

Assignment and Report

1. OPERATING NAME AND ADDRESS (INCLUDE ZIP CODE AND COUNTY) Layke Tactical LLC Layke Tactical 3330 West Osborn Road Phoenix, AZ 85017, Maricopa	2. U.I. NUMBER (ORG. SEG. CODE, ASSIGNMENT NO., P.P.C.) 785050-2017-0035-B1B		
	3. PERMIT/LICENSE NUMBER 986013079G06455	4a. TARGET DATE 12/23/2016	4b. TARGET HOURS 70
	5. REQUESTED BY (SIGNATURE, TITLE AND DATE)		

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

7. ASSIGNED BY (SIGNATURE, TITLE AND DATE)
(b)(6), Area Supervisor, 10/19/2016

8. PURPOSE/SPECIAL INSTRUCTIONS
Conduct a full scope SWB-DE (Manufacturer) compliance inspection while evaluating for trafficking indicators; Assure compliance with current provisions of GCA. *NOTE: Retain hardcopies of issued ROV (if any) and/or Ack of Regs for file retention.

9. INSPECTION RESULTS		<input type="checkbox"/> CHECK IF NO VIOLATIONS, ADJUSTMENTS, ETC		10. TRAVEL EXPENSES (OPTIONAL)	
NO. OF VIOLATIONS	3	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) - Industry Operations Investigator

Submitted on: 01/23/2017

Viols WC with WL and Recall

12. TIME ACCOUNTING DATA			
ATF OFFICER'S NAME (MONTH, YEAR, HOURS)		(b)(6)	
OCT 2016	2.50		
NOV 2016	12.50		
DEC 2016	14.00		
JAN 2017	9.00		
ATF OFFICER'S SUBTOTAL	38.00	ATF OFFICER'S SIGNATURE	
TOTAL HOURS	38.00		

13. REVIEW AND ROUTING	
REVIEW COMMENTS AND RECOMMENDATION <p>Field inspection performed 11/30-12/06/16; a ROV was issued for two recordkeeping violations and a single low-volume administrative violation. Although the licensee's failure to timely record disposition entries within their A&D Record merits a Warning Conference by policy, it is alternatively recommended that the license receive a Warning Letter and a Recall inspection as (1.) the conference-qualifying violation involved a bulk transfer of firearms to another licensee who was performing a finishing process, and (2.) the absence of any compliance history for this licensee.</p> <p>With DIO concurrence, a Warning Letter was generated and sent to the licensee (via certified post with return receipt) on 1/23/17; a Recall inspection was staged for compliance follow up this same day. No further field action required at this time.</p> <p>Viols WL ONLY and Recall Inspection</p> <p><input checked="" type="checkbox"/> REVIEWED <input type="checkbox"/> CONCUR <input checked="" type="checkbox"/> SEE COMMENTS <input checked="" type="checkbox"/> FINAL DISPOSITION</p>	
SIGNATURE AND TITLE (b)(6) - Area Supervisor	REVIEW DATE 01/13/2017

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13. REVIEW AND ROUTING

REVIEW COMMENTS AND RECOMMENDATION

I concur with the Area Supervisor's alternate recommendation of Warning Letter and recall inspection.

Viols WL ONLY and Recall Inspection

☒ REVIEWED

☐ CONCUR

☒ SEE COMMENTS

☐ FINAL DISPOSITION

SIGNATURE AND TITLE

MSMITCHEM - Director of Industry Operations

REVIEW DATE

01/20/2017

ROUTING SEQUENCE AND DATE

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

CONTROL FILE POSTED DATE _____



U.S. Department of Justice

Bureau of Alcohol, Tobacco,
Firearms and Explosives

www.atf.gov

Layke Tactical LLC
Layke Tactical
3330 West Osborn Road
Phoenix, AZ 85017
RE: 9-86-013-07-9G-06455

January 23, 2017

Mr. Ernest Apodaca Jr:

During a recent inspection at your firearms business covering the period of November 1, 2015 to November 30, 2016 you were cited for violations of Title 27, Code of Federal Regulations, Part 478. A copy of the Report of Violations, ATF F 5030.5, issued at the time of the inspection is enclosed.

All violations were fully explained to you by the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) Industry Operations Investigator. You indicated that you understood the requirements of the firearms laws and regulations and 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. This is critical to carrying out our mission to protect the public and to ensure that criminals do not gain access to firearms. ATF appreciates the efforts you and other industry members make in this area. We look forward to continuing to work with you in that regard.

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

Layke Tactical LLC

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

Sincerely,

(b)(6)

Phoenix III Area Supervisor

Enclosure

c: Federal Firearms Licensing Center
Phoenix III (IO) Field Office

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 Layke Tactical LLC Layke Tactical	Street Address 3330 West Osborn Road	City Phoenix	State AZ	Zip Code 85017-	County Maricopa	Page 1 of 2 Pages
License/Permit/Registry Number (If any) 986013079G06455	Expiration Date 7/1/2019	Date(s) or Period of Inspection 11/29/2016 through 12/05/2016				

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 furnish or obtain all information as required by headings and instructions on (b)(3) 11 ATF Form 4473.

Citation: 27 CFR 478.21(a)

Date Corrections to be Made:

(If not corrected immediately)

Corrective Action to be Taken:

(If not corrected immediately)

The licensee will ensure that the ATF Forms 4473 are completed as per the regulation and the headings and instructions pertaining to the form prior to the transfer of a firearm to a non-licensee.

Number: 2

Nature of Violation:

Failure to sign/date the transfer of a firearm on (b)(3) 11 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 will ensure that the ATF Forms 4473 are completed as per the regulation and the headings and instructions pertaining to the form prior to the transfer of a firearm to a non-licensee.

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 Layke Tactical LLC Layke Tactical	Street Address 3330 West Osborn Road	City Phoenix	State AZ	Zip Code 85017-	County Maricopa	Page 2 of 2 Pages
License/Permit/Registry Number (If any) 986013079G06455	Expiration Date 7/1/2019	Date(s) or Period of Inspection 11/29/2016 through 12/05/2016				

Inspection Results

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

Number: 3

Nature of Violation:

Failure to record all the disposition information of (b)(3) firearms to another licensee in the Acquisition and Disposition (A&D) Record.

Citation: 27 CFR 478.123(b)

Date Corrections to be Made:

(If not corrected immediately)

Corrective Action to be Taken:

(If not corrected immediately)

The licensee will ensure that all required disposition information is correctly entered into the A&D record no later than 7 days from date of transfer.

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

Ernest Gooden PRESIDENT

Signature and Title of ATF Officer

(b)(6)

- IOI

Date

12/6/16

Date

12/6/16

FIREARMS INSPECTION REPORT

Name: Layke Tactical LLC
Trade Name: Layke Tactical

UI#: 785050-2017-0035-B1B
FFL#: 9-86-013-07-9G-06455

Address: 3330 West Osborn Road
Phoenix, AZ 85017 Maricopa

1 - Introduction

Inspection Profile:

On November 30, 2016, Senior Industry Operations Investigator (SIOI) (b)(6) (b)(6), initiated a Type 07 Federal firearms manufacturer/dealer compliance inspection at the above noted premises of Layke Tactical, LLC, dba Layke Tactical, FFL #9-86-013-07-9G-06455, expiring July 1, 2019. The period covered by the inspection is November 1, 2015 to November 30, 2016.

SIOI (b)(6) identified Responsible Persons (RP) Ernest Apodaca, Jr. by his Arizona Drivers' License (AZ DL) (b)(6) which expires 6/21/2017, Ronald Apodaca, AZ DL (b)(6) which expires 11/05/2024, and Jameson Apodaca, AZ DL (b)(6) which expires 07/01/2059.

The full scope Manufacturer/SWB-DE compliance inspection was initiated to ensure compliance with current provisions of the GCA/NFA and to identify possible trafficking indicators. SIOI (b)(6) did not provide advance notice of the inspection, the inspection was completed within normal business hours.

Business Profile:

The licensee is an aerospace component manufacturer located in a commercially zoned manufacturing facility within the City of Phoenix. The licensee advertises the products they produce on their own website www.layketactical.com. The licensee sells at wholesale to five local FFL's which are listed on their website.

Based on the licensee's legal counsel's advice (b)(4)

[REDACTED]

they have retained this FFL for potential government contracts which are allowable under the licensee's current

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insurance provider. Currently, all manufacturing and sales activity is being conducted under the Layke Tactical, LLC license #9-86-06455 which specializes in AR rifle/pistol platform manufacturing.

For the 12 month inspection period the licensee acquired (b)(4) firearms and disposed of (b)(4) firearms. The only used firearms sold by the licensee are from transfers of firearms purchased online by their customers, these transfers accounted for approximately (b)(4) of the total dispositions in the inspection period. The licensee does occasional special orders for customers from their wholesaler (b)(4). The licensee does conduct business at Crossroads of the West gun shows in the Phoenix area, primarily to take orders or sell accessories.

The licensee has held this FFL since June of 2013 and a query of the FLS database did not disclose any additional past or other present license involvement, beyond the two Layke FFLs, by any of the RPs.

The local zoning (A-2) and law enforcement authority for the licensee is City of Phoenix. SIOI (b)(6) reviewed the following state/local permits:

- State of Arizona Transaction Privilege Tax License (b)(3) - 26 USC 6103
- City of Phoenix Transaction Privilege Tax License (b)(3) - 26 USC 6103
- EIN # (b)(3) - 26 USC 6103
- SOT CN# (b)(3) - 26 USC 6103

The business premises are protected by standard commercial door locks and an electronic security system, including recorded video monitors.

Ownership and Control:

The licensee operates as a State of Arizona Limited Liability Company and is in good standing and SIOI (b)(6) did not detect any hidden ownership. Layke, Inc. is the sole member of the company. (See Exhibit 1 – Arizona Corporation Commission Records)

Variance:

The licensee does have a marking variance for Predator Technology Group, LLC, FFL 9-86-07294 at this time, a copy is maintained in the ATF office file.

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FFL#: 9-86-013-07-9G-06455

2 - Recommendation

Violations, Warning Conference, with Warning Letter and Recall Inspection

3 - Inspection History

Date of Inspection: May 29, 2013
Type of Inspection: Application Inspection
UI#: 785050-2013-0284-B1B
Inspection Results: Application Approved
Cited Violations: None

A signed Acknowledgment of Federal Firearms Regulations, dated May 29, 2013 is in the Area Office File for this inspection.

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

The licensee maintains a copy of their A&D records manually in A&D ledger books, specifically books 1-6; these books will be closed out and an electronic A&D record will be implemented in the near future. Both sets of records are correctly formatted. The electronic A&D record complies with Ruling 2016-1, they added a "notes" column to list any edits, amendments or corrections, and they back up the electronic A&D record to a hard drive located on the premises. SIOI (b)(6) conducted a 100% physical inventory and comparison of firearms in inventory to the A&D Record that resulted in the following:

- 405 open entries in the A&D records including NFA weapons
- (b)(3) firearms in inventory including NFA weapons
- The above identified discrepancy of (b)(3) open dispositions with no corresponding firearm found in inventory was the result of the licensee's failure to properly/timely record the disposition of the firearms in their A&D Record after a bulk shipment of the (b)(3) receivers to another FFL for a manufacturing process (hardening/coating)
- There were no missing firearms at the conclusion of the inspection

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After completion of the inventory and reconciliation with the A&D record review, SIOI (b)(6) cited the licensee for failure to correctly record the disposition of firearms in the A&D record, a violation of **27 CFR 478.123(b)**. See **Worksheet 1 – Inventory, A&D Review and ATF Form 5030.5 – Report of Violations**. Specifically, failure to record the disposition of (b)(3) firearms to another licensee in the A&D Record. SIOI (b)(6) reviewed the corrected electronic A&D Record prior to completion of the inspection, a copy of one of the corrected pages was obtained, **Exhibit 2b**.

Prior to this inspection, the licensee's procedure for accounting for temporary bulk transfers to other licensees had been to document the transactions with an invoice and a note in the comments column "at Southwest" in the electronic A&D Record, and to remove this short-term "note" when the receivers were returned. **Exhibit 2a** shows the original "at Southwest" note in the comments column. The licensee corrected this procedure by establishing a manufacturing A&D Record in which all firearms receivers are timely recorded as they are produced and when they are transferred for further manufacturing processes. When these complete receivers are returned, they are recorded as an acquisition in a separate retail A&D Record. This procedural change will ensure all acquisitions and dispositions will be timely recorded.

5 - ATF Forms 4473 – NICS & Other Dispositions

The licensee files their ATF Forms 4473 numerically by book and line number which is recorded as the transaction serial number. The NICS Audit Log listed 28 transactions for the period requested, all 28 transactions were verified with the ATF Form 4473. The licensee conducts transfers to other FFLs properly and did not have any transfers to law enforcement personnel.

The licensee had (b)(3)-11 ATF Forms 4473 on file for the 12 month inspection period and SIOI (b)(6) reviewed 100% of the forms. After review of all the ATF Forms 4473, SIOI (b)(6) cited the licensee for:

Failure on (b)(3)-11 ATF Form 4473, to furnish or obtain all information as required by headings and instructions, a violation of **27 CFR 478.21(a)**. See **Worksheet 2 - 4473 (2012 Edition)**, **Exhibit 3 – ATF Form 4473 27 CFR 478.21(a) violation and ATF Form 5030.5 – Report of Violations**.

Failure on (b)(3)-11 ATF Form 4473, to properly sign and/or record the correct date of transfer of a firearm, a violation of **27 CFR 478.124(c)(5)**. See **Worksheet 2 - 4473**

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(2012 Edition), **Exhibit 3** – ATF Form 4473 27 CFR 478.124(c)(5) violation and ATF Form 5030.5 – **Report of Violations**.

The licensee contacts NICS by phone at gun shows and via computer during normal operations from the business location. Ronald and Jameson Apodaca are primarily responsible for completion of the ATF Forms 4473. The forms are provided to (b)(6) (b)(6), for final review and to record the disposition in the electronic A&D records.

6 - Multiple Sales

The Violent Crime Analysis Branch's (VCAB) Firearm Trace History lists no multiple handgun reports during the inspection period. (b)(6) multiple sale was reviewed and found to be properly reported by the licensee after the VCAB report was provided. After review of the required records, SIOI (b)(6) did not note any multiple sales without a completed form. SIOI (b)(6) provided the licensee with written instructions to email the forms into the NTC for future reference.

7 - Suspicious/Prohibited Purchasers

SIOI (b)(6) identified five suspicious purchasers based on volume and/or firearm type acquired and checked the suspicious purchasers and the firearms they purchased for criminal history, derogatory information, tracing, and NCIC. The searches did not return any derogatory or prohibiting information.

8 - Trace Activity

The VCAB Firearms Trace History revealed one firearm was successfully traced to the licensee in the last twelve months. A total of five secondary market firearms were selected/checked in NCIC and eTrace for possible stolen or otherwise traced firearms, the results were all negative.

9 - NFA/Importer/Collector/Manufacturer

The licensee is not involved in Importer/Collector activity.

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NFA

The licensee acquired (b)(4) NFA weapons during the inspection period and had no dispositions during this time period. A complete inventory of all 26 NFA weapons in inventory was verified with the NFA registry, no discrepancies were identified.

SIOI (b)(6) advised the licensee of the requirement to obtain an ATF Form 4473 and conduct a NICS background check for any individual who takes possession of a NFA item on behalf of a trust. A copy of the September 2016 FFL Newsletter which reviews Rule 41F was provided to the licensee.

Manufacturer

The licensee produced 23 pistols, 61 rifles, and 59 lowers in 2015 and properly completed the annual AFMER report. These firearms were reviewed during the inventory to ensure proper markings, and proper recording into the A&D record. The current production of firearms were also reviewed during the inspection. The review found the firearms were properly marked and recorded into the A&D record. The licensee is registered with the United States Department of State as a manufacturer, the registration code is #M32586. (See Exhibit 4 – U.S. State Department Registration – ITAR)

10 – Referrals

SIOI (b)(6) did not generate any referrals as a result of this inspection.

11 - Other

An NForce query did not identify the responsible persons in any cases.

An OpenFox query did not disclose any prohibiting information of the responsible persons.

An Accurant query verified the home address of the responsible persons, no others were identified as potentially involved in the business.

An Arizona state query did not disclose any prohibiting information of the responsible persons.

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The licensee had the Youth Handgun Safety Act poster posted and secure storage and/or safety devices are available for any transfers of firearms.

12 - Closing Actions

SIOI (b)(6) conducted a Closing Conference with Ernest, Ron, and Jameson Apodaca, (b)(6) on December 6, 2016. SIOI (b)(6) reviewed the ATF Form 5030.5 Report of Violations (ROV) with Mr. Ernest Apodaca, who stated that he understood the nature of the violations cited and the corrective action required. Mr. Apodaca signed the ROV, acknowledging that he had received a copy, after which SIOI (b)(6) signed and retained the original.

As part of the closing conference the SIOI provided applicable ATF publications and forms available to the licensee. The licensee was provided an opportunity to ask any additional questions or discuss any concerns from the compliance inspection. The SIOI reviewed the Acknowledgement of Federal Firearms Regulations with Mr. Apodaca who then signed, retaining a copy. **(Exhibit 5 – Executed Copy of the Acknowledgement of Federal Firearms Regulations).**

13 – Violations

1 27 CFR 478.21(a)

Nature of Violation:

Failure on (b)(3) - 11 ATF Form 4473, to furnish or obtain all information as required by headings and instructions. Specifically, failure on one ATF Form 4473, to correctly record the required information, in Items 33 and 35 – Transferor's Name and Transferor's Title (b)(3) - 112 Public

Licensee Response:

The licensee had no response.

Corrective Action:

SIOI (b)(6) told the licensee to make a copy of the page needing correction, initial and date the correction on the copy, and insert the corrected copy in with the original ATF Form 4473.

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Worksheets and Exhibits: Worksheet 2 / Exhibit 3 – ATF Form 4473 27 CFR 478.21(a) violation

2 27 CFR 478.124(c)(5)

Nature of Violation:

Failure on [REDACTED] ATF Form 4473, to record all required firearm identification information. Specifically, failure on one ATF Form 4473, to correctly record the required information for Items 34 and 36 – Transferor's Signature and Date Transferred

(b)(3) - 112 Public

Licensee Response:

The licensee had no response.

Corrective Action:

SIOI (b)(6) told the licensee to make a copy of the page needing correction, initial and date the correction on the copy, and insert the corrected copy in with the original ATF Form 4473.

Worksheets and Exhibits: Worksheet 2 / Exhibit 3 – ATF Form 4473 27 CFR 478.124(c)(5) violation

3 27 CFR 478.123(b)

Nature of Violation:

Failure to record all the disposition information of firearms to another licensee in the Acquisition and Disposition (A&D) Record. Specifically, failure to record the disposition [REDACTED] firearms in the A&D Record.

(b)(3) - 112 Public

Licensee Response:

The licensee stated the disposition was noted in the "notes" column of the A&D record and also documented on invoices to and from this FFL.

Corrective Action:

SIOI (b)(6) instructed the licensee to properly record the 48 omitted disposition entries. SIOI (b)(6) reviewed the corrected electronic A&D Record prior to completion of the inspection, a copy of one of the corrected pages was obtained and is listed as Exhibit 2.

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**Worksheets and Exhibits: Worksheet 1 / Exhibit 2 – A&D Records 27 CFR
478.123(b) violations**

X

Senior Industry Operations Investigator

Index of Worksheets and Exhibits

Worksheet 1 – Inventory, A&D

Worksheet 2 – 4473 (2012 Edition) Review

Exhibit 1 – Arizona Secretary of State Records.

Exhibit 2 – A&D records (Corrected) 27 CFR 478.123(b) violation

Exhibit 3 – ATF Form 4473 27 CFR 478.21(a) violation and 27 CFR 478.124(c)(5) violation

Exhibit 4 – U.S. State Department Registration – ITAR

Exhibit 5 – Executed Copy of the Acknowledgement of Federal Firearms Regulations