



DEPARTMENT OF THE TREASURY
BUREAU OF ALCOHOL, TOBACCO AND FIREARMS
WASHINGTON, D.C. 20226

SEP 18 1992

James H. Jeffries, III
Attorney at Law
3019 Lake Forest Drive
Greensboro, NC 27408

Dear Mr. Jeffries:

This is in response to your letter of July 14, 1992, on behalf of Mr. Noel Napolilli of Fairbanks, Alaska. You ask that the Bureau of Alcohol, Tobacco and Firearms (ATF) return to Mr. Napolilli both the MP40 machinegun which he submitted to ATF for examination, and the ATF Form 3 purporting to show the registration of the firearm pursuant to the National Firearms Act (NFA).

Initially, it should be noted that weapons within the scope of the NFA may be lawfully registered only pursuant to their lawful importation or manufacture or transfer of a weapon previously registered. Also, possessors of these weapons were allowed to register them during a brief amnesty period in 1968. The regulations implementing the NFA also permit State law enforcement agencies to register and retain for official use previously unregistered weapons. Except as stated above, subsequent to the amnesty period an unregistered weapon could not be legitimized by registration. Such a weapon is contraband which is subject to seizure and forfeiture.

We agree with your observation that prior to Mr. Napolilli's production of the above mentioned Form 3, ATF had no record of registration of the MP40 machinegun to Mr. Napolilli or any other person. However, we disagree with your contention that the absence of records suggests that the weapon could have been lawfully imported into or manufactured in the United States or otherwise legally registered under the NFA.

