



DEPARTMENT OF THE TREASURY  
BUREAU OF ALCOHOL, TOBACCO AND FIREARMS  
WASHINGTON, DC 20226

901040:GS  
5320/2001-0161

Dear \_\_\_\_\_

This is in response to your undated letters to the Bureau of Alcohol, Tobacco and Firearms (ATF) requesting a guarantee, either by letter or notarized statement, from ATF that your registered National Firearms Act (NFA) firearms will never be confiscated as contraband. You stated that you have become aware of testimony regarding the accuracy of the National Firearms Registration and Transfer Record (NFRTR) and of audits conducted by the Office of Inspector General (OIG), Department of the Treasury. You cited "findings" from the reports that indicate to you that your firearms may have been illegally registered by ATF personnel.

We will not provide you with such a guarantee. We believe you are misinterpreting this situation. You are correct that allegations were raised regarding ATF's administration of the NFA and that the OIG did conduct an audit as a result of these allegations. The OIG subsequently issued two reports, OIG-99-009 and OIG-99-018, reporting their findings. If you read these reports you will find that these findings were presented to ATF and that ATF (1) agreed with the findings and implemented actions satisfactory to the OIG to remedy the situations or (2) advised the OIG that ATF needed to further evaluate the finding and would respond. In the latter case, any response would be and was discussed with the OIG before any remedial actions were implemented.

You will further note that the OIG found no illegal actions on the part of any ATF employee or that any firearms were illegally registered or transferred. In fact, the OIG states in OIG-99-018 that "our review disclosed that ATF has maintained the registry in accordance with laws and regulations."

You also referred to testimony submitted to a House of Representatives Subcommittee. We are aware of the testimony submitted regarding ATF's administration of the NFA. We advise you that this testimony is submitted without rebuttal.

We enclosed the stamped envelope you sent us. Should additional information be needed, please contact ATF Specialist Gary Schaible at (202) 927-8330.

Sincerely yours,



Arthur Resnick

Chief, National Firearms Act Branch

Enclosure

The Honorable Bradley A. Buckles  
Director  
Bureau of Alcohol Tobacco and Firearms  
650 Massachusetts Avenue, N.W.  
Washington, D.C. 20226

Dear Director Buckles:

My name is \_\_\_\_\_ I am also a history buff/gun collector and an owner of several National Firearms Act (NFA) firearms, which I acquired lawfully through the approval of ATF. These firearms are as follows:

\_\_\_\_\_ Italian model, \_\_\_\_\_, approved Jan 19, 2000, form 4

\_\_\_\_\_ SWD conversion, \_\_\_\_\_ approved Feb 22, 2000, form 4

\_\_\_\_\_ approved Feb 7, 2000, form 4

\_\_\_\_\_ Coastal Gun, serial \_\_\_\_\_ approved Nov 17, 2000, form 4

I have the follow transfers pending:

\_\_\_\_\_ industries' \_\_\_\_\_ form 4

\_\_\_\_\_ seria. \_\_\_\_\_ form 4

I am writing to you to ask you to send me an official ATF letter stating that to ATF's knowledge, none of the above NFA firearms that I currently own are contraband subject to seizure and forfeiture because at some time in the past ATF personnel may have illegally registered or transferred them without my knowledge. Furthermore, I would like this official letter from ATF to state that ATF guarantees that ATF will never confiscate my firearms as contraband because of an error or mistake ATF personnel may have made in the past in illegally registering or transferring any of my firearms.

My reason for writing to you is because I have recently become aware that several persons have submitted testimony to the House Subcommittee on Treasury, Postal Service and General Government Appropriations about serious errors in the National Firearms Registration and Transfer Record (NFRTR). Their testimony cites problems such as ATF personnel inadvertently losing or destroying an unknown number of NFA registration documents; ATF personnel being unable to find records of lawfully registered NFA firearms, more than 100,000 NFA firearms currently registered to persons who are probably deceased; and ATF personnel causing serious legal problems by registering or transferring the ownership of some NFA firearms contrary to law and/or regulation. Importantly, the Treasury Department Office of Inspector General (IG) confirmed the foregoing allegations in two audits of the NFRTR, done at the request of The Honorable Dan Burton, Chairman, House Committee on Government Reform. These reports were publicly released in late 1998. Most recently, in H.R. Report No. 107-756, the House Committee on Appropriations expressed serious concern about these inaccuracies in the NFRTR, stating that "such uncertainty could reduce confidence in ATF's ability to determine the validity of NFA registration." The fact that the Treasury Department Office of Inspector General formally determined that NFA some unknown number of registration and/or transfer documents "had been inadvertently destroyed, inappropriately added, or did not reflect that the person holding a registration was deceased" greatly troubles me. Moreover, the Inspector General's finding that "ATF did not always control or process checks, forms, and other documents in accordance with procedures because employees did not always adhere to the procedures" necessitates me writing to you regarding the legal status of the NFA firearms I currently own, all of which were lawfully transferred or in the process of transfer to me per ATF's approval.

Director Buckles, I am specifically concerned about two things. First, I am concerned that if ATF has lost or destroyed any of the records corresponding to any one of the NFA firearms I own (all of which are machine guns), and if my copy of a registration form was accidentally destroyed through no fault of mine (such as in a fire, or flood, or some kind of human mistake, as in moving across the country), I have a serious problem. The reason I would have a serious problem is that under the law, if I don't have a valid registration document, ATF doesn't have to prove the gun isn't registered to me in order to convict me of illegally possessing it. I think this places a very high standard on ATF not to destroy records. I have been unable to determine what, if anything, ATF has done to deal with this problem. I mean, how can ATF replace records that have been destroyed?

My second concern, which is what first caused me realize that I need to write this letter and obtain official assurance from you that my guns are not contraband, is the very real possibility that one or more of my NFA firearms may be contraband, and thus subject to confiscation and forfeiture, because one or more ATF employees may have illegally registered and/or illegally approved the transfer of these firearms without my knowledge---that is, well before I thought that I lawfully purchased and received these firearms.

The reason for my concern is that under the NFA, any firearm that is registered or transferred in violation of its provisions (there is no exception in the law or regulation of which I am aware that would forgive mistakes made by ATF personnel, such as improperly transferring a machine gun registered on a Form 10, or which had been imported as a sales sample, to unqualified persons) automatically becomes illegal contraband that nobody can legally own. This is apparently the case, no matter how many times an NFA firearm may be subsequently transferred. In fact, it is well known that ATF considers NFA firearms which have ever been transferred in violation of the provisions of the NFA to be contraband.

The "contraband" status resulting from an improper registration or transfer is based on the interaction between Title 26, United States Code, in sections 5861(e) and 5872(a). Section 5861(e) states that: "[i]t shall be unlawful for any person -- . . . (e) to transfer a firearm in violation of the provisions of this chapter," and section 5872(a) states that: "[a]ny firearm involved in any violation of the provisions of this chapter shall be subject to seizure and forfeiture[.]" Therefore, any NFA firearm ever transferred in violation of the NFA is subject to seizure and forfeiture as contraband (even if the current owner wasn't involved in the violation). Complicating this situation are the privacy restrictions on NFA information, which mean that nobody who buys an NFA firearm can legally find out anything about its history from ATF; this is because NFA documents are considered "tax return" information under section 6103 of the Internal Revenue Code of 1986, as well as under the NFA.

In the January 2001 issue of Small Arms Review, a gun magazine, there was an interview with ATF personnel of ATF's National Firearms Act Branch. In this article, ATF personnel stated there is currently a project to "image and index" all of the NFA documents ATF has going all the way back to 1934. The article further states that ATF personnel are going to use this "imaged and indexed" data base to correct errors and discrepancies in the NFRTR. My obvious concern is what ATF personnel are going to do when they discover that some number of NFA firearms actually are contraband, and became contraband because of errors ATF personnel made in illegally registering or transferring them at some point? Under the NFA, it does not appear to matter that these firearms may have been subsequently transferred many times to innocent gun owners who have no knowledge of the defect in the legality of their possessing these firearms. Importantly, in this article, nowhere do ATF personnel state exactly how they will "correct" the errors they will certainly find in the NFRTR as ATF's project to "image and index" all the NFA documents is completed. The Treasury Department Office of Inspector General's reports virtually assures that ATF personnel will find errors that ATF personnel caused, because ATF personnel did not always follow procedures in registering and transferring NFA firearms.

Director Buckles, the official letter that I hereby courteously request from you must state that ATF has no documentation of and is unaware that any of my firearms were ever illegally registered or transferred in violation of the NFA by ATF employees. The letter should further state that ATF guarantees it will never confiscate any of my firearms because of a mistake by ATF personnel who turned them into contraband by illegally registering or transferring their ownership without my knowledge. A letter that states "the NFRTR shows that these guns are lawfully registered to you" isn't what I am asking for---because I am sure the NFRTR already shows that, or ATF would not have transferred these guns to me in the first place. Telling me that the NFRTR shows these guns are lawfully registered to me does not address the important question that I am asking---namely, does ATF have any

knowledge that any of my firearms are contraband. What I need to have, to protect myself from having my guns seized as contraband, is an official letter from you stating that my guns are not contraband.

Given the various legal hurdles that one must undergo to lawfully own any NFA firearm, it would be difficult to conclude that anyone who goes through that process would do so in order to own a firearm that was contraband. It is greatly troubling that there could be so many serious errors in the NFRTR, particularly those made by ATF personnel which turn what some people think are lawfully owned firearms into contraband.

I understand this is a sensitive topic for ATF, but I am writing this letter because the Treasury Department Office of Inspector General in published audit findings, determined there are serious errors in the NFRTR that were created by ATF personnel. I am also concerned that any of my firearms have been, through no fault of my own, been turned into contraband by ATF personnel who made mistakes in registering or transferring them. I therefore request an official letter from ATF stating specifically, that ATF has determined none of my firearms are contraband subject to seizure and forfeiture.

Because this is sensitive matter, I respectfully and courteously request that you investigate the circumstances under which each of my firearms was originally registered and subsequently transferred, at your earliest possible convenience. I also respectfully and courteously request that you send me the official ATF letter described above, guaranteeing that ATF will never confiscate any of my firearms as contraband, at your earliest possible convenience. If I don't hear something from your office within the next three (3) weeks, I will contact you again. Thank you for your valuable time and consideration.

Sincerely,

The Honorable Bradley A. Buckles  
Director  
Bureau of Alcohol, Tobacco and Firearms  
650 Massachusetts Avenue, N.W.  
Washington, D.C. 20226

Dear Director Buckles:

My name is \_\_\_\_\_ and I sent you a letter a few weeks ago concerning some worries I have about my National Firearms Act (NFA) firearms. As I wrote to you, I am very concerned that ATF employees may have illegally registered or transferred my firearms without my knowledge, before ATF lawfully approved their transfer to me. Under the NFA if a firearm is registered or transferred illegally, it becomes contraband subject to immediate seizure and forfeiture, even if this happened before ATF lawfully approved the transfer to the current owner, and the owner knew nothing.

I have attached a copy of my previous letter to help refresh your memory about my concern. I asked for an official letter from the Bureau of Alcohol, Tobacco and Firearms, signed by you, officially certifying that the firearms I own are currently legally owned by me and are not contraband according to ATF's records and knowledge. If you would be kind enough to sign the following statement, in the presence of a qualified Notary Public, I think this would ease my mind and protect my firearms for the future generations:

Director of the Bureau of Alcohol, Tobacco and Firearms, I, Bradley A. Buckles hereby certify that the following NFA firearms currently owned by \_\_\_\_\_ have never been or never will be considered contraband and subject to confiscation by law enforcement because of errors or illegal actions by employees or agents of ATF in registering or transferring any of these firearms. As ATF Director, in name of the Bureau of Alcohol, Tobacco and Firearms, I hereby guarantee that the following firearms are currently legal at this time and have no past history of illegal registration or transfer by the Bureau of Alcohol, Tobacco and Firearms, or anybody else, and thus are not subject to confiscation because of previous registration or transfer errors. The following firearms are and will always be considered legal for ownership by honest citizens.

Firearms List:

Springfield Armory \_\_\_\_\_ Italian model, serial \_\_\_\_\_ approved Jan 19, 2000 ,form 4  
\_\_\_\_\_  
Clayco sports SWD conversion, \_\_\_\_\_ approved Feb 22, 2000,  
form 4  
\_\_\_\_\_  
Feb 7, 2000, form 4  
\_\_\_\_\_  
Coastal Gun, \_\_\_\_\_ approved Nov 17, 2000, form 4

I have the follow transfers pending:

\_\_\_\_\_  
Colt industries \_\_\_\_\_ form 4  
\_\_\_\_\_  
SWD conversion \_\_\_\_\_ form 4  
Certifying signature \_\_\_\_\_

Bradley A. Buckles, Director, Bureau of Alcohol, Tobacco and Firearms

Certification by Notary Public

Director Buckles, I am specifically concerned about two things. First, I am concerned that if ATF has lost or destroyed any of the records corresponding to any one of the NFA firearms I own (all of which are machine guns), and if my copy of a registration form was accidentally destroyed through no fault of mine (such as in a fire, or flood, or some kind of human mistake, as in moving across the country), I have a serious problem. The reason I would have a serious problem is that under the law, if I don't have a valid registration document, ATF doesn't have to prove the gun isn't registered to me in order to convict me of illegally possessing it. I think this places a very high standard on ATF not to destroy records. I have been unable to determine what, if anything, ATF has done to deal with this problem. I mean, how can ATF replace records that have been destroyed?

My second concern, which is what first caused me realize that I need to write this letter and obtain official assurance from you that my guns are not contraband, is the very real possibility that one or more of my NFA firearms may be contraband, and thus subject to confiscation and forfeiture, because one or more ATF employees may have illegally registered and/or illegally approved the transfer of these firearms without my knowledge---that is, well before I thought that I lawfully purchased and received these firearms.

The reason for my concern is that under the NFA, any firearm that is registered or transferred in violation of its provisions (there is no exception in the law or regulation of which I am aware that would forgive mistakes made by ATF personnel, such as improperly transferring a machine gun registered on a Form 10, or which had been imported as a sales sample, to unqualified persons) automatically becomes illegal contraband that nobody can legally own. This is apparently the case, no matter how many times an NFA firearm may be subsequently transferred. In fact, it is well known that ATF considers NFA firearms which have ever been transferred in violation of the provisions of the NFA to be contraband.

The "contraband" status resulting from an improper registration or transfer is based on the interaction between Title 26, United States Code, in sections 5861(e) and 5872(a). Section 5861(e) states that: "[i]t shall be unlawful for any person -- . . . (e) to transfer a firearm in violation of the provisions of this chapter," and section 5872(a) states that: "[a]ny firearm involved in any violation of the provisions of this chapter shall be subject to seizure and forfeiture[.]" Therefore, any NFA firearm ever transferred in violation of the NFA is subject to seizure and forfeiture as contraband (even if the current owner wasn't involved in the violation). Complicating this situation are the privacy restrictions on NFA information, which mean that nobody who buys an NFA firearm can legally find out anything about its history from ATF; this is because NFA documents are considered "tax return" information under section 6103 of the Internal Revenue Code of 1986, as well as under the NFA.

In the January 2001 issue of Small Arms Review, a gun magazine, there was an interview with ATF personnel of ATF's National Firearms Act Branch. In this article, ATF personnel stated there is currently a project to "image and index" all of the NFA documents ATF has going all the way back to 1934. The article further states that ATF personnel are going to use this "imaged and indexed" data base to correct errors and discrepancies in the NFRTR. My obvious concern is what ATF personnel are going to do when they discover that some number of NFA firearms actually are contraband, and became contraband because of errors ATF personnel made in illegally registering or transferring them at some point? Under the NFA, it does not appear to matter that these firearms may have been subsequently transferred many times to innocent gun owners who have no knowledge of the defect in the legality of their possessing these firearms. Importantly, in this article, nowhere do ATF personnel state exactly how they will "correct" the errors they will certainly find in the NFRTR as ATF's project to "image and index" all the NFA documents is completed. The Treasury Department Office of Inspector General's reports virtually assures that ATF personnel will find errors that ATF personnel caused, because ATF personnel did not always follow procedures in registering and transferring NFA firearms.

Director Buckles, the official letter that I hereby courteously request from you must state that ATF has no documentation of and is unaware that any of my firearms were ever illegally registered or transferred in violation of the NFA by ATF employees. The letter should further state that ATF guarantees it will never confiscate any of my firearms because of a mistake by ATF personnel who turned them into contraband by illegally registering or transferring their ownership without my knowledge. A letter that states "the NFRTR shows that these guns are lawfully registered to you" isn't what I am asking for---because I am sure the NFRTR already shows that, or ATF would not have transferred these guns to me in the first place. Telling me that the NFRTR shows these guns are lawfully registered to me does not address the important question that I am asking---namely, does ATF have any

knowledge that any of my firearms are contraband. What I need to have, to protect myself from having my guns seized as contraband, is an official letter from you stating that my guns are not contraband.

Given the various legal hurdles that one must undergo to lawfully own any NFA firearm, it would be difficult to conclude that anyone who goes through that process would do so in order to own a firearm that was contraband. It is greatly troubling that there could be so many serious errors in the NFRTR, particularly those made by ATF personnel which turn what some people think are lawfully owned firearms into contraband.

I understand this is a sensitive topic for ATF, but I am writing this letter because the Treasury Department Office of Inspector General in published audit findings, determined there are serious errors in the NFRTR that were created by ATF personnel. I am also concerned that any of my firearms have been, through no fault of my own, been turned into contraband by ATF personnel who made mistakes in registering or transferring them. I therefore request an official letter from ATF stating specifically, that ATF has determined none of my firearms are contraband subject to seizure and forfeiture.

Because this is sensitive matter, I respectfully and courteously request that you investigate the circumstances under which each of my firearms was originally registered and subsequently transferred, at your earliest possible convenience. I also respectfully and courteously request that you send me the official ATF letter described above, guaranteeing that ATF will never confiscate any of my firearms as contraband, at your earliest possible convenience. If I don't hear something from your office within the next three (3) weeks, I will contact you again. Thank you for your valuable time and consideration.

Sincerely,