

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA**

**BILL OF INFORMATION FOR CONSPIRACY
TO VIOLATE THE FEDERAL GUN CONTROL ACT,
WIRE FRAUD, AND AGGRAVATED IDENTITY THEFT**

UNITED STATES OF AMERICA	*	CRIMINAL DOCKET NO.
v.	*	SECTION:
TIMOTHY HARRIS, SR. HERMANN EICKE, III REBECCA ZITZMANN	*	VIOLATION: 18 U.S.C. § 371 18 U.S.C. § 1343 18 U.S.C. § 1028A
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	*	
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The United States Attorney charges that:

COUNT ONE

I. THE CONSPIRACY

Beginning on or about February 1, 2005, and continuing thereafter to on or about May 16, 2007, in the Eastern District of Louisiana and elsewhere, defendants **TIMOTHY HARRIS, SR., and HERMANN EICKE, III**, did knowingly and unlawfully conspire, combine, confederate, and agree together with each other, to: 1) willfully engage in the business of dealing in firearms, without being licensed to do so under the provisions of the Gun Control Act of 1968, as amended by 18

U.S.C. Section 923, in violation of 18 U.S.C. Section 922(a)(1)(A); and, 2) to make false statements and representations with respect to information required by the provisions of Chapter 44 of Title 18, United States Code, to be kept in the records of Elliot's Gun Shop, a federally licensed firearms dealer, in violation of 18 U.S.C. Section 924(a)(1)(A).

II. WAYS, MEANS AND METHODS OF ACCOMPLISHING THE CONSPIRACY

A. From on or about February 1, 2005, and continuing thereafter to on or about May 16, 2007, **TIMOTHY HARRIS, SR., and HERMANN EICKE, III** made false statements and representations with respect to information required by law to be kept in the records of Elliot's Gun Shop.

B. From on or about February 1, 2005, and continuing thereafter to on or about February 25, 2005, **TIMOTHY HARRIS, SR.** instructed and counseled **HERMANN EICKE, III** to knowingly make false statements on a Federal Firearms Application and submit such application to the Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms ("ATF").

C. On or about February 25, 2005, **HERMANN EICKE, III** executed and submitted an application for a Federal Firearm License ("FFL") to the ATF that knowingly contained false statements and representations in order to enable **TIMOTHY HARRIS, SR.**, who was prohibited from acquiring a FFL, to own and operate a firearms business, called Elliot's Gun Shop, and otherwise engage in the business of dealing in firearms without a FFL.

D. On March 4, 2005, the ATF received **HERMANN EICKE, III's** application to obtain a FFL, and on or about April 26, 2005, ATF approved the application and authorized **HERMANN EICKE, III** to become a FFL holder.

E. Beginning on or about May 1, 2005, and continuing thereafter to on or about May 16, 2007, by acquiring a FFL, **HERMANN EICKE, III** knowingly and intentionally enabled **TIMOTHY HARRIS, SR.** to exercise the sole authority to: (1) determine what firearms and ammunition would be purchased and sold by the firearms business, named Elliot's Gun Shop; (2) possess the sole decision-making authority over all other aspects of the firearms business, named Elliot's Gun Shop; and, (3) receive the vast majority of the earnings generated by the disposition of firearms sold by the firearms business, named Elliot's Gun Shop.

F. From on or about May 1, 2005, and continuing thereafter to on or about May 16, 2007, **HERMANN EICKE, III** instructed and counseled others, known and unknown to the United States Attorney, to make false statements in the execution of an ATF Form 4473.

III. OVERT ACTS

A. On or about the following dates, in furtherance of the conspiracy and to accomplish its purposes, the defendants, **TIMOTHY HARRIS, SR., and HERMANN EICKE, III**, committed the following overt acts in the Eastern District of Louisiana:

1. On or about February 1, 2005, **TIMOTHY HARRIS, SR.** proposed to **HERMANN EICKE, III** that he [**EICKE**] execute and submit an application for a FFL to the ATF, and falsely represent information on the application which included, but was not limited to, the following:

a. **HERMANN EICKE, III** intended to purchase the firearms inventory from the firearms business, named Elliott's Small Arms, owned by **TIMOTHY HARRIS, SR.**;

b. **HERMANN EICKE, III** was the sole owner and the responsible party of the firearms business, named Elliot's Gun Shop; and,

c. **HERMANN EICKE, III** would lease the premises, located at 3008 Jefferson Avenue, Jefferson Parish, LA, from **TIMOTHY HARRIS, SR.**, where the federal firearms business, named Elliot's Gun Shop, would operate.

2. **HERMANN EICKE, III** agreed to the proposal made by **TIMOTHY HARRIS, SR.** to execute and submit an application to acquire a FFL that contained the aforementioned false information, and, in exchange, **TIMOTHY HARRIS, SR.** agreed to pay **HERMANN EICKE, III** \$1000 a week as an employee of the firearms business, named Elliot's Gun Shop.

3. On or about February 25, 2005, **HERMANN EICKE, III** executed and submitted an application to acquire a FFL to the ATF that contained the aforementioned information that was knowingly false.

4. On or about April 26, 2005, **TIMOTHY HARRIS, SR., and HERMANN EICKE, III** caused the ATF to approve the federal firearms application that was submitted by **HERMANN EICKE, III**.

5. On May 1, 2005, a federal firearms business named Elliot's Gun Shop opened and continued to operate thereafter to on or about May 16, 2007. From May 1, 2005, through May 16, 2007, **HERMANN EICKE, III** received a weekly payroll check of approximately \$1000, as an employee of Elliot's Gun Shop, which was authorized by **TIMOTHY HARRIS, SR.**

6. Beginning on or about May 1, 2005, and continuing thereafter to on or about May 16, 2007, Elliot's Gun Shop sold, transferred, and otherwise disposed of approximately 13,200 firearms, under the direction and authority of **TIMOTHY HARRIS, SR.**, who did not have a license to engage in the business of dealing in firearms.

7. From on or about May 1, 2005, through May 16, 2007, **HERMANN EICKE, III** directed and encouraged employees of Elliot's Gun Shop to make the following false entries on multiple ATF Form 4473's, which were, in fact, made by such employees, including but not limited to:

a. without authority from the transferee, forging the transferee's signature on Line 24 of the Form 4473 which re-certified that the transferee, upon taking receipt of a firearm(s), was not prohibited from possessing a firearm(s);

b. executing a new Form 4473 that included a false entry(ies) representing that a transferee of a firearm(s) was not prohibited from possessing a firearm(s), after the original Form 4473 executed by the transferee included a response that prohibited the transferee from possessing a firearm; and,

c. altering a transferee's response from "YES," to "NO," on the original Form 4473 executed by a transferee of a firearm(s), after the transferee took receipt of the firearm, but represented on the Form 4473 that he/she was prohibited from possessing a firearm.

8. Beginning on or about May 1, 2005, and continuing thereafter to on or about May 16, 2007, **TIMOTHY HARRIS, SR.**, who did not have a license to engage in the business of dealing in firearms, exercised sole authority over which firearms were purchased from wholesalers and sold by Elliot's Gun Shop, and further exercised sole authority to order those firearms, or delegated the responsibility to order such firearms to employees of Elliot's Gun Shop.

9. Beginning or about May 1, 2005, and continuing thereafter to on or about May 16, 2007, **TIMOTHY HARRIS, SR.** exercised sole decision-making authority over Elliot's Gun Shop,

including, but not limited to, determining what inventory was purchased and sold, determining the price mark-up on inventory sold, determining the work-related responsibilities of each employee, and determining who was authorized to be on the sales floor during business hours. Examples of the foregoing include:

a. Because customers of Elliot's Gun Shop complained that **HERMANN EICKE, III** was inconsiderate to them while on the sales floor, **TIMOTHY HARRIS, SR.** directed **HERMANN EICKE, III** to stay off the sales floor and not wait on customers because of his poor attitude. **HERMANN EICKE, III** complied with the directive and for significant periods of time refrained from interacting with customers on the sales floor;

b. Based on the increased demand for firearms as a result of Hurricane Katrina, in or near August 2005, until in or near September 2006, **TIMOTHY HARRIS, SR.** exercised his authority to increase, by approximately 20% - 80%, the regular mark-up of the price of the majority of firearms sold by Elliot's Gun Shop; and,

c. **TIMOTHY HARRIS, SR.** defined the work-related duties of those employed by Elliot's Gun Shop that included, but were not limited to, delegating to employees the responsibility of ordering inventory sold in the store such as tactical equipment, ammunition, and holsters.

10. Beginning on or about May 1, 2005, and continuing thereafter to on or about May 16, 2007, **TIMOTHY HARRIS, SR.** purchased the following assets, that, as of May, 2007, were without encumbrances, with revenue generated primarily from the sale of firearms at Elliot's Gun Shop, that included a:

- a. 2007 Chevrolet Avalanche for \$46,417;
- b. 2006 Nautic Star boat for \$32,275.49; and,
- c. Fishing camp and lake house for \$95,000.

11. On May 16, 2007, various accounts at Metairie Bank and Trust that were controlled by **TIMOTHY HARRIS, SR.** contained cash which was derived primarily from the sale of firearms at Elliot's Gun Shop, as follows:

- a. Saving Account Number 1030597 contained \$43,367.68;
- b. Saving Account Number 2525666 contained \$14,277.96; and,
- c. Savings Account Number 0015199 contained \$163,651.12;

All in violation of Title 18, United States Code, Section 371.

COUNT 2

I. AT ALL TIMES MATERIAL HEREIN:

A. The defendant, **TIMOTHY HARRIS, SR.**, owned and operated Elliot's Small Arms, and exercised control and authority over Elliot's Gun Shop. Both Elliot's Small Arms and Elliot's Gun Shop were located at 3008 Jefferson Highway, Jefferson Parish, Louisiana, and each was licensed under the provisions of Chapter 44 of Title 18, United States Code. Elliot's Small Arms and Elliot's Gun Shop each was in the business of selling firearms to customers.

B. Glock Incorporated ("Glock") offered to federal firearms dealers in the United States a program that allowed law enforcement officers to purchase Glock pistols, through its wholesalers, at a discounted price. The discounted price corresponded to an approximate twenty percent (20%) price reduction, in relation to the price for the same pistols when they were purchased to be re-sold to members of the general public. Glock's program required federal firearms dealers to sell the Glock pistols purchased for the law enforcement discount price at a corresponding retail discount

when the pistols were sold to law enforcement officers. Beginning in or near October, 2004, Glock authorized Elliot's Small Arms, and subsequently Elliot's Gun Shop, to participate in its law enforcement discount program.

C. AmChar Wholesale Incorporated ("AmChar") located at 100 Airpark Drive, Rochester, New York, 14624 was the exclusive Glock wholesaler for Elliot's Small Arms, and subsequently, Elliot's Gun Shop. In order to satisfy the requirements set forth by Glock and Amchar to permit a federal firearms dealer to purchase a Glock pistol for the law enforcement discount price, Elliot's Small Arms and Elliot's Gun Shop were required to complete a form which specified that the purchase was for a law enforcement official. Among the information the form required was the police officer's name, law enforcement agency, and a photocopy of the police officer's law enforcement credentials.

II. THE SCHEME AND ARTIFICE TO DEFRAUD

A. Beginning in or about October, 2004, and continuing thereafter to on or about May 16, 2007, the defendant, **TIMOTHY HARRIS, SR.**, and others known and unknown to the United States Attorney, did knowingly and willfully devise and intend to devise a scheme and artifice to defraud and to obtain money and property by means of false pretenses, promises and representations by purchasing Glock pistols purportedly for law enforcement officers at a discounted price and selling such pistols to members of the general public for full retail price. It was part of the scheme and artifice to defraud that **TIMOTHY HARRIS, SR.** sent, and caused to be wired, forms to AmChar that represented that law enforcement officers had purchased firearms for the law-enforcement retail discount price.

B. It was further part of the scheme and artifice to defraud that each form falsely represented that a law enforcement officer had purchased a firearm(s) at the law enforcement retail discount price, and enabled Elliot's Small Arms, and subsequently Elliot's Gun Shop, to purchase firearms of the same make and model sold at law enforcement discount prices to replenish its inventory.

_____ **C.** It was further part of the scheme and artifice to defraud that the forms were originally legitimately executed by a law enforcement officer who purchased a firearm for the discounted price at Elliot's Small Arms, and then at Elliot's Gun Shop. The original form, which contained a copy of the law enforcement officer's government credentials, was submitted to AmChar and resulted in Elliot's Small Arms, and then Elliot's Gun Shop, purchasing a firearm at the law enforcement discount price.

D. It was further part of the scheme and artifice to defraud by **TIMOTHY HARRIS, SR.**, without the authorization of the law enforcement officer who originally executed the form, that **TIMOTHY HARRIS, SR.** altered the form in various ways and then re-submitted the form, via facsimile, to Amchar, which resulted in the purchase of a firearm at the law enforcement discount price. **TIMOTHY HARRIS, SR.** then sold, or directed others to sell, the firearm purchased for the law enforcement discount price to members of the general public for its full retail price.

III. WIRE COMMUNICATIONS

A. On or about October 30, 2006, in the Eastern District of Louisiana and elsewhere, the defendant, **TIMOTHY HARRIS, SR.**, for the purpose of executing and attempting to execute the scheme and artifice to defraud, set forth in Section II of this count, did knowingly transmit and cause

to be transmitted in interstate commerce by means of a wire communication, certain signs, signals, and sounds, that is a fax or facsimile communication from a telephone number registered to Elliot's Gun Shop, 3008 Jefferson Highway, Jefferson Parish, Louisiana, to a telephone number registered to AmChar, 100 Airpark Drive, Rochester, New York, a fraudulent "law letter" form that fraudulently represented that Christopher Cantrell, a law enforcement officer for the Harahan Police Department, had purchased a Glock firearm for the law enforcement discount price.

All in violation of Title 18, United States Code, Section 1343.

COUNT 3

On or about October 30, 2006, in the Eastern District of Louisiana and elsewhere, the defendant, **TIMOTHY HARRIS, SR.** knowingly used without lawful authority a means of identification of another person, to wit, the name and law enforcement credentials of Christopher Cantrell, in relation to a felony listed in Title 18, United States Code, Section 1028(c), to wit, wire fraud, in violation of Title 18, United States Code, Section 1343; all in violation of Title 18, United States Code, Section 1028A(a)(1).

COUNT 4

I. THE CONSPIRACY

Beginning on or about May 1, 2005, and continuing thereafter to on or about May 16, 2007, in the Eastern District of Louisiana, the defendant, **REBECCA ZITZMANN**, did knowingly combine, conspire, confederate, and agree with others, known and unknown to the United States Attorney, to make false statements and representations with respect to information required by the provisions of Chapter 44 of Title 18, United States Code, to be kept in the records of Elliot's Gun

Shop, 3008 Jefferson Highway, Jefferson Parish, Louisiana, a federally licensed firearms dealer under the provisions of Chapter 44 of Title 18, United States Code; in violation of Title 18, United States Code, Section 924(a)(1)(A).

II. OVERT ACTS

A. On or about the following dates, in furtherance of the conspiracy and to accomplish its purposes, the defendant, **REBECCA ZITZMANN**, and others, committed the following overt acts in the Eastern District of Louisiana:

1. From on or about May 1, 2005, through May 16, 2007, **REBECCA ZITZMANN**, directed and encouraged by employees of Elliot's Gun Shop, made the following false entries on the ATF Form 4473, including but not limited to:

a. without authority from the transferee, forging the transferee's signature on Line 24 of the Form 4473 which re-certified that the transferee, upon taking receipt of a firearm(s), was not prohibited from possessing a firearm(s); and,

b. without authority from the transferee, altering a response(s) made by the transferee on a Form 4473 that prohibited such transferee from legally possessing a firearm, to a response(s) that made it appear that the transferee was not prohibited from possessing a firearm.

2. From on or about May 1, 2005, through May 16, 2007, Hermann Eicke, III, and an individual known to the United States Attorney, directed and encouraged by **REBECCA ZITZMANN**, made the following false entries on the ATF Form 4473, including but not limited to:

a. without authority from the transferee, altering a response(s) made by the transferee on a Form 4473 that prohibited such transferee from legally possessing a firearm, to a response(s) that made it appear that the transferee was not prohibited from possessing a firearm. All in violation of Title 18, United States Code, Section 371.

NOTICE OF WIRE FRAUD FORFEITURE

1. The allegations of Count 2 of this Bill of Information are re-alleged and incorporated by reference as though set forth fully herein for the purpose of alleging forfeiture to the United States of America pursuant to the provisions of Title 18, United States Code, Section 1343 and 981(a)(1)(C), made applicable through Title 28, United States Code, Section 2461(c).

2. As a result of the offense alleged in Count 2, defendant, **TIMOTHY HARRIS, SR.**, shall forfeit to the United States pursuant to Title 981(a)(1)(C), made applicable through Title 28, United States Code, Section 2461(c), any and all property, real or personal, which constitutes or is derived from proceeds traceable to a violation of Title 18, United States Code, Section 1343.

3. If any of the property subject to forfeiture, as a result of any act or omission of the defendant:

- a. cannot be located upon the exercise of due diligence;
- b. has been transferred or sold to, or deposited with, a third person;
- c. has been placed beyond the jurisdiction of the Court;
- d. has been substantially diminished in value; or
- e. has been commingled with other property which cannot be subdivided without difficulty;

it is the intent of the United States, pursuant to Title 21, United States Code, Section 853(p), to seek forfeiture of any other property of said defendant up to the value of the above forfeitable property.

All in violation of Title 18, United States Code, Sections 1343 and 981(a)(1)(C), made applicable through Title 28, United States Code, Section 2461(c).

NOTICE OF AGGRAVATED IDENTITY THEFT FORFEITURE

1. The allegations of Count 3 of this Bill of Information are re-alleged and incorporated by reference as though set forth fully herein for the purpose of alleging forfeiture to the United States of America pursuant to the provisions of Title 18, United States Code, Sections 1028A and 982(a)(2)(B).

2. As a result of the offense, alleged in Count 3, the defendant, **TIMOTHY HARRIS, SR.**, shall forfeit to the United States all property real or personal, constituting, or derived from, proceeds the defendant obtained directly or indirectly, as a result of aggravated identity fraud, in violation of Title 18, United States Code, Section 1028A.

3. If any of the property subject to forfeiture, as a result of any act or omission of the defendant:

- a. cannot be located upon the exercise of due diligence;
- b. has been transferred or sold to, or deposited with, a third person;
- c. has been placed beyond the jurisdiction of the Court;
- d. has been substantially diminished in value; or
- e. has been commingled with other property which cannot be subdivided without difficulty;

it is the intent of the United States, pursuant to Title 18, United States Code, Section 982(b)(1) and Title 21, United States Code, Section 853(p), to seek forfeiture of any other property of said defendant up to the value of the above forfeitable property.

All in violation of Title 18, United States Code, Sections 1028A and 982.

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New Orleans, Louisiana
September _____, 2007