

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

In the matter of:

- The application for license as a/an _____, filed by:
or
 License Number 5-48-01-03325 as a/an _____ a dealer in firearms other than destructive devices

_____, issued to:

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

John G. Downey d/b/a Midwestern Coin & Gun Shop
4935 West Central Avenue - Suite 110
Wichita Kansas 67212

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 Upon Receipt _____,
 - license is suspended for _____ calendar days, effective _____, pursuant to 18 U.S.C. § 922(t)(5) or 924(p).
 - licensee is fined \$ _____, payment due: _____, pursuant to 18 U.S.C. § 922(t)(5) or 924(p).
- 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 1251 NW Briarcliff Parkway Suite 600 Kansas City MO 64116, prior to the effective date of the action set forth above. You may not continue licensed operations unless and until a stay is granted by the DIO.

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

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

Date	Name and Title of Bureau of Alcohol, Tobacco, Firearms and Explosives Official	Signature
09/28/2022	William J. Miller, Director, Industry Operations ATF Kansas City Field Division	

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: 7015 0640 0002 599 11181
- 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
9/28/22	Administrative Assist. (b)(6)	William J. Miller

Print Name and Title of Person Served	Signature of Person Served
John G. Downey d/b/a Midwestern Coin & Gun Shop	

Address Where Notice Served
 4935 West Central Avenue - Suite 110, Wichita Kansas 67212

Note: Previous Edition is Obsolete

John G. Downey d/b/a Midwestern Coin & Gun Shop, 4935 West Central Avenue, Suite 110, Wichita Kansas 67212 ("Licensee"), holds a Federal firearms license as a dealer in firearms other than destructive devices, issued by the Bureau of Alcohol, Tobacco, Firearms and Explosives ("ATF") pursuant to the Gun Control Act of 1968 ("GCA"), as amended, 18 U.S.C. Chapter 44, and the regulations issued thereunder, 27 C.F.R. Part 478.

On August 17, 2022, ATF issued Licensee a Notice to Revoke or Suspend License and/or Impose a Civil Fine, ATF Form 4500 (5300.4) ("Notice") which was received by Licensee via certified mail on August 25, 2022. Said Notice alleged that Licensee willfully violated the provisions of the GCA and the regulations issued thereunder. The Notice further specified that if Licensee wished to challenge the revocation, he may file a request with ATF for a hearing "within 15 days after receipt of this notice." See 18 U.S.C. § 923(f)(2); 27 C.F.R. § 478.73(b).

ATF subsequently received a letter from Licensee dated August 30, 2022, with a corresponding "Exhibit A" requesting ATF consider the corrective actions Licensee has taken since the inspection and also asking to retain his license. In the letter, Licensee did not request a hearing, nor did he contest or refute the violations cited in the Notice. ATF contacted Licensee by phone and confirmed he was not requesting a hearing on the Notice. At this time, he again asked for ATF to take his letter and request not to revoke his license into consideration. Thus, no request for hearing was filed with ATF in accordance with the provisions of the GCA.

I have given full consideration of the letter and attached exhibit submitted which addresses corrective actions that Licensee has taken following the inspection. Although I appreciate Licensee's efforts at corrective remedies, I find these do not change the fact that Licensee committed the willful violations as documented in the Notice.¹ For the reasons set forth in the Notice to Revoke License issued on August 17, 2022, the Federal firearms license held by Licensee, John G. Downey d/b/a Midwestern Coin & Gun Shop, is hereby **REVOKED**.

Accordingly, the firearms business records for Licensee's discontinued business must be sent to the ATF Out-of-Business Records Center, 244 Needy Road, Martinsburg, West Virginia 25401, pursuant to the requirements under 18 U.S.C. § 923(g)(4) and 27 C.F.R. § 478.127. The records shall be delivered within thirty (30) days following the business discontinuance.

For any questions regarding this matter, please contact the ATF area office at (816) 410-6000.

¹ Subsequent actions do not otherwise mitigate or change the fact that the willful violations occurred as documented during the inspection. *Post hoc* remedial efforts have little bearing on a licensee's willfulness at the time of the violations. See *Shawano Gun & Loan, LLC v. Hughes*, 650 F.3d 1070, 1079 (7th Cir. 2011)(noting that "workplace changes to ensure compliance with Federal firearms laws" following a revocation notice "come too late," and that the promise to "do better if given another chance is not an argument that reaches the merits of the case"); *Cucchiara v. Sec'y of Treasury*, 652 F.2d 28, 30 (9th Cir. 1981) (concluding that a licensee's attempt to "correct his faulty recordkeeping system, after the violations ... is immaterial to the question of willfulness at the time the violations occurred"); *Sturdy v. Bensten*, 129 F.3d 122 (8th Cir.1997) (a licensee's after-the-fact efforts to correct the specific violations cited are irrelevant to the issue of willfulness at the time the errors occurred).