

Assignment and Report

1. OPERATING NAME AND ADDRESS (INCLUDE ZIP CODE AND COUNTY) NetBallistics LLC 6244 Old Lagrange Rd. Ste. 17A Crestwood, KY 40014, Oldham	2. U.I. NUMBER (ORG. SEG. CODE, ASSIGNMENT NO., P.P.C.) 775045-2017-0253-B1B		
	3. PERMIT/LICENSE NUMBER 461185019C03636	4a. TARGET DATE	4b. TARGET HOURS
	5. REQUESTED BY (SIGNATURE, TITLE AND DATE)		

6. ATF OFFICER(S) ASSIGNED
(b)(6) - Lead Investigator

7. ASSIGNED BY (SIGNATURE, TITLE AND DATE)
(b)(6) Area Supervisor, 04/20/2017

8. PURPOSE/SPECIAL INSTRUCTIONS
Conduct a full inspection in conjunction with the FFL's other licenses.

9. INSPECTION RESULTS		<input type="checkbox"/> CHECK IF NO VIOLATIONS, ADJUSTMENTS, ETC		10. TRAVEL EXPENSES (OPTIONAL)	
NO. OF VIOLATIONS	9	NO. OF REFERRALS		2111 - PER DIEM	
NO. OF TECS CHECKS	6	NO. OF TECS HITS		2112 - P.O.A.	
NO. OF TAX ADJUSTMENTS		\$ VALUE OF TAX INCREASES		2113 - COMM. AIR	
		\$ VALUE OF TAX DECREASES		2114 - RENTAL CAR	
NO. OF ASSESSMENTS		\$ VALUE OF ASSESSMENTS		2115 - GPV EXPENSES	
NO. OF CLAIMS		\$ VALUE OF CLAIMS		2116 - MISC.	
NO. OF TAX PERIODS		\$ VALUE OF TAXES VERIFIED		TOTAL \$ FOR INSP.	

11. ATF OFFICER'S RECOMMENDATION
Submitted by (b)(6) - Senior Industry Operations Investigator

Submitted on: 07/28/2017
On 5/16/2017, Senior Industry Operations Investigator (b)(6) commenced a full field compliance inspection at the business premises. The inspection was conducted in conjunction with compliance inspections of Federal firearms licenses 4-61-06047 and 4-61-04713 and Federal explosives license 4-KY-01266. Responsible person Terry Rush was present and provided assistance during the inspection. See narrative report for full details.

Recommend issuance of warning letter with recall inspection in 12 months (resources permitting) to ensure continued compliance with the Federal firearms regulations. This was the first inspection for the Type 01 dealer license. Licensee was cited for 9 violations of the GCA. Licensee has corrected all violations and has demonstrated a full understanding of the Federal firearms regulations pertaining to the business' operations. Though licensee accepted Indiana firearms permits as an exception to NICS (b)(3) instances and did not conduct a NICS check (b)(3) instance when transferring an NFA firearm to a trust representative, none of the transferees was prohibited.

Viols WL ONLY and Recall Inspection

12. TIME ACCOUNTING DATA			
ATF OFFICER'S NAME (MONTH, YEAR, HOURS)		(b)(6)	
MAY 2017	80.50		
JUN 2017	44.00		
JUL 2017	27.00		
ATF OFFICER'S SUBTOTAL	151.50	ATF OFFICER'S SIGNATURE	
TOTAL HOURS	151.50		

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13. REVIEW AND ROUTING

REVIEW COMMENTS AND RECOMMENDATION

FFL Compliance inspection conducted from 5/15-7/25/2017. FFL was cited for nine violations rising to the level of warning letter. Warning letter was mailed on 8/7/2017. Final recommendation is ROV, WL and recall inspection.

Viols WL ONLY and Recall Inspection

☒ REVIEWED

☒ CONCUR

☒ SEE COMMENTS

☐ FINAL DISPOSITION

SIGNATURE AND TITLE

(b)(6) - Area Supervisor

REVIEW DATE

08/07/2017

ROUTING SEQUENCE AND DATE

- ☐ 1. _____
- ☐ 2. _____
- ☐ 3. _____
- ☐ 4. _____

CONTROL FILE POSTED DATE _____

Report of Violations

Instructions

Please write firmly with a ball point pen when completing this form. ATF officers will prepare this form in triplicate. The original copy will be given to the proprietor or a responsible representative. The remaining copies will be submitted with the completed inspection report. Supervisors will detach one copy from the completed report for their files.

Name of Proprietor NetBallistics LLC	Street Address 6244 Old Lagrange Rd. Ste. 17A	City Crestwood	State KY	Zip Code 40014-	County Oldham	Page 1 of 7 Pages
License/Permit/Registry Number (If any) 461185019C03636	Expiration Date 3/1/2019	Date(s) or Period of Inspection 05/16/2017 through 07/25/2017				

Inspection Results

An examination of your premises, records and operations has disclosed the following violations which have been explained to you:

Number: 1

Nature of Violation:

Licensee transferred a firearm other than a rifle or shotgun to an individual who the licensee had reasonable cause to believe was not a resident of Kentucky.

(b)(3) - 112 Public instances, licensee transferred a firearm other than a rifle or shotgun to a non-licensee who was not a Kentucky resident. The recipients were law enforcement officers who provided non-qualifying law enforcement certification letters for purchasing firearms.

Date Corrections to be Made:

(If not corrected immediately)

Corrective Action to be Taken:

(If not corrected immediately)

In the future, licensee will ensure that firearms other than rifles or shotguns are transferred only to residents of Kentucky. If a law enforcement officer intends to purchase the firearm for duty use, licensee will ensure that only qualifying law enforcement certification letters are accepted. If a law enforcement officer who is not a resident of Kentucky wishes to purchase for personal use a firearm other than a rifle or shotgun, licensee will ensure the firearm is shipped to a licensee in the individual's state of residence.

Citation: 27 CFR 478.99(a)

Report of Violations

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Name of Proprietor NotBallistics LLC	Street Address 6244 Old Lagrange Rd. Ste. 17A	City Crestwood	State KY	Zip Code 40014-	County Oldham	Page 2 of 7 Pages
License/Permit/Registry Number (If any) 461185019C03636		Expiration Date 3/1/2019		Date(s) or Period of Inspection 05/16/2017 through 07/25/2017		

Inspection Results

An examination of your premises, records and operations has disclosed the following violations which have been explained to you:

Number: 2

Nature of Violation:

Failure to conduct a NICS check prior to the transfer of a firearm.

- In 7 instances, licensee transferred a rifle to an individual who was not a Kentucky resident without requiring the individual to appear in person at the business premises to complete a NICS check. The recipients were law enforcement officers who provided documentation that did not qualify as a law enforcement certification letter.
- In 2 instances, licensee accepted a non-qualifying permit in lieu of a NICS check. The purchasers were residents of Indiana.
- In 1 instance, licensee failed to conduct a NICS check when a trust representative was acquiring an NFA firearm on behalf of the trust.

Date Corrections to be Made:
(If not corrected immediately)

Corrective Action to be Taken: In the future, licensee will ensure that a NICS check is conducted prior to transfers of firearms to non-licensees.
(If not corrected immediately)

Citation: 27 CFR 478.102(a)

Report of Violations

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Name of Proprietor NetBallistics LLC	Street Address 6244 Old Lagrange Rd. Ste. 17A	City Crestwood	State KY	Zip Code 40014-	County Oldham	Page 3 of 7 Pages
License/Permit/Registry Number (If any) 461185019C03636	Expiration Date 3/1/2019	Date(s) or Period of Inspection 05/16/2017 through 07/25/2017				

Inspection Results

An examination of your premises, records and operations has disclosed the following violations which have been explained to you:

Number: 3

Nature of Violation:

(b)(3) - 112 Publi stances, licensee transferred a rifle to an individual who was not a Kentucky resident without requiring the purchaser appear in person at the business premises. The recipients were out-of-state law enforcement officers who provided documentation that did not qualify as law enforcement certification letters.

Citation: 27 CFR 478.96(c)(1)

Date Corrections to be Made:

(If not corrected immediately)

Corrective Action to be Taken:

(If not corrected immediately)

Mr. Rush stated that he was unaware that the letters provided by the law enforcement officers did not qualify as an exception to the NICS requirements.

Number: 4

Nature of Violation:

(b)(3) - 112 Publi stances when transferring a rifle or shotgun to a resident of another state, licensee did not require the purchaser to appear in person at the business premises to complete ATF Form 4473. The recipients were out-of-state law enforcement officers who provided documentation that did not qualify as a law enforcement certification letter

Citation: 27 CFR 478.124(a)

Date Corrections to be Made:

(If not corrected immediately)

Corrective Action to be Taken:

(If not corrected immediately)

In the future, licensee will ensure that transfers of rifles or shotguns to individuals who are not Kentucky residents take place in person at the licensed business premises and require preparation of ATF Form 4473. In the event that the non-licensee cannot appear in person at the business premises to complete ATF Form 4473, the firearm will be shipped to a Federal firearm licensee in the individual's state of residence for delivery.

Report of Violations

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Name of Proprietor NetBallistics LLC	Street Address 6244 Old Lagrange Rd. Ste. 17A	City Crestwood	State KY	Zip Code 40014-	County Oldham	Page 4 of 7 Pages
License/Permit/Registry Number (If any) 461185019C03636		Expiration Date 3/1/2019	Date(s) or Period of Inspection 05/16/2017 through 07/25/2017			

Inspection Results

An examination of your premises, records and operations has disclosed the following violations which have been explained to you:

Number: 5

Nature of Violation:

(b)(3) - 112 PL instances, licensee transferred firearms to law enforcement officers who provided documents that did not qualify as law enforcement certification letters.

Date Corrections to be Made:
(If not corrected immediately)

Corrective Action to be Taken:
(If not corrected immediately)

Licensee has created a template containing all required information that the company will furnish to law enforcement officers who wish to purchase firearms for duty use.

Citation: 27 CFR 478.134(a)

Report of Violations

Instructions

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Name of Proprietor NetBallistics LLC	Street Address 6244 Old Lagrange Rd. Ste. 17A	City Crestwood	State KY	Zip Code 40014-	County Oldham	Page 5 of 7 Pages
License/Permit/Registry Number (If any) 461185019C03636	Expiration Date 3/1/2019	Date(s) or Period of Inspection 05/16/2017 through 07/25/2017				

Inspection Results

An examination of your premises, records and operations has disclosed the following violations which have been explained to you:

Number: 6

Nature of Violation:

Failure to ensure complete and accurate entries to the A&D Record Book

(b)(3) - 112 Public Use
Instance, the acquisition of a firearm was not recorded.
Instances, the disposition of a firearm was not recorded (dispositions were reconciled).
Instance, the firearm manufacturer was not recorded.
(b)(3) - 112 Public Use
Instances, the type of firearm was not recorded.
(b)(3) - 112 Public Use
Instances, the type of firearm was incorrect.
Instances, the address or FFL number of the supplier was not recorded.
(b)(3) - 112 Public Use
Instances, the acquisition date was incorrect. Approximately (b)(3) - 112 Public Use of these discrepancies occurred when entries were transferred from the manual A&D Book to the electronic recordkeeping system.
(b)(3) - 112 Public Use
Instances, the supplier name and FFL number were incorrect. Approximately (b)(3) - 112 Public Use of these discrepancies occurred when entries were transferred from the manual A&D Book to the electronic recordkeeping system.
(b)(3) - 112 Public Use
Instance, the disposition date was incorrect.
Instances, the transferee's name was incorrect.
Instances, the transferee's address was incorrect.
Instances, the FFL number of the transferee was not recorded.
Instances, the address or FFL number of the transferee was not recorded

Date Corrections to be Made: 07/10/2017

(If not corrected immediately)

Corrective Action to be Taken:

(If not corrected immediately)

Licensee has made corrections to the A&D Record Book. Licensee will ensure all future A&D Record Book entries are made timely, accurately and correctly and in accordance with ATF Ruling 2016-1.

Report of Violations

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License/Permit/Registry Number (If any) 461185019C03636	Expiration Date 3/1/2019	Date(s) or Period of Inspection 05/16/2017 through 07/25/2017				

Inspection Results

An examination of your premises, records and operations has disclosed the following violations which have been explained to you:

Citation: 27 CFR 478.125(c)

Number: 7

Nature of Violation:

Licensee failed to obtain a complete and accurate ATF Form 4473.

2012 Edition

(b)(3) - 112 PG

Instance, the recertification signature was not recorded in item #24.

Instance, the recertification date was not recorded in item #25.

Instances, the number of firearms transferred was not recorded in item #30a.

Citation: 27 CFR 478.21(a)

Number: 8

Nature of Violation:

Failure to ensure purchaser accurately completed Section A.

2012 edition

(b)(3) - 112 PG

Instance, the middle name was not recorded in item #1.

Instance, the date in item #17 was incorrect.

Date Corrections to be Made:

(If not corrected immediately)

Corrective Action to be Taken:

(If not corrected immediately)

In the future, licensee will ensure that all ATF Forms 4473 are fully and accurately completed. Licensee will be more diligent in reviewing ATF Forms 4473 for accuracy prior to transfer of the firearm, with all necessary corrections initiated and dated.

Date Corrections to be Made:

(If not corrected immediately)

Corrective Action to be Taken:

(If not corrected immediately)

In the future, licensee will ensure that all ATF Forms 4473 are reviewed for completeness and accuracy prior to transfer of the firearm. Any corrections will be initiated and dated, with only the purchaser providing corrections to items in Section A.

Report of Violations

Instructions

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Inspection Results

An examination of your premises, records and operations has disclosed the following violations which have been explained to you:

Citation: 27 CFR 478.124(c)(1)

Number: 9

Nature of Violation:

Licensee failed to properly complete Section D of ATF Form 4473.

2012 Edition

(b)(3) - 112 Public Licensees, the type of firearm was not recorded in item #29.

Licensees, the caliber was not recorded in item #30.

Citation: 27 CFR 478.124(c)(4)

Date Corrections to be Made: 05/23/2017

(If not corrected immediately)

Corrective Action to be Taken:

(If not corrected immediately)

Licensee will correct photocopies of the applicable forms, initialing and dating all corrections. Licensee will attach the corrected photocopies to the applicable ATF Forms 4473. In the future, licensee will ensure that all firearm information is recorded on ATF Form 4473 is complete and accurate.

I Have Received a Copy of This Report of Violations (Proprietor's signature and title)

[Signature] PRESIDENT

Date

07-25-2017

Date

7/25/17

(b)(6)

For Official Use Only



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

600 Dr. Martin Luther King Jr. Place, Suite 500
Louisville, Kentucky 40202

August 7, 2017

www.atf.gov

775045 (b)(6)
5300

NetBallistics LLC
Attn: Mr. Terry Rush
6244 Old Lagrange Rd., Suite 17A
Crestwood, KY 40014

Dear Mr. Rush:

As you are aware, an investigator from the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) conducted an inspection of your firearms business at your licensed premises beginning on May 16, 2017 and continuing through July 25, 2017. You were cited for violations of 27 Code of Federal Regulations, Part 478. A copy of the ATF Form 5030.5, Report of Violations, issued at the time of the inspection is enclosed.

The violations were fully explained to you by Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) Industry Operations Investigator (IOI) (b)(6). You indicated that you understood the requirements of the firearms laws and regulations, including the importance of ensuring your recordkeeping remains in compliance with the Federal firearms regulations. You further indicated that corrective actions would be taken to eliminate future violations.

The records you are required to maintain and the business operations you conduct are important to law enforcement in our continuing effort to reduce violent crime and protect the public. It is essential that you comply with all Federal laws and regulations that govern your firearms business. This is critical to carrying out our mission to protect the public and ensure that criminals do not gain access to firearms. ATF appreciates the efforts you and other industry members make in this area, and we look forward to continuing to work with you in that regard.

NetBallistics LLC
Mr. Terry Rush

You are reminded that retention of your Federal firearms license is conditioned upon your compliance with Federal laws and regulations. Any future violations, either repeat or otherwise, could be viewed as willful and may result in the revocation of your license. Please ensure that future compliance is achieved.

Should you have any questions regarding this matter, please contact me at (b)(6)

Sincerely yours,

(b)(6)

Area Supervisor
Louisville II Field Office

Enclosure

cc: Federal Firearms Licensing Center
Director, Industry Operations
File

FIREARMS INSPECTION REPORT

Name: NetBallistics LLC
Trade Name:

UI#: 775045-2017-0253-B1B
FFL#: 4-61-185-01-9C-03636

Address: 6244 Old LaGrange Rd
Crestwood, KY 40014

1 - Introduction

Inspection Profile:

On 5/16/2017, Senior Industry Operations Investigator (b)(6) commenced a full field compliance inspection at the business premises. Responsible person Terry Rush was present and provided assistance during the inspection. Mr. Rush was identified via his Kentucky driver's license (b)(6) exp. 07/28/2017).

On 5/23/2017, Investigator (b)(6) and responsible person Robert Penta discussed the discrepancies found to date.

The inspection was conducted in conjunction with compliance inspections of Federal firearms licenses 4-61-06047 and 4-61-04713 and (b)(7)(F)

The scope of the inspection covered the time period from 5/16/2016 through 5/15/2017, though ATF Forms 4473 were reviewed from April 2016 through May 2017.

Business Profile:

NetBallistics LLC has been licensed as a dealer of firearms since 2010. The business buys and sells new and used handguns and long guns, offers occasional transfer services for individuals who purchase firearms through firearms auction websites and enters consignment contracts with other Federal firearms licensees. Licensee also sells ammunition and a limited number of accessory items such as holsters, belts and range equipment. Licensee does not conduct business at gun shows and other authorized extensions of the business premises.

During the inspection period, licensee acquired approximately (b)(4) firearms and disposed of approximately (b)(4) firearms. There is no off-site storage of firearms.

In addition to this license, NetBallistics holds the following ATF licenses: 4-61-06047 (Type 11), 4-61-04713 (Type 10), 4-61-05587 (Type 08) and (b)(7)(F). The only license with business activity is 4-61-03636. Net Ballistics has paid 2017 Special Occupational Tax and is registered as an Importer of U.S. Munitions Import List Articles. Licensee is in compliance with local zoning requirements.

FIREARMS INSPECTION REPORT

Name: NetBallistics LLC
Trade Name:

UI#: 775045-2017-0253-B1B
FFL#: 4-61-185-01-9C-03636

Ownership and Control:

NetBallistics is a limited liability company, registered and in good standing with the Commonwealth of Kentucky (see Exhibit #1). John Cordt Huneke, Robert Penta, and Terry Rush are members of the LLC. There has been no change in ownership or control of the business. The business employs 3 other full time employees and 2 part-time interns.

Variance:

Licensee does not have any variances on file and did not request any variances during the inspection.

2 - Recommendation

Recommend warning letter and recall inspection in 12 months (resources permitting).

3 - Inspection History

Date of Inspection: 2/7/2013
Type of Inspection: Amended application
UI#: 775045-2013-0140
Inspection Results: Issuance of license
Cited Violations: None

Date of Inspection: 12/13/2010
Type of Inspection: Qualification
UI#: 775045-2010-0151
Inspection results: Issuance of license
Cited Violations: None

4 - Acquisition & Disposition (A&D) Record - Inventory

Licensee maintains a computerized Acquisition and Disposition (A&D) Record Book which was implemented approximately 1 year ago. Prior A&D Record Books were maintained manually. Investigator (b)(6) reviewed both the electronic and manual versions of the A&D Record Books to ensure entries had been properly transferred from the manual record books to the electronic system.

Investigator (b)(6) conducted a physical inventory of all firearms on the business premises. A total of 951 firearms were located on the business premises and (b)(6) open entries were contained in the A&D Record Books. These totals include NFA firearms.

FIREARMS INSPECTION REPORT

Name: NetBallistics LLC
Trade Name:

UI#: 775045-2017-0253-B1B
FFL#: 4-61-185-01-9C-03636

The acquisitions (b)(3)-(b)(6) firearms could not be initially located in the electronic A&D Record Book. It was discovered that the computer system had auto archived several files that had not been accessed in several months due to space issues. IT manager (b)(6) changed settings on the system and reprinted the A&D Record Book.

A thorough review of both the manual and electronic A&D Record Books revealed (b)(6) acquisition and (b)(6) dispositions were not recorded. Explanations of these discrepancies and resolution are as follows:

- 1) (b)(3)-(b)(6) firearm was transferred to an FFL in Hawaii (see Exhibit #2).
- 2) (b)(3)-(b)(6) firearm was a gunsmithing return that was recorded in the manual A&D Record Book, not in the computerized system (see Exhibit #3).
- 3) (b)(3)-(b)(6) firearm disposition was not recorded in the manual A&D Record Book when the entry was transferred to electronic recordkeeping system line #30 (see Exhibit #4).
- 4) (b)(3)-(b)(6) firearm was shipped from NetBallistics to another FFL. After the firearm was shipped, the purchaser contacted NetBallistics to request the firearm be shipped to a different FFL. NetBallistics attempted to have UPS reroute the shipment, but UPS refused. The firearm was returned to NetBallistics and subsequently shipped to the other FFL. NetBallistics neither recorded an acquisition for the return of the firearm from UPS nor recorded a disposition when the firearm was re-shipped. Instead, Mr. Rush entered a description of the process into a separate Book Corrections document (see Exhibit #5).

It was determined that the acquisition dates and supplier information for all entries transferred from the manual A&D Record Book were incorrect. Licensee used as the acquisition date the date the entries were transferred from the manual A&D Book and recorded the supplier as NetBallistics. It was also determined that the manual A&D Record Book did not indicate that the information was transferred to an electronic recordkeeping system (see Exhibit #6).. Most of the dispositions only contained a number and a date, and other entries contained only numbers. Mr. Rush was advised that the entries should include verbiage noting that the entries were transferred to the electronic A&D Record Book. In addition, Mr. Rush was informed that entries transferred from the manual book would need to be corrected to reflect the original acquisition information from the manual A&D Record Book.

It was also determined that acquisition dates and supplier information were incorrect for most entries where corrections were necessary. Licensee would record the date of the correction as the acquisition date and would record the supplier as NetBallistics (see Exhibit #7). Mr. Rush was informed that these entries would need correction.

Among the manual books were 9 books for firearms received in 2013 as a bulk shipment from then Federal firearm licensee LSY Defense. Mr. Rush stated that the firearms were part of a consignment sales agreement with LSY Defense. A review of

FIREARMS INSPECTION REPORT

Name: NetBallistics LLC
Trade Name:

UI#: 775045-2017-0253-B1B
FFL#: 4-61-185-01-9C-03636

these books revealed (b)(3) open entries: (b)(3) - 112 Public Law 55 125 Stat 552

(b)(3) At the bottom of each page was a notation that the firearms were missing. Investigator (b)(6) inquired about these firearms, and Mr. Rush stated that the firearms had never been received from LSY Defense. He stated that the A&D Books had been prepared by LSY Defense and provided to NetBallistics at the time the firearms were shipped and that NetBallistics personnel verified the shipment against the books once the firearms arrived at the business premises. The two firearms in question were not located in the shipment, and NetBallistics immediately contacted LSY Defense. LSY Defense assured NetBallistics that the firearms would be reported as missing. Queries of eTrace revealed the (b)(3) - 112 Public Law 55 125 Stat 552 (b)(3) was reported missing to ATF on (b)(3) - 112 Public Law 55 125 Stat 552, but there was no indication that the Beretta pistol had been reported missing. NetBallistics contacted the former manager for LSY Defense and requested he provide a statement, written under penalty of perjury, indicating whether the firearms were reported missing or otherwise transferred. Mr. Penta provided the statement to Investigator (b)(6) at the closing conference (see Exhibit #25). The statement indicated that (b)(3) - 112 Public Law 55 125 Stat 552 firearm had been reported missing and the other transferred to another business entity. The statement further indicated that the firearms in question had never been in the possession of NetBallistics.

Other discrepancies discovered in the A&D Record Book included (b)(3) - 112 Public Law 55 125 Stat 552

(see Exhibits #7 and #17).

For firearms transferred to police departments, the transferee address was missing from the printed A&D Record Book. Investigator (b)(6) determined that the address information was contained in the electronic system but the fields were set to print only the first three lines of the address. Licensee was not cited for this since the information was contained in the computer system but was reminded that all information required by regulations must be printed when a printed copy is requested by ATF. Licensee corrected this field to enable the full address to print.

On 5/23/17, Investigator (b)(6) spoke with Terry Rush and Robert Penta regarding the A&D Record Book errors and the need for corrections to the system. Mr. Penta stated that he was mostly to blame for the computer system being "locked down" to the maximum level possible due to his interpretation of the ATF ruling pertaining to electronic recordkeeping. He also stated that the company was working off an older ruling and not ATF Ruling 2016-1 and was unaware of the changes allowing for more flexibility in computerized systems. He stated that he had spoken to (b)(6) and changes would be made to take the system back to the original Excel program and correct the fields that are in error, making the A&D Record in line with 27 CFR 478.125(e). He stated that it would take a few weeks for changes to be made, especially since (b)(6) until at least June 5, 2017. Investigator (b)(6) afforded the licensee until June 26, 2017 to make changes to the

FIREARMS INSPECTION REPORT

Name: NetBallistics LLC
Trade Name:

UI#: 775045-2017-0253-B1B
FFL#: 4-61-185-01-9C-03636

electronic system that would allow it to meet the parameters of ATF Ruling 2016-1. She also reminded Mr. Rush that all A&D errors were to be corrected at the time the other changes were made.

On 6/9/2017, Investigator (b)(6) visited the business premises to provide the licensee with documentation delineating the A&D Book items in need of correction. Mr. (b)(6) and Mr. Rush were both present. (b)(6) stated that due to the amount of time he was on paternity leave, he would need at least an additional week to ensure that the electronic recordkeeping system could be brought in line with ATF Ruling 2016-1. Because the business is closed for at least two days of the following week for the Independence Day holiday, Investigator (b)(6) gave the licensee until 7/10/2017 to have all corrections made.

On 7/10/2017, Investigator (b)(6) returned to the business premises to verify corrections to the electronic A&D Record Book. The book printed in the proper format, contained all required information and also contained a notes field wherein changes are noted in detail. The notes field also contains the customer name and order number to enable the business to search records. Investigator (b)(6) requested that (b)(6) conduct several queries of the system to verify its capabilities. Mr. Rush provided a printed copy of the corrected book (see Exhibit #22).

Details of the violations (27 CFR 478.125(e)) can be found in the Violations section of this report. ATF Form 5030.5, Report of Violations, Worksheet #1, Exhibits #3 through #7, Exhibit #17 and Exhibit #22 also contain information and supporting documentation for these violations.

5 - ATF Forms 4473 – NICS & Other Dispositions

A total of (b)(6) ATF Forms 4473 were reviewed, including denials and forms where the NICS check had been completed but the transfer did not occur. Licensee files forms by transferee transaction serial number.

A total (b)(6) Forms 4473 contained errors (see Exhibit #8). Violations included incomplete, incorrect or missing information in all sections of the ATF Form 4473.

In (b)(6) instance, licensee transferred a firearm to a purchaser who provided a Washington State driver's license, military orders listing a duty station located in Jeffersonville, IN and a Kentucky Carry Concealed Deadly Weapon (CCDW) license, taking copies of all three documents (see Exhibit #9). Licensee recorded the information from the Washington driver's license in item #20a (2012 edition) and recorded the military orders in item #20b (2012 edition), indicating that the military orders were for a Washington duty station. In viewing a copy of the Washington State driver's license, it was determined that it did not qualify as a government issued photo identification document because it did not contain a photograph and specifically stated

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that the document was not valid as identification. The military orders did not qualify to prove Kentucky residency because they clearly list a permanent duty station in Jeffersonville, IN. The Kentucky CCDW contained a Kentucky address and was the same address recorded by the purchaser on ATF Form 4473. Investigator (b)(6) reminded Mr. Rush of the requirements for government issued photo identification documents and acceptance of military orders. Since the Kentucky CCDW qualifies as a government issued photo identification document, licensee was not cited for a violation.

Investigator (b)(6) noted that several entries in the A&D Record Book indicated transfers of firearms to law enforcement officers. She reviewed the law enforcement certification letters on file and determined that of (b)(3) - 112 Public Law 55 125 Stat 552 qualified as law enforcement certification letters (see Exhibit #11). The non-qualifying letters either did not indicate the firearms were being purchased for duty use, did not contain the Lautenberg statement and/or were signed by the officer obtaining the firearm (see Exhibit #10). In at least (b)(3) instances letters contained lists of officer names instead of each officer providing a letter for their own purchase. Additional verbiage on many of the non-qualifying letters seemed to indicate that the individuals were purchasing the firearms for personal use under special law enforcement pricing. Investigator (b)(6) inquired about the letters, and Mr. Rush stated that he was told by agency representatives that the officers in question were using their "uniform allowances" to purchase the firearms for duty use. He stated that the firearms were not purchased by the law enforcement agencies but were purchased by individual officers using personal credit cards. He further stated that the firearms were not shipped to the individual officers but to the attention of the chiefs of police at the respective employing agencies. Investigator (b)(6) directed Mr. Rush to the regulations contained at 27 CFR 478.134 and reiterated the requirements for accepting a law enforcement certification letter for transfer of a firearm. She also stated that if a law enforcement agency purchases firearms with department funds (as was done by the Shively Police Department), the agency is free to distribute the firearms to individual officers without providing NetBallistics with a letter for each officer. Mr. Rush stated that he was unaware of the requirements and immediately created a template that he stated the business will furnish to law enforcement agencies for preparing departmental letterhead to use when their officers purchase duty use firearms from NetBallistics (see Exhibit #12).

Investigator (b)(6) compared the FFL Audit Report to NICS Transaction Numbers recorded on ATF Forms 4473 (see Exhibit #13). A total of 9 NTN's were reviewed with no discrepancies.

(b)(3) - 112 instances, licensee accepted a state firearms permit that did not meet the requirements as an exception to the NICS check (see Exhibit #14). Purchasers (b)(3) - 112 Public Law 55 125 Stat 552, (b)(6) Indiana residents, presented Indiana driver's licenses and State of Indiana Licenses to Carry Handgun when purchasing long guns. Licensee did not conduct NICS checks and instead recorded the information from the Indiana License to Carry Handgun in item #23, which reads "no NICS check was

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required because the buyer has a valid permit from the state where the transfer is to take place which qualifies as an exception to NICS.” Neither purchaser is a prohibited person.

(b)(3) - 112 instance, licensee failed to conduct a NICS check when a trust representative was acquiring an NFA firearm on behalf of the trust (Exhibit #15). (b)(3) - 26 USC 6103 (b)(3) - 112 Public Law 55 125 Stat 552, (b)(3) - 26 USC 6103, (b)(6)

Because the transaction involved an NFA trust with paperwork submitted prior to 7/13/2016, licensee was still required to conduct a NICS check for this transaction. In addition, a firearms permit cannot substitute for a NICS check when the transaction involves NFA firearms. (b)(6) is not a prohibited person.

On 5/23/2017, Investigator (b)(6) provided photocopies of each ATF Form 4473 for items the licensee was able to correct, instructing licensee to correct the photocopies, initial and date the corrections, and attach the photocopies to the respective Forms 4473. Investigator (b)(6) verified corrections on 5/30/2017.

Details of the violations (27 CFR 478.102(a), 27 CFR 478.99(a), 27 CFR 478.124(a), 27 CFR 478.124(c)(1), 27 CFR 478.21(a), 27 CFR 478.124(c)(4) and 27 CFR 478.124(c)(5), 27 CFR 478.134(a)) can be found in the Violations section of this report. ATF Form 5030.5, Report of Violations, Worksheet #2 and Exhibits #8 through #15 also contain information and supporting documentation for these violations.

6 - Multiple Sales

A request for a Firearms Trace History for this licensee disclosed (b)(3) - multiple handgun sales for the inspection period (see Exhibit #16). All multiple sales were reviewed, and it was discovered that (b)(3) - 112 form was not timely filed. Mr. Rush was reminded that multiple handgun sales must be reported by close of the business day in which the multiple sale occurs. Licensee was not cited.

Multiple sale (b)(3) - 112 Public Law 55 125 Stat 552 contained an incorrect serial number in the multiple sale database. The original ATF Form 3310.4 contained the correct information as did the ATF Form 4473. Investigator (b)(6) forwarded the documentation to the NTC via email, requesting correction to the database (see Exhibit #18).

Investigator (b)(6) determined during review of ATF Forms 3310.4 that licensee was not recording required information into items #14a (law enforcement agency), #14b

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(date form was forwarded to the law enforcement agency), #16 (name of the employee completing the form) and #17 (date the form was completed) (see Exhibit #19). Mr. Rush was advised to complete all required fields prior to forwarding the forms to ATF and the local law enforcement agency.

Investigator (b)(6) also discovered that licensee was forwarding the local copy of ATF Form 3310.4 to the Louisville Metropolitan Police Department instead of the Oldham County Police Department. Mr. Rush stated that this was because the fax number had never been changed on the fax machine when the business moved from Louisville to Crestwood. Investigator (b)(6) advised Mr. Rush to forward future ATF Forms 3310.4 to the Oldham County Police Department.

7 - Suspicious/Prohibited Purchasers

No suspicious or prohibited purchasers were disclosed.

8 - Trace Activity

No traces were reported for the inspection period.

9 - NFA/Importer/Collector/Manufacturer

Licensee pays Special Occupational Tax as a Class III dealer. A total of 51 NFA items were located in inventory. A total (b)(3)-(5) NFA firearms were contained on the NFRTR Weapons History (see Exhibit #20). Licensee maintains a separate book for NFA firearms. The book contained (b)(3)-(5) open entries.

It was determined that five silencers were not on the premises but were removed from the premises for personal use by Mr. Huneke (see Exhibit #21). Licensee was provided page 74 from the NFA Handbook and reminded that NFA firearms registered to NetBallistics are not to be removed from the premises for personal use, only for business use. She further reiterated that the license is held by the LLC and not by Mr. Huneke, so removal of NFA firearms from the business premises for personal use is considered a "transfer." She also stated that if Mr. Huneke wished to continually remove the NFA firearms for personal use he should purchase them from the business using proper transfer procedures. Mr. Rush stated that he understood the requirement.

Registration forms for the NFA weapons on premises were maintained in chronological order in a large binder. Registration forms for NFA firearms no longer registered to the business are also kept in the same binder, as are copies of registration forms still in process by the NFA Branch.

Licensee does not conduct manufacturing, collecting or importing operations at the present time.

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10 - Referrals

No referrals generated during this inspection.

11 - Other

At the start of the inspection, Mr. Rush stated that he had attended the July 2016 firearms seminar presented by Louisville II. Many of the discrepancies discovered during this inspection involved topics covered during the firearms seminar.

Mr. Rush and (b)(6) inquired about recordkeeping requirements for the Type 08 firearms license. They both stated that the company intends to begin importing firearms within the next year. Investigator (b)(6) directed them to ATF Ruling 2011-1 regarding consolidated records for importers. She also explained the marking requirements and recording requirements for importers.

Mr. Rush stated that the business wishes to continue maintaining all of its licenses. The company is currently pursuing government contracts and would like to consolidate such business under the Type 10 and Type 11 licenses. The Type 01 and Type 08 licenses would be strictly for conducting transactions with civilian companies.

12 - Closing Actions

On 7/25/2017, Investigator (b)(6) conducted a closing conference in conjunction with the closing conference for ATF license numbers (b)(3) - 26 USC 6103 66, 4-61-06047 and 4-61-04713. Investigator (b)(6) Mr. Rush, (b)(6) and Mr. Penta were in attendance. The Report of Violations was thoroughly reviewed. Mr. Rush signed the form and was provided a copy for the business' records. The Acknowledgement of Federal Firearms Regulations (see Exhibit #23) was reviewed and included a thorough review of proper recordkeeping procedures and conduct of business requirements for firearms dealers, with particular emphasis placed on law enforcement certification letters, NICS requirements (including which permits qualify as an exception to NICS), proper preparation of the A&D Record Book and proper preparation of the ATF Form 4473. Mr. Rush signed the form and was provided a copy for the business' records. Investigator (b)(6) provided applicable ATF forms and publications on CD (see Exhibit #24)

13 - Violations

1. 27 CFR 478.99(a)

Nature of violation: Licensee transferred a firearm other than a rifle or shotgun to an individual who the licensee had reasonable cause to believe was not a resident of Kentucky.

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- [REDACTED] instances, licensee transferred a firearm other than a rifle or shotgun to a non-licensee who was not a Kentucky resident. The recipients were law enforcement officers who provided non-qualifying law enforcement certification letters for purchasing firearms.

Licensee Response: Mr. Rush stated that he was unaware that the letters provided by the law enforcement officers did not qualify as an exception to the NICS requirements.

Corrective Action: In the future, licensee will ensure that firearms other than rifles or shotguns are transferred only to residents of Kentucky. If a law enforcement officer intends to purchase the firearm for duty use, licensee will ensure that only qualifying law enforcement certification letters are accepted. If a law enforcement officer who is not a resident of Kentucky wishes to purchase for personal use a firearm other than a rifle or shotgun, licensee will ensure the firearm is shipped to a licensee in the individual's state of residence.

Worksheets and Exhibits: Worksheet #2 and Exhibit #10

2. 27 CFR 478.102(a)

Nature of violation: Failure to conduct a NICS check prior to the transfer of a firearm.

- [REDACTED], licensee transferred a rifle to an individual who was not a Kentucky resident without requiring the individual to appear in person at the business premises to complete a NICS check. The recipients were law enforcement officers who provided documentation that did not qualify as a law enforcement certification letter.
- [REDACTED] instances, licensee accepted a non-qualifying permit in lieu of a NICS check. The purchasers were residents of Indiana.
- [REDACTED] instance, licensee failed to conduct a NICS check when a trust representative was acquiring an NFA firearm on behalf of the trust.

Licensee Response: Mr. Rush stated that he was unaware that the letters provided by the law enforcement officers did not qualify as an exception to the NICS requirements. He also stated that he was unaware that out-of-state permits do not qualify as an exception to the NICS requirements and could not provide an explanation as to why the NICS check was not conducted for the acquisition of an NFA firearm on behalf of a trust.

Corrective Action: In the future, licensee will ensure that a NICS check is conducted prior to transfers of firearms to non-licensees.

Worksheets and Exhibits: Worksheet #2 and Exhibits #10, 14 and 15

3 27 CFR 478.96(c)(1)

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Nature of violation: [REDACTED] instances, licensee transferred a rifle to an individual who was not a Kentucky resident without requiring the purchaser appear in person at the business premises. The recipients were out-of-state law enforcement officers who provided documentation that did not qualify as law enforcement certification letters.

Licensee Response: Mr. Rush stated that he was unaware that the letters provided by the law enforcement officers did not qualify as an exception to the NICS requirements.

Corrective Action: In the future, licensee will ensure that transfers of rifles or shotguns to individuals who are not Kentucky residents take place in person at the licensed business premises. In the event that the non-licensee cannot appear in person at the business premises, the firearm will be shipped to a Federal firearm licensee in the individual's state of residence for delivery.

Worksheets and Exhibits: Worksheet #2 and Exhibit #10

4. **27 CFR 478.124(a)**

Nature of violation: [REDACTED] instances when transferring a rifle or shotgun to a resident of another state, licensee did not require the purchaser to appear in person at the business premises to complete ATF Form 4473. The recipients were out-of-state law enforcement officers who provided documentation that did not qualify as a law enforcement certification letter.

Licensee Response: Mr. Rush stated that he was unaware that the letters provided by the law enforcement officers did not qualify as an exception to the NICS requirements.

Corrective action: In the future, licensee will ensure that transfers of rifles or shotguns to individuals who are not Kentucky residents take place in person at the licensed business premises and require preparation of ATF Form 4473. In the event that the non-licensee cannot appear in person at the business premises to complete ATF Form 4473, the firearm will be shipped to a Federal firearm licensee in the individual's state of residence for delivery.

Worksheets and Exhibits: Worksheet #2 and Exhibit #10

5. **27 CFR 478.134(a)**

Nature of violation: [REDACTED] instances, licensee transferred firearms to law enforcement officers who provided documents that did not qualify as law enforcement certification letters.

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Licensee response: Mr. Rush stated that he was unaware the letters provided by the law enforcement officers did not qualify as an exception to the NICS requirements.

Corrective action: Licensee has created a template containing all required information that the company will furnish to law enforcement officers who wish to purchase firearms for duty use.

Worksheets and exhibits: Exhibit #10

6. **27 CFR 478.125(e)**

Nature of violation: Failure to ensure complete and accurate entries to the A&D Record Book

- [REDACTED] stance, the acquisition of a firearm was not recorded.
- [REDACTED] stances, the disposition of a firearm was not recorded (dispositions were reconciled).
- [REDACTED] stance, the firearm manufacturer was not recorded.
- [REDACTED] instances, the type of firearm was not recorded.
- [REDACTED] stances, the type of firearm was incorrect.
- [REDACTED] stances, the address or FFL number of the supplier was not recorded.
- [REDACTED] instances, the acquisition date was incorrect. Approximately [REDACTED] of these discrepancies occurred when entries were transferred from the manual A&D Book to the electronic recordkeeping system.
- [REDACTED] instances, the supplier name and FFL number were incorrect. Approximately [REDACTED] of these discrepancies occurred when entries were transferred from the manual A&D Book to the electronic recordkeeping system.
- [REDACTED] stance, the disposition date was incorrect.
- [REDACTED] stances, the transferee's name was incorrect.
- [REDACTED] instances, the transferee's address was incorrect.
- [REDACTED] stances, the FFL number of the transferee was not recorded.
- [REDACTED] stances, the address or FFL number of the transferee was not recorded.

Licensee Response: Licensee attributed the discrepancies to misunderstanding of the ATF ruling pertaining to electronic recordkeeping.

Corrective Action: Licensee has made corrections to the A&D Record Book. Licensee will ensure all future A&D Record Book entries are made timely, accurately and correctly.

Worksheets and exhibits: Worksheet #1 and Exhibits #2 through 7, Exhibit #17, Exhibit #22 and Exhibit #25.

7. **27 CFR 478.21(a)**

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Nature of violation: Licensee failed to obtain a complete and accurate ATF Form 4473.

2012 Edition

- [REDACTED] instance, the recertification signature was not recorded in item #24.
- [REDACTED] instance, the recertification date was not recorded in item #25.
- [REDACTED] instances, the number of firearms transferred was not recorded in item #30a.

Licensee Response: Licensee attributed the discrepancies to inattention.

Corrective Action: In the future, licensee will ensure that all ATF Forms 4473 are fully and accurately completed. Licensee will be more diligent in reviewing ATF Forms 4473 for accuracy prior to transfer of the firearm, with all necessary corrections initialed and dated.

Worksheets and exhibits: Worksheet #2 and Exhibit #8

8. **27 CFR 478.124(c)(1)**

Nature of violation: Failure to ensure purchasers properly completed Section A of ATF Form 4473.

2012 Edition

- [REDACTED] instance, the middle name was not recorded in item #1.
- [REDACTED] instance, the date was incorrect in item #17.

Licensee Response: Licensee attributed the discrepancies to inattention.

Corrective action: In the future, licensee will ensure that all ATF Forms 4473 are reviewed for completeness and accuracy prior to transfer of the firearm. Any corrections will be initialed and dated, with only the purchaser providing corrections to items in Section A.

Worksheets and exhibits: Worksheet #2 and Exhibit #8

9. **27 CFR 478.124(c)(4)**

Nature of violation: Licensee failed to properly complete Section D of ATF Form 4473.

2012 Edition

- [REDACTED] stances, the type of firearm was not recorded in item #29.
- [REDACTED] stances, the caliber was not recorded in item #30.

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Licensee response: Licensee attributed the discrepancies to inattention.

Corrective action: Licensee will correct photocopies of the applicable forms, initialing and dating all corrections. Licensee will attach the corrected photocopies to the applicable ATF Forms 4473. In the future, licensee will ensure that all firearm information is recorded on ATF Form 4473 is complete and accurate.

Worksheets and exhibits: Worksheet #2 and Exhibit #8.



Expired certificate

X (b)(6)

Industry Operations Investigator
Signed by: ATF

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