

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

In the matter of:

- The application for license as a/an \_\_\_\_\_, filed by:  
or  
 License Number 5-71-031-01-4K-04829 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)  
Gary William Gibbs  
doing business as The Gun Shop  
2414 East Matthews, Suite D  
Jonesboro, Arkansas 72401

Notice is Hereby Given That:

- A request for hearing pursuant to 18 U.S.C. § 923(f)(2) and/or 922(t)(5) was not timely filed. Based on the findings set forth in the attached document, your  
 license described above is revoked pursuant to 18 U.S.C., 923(e), 922(t)(5) or 924(p), effective:  
 15 calendar days after receipt of this notice, or  \_\_\_\_\_,  
 license is suspended for \_\_\_\_\_ calendar days, effective \_\_\_\_\_, pursuant to 18 U.S.C. § 922(t)(5) or 924(p).  
 licensee is fined \$ \_\_\_\_\_, payment due: \_\_\_\_\_, pursuant to 18 U.S.C. § 922(t)(5) or 924(p).
- After due consideration following a hearing held pursuant to 18 U.S.C. § 923(f)(2) and/or 922(t)(5), and on the basis of findings set out in the attached copy of the findings and conclusions, the Director or his/her designee concludes that your  
 application for license described above is denied, pursuant to 18 U.S.C., 923(d).  
 application for renewal of license described above is denied pursuant to 18 U.S.C. 923(d), effective:  
 15 calendar days after receipt of this notice, or  \_\_\_\_\_  
 license described above is revoked pursuant to 18 U.S.C., 923(e), 922(t)(5) or 924(p), effective:  
 15 calendar days after receipt of this notice, or  June 1, 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).

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 One Galleria Boulevard, Suite 1700, Metairie, Louisiana 70001

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	Name and Title of Bureau of Alcohol, Tobacco, Firearms and Explosives Official	Signature
05/10/2022	Valentina Close, Director, Industry Operations, New Orleans Field Division	VALENTINA CLOSE <small>Digital Signature VALIDATION Date: 2022-05-10 11:46:00-0400</small>

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: 7P18 0680 0000 6954408 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
05/10/2022	Senior Operations Officer	(b)(6)
Print Name and Title of Person Served		Signature of Person Served
Gary William Gibbs doing business as The Gun Shop		
Address Where Notice Served		
2414 East Matthews, Suite D Jonesboro, Arkansas 72401		

Note: Previous Edition is Obsolete

## Background

Gary William Gibbs, doing business as The Gun Shop ("Licensee") holds a Federal firearms license #5-71-031-01-1K-04829 as a dealer in firearms other than destructive devices issued by the Bureau of Alcohol, Tobacco, Firearms and Explosives ("ATF") pursuant to the Gun Control Act of 1968, as amended, 18 U.S.C. Chapter 44, and the regulations issued thereunder, 27 C.F.R. Part 478 (collectively "GCA").

On January 31, 2022, ATF issued a Notice to Revoke or Suspend License and/or Impose Civil Fine, ATF Form 5300.4, to Licensee. By an undated letter, ATF timely received Licensee's request for a hearing to review that Notice.

A hearing was held on April 6, 2022, at the ATF Little Rock Field Office. The hearing was conducted by Valentina Close, Director, Industry Operations for the New Orleans Field Division. ATF was represented by Division Counsel (b)(6) ATF Industry Operations Investigator (IOI) (b)(6) appeared as a witness on behalf of the Government. Gary William Gibbs appeared as the sole witness as the Licensee. ATF New Orleans Field Division Area Supervisor (b)(6) attended, and IOI (b)(6) assisted in electronic presentation of evidence. The hearing was recorded and transcribed. The Government and Licensee offered testimony and the Government offered exhibits. The testimony and exhibits introduced at the hearing constitute the record in this proceeding.

## Findings of Fact

Having reviewed the record in this proceeding, I make the following findings:

During the hearing, the wording of the Notice was amended. The Notice, as amended at hearing, alleged the following violations:

1. On (b)(3) occasions, Licensee willfully sold or disposed of a firearm to a person who Licensee knew or had reasonable cause to believe was subject to Federal firearms disabilities, in violation of 18 U.S.C. § 922(d) and 27 C.F.R. § 478.99(c). See Appendix ¶ 1.
2. On (b)(3) occasions, Licensee willfully failed to timely and/or accurately record the disposition of firearms, in violation of 18 U.S.C. § 923(g)(1)(A) and 27 C.F.R. § 478.125(e). See Appendix ¶ 2.
3. On 12 occasions, Licensee willfully transferred a firearm to an unlicensed person without first contacting the National Instant Criminal Background Check System ("NICS") and obtaining a unique identification number and/or waiting three days before allowing the transfer, in violation of 18 U.S.C. § 922(t) and 27 C.F.R. § 478.102. See Appendix ¶ 3.

4. On <sup>(b)(3)</sup> occasions, Licensee willfully failed to timely and/or accurately report the sale or other disposition of two or more pistols and/or revolvers during any five consecutive business days to an unlicensed person, in violation of 18 U.S.C. § 923(g)(3)(A) and 27 C.F.R. § 478.126a. See Appendix ¶ 4.
5. On <sup>(b)(3)</sup> occasions, Licensee willfully failed to retain each Firearms Transaction Record, ATF Form 4473 for a period of not less than 20 years after the date of sale or disposition, in violation of 18 U.S.C. § 923(g)(1)(A) and 27 C.F.R. § 478.129(b). See Appendix ¶ 5.
6. On <sup>(b)(3)</sup> occasions, Licensee willfully sold or otherwise disposed of a firearm to an unlicensed person without recording the transaction on a Firearms Transaction Record, ATF Form 4473, in violation of 18 U.S.C. §§ 922(b)(5); 923(g)(1)(A) and 27 C.F.R. § 478.124(a). See Appendix ¶ 6.
7. On <sup>(b)(3)</sup> occasions, Licensee willfully transferred a firearm to a non-licensee without recording the date the Licensee contacted the National Instant Criminal Background Check System ("NICS"), any response provided by the system and/or any identification number provided by the system information on the Firearms Transaction Record, ATF Form 4473, in violation of 18 U.S.C. § 923(g)(1)(A) and 27 C.F.R. § 478.124(c)(3)(iv). See Appendix ¶ 7.
8. On <sup>(b)(3)</sup> occasions, Licensee willfully failed to record National Instant Criminal Background Check System ("NICS") alternative permit/license information as described in 27 C.F.R. § 478.024(d)(1) on the Firearms Transaction Record, ATF Form 4473, or maintain a copy of the permit/license, in violation of 18 U.S.C. § 923(g)(1)(A) and 27 C.F.R. § 478.131(a)(2). See Appendix ¶ 8.
9. On <sup>(b)(3)</sup> occasions, Licensee willfully failed to obtain/execute the Firearms Transaction Record, ATF Form 4473 as indicated by the headings on the Form and the instructions on or pertaining to the Form, in violation of 18 U.S.C. § 922(m) and 27 C.F.R. § 478.21(a). See Appendix ¶ 9.

Licensee did not object to the amendments.

After review of the record in this matter, I find that the facts as set forth in the Notice to Revoke or Suspend License and/or Impose Civil Fine as amended at the time of hearing occurred.

### **Conclusions of Law**

1. Pursuant to the GCA and as found at 18 U.S.C. § 923(e) and 27 C.F.R. § 478.73, ATF may, after notice and opportunity for hearing, revoke a Federal firearms license when a licensee willfully violates the GCA, and regulations promulgated thereunder.
2. Licensees are responsible for knowing the rules and regulations of the GCA and have a duty to follow the law and regulations while applying for, and conducting, regulated business activities. See *Trader Vic's v. O'Neill*, 169 F.Supp.2d 957 (N. D. Ind. 2001).

3. For purposes of the regulatory provisions of the GCA, a "willful" violation is committed when a known legal obligation is purposefully disregarded or not fulfilled because of a plain indifference to the requirements. See *Stein's Inc. v. Blumenthal*, 649 F. 2d 463 (7th Cir.1980). Courts have held that willful violations can occur as the result of a reckless disregard of the statutory requirements. See *Goodman v. Benson*, 286 F. 2d 896 (7<sup>th</sup> Cir. 1961). Willful violations have been defined as those demonstrating an applicant/licensee's awareness of the proper requirements coupled with acts in contravention of those requirements. Willful violations can include violations committed by a careless disregard for the statutory requirements. See *Trader Vic's v. O'Neill*, supra, citing *Stein's Inc. v. Blumenthal*, 649 F.2d 463 (7<sup>th</sup> Cir. 1980), *Perri v. Department of Treasury*, 637 F.2d 1332 (9<sup>th</sup> Cir. 1981), *Goodman v. Benson*, 286 F.2d 896 (7<sup>th</sup> Cir. 1961).

4. There is no necessity that the government establish a licensee committed the violation willfully as the result of a bad purpose or evil motive. See *Cucciara v. Secretary of Treasury*, 652 F. 2d 28 (9<sup>th</sup> Cir. 1981); *Stein's Inc. v. Blumenthal*, 649 F. 2d 463 (7th Cir.1980); *Lewin v. Blumenthal*, 590 F. 2d 268 (8<sup>th</sup> Cir. 1979); *Cisewski v. Department of the Treasury*, 773 F. Supp. 148 (E.D. Wis. 1991); *Shyda v. Bureau of Alcohol, Tobacco and Firearms*, 448 F. Supp. 409 (M.D. Pa. 1977).

5. Having established Licensee violated the GCA and the regulations issued thereunder, it must be determined whether such violations were willfully committed. For the reasons stated below, I conclude Licensee's conduct was willful.

6. The record reveals Licensee understood the law and regulations as related to the violations cited. In this regard, Gary William Gibbs, doing business as The Gun Shop, has held a Federal firearms license since September 9, 2015. Prior to being licensed, the law and regulations were reviewed with Licensee and the licensee acknowledged participating in that review on August 25, 2015.

7. After receiving a Federal firearms license authorizing Mr. Gibbs to engage in the business of dealing firearms other than destructive devices, ATF conducted compliance inspections in 2016 and 2019. As a result of the 2016 compliance inspection a Report of Violations was issued on December 15, 2016. Licensee received a copy of that report. At the close of the 2016 compliance inspection ATF conducted a second review of the Federal firearms laws and regulations which was acknowledged by Mr. Gibbs on that same date. After this, and as a follow up to the 2016 inspection, ATF issued a Warning Letter to Licensee advising that any violations, repeat or otherwise would result in revocation of the license.

8. In 2019, ATF conducted a second compliance inspection. As a result of that inspection, a (final/amended) Report of Violations was issued on May 6, 2019. Licensee received a copy of that report. At the close of the 2019 compliance inspection ATF again conducted a third review of the Federal firearms laws and regulations which was acknowledged by Mr. Gibbs on March 18, 2019.

After this, and as a follow up, on June 20, 2019, ATF held a Warning Conference in which Mr. Gibbs participated in person and reviewed the violations, law and regulations. On July 23, 2019, ATF issued a letter documenting the discussions at the Warning Conference and advising that future violations could result in revocation of the Federal firearm license held by Mr. Gibbs.

9. In 2021, ATF conducted a third compliance inspection. As a result of that inspection, a Report of Violations was issued September 23, 2021. After this, the instant Notice to Revoke was issued, a hearing was requested, scheduled and held.

10. Licensee did not dispute that on <sup>(b)(3)</sup> occasions, he sold or disposed of a firearm to a person who Licensee knew or had reasonable cause to believe was subject to Federal firearms disabilities, in violation of 18 U.S.C. § 922(d) and 27 C.F.R. § 478.99(c). Licensee stated, "I am not denying this occurred." (TR P44, L24). Prior to these violations occurring, Licensee had been advised of the law and regulations regarding this requirement on multiple occasions including the 2015, 2016 and 2019 reviews conducted by ATF of the law and regulations which included this requirement. I find these violations were committed willfully.

11. Licensee did not dispute that on <sup>(b)(3)</sup> occasions, he failed to timely and/or accurately record the disposition of firearms, in violation of 18 U.S.C. § 923(g)(1)(A) and 27 C.F.R. § 478.125(e). Licensee advised that he purchased software to track information and assist in keeping his required reports timely. (TR P 60, L1-6). Prior to these violations being cited, Licensee had been advised of the law and regulations regarding this requirement on multiple occasions including the 2015, 2016 and 2019 reviews conducted by ATF of the law and regulations which included this requirement. In 2016, Licensee was cited for similar violations and received a Warning Letter discussing the violation and the law and regulations. In addition, in 2019, Licensee was cited for similar violations and attended a Warning Conference discussing the law and regulations related to this requirement as well as received a follow up letter detailing the discussions at the conference. I find these violations were committed willfully.

12. Testimony and evidence revealed that Licensee, his employees or assigns, altered ATF Forms 4473 to avoid conducting required NICS checks which resulted in the violations cited in Section 3 of the Notice which reads as follows: On 12 occasions, Licensee willfully transferred a firearm to an unlicensed person without first contacting the National Instant Criminal Background Check System ("NICS") and obtaining a unique identification number and/or waiting three days before allowing the transfer, in violation of 18 U.S.C. § 922(t) and 27 C.F.R. § 478.102. Licensee both admitted and denied the violations contained in this section and gave conflicting accounts of the fact of, and then the reason for, the alterations found on some of the ATF Forms 4473 related to this violation. Licensee ultimately stated- "I take responsibility for that" when referring to two ATF Forms 4473 that were altered. (TR p. 79, L4) After the government presented evidence of this particular violation being repeated in prior inspections, Licensee went on to state "I am trying to make improvements." (TR P 91, L16-17). Prior to these violations occurring, Licensee had been advised of the law and regulations regarding this requirement on multiple occasions including the

2015, 2016 and 2019 reviews conducted by ATF of the law and regulations which included this requirement. In 2016, Licensee was cited for similar violations and received a Warning Letter discussing the violation and the law and regulations. In addition, in 2019, Licensee was cited for similar violations and attended a Warning Conference discussing the law and regulations related to this requirement as well as received a follow up letter detailing the discussions at the conference. I find these violations were committed willfully.

13. Licensee admitted that on <sup>(b)(3)</sup> occasions, he failed to timely and/or accurately report the sale or other disposition of two or more pistols and/or revolvers during any five consecutive business days to an unlicensed person, in violation of 18 U.S.C. § 923(g)(3)(A) and 27 C.F.R. § 478.126a. Licensee stated, when referring to IO <sup>(b)(6)</sup> citing the violation, "I am not disputing what she done" (TR P 121, L 25). It is clear from Licensee's testimony that he knew he had not sent the required reports to the correct email address because he did not receive a reply on some occasions. He admitted receiving replies when he sent the reports to the proper address on other occasions. (TR P 121, L 1-6). Prior to these violations occurring, Licensee had been advised of the law and regulations regarding this requirement on multiple occasions including the 2015, 2016 and 2019 reviews conducted by ATF of the law and regulations which included this requirement. In 2016, Licensee was cited for similar violations and received a Warning Letter discussing the violation and the law and regulations. In addition, in 2019, Licensee was cited for similar violations and attended a Warning Conference discussing the law and regulations related to this requirement as well as receiving a follow up letter detailing the discussions at the conference. I find these violations were committed willfully.

14. Licensee admitted that on <sup>(b)(3)-1</sup> occasions, he failed to retain each Firearms Transaction Record, ATF Form 4473 for a period of not less than 20 years after the date of sale or disposition, in violation of 18 U.S.C. § 923(g)(1)(A) and 27 C.F.R. § 478.129(b). Licensee stated, "I am not disputing it". (TR P 123, L13). Prior to these violations occurring, Licensee had been advised of the law and regulations regarding this requirement on multiple occasions including the 2015, 2016 and 2019 reviews conducted by ATF of the law and regulations which included this requirement. I find these violations were committed willfully.

15. Licensee admitted that on <sup>(b)(3)</sup> occasions, he sold or otherwise disposed of a firearm to an unlicensed person without recording the transaction on a Firearms Transaction Record, ATF Form 4473, in violation of 18 U.S.C. §§ 922(b)(5); 923(g)(1)(A) and 27 C.F.R. § 478.124(a). Licensee stated that he believed NICS checks were good for 30 days and he could add firearms to a form after completing a transfer. (TR P 137, L 2-24). Prior to these violations occurring, Licensee had been advised of the law and regulations regarding this requirement on multiple occasions including the 2015, 2016 and 2019 reviews conducted by ATF of the law and regulations which included this requirement. In addition, in 2019, Licensee was cited for similar violations and attended a Warning Conference discussing the law and regulations related to this requirement as well as received a follow up letter detailing the discussions at the conference. I find these violations were committed willfully.

16. Licensee did not dispute that on [REDACTED] occasions, he transferred a firearm to a non-licensee without recording the date the Licensee contacted the National Instant Criminal Background Check System ("NICS"), any response provided by the system and/or any identification number provided by the system information on the Firearms Transaction Record, ATF Form 4473, in violation of 18 U.S.C. § 923(g)(1)(A) and 27 C.F.R. § 478.124(c)(3)(iv). Licensee said he had additional employee review to avoid these violations in the future. (TR P 152, L 15 -18). Prior to these violations occurring, Licensee had been advised of the law and regulations regarding this requirement on multiple occasions including the 2015, 2016 and 2019 reviews conducted by ATF of the law and regulations which included this requirement. In 2016, Licensee was cited for similar violations and received a Warning Letter discussing the violation and the law and regulations. In addition, in 2019, Licensee was cited for similar violations and attended a Warning Conference discussing the law and regulations related to this requirement as well as received a follow up letter detailing the discussions at the conference. I find these violations were committed willfully.

17. Licensee did not dispute that on [REDACTED] occasions, he transferred a firearm to a non-licensee without recording the date the Licensee contacted the National Instant Criminal Background Check System ("NICS"), any response provided by the system and/or any identification number provided by the system information on the Firearms Transaction Record, ATF Form 4473, in violation of 18 U.S.C. § 923(g)(1)(A) and 27 C.F.R. § 478.124(c)(3)(iv). Licensee stated he purchased new software to avoid this in the in future. (TR P 158, L 21). Prior to these violations occurring, Licensee had been advised of the law and regulations regarding this requirement on multiple occasions including the 2015, 2016 and 2019 reviews conducted by ATF of the law and regulations which included this requirement. In 2016, Licensee was cited for similar violations and received a Warning Letter discussing the violation and the law and regulations. I find these violations were committed willfully.

18. Licensee did not dispute that on [REDACTED] occasions, he failed to record National Instant Criminal Background Check System ("NICS") alternative permit/license information as described in 27 C.F.R. § 478.024(d)(1) on the Firearms Transaction Record, ATF Form 4473, or maintain a copy of the permit/license, in violation of 18 U.S.C. § 923(g)(1)(A) and 27 C.F.R. § 478.131(a)(2). In response to the evidence and testimony presented by the Government, Licensee stated "he'll never get another gun from me" when referring to one of the individuals to whom he had unlawfully transferred a firearm as cited in the Notice. (TR p 166, L5-6). Prior to these violations occurring, Licensee had been advised of the law and regulations regarding this requirement on multiple occasions including during the 2015, 2016 and 2019 reviews conducted by ATF of the law and regulations which included this requirement. In 2016, Licensee was cited for similar violations and received a Warning Letter discussing the violation and the law and regulations. In addition, in 2019, Licensee was cited for similar violations and attended a Warning Conference discussing the law



and regulations related to this requirement as well as received a follow up letter detailing the discussions at the conference. I find these violations were committed willfully.

19. At the close of the hearing, Licensee admitted to all the violations stating that "It's my fault, I am not offering any excuses". (TR. P 173, L 3-4).

20. After consideration of the record, which includes the facts, evidence, testimony, and as provided by 18 U.S.C. § 923(d) and 27 C.F.R. § 478.73, the Federal firearms license held by Gary William Gibbs, doing business as The Gun Shop is hereby REVOKED.

Dated this 10th day of May 2021.

Digitally signed by  
VALENTINA CLOSE  
Date: 2022.05.10  
11:03:49 -05'00'

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Valentina Close  
Director, Industry Operations  
New Orleans Field Division  
Bureau of Alcohol, Tobacco, Firearms and Explosives