF employees who have relevant information concerning your case, to describe their findings. At the conclusion of the Government's presentation, you will have the opportunity to respond. As mentioned above, you may be represented by counsel at this hearing if you so desire. You are encouraged to state your case as clearly and factually as possible. You and/or your attorney should be willing and prepared to address each violation described in the Notice. You may also present relevant evidence, such as documents, pictures, or witness testimony that tends to show that the violations listed in the Notice did not occur in the manner described.

You will have the opportunity to ask questions about any of the evidence that ATF puts on the record, and to question any ATF witnesses about their findings. Similarly, ATF will have the opportunity to ask questions about your evidence, and of your witnesses. When the DIO is satisfied that all evidence and arguments have been fully presented, he or she will conclude the hearing.

After the Hearing: If after review of the entire record, the DIO concludes that willful violations occurred, the DIO may issue a Final Notice of Revocation of Firearms License, which will be sent to you via certified mail. Similarly, the DIO will notify you in writing if he decides to allow you to keep your current license. If you are not satisfied with the final decision, you may appeal the decision to federal district court within 60 days. The record of the hearing (including all presented evidence and testimony) may become part of the official court record.

If you have any questions, please contact, or have your attorney contact, ATF Counsel (b)(6)
(b)(6).

Sincerely,

(b)(6)

Nicholas E. O'Leary
Director of Industry Operations

Enclosures

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

In the matter of License Number 6-06-009-07-1H-04407, as a/an manufacturer of firearms

issued to:

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

Red Planet Arsenal
1669 Thomaston Ave
2nd Floor
Waterbury, Connecticut 06704

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 10 Causeway Street, Suite 791, Boston, Massachusetts 02222, 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
04/13/2022	Nicholas E. O'Leary Director of Industry Operations, Boston 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: 7011 2970 0002 4766 2909 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
04/13/2022	Director of Industry Operations	(b)(6)
Print Name and Title of Person Served Robert McKinney and Henson Ong		Signature of Person Served

Address Where Notice Served
1669 Thomaston Ave, Second Floor, Waterbury, Connecticut 06704

Notice to Deny Application for License

- In the matter of application for license as a/an _____, filed by:
or
- In the matter of application for renewal of license number 6-06-009-07-1H-04407 as a/an
manufacturer of firearms _____, filed by:

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

Red Planet Arsenal
1669 Thomaston Ave
2nd Floor
Waterbury, Connecticut 06704

Notice Is Hereby Given That:

The application described above may be denied because the applicant does not qualify for licensing under the provisions of 18 U.S.C. § 923(d), as set forth in the pages attached and made a part of this form. Pursuant to 18 U.S.C. § 923(f)(2), you may file a request for a hearing to review the denial of your application. This request must be received, in duplicate, by the Director of Industry Operations (DIO), Bureau of Alcohol, Tobacco, Firearms and Explosives, located at 10 Causeway Street, Suite 791, Boston, Massachusetts 02222, within 15 days of your receipt of this notice.

Where a timely request for hearing is made, and the application described above is for renewal of a currently valid license, you may continue to operate under your present license pending the outcome of the hearing. The hearing will be held as provided in 27 CFR Part 478.

If a timely request for a hearing is not received, the application shall be disapproved, and a copy so marked will be returned to the applicant.

- Please see included brochure

Date	Name and Title of Bureau of Alcohol, Tobacco, Firearms and Explosives Official	Signature
04/13/2022	Nicholas E. O'Leary Director of Industry Operations, Boston Field Division	(b)(6)

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

- Certified mail to the address shown below.
Tracking Number: 7011 2970 0002 4766 2909

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

Or

Date Notice Served	Title of Person Serving Notice	Signature of Person Serving Notice
04/13/2022	Director of Industry Operations	(b)(6)

Print Name and Title of Person Served	Signature of Person Served (<i>if applicable</i>)
Robert McKinney and Henson Ong	

Address Where Notice Served
1669 Thomaston Ave, Second Floor, Waterbury, Connecticut 06704

Red Planet Arsenal
Robert McKinney
Henson Ong
FFL # 6-06-009-07-1H-04407
Waterbury, Connecticut

ATF Form 4498 – Notice of Denial of License Application
ATF Form 4500 – Notice of Revocation of License and Imposition of a Civil Fine

Under the provisions of 18 U.S.C. § 923(e) and 27 C.F.R. § 478.73, notice is hereby given of the proposed revocation of the Federal firearms license specified above.¹ The Director, Industry Operations, United States Department of Justice, Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), Boston Field Division, has reason to believe that Red Planet Arsenal (a manufacturer of firearms) (hereinafter the “licensee” or “Red Planet”), willfully violated the provision 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.

On March 5, 2019, ATF began an inspection of the licensee issued to Red Planet Arsenal. As a result of that inspection, numerous violations were discovered. On November 14, 2019, ATF issued a Notice to Revoke the Red Planet license. See Attachment A.

The licensee made a timely request for a hearing to review the revocation. The hearing was held on January 22, 2020. After the hearing, the parties (licensee, and licensee’s responsible persons Mr. McKinney and Mr. Ong, and ATF) agreed to and signed a settlement agreement, which included the following terms (see Attachment B for full Settlement Agreement):

2. RPA, McKinney, and Ong hereby stipulate that the violations set forth in Counts 2 through 7 of ATF’s 2019 Notices of Revocation were “willful” in that RPA was plainly indifferent to its obligations under 18 U.S.C. Ch. 44 and 27 CFR Part 478.
3. ATF will take no further action to revoke RPA’s federal firearms license during the two-year period following the effective date of this agreement, so long as RPA, McKinney, and Ong maintain compliance with the Gun Control Act and its implementing regulations, and the conditions of this agreement are satisfied.
9. Prior to August 30, 2020, all McKinney and/or Ong licenses must implement a process checklist for transfers and transactions. This standard procedure shall include at least two people reviewing each Form 4473.
11. Beginning on the effective date of this agreement, and for the next 730 days, all McKinney and/or Ong licenses shall weekly check-over and review all Acquisition and Disposition Records to ensure accuracy and timely entry of information.
12. Beginning of the effective date of this agreement, and for the next 730 days, all McKinney and/or Ong licenses shall, each quarter, conduct a full inventory of all

¹ This license expired in 2021. Licensee submitted a timely renewal application. Licensee has been operating on its old license, pursuant to a Letter of Authorization from ATF pending action on the renewal application. This document also serves as a notice of the denial of the Federal firearms license renewal application pursuant to 18 U.S.C. § 923(d)(1)(C,) and 27 C.F.R. § 478.71.

Red Planet Arsenal
Robert McKinney
Henson Ong
FFL # 6-06-009-07-1H-04407
Waterbury, Connecticut

ATF Form 4498 – Notice of Denial of License Application
ATF Form 4500 – Notice of Revocation of License and Imposition of a Civil Fine

firearms on premises and compare the inventory to the acquisition and disposition records to ensure accuracy and timely entry of information into the record. The audit shall also include a review the licenses' other ATF-required records (e.g. multiple sales reports, Forms 4473) for compliance.

13. Beginning on the effective date of this agreement, and for the next 730 days, all McKinney and/or Ong licenses shall submit a quarterly report to ATF, due on April 15th (for January – March), July 15th (for April – June), October 15th (for July – September), and January 15th (for October – December). The quarterly report shall contain the results of the quarterly audit, and a description of any problems discovered during the daily/weekly review of the Form 4473s and Acquisition and Disposition records. For any discrepancies reported, the licensees shall also report to ATF what changes they have implemented in their standard operating procedures to prevent the problem from reoccurring.
15. Violation of this agreement by any McKinney and/or Ong license during the agreement's two-year term, may result in the revocation of the RPA, Mad Smith or other McKinney and/or Ong federal firearms license. Upon successful completion of the two-year term of this agreement by all McKinney and/or Ong licenses, ATF agrees to withdraw the November 2019 Notice of Revocation, and ATF will not use the violations cited in the November 2019 Notice as the substantive basis for denial or revocation of a future McKinney or Ong-held license.
16. This Agreement may be introduced at any future administrative proceeding, or any judicial appeal therefrom, against any federal firearms license held by McKinney and/or Ong,² or any application for a federal firearms license, submitted by McKinney and/or Ong,³ to help demonstrate the willfulness of any future violation of the type stipulated to in this Agreement.

On January 5, 2022, ATF began a compliance inspection of Red Planet. During the inspection, ATF reviewed all 457 of the form 4473s on file for the inspection period. During the inspection period licensee had over 1200 acquisitions and over 1000 dispositions. As a result of the 2022 inspection, as well as the periodic reporting pursuant to the settlement agreement, numerous violations were discovered.

² or any corporation, limited liability company, partnership, or other business association or entity in which McKinney or Ong have an ownership interest

³ or any corporation, limited liability company, partnership, or other business association or entity in which McKinney or Ong have an ownership interest

Red Planet Arsenal
Robert McKinney
Henson Ong
FFL # 6-06-009-07-1H-04407
Waterbury, Connecticut

ATF Form 4498 – Notice of Denial of License Application
ATF Form 4500 – Notice of Revocation of License and Imposition of a Civil Fine

ATF is denying the renewal of Red Planet’s federal firearms license, based on the following willful violations.

1. Violation of the April 2020 Settlement Agreement is grounds for revocation of the license.
 - a. Licensee violated Settlement Agreement condition #13:
 - i. Licensee submitted required quarterly reports to ATF in a timely manner for 2020 Q2, 2021 Q1, Q2.
 - ii. Reports for the following quarters were late: 2020 Q3, Q4.
 - iii. ATF did not receive any reports for: 2021 Q3, Q4.
 - b. License violated Settlement Agreement condition #12: During the 2022 inspection, the ATF Investigators asked Mr. Ong if he and McKinney had conducted quarterly inventories as required by the Settlement Agreement. Mr. Ong indicated they had not. After attempting to reconcile the open dispositions in the records, on January 18, 2022, Red Planet submitted a theft-loss report for [redacted] firearms.

See Attachments A, B, C, and D.

2. Violations #2-7 from the 2019 Notice of Revocation, including violations of 18 U.S.C. §§ 922(m), 923(g)(1)(A), and 27 C.F.R. §§ 478.21(a), 478.123, and 478.124(c). Mr. Ong and Mr. McKinney have already stipulated to the willfulness of these violations.

See Attachments A and B.

3. During the 2022 inspection, ATF discovered that in at least [redacted] instances, licensee failed to accurately, completely, and timely maintain the required acquisition and disposition record, in willful violation of 18 U.S.C. §§ 922(m) and 923(g)(1)(A) and 27 C.F.R. § 478.123(a) and (b). This is a repeat violation from the 2019 inspection.

See Attachments A, E and F.

4. During the 2022 inspection, ATF discovered that in at least [redacted] instances, licensee failed to ensure that the transferee accurately and completed Section A of the Form 4473 before transfer of a firearm, in willful violation of 18 U.S.C. §§ 922(m) and 923(g)(1)(A) and 27 C.F.R. § 478.124(c)(1). This is a repeat violation from the 2019 inspection.

See Attachments A, G, and H.

Red Planet Arsenal
Robert McKinney
Henson Ong
FFL # 6-06-009-07-1H-04407
Waterbury, Connecticut

ATF Form 4498 – Notice of Denial of License Application
ATF Form 4500 – Notice of Revocation of License and Imposition of a Civil Fine

5. During the 2022 inspection, ATF discovered that in at least [] instances, licensee failed to ensure that the ATF Form 4473 was accurately and completely perfected before transfer of a firearm, in willful violation of 18 U.S.C. §§ 922(m) and 923(g)(1)(A) and 27 C.F.R. § 478.21(a). This is a repeat violation from the 2019 inspection.

See Attachments A, G, and H.

6. During the 2022 inspection, ATF discovered that in at least [] instances, licensee failed to ensure that the ATF Form 4473 was accurately and completely perfected before transfer of a firearm, in willful violation of 18 U.S.C. §§ 922(m) and 923(g)(1)(A) and 27 C.F.R. §§ 478.124(c)(3)(i) and (iv). This is a repeat violation from the 2019 inspection.

See Attachments A, G, and H.

7. During the 2022 inspection, ATF discovered that in at least [] instances, licensee failed to ensure that the ATF Form 4473 was accurately and completely perfected before transfer of a firearm, in willful violation of 18 U.S.C. §§ 922(m) and 923(g)(1)(A) and 27 C.F.R. §§ 478.124(c)(4) and (5). This is a repeat violation from the 2019 inspection.

See Attachments A, G, and H.

8. During the 2022 inspection, ATF discovered that Responsible Person McKinney was altering the transferee's writing on the Form 4473 after the transaction was complete and the buyer had left the store, in willful violation of 18 U.S.C. §§ 922(m), 924(a)(1)(A), 924(a)(3), and 27 C.F.R. § 478.128(c). For example, in at least [] instances, McKinney changed the transferee's responses in Block 21a (Are you the actual buyer of the firearm) from "no" to "yes."

See Attachments G and H.

9. In at least [] instances (transferees [(b)(6)]), the licensee failed to report the multiple sales of handguns to a non-licensee within a five business-day period, in willful violation of 18 U.S.C. § 923(g)(3) and 27 C.F.R. § 478.126a.

See Attachment H.

Accordingly, Red Planet's federal firearms license is subject to revocation pursuant to 18 U.S.C. § 923(e) and 27 C.F.R. § 478.73, and renewal application denial pursuant to 18 U.S.C. § 923(d)(1)(C,) and 27 C.F.R. § 478.71.



U.S. Department of Justice

Bureau of Alcohol, Tobacco,
Firearms and Explosives

*Boston Field Division
10 Causeway St., Room 791
Boston, Massachusetts 02222*

www.atf.gov

Certified Mail – Return Receipt Requested

June 9, 2022

Robert McKinney
Henson Ong
Red Planet Arsenal
1669 Thomaston Avenue
Waterbury, Connecticut 06704

Re: FFL # 6-06-009-07-1H-04407

Dear Mr. McKinney and Mr. Ong:

Per our June 6th Agreement, the above Federal Firearms License issued to you is hereby revoked. Accompanying this letter, please find an ATF Form 5300.13, Final Notice of Denial of Application and Revocation of Firearms License. Additionally, please see the enclosed information sheet about the limitations on your ability to sell firearms after the effective date of the revocation of your license.

The effective date of revocation of your license is August 18, 2022.

If you have any questions concerning this matter, please contact me at (617) 557-1200 or have your attorney call ATF Attorney (b)(6).

Sincerely,

(b)(6)

Nicholas E. O'Leary
Director of Industry Operations

Enclosures

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

In the matter of:

The application for license as a/an _____, filed by:

or

License Number 6-06-009-07-1H-04407 as a/an
_____ manufacturer of firearms _____, issued to:

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

Robert McKinney
Henson Ong
Red Planet Arsenal
1699 Thomaston Avenue
Waterbury, CT 06704

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 requesting a hearing, you subsequently withdrew your request. Your license is revoked, effective: August 18, 2022
- After due consideration following a hearing held pursuant to 18 U.S.C. § 923(f)(2) and/or 922(t)(5), and on the basis of findings set out in the attached copy of the findings and conclusions, the Director or his/her designee concludes that your
- application for license described above is denied, pursuant to 18 U.S.C., 923(d).
 - application for renewal of license described above is denied pursuant to 18 U.S.C. 923(d), effective:
 - 15 calendar days after receipt of this notice, or _____
 - license described above is revoked pursuant to 18 U.S.C., 923(e), 922(t)(5) or 924(p), effective:
 - 15 calendar days after receipt of this notice, or _____
 - license is suspended for _____ calendar days, effective _____, pursuant to 18 U.S.C. § 922(t)(5) or 924(p).
 - licensee is fined \$ _____, payment due: _____, pursuant to 18 U.S.C. § 922(t)(5) or 924(p).

If, after the hearing and receipt of these findings, you are dissatisfied with this action you may, within 60 days after receipt of this notice, file a petition pursuant 18 U.S.C. § 923(f)(3), for judicial review with the U.S. District Court for the district in which you reside or have your principal place of business. If you intend to continue operations after the effective date of this action while you pursue filing for judicial review or otherwise, you must request a stay of the action from the Director of Industry Operations (DIO), Bureau of Alcohol, Tobacco, Firearms and Explosives, at 10 Causeway St. #791 Boston MA 02222

_____ ,
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 6/9/22	Name and Title of Bureau of Alcohol, Tobacco, Firearms and Explosives Official Nicholas E. O'Leary, Director of Industry Operations	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: 7017 1450 0001 5241 3311

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

Date Notice Served 6/9/22	Title of Person Serving Notice Director of Industry Operations	Signature of Person Serving Notice (b)(6)
------------------------------	---	--

Print Name and Title of Person Served Robert McKinney, President/ CEO, and Henon Ong, Business Partner	Signature of Person Served
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Address Where Notice Served
1699 Thomaston Avenue Waterbury CT 06704

Note: Previous Edition is Obsolete

UNITED STATES OF AMERICA	:	Case Number FCI-33188
	:	
In the Matter of the Final Notice	:	
Of Revocation of Federal Firearms	:	
Licenses, as a Dealer in Firearms	:	
	:	
	:	BUREAU OF ALCOHOL, TOBACCO,
	:	FIREARMS AND EXPLOSIVES
Licensee,	:	
	:	
Red Planet Arsenal	:	
FFL # 6-06-009-07-1H-04407	:	BOSTON FIELD DIVISION
1669 Thomaston Ave	:	
Waterbury, Connecticut 06704	:	
	:	

PROCEDURAL HISTORY

Under the provisions of Section 923(e), Title 18, United States Code, and Section 478.73(a), Title 27, Code of Federal Regulations, the Attorney General may, after notice and opportunity for hearing, revoke a license if the holder of the license has willfully violated any provision of the Gun Control Act or regulations issued under the authority of the Gun Control Act.

Red Planet Arsenal (RPA) is a federally licensed firearms manufacturer (FFL # 6-06-009-07-1H-04407) with its principal place of business at 1669 Thomaston Ave, Waterbury, Connecticut 06704. Robert McKinney and Henson Ong are the owners of Red Planet Arsenal and the responsible persons on the federal firearms license.

On November 14, 2019, ATF issued a Notice to Revoke the RPA license. RPA made a timely request for a hearing to review the revocation. The hearing was held on January 22, 2020. After the hearing, in April 2020, the parties agreed to settle the licensing matter.

The 2020 Agreement includes a stipulation by Mr. Ong and Mr. McKinney that the violations set forth in Counts 2 through 7 of ATF’s 2019 Notice of Revocation were “willful” in that RPA was plainly indifferent to its obligations under 18 U.S.C. Ch. 44 and 27 CFR Part 478.

The 2020 Agreement also required RPA to implement a compliance plan, conduct quarterly inventories, and submit certain quarterly reports to ATF. The Agreement also provided that violation of the agreement during the agreement’s two-year term may result in the revocation of the RPA federal firearms license or the denial of RPA’s renewal application.

Red Planet Arsenal

On January 5, 2022, ATF began a compliance inspection of Red Planet. On April 13, 2022, ATF issued a Notice of Revocation/Denial of Renewal Application to RPA. RPA submitted a timely request for a hearing. The parties then held a video teleconference.

On June 6, 2022, the parties signed an Agreement, the terms of which include (among other things): Red Planet withdrew its request for a hearing to contest the revocation and will liquidate its firearms inventory; ATF will issue a final Notice of Revocation making the revocation effective August 18, 2022.

FINDINGS OF FACT

Having reviewed the entire record in this matter, I make the following findings with respect to the violations discovered:

1. Licensee violated the 2020 Settlement Agreement condition #13:
 - a. Licensee submitted required quarterly reports to ATF in a timely manner for 2020 Q2, 2021 Q1, Q2.
 - b. Reports for the following quarters were late: 2020 Q3, Q4.
 - c. ATF did not receive any reports for: 2021 Q3, Q4.
2. Licensee violated the 2020 Settlement Agreement condition #12: During the 2022 inspection, the ATF Investigators asked Mr. Ong if he and McKinney had conducted quarterly inventories as required by the Settlement Agreement. Mr. Ong indicated they had not. After attempting to reconcile the open dispositions in the records, on January 18, 2022, Red Planet submitted a theft-loss report for [redacted] firearms.
3. Violations #2-7 from the 2019 Notice of Revocation, including violations of 18 U.S.C. §§ 922(m), 923(g)(1)(A), and 27 C.F.R. §§ 478.21(a), 478.123, and 478.124(c), were committed willfully. Mr. Ong and Mr. McKinney have already stipulated to the willfulness of these violations.
4. In at least [redacted] instances between 2020 and 2022, licensee failed to accurately, completely, and timely maintain the required acquisition and disposition record, in willful violation of 18 U.S.C. §§ 922(m) and 923(g)(1)(A) and 27 C.F.R. § 478.123(a) and (b).
5. In at least [redacted] instances between 2020 and 2022, licensee failed to ensure that the transferee accurately and completed Section A of the Form 4473 before transfer of a firearm, in willful violation of 18 U.S.C. §§ 922(m) and 923(g)(1)(A) and 27 C.F.R. § 478.124(c)(1).

Red Planet Arsenal

6. In at least instances between 2020 and 2022, licensee failed to ensure that the ATF Form 4473 was accurately and completely perfected before transfer of a firearm, in willful violation of 18 U.S.C. §§ 922(m) and 923(g)(1)(A) and 27 C.F.R. § 478.21(a).
7. In at least instances between 2020 and 2022, licensee failed to ensure that the ATF Form 4473 was accurately and completely perfected before transfer of a firearm, in willful violation of 18 U.S.C. §§ 922(m) and 923(g)(1)(A) and 27 C.F.R. §§ 478.124(c)(3)(i) and (iv).
8. In at least instances between 2020 and 2022, licensee failed to ensure that the ATF Form 4473 was accurately and completely perfected before transfer of a firearm, in willful violation of 18 U.S.C. §§ 922(m) and 923(g)(1)(A) and 27 C.F.R. §§ 478.124(c)(4) and (5).
9. In at least instances between 2020 and 2022, licensee altered the transferee's writing on the Form 4473 after the transaction was complete and the buyer had left the store, to make it appear that the transaction was lawful, in willful violation of 18 U.S.C. §§ 922(m), 924(a)(1)(A), 924(a)(3), and 27 C.F.R. § 478.128(c).
10. In at least instances between 2020 and 2022, licensee failed to report the multiple sales of handguns to a non-licensee within a five business-day period, in willful violation of 18 U.S.C. § 923(g)(3) and 27 C.F.R. § 478.126a.

CONCLUSIONS OF LAW

Under the provisions of Section 923(e), Title 18, United States Code, and Section 478.74, Title 27, Code of Federal Regulations, the Attorney General may, after notice and opportunity for hearing, revoke a license if the holder of the license has willfully violated any provision of the Gun Control Act (GCA) or regulations issued pursuant to the Act.

As explained below, I find that the violations cited in my specific findings (1) through (10), above, were committed willfully.

Where a federal firearms licensee, such as this Licensee, knows its legal obligations and purposefully disregards or is plainly indifferent to these obligations, such violations are committed willfully. *See American Arms Intl. v. Herbert*, 563 F.3d 78, 83 (4th Cir. 2008); *RSM Inc. v. Herbert*, 466 F.3d 316, 321-22 (4th Cir. 2006); *General Store v. Van Loan*, 560 F.3d 920, 924 (9th Cir. 2009); *Armalite Inc. v. Lambert*, 544 F.3d 644, 647-48 (6th Cir. 2008); *Willingham Sports v. ATF*, 415 F.3d 1274, 1277 (11th Cir. 2005); *Cucchiara v. Secretary of Treasury*, 652 F. 2d 28, 30 (9th Cir. 1981); *Stein, Inc. v. Blumenthal*, 649 F.2d 463, 464 n.2 (7th Cir. 1980); *Prino v. Simon*, 606 F.2d 449, 451 (4th Cir 1979); *Lewin v. Blumenthal*, 590 F.2d 268, 269 (8th Cir. 1979); *Weaver v. Harris*, 2012 U.S. App LEXIS 17758 (5th Cir. 2012).

Red Planet Arsenal

RPA knew and understood its regulatory obligations. RPA had come close to losing its license two years ago and was given a second chance by ATF. RPA failed to comply with the terms of that agreement and failed to comply with Federal firearms law. RPA continued to operate without adequate attention and care to its regulatory obligations. Accordingly, as the record has demonstrated willful violations of the GCA, and as provided by 18 U.S.C. § 923(e) and 27 C.F.R. § 478.78, the Licensee's federal firearms license is hereby **REVOKED** effective August 18, 2022.

Dated:
June 9, 2022

(b)(6)

Nicholas E. O'Leary
Director of Industry Operations
Boston Field Division



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