

Report of Firearms Compliance Inspection

EBERHARD BALLISTICS LLC's FCI
FCI-1221
12/27/2018 10:50 AM
IOI (b)(6) (b)(7)(C), Indianapolis II (IO) Field Office

LICENSEE INFORMATION

Licensee Name	RDS Key	License/Permit Number	License Type
EBERHARD BALLISTICS LLC	4-35-06094	4-35-011-01-0J-06094	01 - Dealer License

Business Type
Limited Liability Company (LLC)

Premises Address

Premises Ownership Type
Owned
Premises Location Type
Store Front

Mailing Address

Address
549 SOUTH 300 WEST
Unit N/A
LEBANON, Indiana 46052
County United States

Address
115 WEST MAIN STREET
Unit N/A
LEBANON, Indiana 46052
BOONE County United States

Phone Type	Phone Number	Remarks
Business	+1 765-626-9030	
Email Address	Email Remarks	
(b)(6) (b)(7)(C)		

RECOMMENDATIONS

Final Decision
Warning Letter

Out of Business Records and Inventory Management

Licensee Records

Licensee Inventory

Area Supervisor (b)(6) (b)(7)(C) Recommendation

Warning Letter
Details

I concur with the IOI's recommendation for a warning letter.

While the violation of 27 CFR 478.125(e) is repetitive and the licensee did receive a warning letter for the same violation within the past five years, the Spartan system does not account for the fact that only (b)(6) - 112 Public Law dispositions out of (b)(6) total disposition only equals a 3.39% error rate. The error rate would have to be over (b)(6) in order for the violation to rise to the level of a warning conference.

Therefore, only a warning letter is deemed necessary due to the licensee failing to complete a new NICS check after 30 days had elapsed. In this case the firearm was transferred after 31 days without a new NICS check and the customer is not prohibited.

Other violations had a very low number of instances. A recall inspection is recommended.

Industry Operations Investigator (b)(7)(C) Recommendation

Warning Letter
Details

IOIs (b)(7)(C) conducted a firearms compliance inspection on Eberhard Ballistics, LLC on November 7, 2018. The period of inspection consisted of November 7, 2017 through November 7, 2018. The inspection revealed violations of 27 CFR 478.126(a), 27 CFR 478.102(c), 27 CFR 478.125(e), 27 CFR 478.124(c)(1), 27 CFR 478.124(c)(3)(i), and 27 CFR 478.124(c)(3)(iv).

The FFL has been the subject of a Warning Letter within the previous 5 years and the current inspection revealed repeated similar violations which would rise to the level of a Warning Conference. However, the violation of 27 CFR 478.125(e), was not (b)(7)(E) percent of the licensee's total acquisitions or dispositions during the inspection period. Therefore, a Warning Conference is not appropriate.

The inspection did reveal (b)(3) instance of 27 CFR 478.102(c), which rises to the level of a Warning Letter.

IOI (b)(6) (b)(7)(C) issued a Report of Violations (ROV) and recommends a Warning Letter and Recall Inspection to be inspected in the future.

Inspection Findings

NICS

Failure to initiate a new NICS check when a transaction is not completed within the 30-day period from the date NICS was initially contacted provided that the person is not prohibited.

FFL History

The current inspection reveals repeated, similar violation(s) for which the FFL has previously been the subject of a Warning Letter within the previous 5 years.

ELIGIBILITY VERIFICATION

Business Information Verification

Licensee Name	Business Type	Is the business valid?
EBERHARD BALLISTICS LLC	Limited Liability Company (LLC)	Yes

Additional Findings

IOI (b)(6) (b)(7)(C) verified that Eberhard Ballistics, LLC is a valid business through the Indiana Secretary of State.

Attachment(s):

EB, LLC - Sec of State Paperwork.pdf

Property Ownership Verification

Premises Ownership Type	Premises Location Type	Has the property ownership been verified?
Owned	Store Front	Yes

Address

115 WEST MAIN STREET
Unit N/A
LEBANON, Indiana 46052
BOONE County United States

Additional Findings

IOI (b)(6) (b)(7)(C) verified the ownership of the property.

Contact Information

Name	Date Contacted
Richard Hornay	11/02/2018
Organization	
Eberhard Ballistics, LLC	
Job Title	
Owner	

Email Address	Email Remarks
(b)(6) (b)(7)(C)	Personal E-mail

Attachment(s):

Zoning Information Verification

Is the proposed business activity in compliance with zoning?

Yes

Additional Findings

IOI (b)(6) (b)(7)(C) verified that the business activity is in compliance with zoning.

Contact Information

Name	Date Contacted
(b)(6) (b)(7)(C)	11/02/2018
Organization	
Boone County Zoning	
Job Title	
Executive Director	

Email Address	Email Remarks
(b)(6) (b)(7)(C)	

Attachment(s):

APPOINTMENT DETAILS

Interview Date
11/08/2018

Address
115 WEST MAIN STREET Unit N/A , LEBANON, Indiana 46052

Responsible Attendee(s)

RICHARD EBERHARD HORNAY

Non-Responsible Attendee(s)

No items

RESPONSIBLE PERSON(S)

RICHARD EBERHARD HORNAY

Name	Gender	Race	Ethnicity
RICHARD EBERHARD HORNAY	Male	White	Not Hispanic or Not Latino
Date of Birth	SSN	Job Title	
(b)(6) (b)(7)(C)	(b)(6) (b)(7)(C)	OWNER/ MANAGER	

Physical Identifiers

Height	Weight	Hair Color	Eye Color
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Place of Birth

Country	State	City
United States Of America	(b)(6) (b)(7)(C)	(b)(6) (b)(7)(C)

Home Address

(b)(6) (b)(7)(C)

Additional Names

Citizenship

United States

ID Type	Country	State	ID Number
Driver's License	United States	Indiana	(b)(6) (b)(7)(C)
Phone Type	Phone Number	Remarks	
Mobile	(b)(6) (b)(7)(C)		

Criminal History Check

Date Criminal History Check Conducted
11/02/2018
Criminal History Check Comments
Negative results.

DARRIN ALLAN DEBARD

Name	Gender	Race	Ethnicity
DARRIN ALLAN DEBARD	Male	Black	Not Hispanic or Not Latino
Date of Birth	SSN	Job Title	
(b)(6) (b)(7)(C)	(b)(6) (b)(7)(C)	MANAGING OWNER / MEMBER	

Physical Identifiers

Height	Weight	Hair Color	Eye Color
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Place of Birth

Country	State	City
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Home Address

(b)(6) (b)(7)(C)

Additional Names

Citizenship

United States

Phone Type	Phone Number	Remarks
Mobile	(b)(6) (b)(7)(C)	

Email Address	Email Remarks
(b)(6) (b)(7)(C)	

Criminal History Check

Date Criminal History Check Conducted

11/02/2018

Criminal History Check Comments

FBI Number (b)(6) (b)(7)(C)

Number Type	Agency Label	State
FBI/UCN	(b)(6) (b)(7)(C)	

INTERVIEW QUESTIONNAIRE

What is the proposed business activity?

The licensee sells ammunition, firearm accessories, and new and used firearms.

Do they need an additional license or permit?

No

Who are their primary suppliers?

The licensees primary suppliers are (b)(4).

Business Activities

Retail

Selected Operational Security Measures

Controlled Access to ATF Recordkeeping

Controlled Access to Keys

PREMISES INFORMATION

Inspection Area Description

Eberhard Ballistics, LLC operates out of a small retail storefront located in downtown Lebanon, Indiana.

Primary Activity

Retail

GPS Coordinates

Latitude

40.04739N

Longitude

086.46874W

Selected Physical Security Measures

(b)(4)

ONSITE SUMMARY

Total # of ATF F 4473 Reviewed

(b)(3)

Total # of Open Dispositions in A & D Record

(b)(3)

Total # of Firearms in Inventory

186

Total # of Firearms Missing after Reconciliation

0

Total # of Acquisitions in the Last 12 Months

(b)(4)

Total # of Dispositions in the Last 12 Months

(b)(4)

Attachment(s)

Report of Violations.pdf

Report of Violations.pdf

Report of Violations.pdf

Licensee Response to Violations Report.pdf

Licensee Response to Violations Report.pdf

Licensee Response to Violations Report.pdf

Licensee Response to Violations Report.pdf

REPORT OF VIOLATIONS

Regulation	Corrective Actions	Instance Details
27 CFR 478.126a: Failure to report multiple sales or other dispositions of pistols and revolvers Number of Instances: ^(b)	Complete and submit ATF Form 3310.4 (Report of Multiple Sale or Other Disposition of Pistols and Revolvers) by close of the same business day, for all applicable future multiple sales.	(b)(3) - 112 Public Law 55 125 Stat 552 (b)(6) (b)(7)(C)
27 CFR 478.102(c): Failure to initiate a new NICS check after 30-day lapse of initial check Number of Instances: ^(b)	Execute and accurately record (on an ATF Form 4473) a new NICS/POC background check, after any 30-day expiration of a previously conducted NICS/POC check, on all future over-the-counter firearm transactions.	(b)(3) - 112 Public Law 55 125 Stat 552 (b)(6) (b)(7)(C)
27 CFR 478.125(e): Failure to maintain an accurate/complete/timely acquisition and disposition record of firearms Number of Instances: ^{(b)(3)}	Accurately, completely & timely record all required future firearm acquisition information. Accurately, completely & timely record all required future firearm disposition information.	(b)(3) - 112 Public Law 55 125 Stat 552 (b)(6) (b)(7)(C)

		(b)(3) - 112 Public Law 55 125 S
27 CFR 478.124(c)(1): Failure to obtain a completed ATF F 4473 Number of Instances: 0	Execute and retain a complete and accurate ATF Form 4473 on all future firearm transactions.	(b)(3) - 112 Public Law 55 125 Stat 552 (b)(6) (b)(7)(C)
27 CFR 478.124(c)(3)(i): Failure to verify or record Identification document on ATF F 4473 Number of Instances: 0	Ensure that all required transferee/buyer identification information is obtained, validated and accurately recorded on all future ATF Forms 4473, Section B.	(b)(3) - 112 Public Law 55 125 Stat 552 (b)(6) (b)(7)(C)
27 CFR 478.124(c)(3)(iv): Failure to record NICS contact information on an ATF F 4473 Number of Instances: 0	Ensure that all required NICS/POC background check information is obtained, validated and accurately recorded on all future ATF Forms 4473, Section B.	(b)(3) - 112 Public Law 55 125 Stat 552 (b)(6) (b)(7)(C)

LICENSEE RESPONSE REPORT

Regulation	Corrective Actions	Licensee Response	Status Details
27 CFR 478.126a: Failure to report multiple sales or other dispositions of pistols and revolvers Number of Instances: 0	Complete and submit ATF Form 3310.4 (Report of Multiple Sale or Other Disposition of Pistols and Revolvers) by close of the same business day, for all applicable future multiple sales.	Licensee stated that he depends on his electronic A&D book which notifies him of multiple sales and he wasn't sure why this slipped through the cracks. Licensee stated he would put more focus on multiple sales in the future.	Status Correction Verified Verified Method In Person Date Correction Verified 11/15/2018
27 CFR 478.102(c): Failure to initiate a new NICS check after 30-day lapse of initial check Number of Instances: 0	Execute and accurately record (on an ATF Form 4473) a new NICS/POC background check, after any 30-day expiration of a previously conducted NICS/POC check, on all future over-the-counter firearm transactions.	Licensee stated that he believed the 30-day window had not elapsed as he began counting the day after the initial NICS check rather than including that day.	Status Licensee Notified Verified Method In Person Date Correction Verified 11/15/2018
27 CFR 478.125(e): Failure to maintain an accurate/complete/timely acquisition and disposition record of firearms Number of Instances: 0	Accurately, completely & timely record all required future firearm acquisition information. Accurately, completely & timely record all required future firearm disposition information.	Licensee stated he plans to focus more on acquisitions and dispositions by stopping anything he's doing and logging the firearms in and out immediately.	Status Correction Verified Verified Method In Person Date Correction Verified 11/15/2018
27 CFR 478.124(c)(1): Failure to obtain a completed ATF F 4473 Number of Instances: 0	Execute and retain a complete and accurate ATF Form 4473 on all future firearm transactions.	Licensee had no response.	Status Licensee Notified Verified Method In Person Date Correction Verified

			11/15/2018
27 CFR 478.124(c)(3)(i): Failure to verify or record Identification document on ATF F 4473 Number of Instances: 0	Ensure that all required transferee/buyer identification information is obtained, validated and accurately recorded on all future ATF Forms 4473, Section B.	Licensee acknowledged the error and stated he would put more emphasis on the Supplemental Government Identification in the future.	Status Licensee Notified Verified Method In Person Date Correction Verified 11/15/2018
27 CFR 478.124(c)(3)(iv): Failure to record NICS contact information on an ATF F 4473 Number of Instances: 0	Ensure that all required NICS/POC background check information is obtained, validated and accurately recorded on all future ATF Forms 4473, Section B.	Licensee had no response.	Status Licensee Notified Verified Method In Person Date Correction Verified 11/15/2018

CLOSING CONFERENCE

Closing Conference Date
11/26/2018

Attachment(s)
Closing Conference Summary.pdf

Attendee(s)

RICHARD EBERHARD HORNAY
DARRIN ALLAN DEBARD

WARNING LETTER

Assigned To
(b)(6) (b)(7)(C)

Delivery Method
Certified Mail

Tracking Number	Date Sent	Date Delivered
7012 1010 0003 4127 0634	12/07/2018	12/10/2018

Certified Mail Return Slip

TRACK.pdf	12/26/2018 8:45 AM
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EXHIBITS


Inspection

Category	Attachm
Correspondence	
WarningLetterReturnSlip	TRACK.pdf
ViolationsPDF	Report of Violations.pdf
WarningLetter	Warning Letter.pdf
LicenseeResponseToViolationsPDF	Licensee Response to Violations Report.pdf
LicenseeResponseToViolationsPDF	Licensee Response to Violations Report.pdf
LicenseeResponseToViolationsPDF	Licensee Response to Violations Report.pdf
LicenseeResponseToViolationsPDF	Licensee Response to Violations Report.pdf
ClosingConferenceSummary	Closing Conference Summary.pdf

Correspondence	Information Concerning Your Federal License/Permit
ViolationsPDF	Report of Violations.pdf
ViolationsPDF	Report of Violations.pdf
BusinessVerification	EB, LLC - Sec of State Paperwork.pdf

FFL: EBERHARD BALLISTICS LLC
Inspection: FCI-1221
Date Generated: 12/6/2018
RDS Key: 4-35-06094
Lead Industry Operations Investigator: (b)(6) (b)(7)(C)

Regulation	Corrective Action(s)	Instance Details	Date Amended
1 27 CFR 478.126a: Failure to report multiple sales or other dispositions of pistols and revolvers Number of Instances: 0	Complete and submit ATF Form 3310.4 (Report of Multiple Sale or Other Disposition of Pistols and Revolvers) by close of the same business day, for all applicable future multiple sales.	(b)(3) - 112 Public Law 55 125 Stat 552 (b)(6) (b)(7)(C)	
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My signature below certifies that I acknowledge I have reviewed the above information. I understand that this is only a general overview of the violations and that I will be responsible for familiarizing myself with all of the laws and regulations governing my licensed/permitted business.

Signature

Date

Printed Name

FFL: EBERHARD BALLISTICS LLC
 Inspection: FCI-1221
 Date Generated: 11/26/2018
 RDS Key: 4-35-06094
 Lead Industry Operations Investigator: (b)(6) (b)(7)(C)

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December 6, 2018

WARNING LETTER

EBERHARD BALLISTICS LLC

549 SOUTH 300 WEST
LEBANON, Indiana 46052

Re: Federal Firearms License Number: 4-35-06094.

EBERHARD BALLISTICS LLC,

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 115 WEST MAIN STREET Unit N/A , LEBANON, Indiana 46052 on 11/8/2018 through 11/15/2018 , 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)(7)(C) . 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 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) (b)(7)(C) .

Sincerely,
(b)(6) (b)(7)(C)
Area Supervisor
Indianapolis II (IO) Field Office

Attachment