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UNITED STATES DISTRICT COURT FOR THE DISTRICT OF IDAHO

RED'S TRADING POST, INC.,

Petitioner,

vs.

RICHARD VAN LOAN, Director of Industry
Operations, Bureau of Alcohol, Tobacco,
Firearms and Explosives,

Respondent.

Civil No. 07-00090-S-EJL

**NOTICE OF SUBSEQUENT
VIOLATIONS OF GUN
CONTROL ACT**

The United States of America, on behalf of its agency, the Bureau of Alcohol, Tobacco, Firearms and Explosives ("ATF"), and its employees, by and through its counsel, Deborah A. Ferguson, Assistant United States Attorney for the District of Idaho, notifies the Court that an inspection of Red's Trading Post, a gun and pawn shop in Twin Falls, Idaho on May 23, 2007, revealed several violations of the Gun Control Act.

Attached as Exhibit 1 is a Firearms Special Inspection Report, prepared by Area

Supervisor Linda Young on May 29, 2007. The Report details the violations that occurred in the inspection period of April 5, 2007, through May 22, 2007. There were three categories of violations.

- A review of the Petitioner's records during the inspection period disclosed that the licensee did not accurately record the required gun acquisition information on thirty-four occasions. The licensee did not record an address for the person from whom the firearms were received. The licensee recorded only the Name, City, State, and Zip Code, a violation of 27 C.F.R. § 478.125(e).
- The licensee has not properly filed ATF Form 4473. The licensee filed the forms by the first letter of the last name of the purchaser and then by date in violation of 27 C.F.R. 478.124(b). In accordance with the regulation the licensee must retain the forms either alphabetically (by name of purchaser), chronological (by date of disposition), or numerical (by transaction serial number) order.¹
- Terry Horsley transferred a firearm on April 21, 2007, to a Resident Alien without obtaining proper proof of residency by the purchaser in violation of 27 C.F.R. 478.124(3)(c)(ii). Ms. Horsley obtained what appears to be two employment pay stubs for the period November 14, 2006–November 19, 2006, and November 20, 2006–December 3, 2006. The regulation states that the licensee shall, in the case of a transferee who is an alien legally in the United States, cause the transferee to present documentation establishing that the transferee is a resident of the State in which the licensee's business premises is located and shall note the documentation used. The documentation must show that the transferee has

¹ The filing system for Form 4473s was not cited in the 2005 inspection because the investigator did not realize it violated the regulations, when it in fact does. However, as Red's was not cited at that time, it is not relied upon as a basis for the license revocation.

resided in the State continuously for at least ninety days immediately prior to the transfer of the firearm. The pay stubs provided do not indicate an address for the purchaser and do not establish that the purchaser resided in the State of Idaho continuously for at least ninety days immediately prior to the transfer of the firearm.

In addition to the attached inspection report, the Declaration of ATF Area Supervisor Linda Young who led the May 23, 2007, inspection of Red's has been filed in support of this Notice, along with the Second Declaration of ATF Investigator Caleb Rushing.


The Court's April 30, 2006, Order granted Petitioner's Motion for Preliminary Injunction, subject to certain terms and conditions. In that Order, the Court stated:

The Court urges Red's to be vigilant and meticulous in complying with these terms, as failure to do so will result in a termination of the injunction. If this occurs, revocation of Red's license will become effective immediately and Red's will no longer be able to engage in any firearms activity for which a valid license is required, including selling any remaining firearms in inventory during the pendency of the judicial review.

The inspection for the period of April 5, 2007, through May 22, 2007, demonstrates Petitioner's continued failure to comply with the Gun Control Act. Accordingly, ATF requests that the Court terminate the Petitioner's injunction.

RESPECTFULLY SUBMITTED this 5th day of June, 2007.

THOMAS E. MOSS
United States Attorney


DEBORAH A. FERGUSON
Assistant United States Attorney

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on 5th day June, 2007, the **Notice of Subsequent Violations of Gun Control Act** was electronically filed with the Clerk of the Court using the CM/ECF system which sent a Notice of Electronic Filing to the following persons:

Richard E. Gardiner
regardiner@cox.net

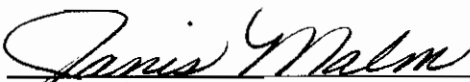
Mark S. Geston
msgeston@stoel.com

J. Walter Sinclair
jwsinclair@stoel.com

And, I hereby certify that the following listed non-registered CM/ECF participants were served by:

- United States Mail, postage prepaid
- Hand-delivery
- Facsimile transmission (fax)

None



Janis Malm
Legal Assistant