

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

In the matter of:

- The application for license as a/an _____, filed by:
or
 License Number 6-16-117-01-3L-04897 as a/an Dealer in Firearms other than Destructive Devices
_____, issued to:

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

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

Notice Is Hereby Given That:

- A request for hearing pursuant to 18 U.S.C. § 923(f)(2) and/or 922(t)(5) was ~~submitted~~ ^{withdrawn.} Based on the findings set forth in the attached document, your
- license described above is revoked pursuant to 18 U.S.C. 923(e), 922(t)(5) or 924(p), effective:
- 15 calendar days after receipt of this notice, or July 14, 2022,
- license is suspended for _____ calendar days, effective _____, pursuant to 18 U.S.C. § 922(t)(5) or 924(p).
- licensee is fined \$ _____, payment due: _____, pursuant to 18 U.S.C. § 922(t)(5) or 924(p).
- After due consideration following a hearing held pursuant to 18 U.S.C. § 923(f)(2) and/or 922(t)(5), and on the basis of findings set out in the attached copy of the findings and conclusions, the Director or his/her designee concludes that your
- application for license described above is denied, pursuant to 18 U.S.C. 923(d).
- application for renewal of license described above is denied pursuant to 18 U.S.C. 923(d), effective:
- 15 calendar days after receipt of this notice, or _____,
- license described above is revoked pursuant to 18 U.S.C. 923(e), 922(t)(5) or 924(p), effective:
- 15 calendar days after receipt of this notice, or _____,
- license is suspended for _____ calendar days, effective _____, pursuant to 18 U.S.C. § 922(t)(5) or 924(p).
- licensee is fined \$ _____, payment due: _____ pursuant to 18 U.S.C. § 922(t)(5) or 924(p).

If, after the hearing and receipt of these findings, you are dissatisfied with this action you may, within 60 days after receipt of this notice, file a petition pursuant 18 U.S.C. § 923(f)(3), for judicial review with the U.S. District Court for the district in which you reside or have your principal place of business. If you intend to continue operations after the effective date of this action while you pursue filing for judicial review or otherwise, you must request a stay of the action from the Director of Industry Operations (DIO), Bureau of Alcohol, Tobacco, Firearms and Explosives, at _____, prior to the effective date of the action set forth above. You may not continue licensed operations unless and until a stay is granted by the DIO.

Records prescribed under 27 CFR Part 478 for the license described above shall either be delivered to ATF within 30 days of the date the business is required to be discontinued or shall be documented to reflect delivery to a successor. See 18 U.S.C. 923(g)(4) and 27 CFR § 478.127.

After the effective date of a license denial of renewal, revocation, or suspension, you may not lawfully engage in the business of dealing in firearms. Any disposition of your firearms business inventory must comply with all applicable laws and regulations. Your local ATF office is able to assist you in understanding and implementing the options available to lawfully dispose of your firearms business inventory.

Date 04/19/2022	Name and Title of Bureau of Alcohol, Tobacco, Firearms and Explosives Official John Curtis, Director, Industry Operations	Signature <i>John Curtis</i>
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I certify that, on the date below, I served the above notice on the person identified below by:

- Certified mail to the address shown below.
Tracking Number: 7022 0410 0002 4723 4991
- Delivering a copy of the notice to the address shown below.

Date Notice Served 4/20/22	Title of Person Serving Notice Investigative Analyst
Print Name and Title of Person Served Samuel Ross, Owner / Michael Pattison, Esq., counsel for Freedom Tactical, LLC	

(b)(6)

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

Note: Previous Edition is Obsolete

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

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

This Notice provides a summary of my finding and conclusions.

Authorization for Revocation

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

Procedural History

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

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

Findings of Fact and Conclusions of Law

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

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

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

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

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

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

Accordingly, I find that FT LLC had been informed of the legal requirements pertaining to waiting periods under New York law and the parallel federal prohibition on engaging in a firearm transfer where the purchase or possession by the transferee would be in violation of any State law applicable at the place of sale, delivery, or other disposition. I find further that FT LLC's conduct was willful insofar as it acted with plain indifference to a known legal obligation with respect to the transfer of the Kel-Tec SG to Mr. Hobbs.

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

Basis for Revocation:

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

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

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