

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

UNITED STATES OF AMERICA,)	INDICTMENT
)	
Plaintiff,)	18 U.S.C. § 922(a)(1)(A)
)	18 U.S.C. § 924(a)(1)(A)
v.)	18 U.S.C. § 924(a)(1)(D)
)	18 U.S.C. § 924(d)(1)
EITAN BENJAMIN FELDMAN,)	28 U.S.C. § 2461(c)
)	
Defendant.)	

THE UNITED STATES GRAND JURY CHARGES THAT:

INTRODUCTORY ALLEGATIONS

1. Federal law requires persons engaged in the business of dealing in firearms to be licensed under the provisions of Title 18, Chapter 44, United States Code. Federal law further requires that, prior to the sale of firearms to unlicensed persons, licensed dealers in firearms must determine the lawfulness of the sale, maintain proper records of the transaction, and contact the National Instant Criminal Background Check System (“NICS”) to determine whether the prospective buyer of the firearms is prohibited by law from purchasing or receiving firearms.

2. At times material to this Indictment, the defendant, **EITAN BENJAMIN FELDMAN**, was not a licensed dealer in firearms within the meaning of Title 18, Chapter 44, United States Code.

3. Beginning in or about January 2014, and continuing through in or about January 2016, **EITAN BENJAMIN FELDMAN** engaged in a regular pattern and

practice of purchasing, receiving, and reselling firearms with the predominant intent of obtaining livelihood and profit.

4. During this same period of time, **EITAN BENJAMIN FELDMAN** regularly purchased firearms offered for sale by out-of-state Federal Firearms Licensees (“FFLs”) on the Internet through websites such as GunBroker.com, an online firearms auction site.

5. During this same period of time, **EITAN BENJAMIN FELDMAN** arranged to have the purchased firearms transferred to L.E. Gun Sales, an FFL within the State and District of Minnesota, where he received and took possession of the purchased firearm(s) after completing and signing statutorily required documents and submitting to a NICS background check.

6. During this same period of time, often within days of receiving and taking possession of the purchased firearm(s), **EITAN BENJAMIN FELDMAN** listed and offered the same firearm(s) for sale—often at a higher price than what he paid for the firearm(s)—on Armslist.com, an Internet-based service-provider website that allows sellers of firearms to list firearms for sale. In some of the for-sale listings created on Armslist.com by **EITAN BENJAMIN FELDMAN**, he would falsely state and imply that he had owned the particular firearm(s) for a longer period of time than he in fact did.

7. During this same period of time, **EITAN BENJAMIN FELDMAN** completed approximately 18 separate transactions at L.E. Gun Sales and purchased, transferred into his possession, and offered for resale approximately 41 firearms.

8. For each transaction completed at L.E. Gun Sales, **EITAN BENJAMIN FELDMAN** filled out, dated, and signed a Bureau of Alcohol, Tobacco, Firearms and Explosives Form 4473 – Firearms Transaction Record (“ATF Form 4473”), certifying that all the information he provided is “true, correct, and complete.” The information and certification statutorily required by ATF Form 4473 enables FFLs to determine if a firearm may lawfully be sold or transferred to a prospective buyer and puts the prospective buyer on notice of certain legal restrictions on the receipt and possession of firearms.

9. For example, ATF Form 4473 requires the prospective buyer of a firearm, by signing and dating the form in box 16, to certify and acknowledge the following statements and advisories, which are printed in **bold** type: “I certify that my answers to Section A are true, correct, and complete. I have read and understand the Notices, Instructions, and Definitions on ATF Form 4473. . . . I also understand that making any false, oral or written statement, or exhibiting any false or misrepresented identification with respect to this transaction, is a crime punishable as a felony under Federal law, and may also violate State and/or local law. I further understand that the repetitive purchase of firearms for the purpose of resale for livelihood and profit without a Federal firearms license is a violation of law.”

10. As part of this same provision, ATF Form 4473 also directs the prospective buyer, in italicized type, to “*See Instructions for Question 16.*” Those instructions, contained on page 5 of ATF Form 4473 and entitled “Certification Definition of Engaged

in the Business,” provide and explain the Federal statutory provisions of when a “person is engaged in the business of dealing in firearms.”

11. For each ATF Form 4473 that **EITAN BENJAMIN FELDMAN** completed at L.E. Gun Sales, he provided and certified that his current residence address was a specific address on Goodrich Avenue, Saint Paul, Minnesota. **EITAN BENJAMIN FELDMAN**, however, had not lived at that residence since at least March 1, 2015.

12. In July 2015, an ATF Special Agent spoke with **EITAN BENJAMIN FELDMAN** by telephone and informed him that some of the firearms he had purchased, received at L.E. Gun Sales, and sold had been linked to crime scenes within days of the firearms being received by him. When asked whether he could show ATF his firearms, **EITAN BENJAMIN FELDMAN** told the ATF Special Agent that he had sold his firearms at gun shows and only had about seven firearms at his residence on Portland Avenue in Saint Paul, Minnesota. **EITAN BENJAMIN FELDMAN** initially falsely told the ATF Special Agent that he had been living at the Portland Avenue residence for about one and one-half to two months and previously lived at the Goodrich Avenue residence. When questioned about the truth of that statement, **EITAN BENJAMIN FELDMAN** admitted that he had not lived at the Goodrich Avenue residence for about one and one-half years, that he had lived at a couple of different residences before living at Portland Avenue, and that he used the Goodrich Avenue address as a mailing address.

13. On or about July 17, 2015, ATF Special Agents executed a search warrant at **EITAN BENJAMIN FELDMAN**'s Portland Avenue residence in Saint Paul,

Minnesota, and pursuant to that search warrant seized a signed lease agreement for the Portland Avenue residence effective on March 1, 2015, three bills of sale for four firearms sold by **EITAN BENJAMIN FELDMAN**, as well as five shotguns found within the residence. The four firearms listed on the bills of sale had been received by **EITAN BENJAMIN FELDMAN** at L.E. Gun Sales between about 3 and 24 days of being sold. **EITAN BENJAMIN FELDMAN** had completed the transfer of each shotgun at L.E. Gun Sales and had listed and offered each shotgun for sale on Armslist.com between about 2 and 25 days of receiving them at L.E. Gun Sales.

14. On October 2, 2015, ATF Special Agents personally served **EITAN BENJAMIN FELDMAN** with a written Warning Notice of Unlicensed Firearms Dealing in Violation of Federal Law, warning him that his continued and repetitive firearm-related activity appears to bring him within the statutory definition of being a “dealer in firearms,” that he should “cease and desist engaging in the business of dealing in firearms,” and that his “continued unlicensed activity could result in a recommendation for criminal prosecution.”

15. Despite the written warning notice from federal law enforcement officers, **EITAN BENJAMIN FELDMAN** continued to engage in the regular pattern and practice of purchasing, receiving, and reselling firearms.

16. Specifically, beginning in or about October 2015, and continuing through on or about January 2016, the defendant purchased, received at L.E. Gun Sales, and soon thereafter offered for sale, the following firearms:

Date Received (4473)	Date Listed for Resale	Purchase Price	List Price	Firearm
9/16/15	10/20/15	currently unknown	\$280	SAR Arms/EAA SARB6P 9mm semiautomatic pistol, bearing serial number T1102 15E00118
11/23/15	11/24/15	\$140	\$200	Taurus PT-22 .22LR-caliber semiautomatic pistol, bearing serial number Z038357
11/23/15	11/24/15	currently unknown	\$350	Tangolio/EAA Witness Pavona .380-caliber semiautomatic pistol, bearing serial number EA95312
11/23/15	11/24/15	\$230	\$260	Taurus M85 .38-caliber revolver, bearing serial number TA97156
11/23/15	11/24/15	currently unknown	\$300	Beretta BU9 Nano 9mm-caliber semiautomatic pistol, bearing serial number NU087305
12/15/15	12/15/15	\$160	\$200	Taurus PT-22 .22LR-caliber semiautomatic pistol, bearing serial number AZ147374
12/15/15	12/15/15	currently unknown	\$200	ISSC M22 .22LR-caliber semiautomatic pistol, bearing serial number ABA198
1/14/16	1/20/16	\$175	\$250	Hi-Point 995 9mm semiautomatic rifle, bearing serial number E03558

17. On December 3, 2015, ATF Special Agents utilized an undercover officer (UC-1) and purchased the Taurus M85 .38-caliber revolver, bearing serial number TA97156, directly from **EITAN BENJAMIN FELDMAN** for \$260 cash in the parking lot of a local shopping mall. The day before the sale, **EITAN BENJAMIN FELDMAN** told UC-1 that he purportedly is a “gun collector” and falsely told UC-1 that he had owned the firearm for about 3 months, when in fact he had just received the firearm about 9 days before. On the day of the sale, UC-1 told **EITAN BENJAMIN FELDMAN** that UC-1 was also looking to purchase a Taurus 738 firearm, and **EITAN BENJAMIN FELDMAN** typed a note into his cell phone and told UC-1, in effect, that he would see what he could do. Prior to selling the firearm to UC-1, **EITAN BENJAMIN FELDMAN** did not ask UC-1 for any identification nor make any effort to determine whether UC-1 was prohibited by law from purchasing the firearm.

18. On January 21, 2016, ATF Special Agents utilized an undercover officer (UC-2) and purchased the Hi-Point 995 9mm semiautomatic rifle, bearing serial number E03558, directly from **EITAN BENJAMIN FELDMAN** for \$250 cash in the parking lot of a local shopping mall. **EITAN BENJAMIN FELDMAN** falsely told UC-2 that he had last shot the rifle sometime in August, when in fact he had just received the rifle 7 days before. Prior to selling the rifle to UC-2, **EITAN BENJAMIN FELDMAN** did not ask UC-2 for any identification nor make any effort to determine whether UC-2 was prohibited by law from purchasing the firearm.

COUNT 1

(Willfully Engaging in the Business of Dealing in Firearms Without a License)

19. Paragraphs 1 through 18 are re-alleged as if set forth herein.

20. From at least in or about October 2015, and continuing through on or about January 2016, in the State and District of Minnesota, the defendant,

EITAN BENJAMIN FELDMAN,

did willfully engage in the business of dealing in firearms without being a licensed dealer, by devoting time, attention, and labor to dealing in firearms as a regular course of trade and business with the principal objective of livelihood and profit through the repetitive purchase and resale of firearms; all in violation of Title 18, United States Code, Sections 922(a)(1)(A) and 924(a)(1)(D).

COUNTS 2 - 10

(Making a False Statement During a Firearm Purchase)

21. Paragraphs 1 through 18 are re-alleged as if set forth herein.

22. On or about the dates specified below, in the State and District of Minnesota, the defendant,

EITAN BENJAMIN FELDMAN,

in connection with the acquisition of firearms, namely, the firearms specified below, knowingly made a false statement and representation with respect to information required by the provisions of Title 18, Chapter 44, United States Code, to be kept in the records of L.E. Gun Sales, a federal firearms licensee licensed under the provisions of Title 18, Chapter 44, United States Code, in that, for each transaction, the defendant executed an ATF Form 4473, Firearms Transaction Record, falsely representing that his current residence address was a particular address on Goodrich Avenue, Saint Paul, Minnesota, when in fact, as the defendant well knew, he did not live at the Goodrich Avenue address:

<u>Count</u>	<u>On or About Date</u>	<u>Firearm(s)</u>
2	March 12, 2015	(1) E3 Arms Omega-15 AR-15-style lower receiver (frame), bearing serial number A02820 (2) Taurus PT111 9mm semiautomatic pistol, bearing serial number TBT85673 (3) Ruger LCP .380-caliber semiautomatic pistol, bearing serial number 370-48642 (4) Bersa Thunder 380cc .380-caliber semiautomatic pistol, bearing serial number 718608 (5) Rossi M79/M585 .38-special-caliber revolver, bearing serial number D899379
3	May 10, 2015	(1) Ithaca 37 Feather Lite 20-gauge shotgun, bearing serial number 371319963 (2) Smith & Wesson (Walther) M&P 22 .22LR-caliber semiautomatic pistol, bearing serial number MP056843 (3) Bersa Thunder 380 .380-caliber semiautomatic pistol, bearing serial number E25616 (4) Taurus Protector Poly .38-special +P-caliber

<u>Count</u>	<u>On or About Date</u>	<u>Firearm(s)</u>
		revolver, bearing serial number H258013 (5) Kel-Tec P11 9mm semiautomatic pistol, bearing serial number 46752
4	June 16, 2015	(1) Stevens 320 12-gauge shotgun, bearing serial number 144128A (2) Remington 522 Viper .22-caliber rifle, bearing serial number 3129707 (3) Smith & Wesson Eastfield 916-A 12-gauge shotgun, bearing serial number 4B5910 (4) Ithaca SKB 12-gauge shotgun, bearing serial number S1359160 (5) Mossberg Maverick 91 12-gauge shotgun, bearing serial number MV78565H (6) Ruger LCP .380-caliber semiautomatic pistol, bearing serial number 371012455
5	July 13, 2015	(1) Hatsan Arms Escort 20-gauge shotgun, bearing serial number 193304 (2) Winchester 1300 Defender 12-gauge shotgun, bearing serial number L3113550
6	September 2, 2015	(1) Diamondback Firearms DB380 .380-caliber semiautomatic pistol, bearing serial number ZH5297
7	September 16, 2015	(1) SAR Arms/EAA SARB6P 9mm semiautomatic pistol, bearing serial number T1102 15E00118
8	November 23, 2015	(1) Tangolio/EAA Witness Pavona .380-caliber semiautomatic pistol, bearing serial number EA95312 (2) Taurus PT-22 .22LR-caliber semiautomatic pistol, bearing serial number Z038357 (3) Beretta BU9 Nano 9mm-caliber semiautomatic pistol, bearing serial number NU087305 (4) Taurus M85 .38-caliber revolver, bearing serial number TA97156
9	December 15, 2015	(1) ISSC M22 .22LR-caliber semiautomatic pistol, bearing serial number ABA198 (2) Taurus PT-22 .22LR-caliber semiautomatic pistol, bearing serial number AZ147374

<u>Count</u>	<u>On or About Date</u>	<u>Firearm(s)</u>
10	January 14, 2016	(1) Hi-Point 995 9mm semiautomatic rifle, bearing serial number E03558

all in violation of Title 18, United States Code, Section 924(a)(1)(A).

FORFEITURE ALLEGATIONS

If convicted of any Count of this Indictment, the defendant,

EITAN BENJAMIN FELDMAN,

shall forfeit to the United States any firearms, accessories, and ammunition involved in or used in connection with each such violation including, but not limited to: (1) a Stevens 320 12-gauge shotgun, bearing serial number 144128A, (2) an Ithaca SKB 12-gauge shotgun, bearing serial number S1359160, (3) a Mossberg Maverick 91 12-gauge shotgun, bearing serial number MV78565H, (4) a Hatsan Arms Escort 20-gauge shotgun, bearing serial number 193304, (5) a Winchester 1300 Defender 12-gauge shotgun, bearing serial number L3113550, (6) a Taurus M85 .38-caliber revolver, bearing serial number TA97156, and (7) a Hi-Point 995 9mm semiautomatic rifle, bearing serial number E03558, pursuant to Title 18, United States Code, Section 924(d)(1), and Title 28, United States Code, Section 2461(c).

A TRUE BILL

UNITED STATES ATTORNEY

FOREPERSON