U.S. Department of Justice
Bureau of Alcohol, Tobacco, Firearms and Explosives

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 4-31-049-07-3D-06069 as a/an

MANUFACTURER of Firearms, issued to:

Name and Address of Applicant or Licensee *(Show number, street, city, state and Zip Code)*
SADEK ENTERPRISE, LLC
4417 WEST BROAD STREET
COLUMBUS OH 43228

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 ☑ immediately

☐ 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 230 West Street, Suite 400, Columbus OH 43215 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
07/15/2022	Judyth A. LeDoux, Director, Industry Operations	Judyth A. LeDoux

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: 70172620000078845955 **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
07/15/2022	Executive Assistant	(b)(6)

Print Name and Title of Person Served	Signature of Person Served
SADEK ENTERPRISE, LLC	

Address Where Notice Served
4417 WEST BROAD STREET, COLUMBUS OH 43215

Note: Previous Edition is Obsolete

FINAL DECISION

On December 21, 2021, the Director of Industry Operations ("DIO"), Columbus Field Division, Bureau of Alcohol, Tobacco, Firearms and Explosives ("ATF") issued a Notice to Revoke License to Sadek Enterprises, LLC ("Licensee"), 4417 W. Broad St., Columbus, Ohio 43228. Licensee timely requested a virtual hearing.

On February 24, 2022, ATF Columbus Field Division DIO Judyth LeDoux conducted a virtual hearing via Microsoft Teams. The following persons attended the hearing: Mr. Sadequl Islam, Licensee's owner and Responsible Person, (b) (6) (b) (6) ATF Columbus Field Division Senior Attorney (b)(6) ATF Columbus Field Office Area Supervisor (b)(6) ATF Columbus Field Office Industry Operations Investigator (b)(6) and (b)(6) a contract court reporter with Free State Reporting, Inc. who transcribed the hearing.

The government introduced 13 exhibits into evidence at the hearing without objection. The Licensee did not introduce any exhibits. As explained more following below, I have considered all the testimony and exhibits presented at the hearing and find that the Licensee willfully violated the Gun Control Act, 18 U.S.C. § 921 et seq. ("GCA"), and its associated regulations as cited in Violations 1, 2, 3, 4, 6, and 7 of the Notice to Revoke and that Licensee's Federal firearms license should be and hereby is REVOKED.

FINDINGS

I. Background

Congress passed the GCA to prevent prohibited individuals (because of their age, criminal history, or other status) from acquiring firearms and to assist law enforcement combat gun crime. A key provision of the statute was the establishment of a Federal scheme to regulate

the business of dealing in firearms by requiring firearms dealers to obtain a Federal firearms license and comply with the certain obligations concerning the sale of firearms. Among them, Federal firearms licensees ("FFLs" or "Licensees") must complete background checks on potential purchasers unless a valid exception applies, must not transfer a firearm if they have reason to believe the transferee is prohibited, and must complete and maintain certain records that can help identify and prevent prohibited transactions before a firearm is transferred and help law enforcement trace a firearm if it is used in a crime. These and other requirements help prevent prohibited persons from acquiring firearms and assist law enforcement investigate violent gun crime and illegal firearms trafficking. The Attorney General has assigned responsibility for enforcing these regulations to the ATF. 28 C.F.R. § 0.130.

II. Standard

The ATF may revoke a Federal firearms license if a licensee commits a single willful violation of the GCA or its associated regulations. 18 U.S.C. § 923(e); 27 C.F.R. § 478.73(a); Armalite v. Lambert, 544 F.3d 644, 647 (6th Cir. 2008). A violation is willful if the Licensee knew of its legal obligations and acted with a reckless disregard for or deliberate or plain indifference to them. Armalite, 544 at 647; Appalachian Resources Development Corp. v. McCabe, 387 F.3d 461, 464 (6th Cir. 2004). Willfulness does not require proof of intentional conduct, bad purpose, or evil motive, and can be proved by circumstantial evidence. Shawano Gun & Loan, LLC v. Hughs, 650 F.3d 1070, 1077-78 (7th Cir. 1977); Borchardt Rifle Corp. v. Cook, 684 F.3d 1037, 1043 (10th Cir. 2012). Repeated negligence can become recklessness. Armalite, 544 F.3rd at 650. Licensees are legally responsible for the acts or omissions of their agents or employees under the doctrine of *respondeat superior*. McLemore v. United States Treasury Department, 317 F. Supp. 1077, 1079 (N.D. FL 1970).

III. Violations

1. Transfer in Violation of Law

FFLs cannot transfer firearms "other than a shotgun or rifle" to persons under the age of 21. 18 U.S.C. § 922(b); 27 C.F.R. § 478.99(b). Licensee willfully violated that prohibition as alleged in the Notice to Revoke, which states:

> On (b)(3) - 112 occasion, Licensee willfully sold or delivered a firearm other than a shotgun or rifle to a person who Licensee knew or had reasonable cause to believe was less than twenty-one years of age, in violation of 18 U.S.C. § 922(b)(1) and 27 C.F.R. 478.99(b)(1).

Transferee's Name	Date	Firearm Description
(b)(3) - 112 Public Law 55 125 Stat 552, (b)(6)		

Licensee admits knowledge of this prohibition and does not dispute this violation. In addition to Mr. Islam's admission, Licensee's knowledge of the regulation is demonstrated by Mr. Islam's signature on three Acknowledgment of Federal Firearms Regulations forms dated March 22, 2017, April 30, 2019, and May 9, 2019. Each form specifically identifies this regulation as one an IOI reviewed with him on those dates. Gov't Exhibits 3, 4, and 5.

As to the violation, (b)(3) - 112 Public Law 55 125 Stat 552 (b)(3) - 112 Public Law 55 125 Stat 552 (b)(3) - 112 Public Law 55 125 Stat 552 (b)(3) - 112 Public Law 55 125 Stat 552 (b)(3) - 112 Public Law 55 125 Stat 552 (b)(3) - 112 Public Law 55 125 Stat 552 Licensee therefore demonstrated a plain indifference to this known legal obligation when it transferred this firearm, which was not a shotgun or rifle, to a person under the age of 21.

(b) (6) [redacted] claimed at the hearing she transferred this firearm, not Mr. Islam, and thought it was a rifle. That claim contradicts the appearance of Mr. Islam's name and signature in Boxes 34 and 35 of the ATF Form 4473, which must be completed at the time of transfer by the individual who transfers the firearm. It is also contradicted by the fact that the firearm is identified as a pistol in Section A of the form, which must be completed first by the transferor before any other section of the form. But even if these claims are true, a Licensee is responsible for the acts of its agents or employees, and a Licensee who empowers an employee to transfer firearms on its behalf but does not train them to a distinguish a shotgun or rifle from a firearm "other than a shotgun or rifle" demonstrates a plan indifference to the prohibition against transferring firearms "other than a shotgun or rifle" to persons under the age of 21.

2. Background Check Violations

An FFL who intends to transfer a firearm to a non-Licensee must conduct a background check on the transferee by contacting the National Criminal Instant Background Check System ("NICS") before the transfer to confirm the transferee is not prohibited unless an exception to that requirement applies. 18 U.S.C. § 922(t); 27 C.F.R. § 478.102(a). Licensee willfully violated that requirement as alleged in the Notice to Revoke, which says:

> On [redacted] 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.

[redacted] involve transfers in which the Licensee accepted non-qualifying concealed carry permits instead of conducting NICS background checks. The other [redacted] involve firearms Licensee claims to have transferred to Mr. Islam personally, who then sold them without conducting NICS background checks, but which remained part of the Licensee's business inventory when sold. The transfers involved are as follows:

Transferee's Name	Date	Discrepancy
(b)(6)	1/30/2021	No Valid CCW or NICS Information Recorded
	10/24/2021	Accepted Expired Ohio CCW in lieu of NICS
	02/07/2021	Accepted Florida CCW in lieu of NICS
	06/19/2021	Accepted Arizona CCW in lieu NICS
	03/28/2021	Accepted Expired Ohio CCW in lieu of NICS
	01/23/2021	Accepted an Invalid and Expired Ohio CCW in lieu of NICS

Firearm Description	Serial Number	Discrepancy
Noreen Model BBN-223 Receiver	(b)(6)	Acquired by Licensee on 04/12/2019 and subsequently sold or otherwise disposed of to an unlicensed transferee through Sadequl Islam without an ATF Form 4473 or NICS background check
FNH/FNMI Model Five-Seven Pistol	(b)(6)	Acquired by Licensee on 08/19/2020 and subsequently sold or otherwise disposed of to an unlicensed transferee through Sadequl Islam without an ATF Form 4473 or NICS background check

Licensee admitted knowledge of the background check requirement for transfers to non-Licensees, which is also demonstrated by Mr. Islam's signature on the Acknowledgment of Federal Firearms Regulations forms dated March 22, 2007, April 30, 2019, and May 9, 2019, in which an IOI reviewed this and other regulations with Mr. Islam. Gov't Exhibits 3, 4, and 5. But Mr. Islam suggested that an exception to the background check requirement might have applied to the transfer to (b)(6) and that he mistakenly believed another exception to that requirement applied to the other transfers.

Regarding the transfer t(b)(6) n January 30, 2021, the absence of any information in Section C, Boxes 27 through 29 on the ATF Form 4473 demonstrates that

Licensee did not conduct a NICS background check before transferring the firearm. Licensee did not dispute that. Instead, Mr. Islam suggested this might have been a transfer from his personal collection for which a NICS background check was not required rather than a transfer from the Licensee's business inventory.[1] He presented no evidence to support that claim other than pure speculation. That speculation is contradicted by the ATF Form 4473, which was included in the Licensee's business records and identifies the Licensee, Sadek Enterprises, LLC, as the transferee in Section E, Box 33, not Sadequl Islam. As such, this was a transfer from the Licensee's business inventory to a non-Licensee for which Licensee did not conduct a NICS background check. Conducting background checks before transferring firearms is one of the fundamental obligations for all FFLs. Licensee demonstrated a plain indifference to that known obligation when it transferred this firearm.

Regarding the transfers to (b)(6) (b)(6) Mr. Islam admitted the Licensee did not conduct a NICS background check before transferring the firearms but said he and/or his employees mistakenly thought the "concealed carry" exception applied to the transactions. There is a limited exception to the NICS background check requirement in 27 C.F.R. § 478.102(a) for persons with qualifying concealed carry permits found at 27 C.F.R. § 478.102(d). That subsection allows an FFL to transfer a firearm to a non-Licensee without conducting a NICS background check if the transferee presents a ***valid license or permit***, that: (1) allows them to possess, acquire, or carry a firearm; (2) ***was issued not more than five years earlier by the State in which the transfer is to take place***; and (3) the law of the State that issued the license or permit requires a government official

[1] Mr. Islam's knowledge that Federal law does not require a NICS background check for legitimate private transfers between non-licensees further demonstrates his knowledge of the NICS background check requirement.

to verify that the information available does not indicate that the transferee is prohibited from possessing a firearm under Federal, State, or local law. None of the concealed carry permits presented by these purchasers qualified for that exception.

(b)(6) presented out-of-state concealed carry permits, issued by the states of Florida and Arizona respectively. Mr. Islam's only explanation for accepting these out-of-state concealed carry permits instead of conducting a NICS background check was that he thought he could. The language in the regulation is plain and unambiguous. The permit must be issued by the "State in which the transfer is to take place." These transfers took place in Ohio. There is no reasonable way to misread or confuse that language.

(b)(6) presented an Ohio concealed carry permit that was issued on September 30, 2015 and set to expire on September 30, 2020. (b) (6) presented an Ohio concealed carry permit that was issued on March 5, 2016 and set to expire on March 5, 2021. And(b)(6) (b)(6) presented an Ohio concealed carry permit that was issued on November 14, 2014 and expired on November 14, 2019. Mr. Islam said he thought the state's COVID-19-related extension of the expiration date for certain Ohio concealed carry permits meant he could accept them after the date of expiration. On October 1, 2020, the state of Ohio did extend the expiration date for Ohio concealed carry permits set to expire between March 9, 2020, and June 30, 2021, by 90 days from the date of expiration or until June 30, 2021, whichever was later. (b)(6) (b)(6) permits where therefore still ***valid*** on the dates of transfer by virtue of that extension. But they were still ***more than five years old*** on the dates of transfer and thus non-qualifying.

(b)(6) permit was both invalid and more than five years old on the date of transfer because it expired almost a year before Ohio extended the expiration date for certain

concealed carry permits and his was not included in the group of permits for which the date was extended. There is an additional problem with his Ohio concealed carry permit. Only Ohio concealed carry permits issued on or after March 23, 2015, can qualify as a NICS exempt permit. ATF explained that in an open letter to all Ohio FFLs in 2015. Gov't Exhibit 3 at ATF 049 – 050. IO[redacted]confirmed through a review of Licensee's inspection history that Mr. Islam was provided a copy of that letter during Licensee's qualification inspection.

The evidence establishes that Licensee knew of it was required to conduct NICS background checks before transferring firearms to non-licensed persons unless an exception to that requirement applied and demonstrated a plain indifference to or reckless disregard for that obligation when it accepted non-qualifying concealed carry permits instead of conducting NICS background checks. The regulations states in plain and unambiguous language that a concealed carry permit must be issued from the state where the transfer is to take place and cannot be more than five years old on the date of transfer to qualify. Mr. Islam admitted that language is clear and also admitted he did not actually read the regulation, despite acknowledging an obligation to familiarize himself with the regulations. Instead, he said he heard from other dealers at gun shows that he could avoid the NICS background check requirement if buyers presented concealed carry permits. He appears to have done nothing else to confirm if those dealers provided full and accurate information or anything else to ensure he understood the details of that exception, such as consult the regulations or contact the local ATF office for guidance.

Conducting NICS background checks is a fundamental obligation for all FFLs. Relying on vague advice from other FFLs concerning a possible exception to that obligation without taking any additional steps to confirm the accuracy of that information and to verify the scope

and limitations of that exception demonstrates a plain indifference to that obligation. That is particularly true when the regulation is clear, and the local ATF office is a mere phone call away.

Concerning the final [redacted] transfers in this violation, the evidence demonstrates that Licensee acquired the firearms as business inventory and sold them to unknown third parties without first conducting a NICS background check. Licensee claims to have transferred them to Mr. Islam for his personal collection, and that Mr. Islam sold them to the unknown third parties sometime thereafter without conducting a NICS background check.[2] The purported transfers to Mr. Islam are not documented on an ATF Form 4473, but the firearms were recovered by law enforcement and [redacted] Specifically, the records indicate that Licensee acquired the [redacted]

[2] Licensee recorded the acquisition [redacted] Gov't Ex. 8, ATF 071-072. It is unclear what Licensee relied on to identify Mr. Islam as the purchaser.

[3] As IOI [redacted] explained, when law enforcement recovers a firearm, they can submit it to ATF for a trace. ATF "traces" the firearm by contacting the manufacturer to identify the down-stream distributors and ultimately the Licensee who sold the firearm and the buyer who purchased it. In this case, [redacted]

[4] The transfer of a firearm from a Licensee to its owner/responsible person while the Licensee is engaged in the sale of firearms at a gun show is highly suspicious, particularly when law enforcement subsequently recovers that firearm from a third party in a crime.

(b)(3) - 112 Public Law 55 125 Stat 552

(b)(3) - 112 Public Law 55 125 Stat 552

(b)(3) - 112 Public Law 55 125 Stat 552

Mr. Islam claims the purported transfer of these firearms from the Licensee's business inventory to himself were legitimate transfers to his personal collection and that his subsequent sale of them did not require a NICS background check. A legitimate transfer of firearms from Sadek Enterprises, LLC to Mr. Islam had to be documented on an ATF Form 4473 with a background check performed on Mr. Islam before the transfer. 27 C.F.R. § 478.102(a) and 478.124a. The absence of any ATF Forms 4473 documenting the transfer of these firearms from the Licensee to Mr. Islam is evidence that no such transfer actually occurred. And while we do not know the date these firearms were transferred to the unknown third parties, because those transfers were not recorded on ATF Forms 4473 either,(b)(3) - 112 Public Law 55 125 Stat 552

(b)(3) - 112 Public Law 55 125 Stat 552

(b)(3) - 112 Public Law 55 125 Stat 552 establishes by a preponderance of the evidence that they were never part of Mr. Islam's personal collection but remained in Licensee's business inventory when they were sold to the unknown third parties.[5] As such, Licensee was

[5] A sole proprietor, i.e., when the individual owner is the licensee rather than a separate corporation or limited liability company, can sell a firearm from their personal collection without documenting the sale on an ATF Form 4473 and conducting a NICS background check, but only if the firearm is kept in their personal collection for at least one year. 27 C.F.R. § 478.125a. This regulation addresses the concern that FFLs might circumvent the GCA by "transferring" firearms from their business inventory to their personal collection "on paper" so they can sell firearms to third parties without documenting the transfers or conducting background checks. The one-year requirement is some assurance that the transfer from business inventory to personal collection is legitimate. While this regulation is not directly applicable here because the Licensee is Sadek Enterprises, LLC, not Mr. Islam personally, the concept applies. One would expect the owner of an FFL who acquires a firearm from his business for his personal collection to keep the firearm for a reasonable period of time before selling it. Acquiring it from the FFL "on paper" and quickly selling it is evidence that it was never intended for the owner's personal collection.

required to conduct a NICS background check before transferring the firearms and its failure to do so was willful.

3. Transfer to Non-FFL without an ATF Form 4473

FFLs are required to document the transfer of firearms to non-licensed persons on a Firearms Transaction Record, ATF Form 4473. 27 C.F.R. § 124(a). The third violation cited in the Notice to Revoke concerns the same [redacted] firearms just discussed, [redacted]

[redacted]

[redacted] The Notice to Revoke alleges that:

> On [redacted] 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. § 923(g)(1)(a) and 27 C.F.R. § 478.124(a).

Firearm Description	Serial Number	Discrepancy
[redacted]		

Federal law does not require the occasional sale of a firearm from a non-licensee's personal collection be recorded on an ATF Form 4473. Having already found these transfers to the unknown third parties to have been business transfers from Licensee's business inventory and not legitimate personal transfers from Mr. Islam's personal collection, an ATF Form 4473

[6] The Firearms Trace Summaries in Gov't Exhibit 8 at ATF 073 – 075, include the names of the individuals who possessed the firearms when law enforcement recovered them. They are redacted to protect their identities. We do not know if Licensee transferred the firearms directly to those individuals or if there intervening transfers before the firearms were recovered.

for each transfer was required. Licensee knew of that obligation and plainly disregarded it when it transferred the firearms to the unknown third parties without recording the transfers on an ATF Form 4473.

4. Failure to Repot Multiple Sales

Licensees are required to file a Multiple Sales Report with ATF on an ATF Form 3310.4 whenever they sell or otherwise dispose of two or more handguns to an unlicensed person at one time or during any five consecutive business days. 27 C.F.R. § 478.126a. A Multiple Sales Report can help ATF trace a handgun used in a crime more quickly and can serve as a tool to detect possible firearms trafficking. Mr. Islam admitted knowledge of that requirement, which is evident from the fact that Licensee filed some Multiple Sales Reports but failed to file others. ATF also cited Licensee for failing to file Multiple Sales Reports in the 2019 compliance inspection.[7] Gov't Exhibit 5 at ATF 038 – 039. ATF also issued a letter to Licensee at that time warning it that future violations could be viewed as willful and might result in the revocation of its license. Mr. Islam acknowledged the violation and his receipt of that warning letter. Gov't Exhibit 5 at ATF 040 – 041. Despite that warning, Licensee's most recent inspection revealed [redacted] more instances in which it failed to file required Multiple Sales Reports. Specifically, the Notice to Revoke alleges:

> On [redacted] 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.

Transferee's Name	Date	Discrepancy
[redacted]		

(b)(3) - 112 Public Law 55 125 Stat 552, (b)(6)

[7] The Acknowledgement of Federal Firearms Regulations form that Mr. Islam signed after the 2017 and 2019 inspections also included this regulation. Gov't Exhibits 3 and 4.

Licensee did not dispute this violation or offer a reasonable explanation for its failure to file the Multiple Sales Reports. It just did not do it and did not have a reliable process in place to ensure they were filed. Mr. Islam suggested that his process was to make a note at the top of the ATF Form 4473 that it was a multiple handgun sale as a reminder that he needed to file the Multiple Sales Report. And there are notes to that effect at the top of some of these ATF Forms 4473. But there is no indication these forms were set aside or that Licensee had any other process in place to ensure it returned to these transactions to file the Multiple Sales Report other than the hope Mr. Islam would remember. In essence, Licensee made no real effort to develop a plan to ensure compliance with this regulation even after it was cited for violating it. That is plain indifference to a known obligation.

5. Falsified Statement in Records

The individual who transfers a firearm on behalf of a Licensee must certify the accuracy of the information on the ATF Form 4473 by signing and dating Boxes 34 – 36 on the form and must do so before the firearm is transferred. Specifically, they must certify that the firearm information recorded in Section A and the NICS information in Section C are true, correct, and complete. They must also certify their belief that the transfer to the buyer is not prohibited based on the buyer's responses to the questions in Section B, the verification of the buyer's identification document recorded in that section, and the applicable State and local laws.

That certification is not a perfunctory signature on a form. It is an assurance that the person who transferred the firearm took the required steps to confirm the transfer was not

prohibited before transferring it, and an assurance that law enforcement can rely on the form's accuracy to identify the initial buyer if the firearm is recovered in a crime or if the transfer is related to a firearms trafficking investigation. Inaccurate information could result in an inaccurate NICS response or stymie a criminal investigation. For that reason, the person who transfers the firearm must be the one who certifies the form, not someone else after-the-fact, because the person who examined the firearm, verified the buyer's identity, reviewed the buyer's answers to the questions in Section B, and conducted the NICS background check is the only person who knowns if the information is accurate. A signature by anyone else is a false certification because that person would have no first-hand knowledge of the transfer and cannot certify the accuracy of the information on the form, rendering the certification meaningless.

The Notice to Revoke alleges that Licensee made a knowing false statement as to that certification on the ATF Form 4473 for the first violations cited in the Notice to Revoke, i.e., the transfer of a firearm "other than a shotgun or rifle" to a person under the age of 21. Specifically, the Notice alleges:

> On at least [redacted] occasion, Licensee willfully made a false statement or representation with respect to information required by the GCA, in violation of 18 U.S.C. §924(a)(1)(A) and 27 C.F.R. § 478.128(c).

Transferee's Name	Date	False or Material Misstatement
(b)(3) - 112 Public Law 55 125 Stat 552, (b)(6)		

Mr. Islam's name and signature are in Boxes 34 and 35 of this ATF Form 4473. But he and Ms. (b) (6) both claim she transferred the firearm and Mr. Islam signed the form sometime later. In fact, Mr. Islam admitted he was not even at the gun show when (b) (6) transferred this firearm. Apparently, it was common practice for (b) (6) to transfer firearms for the Licensee and for Mr. Islam to sign the ATF Forms 4473 sometime after-the-fact.

Licensee therefore admits that the certification on this form is false because Mr. Islam was not the person who transferred this firearm.

Licensee's defense is that Mr. Islam did not read the form closely and thought he had to sign it as the Licensee's owner and responsible person. An ATF Form 4473 is the principal document on which FFLs record a firearms transfer. For a Licensee's owner and responsible person not to read the certification closely, or not contact ATF for clarification if he did not understand it, demonstrates a level or carelessness that borders on recklessness. That is especially true since the certification is preceded by a heading that reads in bold letters: "**The Individual Transferring the Firearm(s) Must Complete Questions 34-36**." And it is difficult to understand how Mr. Islam thought he could certify the accuracy of the information on the form when he was not present at the transfer. It is therefore a struggle to accept Licensee's defense because Mr. Islam and his employees should have known who needed to certify the form simply by looking at and reading it carefully. Nonetheless, Mr. Islam testified credibly that he did not read the certification closely and genuinely believed he had to sign the form for all of Licensee's transfers. His failure to do so demonstrates a dangerous lack of attention to detail for someone engaged in the business of dealing in firearms. But having reluctantly accepted his testimony as credible, I find that this false statement was not made knowingly and willfully.

6. Failure to Maintain Records

Licensees are required to record the acquisition and disposition of each firearm in a Firearms Acquisition and Disposition Record, commonly referred to as the "A&D Record" or "A&D Book." 27 C.F.R. § 478.123(d). As a manufacturer, Licensee had a maximum of seven calendar days to record the acquisition and disposition of firearms in its A&D Record. On or about March 24, 2021, two ATF Special Agents visited Licensee to inquire about [redacted]

(b)(3) - 112 Public Law 55 125 Stat 552, (b)(6)

(b)(3) - 112 Public Law 55 125 St The agents spoke with Mr. Islam and asked to see Licensee's A&D Record for the transactions. Mr. Islam claimed the A&D Record had been lost or stolen a few days earlier. Mr. Islam did not report the loss or theft of the A&D Record to ATF before the agents' visit but contacted the local ATF office after the agents left. An IOI advised Mr. Islam to reconstruct the A&D Record by reviewing its commercial invoices of acquisition and the ATF Forms 4473 documenting the transfers and transcribing that information in a new book. IOI(b)(6) conducted a compliance inspection three months later and discovered that Licensee had not finished, or even started, to reconstruct the missing A&D Record. As such, the Notice to Revoke alleges:

> Licensee willfully failed to maintain Acquisition and Disposition Records, in violation of 18 U.S.C. § 923(g)(1)(A) and 27 C.F.R. § 478.123(d).

Record	Date of Acquisition/Disposition	Discrepancy
Acquisition and Disposition Record	02/01/2020 – 03/21/2021	Acquisitions and Dispositions not recorded in A&D Record

Ultimately, Licensee was able to reconstruct the missing A&D Record by the time IOI(b)(6) completed the inspection, but with (b)(3) - 1 firearms missing. That is, Licensee had acquisition records for (b)(3) - 1 firearms that were not in inventory and for which it could not locate an ATF Form 4473 or other record of disposition.

Mr. Islam believes another FFL stole the missing A&D Record at a gun show and claims that he was still in the process of organizing and reviewing Licensee's records when IOI(b)(6) began his inspection in July 2021. Even if true, Licensee's failure to have the A&D Record reconstructed after three months is unreasonable and demonstrates a plain indifference to the requirement to maintain an A&D Record. Mr. Islam claims the reconstruction was a lot of work,

but he had time to travel to gun shows and sell firearms weekend-after-weekend between March 2021 and July 2021. That time could have been spent reconstructing the missing A&D Record, but Licensee put profit over its record-keeping requirement. That is plain indifference.

7. Annual Firearm Manufacturing and Exportation Records

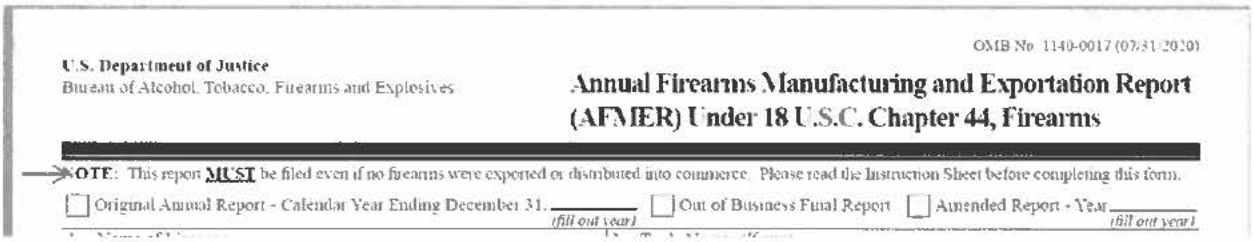
All federally licensed firearms manufacturers must file an Annual Firearms Manufacturing and Exportation Report (AFMER) with ATF by April 1st every year, even if they do not manufacture or export any firearms that year. Licensee knew it was obligated to file that report because the IOI who conducted its qualification inspection reviewed that requirement with Licensee, and because Licensee was cited in 2019 for failing to file an AFMER in 2017 and 2018. Gov't Exhibit 13. Despite that citation and Mr. Islam's acknowledgement that future violations could be viewed as willful and result in revocation, Licensee again failed to file its next two required AFMERs for 2019 and 2020. As such, the Notice Revoke alleged the following:

> On two occasions, Licensee willfully failed to file Annual Firearms Manufacturing and Exportation Records, in violation of 18 U.S.C. § 923(g)(5)(A).

Record	Date	Discrepancy
Annual Firearms Manufacturing and Exportation Record	Calendar Year 2019 Calendar Year 2020	Not Filed with ATF

Licensee does not dispute this violation and offered no explanation for its failure to file these AFMERs other than the possibility it was a mistake because it did not manufacture any firearms those years. That explanation is unreasonable and demonstrates Licensee's plain indifference to this known obligation. Licensee did not manufacture any firearms in 2017 or 2018 either but was cited for failing to file these reports. Licensee was therefore on notice of the

obligation to file the reports even if it did not manufacture or export any firearms by at least May 9, 2019. The AMFER form and ATF's website also make that obligation clear. (See below)



U.S. Department of Justice
Bureau of Alcohol, Tobacco, Firearms and Explosives

OMB No. 1140-0017 (07/31/2020)

Annual Firearms Manufacturing and Exportation Report (AFMER) Under 18 U.S.C. Chapter 44, Firearms

NOTE: This report MUST be filed even if no firearms were exported or distributed into commerce. Please read the Instruction Sheet before completing this form.

☐ Original Annual Report - Calendar Year Ending December 31, _____ (fill out year) ☐ Out of Business Final Report ☐ Amended Report - Year _____ (fill out year)

ATF Bureau of Alcohol, Tobacco, Firearms and Explosives

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Do I need to file an AFMER form even if I didn't manufacture any firearms last year?

Yes, you must file an Annual Firearms Manufacturers and Export Report (AFMER) form to let ATF know that you had no reportable firearms (enter "0" zero).

A lack of activity is just as important as significant activity because it helps provide an accurate, overall statistical profile of the firearms industry in the United States for a particular period.

Last Reviewed July 16, 2020

Failing to file a required annual report in each of the two years following an inspection in which Licensee was cited for failing to file that same report the two previous years is a textbook example of plain indifference to a known obligation.

CONCLUSION

For the reasons outlined above, I find that Licensee willfully violated the Gun Control Act and its associated regulations as alleged in Violations 1, 2, 3, 4, 6, and 7 in the Notice to Revoke and hereby REVOKE Licensee's Federal firearms license.