

**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 5-71-051-02-5F-00969 as a/an _____, issued to:

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

J&S Harmon, Inc. d/b/a Jim's Pawn J&S Harmon, Inc. d/b/a Jim's Pawn
3256 Airport Road
Percy, Arkansas 71964

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 September 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 1 Galleria Boulevard, Suite 1700, Metairie, LA 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 08/12/2022	Name and Title of Bureau of Alcohol, Tobacco, Firearms and Explosives Official Valentina Close, Director, Industry Operations	Signature VALENTINA CLOSE <small>Digitaly signed by VALENTINA CLOSE Date: 2022-08-12 15:36:25 -05:00</small>
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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: **7021 0950 0001 7273** **3773** Or Delivering a copy of the notice to the address shown below.

Date Notice Served 08/15/2022	Title of Person Serving Notice Senior Operations Officer	Signature of Person Serving Notice (b)(6)
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Print Name and Title of Person Served J&S Harmon, Inc. d/b/a Jim's Pawn	Signature of Person Served
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Address Where Notice Served 3256 Airport Road, Percy, Arkansas 71964

Note: Previous Edition is Obsolete

Background

J&S Harmon, Inc. doing business as Jim's Pawn ("Licensee"), holds a Federal firearms license #5-71-051-02-5F-00969 as a dealer, including pawnbroker, 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 March 25, 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 July 13, 2022, at the United States Courthouse Grand Jury Room, 100 Reserve Street, Hot Springs, Arkansas, 71901. 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 witnesses on behalf of the Government. Jimmie Lee Harmon appeared as the sole witness for the Licensee. The hearing was recorded and transcribed. The Government and Applicant 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:

The Notice, as amended at hearing¹, alleged the following violations:

1. On (b)(3) - 112 Pub occasions, Licensee willfully failed to record the acquisition and disposition of firearms, in violation of 18 U.S.C. §§ 923(g)(1)(A) and 478.125(e).²
2. On one occasion, Licensee willfully transferred a firearm to an unlicensed person without first contacting the National Instant Criminal Background Check System ("NICS") and waiting three days before allowing the transfer, in violation of 18 U.S.C. § 922(t) and 27 C.F.R. § 478.102 when transferring a firearm to (b)(6) on March 23, 2021.
3. On one occasion, Licensee willfully transferred a firearm to an unlicensed person without first contacting the 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 when transferring a firearm to (b)(6) on 12/12/20.
4. On (b)(3) - 112 Pub occasions, Licensee willfully failed to obtain a complete and/or accurate Firearms Transaction Record, ATF Form 4473, from the transferee prior to making an over-the-counter transfer of a firearm to a non-licensee, in violation of 18 U.S.C. § 923(g)(1)(A) and 27 C.F.R. § 478.124(c)(1).

¹ Licensee did not object to the amendment of the notice.

² The specific instances of multiple violations cited in the notice are as found in the appendices to the original notice.

5. On (b)(3) - 112 Public occasions, the Licensee willfully transferred a firearm to a non-licensee without verifying the identity and examining the identification document presented and noting the type 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)(i).
6. On (b)(3) - 112 Public occasions, Licensee willfully transferred a firearm to a non-licensee without recording the date the Licensee contacted the 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).
7. On (b)(3) - 112 Public occasions, Licensee willfully failed to sign and/or date the Firearms Transaction Record, ATF Form 4473 certifying that Licensee does not know or have reason to believe the transferee is disqualified by law from receiving the firearm described on the Form, in violation of 18 U.S.C. § 923(g)(1)(A) and 27 C.F.R. § 478.124(c)(5).
8. On (b)(3) - 112 Public 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).

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 (7th 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 (7th Cir. 1980), *Perri v. Department of Treasury*, 637 F.2d 1332 (9th Cir. 1981), *Goodman v. Benson*, 286 F.2d 896 (7th Cir. 1961). Post-notice compliance is irrelevant to a determination of willfulness. *See Thurmond v. U.S. Department of Justice*, No. 4:13-CV-2290 CEJ, 2014 WL 5320487 (E.D. Mo. Oct. 17, 2014).

4. There is no necessity that the government establish that a licensee committed the violation as the result of a bad purpose or evil motive. *See Cucciara v. Secretary of Treasury*, 652 F. 2d 28 (9th Cir. 1981); *Stein's Inc. v. Blumenthal*, 649 F. 2d 463 (7th Cir.1980); *Lewin v. Blumenthal*, 590 F. 2d 268 (8th Cir. 1979); *Cisewski v. Department of the Treasury*, 773 F. Supp. 148 (E.D. Wis. 1991) and *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, J&S Harmon, Inc, has held a corporate Federal firearms license (FFL) since 2004. Mr. Jimmie Lee Harmon is the sole responsible person on that FFL. Prior to this license, Jimmie Lee Harmon, held an individual FFL in his name which was originally issued in 1992. Prior to J&S Harmon, Inc. being licensed, the law and regulations were reviewed with Licensee.
7. After receiving an FFL authorizing J&S Harmon, Inc. to engage in the business of dealing firearms other than destructive devices, ATF conducted compliance inspections in 2007, 2009, 2014 and 2017. As a result of the 2007, 2014 and 2017 compliance inspections ATF issued Reports of Violations and Licensee received copies of those reports. At the close of each compliance inspection ATF conducted reviews of the Federal firearms laws and regulations which were acknowledged by Mr. Harmon on behalf of Licensee.
8. After the 2014 compliance inspection ATF issued a Warning Letter which, in part, advised Licensee that future violations, repeat or otherwise could result in revocation of the FFL.
9. After the 2007 and 2017 compliance inspection, ATF held Warning Conferences with Licensee and Mr. Harmon appeared in person and participated in these meetings. The violations and the law were again discussed with Mr. Harmon on behalf of the FFL. After both these conferences, ATF issued a letter documenting the meetings, violation and law and regulations related to the requirements.

10. In 2021, ATF conducted the fifth compliance inspection. As a result of that inspection, a Report of Violations was issued December 29, 2021, which was followed by the instant Notice to Revoke, Suspend and/or Impose Civil fine being issued. After issuance of the notice, Licensee timely requested a hearing which was scheduled and held. Mr. Jimmie Lee Harmon appeared as the sole witness for Licensee.
11. Mr. Harmon, the sole responsible person and the only witness on behalf of Licensee, did not dispute that on (b)(3) - 112 Pub occasions, Licensee failed to record the acquisition and disposition of firearms, in violation of 18 U.S.C. §§ 923(g)(1)(A) and 478.125(c). Licensee stated, "People get busy. People make mistakes, and just like that letter that you all sent me. It was on the wrong day". (TR p. 51, L 2-4). Mr. Harmon went on to admit he understood the law and regulations related to these violations when he stated, "I understand it...I'm responsible for it being wrong". (TR p. 51 L 15-19). Prior to these violations occurring, Licensee had been advised of the law and regulations regarding this requirement on multiple occasions including the 2007, 2009, 2014 and 2017 reviews ATF conducted which included a review of the law and regulations on this requirement. Licensee had previously been cited for committing the same violation in the Reports of Violations after the 2007, 2014 and 2017 inspections which resulted in a 2007 Warning Letter and 2014 Warning Conference with a follow up letter. Most recently, in regard to this same violation, Mr. Harmon, on behalf of Licensee, participated in a 2017 Warning Conference where this violation was discussed again and received the follow up letter following that conference again documenting the law and regulations on this requirement. I find these violations were committed willfully.
12. Licensee did not dispute that a firearm was transferred to an unlicensed person without first contacting the National Instant Criminal Background Check System ("NICS") and waiting three days before allowing the transfer, in violation of 18 U.S.C. § 922(t) and 27 C.F.R. § 478.102 when transferring a firearm to (b)(6) on March 23, 2021. Licensee stated "... that gun and that man, I know personally, and we may have just wrote the wrong dates down. I -- because sometimes I get confused with the dates". (TR p. 64, L 5-9). In later testimony related to this violation Mr. Harmon stated "...I didn't willfully do it to break the law. If I had, I would have covered it up...well, if you do something against the law are you going to tell everybody about it?". (TR p.73, L 5-11). Later, Mr. Harmon admitted that he violated the law and regulations because he did not pay attention to the dates. (TR p. 77, L 14-18). Prior to these violations being cited, Licensee had been advised of the law and regulations regarding this requirement on multiple occasions including the 2007, 2009, 2014 and 2017 reviews conducted by ATF of the law and regulations which specifically included this requirement. I find his explanation of what occurred less than credible, and

that Licensee committed this violation willfully which resulted in the transfer of a firearm to a person who was prohibited by law from possessing same.

13. Licensee did not dispute that on one occasion, Licensee transferred a firearm to an unlicensed person without first contacting the 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 when transferring a firearm to (b)(6) on 12/12/20. Mr. Harmon testified that “[he] didn’t notice it was expired” referring to the permit documented on the ATF Form 4473. (TR p. 77, L17-18). Prior to this violation occurring, Licensee had been advised of the law and regulations regarding this requirement on multiple occasions including the 2007, 2009, 2014 and 2017 reviews conducted by ATF of the law and regulations which included a review of this requirement. Additionally, Licensee had previously been cited for committing the same violation in the Report of Violations issued after the 2017 inspection following which Mr. Harmon participated in a Warning Conference, discussed the law related to this same violation and after which he received a follow-up letter. I find these violations were committed willfully.
14. Licensee did not dispute that on (b)(3) - 112 Pub occasions Licensee failed to obtain a complete and/or accurate Firearms Transaction Record, ATF Form 4473, from the transferee prior to making an over-the-counter transfer of a firearm to a non-licensee, in violation of 18 U.S.C. § 923(g)(1)(A) and 27 C.F.R. § 478.124(c)(1). During testimony related to this violation, Mr. Harmon stated “I didn't cross all the T's. I didn't dot all the I's...” (TR p.98, L 13-15). Prior to this violation occurring, Licensee had been advised of the law and regulations regarding this requirement on multiple occasions including the 2007, 2009, 2014 and 2017 reviews conducted by ATF of the law and regulations which included a review of this requirement. Additionally, Licensee had previously been cited for committing the same violation in the Reports of Violations issued after the 2014 and 2017 inspections and participated in the 2017 post-inspection Warning Conference where this same violation and the law and regulations related to this violation were discussed again. Thereafter, Licensee received the follow-up letter. I find these violations were committed willfully.
15. Licensee did not dispute that on (b)(3) - 112 Pub occasions, the Licensee transferred a firearm to a non-licensee without verifying the identity and examining the identification document presented and noting the type 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)(i). Related to this violation, Mr. Harmon stated “I’m just old, and

I'm not a good bookkeeper". (TR p. 107, L 10-11). Prior to this violation occurring, Licensee had been advised of the law and regulations regarding this requirement on multiple occasions including the 2007, 2009, 2014 and 2017 reviews conducted by ATF of the law and regulations which included a review of this requirement. Additionally, Licensee had previously been cited for committing the same violation in previous inspections. I find these violations were committed willfully.

16. Licensee did not dispute that on ^{(b)(3)-11E} occasions, Licensee transferred a firearm to a non-licensee without recording the date the Licensee contacted the 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). In response to questioning related to this violation, Mr. Harmon, on behalf of Licensee stated, "I'm sure I made a lot of mistakes, and I see some of my help make mistakes..." (TR p. 125, L 2-3). Additionally, Licensee had previously been cited for committing the same violation in the Reports of Violations issued after the 2007 and 2017 inspections which were both followed by a Warning Conference wherein the law and regulations regarding this specific requirement were reviewed. Thereafter, Licensee received a 2017 follow-up letter documenting the meeting and including the law and regulations related to this requirement. I find these violations were committed willfully.
17. Licensee admitted that on ^{(b)(3)-112 P&G} occasions, Licensee failed to sign and/or date the Firearms Transaction Record, ATF Form 4473 certifying that Licensee does not know or have reason to believe the transferee is disqualified by law from receiving the firearm described on the Form, in violation of 18 U.S.C. § 923(g)(1)(A) and 27 C.F.R. § 478.124(c)(5). In this regard, Mr. Harmon stated that "Yeah, they happened. It's just something that happens all the time." (TR p. 145, L 13-14). Further, Licensee had previously been cited for committing the same violation in the Reports of Violations issued after the 2007 and 2017 inspections which were both followed by a Warning Conference wherein the law and regulations regarding this specific requirement were reviewed. Thereafter, Licensee received the 2017 follow-up letter conference letter documenting the meeting and including the law and regulations related to this requirement. I find these violations were committed willfully.
18. Toward the end of the hearing, Mr. Harmon, as the sole responsible person and witness for the Licensee, admitted all the violations stating that "I just didn't get it done" (TR. p.136, L 5).

19. In accord with 18 U.S.C. § 923(d) and 27 C.F.R. § 478.73 and after consideration of the record, which includes the facts, evidence, and testimony, the Federal firearms license held by J&S Harmon, Inc. doing business as Jim's Pawn is hereby REVOKED.

Dated this 12th day of August 2022.

Digitally signed by
VALENTINA CLOSE
Date: 2022.08.12
16:42:11 -0500

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