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OFFICE OF THE ATTORNEY GENERAL

THE STATE OF NEW YORK
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December 7, 2023

Via Federal eRulemaking Portal

The Honorable Merrick B. Garland
Attorney General of the United States
United States Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

The Honorable Steven M. Dettelbach
Director
Bureau of Alcohol, Tobacco, Firearms, and Explosives
99 New York Avenue, NE
Washington, DC 20226

RE: Definition of “Engaged in the Business” as a Dealer in Firearms, Docket No. ATF 2022R-17, AG Order No. 5781-2023, RIN 1140-AA58, 88 Fed. Reg. 61993 (September 8, 2023)

Dear Attorney General Garland and Director Dettelbach,

The undersigned State Attorneys General of New York, Massachusetts, Arizona, California, Colorado, Connecticut, Delaware, the District of Columbia, Hawai‘i, Illinois, Maine, Maryland, Michigan, Minnesota, Nevada, New Jersey, Oregon, Pennsylvania, Rhode Island, Vermont, and Washington (“the States”) write in support of the rule proposed by the U.S. Bureau of Alcohol, Tobacco, Firearms, and Explosives (“ATF”) titled “Definition of Engaged in the Business as a Dealer in Firearms,” 88 Fed. Reg. 61993 (Sept. 8, 2023) (“Proposed Rule”). The Proposed Rule strengthens ATF’s ability to satisfy its statutory mandate under the Bipartisan Safer Communities Act (“BSCA”) and to enhance public safety by providing clear standards, ensuring that more gun sales are subject to background checks, and reducing the opportunities for gun trafficking. The

States write to express their strong support of the Proposed Rule and offer suggestions to further enhance its protections against gun violence and the unlawful transfer of guns.

I. Need for the Proposed Rule

Gun violence has an increasing and enormously damaging impact on communities across the United States every year, with CDC data showing that more people died from gun-related injuries in 2021 than in any prior year.¹ Guns are now the leading cause of death among children aged 1-19.²

The guns that are used in shootings are often unlawfully obtained through a variety of methods, including straw purchases, private vendors at gun shows, and illicit online marketplaces. Many straw purchasers—that is, people who purchase guns for others, while misrepresenting that they are the actual purchaser—do so repeatedly and for profit. These practices endanger people in our states by making it easier for people who cannot lawfully purchase firearms to obtain them illegally.³ Between 2017 and 2021, the number of traced crime guns (that is, guns recovered in connection with criminal investigations that are traced using the ATF’s crime gun tracing systems) purchased at gun shows grew by 19%.⁴ Private vendors at gun shows in states that do not require background checks at gun shows are a source of trafficked guns into other states.⁵ More recently, changing technology has allowed prohibited persons to obtain guns in new and alarming ways, including sites that create online marketplaces for guns.⁶

The transfer of firearms by some FFLs who are going out of business is also a significant source of trafficked guns.⁷ The current lack of oversight as closing FFLs liquidate their inventories leaves a sizeable opportunity for improper transfer of guns. Law enforcement agencies have noted an increase in crime guns traced to FFLs who shutter their businesses and liquidate their inventories,

¹ John Gramlich, *What the data says about gun deaths in the U.S.*, Pew Research Center (April 26, 2023), <https://www.pewresearch.org/short-reads/2023/04/26/what-the-data-says-about-gun-deaths-in-the-u-s/>.

² KFF, *Firearms are the Leading Cause of Death for Children in the United States But Rank No Higher Than Fifth in Other Industrialized Nations* (last accessed Nov. 9, 2023), <https://www.kff.org/health-reform/press-release/firearms-are-the-leading-cause-of-death-for-children-in-the-united-states-but-rank-no-higher-than-fifth-in-other-industrialized-nations/>; Denise Mann, *With Cases Soaring, Guns Are Now Leading Cause of Death for U.S. Kids*, U.S. NEWS & WORLD REPORT (Aug. 21, 2023), <https://www.usnews.com/news/health-news/articles/2023-08-21/with-cases-soaring-guns-are-now-leading-cause-of-death-for-u-s-kids>.

³ See, e.g., Press Release, U.S. Attorney’s Office—Eastern District of New York, *Georgia Men Charged with Trafficking Dozens of Handguns Into New York* (Sep. 28, 2022), <https://www.justice.gov/usao-edny/pr/georgia-men-charged-trafficking-dozens-handguns-new-york>.

⁴ *Here’s where guns used in crimes are bought*, USAFacts (Apr. 6, 2023), <https://usafacts.org/articles/heres-where-guns-used-in-crimes-are-bought/>.

⁵ See, e.g. Liz Kellar, ‘Private vendor’ charged with illegally selling hundreds of guns in Knoxville to New York Gun Traffickers, KNOXVILLE NEWS SENTINEL, July 26, 2022, <https://www.knoxnews.com/story/news/crime/2022/07/26/knoxville-gun-show-vendor-sold-weapons-new-york-traffickers/10154768002/>.

⁶ 88 Fed. Reg. 61997; see also Richard A. Oppel Jr. & Adeel Hassan, *How Online Gun Sales Can Exploit a Major Loophole in Background Checks*, N.Y. TIMES, Aug. 13, 2019, <https://www.nytimes.com/2019/08/13/us/guns-background-checks.html>.

⁷ 88 Fed. Reg. 62006-7.

strongly suggesting a lack of compliance and/or lack of clarity on the liquidation process after revocation or other termination of a license.⁸

Many guns are trafficked across state lines, exploiting the differences in state regulations. Between 2016 and 2020, 27% of traced guns, or 390,154 guns, were recovered in a different state than where they were originally sold, and 74% of those guns were originally purchased in states without background check laws.⁹ As a result, it is increasingly difficult for State background check laws to effectively protect the public without the support of a strong Federal regulatory framework.

This rule would enhance the existing regulatory framework, by clarifying the situations in which individuals selling guns are subject to federal licensing and background check requirements and reducing the number of guns transferred to prohibited persons. In doing so, it would curtail the opportunities outlined above for prohibited persons to obtain firearms. Clarifying the scope of the requirements would also assist local, state, tribal, and federal law enforcement by ensuring that accurate and adequate records are kept for more transactions, providing them with the information they need to effectively inspect gun dealers, trace crime guns, prosecute gun charges, and help keep the communities they serve safe.

The proposed rule is an exercise of ATF's inherent authority to amend its own regulations to implement the broadened definition of "engaged in the business" promulgated by Congress in the BSCA. It is a function explicitly authorized by 18 U.S.C. 926(a), as clarifying a definition within the rule is a "rule[] [or] regulation necessary to carry out the provisions" of the Gun Control Act ("GCA"). ATF's regulatory authority under the GCA plays a critical role in protecting the public from gun violence and has been repeatedly reaffirmed by federal courts in the decades since the GCA's passage.¹⁰ As recognized in the Proposed Rule, these requirements would come at modest cost to most people falling under the clarified definition. Furthermore, requiring regulatory compliance by dealers operating on the margin of the current scheme would have the equitable effect of subjecting them to the same requirements as current FFLs engaged in substantially similar business activities.

II. Recommendations to Further Strengthen and Clarify the Definition of "Engaged in the Business"

A. ATF's Clarification of the Meaning of "Dealer" is a Major Step Forward

⁸ See, e.g., Brian Sharp, *New report traces city crime guns to small group of dealers, and most of the main sellers are local*, WXXI NEWS, June 8, 2023, <https://www.wxnews.org/local-news/2023-06-08/where-are-rochester-crime-guns-coming-from-upcoming-report-aims-to-identify-sellers>.

⁹ Everytown Research and Policy, *Five Things to Know About Crime Guns, Gun Trafficking, and Background Checks* (May 24, 2021), <https://everytownresearch.org/report/five-things-to-know-about-crime-guns/>.

¹⁰ See, e.g., *Second Amendment Found. v. ATF*, No. 21-CV-116, 2023 WL 7490149, at *7 (N.D. Tex. Nov. 13, 2023) (recognizing that "authority to administer and enforce the NFA and GCA through 'all needful rules and regulations' is vested in the Attorney General, who properly delegated this responsibility to the ATF Director" and that this authority includes the ability to "interpret relevant provisions to ensure efficient and accurate implementation"); *Nat'l Rifle Ass'n v. Brady*, 914 F.2d 475, 479 (4th Cir. 1990) (emphasizing ATF's "statutory discretion to promulgate regulations" and its "technical expertise essential to determinations of statutory enforcement").

The States commend the ATF for incorporating and defining the statutory changes to the definition of “engaged in the business” by replacing “with the principal objective of livelihood or profit” with the language “to predominantly earn a profit.”¹¹ The States fully support the proposed definition of “predominantly earn a profit.”¹² The proposed definition is consistent with the BSCA and eliminates an area of doubt as to whether a person must be licensed to purchase and sell firearms with the intent to earn a profit even when neither profit nor livelihood are their *principal* objective.

The States also support the clarification that a person may have intent to “predominantly earn a profit” “even if the person does not actually obtain pecuniary gain from the sale or disposition of firearms.”¹³ This clarifies that intent—not profit—is the appropriate factor. This clarification recognizes that the primary focus of this rule is ensuring appropriate regulation of the transfer of guns, a purpose not furthered by requiring the ATF to engage in the type of detailed financial analysis necessary to determine whether reporting on profit is accurate.

The States also commend ATF for clarifying that firearms dealing may occur “wherever, or through whatever medium [sales] may be conducted,” and by including a nonexclusive list of examples including gun shows, auction houses, mail orders, and through internet or other electronic means.¹⁴ Firearms dealing is not limited to sales at brick-and-mortar stores, and the background check and recordkeeping requirements that protect the public must apply regardless of the location or medium where guns are sold.

B. ATF Should Close the Estate Auction Loophole

ATF has issued informal guidance in the past that has created a distinction between “estate-type” and “consignment-type” auctioneers, with only the latter deemed to be engaged in the business of selling firearms.¹⁵ This distinction relies upon the practice in estate-type auctions of title and possession of the items to be auctioned remaining with the sellers, whereas in consignment-type auctions, the auctioneer takes possession. The Proposed Rule would maintain this distinction.¹⁶ While the States recognize that estate-type auctioneers do not possess or take title to firearms, and therefore are not said to be engaged in selling firearms, estate-type auctions represent a source of guns that can be purchased without background checks.

As an initial matter, the States urge the ATF to clarify in its guidance to auctioneers that, to the extent that they operate in states that require background checks on private transactions, estate-style auctioneers risk aiding and abetting illegal transactions if they knowingly facilitate sales of guns without background checks. Further, the States urge the ATF to clarify, too, that to the extent that estate-style auctioneers facilitate an individual auction involving more than five guns or facilitate auctions involving more than 25 guns in a given 12-month period, then they must be a

¹¹ 88 Fed. Reg. 61995-6.

¹² 88 Fed. Reg. 62021-2.

¹³ 88 Fed. Reg. 62021.

¹⁴ 88 Fed. Reg. 62020 (definition of “Dealer”).

¹⁵ See, e.g., ATF Q&A, Does an auctioneer who is involved in firearms sales need a dealers’ license?, <https://www.atf.gov/firearms/qa/does-auctioneer-who-involved-firearms-sales-need-dealer-license> (July 10, 2020).

¹⁶ 88 Fed. Reg. 61999.

federally-licensed firearms dealer or risk federal aiding-and-abetting liability. While the States recognize that the ATF has considered and rejected a numerical threshold more broadly in the Proposed Rule,¹⁷ they believe that the use of a numerical threshold in this instance would provide clarity to auctioneers and would close this particular loophole.

The States note that closing this loophole is consistent with Congress' intent in enacting the BSCA. In discussing the reasons for a broad definition of "dealer," ATF noted a letter from Senators John Cornyn and Thom Tillis, explaining that "[o]ur legislation aims at preventing someone who is disqualified from owning or possessing a firearm from shopping around for an unlicensed dealer."¹⁸ If the estate auction loophole is not closed, that is precisely what will happen.

C. The Presumptions of Being "Engaged in the Business" Create a Strong Legal Framework for Preventing Illegal Gun Trafficking

The Proposed Rule includes a list of instances in which "[a] person shall be presumed to be engaged in the business of dealing firearms," including: (1) selling or offering for sale guns while also representing to potential purchasers a "willingness and ability to purchase and sell additional firearms"; (2) spending more money on buying guns for resale than that person makes in a year; (3) repetitive purchases for resale (or repetitive sales) of guns that involve some illegality (either through the use of straw purchasers or sellers, or inasmuch as the guns are stolen, lack a legible serial number, are illegally imported, or are prohibited under the National Firearms Act); and (4) repetitive sales of guns that are new, recently purchased, or similar in type.¹⁹ The States applaud this provision as it promises to provide clear, consistent guidance about when someone who sells firearms must become a federally licensed dealer. The inclusion of these presumptions ensures that those who repetitively sell guns are only doing so after confirming the legality of the sale (through the completion of ATF Form 4473 and the associated background check).

Although the presumptions laid out in the Proposed Rule provide a useful legal framework for identifying likely cases of dealing in firearms, certain of the presumptions have aspects that could be improved in order to close loopholes or clarify the applicable standards. For instance, the States suggest that the presumption in Subsection (c)(3)(iv)(A) of the revised definition, which would apply to a person who "[r]epetitively sells or offers for sale firearms [w]ithin 30 days after the person purchased the firearms" have the applicable period extended to 90 days in order to make it more difficult to structure transactions in a way that would evade licensing and background check obligations. The States also suggest that ATF clarify that the list of examples of guns "that cannot lawfully be purchased or possessed" in subsection (c)(3)(iii) includes weapons, the possession of which is prohibited under state or local laws. The presumption in Subsection (c)(3)(ii), which would apply to any person who "[s]pends more money or its equivalent on purchases of firearms for the purpose of resale than the person's reported gross taxable income" seems to create a potentially unreliable standard, whereby high-income gun dealers could sell large amounts of firearms without ever being subject to the presumption, while a single sale could be enough to

¹⁷ 88 Fed. Reg. 62016.

¹⁸ 88 Fed. Reg. 61997 n. 29 (quoting Cornyn/Tillis Letter at 3).

¹⁹ 88 Fed. Reg. 62021.

cause a person with a low or fixed income to be presumed to be dealing unlawfully.²⁰ The States advise ATF to instead adopt a numerical threshold of ten guns per year, which would make applying the presumption easier for courts and law enforcement while avoiding the inequities of ATF's income-based approach.

The States are also concerned about ATF's inclusion of an exception wherein "a person would not be presumed to be engaged in the business requiring a license as a dealer when the person transfers firearms only as bona fide gifts or occasionally sells firearms only to obtain more valuable, desirable, or useful firearms for their personal collection or hobby, unless their conduct also demonstrates a predominant intent to earn a profit."²¹ By excluding these situations from the presumptions that would otherwise apply, ATF risks creating a significant loophole whereby firearms traffickers could shift the burden of proof simply by claiming that any suspicious transaction was a gift.²² While evidence of a bona fide gift should of course be sufficient to rebut a presumption that a person is dealing in firearms, a seller's unsupported assertion that a firearms transfer was a gift should not stop the presumptions from applying in the first place.

D. ATF Should Clarify That the Presumptions Supporting the Intent to "Predominantly Earn a Profit" Also Presumptively Establish Being "Engaged In The Business" of Dealing in Firearms

The States applaud ATF's proposed revisions to the regulatory definition of "predominantly earn a profit," which adopt and effectuate Congress' welcome redefinition of the term in BSCA. As a federal court has already recognized, these definitions "provide ample detail for Defendants to have notice, and for the jury to separate lawful conduct from unlawful conduct."²³ The proposed presumptions of intent to predominantly earn a profit effectively set forth common scenarios that each raise a strong inference that a person's "intent underlying the sale or disposition of firearms is predominantly one of obtaining pecuniary gain, as opposed to other intents," in keeping with BSCA's statutory text and Congress' intent.²⁴

A person who advertises or promotes a firearms business, acquires physical space to display or store firearms for sale, makes records to calculate profits and losses, secures merchant or security services for a firearms enterprise, establishes a business entity or a business license, or purchases business insurance is behaving in a manner consistent with a commercial, for-profit enterprise, and manifestly inconsistent with the "other intents, such as improving or liquidating a personal firearms collection," that Congress intended to exempt.²⁵ ATF's rule appropriately makes these presumptions rebuttable and applicable only in civil or administrative proceedings (although they

²⁰ The presumption comparing expenditures to reported income may also create challenges for law enforcement, which would need to ascertain a suspect's total aggregate outlay for firearms, obtain his or her tax statements, and compare the two, a process significantly more involved than simply noting how many firearms the suspect had sold.

²¹ 88 Fed. Reg. 62001-2.

²² The loophole for claimed gifts would be particularly concerning because straw purchasers will sometimes mischaracterize their later transfers or sales of firearms to be in the nature of a gift. *See, e.g., United States v. Gearheart*, No. 23-cr-13, 2023 WL 5925541, at *2 & n.3 (W.D. Va. Sept. 12, 2023) (straw purchaser initially told investigators that she bought gun as a gift).

²³ *United States v. Deare*, No. 21-CR-212-01, 2023 WL 4757201, at *2 (W.D. La. July 25, 2023).

²⁴ *See* 18 U.S.C. § 921(a)(22).

²⁵ *See id.*

are, of course, helpful to courts in criminal cases), keeping the burden appropriately on the government to prove all required elements of any criminal offense.

As the Proposed Rule currently stands, the presumptions that may be used to establish intent to predominantly earn a profit are separate from the presumptions of being engaged in the business of dealing in firearms, and the States suggest that ATF could strengthen the Proposed Rule, effectuate the will of Congress, and clear up significant confusion by clarifying that the presumptions that a person has “the intent to predominantly earn a profit from the sale or disposition of firearms” *also* establish a presumption that the person is “engaged in the business” of dealing in firearms. Each of ATF’s proposed presumptions for the intent to earn a profit also demonstrates the other elements of the statutory definition as well, since they involve setting up a commercial enterprise, indicating that the person is “devot[ing] time, attention, and labor to dealing in firearms as a regular course of trade or business to predominantly earn a profit through the repetitive purchase and resale of firearms.”

For instance, a person who “[p]urchases, rents, or otherwise secures or sets aside permanent or temporary physical space to display or store firearms they offer for sale,” as contemplated in Section (2)(ii) of the proposed regulatory definition of “predominantly earn a profit,”²⁶ not only demonstrates that the seller possesses a profit motive, but also establishes that the seller “devotes time, attention and labor to dealing with firearms,” and intends to engage in “the repetitive purchase and resale of firearms,” satisfying all elements of BSCA’s revised statutory definition of engaged in the business. The pattern holds throughout each of the other presumptions in ATF’s proposed definition—purchasing merchant services for firearms transactions, for instance, or securing a business license to purchase and sell firearms,²⁷ both evidence the devotion of time and labor and the intent to engage in repetitive transactions as well as the profit motive. Many federal courts have agreed, finding that conduct indicating the running of a commercial enterprise supported not only the conclusion that a defendant was acting for the purpose of profit, but also that he was engaged in the business of dealing in firearms.²⁸

Accordingly, the Proposed Rule should clarify that the presumptions in subsection (2) of ATF’s proposed definition of “predominantly earn a profit,” if proven, also establish a rebuttable presumption that a person is “engaged in the business” of dealing in firearms, within the meaning

²⁶ See 88 Fed. Reg. 62021.

²⁷ As contemplated in Sections 2(iv) and 2(vii) of the proposed definition of “Predominantly earn a profit.” See 88 Fed. Reg. 62022.

²⁸ See, e.g., *United States v. King*, 646 F. Supp. 3d 603, 606 (E.D. Pa. 2022) (finding that a defendant who “had 615 firearms in his barn, many of which were marked with price tags, as well as receipts for advertisements in a local newspaper offering firearms for sale. . . . clearly trips that trigger [to require a license] because it goes well beyond the occasional buying and selling that occurs with maintaining a personal collection or for pursuing a hobby.”); *United States v. McGowan*, 746 F. App’x 679, 681 (9th Cir. 2018) (evidence including how defendant “would frequently post guns for sale” demonstrated that he met the definition of being “engaged in the business”); *United States v. Valdes*, 681 F. App’x 874, 877-878 (11th Cir. 2017) (per curiam) (factors such as sales of firearms at gun shows, offering to obtain specific firearms for customers, and handing out business cards supported knowledge that defendant was engaged in the business of dealing in firearms); see also *United States v. Kish*, 424 F. App’x 398, 406 (6th Cir. 2011) (presence of firearms at store with revoked license, combined with display and price tags, supported proposition that defendants were engaged in the business of dealing in firearms); *United States v. Angelini*, 607 F.2d 1305, 1307 (9th Cir. 1979) (evidence that defendant “had regularly attended gun shows and displayed firearms for sale” supported “overwhelming” showing that he was engaged in the business of firearms dealing).

of 18 U.S.C. § 921(a)(21)(C). The States likewise recommend that the definition of intent to “predominantly earn a profit” should specify that there is “no minimum threshold number of firearms purchased or sold” that is necessary to meet the definition.

III. Enforcement and Implementation of the Proposed Rule

The States urge ATF to prioritize enforcement of the Proposed Rule as soon as it is in place. The States further urge the Department of Justice and the Attorney General to ensure that they are prosecuting cases referred by ATF and devoting sufficient resources to aggressively pursuing cases against individuals and entities that violate the Proposed Rule.

In addition, although there is need of widespread enforcement, there are certain practices that are driving the trafficking of illegal guns that merit closer examination by federal law enforcement.

First, as ATF acknowledges in the Proposed Rule, “the proliferation of new communications technologies and e-commerce has made it simple for persons to advertise and sell firearms to a large potential market at minimal cost and with minimal effort.”²⁹ Many online marketplaces allow non-FFLs to list guns for sale, and in states that do not require background checks on private gun transactions, there is evidence that suggests that these online marketplaces attract purchasers who are prohibited under federal law from possessing or purchasing firearms.³⁰ To the extent that non-FFLs are repeatedly selling guns using online marketplaces, the online marketplaces know that such persons may be violating the federal law prohibiting being engaged in the business of dealing firearms without a license and, should they continue aiding such sales, risk aiding-and-abetting liability under 18 U.S.C. § 2. The States urge ATF to issue clear guidance to operators of online marketplaces about what steps they should take to avoid such liability and ensure that their marketplaces are not being used to traffic firearms.

Second, as ATF notes, improperly liquidated firearms inventories of formerly licensed firearms dealers are often a major source of crime guns.³¹ The Proposed Rule clarifies the requirements for the disposition of business inventory after revocation or other termination of a license as critical for the orderly and lawful disposition of firearms. The States encourage ATF to investigate and, where appropriate, prosecute any individuals who, during or after liquidation, are found to be illegally engaged in the business of selling firearms without a license.

Finally, the States note that in some instances in the past, individual ATF agents have encouraged people who are illegally engaged in the business of dealing firearms without a license to apply to be federally-licensed firearms dealers, rather than taking action to enforce the law against those illegal sales.³² The States urge ATF to vigorously enforce the law and ensure that no employees

²⁹ 88 Fed. Reg. 61997.

³⁰ See, e.g., Government Accountability Office, *Internet Firearm Sales: ATF Enforcement Efforts and Outcomes of GAO Covert Testing* (Dec. 21, 2017), <https://www.gao.gov/products/gao-18-24>].

³¹ 88 Fed. Reg. 62006.

³² See, e.g., Application for a Warrant by Telephone or Other Reliable Means and Supporting Affidavit, *In the Matter of the Search of Target Device 1, an Apple iPhone, serial number FFNHH76RPLJM*, Case No. 1:23-MJ-209 (M.D. N.Car.) (following evidence that Kala Paul Rounds was associated with straw purchasing and firearms trafficking, an ATF agent “informed ROUNDS that he was required to obtain his license to become an FFL if he wished to engage

of the agency encourage individuals who have engaged in the business of dealing in firearms without a license to apply for FFLs. Individuals who have engaged in the unlicensed business of dealing firearms are violating federal law—they cannot (and should not) be trusted to sell guns lawfully.

CONCLUSION

For the foregoing reasons, the States strongly support ATF’s thorough and well-reasoned Notice of Proposed Rulemaking regarding the definition of being “engaged in the business” of dealing in firearms. The States look forward to ATF’s adoption of the Proposed Rule and to continued collaboration with ATF and the Department of Justice to safeguard the public from the threat of gun violence.

Sincerely,



Andrea Joy Campbell
Attorney General of Massachusetts



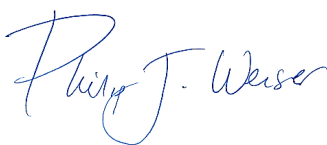
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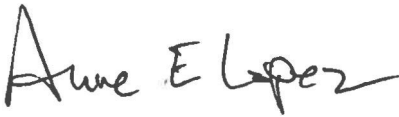
in the business of dealing firearms legally”); Application for a Warrant by Telephone or Other Reliable Means and Supporting Affidavit, *In the Matter of the Search of The Premises Located at 111 Pomona Drive, Suite B, Greensboro, NC 27407*, Case No. 1:22-MJ-426-1 (M.D. N.Car.) (“I informed RACHAL that he was in violation of federal law, and that he needed to obtain his FFL.”); Indictment, *U.S.A. v. David Joseph Mull*, case No. 1:23-cr-0094 (S.D. Ind.) (noting that following the receipt of an ATF cease-and-desist letter “advising him that it was unlawful to engage in the business of dealing firearms without a license,” Mr. Mull continued selling “in excess of 500 guns . . . for over \$350,000,” many of which were transported to Mexico).



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