

**IN THE COMMONWEALTH COURT OF PENNSYLVANIA**

<b>LANDMARK FIREARMS LLC, US</b>	:	
<b>RIFLE, LLC, POLYMER80, INC.</b>	:	
<i>and</i> <b>FIREARMS POLICY</b>	:	
<b>COALITION, INC.,</b>	:	
	<b>Petitioners</b>	<b>No. 694 MD 2019</b>
	:	
	<b>v.</b>	
	:	
	:	
<b>COLONEL ROBERT</b>	:	<b>Electronically Filed Document</b>
<b>EVANCHICK, COMMISSIONER</b>	:	
<b>PENNSYLVANIA STATE POLICE,</b>	:	
	<b>Respondent</b>	

**ANSWER TO PETITIONERS’ APPLICATION  
FOR SPECIAL RELIEF IN THE FORM OF AN  
EMERGENCY PRELIMINARY INJUNCTION**

Respondent, Colonel Robert Evanchick, Commissioner of the Pennsylvania State Police (“Respondent” or “the Commissioner”), hereby files this Answer to Petitioners’ Application for Special Relief in the Form of An Emergency Preliminary Injunction, as follows.<sup>1</sup>

1. ADMITTED in part, DENIED in part. It is ADMITTED that on December 16, 2019, in response to a request from the Pennsylvania State Police, pursuant to the Commonwealth Attorneys Act, 71 P.S. § 732-204(a), Attorney General Josh Shapiro issued a legal opinion regarding whether “a receiver meets the definition of ‘firearm’” under the Uniform Firearms Act (“UFA”), advising that

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<sup>1</sup> Respondent is contemporaneously filing a Brief in Opposition to Petitioners’ Application for Relief.

the UFA applies not only to fully-assembled guns, but also to disassembled guns in the form of partially-manufactured receivers if those receivers are designed to expel or can be readily converted to expel a projectile. It is strictly DENIED that the legal opinion deems “non-firearm objects” as firearms under the UFA—partially-manufactured receivers are firearms.

2. The press release is a writing that speaks for itself, and Petitioners’ characterizations of the writing are DENIED.

3. ADMITTED in part, DENIED in part. It is ADMITTED that the Oaks Gun Show was held on December 20-22, 2019. After reasonable investigation, Respondent is without knowledge or information sufficient to form a belief as to the truth or falsity of the remaining allegations of this Paragraph, so they are, therefore, DENIED.

4. DENIED. It is strictly DENIED that the partially-manufactured receivers in the Petitioners’ inventory are or were non-firearms. Oppositely, partially-manufactured receivers constitute firearms under the UFA.

5. DENIED. It is strictly DENIED that the Petitioners are prohibited from selling partially-manufactured receivers. Petitioners may sell the weapons subject to the UFA. Therefore, Petitioners should suffer no loss of revenue in connection with legitimate sales. By way of further response, after reasonable investigation, Respondent has no information regarding Petitioners’ revenues.

6. DENIED. After reasonable investigation, Respondent is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of this Paragraph so they are, therefore, DENIED. By way of further response, partially-manufactured receivers are firearms under the UFA.

7. DENIED. After reasonable investigation, Respondent is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of this Paragraph so they are, therefore, DENIED. By way of further response, partially-manufactured receivers are firearms under the UFA.

8. DENIED. After reasonable investigation, Respondent is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of this Paragraph so they are, therefore, DENIED. By way of further response, partially-manufactured receivers are firearms under the UFA.

9. DENIED. The allegations of this Paragraph constitute conclusions of law to which no factual response is required. To the extent that the allegations are deemed factual in nature, they are DENIED. By way of further response, the fact that the federal government applies its Gun Control Act, containing similar language, differently does not render PSP's interpretation invalid. Administrative agencies have ancillary jurisdiction to determine the validity and application of their own guidelines, policy statements, and resolutions. *Manor v. Dep't of Pub. Welfare*, 796 A.2d 1020, 1029 (Pa. Cmwlth. Ct. 2002). An agency's "interpretation

of its own rules and regulations is entitled to great weight unless it is clearly erroneous or *in conflict with its enabling legislation.*” *Id.* In this case, PSP’s interpretation is consistent with the UFA, such that it is irrelevant that the federal government treats its law differently.

10. DENIED. The allegations of this Paragraph constitute conclusions of law to which no factual response is required. To the extent that the allegations are deemed factual in nature, they are DENIED. Respondent hereby incorporates the response to Paragraph 9, above. By way of further response, partially-manufactured receivers are firearms under the UFA.

11. DENIED. The allegations of this Paragraph constitute conclusions of law to which no factual response is required. To the extent that the allegations are deemed factual in nature, they are DENIED. Respondent hereby incorporates the response to Paragraph 9, above.

12. DENIED. The allegations of this Paragraph constitute conclusions of law or requests for relief to which no factual response is required. To the extent that the allegations are deemed factual in nature, they are DENIED. By way of further response, Petitioners’ request for a preliminary injunction should be denied because they cannot satisfy any element requisite to obtaining relief.

13. DENIED. The allegations of this Paragraph constitute conclusions of law or requests for relief to which no factual response is required. To the extent that the allegations are deemed factual in nature, they are DENIED.

14. DENIED. The allegations of this Paragraph constitute conclusions of law or requests for relief to which no factual response is required. To the extent that the allegations are deemed factual in nature, they are DENIED.

15. DENIED. The allegations of this Paragraph constitute conclusions of law or requests for relief to which no factual response is required. To the extent that the allegations are deemed factual in nature, they are DENIED. By way of further response, Petitioners cannot satisfy a single element requisite to obtaining preliminary injunctive relief.

16. DENIED. The allegations of this Paragraph constitute conclusions of law or requests for relief to which no factual response is required. To the extent that the allegations are deemed factual in nature, they are DENIED.

17. DENIED. The requirement that Petitioners conduct background checks does not constitute irreparable harm. By way of further response, PSP *can* process background checks. The circumstance cited by the Petitioners was temporary, as a result of the clarification of the law, and has been remedied by the time of the filing of this brief. PSP is now able to conduct background checks for partially-manufactured receivers through their telephone verification system. The

notification referenced by the Petitioners on PSP's website has been modified to reflect this change. The issue, to the extent it constituted actionable harm at all, is now moot and cannot support injunctive relief.

18. DENIED. The allegations of this Paragraph constitute conclusions of law or requests for relief to which no factual response is required. To the extent that the allegations are deemed factual in nature, they are DENIED. By way of further response, greater harm will result from continued unfettered proliferation of these firearms in contravention of the UFA if an injunction is granted.

19. DENIED. The allegations of this Paragraph constitute conclusions of law or requests for relief to which no factual response is required. To the extent that the allegations are deemed factual in nature, they are DENIED. By way of further response, Petitioners are under no threat of prosecution insofar as they comply with the UFA and process background checks for partially-manufactured receivers.

20. DENIED. The allegations of this Paragraph constitute conclusions of law or requests for relief to which no factual response is required. To the extent that the allegations are deemed factual in nature, they are DENIED.

21. DENIED. The allegations of this Paragraph constitute conclusions of law or requests for relief to which no factual response is required. To the extent that the allegations are deemed factual in nature, they are DENIED. By way of

further response, the state of law has always been that partially-manufactured receivers are subject to the UFA.

22. DENIED. The allegations of this Paragraph constitute conclusions of law or requests for relief to which no factual response is required. To the extent that the allegations are deemed factual in nature, they are DENIED.

23. DENIED. The allegations of this Paragraph constitute conclusions of law or requests for relief to which no factual response is required. To the extent that the allegations are deemed factual in nature, they are DENIED.

24. DENIED. The allegations of this Paragraph constitute conclusions of law or requests for relief to which no factual response is required. To the extent that the allegations are deemed factual in nature, they are DENIED. By way of further response, PSP did not promulgate a regulation, rather, it has adopted a valid interpretive rule that is not subject to the Regulatory Review Act.

25. DENIED. The allegations of this Paragraph constitute conclusions of law or requests for relief to which no factual response is required. To the extent that the allegations are deemed factual in nature, they are DENIED.

26. DENIED. The allegations of this Paragraph constitute conclusions of law or requests for relief to which no factual response is required. To the extent that the allegations are deemed factual in nature, they are DENIED.

27. DENIED. The allegations of this Paragraph constitute conclusions of law or requests for relief to which no factual response is required. To the extent that the allegations are deemed factual in nature, they are DENIED.

28. DENIED. The allegations of this Paragraph constitute conclusions of law or requests for relief to which no factual response is required. To the extent that the allegations are deemed factual in nature, they are DENIED.

WHEREFORE this Honorable Court should deny Petitioner's Application for Special Relief in the Form of An Emergency Preliminary Injunction.

**Respectfully submitted,**

**JOSH SHAPIRO**  
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**Date: January 10, 2020**

**By: *s/ Nicole J. Boland***

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