

Congress of the United States
Washington, DC 20515

June 29, 2022

Gary Restaino
Acting Director
Bureau of Alcohol, Tobacco, Firearms and Explosives
99 New York Avenue, NE
Washington, D.C. 20226

Dear Acting Director Restaino:

At the aggressive direction of the Department of Justice (DOJ), the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) is currently undertaking a broad and unprecedented effort to revoke Federal Firearm Licenses (FFLs) from law-abiding business owners throughout the country. In recent months, the number of FFL revocation proceedings initiated by ATF has skyrocketed¹ and ATF has reportedly adopted an officially sanctioned practice of basing revocations on minor infractions discovered in previously-closed inspections.² According to business owners, these inspections, occurring six to eighteen months prior, often involved clerical errors that were fully resolved and addressed by the businesses with no subsequent infractions.

The DOJ's efforts to force its administration's agenda onto ATF are particularly disturbing.³ Local ATF field agents have shared they feel pressured to take actions against individual businesses that they do not feel are appropriate or in the interest of public safety.⁴ Some have even reported that ATF field divisions are being pitted against each other and being forced to compete on the number of licenses revoked.⁵ ATF Directors of Industry Operations, who oversee revocation proceedings, are being told to press forward with this escalating quota system

¹ Mark Oliva, *500 Percent Spike In Biden Administration Shutting Down Gun Retailers Over Typos*, THE FEDERALIST (June 3, 2022), <https://thefederalist.com/2022/06/03/500-percent-spike-in-biden-administration-shutting-down-gun-retailers-over-typos/>.

² 2022 Firearms Industry Conference, Apr. 26-27, 2022 (ATF shared at the conference that it was in the process of initiating 273 revocation proceedings based on cases that had been closed since as early as July 1, 2021).

³ The White House, Fact Sheet: Biden-Harris Administration Announces Comprehensive Strategy to Prevent and Respond to Gun Crime and Ensure Public Safety (June 23, 2021), <https://www.whitehouse.gov/briefing-room/statements-releases/2021/06/23/fact-sheet-biden-harris-administration-announces-comprehensive-strategy-to-prevent-and-respond-to-gun-crime-and-ensure-public-safety/> (The Justice Department announced a new policy that would cause federal firearm licensees to have their licenses revoked upon their first infraction, "absent extraordinary circumstances that would need to be justified to the Director, ATF").

⁴ Two sources close to ATF have stated that field agents are being pressured by the Department of Justice to increase revocations and are being compared to other field divisions within ATF.

⁵ *Id.*

or face professional repercussions.⁶ This commandeering of agency discretion to support the administration's agenda undermines ATF's ability to function as a specialized agency and is rapidly destroying the trust and confidence ATF has worked hard to establish with the firearms industry over many decades. This is the same trust and confidence that has historically fostered open communications between ATF and members of the industry, resulting in voluntary reporting of criminal or suspicious activity and frank discussions to help improve compliance.

This storm of increased regulatory enforcement is directed at the industry as a whole without regard to the personal destruction wrought upon its individual members. In addition to the scores of innocent businesses at threat of being destroyed, we have heard that one licensee died of an anxiety attack within days of receiving his final notice of revocation and another licensee committed suicide during the revocation process.

One business currently caught up in this regulatory whirlwind is Mr. Silencer, founded by Bruce Stevens and his wife in 2010. Though beginning as a small startup, it has grown into one of the largest firearms dealers in the state of Arizona. The Stevenses take regulatory compliance seriously and, as their business has grown, they have implemented policies to ensure their employees are well-trained and follow the law.

According to the Stevenses, in June of 2021, ATF conducted a routine compliance inspection of Mr. Silencer and, as in virtually any inspection of a large dealership, discovered certain technical or paperwork infractions that were within the expected scope for a dealership of that size. Notably, per the Stevenses, all firearms were accounted for, there were no allegations of straw purchases, and none of the customers purchasing firearms were prohibited persons. ATF closed its inspection with a warning and took no further action against Mr. Silencer.

Nearly six months later, however, ATF changed tack and issued a Notice of Revocation, effectively stating it was shutting down Mr. Silencer. Bruce Stevens requested a hearing and provided testimony regarding the specific instances identified by ATF as supporting the revocation. The strongest claims against Mr. Silencer related to two instances out of thousands of annual transactions, for which the company had failed to conduct a NICs background check prior to delivering a firearm to a customer. Bruce Stevens testified at an ATF hearing that both instances resulted entirely from a glitch with his order management software and involved

⁶ Memorandum from Acting Assistant Director (Field Operations) to All Special Agents in Charge, All Directors, Industry Operations, Bureau of Alcohol, Tobacco, Firearms and Explosives (July 14, 2021), <https://www.ammoland.com/wp-content/uploads/2021/07/USDOJ-Memorandum-on-ATF-O-5370-Federal-Firearms-Administrative-Action-Policy-and-Procedures.pdf> (explaining that when a Director, Industry Operations determines that recommending an alternative to revocation is appropriate, he or she must route that recommendation to his or her superior, the Deputy Assistant Director, Industry Operations, Office of Field Operations who will then approve or deny such recommendation).

situations in which the customer had actually undergone a recent NICs background check but not for the particular firearm at issue.

Bruce Stevens shared that none of the infractions identified by ATF were intentional, and, according to him, the ATF hearing officer did not think they were. Rather, the hearing officer simply stated that Mr. Silencer knew the law yet committed the infractions, and therefore must have acted with “plain indifference.” This determination conflicts with ATF’s own findings in its audit as shared with Mr. Silencer and the plain language of the Gun Control Act which requires **willful noncompliance** before a license can be revoked.⁷

Mr. Silencer’s case is not alone. ATF publicly announced at the April 2022 Firearms Industry Conference that they were in the process of initiating 273 revocation proceedings based on cases that had been closed since as early as July 1, 2021, even when the FFL has had zero compliance infractions since their case was closed.⁸ This pattern, along with the claim that ATF field divisions are competing to revoke licenses, indicates a troubling trend of ATF attacking businesses to advance an anti-gun agenda.

Please answer the following questions and provide the requested information no later than July 15, 2022.

1. Is there an official or unofficial competition among ATF field divisions related to FFL revocations?
2. Has the DOJ or ATF established quotas related to FFL revocations or any other metric related to FFL revocations?
3. How many FFLs were revoked by ATF from 2009-2016?
4. How many FFLs were revoked by ATF from 2017-2020?
5. How many FFLs were revoked by ATF from 2021-present?
6. How many FFLs is ATF in the process of revoking?
7. Please provide all email communications from DOJ or ATF leadership to field division leadership regarding the revocation of FFLs.
8. Please provide all email communications from ATF field division leadership to field agents regarding the revocation of FFLs.

⁷ 18 U.S.C. § 923.

⁸ *See supra* note 3.

We look forward to receiving the requested information.

Sincerely,



Andy Biggs
Member of Congress



Jim Jordan
Ranking Member
House Committee on the Judiciary



Steve Chabot
Member of Congress



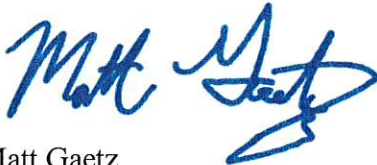
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Member of Congress



Darrell Issa
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Ken Buck
Member of Congress



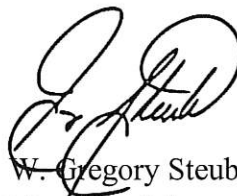
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Member of Congress



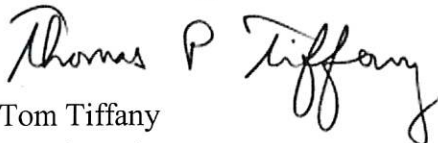
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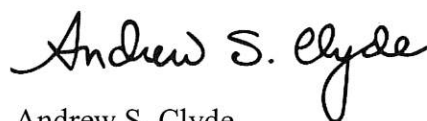
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