

## Assignment and Report

1. OPERATING NAME AND ADDRESS (INCLUDE ZIP CODE AND COUNTY) JAMES 410 LLC (b)(6)/(b)(7)(C) TUCSON, AZ 85749, PIMA	2. U.I. NUMBER (ORG. SEG. CODE, ASSIGNMENT NO., P.P.C.) 785090-2016-0215-B1B
	3. PERMIT/LICENSE NUMBER 986019018E08161
	4a. TARGET DATE 9/27/2016
	4b. TARGET HOURS
5. REQUESTED BY (SIGNATURE, TITLE AND DATE)	

6. ATF OFFICER(S) ASSIGNED  
 (b)(6)/(b)(7)(C) Lead Investigator

7. ASSIGNED BY (SIGNATURE, TITLE AND DATE)  
 (b)(6)/(b)(7)(C) Area Supervisor, 07/19/2016

8. PURPOSE/SPECIAL INSTRUCTIONS  
 NEVER INSPECTED INITIATIVE.

9. INSPECTION RESULTS		<input type="checkbox"/> CHECK IF NO VIOLATIONS, ADJUSTMENTS, ETC		10. TRAVEL EXPENSES (OPTIONAL)	
NO. OF VIOLATIONS	14	NO. OF REFERRALS	1	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)/(b)(7)(C) Industry Operations Investigator  
 Submitted on: 10/11/2016  
  
 Viols WC with WL and Recall

12. TIME ACCOUNTING DATA		
ATF OFFICER'S NAME (MONTH, YEAR, HOURS)	(b)(6)/(b)(7)(C)	
JUL 2016	20.00	
AUG 2016	38.50	
SEP 2016	6.00	
OCT 2016	6.00	
NOV 2016	3.00	
ATF OFFICER'S SUBTOTAL	73.50	ATF OFFICER'S SIGNATURE
TOTAL HOURS	73.50	

**13. REVIEW AND ROUTING**

REVIEW COMMENTS AND RECOMMENDATION  
 Viols WC with WL and Recall

REVIEWED     
  CONCUR     
  SEE COMMENTS     
  FINAL DISPOSITION

SIGNATURE AND TITLE (b)(6)/(b)(7)(C) - Area Supervisor	REVIEW DATE 09/26/2016
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# Assignment and Report

1. OPERATING NAME AND ADDRESS (INCLUDE ZIP CODE AND COUNTY) JAMES 410 LLC (b)(6)/(b)(7)(C) TUCSON,AZ 85749, PIMA	2. U.I. NUMBER (ORG. SEG. CODE, ASSIGNMENT NO., P.P.C.) 785090-2016-0215-B1B		
	3. PERMIT/LICENSE NUMBER 986019018E08161	4a. TARGET DATE 9/27/2016	4b. TARGET HOURS
	5. REQUESTED BY (SIGNATURE, TITLE AND DATE)		

### 13. REVIEW AND ROUTING

#### REVIEW COMMENTS AND RECOMMENDATION

I concur with the Investigator and Area Supervisor's recommendation of Warning Conference with Warning Letter and Recall inspection.

Viols WC with WL and Recall

REVIEWED       CONCUR       SEE COMMENTS       FINAL DISPOSITION

SIGNATURE AND TITLE MSMITCHEM - Director of Industry Operations	REVIEW DATE 10/20/2016
--------------------------------------------------------------------	---------------------------

#### 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 JAMES 410 LLC	Street Address <b>(b)(6)/(b)(7)(C)</b>	City TUCSON	State AZ	Zip Code 85749-	County PIMA	Page 1 of 7 Pages
License/Permit/Registry Number <i>(If any)</i> 986019018E08161	Expiration Date 5/1/2018	Date(s) or Period of Inspection 07/21/2015 through 07/21/2016				

### 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:**  
 Failure to record required acquisition and disposition information in an Acquisition and Disposition (A&D) Record in  instances. Specifically, failure to accurately or correctly record  acquisitions in the A&D Record. Failure to accurately or correctly record one disposition in the A&D Record.
- Date Corrections to be Made:**  
*(If not corrected immediately)*
- Corrective Action to be Taken:**  
*(If not corrected immediately)* The licensee was instructed to correct the information for the  acquisitions in the A&D Record. The licensee was instructed to record the disposition of one firearm in the A&D Record.
- The licensee was also advised that all information pertaining to the firearm when recorded into the Acquisition portion of the A&D Record must be obtained from the firearm itself, not from the invoice and/or box in which the firearm was packaged.
- Citation:** 27 CFR 478.125(e)
- 
- Number: 2**
- Nature of Violation:**  
 Failure to furnish or obtain all information as required by headings and instructions on  ATF Forms 4473
- Date Corrections to be Made:**  
*(If not corrected immediately)*
- Corrective Action to be Taken:**  
*(If not corrected immediately)* The licensee was advised that all information, as required by the headings of the ATF Form 4473, must be completed in its entirety and reviewed for accuracy prior to the transfer of any firearm.

## Report of Violations

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Name of Proprietor JAMES 410 LLC		Street Address (b)(6)/(b)(7)(C)	City TUCSON	State AZ	Zip Code 85749-	County PIMA	Page 2 of 7 Pages
License/Permit/Registry Number <i>(If any)</i> 986019018E08161		Expiration Date 5/1/2018		Date(s) or Period of Inspection 07/21/2015 through 07/21/2016			

### Inspection Results

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

Citation: 27 CFR 478.21(a)

Number: 3

**Nature of Violation:**

Failure to obtain and record all required transferee information on  ATF Forms 4473.

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

**Corrective Action to be Taken:**  
*(If not corrected immediately)* The licensee was advised that Section A of the ATF Form 4473 must be reviewed prior to the sale, delivery or transfer of any firearm to ensure that all information as required by the headings of the form is accurate and complete. The licensee was further advised that Section A of the ATF Form 4473 is to be completed by the actual buyer of the firearm.

Citation: 27 CFR 478.124(c)(1)

Number: 4

**Nature of Violation:**

Failure to verify and record proper transferee's identification documents on three ATF Forms 4473.

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

**Corrective Action to be Taken:**  
*(If not corrected immediately)* The licensee shall verify the identity of the transferee by examining the valid government issued document provided and shall accurately record that information in item 20a.

Citation: 27 CFR 478.124(c)(3)(i)

# Report of Violations

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Name of Proprietor JAMES 410 LLC	Street Address (b)(6)/(b)(7)(C)	City TUCSON	State AZ	Zip Code 85749-	County PIMA	Page 3 of 7 Pages
License/Permit/Registry Number (if any) 986019018E08161	Expiration Date 5/1/2018	Date(s) or Period of Inspection 07/21/2015 through 07/21/2016				

### 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:

Failure to record all required NICS transaction information on  ATF Forms 4473.

Citation: 27 CFR 478.124(c)(3)(iv)

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

Corrective Action to be Taken: The licensee was advised that when contacting NICS, all information transmitted and/or received will be recorded accurately and completely in items 21a-21c in Section B of the ATF Form 4473 prior to the transfer of the firearm.  
(If not corrected immediately)

Number: 6

Nature of Violation:

Failure to record all required firearm identification information on  ATF Forms 4473.

Citation: 27 CFR 478.124(c)(4)

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

Corrective Action to be Taken: The licensee was advised that as required by the headings in Section D of the ATF Form 4473, all firearms information (name of the manufacturer, the name of importer (if any), the type, the model, the serial number, and caliber or gauge) must be accurately recorded, completed, and reviewed prior to completing the transaction and being transferred.  
(If not corrected immediately)

## Report of Violations

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Name of Proprietor JAMES 410 LLC		Street Address (b)(6)/(b)(7)(C)	City TUCSON	State AZ	Zip Code 85749-	County PIMA	Page 4 of 7 Pages
License/Permit/Registry Number (if any) 986019018E08161			Expiration Date 5/1/2018	Date(s) or Period of Inspection 07/21/2015 through 07/21/2016			

### Inspection Results

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

Number: 7

**Nature of Violation:**

Failure to properly sign and/or date the correct date of transfer of a firearm on  ATF Form 4473

Citation: 27 CFR 478.124(c)(5)

**Date Corrections to be Made:**

*(If not corrected immediately)*

**Corrective Action to be Taken:**

*(If not corrected immediately)*

The licensee was advised that as required by the headings in Section D of the ATF Form 4473, must be accurately completed on all forms, including denied forms.

Number: 8

**Nature of Violation:**

Failure to complete and retain an ATF Form 4473 in  instances.

Citation: 27 CFR 478.124(a)

**Date Corrections to be Made:**

*(If not corrected immediately)*

**Corrective Action to be Taken:**

*(If not corrected immediately)*

The licensee was advised that when transferring a firearm to an FFL Responsible Person the Responsible Person must complete an ATF Form 4473 prior to the transfer of a firearm. Further, the licensee was advised that NICS is not to be contacted until after the purchaser has completed Section A of the ATF Form 4473.

# Report of Violations

### Instructions

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Name of Proprietor JAMES 410 LLC	Street Address <b>(b)(6)/(b)(7)(C)</b>	City TUCSON	State AZ	Zip Code 85749-	County PIMA	Page 5 of 7 Pages
License/Permit/Registry Number (if any) 986019018E08161	Expiration Date 5/1/2018	Date(s) or Period of Inspection 07/21/2015 through 07/21/2016				

### Inspection Results

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

- Number:** 9  
**Nature of Violation:**  
Failure to conduct a NICS check prior to the transfer of a firearm in one instance.  
**Citation:** 27 CFR 478.102(a)
- Date Corrections to be Made:**  
*(If not corrected immediately)*
- Corrective Action to be Taken:**  
*(If not corrected immediately)* The licensee was advised that when transferring a firearm to an FFL Responsible Person the Responsible Person must complete an ATF Form 4473 and the license must conduct a NICS check, or record a valid state permit which qualifies as a NICS exemption, prior to the transfer of a firearm.
- Number:** 10  
**Nature of Violation:**  
Failure to correctly and accurately record a valid state permit which qualifies as an exemption to a NICS check in one instance.  
**Citation:** 27 CFR 478.131(a)(2)
- Date Corrections to be Made:**  
*(If not corrected immediately)*
- Corrective Action to be Taken:**  
*(If not corrected immediately)* The licensee was advised that when accepting a state permit as an exemption to a NICS check that the licensee must accurately and completely record the issuing state and permit type, date of issuance, expiration date, and permit number, if any, prior to the transfer of a firearm. The licensee was further advised that, if the permit is not valid on the date of transfer that the licensee must conduct a NICS check prior to transferring of a firearm.

## Report of Violations

### Instructions

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Name of Proprietor JAMES 410 LLC	Street Address <b>(b)(6)/(b)(7)(C)</b>	City TUCSON	State AZ	Zip Code 85749-	County PIMA	Page 6 of 7 Pages
License/Permit/Registry Number (if any) 986019018E08161	Expiration Date 5/1/2018	Date(s) or Period of Inspection 07/21/2015 through 07/21/2016				

### Inspection Results

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

Number: 11

**Nature of Violation:**

Transfer of a firearm, other than a rifle or a shotgun, to an unlicensed out-of-state resident in  instance.

Citation: 27 CFR 478.99(a)

**Date Corrections to be Made:**

*(If not corrected immediately)*

**Corrective Action to be Taken:**

*(If not corrected immediately)*

The licensee was advised that when accepting identification documents, if the address on the document does not match what the purchaser indicates on Section A of the ATF Form 4473, the licensee is to verify with a second qualifying document the purchasers residents address and record the document in item 20b of the ATF Form 4473.

Number: 12

**Nature of Violation:**

Transfer of a firearm to a person knowing, or having reasonable cause to believe, including a "YES" answer to a prohibiting question of the ATF Form 4473, that such person is prohibited from possessing firearms in  instance.

Citation: 27 CFR 478.99(c)

**Date Corrections to be Made:**

*(If not corrected immediately)*

**Corrective Action to be Taken:**

*(If not corrected immediately)*

The licensee was instructed to review all ATF Forms 4473 to ensure a firearm is not transferred to a person they know, or have reasonable cause to believe, including a "YES" answer to a prohibiting question, the person is prohibited from possessing firearms.

# Report of Violations

### Instructions

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License/Permit/Registry Number (if any) 986019018E08161	Expiration Date 5/1/2018	Date(s) or Period of Inspection 07/21/2015 through 07/21/2016				

### Inspection Results

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

Number: 13

**Nature of Violation:**

Failure to timely or correctly report the sale of two or more pistols, or revolvers, or a combination thereof, on the same day or within five consecutive business days in  instance involving  firearms.

Citation: 27 CFR 478.126a

**Date Corrections to be Made:**

*(If not corrected immediately)*

**Corrective Action to be Taken:**

*(If not corrected immediately)*

The licensee was advised that he is required to complete and submit a Report of Multiple Sales or Other Disposition of Pistols and Revolvers (ATF Form 3310.4) when two or more handguns are sold to the same person at one time or within five consecutive business days.

Number: 14

**Nature of Violation:**

Failure to timely or correctly report the sale of two or more certain rifles, on the same day or within five consecutive business days in  instances involving four firearms.

Citation: 18 U.S.C. 923(g)(5)(A)

**Date Corrections to be Made:**

*(If not corrected immediately)*

**Corrective Action to be Taken:**

*(If not corrected immediately)*

The licensee was advised that he is required to complete and submit a Report of Multiple Sales or Other Disposition of Certain Rifles (ATF Form 3310.12) when two or more are sold to the same person at one time or within five consecutive business days.

I Have Received	(b)(6)/(b)(7)(C)	signature and title MEMBER	Date 8-8-16
Signature and Title of ATF	(b)(6)/(b)(7)(C)		Date 8-8-16

For Official Use Only

# FIREARMS INSPECTION REPORT

**Name:** James 410, LLC  
**Trade Name:**

**UI#:** 785090-2016-0215  
**FFL#:** 9-86-019-01-8E-08161

**Address:** (b)(6)/(b)(7)(C)  
Tucson, AZ 85749 Pima County

## 1 - Introduction

### Inspection Profile:

On July 20, 2016, Bureau of Alcohol, Tobacco, Firearms, and Explosives Industry Operations Investigator (IOI) (b)(6)/(b)(7)(C) went to (b)(6)/(b)(7)(C) (b)(6)/(b)(7)(C) to conduct an unannounced full scope Southwest Border Disposition Emphasis Firearms Compliance Inspection of James 410, Limited Liability Company (LLC). James 410, LLC operates as a Dealer in Firearms, Type 01, Federal Firearms Licensee (FFL)

The licensee was unavailable due to previously scheduled appointments. IOI (b)(6)/(b)(7)(C) scheduled with the licensee to start the inspection on July 21, 2016. IOI (b)(6)/(b)(7)(C) then contacted Area Supervisor (b)(6)/(b)(7)(C) and notified her that the licensee was unavailable and that the inspection would begin on July 21, 2016.

On July 21, 2016, IOI (b)(6)/(b)(7)(C) met with and interviewed Gary Wayne Hickey, Member/Responsible Person, who was identified by his Arizona Driver's License (b)(6)/(b)(7)(C)

IOI (b)(6)/(b)(7)(C) identified himself as a Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF) Investigator and presented his credentials.

The period of inspection covered July 20, 2015 through July 21, 2016.

### Business Profile:

James 410, LLC is licensed as a Type 01, Dealer of Firearms Other Than Destructive Devices. The business conducts retail sales and transfers of firearms and accessories.

The licensee advised that the business sells handgun, rifle, and shotgun ammunition. The licensee advised that the business does not manufacture ammunition. The licensee advised that he does conduct gunsmith activities.

The business premises is the single family residence of Mr. Hickey which is located in a rural residential area in Pima County.

# FIREARMS INSPECTION REPORT

**Name:** James 410, LLC  
**Trade Name:**

**UI#:** 785090-2016-0215  
**FFL#:** 9-86-019-01-8E-08161

The licensee acquired (b)(4) firearms and disposed of (b)(4) firearms during the last 12 months. (b)(4) percent of the firearms sold or transferred by the licensee are new and (b)(4) percent are used. (b)(4) percent of the business firearms are long guns and (b)(4) percent are handguns.

The licensee advised he uses (b)(4)

(b)(4)

The licensee does not participate in local gun shows.

The business does maintain a website, www.james410llc.com. The licensee also conducts business through gunbroker.com and maintains a Facebook page.

The licensee also conducts business as general contractor and home inspector from the same location.

On July 19, 2016, IOI (b)(6)/(b)(7)(C) contacted (b)(6)/(b)(7)(C) Deputy Chief Zoning Inspector for Pima County, who advised that the licensee has a current home occupational permit issued by Pima County.

The licensee has held this Federal Firearms License (FFL) for one year and three months and the current license will expire on May 1, 2018.

There is no off-site storage utilized.

## **Ownership and Control:**

James 410, LLC operates as a limited liability company in the State of Arizona. Gary Wayne Hickey is the sole member of the LLC. Mr. Hickey is the only RP listed in the FLS database.

There have been no changes to the business structure. No additional RPs were added because of this inspection. No hidden ownership was suspected.

## **Variance:**

No variances are held by the licensee.

## **2 - Recommendation**

Violations Warning Conference with Warning Letter and Recall.

## **3 - Inspection History**

# FIREARMS INSPECTION REPORT

**Name:** James 410, LLC  
**Trade Name:**

**UI#:** 785090-2016-0215  
**FFL#:** 9-86-019-01-8E-08161

**Date of Inspection:** April 16, 2015  
Onsite start and end date: April 16, 2015  
**Type of Inspection:** Qualification Inspection  
**UI#:** 785090-2015-0155  
**Inspection Results:** Application Approved. Acknowledgement of Federal Firearms Regulations was signed and dated on April 16, 2015.  
**Cited Violations:** No Violations.

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

The business utilizes hand written Acquisition & Disposition (A&D) Record books. A review of the licensee's A&D Record Books disclosed that the records are in the proper format, entries are not timely made, and all information is not recorded accurately as required.

A 100% physical inventory was conducted and 100 firearms were identified in the licensee's inventory. All [redacted] firearms were recorded as acquisition in the A&D Record. The licensee's A&D Record book revealed [redacted] open dispositions. A total comparison of the licensee's inventory to the A&D record was conducted revealing the following discrepancies: There was one open disposition with no corresponding firearm in inventory. The licensee was able to reconcile the [redacted] open disposition with a bill of sale that Member and Responsible Person, Gary Wayne Hickey, had created when the firearm was sold from Mr. Hickey's personal inventory. Further review of the A&D Record disclosed [redacted] incomplete acquisition entries.

Due to these discrepancies the licensee was cited for violating 27 CFR 478.125(e): Failure to accurately record [redacted] acquisitions and failure to record the disposition of one firearm in the A&D Record book. **Reference Worksheet 1 – Inventory & A&D Record, Exhibit 1 – A&D Record, and Report of Violations; ATF Form 5030.5.**

The licensee was instructed to immediately correct all acquisition and disposition errors in the A&D Record book. On July 21, 2016, Investigator [redacted] verified that all corrections were made in the A&D Record book.

IOI [redacted] educated the licensee on ensuring that all information required is placed in the appropriate column per the ATF regulation. IOI [redacted] also advised that publishers of A&D Record Books may add extra columns that are not required by ATF for the use of the licensee. The licensee was recording the ATF Form 4473 serial number in the additional "Inventory Number (Optional)" column of the A&D Record book. The licensee assigns an ATF Form 4473 serial number based on the inventory control number of the firearm. The licensee was instructed to place the ATF Form 4473 serial number in to the "Address or license Number if licensee, or Form 4473 Serial

# FIREARMS INSPECTION REPORT

**Name:** James 410, LLC  
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Number if Forms 4733 filed numerically” column on the disposition side of the A&D Record.

There were no Theft/Loss Reports submitted by the licensee during the inspection period or as a result of this inspection.

Investigator (b)(6)/(b)(7)(C) compared ATF Forms 4473 to the licensees A&D records and found that dispositions were recorded in a timely manner and no discrepancies were found.

There were no firearms with obliterated serial numbers or illegal firearms found during the inspection.

Standard operating procedures were discussed with the licensee. When a firearm is received at the premises, the licensee checks to make sure the correct firearm was received, identification information for the firearm is entered into the A&D Record and the firearm is the placed in the area of the garage which is designated for the firearms business. Mr. Hickey is the only one to make A&D Record entries.

## **5 - ATF Forms 4473 – NICS & Other Dispositions**

Investigator (b)(6)/(b)(7)(C) review ATF Forms 4473 completed during the inspection period. The licensee retains ATF Forms 4473 in serialized order. A review of the licensee’s records and forms disclosed that transfers to non-licensees were not properly documented and executed. A further review revealed the following violations:

Failure to furnish or obtain all information as required by the headings and instructions of ATF Forms 4473. The licensee was cited for violating 27 CFR 478.21(a). **Reference Worksheet 2 – 4473 (2012 Edition), Exhibit 2, and Report of Violations, ATF Form 5030.5.**

Failure to obtain and record all required transferee information on ATF Forms 4473. The licensee was cited for violating 27 CFR 478.124(c)(1). **Reference Worksheet 2 – 4473 (2012 Edition), Exhibit 3, and Report of Violations, ATF Form 5030.5.**

Failure to verify and record proper transferee’s identification documents on ATF Forms 4473. The licensee was cited for violating 27 CFR 478.124(c)(3)(i). **Reference Worksheet 2 – 4473 (2012 Edition), Exhibit 4, and Report of Violations, ATF Form 5030.5.**

Failure to record all NICS transaction information on ATF Forms 4473. The licensee was cited for violating 27 CFR 478.124(c)(3)(iv). **Reference Worksheet 2 – 4473 (2012 Edition), Exhibit 5, and Report of Violations, ATF Form 5030.5.**

## FIREARMS INSPECTION REPORT

**Name:** James 410, LLC  
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**UI#:** 785090-2016-0215  
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Failure to record all required firearm identification information on [ ] ATF Forms 4473. The licensee was cited for violating 27 CFR 478.124(c)(4). **Reference Worksheet 2 – 4473 (2012 Edition), Exhibit 6, and Report of Violations, ATF Form 5030.5.**

Failure to properly sign and/or date the correct date of transfer of a firearm on [ ] ATF Form 4473. The licensee was cited for violating 27 CFR 478.124(c)(5). **Reference Worksheet 2 – 4473 (2012 Edition), Exhibit 7, and Report of Violations, ATF Form 5030.5.**

Failure to complete and retain an ATF Form 4473 in [ ] instances. Failure to complete an ATF Form 4473 during the transfer of a firearm to a Federal Firearms Licensee (FFL) Responsible Person in [ ] instance. The [ ] firearm that was not recorded as a disposition was transferred to Mr. Gary Wayne Hickey's personal collection without him first completing an ATF Form 4473. Failure to execute an ATF Form 4473 prior to contacting NICS in two instances. In both instances, the licensee stated that he conducted a NICS check on the purchasers without them traveling to the business premises to ensure that they would pass the background check so as not to waste the purchaser's time with driving from Phoenix; further, in both instances the potential purchaser was denied by NICS. A criminal history check query of Mr. Hickey was conducted with no prohibiting information returned. The licensee was cited for violating 27 CFR 478.124(a). **Reference Worksheet 2 – 4473 (2012 Edition) and Report of Violations, ATF Form 5030.5.**

Failure to conduct a NICS check prior to the transfer of a firearm to a Federal Firearms Licensee Responsible Person in one instance. A criminal history check query of Mr. Hickey was conducted with no prohibiting information returned. The licensee was cited for violating 27 CFR 478.102(a). **Reference Worksheet 2 – 4473 (2012 Edition) and Report of Violations, ATF Form 5030.5.**

Failure to correctly and accurately record a valid state permit which qualifies as an exemption to a NICS check in one instance. A criminal history check query of the purchaser was conducted with no prohibiting information returned. The licensee was cited for violating 27 CFR 478.131(a)(2). **Reference Worksheet 2 – 4473 (2012 Edition) and Exhibit 8, and Report of Violations, ATF Form 5030.5.**

Transfer of a firearm, other than a rifle or a shotgun, to an unlicensed out-of-state resident in [ ] instance. The sale, delivery, and receipt of the firearm did not comply with the State laws of the purchaser's state of residence. Referral 2016-0015 was generated and forwarded to the California Department of Justice. The licensee was cited for violating 27 CFR 478.99(a). **Reference Worksheet 2 – 4473 (2012 Edition), Exhibit 9, and Report of Violations, ATF Form 5030.5.**

# FIREARMS INSPECTION REPORT

**Name:** James 410, LLC  
**Trade Name:**

**UI#:** 785090-2016-0215  
**FFL#:** 9-86-019-01-8E-08161

Transfer of a firearm to a person knowing, or having reasonable cause to believe, including a “YES” answer to a prohibiting question of the ATF Form 4473, that such person is prohibited from possessing firearms in [redacted] instance. A criminal history check query of the purchaser was conducted with no prohibiting information returned. The licensee was cited for violating 27 CFR 478.99(c). **Reference Worksheet 2 – 4473 (2012 Edition), Exhibit 10, and Report of Violations, ATF Form 5030.5.**

The FFL audit log verification was conducted on 33 National Instant Criminal Background Check (NICS) numbers. In two instances, where the potential purchaser was denied, the licensee recorded the purchaser’s information on a piece of paper with the NICS Transaction Number (NTN). The licensee did not have the customer complete ATF Form 4473 prior to contacting NICS and was cited for violating 27 CFR 478.124(a). **Reference Violation 8, Worksheet 2 – 4473 (2012 Edition) and Report of Violations, ATF Form 5030.5.**

Standard operating procedures were discussed with Mr. Hickey who stated that after the ATF Form 4473 is completed and the firearm is transferred, he records the disposition in the A&D Record and then files the form in serialized order. Mr. Hickey further advised that he is the only one to conduct transfers of firearms and complete the licensee sections of the ATF Form 4473 since May 2015. Prior to May 2015 James Constantino was a member of the LLC and a responsible person on the license and completed the licensee section of the ATF Form 4473 as well.

The licensee did not have any transfers to law enforcement officers during the inspection period. The licensee properly documents all transfers to and from other licensees and the licensee utilizes FFL EZ Check.

## **6 - Multiple Sales**

According to the Violent Crime Analysis Branch (VCAB), there were [redacted] multiple sales of handguns or certain rifles involving [redacted] firearms reported during the inspection period.

Three unreported multiple sales involving six firearms were found during the inspection period. IOI [redacted] instructed the licensee to immediately complete and submit the multiple sales forms. On August 5, 2016 IOI [redacted] verified in eTrace that the multiple sales forms had been received and the database updated.

The licensee was cited for violating 27 CFR 478.126a in [redacted] instance. **Reference Worksheet 2 – 4473 (2012 edition), Exhibit 11, and Report of Violations, ATF Form 5030.5.**

# FIREARMS INSPECTION REPORT

**Name:** James 410, LLC  
**Trade Name:**

**UI#:** 785090-2016-0215  
**FFL#:** 9-86-019-01-8E-08161

The licensee was cited for violating 18 U.S.C. 923(g)(5)(A) in [redacted] instances. **Reference Worksheet 2 – 4473 (2012 edition), Exhibit 12, and Report of Violations, ATF Form 5030.5.**

## **7 - Suspicious/Prohibited Purchasers**

During the inspection period, Investigator [redacted] conducted 16 criminal history checks. One check was conducted on the Responsible Person, one check was conducted on an individual who answered yes to 11b-11j, four checks were conducted on individuals where the NICS response was not properly recorded, four checks were conducted on individuals who used an Arizona Concealed Weapons Permit as an exemption to NICS, two checks were conducted on individuals where the identification document was not properly recorded, and four checks were conducted on suspicious purchasers.

IOI [redacted] queried TECS on the four suspicious purchasers. Additionally, Intelligence Research Specialist (IRS) [redacted] queried the individuals through NFORCE and LEIA. None of the inquiries returned any prohibiting or derogatory information.

No suspected traffickers, straw purchasers, prohibited persons, or any other suspicious purchasers were revealed during this inspection.

## **8 - Trace Activity**

According to the Violent Crime Analysis Branch, the licensee was subject to [redacted] successful trace requests during the inspection period.

Secondary Market Analysis was conducted on [redacted] used firearms with negative results.

## **9 - NFA/Importer/Collector/Manufacturer**

The licensee does not conduct business in NFA Firearms or as a manufacture, importer, or collector.

## **10 - Referrals**

One referral was generated for the willful sale by licensee to an out-of-state resident. Referral number 2016-0015 was submitted to ATF Phoenix Field Division, Crime Gun Intelligence Center, Group Supervisor [redacted]

# FIREARMS INSPECTION REPORT

**Name:** James 410, LLC  
**Trade Name:**

**UI#:** 785090-2016-0215  
**FFL#:** 9-86-019-01-8E-08161

On August 5, 2016, Industry Operations Intelligence Specialist (IOIS) (b)(6)/(b)(7)(C) of the Phoenix Field Division, Crime Gun Intelligence Center, forwarded the referral to the California department of Justice.

## 11 - Other

Investigator (b)(6)/(b)(7)(C) observed that the licensee had the Youth Handgun Safety Act Poster properly displayed and had pamphlets available.

The licensee maintains firearm safety devices that are available to customers for firearms that do not have a safety device.

IOI (b)(6)/(b)(7)(C) queried responsible person Gary Wayne Hickey in Open Fox, Arizona Judicial Branch and Accurint resulting in zero prohibiting information. IOI (b)(6)/(b)(7)(C) queried Mr. Hickey in TECS with no information returned.

Deconfliction was done by IRS (b)(6)/(b)(7)(C) through NForce and LEIA with negative results.

IOI (b)(6)/(b)(7)(C) advised Gary Hickey that when selling firearms from his personal collection that he had acquired from James 410, LLC that he should record the transaction in the A&D record have the buyer complete an ATF Form 4473. Mr. Hickey was further advised that if he intends to sell firearms that he acquires from James 410, LLC he would need to be licensed by ATF as a Federal Firearms Licensee. IOI (b)(6)/(b)(7)(C) further explained that acquiring firearms for a personal collection and then resealing those firearms to another individual may give the appearance of being engaged in the business of dealing firearms without a license. IOI (b)(6)/(b)(7)(C) provided Mr. Hickey with ATF Publication 5310.2; Do I Need a License to Buy and Sell Firearms, for his reference.

## 12 - Closing Actions

On August 8, 2016, IOI (b)(6)/(b)(7)(C) held a closing conference with Mr. Gary Hickey of James 410, LLC. IOI (b)(6)/(b)(7)(C) reviewed the Acknowledgement of Federal Firearms Regulations with the licensee. Mr. Hickey signed the acknowledgement stating that the regulations covered were understood and that any questions were discussed, a copy was provided to the licensee. **Reference Exhibit 13 – Acknowledgement of Federal Firearms Regulations.**

The licensee was provided with the following reference materials:

- ATF Ruling 2001-5: Identification of Transferee.
- Federal Firearms Licensee Inventory Theft / Loss Report (ATF F 3310.11).
- Instructions on reporting Theft/Loss to the Stolen Firearms Program Hotline.

# FIREARMS INSPECTION REPORT

**Name:** James 410, LLC  
**Trade Name:**

**UI#:** 785090-2016-0215  
**FFL#:** 9-86-019-01-8E-08161

- U.S. Department of Justice – Federal Bureau of Investigation (FBI) – Criminal Justice Information Services Division: NICS Resolution Card (August 2011).
- Important Notice to Dealers and Other Participants at Gun Shows (ATF I 5300.23A).
- Applicability of the ITAR Registration Requirement to Firearms Manufacturers and Gunsmiths from the United States Department of State.
- ATF Ruling 2016-1: Requirements to Keep Firearms Records Electronically.
- ATF Ruling 77-1: Gunsmith authorized Activities and Recordkeeping requirements.

The licensee was also provided with contact information for the local ATF Field Office and instructed to contact the office with any questions he should have in the future.

On August 8, 2016, the **Report of Violations (ROV), ATF Form 5030.5**, was reviewed with the licensee. Each violation and the corresponding corrective action was discussed in detail. The licensee indicated that he understood the violations by signing and dating the ROV. The licensee was provided a copy of the ROV. A copy of the ROV is maintained in the area office file.

## **13 - Violations**

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

**Nature of Violation:** Failure to record required acquisition and disposition information in an Acquisition and Disposition (A&D) Record in [ ] instances. Specifically, failure to accurately or correctly record [ ] acquisitions in the A&D Record. Failure to accurately or correctly record one disposition in the A&D Record.

**Licensee's Response:** The license stated he did not know that the model information had to come from the firearm and that he took information from invoices when recoding the acquisition in the A&D Record.

**Corrective Action:** The licensee was instructed to correct the information for the [ ] acquisitions in the A&D Record. The licensee was instructed to record the disposition of one firearm in the A&D Record.

The licensee was also advised that all information pertaining to the firearm when recorded into the Acquisition portion of the A&D Record must be obtained from the firearm itself, not from the invoice and/or box in which the firearm was packaged.

**Reference Worksheet 1 – Inventory & A&D Record Book, Exhibit 1 – A&D Record Book, and Report of Violations; ATF Form 5030.5.**

## FIREARMS INSPECTION REPORT

**Name:** James 410, LLC  
**Trade Name:**

**UI#:** 785090-2016-0215  
**FFL#:** 9-86-019-01-8E-08161

2. **27 CFR 478.21(a)**

**Nature of Violation:** Failure to furnish or obtain all information as required by headings and instructions on [ ] ATF Forms 4473. Specifically, failure to correctly complete item 32 in [ ] instances.

**Licensee's Response:** The licensee stated that he thought the hand stamp in box 31 was sufficient. The licensee further stated that he ordered two new hand stamps with the correct information.

**Corrective Action:** The licensee was advised that all information, as required by the headings of the ATF Form 4473, must be completed in its entirety and reviewed for accuracy prior to the transfer of any firearm.

**Reference Worksheet 2 – 4473 (2012 edition), Exhibit 2, and Report of Violations; ATF Form 5030.5.**

3. **27 CFR 478.124(c)(1)**

**Nature of Violation:** Failure to obtain and record all required transferee information on [ ] ATF Forms 4473. Specifically, failure to complete item 1 in three instances, item 2 in [ ] instances, item 3 in [ ] instances, item 4 in [ ] instance, item 5 in [ ] instance, item 10b in [ ] instance, item 11i in [ ] instances, item 16 in [ ] instance, and item 17 in [ ] instance.

**Licensee's Response:** The licensee stated he thought he had caught all of the mistakes and further stated the he was not being diligent enough in reviewing the forms.

**Corrective Action:** The licensee was advised that Section A of the ATF Form 4473 must be reviewed prior to the sale, delivery or transfer of any firearm to ensure that all information as required by the headings of the form is accurate and complete. The licensee was further advised that Section A of the ATF Form 4473 is to be completed by the actual buyer of the firearm.

**Reference Worksheet 2 – 4473 (2012 edition), Exhibit 3, and Report of Violations; ATF Form 5030.5.**

4. **27 CFR 478.124(c)(3)(i)**

**Nature of Violation:** Failure to verify and record proper transferee's identification documents on three ATF Forms 4473. Specifically, failure to accurately and completely

# FIREARMS INSPECTION REPORT

**Name:** James 410, LLC  
**Trade Name:**

**UI#:** 785090-2016-0215  
**FFL#:** 9-86-019-01-8E-08161

record all information in item 20a in [ ] instances. Failure to record alternate documentation in item 20b in [ ] instance.

**Licensee's Response:** The licensee stated that he thought he had caught all mistakes and that he thought he recorded all alternate documentation.

**Corrective Action:** The licensee shall verify the identity of the transferee by examining the valid government issued document provided and shall accurately record that information in item 20a.

**Reference Worksheet 2 – 4473 (2012 edition), Exhibit 4, and Report of Violations; ATF Form 5030.5.**

5. **27 CFR 478.124(c)(3)(iv)**

**Nature of Violation:** Failure to record all required NICS transaction information on [ ] ATF Forms 4473. Specifically, failure to correctly or accurately complete item 21a in [ ] instances, item 21c in [ ] instances, and item 21d in [ ] instances. (b)(3) (12 Public Law 55 125 Stat 552)

**Licensee's Response:** The licensee stated that he tries to record all information as it is received from NICS via e-Check and that he did not catch the mistakes when reviewing the form.

**Corrective Action:** The licensee was advised that when contacting NICS, all information transmitted and/or received will be recorded accurately and completely in items 21a-21e in Section B of the ATF Form 4473 prior to the transfer of the firearm.

**Reference Worksheet 2 – 4473 (2012 edition), Exhibit 5, and Report of Violations; ATF Form 5030.5.**

6. **27 CFR 478.124(c)(4)**

**Nature of Violation:** Failure to record all required firearm identification information on [ ] ATF Forms 4473. Specifically failure to correctly the serial number of a firearm in item 28 in [ ] instance. Failure to correctly identify the type of firearm in item 29 in [ ] instance.

**Licensee's Response:** The licensee stated “Just missed it” and there was “no legitimate reason for it (the mistake)”.

**Corrective Action:** The licensee was advised that as required by the headings in Section D of the ATF Form 4473, all firearms information (name of the manufacturer, the name of importer (if any), the type, the model, the serial number, and caliber or

# FIREARMS INSPECTION REPORT

**Name:** James 410, LLC  
**Trade Name:**

**UI#:** 785090-2016-0215  
**FFL#:** 9-86-019-01-8E-08161

gauge) must be accurately recorded, completed, and reviewed prior to completing the transaction and being transferred.

**Reference Worksheet 2 – 4473 (2012 edition), Exhibit 6, and Report of Violations; ATF Form 5030.5.**

7. **27 CFR 478.124(c)(5)**

**Nature of Violation:** Failure to properly sign and/or date the correct date of transfer of a firearm on [ ] ATF Form 4473. Specifically, failure to date the form in item 36 in [ ] instance.

**Licensee's Response:** The licensee stated that he did not know why he failed to date the form and that he "just missed it".

**Corrective Action:** The licensee was advised that as required by the headings in Section D of the ATF Form 4473, must be accurately completed on all forms, including denied forms.

**Reference Worksheet 2 – 4473 (2012 edition), Exhibit 7, and Report of Violations; ATF Form 5030.5.**

8. **27 CFR 478.124(a)**

**Nature of Violation:** Failure to complete and retain an ATF Form 4473 in [ ] instances. Specifically, failure to complete an ATF Form 4473 during the transfer of a firearm to a Federal Firearms Licensee (FFL) Responsible Person in [ ] instance. Failure to execute an ATF Form 4473 prior to contacting NICS in [ ] instances.

**Licensee's Response:** The licensee stated for the [ ] forms that were not accounted for with denied NTN he had conducted a NICS check on the purchasers without them traveling to the business premises to ensure that they would pass the background check so as not to waste the purchaser's time with driving from Phoenix. The licensee further stated he "did not know I was not allowed to do it".

The licensee further stated that he forgot to execute an ATF Form 4473 on himself as he got in a hurry which resulted in him to contacting NICS or recoding a valid permit which qualifies as an exemption to NICS for himself.

**Corrective Action:** The licensee was advised that when transferring a firearm to an FFL Responsible Person the Responsible Person must complete an ATF Form 4473 prior to the transfer of a firearm. Further, the licensee was advised that NICS is not to be contacted until after the purchaser has completed Section A of the ATF Form 4473.

## FIREARMS INSPECTION REPORT

**Name:** James 410, LLC  
**Trade Name:**

**UI#:** 785090-2016-0215  
**FFL#:** 9-86-019-01-8E-08161

**Reference Worksheet 2 – 4473 (2012 edition) and Report of Violations; ATF Form 5030.5.**

9. **27 CFR 478.102(a)**

**Nature of Violation:** Failure to conduct a NICS check prior to the transfer of a firearm in one instance. Specifically, failure to conduct a NICS check on a Federal Firearms Licensee (FFL) Responsible Person in  instance.

**Licensee's Response:** The license stated he did not conduct a NICS check on himself because he failed to execute an ATF Form 4473.

**Corrective Action:** The licensee was advised that when transferring a firearm to an FFL Responsible Person the Responsible Person must complete an ATF Form 4473 and the license must conduct a NICS check, or record a valid state permit which qualifies as a NICS exemption, prior to the transfer of a firearm.

**Reference Worksheet 2 – 4473 (2012 edition), and Report of Violations; ATF Form 5030.5.**

10. **27 CFR 478.131(a)(2)**

**Nature of Violation:** Failure to correctly and accurately record a valid state permit which qualifies as an exemption to a NICS check in one instance. Specifically, the licensee accepted a permit as an exemption to a NICS check in which the permit issuance date had not yet arrived.

**Licensee's Response:** The licensee stated that he missed that the date was incorrect when he recorded it on the ATF Form 4473.

**Corrective Action:** The licensee was advised that when accepting a state permit as an exemption to a NICS check that the licensee must accurately and completely record the issuing state and permit type, date of issuance, expiration date, and permit number, if any, prior to the transfer of a firearm. The licensee was further advised that, if the permit is not valid on the date of transfer that the licensee must conduct a NICS check prior to transferring of a firearm.

**Reference Worksheet 2 – 4473 (2012 edition), Exhibit 8, and Report of Violations; ATF Form 5030.5.**

## FIREARMS INSPECTION REPORT

**Name:** James 410, LLC  
**Trade Name:**

**UI#:** 785090-2016-0215  
**FFL#:** 9-86-019-01-8E-08161

11. **27 CFR 478.99(a)**

**Nature of Violation:** Transfer of a firearm, other than a rifle or a shotgun, to an unlicensed out-of-state resident in [ ] instance. Specifically, transfer of a handgun to a purchaser whom presented a California Identification Card as their identifying document.

**Licensee's Response:** The licensee stated that he "missed it" and further stated that "it was an error on my part".

**Corrective Action:** The licensee was advised that when accepting identification documents, if the address on the document does not match what the purchaser indicates on Section A of the ATF Form 4473, the licensee is to verify with a second qualifying document the purchasers residents address and record the document in item 20b of the ATF Form 4473.

**Reference Worksheet 2 – 4473 (2012 edition), Exhibit 9, and Report of Violations; ATF Form 5030.5.**

12. **27 CFR 478.99(c)**

**Nature of Violation:** Transfer of a firearm to a person knowing, or having reasonable cause to believe, including a "YES" answer to a prohibiting question of the ATF Form 4473, that such person is prohibited from possessing firearms in [ ] instance.

**Licensee's Response:** The licensee stated that he did not see that an individual answered a prohibiting question with a "YES" answer.

**Corrective Action:** The licensee was instructed to review all ATF Forms 4473 to ensure a firearm is not transferred to a person they know, or have reasonable cause to believe, including a "YES" answer to a prohibiting question, the person is prohibited from possessing firearms.

**Reference Worksheet 2 – 4473 (2012 edition), Exhibit 10, and Report of Violations; ATF Form 5030.5.**

13. **27 CFR 478.126a**

**Nature of Violation:** Failure to timely or correctly report the sale of two or more pistols, or revolvers, or a combination thereof, on the same day or within five consecutive business days in [ ] instance involving [ ] firearms.

# FIREARMS INSPECTION REPORT

**Name:** James 410, LLC  
**Trade Name:**

**UI#:** 785090-2016-0215  
**FFL#:** 9-86-019-01-8E-08161

**Licensee's Response:** The licensee stated that he tried to fill out the forms the same day. The licensee stated that "he just missed it".

**Corrective Action:** The licensee was advised that he is required to complete and submit a Report of Multiple Sales or Other Disposition of Pistols and Revolvers (ATF Form 3310.4) when two or more handguns are sold to the same person at one time or within five consecutive business days.

**Reference Worksheet 2 – 4473 (2012 edition), Exhibit 11, and Report of Violations; ATF Form 5030.5.**

14. **18 U.S.C. 923(g)(5)(A)**

**Nature of Violation:** Failure to timely or correctly report the sale of two or more certain rifles, on the same day or within five consecutive business days in [ ] instances involving four firearms.

**Licensee's Response:** The licensee stated he was "not sure what happened". The licensee further stated that he did not know why he completed [ ] separate ATF Forms 4473 on himself.

**Corrective Action:** The licensee was advised that he is required to complete and submit a Report of Multiple Sales or Other Disposition of Certain Rifles (ATF Form 3310.12) when two or more are sold to the same person at one time or within five consecutive business days.

**Reference Worksheet 2 – 4473 (2012 edition), Exhibit 12, and Report of Violations; ATF Form 5030.5.**

10/11/2016

X

[ ]  
(b)(6)/(b)(7)(C)

Industry Operations Investigator

Signed by: [ ]  
(b)(6)/(b)(7)(C)

## **Index of Worksheets and Exhibits**

Worksheets:

- Informational Page
- Worksheet 1 – Inventory, A&D.
- Worksheet 2 – 4473 (2008 edition)

# FIREARMS INSPECTION REPORT

**Name:** James 410, LLC  
**Trade Name:**

**UI#:** 785090-2016-0215  
**FFL#:** 9-86-019-01-8E-08161

- Worksheet 2 – 4473 (2012 edition)
- Other Statistics

**Exhibits:**

- Exhibit 1 – A&D Record Book.
- Exhibit 2 – ATF Forms 4473 referencing 27 CFR 478.21(a).
- Exhibit 3 – ATF Forms 4473 referencing 27 CFR 478.124(c)(1).
- Exhibit 4 – ATF Forms 4473 referencing 27 CFR 478.124(c)(3)(i).
- Exhibit 5 – ATF Forms 4473 referencing 27 CFR 478.124(c)(3)(iv).
- Exhibit 6 – ATF Forms 4473 referencing 27 CFR 478.124(c)(4).
- Exhibit 7 – ATF Forms 4473 referencing 27 CFR 478.124(c)(5).
- Exhibit 8 – ATF Forms 4473 referencing 27 CFR 478.131(a)(2).
- Exhibit 9 – ATF Forms 4473 referencing 27 CFR 478.99(a).
- Exhibit 10 – ATF Forms 4473 referencing 27 CFR 478.99(c).
- Exhibit 11 – ATF Forms 4473 referencing 27 CFR 478.126a.
- Exhibit 12 – ATF Forms 4473 referencing 18 U.S.C. 923(g)(5)(A).
- Exhibit 13 – Acknowledgement of Federal Firearms Regulations.



U.S. Department of Justice

Bureau of Alcohol, Tobacco,  
Firearms and Explosives

www.atf.gov

November 1, 2016

785090: (b)(6)/(b)(7)(C)  
5300

CERTIFIED MAIL – RETURN RECEIPT REQUIRED

James 410 LLC  
c/o Gary Wayne Hickey  
9222 East Indio Place  
Tucson AZ 85749

RE: FFL # 9-86-019-01-8E-08161

Mr. Gary Wayne Hickey:

During a recent inspection at your firearms business covering the period July 20, 2015, through July 21, 2016, you were cited for violations of Title 27, Code of Federal Regulations, Part 478. The violations were discussed with you during the inspection. A copy of the Report of Violations, ATF F 5030.5, issued at the time of the inspection is enclosed.

You should be aware that any willful violations of the Gun Control Act may result in revocation of your Federal Firearms License. As a result of the recently cited violations, it is important that we have a meeting with you to discuss the violations found. The conference will be held on **Tuesday, November 15, 2016 at 1:00 p.m. at 2255 West Ina Road, Tucson AZ, 85741**. The agenda for the meeting will include a discussion of the reasons for the violations, a review of the legal requirements, and a discussion of steps taken by you to ensure future compliance. ATF Investigator (b)(6)/(b)(7)(C) and I will be present at the meeting. Please bring with you documentation verifying the corrective action you have taken. Although we do not believe it necessary, legal counsel may assist you at your own expense if you so choose. Also, you are hereby notified that, pursuant to 18 U.S.C. § 930(a), no person may bring a firearm or other dangerous weapon into an ATF Office. Possession of a firearm or other dangerous weapon in an ATF office may result in a fine of \$100,000 or imprisonment for not more than one year or both. 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 to aid in this effort to combat violent crime.

James 410 LLC

We will conduct a follow-up inspection in the future. Any violations, either repeat or otherwise, could be viewed as willful and may result in the revocation of your license.

Please contact me at (b)(6)/(b)(7)(C) to confirm this appointment, and to ask any questions you may have regarding this conference. We look forward to meeting with you to resolve these issues.

Sincerely,

**(b)(6)/(b)(7)(C)**

Area Supervisor  
Tucson III Field Office

Enclosure

cc: Federal Firearms Licensing Center  
Tucson III Field Office



U.S. Department of Justice

Bureau of Alcohol, Tobacco,  
Firearms and Explosives

**CERTIFIED MAIL**

www.atf.gov

785090: (b)(6)/(b)(7)(C)  
5300

November 16, 2016

James 410 LLC  
9222 East Indio Place  
Tucson, AZ 85749

**FFL # 9-86-019-01-8E-08161**

Mr. Gary Wayne Hickey:

This memorandum is in acknowledgement of a recently held Warning Conference with the Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF). The conference referenced was held on November 15, 2016 at the ATF Tucson Field Office located at 2255 West Ina Road, Suite 301, Tucson, Arizona at 1:00PM. In attendance were Tucson Area Supervisor Kristina Babcock, Investigator Joseph Brookshier, and Member and sole Responsible Person Gary Wayne Hickey. At the conference, violations cited during the inspection covering the period of September 21, 2015 through September 21, 2016, and the necessary corrective action to prevent the violations from recurring were discussed.

You were given the opportunity to comment on the violations and what specific action you have taken to ensure that the violations will not recur. A copy of the Report of Violations, ATF Form 5030.5, is attached to this letter for reference.

You were cited for:

**27 CFR 478.125(e)** – Failure to record required acquisition and disposition information in an Acquisition and Disposition (A&D) Record in  instances. Specifically, failure to accurately or correctly record  acquisitions in the A&D Record. Failure to accurately or correctly record one disposition in the A&D Record.

Regarding these violations, Mr. Hickey stated that prior to the inspection he had been taking the information for the A&D record from boxes the firearm was shipped in or from shipping

invoices provided with the firearms. Mr. Hickey stated that since the inspection he removes all firearms from their box and records what is on the firearm in the A&D record and will put additional information in for further identifying the firearm if necessary. For the firearm that was not recorded as a disposition Mr. Hickey stated that he had acquired the firearm through a personal trade for a rifle scope and entered the firearm into the A&D record thinking he was doing the right thing. Mr. Hickey stated that now knows that firearms that are personally acquired do not need to be recorded in the A&D record of the business. Area Supervisor (b)(6)/(b)(7)(C) advised Mr. Hickey to immediately record the acquisition of firearms when they are received at the premises and record the disposition of firearms immediately after the transfer.

**27 CFR 478.21(a)** - Failure to furnish or obtain all information as required by headings and instructions on [ ] ATF Forms 4473.

Regarding these violations, Mr. Hickey stated that prior to the inspection he had been using one stamp with all of the information for items 31 and 32 of the ATF Form 4473. The stamp placed all the information, to include the FFL number, in item 31 which left item 32 blank. Mr. Hickey stated that he thought he was told that using one stamp was okay. Mr. Hickey stated that he now has two stamps, one for each box. Area Supervisor (b)(6)/(b)(7)(C) advised Mr. Hickey to complete the form as required by the instructions and to ensure that each box is appropriately completed.

**27 CFR 478.124(c)(1)** - Failure to obtain and record all required transferee information on [ ] ATF Forms 4473

**27 CFR 478.124(c)(3)(i)** - Failure to verify and record proper transferee's identification documents on [ ] ATF Forms 4473.

**27 CFR 478.124(c)(3)(iv)** - Failure to record all required NICS transaction information on [ ] ATF Forms 4473.

**27 CFR 478.124(c)(4)** - Failure to record all required firearm identification information on [ ] ATF Forms 4473.

**27 CFR 478.124(c)(5)** - Failure to properly sign and/or date the correct date of transfer of a firearm on [ ] ATF Form 4473.

Regarding these violations, Mr. Hickey stated that some of the errors may have occurred when (b)(6)/(b)(7)(C) was a member of James 410 LLC and a Responsible Person. Mr. Hickey stated that he believed he was being thorough in completing the form. Mr. Hickey stated that for customers that were repeat customers he would rubber stamp the form and transfer the firearm believing the customer correctly completed the form. Mr. Hickey stated that some of the errors may have occurred because he became distracted while completing the form. Mr. Hickey stated that he makes copies of driver's licenses and Concealed Weapons Permits, when provided. Mr. Hickey stated that he now reviews the form by comparing the ATF Form 4473 to a completed ATF Form 4473 template he created for himself. Mr. Hickey stated that he reviews the ATF Forms 4473 by reading each box aloud, verifying for completeness. Mr. Hickey stated that the ATF Forms 4473 are reviewed a final time before they are filed. Area Supervisor (b)(6)/(b)(7)(C)

advised Mr. Hickey to ensure the ATF Form 4473 is completed correctly prior to the transfer of firearms. Area Supervisor (b)(6)/(b)(7)(C) advised Mr. Hickey that if customer makes an error on the form that is noticed prior to the transfer of a firearm that the customer can line through, correct, and initial and date the form. Area Supervisor (b)(6)/(b)(7)(C) also advised Mr. Hickey that when retaining copies of documents ensure that all information on the documents matches the information recorded on the ATF Form 4473 and to properly record Alternate Documentation if required.

**27 CFR 478.124(a)** – Failure to complete and retain an ATF Form 4473 in (b)(6) (112 Public Law 55 125 Stat 552) instances.

Regarding these violations, Mr. Hickey stated that he contacted NICS prior to the customer completing a form or coming to the business premises to save the customer a trip to the premises if the customer was denied or delayed by NICS. Mr. Hickey stated that he did not know what he did was wrong and thought he was being helpful to the customer. Mr. Hickey stated that in the one instance where he did not complete an ATF Form 4473 on himself, he transferred the firearm to his personal collection as he had traded the firearm for a rifle scope that he personally owned. Area Supervisor (b)(6)/(b)(7)(C) explained to Mr. Hickey that NICS is to be contacted only after the customer completes the ATF Form 4473. Area Supervisor (b)(6)/(b)(7)(C) further advised Mr. Hickey that all firearms he transfers from the business inventory to his personal collection are required to be transferred using an ATF Form 4473. Area Supervisor (b)(6)/(b)(7)(C) informed Mr. Hickey that if a transaction is cancelled that the ATF Form 4473 is to be retained and not ripped up and thrown away.

**27 CFR 478.102(a)** – Failure to conduct a NICS check prior to the transfer of a firearm in one instance.

Regarding this violation, Mr. Hickey stated that he failed to conduct a NICS check on himself when transferring a firearm to his personal collection. Area Supervisor (b)(6)/(b)(7)(C) explained to Mr. Hickey that he is required to complete an ATF Form 4473 and conduct a NICS check or record and exemption to NICS on the ATF Form 4473 for himself on all firearms that he acquires for his personal collection utilizing the Federal Firearms License.

**27 CFR 478.131(a)(2)** – Failure to correctly and accurately record a valid state permit which qualifies as an exemption to a NICS check in one instance.

Regarding this violation, Mr. Hickey stated that he was not aware prior to the inspection that the State of Arizona issued permits that had not yet become valid. Mr. Hickey stated that he now double-checks the dates on the permits prior to the transfer of firearms. Mr. Hickey stated that he keeps copies of driver's licenses and Concealed Weapons Permits attached to the ATF Forms 4473. Area Supervisor (b)(6)/(b)(7)(C) advised Mr. Hickey that the only acceptable permit is the State of Arizona Concealed Weapons Permit. Area Supervisor (b)(6)/(b)(7)(C) also advised Mr. Hickey that when retaining copies of documents ensure that all information on the driver's license matches the information recorded on the ATF Form 4473 and to properly record Alternate Documentation if required.

**27 CFR 478.99(a)** - Transfer of a firearm, other than a rifle or a shotgun, to an unlicensed out-of-state resident in [ ] instance.

Regarding this violation, Mr. Hickey stated that he just missed it. Area Supervisor (b)(6)/(b)(7)(C) advised Mr. Hickey to ensure that Alternate Documentation is properly recorded to establish in-state residency for the purchase of handguns. Area Supervisor (b)(6)/(b)(7)(C) advised Mr. Hickey to contact the State Attorney General of the purchasers state of residency when transferring long guns to ensure he complies with both states laws. Area Supervisor (b)(6)/(b)(7)(C) advised Mr. Hickey that only residents of the State of Arizona are eligible to receive handguns.

**27 CFR 478.99(c)** – Transfer of a firearm to a person knowing, or having reasonable cause to believe, including a “YES” answer to a prohibiting question of the ATF Form 4473, that such person is prohibited from possessing firearms in [ ] instance.

Regarding this violation, Mr. Hickey stated that he has known the purchaser for many years and assumed that the purchaser knew how to complete the form as he already owns firearms and had purchased from James 410 LLC previously. Mr. Hickey stated that he did not do a thorough review of the form prior to transferring the firearm. Mr. Hickey was advised by Area Supervisor (b)(6)/(b)(7)(C) that when a customer erroneously answers a prohibiting question to have the customer line through the incorrect information, correctly complete the form, and initial and date the correction. Area Supervisor (b)(6)/(b)(7)(C) further advised Mr. Hickey that if someone answers a question erroneously or otherwise indicates they are prohibited that he is under no obligation to complete the transaction, including contacting NICS.

**27 CFR 478.126a** – Failure to timely or correctly report the sale of two or more pistols, or revolvers, or a combination thereof, on the same day or within five consecutive business days in [ ] instance involving [ ] firearms.

Regarding this violation, Mr. Hickey stated that he forgot to complete the form. Area Supervisor (b)(6)/(b)(7)(C) informed Mr. Hickey that he is required to submit the Report of Multiple Handgun Sales, ATF Form 3310.4, when two or more handguns are transferred to the same person at one time or within five consecutive business days.

**18 U.S.C. 923(g)(5)(A)** – Failure to timely or correctly report the sale of two or more certain rifles, on the same day or within five consecutive business days in [ ] instances involving [ ] firearms.

Regarding this violation, Mr. Hickey stated that he forgot to complete the form. Area Supervisor (b)(6)/(b)(7)(C) informed Mr. Hickey that he is required to submit the Report of Multiple Rifle Sales, ATF Form 3310.12, when two or more certain rifles are transferred to the same person at one time or within five consecutive business days. Area Supervisor (b)(6)/(b)(7)(C) provided Mr. Hickey a copy of the Questions and Answers for the Report of Multiple Sale or Other Disposition of Certain Rifles.

During the Warning Conference, Investigator (b)(6)/(b)(7)(C) reviewed the Acknowledgement of Federal Firearms Regulations with Mr. Hickey. This Acknowledgement was signed by Investigator (b)(6)/(b)(7)(C) and Mr. Hickey and is attached to this letter.

The violations for which you were cited could adversely impact law enforcement's ability to reduce violent crime and protect the public. You are reminded that future violations, repeat or otherwise, could be viewed as willful and may result in the revocation of your license. You may anticipate a follow-up inspection to ensure your compliance.

If you have any questions concerning your responsibilities as a Federal Firearms Licensee or if you require further clarification about particular requirements of Federal firearms laws, please contact us at (b)(6)/(b)(7)(C)

Sincerely,

**(b)(6)/(b)(7)(C)**

Area Supervisor  
Tucson III Field Office