

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO**

Criminal Case No. 16-cr-00057-MSK

UNITED STATES OF AMERICA,

Plaintiff,

v.

1. RICHARD WYATT

Defendant.

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**INDICTMENT  
18 U.S.C. § 371  
18 U.S.C. § 922(a)(1)  
26 U.S.C. § 7206(1)  
26 U.S.C. § 7203**

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The Grand Jury charges:

**Count 1**

From on or about April 1, 2013, to on or about March 31, 2015, in the State and District of Colorado, the Defendant RICHARD WYATT, did knowingly agree and conspire with others known to the grand jury but not named herein, to commit an offense against the United States, namely dealing in firearms without a license in violation of 18 U.S.C. § 922(a)(1)(A).

**Manner and Means**

Acting interdependently with his unnamed co-conspirators, the Defendant carried out the conspiracy using the following manner and means:

- a. During all times relevant, the Defendant operated Gunsmoke, a store that

displayed firearms and firearm paraphernalia for sale. The Defendant was the principal decision maker for the store and controlled the Gunsmoke bank account. In addition to holding itself out as a business that bought and sold firearms, Gunsmoke provided gunsmithing services.

- b. The Defendant did not apply for or obtain a license to sell firearms from the Gunsmoke premises.
- c. During the charged time period, no other person was licensed to engage in the business of dealing in firearms at Gunsmoke,
- d. Customers who shopped at Gunsmoke were able to look at numerous firearms that were displayed throughout the store. Customers were able to speak with Gunsmoke employees, including the Defendant, about the features of particular firearms. Finally, customers selected and purchased firearms from Gunsmoke, and were able to have gunsmithing services performed on firearms at the Gunsmoke premises.
- e. After receiving payment for any firearms, Gunsmoke employees directed the customers to a store known as The Gunners Den, which had a valid federal firearms license, where the customer filled out the background check paperwork and the customers took possession of the firearm(s) they had purchased at Gunsmoke.
- f. Customers who wanted gunsmithing services left their firearms with Gunsmoke. After the gunsmiths at Gunsmoke completed their work, they returned the firearms to the customers. The customers paid Gunsmoke directly for this

service.

- g. The Defendant directed Gunsmoke employees to enter firearm sales in Gunsmoke's computer point of sales software system as "miscellaneous" sales rather than firearm sales.

### Overt Acts

In furtherance of the conspiracy and to affect the objects thereof, the following overt acts were committed:

- 1) On or about April 1, 2013, the Defendant held a meeting with employees of Gunsmoke to inform the employees that, starting the following day, Gunsmoke would not have a valid federal firearms license.
- 2) On or about April 2, 2013, the Defendant and a Gunsmoke employee changed the method of recording firearms sales in the Point of Sale software. Firearms sales were previously recorded using a specific description of the firearm, and this was changed to show firearms sales as "MISC. ITEM."
- 3) On April 5, 2013, the Defendant received payment from a customer for gunsmithing services performed at Gunsmoke.
- 4) On or about November 13, 2013, the Defendant, through Gunsmoke, paid Cafe Guns for gunsmithing performed at Gunsmoke.
- 5) On or about November 19, 2013, the Defendant, through Gunsmoke, paid JG for gunsmithing performed at Gunsmoke.
- 6) On or about November 27, 2013, the Defendant, through Gunsmoke, paid Loaded Chamber LLC for gunsmithing performed at Gunsmoke.

- 7) On or about July 23, 2014, the Defendant caused Hide Side LTD, a federal firearms licensee (“Hide Side”), to ship firearms to The Gunners Den, for the purpose of using The Gunners Den as a surrogate licensee, for sales made at Gunsmoke.
- 8) On October 18, 2014, the Defendant transferred a firearm to RM.
- 9) On or about October 28, 2014, the Defendant caused a video to be published on the internet site YouTube. The video depicted the Defendant referencing statements published in the 35<sup>th</sup> Edition of the Blue Book of Gun Values, which describes Gunsmoke as a “current custom gun manufacturer and gunshop with gunsmithing services.”
- 10) From on or about December 13, 2014, to December 16, 2014, the Defendant transferred firearms to Hide Side, as payment for firearms Hide Side shipped to The Gunners Den on the Defendant’s behalf.
- 11) On or about January 7, 2015, the Defendant caused a video to be published on the internet site YouTube, which depicted the Defendant directing Gunsmoke employees to conduct gunsmithing services on a firearm.
- 12) On or about January 31, 2015, the Defendant and an unnamed co-conspirator stored a firearm from the inventory of The Gunners Den, at Gunsmoke, for the purpose of selling the firearm.
- 13) On or about January 31, 2015, the Defendant and a Gunsmoke employee sold a firearm, to FC, on the Gunsmoke premises.
- 14) On or about February 18, 2015, The Gunners Den completed an ATF form 4473

for the sale of a gun from Gunsmoke.

- 15) From on or about February 27, 2015, to on or about March 23, 2015, the Defendant paid money to Hide Side as payment for the firearms Hide Side shipped to the Gunners Den on the Defendant's behalf.
- 16) On or about March 3, 2015, the Defendant and an unnamed co-conspirator stored a firearm from the inventory of The Gunners Den, at Gunsmoke, for the purpose of selling the firearm.
- 17) On or about March 11, 2015, the Defendant sold a firearm to KD.
- 18) On or about March 13, 2015, the Defendant caused Hide Side to ship firearms to The Gunners Den for the purpose of using The Gunners Den as a surrogate licensee for sales made at Gunsmoke.
- 19) On or about March 13, 2015, the Defendant caused information to be posted to Gunsmoke's website advertising gunsmithing services at the Gunsmoke premises, including prices for some of those services.
- 20) On or about March 28, 2015, the Defendant received payment from a customer for gunsmithing services performed at Gunsmoke.
- 21) On or about March 31, 2015, the Defendant and an unnamed co-conspirator stored firearms from the inventory of The Gunners Den, at Gunsmoke, for the purpose of selling and/or performing gunsmithing on them.

In violation of Title 18, United States Code, Section 371.

### **Count 2**

On or about February 18, 2015, in the State and District of Colorado, the

Defendant, RICHARD WYATT, who was not a licensed importer, manufacturer or dealer, knowingly engaged in the business of dealing in firearms.

In violation of Title 18, United States Code, Section 922(a)(1)(A).

**Count 3**

On or about March 3, 2015, in the State and District of Colorado, the Defendant, RICHARD WYATT, who was not a licensed importer, manufacturer or dealer, knowingly engaged in the business of dealing in firearms.

In violation of Title 18, United States Code, Section 922(a)(1)(A).

**Count 4**

On or about March 18, 2015, in the State and District of Colorado, the Defendant, RICHARD WYATT, who was not a licensed importer, manufacturer or dealer, knowingly engaged in the business of dealing in firearms.

In violation of Title 18, United States Code, Section 922(a)(1)(A).

**Count 5**

From on or about February 17, 2012, to on or about April 5, 2013, in the State and District of Colorado, the Defendant RICHARD WYATT, did knowingly agree and conspire with BM, DM, and others known to the grand jury but not named herein, to commit an offense against the United States, namely dealing in firearms without a license in violation of 18 U.S.C. § 922(a)(1)(A).

**Manner and Means**

Acting interdependently with BM, DM, and his unnamed co-conspirators, the Defendant carried out the conspiracy using the following manner and means:

- a. During all times relevant, the Defendant operated Gunsmoke, a store that displayed firearms and firearm paraphernalia for sale. The Defendant was the principal decision maker for the store, and controlled the Gunsmoke bank account. In addition to holding itself out as a business that bought and sold firearms, Gunsmoke provided gunsmithing services. In or about April 2012, the Defendant surrendered his Federal Firearms License due to his violations of federal laws and regulations.
- b. After Gunsmoke surrendered its FFL, DM changed the address of the Triggers Firearms, LLC (hereafter "Triggers") federal firearms license to the Gunsmoke address, but did not play any role in managing the store or receive any profits.
- c. Thereafter, the Defendant continued to operate Gunsmoke as a retail firearms store that also offered gunsmithing services, but never held an ownership interest in Triggers or assumed management of Triggers.
- d. The conspirators submitted false paperwork to ATF to hide that Triggers was acting as a straw licensee for Gunsmoke.

#### Overt Acts

In furtherance of the conspiracy and to affect the objects thereof, the following overt acts were committed:

- 1) On February 20, 2012, DM, with the Defendant's knowledge and approval, signed and filed a renewal application for the Triggers license with ATF. The application stated that the address for the Triggers license was being changed to the Gunsmoke premises. This application also included a fraudulent lease

agreement, signed by DM and the Defendant, and dated February 16, 2012, indicating that Triggers was leasing the Gunsmoke space.

- 2) On June 15, 2012, DM, with the Defendant's knowledge and approval, filed an amended renewal application for Triggers with ATF, which listed the "NEW Trade or Business Name" as "Triggers Firearms LLC D.B.A – as Gunsmoke Inc." This application also identified DM as the business owner.
- 3) On April 24, 2012, the Defendant acquired a firearm which he caused to be sold at Gunsmoke on May 23, 2012.
- 4) On June 5, 2012, the Defendant acquired a firearm which he caused to be sold at Gunsmoke on June 6, 2012.
- 5) On June 12, 2012, the Defendant acquired a firearm which he caused to be sold at Gunsmoke on June 30, 2012.
- 6) On June 14, 2012, the Defendant acquired a firearm which he caused to be sold at Gunsmoke the same day.
- 7) On July 22, 2012, the Defendant acquired a firearm which he caused to be sold at Gunsmoke on August 2, 2012.
- 8) On or about September 5, 2012, the Defendant, through Gunsmoke, paid Cafe Guns for gunsmithing performed at Gunsmoke.
- 9) On October 12, 2012, the Defendant acquired a firearm which he caused to be sold at Gunsmoke on October 18, 2012.
- 10) On December 12, 2012, the Defendant acquired a firearm which he caused to be sold at Gunsmoke on December 14, 2012.

- 11) On or about February 8, 2013, the Defendant, through Gunsmoke, paid Cafe Guns for gunsmithing performed at Gunsmoke.
- 12) On March 29, 2013, the Defendant acquired a firearm which he caused to be sold at Gunsmoke on March 30, 2013.

In violation of Title 18, United States Code, Section § 371.

**Count 6**

On or about October 15, 2012, in the State and District of Colorado, the Defendant, RICHARD WYATT, did willfully make and subscribe a form 1040 tax return that was verified by a written declaration that it was made under the penalties of perjury, even though Defendant did not believe the return, which was filed with the Internal Revenue Service, to be true and correct as to every material matter, in that the return reported a loss of income, but Defendant knew he had received an income of at least \$184,000 that he failed to report and disclose.

In violation of Title 26, United States Code, Section 7206(1).

**Count 7**

During calendar year 2009, the Defendant, RICHARD WYATT, a resident of the State of Colorado, had and received an income of approximately \$290,000; that by reason of such income Defendant was required by law, following the close of calendar year 2009 and on or before April 15, 2010, to make an income tax return to the District Director of the Internal Revenue Service for the District of Colorado, the Director of the Internal Revenue Service Center at Ogden, Utah, or any other proper officer of the United States, stating specifically the items of his gross income and any deductions and

credits to which he was entitled; that knowing and believing the foregoing, he willfully failed to make an income tax return to said directors or to any other proper officer of the United States.

In violation of Title 26, United States Code, Section 7203.

**Count 8**

During calendar year 2010, the Defendant, RICHARD WYATT, a resident of the State of Colorado, had and received an income of approximately \$123,000; that by reason of such income Defendant was required by law, following the close of calendar year 2010 and on or before April 18, 2011, to make an income tax return to the District Director of the Internal Revenue Service for the District of Colorado, the Director of the Internal Revenue Service Center at Ogden, Utah, or any other proper officer of the United States, stating specifically the items of his gross income and any deductions and credits to which he was entitled; that knowing and believing the foregoing, he willfully failed to make an income tax return to said directors or to any other proper officer of the United States.

In violation of Title 26, United States Code, Section 7203.

**Count 9**

During calendar year 2012, the Defendant, RICHARD WYATT, a resident of the State of Colorado, had and received an income of approximately \$689,000; that by reason of such income Defendant was required by law, following the close of calendar year 2012 and on or before April 15, 2013, to make an income tax return to the District Director of the Internal Revenue Service for the District of Colorado, the Director of the

Internal Revenue Service Center at Ogden, Utah, or any other proper officer of the United States, stating specifically the items of his gross income and any deductions and credits to which he was entitled; that knowing and believing the foregoing, he willfully failed to make an income tax return to said directors or to any other proper officer of the United States.

In violation of Title 26, United States Code, Section 7203.

**Count 10**

During the calendar year 2009, the defendant RICHARD WYATT, the owner of Gunsmoke, Inc., a corporation not expressly exempt from tax, with its principal place of business in Denver, Colorado, was required by law at the close of the calendar year and on or before March 15, 2010, to make an income tax return to the to the District Director of the Internal Revenue Service for the District of Colorado, the Director of the Internal Revenue Service Center at Ogden, Utah, or any other proper officer of the United States, stating specifically the items of the corporation's gross income and the allowable deductions and credits. Well knowing and believing all of the foregoing, he did willfully fail to make an income tax return to said directors or to any other proper officer of the United States.

In violation of Title 26, United States Code, Section 7203.

**Count 11**

During the calendar year 2010, the defendant RICHARD WYATT, the owner of Gunsmoke, Inc., a corporation not expressly exempt from tax, with its principal place of business in Denver, Colorado, was required by law at the close of the calendar year and

on or before March 15, 2011, to make an income tax return to the to the District Director of the Internal Revenue Service for the District of Colorado, the Director of the Internal Revenue Service Center at Ogden, Utah, or any other proper officer of the United States, stating specifically the items of the corporation's gross income and the allowable deductions and credits. Well knowing and believing all of the foregoing, he did willfully fail to make an income tax return to said directors or to any other proper officer of the United States.

In violation of Title 26, United States Code, Section 7203.

**Count 12**

During the calendar year 2011, the defendant RICHARD WYATT, the owner of Gunsmoke, Inc., a corporation not expressly exempt from tax, with its principal place of business in Denver, Colorado, was required by law at the close of the calendar year and on or before March 15, 2012, to make an income tax return to the to the District Director of the Internal Revenue Service for the District of Colorado, the Director of the Internal Revenue Service Center at Ogden, Utah, or any other proper officer of the United States, stating specifically the items of the corporation's gross income and the allowable deductions and credits. Well knowing and believing all of the foregoing, he did willfully fail to make an income tax return to said directors or to any other proper officer of the United States.

In violation of Title 26, United States Code, Section 7203.

**Count 13**

During the calendar year 2012, the defendant RICHARD WYATT, the owner of

Gunsmoke, Inc., a corporation not expressly exempt from tax, with its principal place of business in Denver, Colorado, was required by law at the close of the calendar year and on or before March 15, 2013, to make an income tax return to the to the District Director of the Internal Revenue Service for the District of Colorado, the Director of the Internal Revenue Service Center at Ogden, Utah, or any other proper officer of the United States, stating specifically the items of the corporation's gross income and the allowable deductions and credits. Well knowing and believing all of the foregoing, he did willfully fail to make an income tax return to said directors or to any other proper officer of the United States.

In violation of Title 26, United States Code, Section 7203.

### **Forfeiture Allegation**

1. The allegations contained in Counts One through Five of this Indictment are hereby re-alleged and incorporated by reference for the purpose of alleging forfeiture pursuant to the provisions of 18 U.S.C. § 924(d) and 28 U.S.C. § 2461(c).

2. Upon conviction of the violations alleged in Counts One through Five of this Indictment, involving conspiracy to commit and substantive violations of 18 U.S.C. § 922(a)(1)(A), defendant Richard WYATT, Jr. shall forfeit to the United States pursuant to 18 U.S.C. § 924(d) and 28 U.S.C. § 2461(c), all firearms and ammunition involved in the commission of the offenses, including but not limited to the following:

- a. 583 miscellaneous firearms and ammunition seized on March 31, 2015, at Gunsmoke, Inc. located at 9690 West 44th Avenue, Wheat Ridge, Colorado, and as identified in Civil Case No. 15-cv-02090-JLK.

3. If any of the property described in the above paragraphs, as a result of any act or omission of the defendant:

- a) cannot be located upon the exercise of due diligence;
- b) has been transferred or sold to, or deposited with, a third party;
- c) has been placed beyond the jurisdiction of the Court;
- d) has been substantially diminished in value; or
- e) has been commingled with other property which cannot be subdivided without difficulty;

it is the intent of the United States, pursuant to Title 21, United States Code, Section 853(p), as incorporated by Title 28, United States Code, Section 2461(c), to seek forfeiture of any other property of said defendant up to the value of the forfeitable property.

A TRUE BILL

Ink Signature on File in Clerk's Office  
FOREPERSON

JOHN F. WALSH  
United States Attorney

s/ Suneeta Hazra  
SUNEETA HAZRA  
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DEFENDANT: Richard Wyatt

YOB: 1963

ADDRESS: Evergreen, Colorado

COMPLAINT FILED?  YES  NO

IF YES, PROVIDE MAGISTRATE CASE NUMBER: \_\_\_\_\_

IF NO, PROCEED TO "OFFENSE" SECTION

HAS DEFENDANT BEEN ARRESTED ON COMPLAINT?  YES  NO

OFFENSE(S): Counts 1 and 5: 18 U.S.C. § 371 Conspiracy  
Counts 2-4: 18 U.S.C. § 922(a)(1)(A) Dealing in Firearms without a License  
Count 6: 26 U.S.C. § 7206(1) Filing a False Tax Return  
Counts 7-13: 26 U.S.C. § 7203 Failure to File

LOCATION OF OFFENSE (COUNTY/STATE): Jefferson, Colorado

PENALTY: Counts 1 and 5: 18 U.S.C. § 371: NMT 5 years imprisonment, \$250,000 fine or both, \$100 Special Assessment Fee;  
Counts 2-4: 18 U.S.C. § 922(a)(1)(A): NMT 5 years imprisonment, \$250,000 fine or both;  
Count 6: 26 U.S.C. § 7206(1) NMT 3 years imprisonment, \$100,000 fine and cost of prosecution;  
Counts 7-13: 26 U.S.C. § 7203 NMT 1 year imprisonment , \$25,000 fine and cost of prosecution.

AGENT: SA Mark Feltz, ATF, SA Ben Hopping, IRS-CID

AUTHORIZED BY: AUSA, Suneeta Hazra and AUSA, Anna Edgar

ESTIMATED TIME OF TRIAL:

five days or less  over five days  other

THE GOVERNMENT

**will** seek detention in this case  will not seek detention in this case

The statutory presumption of detention **is** applicable to this defendant. **(Circle one)**

OCDETF CASE:  Yes  No