



October 7, 2020

VIA U.S. MAIL

Attorney General William Barr
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, D.C. 20530

Acting Director Regina Lombardo
Bureau of Alcohol, Tobacco, Firearms, and Explosives
99 New York Ave., NW
Washington, D.C. 20226

Associate Deputy Director Marvin Richardson
Bureau of Alcohol, Tobacco, Firearms, and Explosives
99 New York Ave., NW
Washington, D.C. 20226

RE: Boston Field Division's Cease and Desist Letter to Q, LLC

Dear Attorney General Barr, Acting Director Lombardo, and Deputy Director Richardson,

I write to you today on behalf of the Firearms Policy Coalition (FPC), its members, and its supporters to request that you review and reverse the Boston Field Division's demand to Q, LLC (Q) to cease and desist production of the Honey Badger Pistol (Honey Badger).

As you may know, the Boston Field Division sent a cease and desist letter (the Letter) on August 3, 2020 to Q. The Letter asserted that the Honey Badger had been analyzed by the Firearms and Ammunition Technology Division (FATD), which [erroneously] determined that the submitted sample was a "firearm" as defined by the National Firearms Act (NFA), and more specifically, a "short-barreled rifle" (SBR).

The Letter nebulously states that "[t]he objective design features of the Honey Badger firearm, configured with the subject stabilizing brace, indicate the firearm is designed and intended to be fired from the shoulder," and continues on to say that, because the barrel is rifled and less than 16 inches in length, the Honey Badger is a purported SBR.

Nowhere in the demand letter does the Boston Field Division explain FATD's rationale as to why it believes the firearm is "designed and intended to be fired from the shoulder." In fact, the letter is silent as to anything other than a bare assertion akin to 'it is true because we say so'. Such flimsy reasoning cannot support the expansive and dangerous new policy that is apparently now being enforced against Q and by extension, Honey Badger owners.

Several troubling points of contention arise from the Letter, not the least of which is that potentially thousands of law-abiding, peaceable individuals are now at risk of

prosecution due to ATF's through legally and factually inconsistent 'mini-rulemaking' determination letters—instruments of regulation promulgated outside of the Administrative Procedure Act which have no basis in the laws or regulations surrounding the NFA and/or Gun Control Act (GCA).

Previously, ATF examined a pistol stabilizing brace produced by the same manufacturer that, for all material purposes, is identical to the one affixed to the Honey Badger. In that determination, FATD (then called the Firearms Technology Industry Services Branch) described the submitted sample as being an adjustable brace with raised ridges on the rear, being attached to a firearm with an 8-inch barrel and having an overall length of approximately 25 inches.

More importantly, it was determined that the submitted sample would not be classified as a "firearm" as defined by the NFA "provided the 'Adjustable Pistol Stabilizing Brace' is used as originally designed; NOT used as a shoulder stock; **and the raised ridges are removed from the rear of the brace.**" (Emphasis original.) Notably, the brace affixed to the Honey Badger is substantially similar to products previously determined to be acceptable and lacks any form of raised ridges that "serve no functional purpose in the design of a pistol brace."

Moreover, ATF's determination also stated that "...should an individual utilize [the brace]...as a shoulder stock to fire the weapon from the shoulder, this firearm would then be classified as a 'short-barreled rifle'..." because it had been made or remade, designed or redesigned from its originally intended purpose. Said differently, the ATF's prior determination held that if an end user opted to utilize the product outside the bounds of the original intent, it was they who purportedly made an SBR, not the original manufacturer of the firearm.

The Boston Field Division's and FATD's most recent actions in the instant matter once again highlight one of the ever-present reasons for the public's sincere distrust of ATF: It operates without consistency, except as to its consistent operation outside of the law and without regard to the constitutional rights of American gun owners and taxpayers. Thus, members and supporters of FPC, and the public at large, are left chasing dragons in their good faith efforts to maintain compliance with the laws and avoid the pain of significant criminal liability and fines.

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I would be remiss if I did not remind you that when President Donald Trump said, "I don't care if Congress does it or not, I'm writing [so-called 'bump stocks'] out myself," FPC responded by saying that "We will use every resource and remedy available to us in our ongoing defense of the Constitution, the rights it protects, and millions of law-abiding American people," and that, "[w]hile we would prefer to block any executive action or rulemaking that would ban currently-legal firearms parts before it becomes law, we would not hesitate to file a federal lawsuit to protect the rights and legal personal property of gun owners if that's what it takes."

And when Matthew Whitaker, acting unconstitutionally as Acting Attorney General, signed the purported final rule, FPC, Firearms Policy Foundation, and several others

immediately filed the first lawsuit in the country challenging that unconstitutional rulemaking. It is my hope that we will not need to pursue such action here. But rest assured, FPC will take any action that is necessary and appropriate to protect the interest of our members, our supporters, and the public from a rogue executive branch agency.

I respectfully request that you correct the ATF's errors, withdraw the cease and desist Letter, and confirm in writing that the Honey Badger and such pistol brace-equipped firearms are not short-barreled rifles or otherwise firearms under the NFA.

Please contact me at akraut@fpclaw.org or (916) 378-5785 if you wish to discuss this or if we can assist you in remedying this issue. In every case, we look forward to your urgent action in this matter.

Sincerely,

A handwritten signature in black ink, appearing to read 'Adam Kraut', with a long horizontal flourish extending to the right.

Adam Kraut
Director of Legal Strategy