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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
AIKEN DIVISION

UNITED STATES OF AMERICA,) Cr. No. 1:04-045
)
)
VERSUS) Columbia, SC
) November 8, 2005
)
ERNEST WRENN,)
)
)
Defendant.)
-----)

EXCERPT OF JURY TRIAL
TESTIMONY OF GEORGE W. SEMONICK

BEFORE THE HONORABLE MARGARET B. SEYMOUR
UNITED STATES DISTRICT JUDGE, and a jury.

Appearances:

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STENOTYPE/COMPUTER-AIDED TRANSCRIPTION

1 * * * * *

2 MS. MCGREGOR: The government calls George
3 Semonick.

4 GEORGE WALTER SEMONICK, SWORN

5 DIRECT EXAMINATION

6 BY MS. MCGREGOR:

7 Q. Good morning, Mr. Semonick.

8 A. Good morning.

9 Q. Mr. Semonick, who do you work for?

10 A. Work for the Bureau of Alcohol, Tobacco, and Firearms.

11 Q. And are you within a specific division at ATF?

12 A. Industry operations, the Department of Justice.

13 Q. Okay. And what does "industry operations" mean?

14 A. Industry operations is the compliance side of ATF.

15 Q. And when you talk about compliance, who needs to comply
16 with what? Who are you checking on?

17 A. Firearm dealers, manufacturers, explosive licensees,
18 and permittees.

19 Q. And what is your title there?

20 A. Industry operations investigator.

21 Q. And so your basic job is to keep people in compliance
22 with the regulations given by ATF?

23 A. Correct.

24 Q. How long have you been doing that?

25 A. For five and-a-half years.

1 Q. In your work, in your compliance work, do you deal with
2 federally licensed dealers a lot?

3 A. Yes, I do.

4 Q. And do you do compliance work or compliance checks at
5 FFLs?

6 A. Correct.

7 Q. How does a compliance check at an FFL work? What do
8 you do?

9 A. I gather information prior to conducting a compliance
10 inspection, depending on what the licensee is engaged in.
11 And from that point, once I have everything, it's an
12 unannounced arrival. I identify who I am to the licensee
13 and why I'm there.

14 Q. Okay. An example here is, Mr. Wrenn was an FFL?

15 A. Correct.

16 Q. And what documents did you gather before you went to
17 visit Mr. Wrenn's store?

18 A. I gathered the office file that came from our Charlotte
19 division, and then I also obtained a list of firearms,
20 which are NFA weapons, from our headquarter's office.

21 Q. And what is an NFA weapon, or what is an example of an
22 NFA weapon?

23 A. A machine gun, a silencer, a short-barrelled rifle, a
24 shotgun, are some examples.

25 Q. So, the list you gathered from NFA specifically

1 pertained to Mr. Wrenn?

2 A. Correct.

3 Q. And you would have used that how, once you got to his
4 store?

5 A. I used that list, along with their acquisition and
6 disposition bound book, to verify their inventory.

7 Q. What is an acquisition and disposition book?

8 A. An acquisition and disposition book is a record book
9 required to be kept which maintains the type of firearm,
10 the caliber of the firearm, the model of the firearm, and
11 who the manufacturer-importer is, the date that the
12 licensee acquired it, and who the licensee is and address.

13 Q. Is it fair to say when you do a compliance check you
14 are making sure that the documents you have match what is
15 actually in the store?

16 A. Correct.

17 Q. Now, generally speaking, when you conduct a compliance
18 check at an FFL, do you check Title I weapons?

19 A. Yes.

20 Q. And what type of weapons would fall under Title I?

21 A. Title I weapons would be a regular rifle, shotgun,
22 pistol, revolver, that the general public, such as I and
23 everybody here, could go in and just buy from a dealer.

24 Q. And I believe you stated that you also checked their
25 NFA weapons?

1 A. Correct.

2 Q. And that includes machine guns?

3 A. Correct.

4 Q. Now, when you visit a store, generally, to conduct this
5 audit, how do you know where the inventory is kept?

6 A. Inventory in most instances are right out in plain
7 view. If inventory is elsewhere, the licensee advises us,
8 or we will ask.

9 Q. Now, in June of 2002, were you assigned to conduct an
10 audit at Poor Man's Gun and Pawn?

11 A. I was.

12 Q. And where was that audit to be conducted? Physically
13 where was the store?

14 A. The store was located in North Augusta off of Atomic
15 Road.

16 Q. And how is it that you were assigned to go down to
17 North Augusta to conduct that audit?

18 A. I received a referral from Special Agent Kirk Henry,
19 which indicated that a SLED --

20 Q. I don't want you to give me any hearsay. So, you were
21 referred, you didn't volunteer to go down there, you were
22 assigned?

23 A. I was assigned, yes.

24 Q. Who was completing the audit with you?

25 A. Jamie Morosky.

1 Q. Do you recall what day you arrived to begin the audit?

2 A. June 24th of 2002.

3 Q. Now, looking at Government's Exhibit 12, which has been
4 marked for identification purposes only -- let me give you
5 a Sharpie, Mr. Semonick -- and I'm going to ask you to mark
6 the date of your arrival.

7 Then I'm also going to ask you to mark whether or
8 not you stayed for more than one day or two days or three
9 days. And I want you to put your initials at the beginning
10 and just draw a line to indicate how long you stayed that
11 week.

12 A. (Witness complies).

13 Q. Thank you, Mr. Semonick. And so that indicates,
14 according to what you just marked, you arrived on that
15 Monday, which would have been the 24th?

16 A. 24th, yes.

17 Q. And Ms. Morosky, her initials are on Tuesday the 25th;
18 is that right?

19 A. Correct, yes.

20 Q. Your initials end on Friday the 28th?

21 A. Yes.

22 Q. Thank you. You can have a seat.

23 Now, did anything significant happen that you can
24 recall on that Friday, June the 28th?

25 A. Yes.

1 Q. What happened on that Friday?

2 A. ATF criminal enforcement conducted a search warrant.

3 Q. Now, did you participate beforehand in that search
4 warrant?

5 A. Beforehand? No.

6 Q. The reason you were down there for the audit on Monday
7 had nothing to do with that search warrant on Friday; isn't
8 that right?

9 A. Correct.

10 Q. Mr. Semonick, I'm going to ask you to take a look at
11 what's been introduced as Government's Exhibit Numbers 13 A
12 through K, and has been entered in evidence already, I'm
13 going to ask you to take a look at those items and tell me,
14 once you flip through all of them, if you recognize that?

15 A. Yes, I do.

16 Q. Okay. I want you to start with 13 A and just give me a
17 very general description of what is in each one of those, A
18 through K, at least from what you remember.

19 A. Picture shows the business name of Poor Man's Gun and
20 Pawn.

21 Q. Is that 13 A?

22 A. 13 A.

23 Q. You can go on to 13 B.

24 A. 13 B is a shot of the pawn shop facing from the road.

25 Q. 13 C.

- 1 A. 13 C is a side shot where the entrance is to go into
2 the pawn shop.
- 3 Q. 13 D?
- 4 A. 13 D is a shot from on the inside of the pawn shop.
- 5 Q. 13 E?
- 6 A. 13 E is also from inside the pawn shop, from the
7 entrance.
- 8 Q. 13 F?
- 9 A. 13 F is inside the pawn shop behind the counter.
- 10 Q. 13 G?
- 11 A. 13 G is a section of inside the pawn shop that has a
12 gate to it.
- 13 Q. 13 H?
- 14 A. Back room where there were safes.
- 15 Q. And did you see those safes during your audit?
- 16 A. Yes, I did.
- 17 Q. And why were you taken to those safes?
- 18 A. Because there were weapons stored in there.
- 19 Q. What kind of weapons were stored in those safes, Mr.
20 Semonick?
- 21 A. There were machine guns.
- 22 Q. If you recall.
- 23 A. There were machine guns.
- 24 Q. Okay. What is the next photograph?
- 25 A. The next photograph is that back room showing further

1 into.

2 Q. And what exhibit is that, sir?

3 A. Exhibit 13 I.

4 Q. Okay. You can continue.

5 A. 13 J is Compucar, the sign outside of Compucar.

6 Q. Is that the final one?

7 A. No, there is one more. Exhibit 13 K is the picture, I
8 know of, of being Compucar's business.

9 Q. Thank you very much, Mr. Semonick.

10 MS. MCGREGOR: Your, Honor at this time I would
11 ask to publish these to the jury. They were not published
12 yesterday.

13 THE COURT: All right, you may.

14 MS. MCGREGOR: Thank you.

15 BY MS. MCGREGOR:

16 Q. Now, Mr. Semonick, did you conduct Mr. Wrenn's
17 compliance audit as you would any other audit?

18 A. I did.

19 Q. Now, you never issued a report, a final report as to
20 the audit; is that correct?

21 A. That is correct.

22 Q. And why didn't you issue that final report?

23 A. Because a criminal case was opened up at that time.

24 Q. Okay. Now, you mentioned Title I weapons, and those
25 are the kind of -- the pistols, revolvers, the regular

1 weapons?

2 A. Correct.

3 Q. Did you do an audit of Mr. Wrenn's Title I weapons in
4 June of 2002?

5 A. I did.

6 Q. Did you also do an audit of Mr. Wrenn's NFA weapons?

7 A. I did.

8 Q. And that would include machine guns?

9 A. Correct.

10 Q. I'm going to ask you to step down and take a look at
11 some exhibits with me, Mr. Semonick, and I want you to
12 speak into the microphone. I'm showing you what's been
13 marked as Government's Exhibit 10 A, do you recall seeing
14 this firearm when you did the audit of Mr. Wrenn's Title I
15 weapons?

16 A. No.

17 Q. Do you recall seeing Government's Exhibit 10 A when you
18 did the audit of Mr. Wrenn's NFA weapons?

19 A. No.

20 Q. I'm going to ask you to take a look at Government's
21 Exhibit Number 10 B, and I ask you the same question, do
22 you recall seeing this weapon when you did a check of Mr.
23 Wrenn's Title I weapons?

24 A. No.

25 Q. Do you recall seeing Government's Exhibit 10 B when you

1 did a check of Mr. Wrenn's NFA weapons?

2 A. No.

3 Q. You may have a seat. Thank you, Mr. Semonick.

4 Mr. Semonick, at the end of the compliance audit,
5 do you give the FFL an opportunity to show you anything
6 that you haven't seen already?

7 A. Yes.

8 Q. In fact, do you ask them, "Is there anything else that
9 I need to see?"

10 A. Yes.

11 Q. Did you do that in June 2002 with the compliance audit
12 at Poor Man's Gun and Pawn?

13 A. I did.

14 Q. Did Mr. Wrenn show you either Government's Exhibit
15 10 A or Government's Exhibit 10 B?

16 A. No.

17 Q. Mr. Semonick, if there had been a weapon in Poor Man's
18 Gun and Pawn that at some point in time had been fired,
19 somebody had shot rounds through that weapon, would you
20 have expected to be shown that weapon when you did the
21 compliance audit in June of 2002?

22 A. Yes.

23 MS. MCGREGOR: No further questions. Thank you,
24 Mr. Semonick.

25 THE COURT: Mr. Truslow.

1 MR. TRUSLOW: Your Honor, may I wait until after
2 the jury sees the exhibit? I don't want to --

3 THE COURT: I would agree.

4 CROSS EXAMINATION

5 BY MR. TRUSLOW:

6 Q. Good morning.

7 A. Good morning.

8 Q. "Part sets," are you familiar with that term?

9 A. What was that again?

10 Q. A "parts set"?

11 A. Never -- you say a "parts set"?

12 Q. Have you ever heard of the word "parts set"?

13 A. (Shakes head in the negative).

14 THE COURT: You have to answer yes or no.

15 A. No.

16 BY MR. TRUSLOW:

17 Q. At the time you were doing this audit in 2002 -- you
18 said you have five years' experience now?

19 A. Correct.

20 Q. So, in 2002 you would have had about two years of
21 experience, two and-a-half?

22 A. Two, yes, correct.

23 Q. When did you go to work for ATF?

24 A. I started with ATF in 1996.

25 Q. When did you become, I guess, an auditor or compliance

1 person?

2 A. In June of 2000.

3 Q. So, that's when you got training in this particular
4 field?

5 A. That is correct.

6 Q. Now, dealing with Mr. Wrenn, you knew that he had
7 what's called an SOT, of course you knew that, didn't you?

8 A. Correct.

9 Q. And you knew that he was both -- had a class 1 license,
10 he could manufacture, or he could buy and sell rifles,
11 pistols, shotguns, short guns, long guns?

12 A. Yes.

13 Q. You knew that, didn't you? Okay. You knew he was a
14 licensed manufacturer of machine guns, didn't you?

15 A. Yes.

16 Q. So, he was lawfully entitled to possess machine guns?

17 A. Yes.

18 Q. He was lawfully entitled to possess rifles?

19 A. Yes.

20 Q. He was lawfully entitled to build rifles and machine
21 guns?

22 A. Yes.

23 Q. Okay. Thank you. You knew also that he was a police
24 supplier?

25 A. Yes.

1 Q. And having gone in his business, you knew that there
2 was a lot of military memorabilia in there?

3 A. Yes.

4 Q. And that would include things that would look like
5 military weapons, but weren't?

6 A. I would assume so.

7 Q. You know what an AR15 is, don't you?

8 A. Yes.

9 Q. An AR15 is -- what? Is it a .223 caliber?

10 A. Yes.

11 Q. And it looks like an M16, a military machine gun, or
12 what we might call a machine gun, but an AR15 is not?

13 A. Correct.

14 Q. An AR15 would be, for example, would be deemed --
15 what? A sporting weapon?

16 A. Not really, no.

17 Q. What is it? On the book, what is it?

18 A. On the book it's a rifle.

19 Q. Okay. It's just a rifle?

20 A. Would be considered just a rifle.

21 Q. And people are allowed to own those?

22 A. Yes, they are now.

23 Q. In addition to doing police supply and manufacturing,
24 that we talked about, Mr. Wrenn had a business where he
25 sold to the public, correct?

1 A. Correct.

2 Q. And you were in -- when is the first time in, say, the
3 year 2000 you went into Mr. Wrenn's business? Do you
4 recall when you first went in there?

5 A. Not in 2000.

6 Q. 2002.

7 A. The first time I went in there was on the 24th of June.

8 Q. That was the first time that you were in there?

9 A. Correct.

10 Q. Do you know if other agents were in there?

11 A. Nobody else was in there that I knew of.

12 Q. So, from before June of 2002 you hadn't ever been in
13 Mr. Wrenn's business before?

14 A. No.

15 Q. Okay. So, y'all didn't really have a relationship at
16 that point in time, did you? Would you agree with that?

17 A. Yes.

18 Q. And you went in unannounced, which is what you are
19 authorized to do?

20 A. That is correct.

21 Q. And the purpose of going in unannounced is to do an
22 audit so you will see that they have all the records there,
23 correct?

24 A. That is correct.

25 Q. And you have free access to the premises? You can look

1 around -- I'm not talking about disrupt people's business,
2 but you have the right and the ability to go anywhere you
3 want?

4 A. No, we don't.

5 Q. Where do you go?

6 A. Only have the authority to go where the guns are at.

7 Q. Okay. I didn't state it very well, it was my fault.

8 Where the guns are at, right?

9 A. (Nods head in the affirmative).

10 Q. Okay. And where the guns are at, you have free
11 access? You can go anywhere where the guns are at?

12 A. That we see, yes.

13 Q. Now, items that are not guns, are deemed by ATF not to
14 be a firearm, they are not on -- they are not required to
15 be put on a 4473 form, are they?

16 A. It would be -- if they are deemed not a firearm.

17 Q. If it's not a firearm, it doesn't go on a 4473, does
18 it?

19 A. A 4473 is a transfer form.

20 Q. I understand. It doesn't go on that form, though, does
21 it?

22 A. If it's not a firearm, no.

23 Q. Okay. If it's not a firearm, it doesn't go on that
24 form, does it?

25 A. No.

1 Q. Whether it's a pistol or a rifle or a machine gun or
2 anything else, it doesn't go on that list?

3 A. Correct, if it's not a firearm.

4 Q. And if it's not a firearm, it doesn't go in the
5 acquisitions and disposition book either, does it, what we
6 call -- I might call purchase and sale, the A and D book?
7 So, if it's a non-firearm, it doesn't go there?

8 A. That would be correct.

9 Q. Now, are you familiar with the word "prototype"?

10 A. Yeah. I hear -- I hear prototype, yes.

11 Q. What does the word "prototype" mean?

12 A. To me a prototype would be -- what you see as something
13 being made for down the future, such as cars.

14 Q. Okay. Or guns?

15 A. Could be guns, too.

16 Q. Okay. And manufacturers, in your experience, being in
17 the ATF now for five years, there are manufacturers that,
18 before they sell an item to the public, they have a
19 prototype. Would you agree with that?

20 A. Yes.

21 Q. Okay. And in your experience you have seen that often
22 manufacturers that have prototypes will send that to ATF
23 for their -- for them to look at, so it can be classified?

24 A. Yes.

25 Q. Now, if an item is a -- if it looks like it's, say, a

1 machine gun but it only will function as a rifle, it would
2 go on the acquisition -- it would -- somewhere it would
3 have to be classified first as a rifle, wouldn't it? Would
4 you agree with that?

5 A. Can you repeat it one more time --

6 Q. Maybe it's my fault and I apologize. If you have an
7 item that looked like it was a machine gun but would only
8 fire as a semi-automatic rifle -- are you with me so far?

9 A. Right, yes.

10 Q. -- then -- and you wanted it to be classified, you
11 would send it to ATF for a classification, correct?

12 A. Not if -- not that, you probably wouldn't do it, no.
13 It would be considered a firearm and put on the books.

14 Q. As what?

15 A. As a rifle, if that's what it is.

16 Q. If you were concerned that ATF might come in and say
17 it's something different than it really is, where would you
18 put it?

19 A. It would still go -- it would have to go on your books.

20 Q. What would you classify it as? Would you classify it
21 as what you thought it was, or would you classify it as
22 something else -- that it wasn't, that you knew it wasn't?

23 A. If it fires a single round, it would be considered in
24 the books as a firearm.

25 Q. And the way for you to find out whether it would fire

1 from a single depression of the trigger, like a
2 semi-automatic or just a rifle, then you would put it in
3 the A and D book right then?

4 A. I would have to look at the regulations to double check
5 to make sure. There's a point in time you have to, to have
6 it recorded.

7 Q. Say that again?

8 A. There is a point in time you have to have it recorded.

9 Q. Okay. Well, if you send something off -- if you got
10 something and you built it and you want ATF to classify
11 it -- say it's a rifle, it looks like a machine gun but you
12 say it's a rifle, don't the regulations exist so that you
13 can -- or the policy exists so that you can send it to ATF
14 and say, "What is your classification for this so I can put
15 it in my A and D book properly?" Doesn't that process
16 exist?

17 A. There is in -- written in the regulations.

18 Q. Say that again?

19 A. There is written in the regulations.

20 Q. It is --

21 A. There is a process, yes.

22 Q. There is a process. So, I want to make sure, a person
23 who manufactures an item and has a prototype, can send it
24 to ATF for them to classify it, and then you can put it in
25 the book, in your A and D book. Would you agree with that?

1 A. Yes, within the requirements that are stated.

2 Q. All right, thank you very much. Now, in this case you
3 know that Mr. Wrenn sent a prototype to FTB, that's -- you
4 know what FTB is, Firearms Technical Branch of ATF?

5 A. (Nods head in the affirmative).

6 Q. That he sent a Maxim, quote-unquote, Maxim to ATF on
7 February 19th, 2002, you were aware of that, weren't you?

8 A. I cannot recall.

9 Q. You can't recall?

10 A. Because that was before -- I only recall being there at
11 the time that I was there.

12 Q. All right. You had an opportunity to go through the
13 evidence in this case for the government, haven't you?

14 A. Correct.

15 Q. Aren't you aware that on February 19th, 2002 Ernest
16 Wrenn sent a prototype unit to ATF and asked for
17 classification of that as a rifle?

18 A. No, I wasn't. As I said, I only started when I
19 mentioned.

20 Q. You weren't shown that letter?

21 A. No.

22 MS. MCGREGOR: Your Honor, I'm going to object.
23 I mean, the government concedes that Mr. Wrenn sent up a
24 Maxim, but to be candid, I have not reviewed the evidence
25 in that letter with this witness because he had nothing to

1 do with it.

2 THE COURT: He can -- just answered the question.

3 If he doesn't know, he doesn't know.

4 BY MR. TRUSLOW:

5 Q. You don't know?

6 THE COURT: He already answered the question, Mr.

7 Truslow.

8 MR. TRUSLOW: All right.

9 BY MR. TRUSLOW:

10 Q. Let me go on. When you were doing your -- when you
11 were doing your audit in Charlotte -- Charlotte is the big
12 office, I guess, for ATF in this area?

13 A. That is correct.

14 Q. When you were asked to do the audit, as the first
15 process, what they do is they give you the -- what their
16 records show, so you can compare your records to Mr.
17 Wrenn's records?

18 A. No, what they give me in Charlotte is a file.

19 Q. Okay. And what is in the file?

20 A. Past history of the licensee.

21 Q. And for the acquisitions and disposition book, how do
22 you -- how do you compare the acquisitions with the
23 dispositions with the records that the person has and your
24 records? How is that done?

25 A. How is that done? You take the inventory and cross-

1 reference it to the record books to verify that those guns
2 are actually in the books as an open entry, which would
3 indicate that the firearm is in inventory.

4 Q. So, what you could do is, you could take the 4473s and
5 compare it to the book, correct?

6 A. For dispositions, yes.

7 Q. But how would you find out whether -- would you have
8 any records of your own to compare it against?

9 A. I'm not getting -- getting what you are saying here.

10 Q. All right. Did you find during your audit that your --
11 I'm not talking about your personal records -- but the ATF
12 records were deficient? That there were errors in the ATF
13 records, that you had to -- that you had to look at Mr.
14 Wrenn's personal records and find out that your records
15 that were given to you -- I'm not blaming you -- that the
16 records, the records kept by ATF, were deficient? You did
17 find that, didn't you?

18 A. Yes, there was a discrepancy.

19 Q. So, what we now know is that there were discrepancies
20 because ATF's records weren't complete, correct? You will
21 admit that, won't you?

22 A. Yes.

23 Q. Thank you. Now, let me go on to something else. And
24 again, this is no reflection on you, I'm just trying to get
25 you to answer some questions. I appreciate it.

1 When you do an audit, does -- and somebody, say a
2 manufacturer, has an item that he has sent to ATF FTB --
3 they are located in Washington or Virginia, aren't they?

4 A. At that time they were.

5 Q. Okay. And when somebody who is a manufacturer sends a
6 firearm or some -- or a non-firearm for classification to
7 ATF FTB, Firearms Technical Branch, and you are getting
8 ready to do an audit, you George Semonick are going to do
9 an audit, does ATF give you the records for the items that
10 have gone to FTB so you can compare the record with what
11 the person has?

12 A. No.

13 Q. They don't? So, if an item has been sent to ATF FTB,
14 and it's a prototype, and it is sent to them for
15 classification, George Semonick unfortunately wouldn't know
16 about it, would he? You wouldn't know about it? You
17 wouldn't have any way --

18 A. I wouldn't know that it went up there, no.

19 Q. And if Mr. Wrenn, for example, or any manufacturer, had
20 an item that they contended was a non-firearm, but they
21 sent it to ATF for classification, you wouldn't have any
22 way of knowing about that either, would you?

23 A. Anything that is manufactured -- are we --

24 Q. Not manufactured, prototype manufactured.

25 A. If it's intended to be a firearm and to be determined

1 if it is a firearm, then it should be put on a form to be
2 sent up.

3 Q. Okay. So, you put it on the form you send it to ATF
4 FTB -- and I'm trying to be fair to you -- and you wouldn't
5 know about it, because they wouldn't tell George Semonick
6 about that?

7 A. No, they would not.

8 Q. Thank you very much. Let me go on to something else.
9 When you went for the -- for your audit -- of course, I'm
10 sure you are very polite and you do things like you are
11 required to do. And that's part of the deal for Mr. Wrenn,
12 isn't it? I mean, he -- that's the cost of doing business,
13 is y'all coming and doing the audits?

14 A. Correct.

15 Q. And that's a normal thing and he would expect you to be
16 there and expect you to go through the A and D book?

17 A. That is correct.

18 Q. Did he give you the -- did he freely give you the A and
19 D book?

20 A. Yes.

21 Q. Did he freely give you any paperwork that you asked
22 for?

23 A. Yes.

24 Q. Did he freely -- did he disallow you -- did he say,
25 "I'm not going to let you go anywhere in my business?" Did

1 he ever tell you that you couldn't go anywhere?

2 A. No.

3 Q. Okay. Thank you. So, in essence, you could have gone
4 anywhere in his business that you wanted?

5 A. No, I could not.

6 Q. Knowing that he's a manufacturer and he's a
7 manufacturer that makes rifles and machine guns, if you
8 wanted to see what he had under production, what he was
9 building, in the process of building, could you go look at
10 it?

11 A. With his escort, him taking us, if he did have
12 something in production.

13 Q. And if you had asked, you believe he would have taken
14 you, if you just asked?

15 MS. MCGREGOR: Your Honor, that's speculation.

16 MR. TRUSLOW: That is, I withdraw the question
17 and ask it another way.

18 BY MR. TRUSLOW:

19 Q. Did Mr. Wrenn ever stop you from looking at anything
20 that he had under production?

21 A. No, because I did not know.

22 Q. All right. One last thing -- and I think we will be
23 getting close to finishing with you, and I appreciate your
24 testimony.

25 You started on the 24th and you ended on the

1 28th; is that correct?

2 MS. MCGREGOR: That was not his testimony on
3 direct.

4 BY MR. TRUSLOW:

5 Q. I'm sorry, when did you stop?

6 A. The actual stop -- it lasted three weeks.

7 Q. Okay. So, you went through this audit for three weeks?

8 A. Yes, well --

9 Q. So, during that three weeks you were in the business?

10 A. Reviewing the forms, after --

11 Q. Reviewing forms, looking at -- you could look at
12 actual -- physically, you could look at the firearms,
13 couldn't you?

14 A. Yes.

15 Q. And when did -- when did it end?

16 A. The actual compliance inspection?

17 Q. Yes.

18 A. Well, something around probably the 11th of July.

19 Q. And you never did a report, a final report? Did I
20 understand you correctly?

21 A. That is correct, I had all my stuff gathered --

22 Q. You had done the things you were supposed to do, but
23 because there was a, quote-unquote, criminal investigation,
24 were you instructed not to write up a report?

25 A. I had ceased the report, right, because there was an

1 investigation.

2 Q. I'm sorry, I didn't make myself clear. You said you
3 didn't do a report, I was asking you, you were instructed
4 not to write a report, weren't you?

5 A. I was not instructed by anybody not to write the
6 report.

7 Q. You mean it was your own decision not to write a
8 report?

9 A. I wasn't instructed right at that time. I have been
10 told in the past not to continue the report if a criminal
11 investigation is opened.

12 Q. Once a criminal investigation starts then you didn't
13 write a final report?

14 MS. MCGREGOR: That's been asked and answered.

15 MR. TRUSLOW: That's been asked and answered and
16 that's the end of my questions. Thank you, sir.

17 REDIRECT EXAMINATION

18 BY MS. MCGREGOR:

19 Q. Mr. Semonick, is it fair to say that as an auditor,
20 when you go to audit an FFL, there is a certain level of
21 trust?

22 A. Yes.

23 Q. Because you are relying on their books?

24 MR. TRUSLOW: Objection, Your Honor, she's
25 leading.

1 THE COURT: Sustained.

2 BY MS. MCGREGOR:

3 Q. Who do you rely on to tell you what is in the store?

4 A. The dealer and -- himself, along with their employees.

5 Q. And so who did you rely on when you went to Poor Man's
6 Gun and Pawn to tell you where the guns were?

7 A. Mr. Wrenn was one of them.

8 Q. Did Mr. Wrenn ever take you to a closet to look for
9 machine guns?

10 A. No.

11 Q. And so once you did the comparison of his books to his
12 guns, did you actually count the guns?

13 A. Yes.

14 Q. And at that point, were they balanced?

15 A. It balanced at the end, yes.

16 Q. So, was there any reason to go look in a closet for any
17 more guns?

18 A. No.

19 Q. Mr. Semonick, I'm going to hand you what has been
20 marked as Government's Exhibit 8, do you recognize this
21 book?

22 A. Yes, I do.

23 Q. What is that?

24 A. It is a book that contains the laws and regulations
25 that are governed by ATF.

1 MS. MCGREGOR: Your Honor, the government would
2 move Government's Exhibit 8 into evidence at this time.

3 THE COURT: Any objection? Any objection?

4 MR. TRUSLOW: Is this the green book?

5 MS. MCGREGOR: It's the green book. And that is
6 a clean unmarked copy.

7 MR. TRUSLOW: I have a matter of law.

8 (Bench conference)

9 MR. TRUSLOW: I object to the green book going
10 in, and my reason is, is because it unfairly gives the
11 jury -- it invades your province. You charge them on the
12 law, and this is just an attempt to give them what they
13 say -- to give them this rather than taking your charge, so
14 I object to the introduction.

15 THE COURT: If he's going to be testifying about
16 what is in the book, and the question was, what were the
17 regulations that he was following. You asked him some
18 questions on cross-examination about what his procedure was
19 and if the procedures are contained in the book, and I
20 think she has a right to have the procedures in evidence.

21 If there's anything in that book that is
22 different from what the law is, you can bring it to my
23 attention. Do you know of anything?

24 MR. TRUSLOW: There are some rulings and things
25 that are in the back --

1 MS. MCGREGOR: I will check to see if there are
2 rulings, but --

3 MR. TRUSLOW: If I can get the book I can show
4 you. I have got one right here.

5 MS. MCGREGOR: Your Honor, there are forms in the
6 back, ATF forms, but it's all codes and regulations, none
7 of which is inconsistent with the law, because that is the
8 law.

9 And specifically my reason for offering it, is he
10 asked him the definition -- or talked to him about the
11 definition of firearms and things that shoot and don't
12 shoot, and what he should have put in an A and D book. And
13 his copy doesn't have any marks on it, Your Honor.

14 MR. TRUSLOW: I also think it can confuse a jury
15 because there are some things in here that could be
16 improperly -- they could -- would not be understood, where
17 Your Honor would charge them and it may not -- they may not
18 understand what these things -- some of these terms mean.

19 And I'm just -- I'm trying to be very cautious
20 that -- there are things about questions that can be asked,
21 answers. I'm just flipping through some of the things
22 that --

23 THE COURT: What part of that book is relevant to
24 this testimony?

25 MS. MCGREGOR: Well, Your Honor, unfortunately

1 this item is a book that is going to be recognized by
2 several more people in the case, specifically Mr. Wrenn's
3 daughter, who will indicate that these -- this is something
4 that an FFL is required to have and that they had several
5 copies and that she and her father referred to this book
6 about any questions they had.

7 And so specifically, on this witness, he was
8 talking about what a firearm is or isn't. We are going to
9 ask him to read the definition of a firearm -- because it
10 says anything that shoots -- and then I'm going to refer to
11 the Maxim, "And if this gun had shot, should you have seen
12 it during your visit?" That's the point of asking this
13 witness to read from it. But this book is self-
14 authenticating.

15 MR. TRUSLOW: There are other things in here that
16 don't relate, like the Arms Export Control Act, that has
17 nothing to do with this case. There are other sections
18 about querying records in the system, that have nothing to
19 do with this.

20 THE COURT: I'm going to allow the book in but
21 I'm going to ask that it be modified once -- before it goes
22 back to the jury, that anything that wasn't relevant to
23 this trial not be put into evidence in this trial, or
24 referred to by any witnesses, be taken out.

25 MS. MCGREGOR: Okay. But we will be able to have

1 the cover in and any copies of anything?

2 MR. GASSER: We will make copies of the cover
3 page and then any pages that the --

4 MS. MCGREGOR: Witnesses --

5 MR. GASSER: -- defense or prosecution uses
6 throughout the course of the trial --

7 MS. MCGREGOR: We will attach as one exhibit.

8 MR. TRUSLOW: All right.

9 MS. MCGREGOR: Thank you, Your Honor.

10 (In open court)

11 BY MS. MCGREGOR:

12 Q. Thank you, Mr. Semonick. You still have Government's
13 Exhibit 8, I believe?

14 A. I do.

15 Q. I will ask you to turn to page 5. There are three
16 columns on that page. In the center column there is a 3 in
17 parentheses, and it begins, "The term firearm." Would you
18 read --

19 A. I see --

20 Q. -- read that for the jury, please?

21 A. "The term firearm means, A, any weapon, including a
22 starter gun, which will, or is designed to, or may readily
23 be converted to expel a projectile by the action of an
24 explosive; B, the frame or receiver of any such weapon; C,
25 any firearm, muffler, or firearm silencer; or D, any

1 destructive device. And such terms shall not include an
2 antique firearm."

3 Q. Thank you, Mr. Semonick. So, if Government's Exhibit B
4 had been fired by Mr. Wrenn, would it be a firearm?

5 A. Yes.

6 Q. And would you have expected to see that during your
7 audit in June of 2002?

8 A. Yes.

9 Q. Even if that fired in semi-automatic form, even though
10 it might look like a machine gun, would you have expected
11 to see it during your audit?

12 A. Yes.

13 Q. If that firearm fired in semi-automatic form and was on
14 display for sale in his store, would you have expected to
15 see it during your audit?

16 MR. TRUSLOW: Your Honor, I have a matter of law,
17 if we could have a side bar for just for a moment? I'm
18 sorry.

19 (Bench conference)

20 MR. TRUSLOW: Out of an abundance of caution, I
21 would ask the jury -- for a charge -- he's not charged with
22 committing a crime for having a rifle. They are saying,
23 "If it fires in a semi-automatic mode, would you expect to
24 see it in the book?" And he said yes. But he's not --
25 he's charged with having machine guns, not rifles.

1 THE COURT: Didn't say he was charged with
2 violating the audit or having anything wrong with the
3 audit, he just -- he testified as to what was in the audit,
4 and you had asked him about certain guns and whether or not
5 they fired in automatic, and what was a rifle and what was
6 a gun.

7 MR. TRUSLOW: Okay.

8 THE COURT: And the issue is, what would he have
9 looked for in the audit?

10 MR. TRUSLOW: Okay. But it appears that they are
11 trying to convince the jury to find him guilty of having a
12 machine gun because, even if they are correct, a rifle was
13 not listed in their A and D book.

14 MS. MCGREGOR: I didn't say that.

15 THE COURT: I think she's just following up on
16 the cross-examination.

17 MR. TRUSLOW: All right.

18 THE COURT: You asked specific questions to him
19 about whether or not -- what kind of guns would be in the
20 audit, whatever it was you asked him about, those rifles,
21 and the difference between a rifle and a machine gun. I
22 think it's the audit.

23 MR. TRUSLOW: Okay.

24 (In open court)

25 BY MS. MCGREGOR:

1 Q. And I'm sorry, Mr. Semonick, our last question: So an
2 item, even if it fires semi-automatically, was for sale, on
3 display in that store, you should have seen it in your
4 audit?

5 A. Correct.

6 Q. Now Mr. Truslow talked to you, and I think you
7 acknowledged, that if somebody sends a sample to FTB and
8 you go to do an audit, you might not know that the item is
9 at FTB?

10 A. Correct.

11 Q. But if they had also made two others of that same
12 sample and had it in their store, should you have seen it?

13 A. Yes.

14 MS. MCGREGOR: Thank you, Mr. Semonick.

15 RE CROSS EXAMINATION

16 BY MR. TRUSLOW:

17 Q. When you do an audit for a manufacturer, rather than
18 just somebody who has a gun store -- do you do those?

19 A. Yes.

20 Q. On a regular basis?

21 A. No.

22 Q. How many have you done?

23 A. It's hard to -- it's hard for me to determine because I
24 have so many assignments that I have worked on.

25 Q. Let's say -- do you know who Fabrique Nationale is, FN,

1 located here in Columbia, South Carolina? Have you ever
2 heard of that company?

3 A. Yes, I have.

4 Q. It's one of the biggest machine gun manufacturers in
5 the country, isn't it?

6 A. Yes, sir.

7 MS. MCGREGOR: How is this relevant, Your Honor?
8 Objection, Your Honor, irrelevant.

9 MR. TRUSLOW: I will --

10 MS. MCGREGOR: And it is also outside the scope
11 of redirect.

12 MR. TRUSLOW: I can explain why, Your Honor, if I
13 could have a moment.

14 BY MR. TRUSLOW:

15 Q. So, for a manufacturer, when you do an audit -- you
16 have done -- what? Do you have an approximation? Have you
17 done more than five?

18 A. I can probably say so, yes.

19 Q. Of commercial manufacturers? How many audits have you
20 done for commercial manufacturers?

21 A. Define for me how you want -- what commercial --

22 Q. Somebody that manufactures, say, a rifle or a machine
23 gun and sells it to the public. As of 2002, June 2002, how
24 many audits had you done at that point in time of
25 manufacturers? Had you done any?

1 A. Yes.

2 Q. Had you done more than three? And if so, who were
3 they?

4 A. Mr. Wrenn is one.

5 Q. All right, Mr. Wrenn is one.

6 A. FN is another.

7 Q. FN is another. As of 2002?

8 A. Correct. It's hard for me to tell -- remember how
9 many -- what the --

10 Q. Would it be fair to say you didn't have a whole lot of
11 experience at that time of doing audits of manufacturers? Would
12 that be a fair statement?

13 A. I was trained to -- trained to follow and do what I can
14 do, and I would work it the way I can --

15 Q. I understand --

16 A. -- with it.

17 Q. -- but you didn't have a whole lot of experience
18 auditing manufacturers, did you?

19 A. No.

20 Q. One of the things that you could have asked for -- you
21 have been trained -- is you could have asked the
22 manufacturer --

23 MS. MCGREGOR: Your Honor, I would --

24 THE COURT: One second, please.

25 MS. MCGREGOR: I would renew my objection. This

1 is all outside the scope of redirect. He could have done
2 this --

3 THE COURT: Overruled. You can continue.

4 BY MR. TRUSLOW:

5 Q. One of the things that you have been trained that you
6 could do is, you could get the manufacturer's diary so you
7 could see what objects, what items that he had under
8 production, couldn't you?

9 A. I know of no such thing.

10 Q. Did you ask for a manufacturer's diary?

11 A. No.

12 Q. Did you ask for any manufacturing designs?

13 A. No.

14 Q. Did you ask for any manufacturing protocols?

15 A. No.

16 MR. TRUSLOW: That's all I have.

17 THE COURT: All right. Thank you, you can step
18 down.

19 MS. MCGREGOR: May this witness be excused, Your
20 Honor?

21 THE COURT: Yes.

22 MS. MCGREGOR: Thank you.

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CERTIFICATE OF REPORTER

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I certify that the foregoing is a correct transcript
from my stenographic notes in the above-entitled matter.

s/ Gary N. Smith, CM

GARY N. SMITH, CM
COLUMBIA, SC