



INDUSTRY CIRCULAR

DEPARTMENT OF
THE TREASURY
Bureau of Alcohol, Tobacco and Firearms
Washington, D.C. 20226
Number: 79-10 Date: 07 AUG 1979

CLARIFICATION OF "STRAW MAN TRANSACTIONS"

All Federal Firearms Licensees

The term "Straw Man Transactions" may be familiar to you. If not, we believe it would be helpful to you to explain what "Straw Man Transactions" are and offer some guidance concerning this type of transaction.

"Straw Man Transactions" are of two basic types, each of which involves a "third party" sale. In the first type, the dealer may have reason to believe that the person who executes the Form 4473 is being used as a conduit to make an illegal sale to a person prohibited by the Gun Control Act from purchasing a firearm. For instance, a dealer may be approached by a potential purchaser who, when asked to identify himself, produces out-of-State identification or identifies himself as a felon. When the dealer informs the individual that he cannot sell to him because he is an out-of-State resident or a felon, the individual produces a friend who is eligible to purchase. The friend ("Straw Man") is then used as the purchaser of record when it is obvious that the actual recipient is a prohibited person.

The second type of "Straw Man Transaction" is similar to the first. However, in this instance, it is the dealer himself who suggests to the potential purchaser that a third party be used to effect the sale and such a sale is completed.

The Gun Control Act of 1968 does not necessarily prohibit a dealer from making a sale to a person who is actually purchasing the firearm for another person. It makes no difference that the dealer knows that the purchaser will later transfer the firearm to another person, so long as the ultimate recipient is not prohibited from receiving or possessing a firearm. A dealer may lawfully sell a firearm to a parent or guardian who is purchasing it for a minor child. The minor's subsequent receipt or possession of the firearm would not violate Federal law, even though the law does prohibit a dealer's direct sale to the underaged person.

What the Act forbids is the sale or delivery of a firearm to a person the licensee knows or has reason to believe is a person to whom a firearm may not be sold (e.g. a nonresident or a felon) or to a person the licensee knows will transfer the firearm to a person prohibited from receiving or possessing it.

A firearms licensee runs the risk of violating the law when he becomes involved in a transaction where it is apparent that the purchaser of record is merely being used to disguise the actual sale to another person, who could not personally make the purchase or is prohibited from receiving or possessing a firearm.

Where the dealer knowingly utilizes this technique to sell a firearm to a prohibited person, both he and the "third person" or "Straw Man" are placed in a position of unlawfully aiding the prohibited person's own violation.

We realize that this circular is quite general in tone. The best advice we can give is that the dealer should be sure to have Form 4473 completed by the person to whom the dealer is actually selling the firearm; and if the dealer has any reason to believe the firearm is being acquired for a prohibited person, he should avoid the transaction.

If you need further advice, do not hesitate to contact the Bureau of Alcohol, Tobacco and Firearms at the Office of the local Special Agent in Charge, or the Regional Regulatory Administrator.

Q. R. DeLoach

Director

Department of the Treasury
Bureau of Alcohol, Tobacco and Firearms
Washington, D.C. 20226

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HANDGUN CRIME CONTROL—1975-1976

HEARINGS
BEFORE THE
SUBCOMMITTEE TO INVESTIGATE
JUVENILE DELINQUENCY
COMMITTEE ON THE JUDICIARY
UNITED STATES SENATE
NINETY-FOURTH CONGRESS

FIRST SESSION

Pursuant to S. Res. 72, Section 12

INVESTIGATION OF JUVENILE DELINQUENCY IN THE
UNITED STATES

Oversight of 1968 Gun Control Act—The Escalating Rate of
Handgun Violence

Volume I

APRIL 23, JULY 22, OCTOBER 28, 1975

Printed for the use of the Committee on the Judiciary



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be sent in and then accorded some special significance—even with that, there is nothing illegal now about a firearms dealer selling large numbers of handguns to any one person; nor is there anything illegal about the act of purchasing large numbers of handguns.

Mr. DAVIS. Well, sir, again, with the presumption that the purchaser is otherwise qualified under the law, there would be nothing illegal in making the purchase. There is a possibility, if the dealer in fact, knew that this person was going to resell those guns, there may be some other area of the law which would apply, maybe as a conspirator or as an aider and abettor. But at least under the gun control laws there would be nothing illegal.

Senator BAYH. All right, the answer is no, is it not?

Mr. DAVIS. Yes, sir.

Senator BAYH. What we are trying to do is find out the strengths and weaknesses of this act. Some talk much about new firearms legislation, let us look at what we have and see if maybe it is not doing the job.

Let us look at another closely related area.

SALES OF HANDGUNS BY INDIVIDUALS

Is there anything in the law now which makes it illegal for me, as a citizen who is not in one of those categories proscribed from purchasing firearms, from going into your store and buying a hand weapon; going home and selling it to my father-in-law, who does fit into one of those categories, whose purchase from a dealer is illegal?

Mr. DAVIS. No, sir, there is no prohibition against the sale—by sale, we mean casual sale—of handguns between individuals. It does not matter—the only restriction would be that if you knew he was not a resident of that State, then it would be illegal. But that would be the only restriction placed on the sale or transfer of weapons between individuals.

Senator BAYH. Is that not one of the biggest loopholes under the law? It is not illegal for me, as an individual? This allows, it seems to me, the wrong persons to have ready access. Why bother to risk stealing a weapon? If you have a felon who has just come out of the "big house" who wants to commit a felony, he can simply go to a relative and say, Sam, go in there and buy a handgun; here is the money. The relative buys it. There is nothing illegal. He sells it to the felon. There is nothing illegal about it—and the felon has the best gun in the town.

Mr. DAVIS. Yes, sir, there is no question that this represents a gap in the law. We frequently run into cases of that kind where a proscribed individual sometimes will give another individual \$5 to go in and purchase a handgun. And they fill out the form, bring it outside and turn it over to them and give him \$5 profit over the cost of the weapon.

Senator BAYH. What do you recommend?

Mr. MACDONALD. I think we could address ourselves to that issue.

Senator BAYH. Why don't you?

Mr. MACDONALD. As a part of the interstate commerce problem.

Senator BAYH. Why do you have reservations to say that the loopholes ought to be tightened and make it illegal to sell, on an indi-

vidual basis, to apply to dealers?

Mr. MACDONALD. regard, sir.

Senator BAYH.

Mr. MACDONALD.

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Mr. DAVIS. I n available, and tha

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Mr. MACDONALD. the man is a felon not know it, then