U.S. Department of Justice

Bureau of Alcohol, Tobacco,
Firearms and Explosives

Martinsburg, WV 25405

www.atf.gov

903050:MRC
3311/301179

February 7, 2014

Mr. Jason Davis
Davis & Associates
27201 Puerta Real
Suite 300
Mission Viejo, CA 92691

Dear Mr. Davis,

This is in reference to your correspondence, along with an AR-15 type "incomplete lower," to the Firearms Technology Branch (FTB), Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF). You have submitted this casting on behalf of your client, EP Arms, for classification under the Gun Control Act of 1968 (GCA).

As you are aware, the GCA, 18 U.S.C. § 921(a)(3), defines the term "**firearm**" as follows: *...(A) any weapon (including a starter gun) which will or is designed to or may readily be converted to expel a projectile by the action of an explosive; (B) the frame or receiver of any such weapon; (C) any firearm muffler or firearm silencer; or (D) any destructive device. Such term does not include an antique firearm.* Further, GCA implementing regulations, 27 CFR § 478.11 define "firearm frame or receiver" as "that part of a firearm which provides housing for the hammer, bolt or breechblock, and firing mechanism, and which is usually threaded at its forward portion to receive the barrel."

The FTB examination of this casting confirmed that it has the following features and characteristics:

1. Magazine well.
2. Magazine catch.
3. Bolt catch.
4. Pistol grip.
5. Forming and tapping for receiver-extension/buffer tube.
6. Front pivot-pin hole.

7. Rear take-down hole.
8. Holes drilled for the detent take-down and pivot pin, retainer buffer, detent fire-control selector, and pistol-grip screw.

Further examination by FTB revealed that excess material extends past the exterior walls of the casting, indicating the approximate locations of the holes to be drilled for the selector, hammer, and trigger pins. We further noted that the fire-control cavity has been formed and then, at a later time, filled in with plastic material.

It is our determination that when the fire-control cavity was formed during the manufacturing process, the submitted casting reached a point in its manufacture to be classified as a "firearm" as defined in 18 U.S.C. 921(a)(3).

You argue that to be classified as a "firearm frame or receiver," the GCA and implementing regulations require that the item be completed so that all fire control components may presently be installed in the frame or receiver. In interpreting the GCA and implementing regulations as applied to AR-type firearms, ATF has long held that any machining of the fire-control cavity is the legally significant step in making a receiver.

Further, the filling of the cavity at a later point does not change our classification. Although the fire-control cavity was filled with plastic material that must be removed before fire control components may be installed, ATF has long held that this is not sufficient to destroy the receiver and remove the item from classification as a "frame or receiver." For your reference we have included the destruction diagram for AR-type firearms.

Finally, although the definition of "machinegun" includes "frame or receiver," determination of what constitutes a machinegun receiver often requires a different analysis than determining whether something is a firearm under the GCA. In some cases, machineguns are made from semiautomatic firearms with extra components, and it is the modification of a receiver to accept these extra components that creates the machinegun receiver. Although FTB has determined that a semiautomatic receiver was not made into a machinegun receiver "until the receiver is capable of accepting all parts necessary for full automatic fire," that reasoning doesn't apply to making a determination of whether the item is a firearm under the GCA. This is because classifying a semiautomatic receiver as a machinegun simply because it may be machined to accept machinegun parts would regulate all such firearms as "machineguns." Therefore ATF's classifications of machinegun receivers is not premised on the fact that the receiver must be capable of housing all parts necessary for automatic fire, but that a semiautomatic copy of a machinegun becomes a machinegun only when this occurs. *See Sendra Corp. v. Magaw*, 111 F.3d 162, 163 (D.C. Cir. 1997).

In closing, we caution that the information found in this correspondence with regard to the evaluation described above is intended only for use by the addressed recipient(s).

Please provide our Branch with a FedEx account number or a UPS shipping label addressed to yourself so that we may return your sample. Please be advised that we do

not ship via the U.S. Postal Service. If you don't need to have us return your sample, you may fax FTB at 304-616-4301 with authorization to destroy it on your behalf.

We thank you for your inquiry and sample, regret that our findings could not be more positive, but trust the foregoing has been responsive to your request. If you require further information concerning our findings, we can be contacted at any time.

Sincerely yours,

Earl Griffith
Chief, Firearms Technology Branch