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RJB:dg



IN THE COMMON PLEAS COURT, LUCAS COUNTY, OHIO

E. Elaine Roebke, Admin. of the
Estate of Allison Roebke,

Case No. G-4801-CI-0202202926-000

Plaintiff,

Judge Lindsay D. Navarre

v.

**DEFENDANTS' MOTION FOR
SUMMARY JUDGMENT**

ADCO Firearms, LLC, et al.,

Robert J. Bahret (0014985)
Andrew J. Ayers (0022334)
ROHRBACHER TRIMBLE
& ZIMMERMAN CO., L.P.A.
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Toledo, OH 43604
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Attorneys for Defendants

Defendants.

Now come Defendants ADCO Firearms, LLC and Steven E. Thompson, by and through counsel, and move the Court to enter an order granting summary judgment and dismissing Plaintiff's Complaint with prejudice. The basis for the motion is set forth in the accompanying memorandum.

MEMORANDUM IN SUPPORT

I. INTRODUCTION

This is an action by the administrator of the estate of Allison Roebke to recover damages alleged to have resulted from the death of Allison Roebke. For purposes of this motion Defendants concede that Allison Roebke died by suicide. However,

because that act breaks the chain of causation and Defendants may not be held liable for the legal sale of a firearm regardless, Plaintiff's action should be dismissed.

II. PLEADINGS

Plaintiff's Complaint alleges that Defendants sold a firearm to a "straw purchaser" who in turn provided the weapon to Allison Roebke, who could not own a firearm herself. Allison Roebke used the firearm to kill herself.

Plaintiff alleges that Defendants were negligent in selling the firearm to a straw purchaser, negligently entrusted the firearm to a straw purchaser, were negligent per se in violating statutes prohibiting the straw purchase, that Defendant Thompson aided and abetted tortious activity resulting in the sale of the firearm to a straw purchaser, negligently trained and supervised its employees, and that Defendants are liable for the wrongful death of Roebke.

Plaintiff seeks compensatory and punitive damages against Defendants. Defendants answered the Complaint and denied the allegations of a straw purchase, denied that they had reason to suspect that a straw purchase was being made, and asserted various affirmative defenses.

III. FACTS

Allison Roebke committed suicide on or about July 8, 2020, allegedly using a firearm allegedly purchased by her friend Jerry Zohn from ADCO Firearms, LLC. (See Complaint) ADCO is a licensed firearms dealer holding a 01 license applicable to dealers in firearms other than destructive devices pursuant to 27 CFR § 4811. (Thompson Deposition at 47-48)

At the time of the sale, Zohn was several decades older than Roebke. (Zohn Deposition at p. 61) They met at Secor Park and became friendly. (Zohn Deposition at p. 8) Roebke asked Zohn to help her get a firearm for target shooting like she did when

she was younger. (Zohn Deposition at p. 17) Zohn had no prior experience buying firearms. (Thompson Deposition at p. 55)

The pair visited several gun dealers and visited ADCO twice. (Zohn Deposition at p. 27-28) On the second visit, Zohn purchased a handgun after completing the background check and filling out the necessary forms to purchase a weapon. (Zohn Deposition at p. 38; Thompson Deposition at p. 73-74.) Zohn never believed that Roebke intended to cause harm to herself, or he would not have purchased the weapon. (Zohn Deposition at p. 55) Zohn claimed on the forms that he was to be the owner of the firearm and that it was for his use. (Zohn Deposition at p. 70)

After they left ADCO, Zohn gave the gun to Roebke along with ammunition that he had purchased as well. Plaintiff alleges that Roebke used that firearm to kill herself. Roebke told Zohn that she was unable to buy a firearm herself as she had previously been an inpatient in a mental health facility. (Zohn Deposition at p. 17) Zohn admitted that he lied when he filled out the necessary form to purchase the weapon. (Zohn Deposition at p. 70) Zohn knew it was illegal to purchase the weapon for Roebke. (Zohn Deposition at p. 70) Zohn made it clear to the ADCO employee that he was buying the gun for himself. (Zohn Deposition at p. 70; Thompson Deposition at p. 28) A copy of the form 4473 filled out by Zohn is attached as Exhibit A.

Defendant Steven Thompson handled the sale to Zohn. (Thompson Deposition at p. 55) Thompson did not observe anything about Zohn that made him believe that Zohn was not buying the gun for himself. (Thompson Deposition at p. 79) Thompson noticed what he described as a weird dynamic between Zohn and Roebke, based on their age difference. (Thompson Deposition at p. 67) Zohn asked appropriate questions even though he admitted he was a first-time buyer and it appeared he had researched the purchased based upon his questioning. (Thompson Deposition at p. 57) For example, Zohn asked about the safety on the weapon and Thompson explained how it

operated and Zohn was satisfied with the explanation. (Thompson Deposition at p. 63) Zohn and Thompson disagreed in their testimony about Roebke's actions in the store. Zohn thought Roebke handled the weapon before it was purchased. (Zohn Deposition at p. 40) Thompson denied that she did. (Thompson Deposition at p. 64) Thompson recalled that Roebke pointed out a gun and Zohn said "no" to that weapon. (Thompson Deposition at p. 59) Otherwise, Thompson did not recall any other actions taken by Roebke in the purchase of the weapon. (Thompson Deposition at p. 75)

VI. ARGUMENT

A. Motion for Summary Judgment Standards

It is well established in Ohio law that summary judgment should be granted when the moving party demonstrates: (1) there is no genuine issue as to any material fact, (2) the moving party is entitled to summary judgment as a matter of law, and (3) that reasonable minds can reach but one conclusion, and that conclusion is adverse to the party against whom the motion for summary judgment is made, which party is entitled to have the evidence construed most strongly in its favor. *Ohio Civ.R. 56(C); Harless v. Willis Day Warehousing Co.* (1978), 54 Ohio St. 2d 64.

The moving party bears the burden of proving the absence of a triable, substantial or real issue of fact. The burden may be discharged when there is no evidence to support the non-moving party's case. *Celotex Corp. v. Catrett* (1986), 477 U.S. 317, 106 S. Ct. 2548, 91 L. Ed. 2d 265, 274. The non-moving party bears the burden of producing, during a summary judgment proceeding, evidence that would support a jury verdict. As was stated in *Celotex*:

The plain language of Rule 56(c) mandates the entry of summary judgment, after adequate time for discovery and upon motion, against a party who fails to make a showing sufficient to establish the existence of an element essential to that party's case, and on which that party will bear the burden of proof at trial. In such a situation, there can be "no genuine issue as to any material fact," since a complete failure of proof concerning an essential element of the nonmoving party's case necessarily renders all other facts immaterial. The moving party is "entitled to a judgment as a

matter of law" because the nonmoving party has failed to make a sufficient showing on an essential element of its case with respect to which it has the burden of proof.

The *Celotex* decision and reasoning was cited and followed by the Ohio Supreme Court in *Wing v. Anchor Media Ltd. of Texas* (1991), 59 Ohio St.3d 108 and *Dresher v. Burt* (1996), 75 Ohio St.3d 280.

In addition, the presence of a factual dispute will not preclude the granting of a summary judgment. The disputed fact must be "material", i.e., a fact which, if proved, would entitle a party to recover under the law of Ohio. See, *Clark v. Meigs Equipment Co.* (1967), 10 Ohio App. 2d 157, 161.

Summary judgment may be granted even when there is the slightest doubt as to the facts, for the test to be employed in deciding the propriety of a summary judgment motion is the "reasonable minds test" as opposed to the "slightest doubt test." *Cunningham v. J.A. Myers Co.* (1964), 176 Ohio St. 410, 414.

The role of the trial court with respect to the consideration of a summary judgment motion is clear. The Court must first determine which facts in the case are "material", i.e., those which tend to prove or disprove elements of the disputed claim for relief; and then the Court must go beyond the pleadings to find whether issues as to those facts, if any, are "genuine", i.e., they can be supported by substantial evidence. Generally, see, *Id.*; *Morris v. First Nat'l. Bank & Trust Co.* (1968), 15 Ohio St. 2d 184. As a necessary prerequisite to such determination, of course, the judge must decide the law to which these facts are to be applied.

The use of summary judgment is appropriate in all civil cases. Generally, see, 32A Ohio Jur. 2d *Judgments*, 889, 890, (pg. 46-51). Indeed, the summary judgment procedure has been regarded by Ohio courts not as a disfavored procedural shortcut, but rather as an integral part of the Ohio Rules of Civil Procedure. As was stated in *North v. Penna. Rd. Co.* (1967), 9 Ohio St.2d 169:

The summary judgment statute (Section 2311.041, Revised Code) was enacted with a view to eliminating from the backlog of cases which clog or courts awaiting jury trials those in which no genuine issue of fact exists. The availability of this procedure and the desirability of its aims are so apparent its use should be encouraged in proper cases.

Finally, "It is elementary that the non-moving party, when confronted with a properly supported motion for summary judgment, may not rest on the allegations in his pleadings. If he fails to come forward with evidence in opposition, summary judgment may be entered against him." *Savransky v. Cleveland* (1983), 4 Ohio St.3d 118. (Emphasis added.)

B. Roebke's Suicide Breaks the Chain of Causation

In assessing claims for wrongful death based upon the suicide of a party's decedent, Ohio courts have held that in the absence of evidence that the tortfeasor had knowledge making the act of suicide foreseeable, that the act of committing suicide is an intervening cause breaking the chain of causation resulting from the alleged misconduct of the defendant, and they are not liable for damages for wrongful death. *Laytart v. Laytart*, 3d Dist. Hancock No. 5-94-11, 1994 Ohio App. LEXIS 3761 (Aug. 26, 1994). The Court in *Fischer v. Morales*, 38 Ohio App.3d 110, 526 N.E.2d 1098 (10th Dist.1987) stated:

The general rule is that suicide constitutes an intervening force which breaks the line of causation stemming from the wrongful act, and, therefore, the wrongful act does not render the defendant civilly liable. Nevertheless, a defendant will not be relieved of liability by an intervening force which could reasonably have been foreseen or by one which was a normal incident of the risk involved. Annotation, Civil Liability for Death by Suicide (1950), 11 A.L.R. 2d 751, 757; Annotation, Liability of One Causing Physical Injuries as a result of which Injured Party Attempts or Commits Suicide (1977), 77 A.L.R. 3d 311, 315.

Fischer v. Morales, 38 Ohio App.3d 110, at 112.

Ohio courts have also held that in the absence of evidence that suicide by the decedent was foreseeable, no duty exists to prevent suicide by the alleged tortfeasor. *Clemets v. Heston*, 20 Ohio App.3d 132, 485 N.E.2d 287 (6th Dist.1985).

In this matter, Plaintiff alleges that a straw purchase was wrongfully permitted by Defendants to Zohn. Zohn, in turn, provided the weapon to Roebke. Zohn denied any knowledge that Roebke was going to harm herself. Zohn provided no evidence that Roebke's mental illness was plainly evident at any time while in Defendants' store by her conduct or anything she said. While Plaintiff alleges that Defendants should not have permitted the straw purchase because there were "red flags", no allegation is made that any actions of Roebke or statements attributed to her were sufficient to place Defendants on notice that she was mentally unstable or a suicide risk.

Even if the Court accepts Zohn's deposition testimony as true, Roebke did nothing while in the store that would alert Defendants that it was foreseeable that she was contemplating suicide. Zohn testified that Roebke spoke with the clerk and handled the firearm while they were deciding on one. Zohn intentionally deceived the clerk about ultimate ownership of the firearm and lied on the form required to purchase the weapon. Zohn claimed that he was unaware that Roebke intended to harm herself with the weapon or he would never have gone along with purchasing it.

Thompson testified that there were no red flags that he saw that indicated this was a straw purchase, let alone that one of the customers was suicidal. At most, he noticed a "strange dynamic" because of their age difference. Not any strange behavior that was alarming.

At most, Plaintiffs have raised issues with the propriety of the purchase of the weapon by Zohn as potentially being a straw purchase. They do not allege and there is no evidence that Defendants ought to have been aware that Roebke was suicidal. Indeed, Thompson testified that the couple acted like a normal, happy couple who had

a substantial difference in age. Nothing in the record before the Court suggests that Defendants should have concluded that Roebke was a risk to herself. Rather, the couples' deception was intended to mask any detection that this was anything other than a normal purchase. Zohn claims that he believed the weapon was to be used as a hobby for target practice. Nothing in the record leads to the conclusion that Defendants should have noticed anything unusual or contrary to the appearance intended by the couple.

As such, the intentional, voluntary suicide by Roebke was an intervening cause of her death. Her estate cannot prove that Defendants are liable for her death as there is no evidence that Defendants should have foreseen that she was going to kill herself.

3. The PLCAA Bars the Present Action

15 U.S.C. §§ 7901-03 called the *Protection of Lawful Commerce in Arms Act* prohibits:

Any person from bringing what it calls a "qualified civil liability action," which it defines as "a civil action or proceeding or an administrative proceeding . . . against a manufacturer or seller of a [firearm or ammunition] . . . resulting from the criminal or unlawful misuse of a [firearm or ammunition] by . . . a third party," unless one of the Act's specifically enumerated exceptions applies. See 15 U.S.C. §§ 7902(a), 7903(4)-(5). Among those are exceptions for "an action brought against a seller for negligent entrustment or negligence per se," id. § 7903(5)(A)(ii), and "an action in which a manufacturer or seller of a [firearm or ammunition] knowingly violated a State or Federal statute applicable to the sale or marketing of the product, and the violation was a proximate cause of the harm for which relief is sought," id. § 7903(5)(A)(iii).

Ramos v. Wal-Mart Stores, Inc., 202 F. Supp. 3d 457 (E.D.Pa.2016)

In the present matter, Plaintiffs allege negligent entrustment and general negligence claims, presumably to avoid the restriction on their action imposed by Federal law. However, the Act defines negligent entrustment as the supplying of arms or ammunition:

for use by another person when the seller knows, or reasonably should know, the person to whom the product is supplied is likely to . . . use the product in a manner involving unreasonable risk of physical injury."

See 15 U.S.C. § 7903(5)(B)

Again, in this matter, there is no evidence that a reasonable person would have suspected that Roebke was going to harm herself. Zohn denied that he knew that and claimed that he believed Roebke's statement about the intended use of the weapon. From Defendants' standpoint, there was no reason to suspect that Roebke would even use the weapon based upon the couple's intended deception of Defendants. Nothing Roebke or Zohn is reported as saying or doing in the shop would lead to suspicion that the use of the weapon would take place "in a manner involving unreasonable risk of physical injury."

The Court should bear in mind that the Plaintiff's allegations in this matter all attack the straw man of a straw purchase by the couple. (No pun intended) Plaintiff ignores the need to prove that Defendants knew or reasonably should have known that the happy couple intended to use the weapon to cause harm to themselves or others.

What is missing is the required nexus between the alleged negligence of Defendants and the proximate cause of the wrongful death of Roebke.

Proof of negligence, regardless of the circumstances, requires the presence of a duty that is breached and which in turn proximately causes damage in an unbroken chain. No exception to the PLCAA exists in this matter because there is no evidence of that required causation, both because suicide breaks the chain of causation as an intervening cause and there is no evidence that any harm was foreseeable, so there was no breach of any duty. Duty is determined by the foreseeable harm to be avoided. *Jeffers v. Olexo* (1989), 43 Ohio St. 3d 140, 539 N.E.2d 614.

Plaintiff's claims are barred by Federal law unless there is an applicable exception. No exception exists in the present matter for the foregoing reasons that show an absence of proof of a cause of action for negligent entrustment or negligence. As such, the bar of 15 U.S.C. §§ 7901-03 applies and Plaintiff may not pursue her claims against Defendants.

IV. CONCLUSION

WHEREFORE, Defendants urge the Court to grant their motion for summary judgment and dismiss Plaintiff's Complaint with prejudice.

Respectfully submitted,

/s/ Robert J. Bahret

Robert J. Bahret

Attorney for Defendants

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing **Defendants' Motion for Summary Judgment** has been sent on this 22nd day of December, 2023, by email transmission only to: Sean R. Alto, Esq. at seana@cooperelliott.com and Chelsea C. Weaver, Esq. at chelseaw@cooperelliott.com, attorneys for Plaintiff.

/s/ Robert J. Bahret

Robert J. Bahret

Attorney for Defendants

Firearms Transaction Record

WARNING: You may not receive a firearm if prohibited by Federal or State law. The information you provide will be used to determine whether you are prohibited from receiving a firearm. Certain violations of the Gun Control Act, 18 U.S.C. 921 et. seq., are punishable by up to 10 years imprisonment and/or up to a \$250,000 fine.

Transferor's/Seller's
Transaction Serial
Number (If any)

9930

Read the Notices, Instructions, and Definitions on this form. Prepare in original only at the licensed premises ("licensed premises" includes business temporarily conducted from a qualifying gun show or event in the same State in which the licensed premises is located) unless the transaction qualifies under 18 U.S.C. 922(c). All entries must be handwritten in ink. "PLEASE PRINT."

Section A - Must Be Completed Personally By Transferee/Buyer

1. Transferee's/Buyer's Full Name (If legal name contains an initial only, record "IO" after the initial. If no middle initial or name, record "NAMN").

Last Name (Including suffix (e.g., Jr, Sr, II, III)) Zoh	First Name Tony	Middle Name LAWRENCE
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2. Current State of Residence and Address (U.S. Postal abbreviations are acceptable. Cannot be a post office box.)

Number and Street Address 2252 Applewood	City Tobago	County Georgetown	State CG	ZIP Code 97611
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3. Place of Birth U.S. City and State Tobago	-OR- Foreign Country	4. Height Ft. 5 In. 6	5. Weight (Lbs.) 200	6. Sex <input checked="" type="checkbox"/> Male <input type="checkbox"/> Female	7. Birth Date Month 12 Day 15 Year 1989
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8. Social Security Number (Optional, but will help prevent misidentification)	9. Unique Personal Identification Number (UPIN) if applicable (See Instructions for Question 9.)
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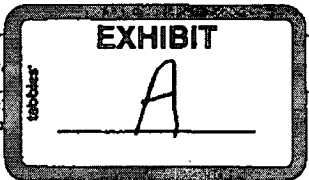
10.a. Ethnicity <input type="checkbox"/> Hispanic or Latino <input checked="" type="checkbox"/> Not Hispanic or Latino	10.b. Race (In addition to ethnicity, select one or more race in 10.b. Both 10.a. and 10.b. must be answered.) <input type="checkbox"/> American Indian or Alaska Native <input type="checkbox"/> Asian <input type="checkbox"/> Black or African American <input type="checkbox"/> Native Hawaiian or Other Pacific Islander <input checked="" type="checkbox"/> White
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11. Answer the following questions by checking or marking "yes" or "no" in the boxes to the right of the questions.	Yes	No
a. Are you the actual transferee/buyer of the firearm(s) listed on this form? Warning: You are not the actual transferee/buyer if you are acquiring the firearm(s) on behalf of another person. If you are not the actual transferee/buyer, the licensee cannot transfer the firearm(s) to you. Exception: If you are picking up a repaired firearm(s) for another person, you are not required to answer 11.a. and may proceed to question 11.b. (See Instructions for Question 11.a.)	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. Are you under indictment or information in any court for a felony, or any other crime for which the judge could imprison you for more than one year? (See Instructions for Question 11.b.)	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c. Have you ever been convicted in any court of a felony, or any other crime for which the judge could have imprisoned you for more than one year, even if you received a shorter sentence including probation? (See Instructions for Question 11.c.)	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d. Are you a fugitive from justice? (See Instructions for Question 11.d.)	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e. Are you an unlawful user of, or addicted to, marijuana or any depressant, stimulant, narcotic drug, or any other controlled substance? Warning: The use or possession of marijuana remains unlawful under Federal law regardless of whether it has been legalized or decriminalized for medicinal or recreational purposes in the state where you reside.	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f. Have you ever been adjudicated as a mental defective OR have you ever been committed to a mental institution? (See Instructions for Question 11.f.)	<input type="checkbox"/>	<input checked="" type="checkbox"/>
g. Have you been discharged from the Armed Forces under dishonorable conditions?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
h. Are you subject to a court order restraining you from harassing, stalking, or threatening your child or an intimate partner or child of such partner? (See Instructions for Question 11.h.)	<input type="checkbox"/>	<input checked="" type="checkbox"/>
i. Have you ever been convicted in any court of a misdemeanor crime of domestic violence? (See Instructions for Question 11.i.)	<input type="checkbox"/>	<input checked="" type="checkbox"/>

12.a. Country of Citizenship: (Check/List more than one, if applicable. Nationals of the United States may check U.S.A.)
 United States of America (U.S.A.) Other Country/Countries (Specify):

12.b. Have you ever renounced your United States citizenship?	Yes	No
12.c. Are you an alien illegally or unlawfully in the United States?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
12.d.1. Are you an alien who has been admitted to the United States under a nonimmigrant visa? (See Instructions for Question 12.d.)	<input type="checkbox"/>	<input checked="" type="checkbox"/>
12.d.2. If "yes", do you fall within any of the exceptions stated in the instructions?	<input type="checkbox"/>	<input type="checkbox"/>

13. If you are an alien, record your U.S.-Issued Alien or Admission number (AR#, USCIS#, or other):



Section D - Must Be Completed By Transferor /Seller Even If The Firearm(s) Is Not Transferred

24. Manufacturer and Importer (If any) (If the manufacturer and importer are different, the FFL must include both.)	25. Model (If Designated)	26. Serial Number	27. Type (See Instructions for Question 27.)	28. Caliber or Gauge
1. Ruger	Wrangler	[REDACTED]	Revolver	.22
2.				
3.				
4.				

REMINDER - By the Close of Business Complete ATF Form 3310.4 For Multiple Purchases of Handguns Within 5 Consecutive Business Days

29. Total Number of Firearms Transferred (Please <i>handwrite</i> by printing e.g., zero, one, two, three, etc. Do not use numerals.)	30. Check if any part of this transaction is a pawn redemption. <input type="checkbox"/> Line Number(s) From Question 24 Above:
ONE	<input type="checkbox"/>
31. For Use by Licensee (See Instructions for Question 31.)	32. Check if this transaction is to facilitate a private party transfer. <input type="checkbox"/> (See Instructions for Question 32.)
	<input type="checkbox"/>

33. Trade/corporate name and address of transferor/seller and Federal Firearm License Number (Must contain at least first three and last five digits of FFL Number X-XX-XXXX.) (Hand stamp may be used.)

ACCO FIREARMS LLC
6481 MONROE ST
SYLVANIA, OH 43560

4-34-01728

www.accofirearms.com
The Person Transferring The Firearm(s) Must Complete Questions 34-37.

For Denied/Cancelled Transactions, the Person Who Completed Section B Must Complete Questions 34-36.

I certify that: (1) I have read and understand the Notices, Instructions, and Definitions on this ATF Form 4473; (2) the information recorded in Sections B and D is true, correct, and complete; and (3) this entire transaction record has been completed at my licensed business premises ("licensed premises" includes business temporarily conducted from a qualifying gun show or event in the same State in which the licensed premises is located) unless this transaction has met the requirements of 18 U.S.C. 922(c). Unless this transaction has been denied or cancelled, I further certify on the basis of— (1) the transferee's/buyer's responses in Section A (and Section C, if applicable); (2) my verification of the identification recorded in question 18 (and my re-verification at the time of transfer, if Section C was completed); and (3) State or local law applicable to the firearms business — it is my belief that it is not unlawful for me to sell, deliver, transport, or otherwise dispose of the firearm(s) listed on this form to the person identified in Section A.

34. Transferor's/Seller's Name (Please print)	35. Transferor's/Seller's Signature	36. Transferor's/Seller's Title	37. Date Transferred
Steve Thpson	[Signature]	Sales	7-2-20

NOTICES, INSTRUCTIONS, AND DEFINITIONS

Purpose of the Form: The information and certification on this form are designed so that a person licensed under 18 U.S.C. 923 may determine if he/she may lawfully sell or deliver a firearm to the person identified in Section A, and to alert the transferee/buyer of certain restrictions on the receipt and possession of firearms. The transferor/seller of a firearm must determine the lawfulness of the transaction and maintain proper records of the transaction. Consequently, the transferor/seller must be familiar with the provisions of 18 U.S.C. 921-931 and the regulations in 27 CFR Parts 478 and 479. In determining the lawfulness of the sale or delivery of a rifle or shotgun to a resident of another State, the transferor/seller is presumed to know the applicable State laws and published ordinances in both the transferor's/seller's State and the transferee's/buyer's State. (See ATF Publication 5300.5, *State Laws and Published Ordinances*.)

Generally, ATF Form 4473 must be completed at the licensed business premises when a firearm is transferred over-the-counter. Federal law, 18 U.S.C. 922(c), allows a licensed importer, manufacturer, or dealer to sell a firearm to a nonlicensee who does not appear in person at the licensee's business premises only if the transferee/buyer meets certain requirements. These requirements are set forth in section 922(c), 27 CFR 478.96(b), and ATF Procedure 2013-2.

After the transferor/seller has completed the firearms transaction, he/she must make the completed, original ATF Form 4473 (which includes the Notices, General Instructions, and Definitions), and any supporting documents, part of his/her permanent records. Such Forms 4473 must be retained for at least 20 years and after that period may be submitted to ATF. Filing may be chronological (by date of disposition), alphabetical (by name of purchaser), or numerical (by transaction serial number), as long as all of the transferor's/seller's completed Forms 4473 are filed in the same manner.

FORMS 4473 FOR DENIED/CANCELLED TRANSFERS MUST BE RETAINED:

If the transfer of a firearm is denied/cancelled by NICS, or if for any other reason the transfer is not completed after a NICS check is initiated, the licensee must retain the ATF Form 4473 in his/her records for at least 5 years. Forms 4473 with respect to which a sale, delivery, or transfer did not take place shall be separately retained in alphabetical (by name of transferee) or chronological (by date of transferee's certification) order.

If the transferor/seller or the transferee/buyer discovers that an ATF Form 4473 is incomplete or improperly completed after the firearm has been transferred, and the transferor/seller or the transferee/buyer wishes to correct the omission(s) or error(s), photocopy the inaccurate form and make any necessary additions or revisions to the photocopy. The transferor/seller should only make changes to Sections B and D. The transferee/buyer should only make changes to Section A and C. Whoever made the changes should initial and date the changes. The corrected photocopy should be attached to the original Form 4473 and retained as part of the transferor's/seller's permanent records.

Exportation of Firearms: The State or Commerce Departments may require a firearms exporter to obtain a license prior to export. **Warning:** Any person who exports a firearm without proper authorization may be fined not more than \$1,000,000 and/or imprisoned for not more than 20 years. See 22 U.S.C. 2778(e).

Section A

The transferee/buyer must personally complete Section A of this form and certify (sign) that the answers are true, correct, and complete. However, if the transferee/buyer is unable to read and/or write, the answers (other than the signature) may be completed by another person, excluding the transferor/seller. Two persons (other than the transferor/seller) must then sign as witnesses to the transferee's/buyer's answers and signature/certification in question 14.