

Assignment and Report

1. OPERATING NAME AND ADDRESS (INCLUDE ZIP CODE AND COUNTY) Masten Corner Gun Shop, Inc. 2207 Hopkins Cemetery Road Felton, DE 19943, Kent	2. U.I. NUMBER (ORG. SEG. CODE, ASSIGNMENT NO., P.P.C.) 761025-2018-0181-B1B			
	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 33%;">3. PERMIT/LICENSE NUMBER 851001018J33233</td> <td style="width: 33%;">4a. TARGET DATE 9/27/2018</td> <td style="width: 33%;">4b. TARGET HOURS</td> </tr> </table>	3. PERMIT/LICENSE NUMBER 851001018J33233	4a. TARGET DATE 9/27/2018	4b. TARGET HOURS
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	5. REQUESTED BY (SIGNATURE, TITLE AND DATE)			

6. ATF OFFICER(S) ASSIGNED

(b)(6) - Assigned Investigator
 (b)(6) Lead Investigator

7. ASSIGNED BY (SIGNATURE, TITLE AND DATE)

(b)(6) Area Supervisor, 11/08/2017

8. PURPOSE/SPECIAL INSTRUCTIONS

Conduct a firearms complinace inspection. Obtain EIN as it is not listed in FLS. FFL has not been seen in eight years.

9. INSPECTION RESULTS			<input type="checkbox"/> CHECK IF NO VIOLATIONS, ADJUSTMENTS, ETC	10. TRAVEL EXPENSES (OPTIONAL)	
NO. OF VIOLATIONS	1	NO. OF REFERRALS		2111 - PER DIEM	
NO. OF TECS CHECKS	22	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) - Investigator

Submitted on: 05/10/2018

Viols WL ONLY and No Recall Inspection

12. TIME ACCOUNTING DATA			
ATF OFFICER'S NAME (MONTH, YEAR, HOURS)	(b)(6)		
MAY 2018	15.50	ATF OFFICER'S SIGNATURE	
ATF OFFICER'S SUBTOTAL	15.50		
ATF OFFICER'S NAME (MONTH, YEAR, HOURS)	(b)(6)		
MAY 2018	25.50	ATF OFFICER'S SIGNATURE	
ATF OFFICER'S SUBTOTAL	25.50		
TOTAL HOURS	41.00		

13. REVIEW AND ROUTING

REVIEW COMMENTS AND RECOMMENDATION

Viols WL ONLY and No Recall Inspection

<input checked="" type="checkbox"/> REVIEWED	<input checked="" type="checkbox"/> CONCUR	<input type="checkbox"/> SEE COMMENTS	<input checked="" type="checkbox"/> FINAL DISPOSITION
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SIGNATURE AND TITLE (b)(6) - Industry Operations Investigator /Acting A/S	REVIEW DATE 05/14/2018
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Assignment and Report

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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	Street Address	City	State	ZIP Code	County	Page <u>1</u> of <u>1</u> Pages
Masten Corner Gun Shop Inc.	2207 Hopkin Cemetery Rd.	Felton	DE	19943	Sussex Kent	
License/Permit/Registry Number (if any)		Expiration Date	Date(s) or Period of Inspection			
8-51-001-01-8J-33233		9/1/2018	5/4/2017 through 5/4/2018			

Inspection Results

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

Number	USC or CFR Citation	Nature of Violation	Corrective Action to be Taken <i>(If not corrected immediately)</i>	Date Corrections to be Made <i>(If not corrected immediately)</i>
1	27 CFR 478.125(e)	<p>On (b)(3) - 112 Public Law 55 125 Stat 552 occasions, the licensee failed to properly and accurately maintain an Acquisition and Disposition (A&D) record book. The following instances were documented:</p> <p>(b)(3) - 112 Public Law 55 125 Stat 552 instance, the licensee failed to timely record the disposition of a firearm. Specifically, the licensee failed to record the disposition of a firearm previously transferred to an auction house. The following firearm was identified:</p> <p>(b)(3) - 112 Public Law 55 125 Stat 552</p> <p>(b)(3) - 112 Public Law 55 125 Stat 552 instances, the licensee was unable to account for the disposition of firearms (open entry in A&D record book, no firearm located in inventory). The following firearms were identified:</p> <p>(b)(3) - 112 Public Law 55 125 Stat 552</p>	<p>For the firearm with the known disposition (#485), the licensee recorded the disposition of the firearm after IOI (b)(6) verified the licensee's additional business records confirmed the transfer and transfer date. IOI (b)(6) verified the disposition had been recorded on May 9, 2018.</p> <p>For the two firearms with an unknown disposition (#s , IOIs (b)(6) assisted the licensee in reporting the firearms as missing on an ATF Form 5300.11, Federal Firearms Licensee Inventory Theft/Loss Report. IOI (b)(6) forwarded the Theft/Loss report to the Stolen Firearms Program Manager on May 9, 2018. The licensee recorded the firearms as reported missing in the A&D record book, as provided in the instructions, under the assigned ATF incident number.</p>	New protocols will be implemented immediately

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

Date
05/09/2018

Signature and Title of ATF

(b)(6)

Date
05/09/2018

FIREARMS INSPECTION REPORT

Name: Masten Corner Gun Shop, Inc.
Trade Name:

UI#: 761025-2018-0181-B1B
FFL#: 8-51-001-01-8J-33233

Address: 2207 Hopkins Cemetery Road, Felton, DE 19943 (Kent County)
P.O. Box 365, Felton, DE 19943 (Mailing Address)

1 - Introduction

Inspection Profile:

On May 3, 2018, ATF Industry Operations Investigator (IOI) (b)(6) and ATF Senior Industry Operations Investigator (b)(6) initiated an unannounced Federal Firearms License (FFL) compliance inspection at the licensed premises of Masten Corner Gun Shop, Inc. Masten Corner Gun Shop, Inc. is managed and operated by Mr. Donald McHugh, President. The licensee currently possesses an ATF Type-01, Dealer in Firearms Other Than Destructive Devices (FFL# 8-51-33233).

The inspection period was May 3, 2017 through May 3, 2018. IOIs interviewed Mr. Donald McHugh and his son, Mr. Donald McHugh II, Record-keeper during the course of the inspection. Both individuals presented a valid Delaware Driver's License for identification purposes. The on-site inspection concluded on May 9, 2018.

Business Profile:

Masten Corner Gun Shop, Inc. operates a 100% retail firearms business from the residence of Mr. Donald McHugh, President located in an agriculturally zoned, rural area of Felton, Delaware. His son, Mr. Donald McHugh II also resides at the residence. The residence is situated at the end of a dirt/gravel private driveway. (b)(6)

When Masten Corner Gun Shop, Inc. was engaged in the business, the licensee would primarily sell curios and relics to other FFLs. Over the counter transfers to members of the public would be limited. On occasion, the licensee would conduct private-party transfers and transfers to friends and family. Masten Corner Gun Shop, Inc. anticipates selling some of its inventory within the next few months at gun shows. Mr. Donald McHugh II, son of Mr. Donald McHugh, plans to become more engaged in the business. IOIs (b)(6) and (b)(6) informed Mr. Donald McHugh II that he should be added as a responsible person and file with the Delaware Division of Corporations to become a corporate officer. IOIs informed Mr. Donald McHugh that since he

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has not disposed of any firearms since September 7, 2013, he is not engaged in the business of selling firearms. It was recommended that he surrender the license and apply for a Type-03 FFL since all of his firearms in inventory were considered curios and relics. Mr. Donald McHugh declined to relinquish the license and informed IOIs that he will commence the selling of the firearms in order to lower his business inventory.

The licensee does not operate a website, offer gunsmithing services or sell firearms online. All records and firearms are stored onsite; there are no offsite storage areas. Firearms for sale are stored in an office inside the residence. IOI (b)(6) queried the address on the Kent County Parcel Search website to confirm ownership of the property. Mr. Donald McHugh is listed as the property owner. No other businesses are conducted on the premises nor is the licensee associated with any other businesses.

The licensee has possessed a Type-01 FFL since August 30, 1991 and has no other ATF licenses. In addition to the Type-01 FFL, the licensee has the following state issued licenses: Delaware Deadly Weapons Dealers License and Delaware Retailer-Variety Products. The licensee was found to be in compliance with all state, local and zoning laws. **Reference Exhibit #1.**

During the inspection period, the licensee acquired (b)(4) firearms (b)(4) handguns (b)(4) long guns) and disposed of (b)(4) firearms (b)(4) handguns (b)(4) long guns). The licensee deals approximately (b)(4) used firearms. The licensee does not utilize a supplier of new firearms.

Ownership and Control:

Masten Corner Gun Shop, Inc. (File# 2187015) is a corporation managed and operated by Mr. Donald McHugh, President. IOI (b)(6) accessed the Delaware Division of Corporations online database and confirmed the business was in good standing. According to records, the corporation was formed in Delaware on February 9, 1989.

Masten Corner Gun Shop, Inc. plans to add Mr. Donald McHugh II, Record-keeper as a corporate officer and an additional responsible person (RP). Currently, Mr. Donald McHugh is listed as the sole responsible person and is properly listed in FLS. There have been no unreported changes in ownership or control since the license was issued on August 30, 1991. No hidden ownership is suspected.

On May 9, 2018, IOI (b)(6) noticed a typo on the licensee's FFL. IOI (b)(6) contacted ATF Legal Instruments Examiner (b)(6) at the Federal Firearms Licensing Center in order to request that the FFL address be amended

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Name: Masten Corner Gun Shop, Inc.
Trade Name:

UI#: 761025-2018-0181-B1B
FFL#: 8-51-001-01-8J-33233

to reflect the following: 2207 Hopkins Cemetery Rd., Felton, DE 19943. Currently, the FFL reflects 2207 Hopkin Cemetery Rd., Felton, DE 19943. Mr. Donald McHugh was unaware that the "s" was omitted from FFL. On the same day, (b)(6) confirmed the change in FLS and shipped a corrected FFL to the licensee.

Variance:

No variances on file and none requested.

2 - Recommendation

Viols WL ONLY and No Recall Inspection

3 - Inspection History

Date of Inspection: May 27, 2009
Type of Inspection: FFL Compliance Inspection
UI#: 761025-2009-0168-B1B
Inspection Results: No Viols No Further Action No Referrals
Cited Violations: No violations issued.

Date of Inspection: November 1, 2002
Type of Inspection: FFL Qualification
UI#: 761045-2002-0157-B1B
Inspection Results: Application Approved
Cited Violations: No violations issued.

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

Masten Corner Gun Shop, Inc. maintains its Acquisition & Disposition (A&D) records in handwritten bound-book form as per 27 CFR 478.125(e). IOI (b)(6) reviewed the licensee's A&D records and found them to be kept in the proper format; however, three discrepancies were found as described below.

IOI (b)(6) conducted a full inventory of firearms; no firearms with obliterated serial numbers, nor illegal firearms were found. There were no indicators of firearms trafficking found. During the previous 12 months, no thefts or losses were reported to ATF. At the time of inspection, the licensee had 306 firearms in inventory. The A&D record contained (b)(6) open entries. A total of (b)(6) inventory discrepancies were documented. IOIs discovered on (b)(6) occasion, the licensee failed to record the disposition of a firearm transferred to another FFL. On (b)(6) occasions, the licensee failed to reconcile two firearms missing from inventory. IOIs cited the licensee in

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violation of 27 CFR 478.125(e). **Reference Worksheet #1 and Violation #1.**

Furthermore, IOI (b)(6) assisted Mr. Donald McHugh with completing an ATF Theft/Loss Report (ATF (b)(6) - 112 Public Law 55 125 Stat 552).

IOI (b)(6) completed (b)(3) - 112 Public Law 55 from acquisition to disposition in order to correct a failed disposition. The firearm was identified as the following:

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

IOI (b)(6) verified the licensee's additional business records confirmed the transfer and transfer date. Since the licensee did not have any ATF Forms 4473 on file during the inspection period, IOIs did not complete any additional acquisition to disposition traces.

The licensee's standard operating procedures relevant to the A&D record are as follows: Mr. Donald McHugh stated that his son, Mr. Donald McHugh II, assists him with all entries into the A&D record. Although the licensee has not acquired or disposed of any firearms for the last few years, Mr. Donald McHugh stated it was his previous practice to enter all acquisitions and dispositions into the A&D record on the day the transaction occurred. Mr. Donald McHugh confirmed that he opens the box to verify the serial number on the firearm before recording it into the A&D record. After the acquisition of the firearm is complete, Mr. Donald McHugh stores it in his office. IOI (b)(6) recommended that the licensee complete yearly inventories of firearms to ensure that all firearms are accounted for.

Since Mr. Donald McHugh operates under a corporation, IOI (b)(6) ensured that he was aware an ATF Form 4473 and background check was required if he purchased firearms from Masten Corner Gun Shop, Inc. Mr. Donald McHugh stated he will ensure that all personal firearms were tagged.

5 - ATF Forms 4473 – NICS & Other Dispositions

The licensee had zero ATF Forms 4473 on file for the inspection period. Mr. Donald McHugh stated that he previously filed the ATF Forms 4473 by transaction serial number and will continue this practice. IOIs did not review any ATF Forms 4473 because there were none on file. IOIs informed the licensee that if a purchaser was denied by NICS, that particular ATF Form 4473 must be filed separately from any proceeded transactions.

An FFL Audit Report for firearm transactions was requested through the FBI NICS Section. IOI (b)(6) verified that there were zero background checks requested during the previous 60 days.

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FFL#: 8-51-001-01-8J-33233

During the inspection period, the licensee completed zero FFL to FFL transfers. Mr. Donald McHugh was aware of the requirement to request a copy of the receiving FFL's license prior to shipping a firearm. (b)(6) encouraged the licensee to utilize the ATF FFL EZ Check system before transferring any firearms to another licensee to verify the validity of the license. The licensee did not conduct any firearms transfers to law enforcement officers and/or agencies; however, IOI Berich educated Mr. Donald McHugh on the requirements as per 27 CFR 478.134.

IOI (b)(6) reviewed the licensee's standard operating procedures relevant to the ATF Form 4473 completion and other dispositions with the licensee. Mr. Donald McHugh stated that his son, Mr. Donald McHugh II will assist him with the completion of ATF Forms 4473 in the future. IOI (b)(6) recommended a secondary review process in order to prevent form errors. The licensee plans to conduct NICS checks via telephone.

6 - Multiple Sales

As per the Violent Crime Analysis Branch (VCAB) Master Query, the licensee was associated with zero multiple sales transactions during the inspection period. A review of the licensee's required records, disclosed no unreported multiple sales.

7 - Suspicious/Prohibited Purchasers

IOI (b)(6) did not identify any possible traffickers, straw purchasers or other suspicious purchasers. The licensee had zero dispositions during the inspection period.

Furthermore, IOI (b)(6) conducted two criminal history queries in OpenFox to include Mr. Donald McHugh (RP) and his son, Mr. Donald McHugh II. Both queries resulted in negative criminal histories.

8 - Trace Activity

Per the Violent Crime Analysis Branch, the licensee was associated with zero traces during the inspection period; there were no unsuccessful traces. No further investigation was warranted.

In addition, IOI (b)(6) selected 20 used firearm in inventory and queried NCIC to determine if they had been reported stolen. The query yielded negative results. During the inspection period, the licensee acquired and disposed of zero used firearms. The licensee stated he intends to sell only used firearms.

9 - NFA/Importer/Collector/Manufacturer

The licensee is not an SOT taxpayer therefore no NFA activity reported. The licensee is

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UI#: 761025-2018-0181-B1B
FFL#: 8-51-001-01-8J-33233

not an importer, collector or manufacturer.

10 - Referrals

No referrals were generated as a result of the inspection.

11 - Other

IOI (b)(6) emailed Mr. Donald McHugh II instructions on how to enroll to receive ATF Industry Newsletters. During the inspection, IOI (b)(6) verified the licensee had secure gun storage/safety devices available for customers. Mr. Donald McHugh was also found to be compliant with the Youth Handgun Safety Act poster and brochures. IOI (b)(6) assisted the licensee with ordering ATF Forms 4473, Report of Multiple Sales of Pistols and Revolvers, Youth Handgun Safety Act brochures, etc.

12 - Closing Actions

On May 9, 2018, IOI (b)(6) held a closing conference with Mr. Donald McHugh, President and Mr. Donald McHugh II, Record-keeper. IOI (b)(6) issued a Report of Violations (ROV) and reviewed the Acknowledgement of Federal Firearms Regulations with the licensee. **Reference ROV.** Both the ROV and the Acknowledgement of Federal Firearms Regulations were signed electronically by Mr. Donald McHugh and copies were provided to him for the licensee's records. **Reference Exhibit #3.** All materials referenced during the review were provided to the licensee, along with a list of ATF phone numbers and instructions on how to access the 2014 Federal Firearms Regulations Reference Guide electronically. Mr. Donald McHugh stated he did not attend the recent ATF seminar in order to discuss the new ATF Form 4473 (2016 version) because he never received an invitation.

IOIs explained the importance of being engaged in the business of selling firearms. Although Mr. Donald McHugh declined to surrender the Type-01 FFL, he plans to sell a portion of his business inventory within the next few months. IOI (b)(6) provided Mr. Donald McHugh with an ATF Form 7, Application for a Federal Firearms License, in case he opts to apply for a Type-03 FFL to collect curios and relics.

On May 10, 2018, IOI (b)(6) accessed the e-Trace database in order to retrieve the ATF Incident Number (b)(6). (b)(6) contacted Mr. Donald McHugh and instructed him to enter the number into the A&D record for the two firearms that could not be reconciled.

13 - Violations

1. **27 CFR 478.125(e)**

FIREARMS INSPECTION REPORT

Name: Masten Corner Gun Shop, Inc.
Trade Name:

UI#: 761025-2018-0181-B1B
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Nature of violation:

On (b)(3) - 112 occasions, the licensee failed to properly and accurately maintain an Acquisition and Disposition (A&D) record book. The following instances were documented:

- In (b)(3) - 112 instance, the licensee failed to timely record the disposition of a firearm. Specifically, the licensee failed to record the disposition of a firearm previously transferred to an auction house. The following firearm was identified:

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

- In (b)(3) - 112 instances, the licensee was unable to account for the disposition of firearms (open entry in A&D record book, no firearm located in inventory). The following firearms were identified:

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

Licensee's response:

Mr. Donald McHugh stated the firearm missing a disposition was part of a collection sent to a Pennsylvania FFL for auction. He further stated he must have forgotten to log out the firearm. In regards to the missing firearms from inventory, Mr. Donald McHugh believes they have been misplaced inside the home. He further believes the firearms will turn up and will notify ATF upon discovery.

Corrective action:

For the firearm with the known disposition (b)(3) - 112 Public Law 55 125 licensee recorded the disposition of the firearm after IOI (b)(6) verified the licensee's additional business records confirmed the transfer and transfer date. IOI (b)(6) verified the disposition had been recorded on May 9, 2018.

For the (b)(3) - 112 firearms with an unknown disposition (#s , IOI's (b)(6) and (b)(6) assisted the licensee in reporting the firearms as missing on an ATF Form 5300.11, Federal Firearms Licensee Inventory Theft/Loss Report. IOI (b)(6) forwarded the Theft/Loss report to the Stolen Firearms Program Manager on May 9, 2018. The licensee recorded the firearms as reported missing in the A&D record book, as provided in the instructions, under the assigned ATF incident number.

Reference Worksheet #1

FIREARMS INSPECTION REPORT

Name: Masten Corner Gun Shop, Inc.
Trade Name:

UI#: 761025-2018-0181-B1B
FFL#: 8-51-001-01-8J-33233

X

Industry Operations Investigator

Index of Worksheets and Exhibits

- **Exhibit #1:** Delaware Deadly Weapon Dealer's License, Delaware Retailer-Variou Products License
- **Exhibit #2:** ATF Theft/Loss Report, ATF Incident Number: (b)(3) - 112 Public Law 55 125 Stat 692
- **Exhibit #3:** Acknowledgement of Federal Firearms Regulations



U.S. Department of Justice

Bureau of Alcohol, Tobacco,
Firearms and Explosives
31 Hopkins Plaza, 5th Floor
Baltimore, Maryland 21201

May 16, 2018

www.atf.gov

761025 (b)(6)
5370

WARNING LETTER

Masten Corner Gun Shop, Inc.
Attention: Mr. Donald McHugh
P.O. Box 365
Felton, Delaware 19943

Re: Federal Firearms License Number: 8-51-001-01-8J-33233

Dear Mr. McHugh:

As a result of a recent compliance inspection conducted by the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) at your firearms business located at 2207 Hopkins Cemetery Road, Felton Delaware 19943, from May 3, 2018 through May 9, 2018, you were cited for violations of 27 Code of Federal Regulations, Part 478. The violations were discussed with you during the inspection. A copy of the Report of Violations, ATF Form 5030.5, issued at the time of the inspection is enclosed.

All violations were fully explained to you by ATF Industry Operations Investigator (b)(6) (b)(6) You indicated that you understood the requirements of the firearms laws and regulations as a licensee. 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 efforts 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. 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.

You are reminded that retention of your Federal firearms license is conditional upon compliance with Federal laws and regulations. Because the violations cited in this most recent inspection were fully explained to you and you stated you understood your compliance responsibilities as a

Masten Corner Gun Shop, Inc.

Federal Firearms License Number: 8-51-001-01-8J-33233

licensee, 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 Industry Operations Investigator (b)(6).

Sincerely

(b)(6)

Area Supervisor
Baltimore Area Office

cc: Federal Firearms Licensing Center
Baltimore Area Office

Attachment