No. 22-976

In the Supreme Court of the United States

MERRICK B. GARLAND, ATTORNEY GENERAL, ET AL., PETITIONERS

v.

MICHAEL CARGILL

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

JOINT APPENDIX

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PETITION FOR WRIT OF CERTIORARI FILED: APR. 6, 2023
CERTIORARI GRANTED: NOV. 3, 2023

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U.S. Department of Justice
Bureau of Alcohol, Tobacco,
Firearms and Explosives

Office of the Director

Washington, DC 20226

26 U.S.C. 5845(b): DEFINITIONS (MACHINEGUN)
27 CFR 479.11: MEANING OF TERMS

The 7.62mm Aircraft Machine Gun, identified in the U.S. military inventory as *the "M-134" (Army), "GAU-2B/A" (Air Force), and "GAU-17/A" (Navy), is* a *machinegun* as *defined by 26 U.S.C. 5845(b). Rev. Rul. 55-528 modified.*

ATF Rul. 2004-5

The Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) has examined the 7.62mm Aircraft Machine Gun, commonly referred to as a "Minigun." The Minigun is a 36-pound, six-barrel, electrically powered machinegun. It is in the U.S. military inventory and identified as the "M-134" (Army), "GAU-2B/A" (Air Force), and "GAU-17/A" (Navy). It is a lightweight and extremely reliable weapon, capable of discharging up to 6,000 rounds per minute. It has been used on helicopters, fixed-wing aircraft, and wheeled vehicles. It is highly adaptable, being used with pintle mounts, turrets, pods, and internal installations.

The Minigun has six barrels and bolts which are mounted on a rotor. The firing sequence begins with the manual operation of a trigger. On an aircraft, the trigger is commonly found on the control column, or joystick. Operation of the trigger causes an electric motor

to turn the rotor. As the rotor turns, a stud on each bolt travels along an elliptical groove on the inside of the housing, which causes the bolts to move forward and rearward on tracks on the rotor. A triggering cam, or sear shoulder, trips the firing pin when the bolt has traveled forward through the full length of the bolt track. One complete revolution of the rotor discharges cartridges in all six barrels. The housing that surrounds the rotor, bolts and firing mechanism constitutes the frame or receiver of the firearm.

The National Firearms Act defines "machinegun" as "any weapon which shoots, is designed to shoot, or can be readily restored to shoot, automatically more than one shot, without manual reloading, by a single function of the trigger." 26 U.S.C. 5845(b). The term also includes "the frame or receiver of any such weapon, any part designed and intended solely and exclusively, or combination of parts designed and intended, for use in converting a weapon into a machinegun, and any combination of parts from which a machinegun can be assembled if such parts are in the possession or under the control of the person." Id.; see 18 U.S.C. 921(a)(23); 27 CFR 478.11, 479.11.

ATF and its predecessor agency, the Internal Revenue Service (IRS), have historically held that the original, crank-operated Gatling Gun, and replicas thereof, are not automatic firearms or machineguns as defined. See Rev. Rul. 55-528, 1955-2 C.B. 482. The original Gatling Gun is a rapid-firing, hand-operated weapon. The rate of fire is regulated by the rapidity of the hand-cranking movement, manually controlled by the operator. It is not a "machinegun" as that term is defined in 26 U.S.C. 5845(b) because it is not a weapon that fires automatically.

The Minigun is not a Gatling Gun. It was not produced under the 1862-1893 patents of the original Gatling Gun. While using a basic design concept of the Gatling Gun, the Minigun does not incorporate any of Gatling's original components and its feed mechanisms are entirely different. Critically, the Minigun shoots more than one shot, without manual reloading, by a single function of the trigger, as prescribed by 26 U.S.C. 5845(b). See United States v. Fleischli, 305 F.3d 643, 655-656 (7th Cir. 2002). See also Staples v. United States, 511 U.S. 600, 603 (1994) (automatic refers to a weapon that "once its trigger is depressed, the weapon will automatically continue to fire until its trigger is released or the ammunition is exhausted"); GEORGE C. NONTE, JR., FIREARMS ENCYCLOPEDIA 13 (Harper & Rowe 1973) (the term "automatic" is defined to include "any firearm in which a single pull and continuous pressure upon the trigger (or other firing device) will produce rapid discharge of successive shots so long as ammunition remains in the magazine or feed device—in other words, a machinegun"); WEBSTER'S II NEW RIVERSIDE-UNIVERSITY DICTIONARY (1988) (defining automatically as "acting or operating in a manner essentially independent of external influence or control"); JOHN QUICK, PH.D., DICTIONARY OF WEAPONS AND MILITARY TERMS 40 (McGraw-Hill 1973) (defining automatic fire as "continuous fire from an automatic gun, lasting until pressure on the trigger is released").

The term "trigger" is generally held to be the part of a firearm that is used to initiate the firing sequence. See United States v. Fleischli, 305 F.3d at 655-56 (and cases cited therein); see also ASSOCIATION OF FIREARMS AND TOOLMARK EXAMINERS (AFTE) GLOSSARY 185 (1st ed. 1980) ("that part of a firearm mechanism which is

moved manually to cause the firearm to discharge"); WEBSTER'S II NEW RIVERSIDE-UNIVERSITY DICTIONARY (1988) ("lever pressed by the finger in discharging a firearm").

Held, the 7.62mm Minigun is designed to shoot automatically more than one shot, without manual reloading, by a single function of the trigger. Consequently, the 7.62mm Minigun is a machinegun as defined in section 5845(b) of the National Firearms Act. See United States v. Fleischli, 305 F.3d at 655-56. Similarly, the housing that surrounds the rotor is the frame or receiver of the Minigun, and thus is also a machinegun. Id.; see 18 U.S.C. 921(a)(23); 27 CFR 478.11, 479.11.

To the extent this ruling is inconsistent with Revenue Ruling 55-528 issued by the IRS, Revenue Ruling 55-528, 1955-2 C.B. 482, is hereby modified.

Date signed: Aug. 18, 2004

/s/ [ILLEGIBLE]
Director

U.S. Department of Justice

Bureau of Alcohol, Tobacco,
Firearms and Explosives

Martinsburg, WV 25401
www.atf.gov

[Oct. 13, 2006]

Mr. **[REDACTED]** Lee
[REDACTED]
[REDACTED]

Dear Mr. Lee:

This refers to your correspondence dates September 5, 2006, to the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), Office of Public and Governmental Affairs, in which you ask about the legality of "bump-firing" a firearm and installing aftermarket parts enabling a firearm to more easily "bump-fire." Your letter was forwarded to the ATF Firearms Technology Branch (FTB), Martinsburg, West Virginia, for reply.

For your information, the National Firearms Act (NFA), 26 U.S.C. § 5845(b), defines a "machinegun" as follows:

. . . *any weapon which shoots, is designed to shoot, or can be readily restored to shoot, automatically more than one shot, without manual reloading, by a single function of the trigger. The term shall also include the frame or receiver of any such weapon, any part designed and intended solely and exclusively, or combination of parts designed and intended, for use in converting a weapon to a machinegun, and any combina-*

tion of parts from which a machinegun can be assembled if such parts are in the possession or under the control of a person.

The term "bump-fire" is a vernacular used in the firearm culture and is not defined in either the Gun Control Act of 1968 or the NFA. For present purposes, FTP will regard the term as mearing rapid manual trigger manipulation to simulate automatic fire. As long as you must consciously pull the trigger for each shot of the "bump-fire" operation, you are simply facing a semi-automatic weapon in a rapid manner and are not violating any Federal firearm laws or regulations.

Regarding the installation of various aftermarket parts, modifying fire control components; installing Tac Hellfire or Hellstorm triggers; or attaching rubber bands to triggers to facilitate easier "bump-fire" operations, you should be aware that any modifications which permit a weapon to fire automatically more that one shot with a single function of the trigger could result in that weapon being defined as a "machinegun" as noted in 5845(b). Possession of an unregistered machinegun is a violation of Federal law.

We thank you for your inquiry and trust that the foregoing has been responsive to your request for information.

Sincerely yours,

/s/ [ILLEGIBLE]
[for] Sterling Nixon
Chief, Firearms Technology Branch

U.S. Department of Justice

Bureau of Alcohol, Tobacco,
Firearms and Explosives

Martinsburg, WV 25401
www.atf.gov

[Nov. 22, 2006]

BY HAND DELIVERY
[REDACTED] BOWERS
President
Akins Group, Inc.
[REDACTED]

Dear Mr. Bowers:

The Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) recently received a request from an individual to examine a device referred to as an "Akins Accelerator." Because your company is manufacturing and distributing the device, we are contacting you to advise you of the results of our examination and classification.

The National Firearms Act (NFA), Title 26 United States Code (U.S.C.) Chapter 53, defines the term "firearm" to include a machinegun. Section 5845(b) of the NFA defines the term "machinegun" as follows:

> . . . *any weapon which shoots, is designed to shoot, or can be readily restored to shoot automatically more than one shot, without manual reloading, by a single function of the trigger. The term shall also include the frame or receiver of any such weapon, any part designed and intended solely and exclusively, or combination of parts designed and in-*

> *tended, for use in converting a weapon into a machinegun, and any combination of parts from which a machinegun can be assembled if such parts are in the possession or under the control of a person.*

Machineguns are also regulated under the Gun Control Act of 1968 (GCA), 18 U.S.C. Chapter 44, which defines the term in the same way as in the NFA. 18 U.S.C. § 921(a)(23). Pursuant to 18 U.S.C. § 922(o), machineguns manufactured on or after May 19, 1986, may only be manufactured for and distributed to Federal, State, and local government agencies for official use.

The Firearms Technology Branch (FTB) examination of the submitted item indicates that the Akins Accelerator that is designed and intended to accelerate the rate of fire for Ruger 10/22 semiautomatic firearms. The Akins Accelerator device, which is patented, consists of the following metal block components (also see enclosed photos):

- Block 1: A metal block that replaces the original manufacturer's V-Block of the 10/22 rifle. The replacement block has two rods attached that are approximately 1/4 inch in diameter and approximately 6 inches in length.
- Block 2: A metal block that is approximately 3 inches long, 1-3/8 inches wide, and 3/4 of an inch high that has been machined to allow the two guide rods to pass through. Block 2 serves as a support for the guide rods and as an attachment to the stock.

As received, the Akins Accelerator utilizes the following pans and features to facilitate assembly:

- Assembly of Block 1 to Block 2: These blocks are assembled using 1/4 inch rods, metal washers, rubber and metal bushings, two collars with set screws, one coiled spring, C-clamps, and a split ring.
- Apertures for Attachment of Stock: Block 2 is drilled and tapped for two 10-24 NC screws. These threaded holes allow the attachment of the Akins device with Ruger 10/22 barreled receiver to the composite stock that is a component part of the Akins device.

The composite stock is designed for a Ruger 10/22 barrel and receiver. This stock permits the entire firearm (receiver and all its firing components) to recoil a short distance within the stock when fired. Rearward pressure on the trigger causes the firearm to discharge, and as the firearm moves rearward in the composite stock, the shooter's trigger finger contacts the stock. The trigger mechanically resets, and the accelerator, which has a coiled spring located forward of the firearm receiver, is compressed. Energy from this accelerator spring subsequently drives the firearm forward into its normal firing position and, in turn, causes the trigger to contact the shooter's trigger finger, so long as the shooter maintains finger pressure against the stock, making the weapon fire again. The Akins device assembled with a Ruger 10/22 is advertised to fire approximately 650 rounds per minute.

For testing purposes, FTB personnel installed a semiautomatic Ruger 10/22 rifle from the National Firearms Collection into the stock, with the Akins device attached. Live-fire testing of the Akins Accelerator demonstrated that a single pull of the trigger initiates

an automatic firing cycle that continues until the finger is released, the weapon malfunctions, or the ammunition supply is exhausted.

In order to be regulated as a "machinegun" under Section 5845(b), conversion parts must be designed and intended to convert a weapon into a machinegun, i.e., a weapon that shoots automatically more than one shot, without manual reloading, by a **single function of the trigger**. Legislative history for the National Firearms Act indicates the drafters equated single function of the trigger" with "single pull of the trigger." National Firearms Act: Hearings Before the Comm. on Ways and Means, House of Representatives, Second Session on H.R. 9066. 73rd Cong., at 40 (1934). Accordingly, it is the position of this agency that conversion parts that are designed and intended to convert a weapon into a machinegun, that is, one that will shoot more than one shot, without manual reloading, by a single pull of the trigger, are regulated as machineguns under the National Firearms Act and the Gun Control Act.

We note that by letters dated November 17, 2003, and January 29, 2004, we previously advised you that we were unable to test-fire a prototype of the Akins device that you sent in for examination. However, both letters state that the theory of operation is clear, and because the device is not a part or parts designed and intended for use in converting a weapon into a machinegun, it is not a machinegun as defined under the National Firearms Act. The previous classification was based on a prototype that fractured when this office attempted to test fire it. Nonetheless, the theory of operation of the prototype and the Akins Accelerator is the same. To the extent the determination in this letter is incon-

sistent with the letters dated November 17, 2003, and January 29, 2004, they are hereby overruled.

Manufacture and distribution of the Akins Accelerator device must comply with all provisions of the NFA and the GCA. Accordingly, any devices you currently possess must be registered in accordance with 26 U.S.C. § 5822 and regulations in Part 27 Code of Federal Regulations (C.F.R). § 479.103. If you do not wish to register the devices, they should immediately be abandoned to the nearest ATF Office. You may contact the Portland field office at (503) 331-7850 to arrange for abandonment of the weapons. Pursuant to 18 U.S.C. § 922(o), the devices may only be manufactured for and distributed to Federal, State, and local law enforcement agencies. In addition, the devices must be marked in accordance with 18 U.S.C. § 923(i), 26 U.S.C. § 5842, 27 C.F.R. § 478.92 and 27 C.F.R. § 479.102. If you have questions about any of these provisions of law, please contact Acting Assistant Chief Cherie A. Knoblock in the firearms Programs Division at (202) 927-7770.

Sincerely yours,

/s/ RICHARD VASQUEZ
RICHARD VASQUEZ
Assistant Chief, Firearms Technology Branch

cc: SAC, Seattle Field Division
DIO, Seattle Field Division
Division Counsel, Seattle
Assistant Chief Counsel, San Francisco

Enclosures

18 U.S.C. 922(o): Transfer or possession of machinegun
26 U.S.C. 5845(b): Definition of machinegun
18 U.S.C. 921(a)(23): Definition of machinegun

The definition of machinegun in the National Firearms Act and the Gun Control Act includes a part or parts that are designed and intended for use in converting a weapon into a machinegun. This language includes a device that, when activated by a single pull of the trigger, initiates an automatic firing cycle that continues until the finger is released or the ammunition supply is exhausted.

ATF Rul. 2006-2

The Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) has been asked by several members of the firearms industry to classify devices that are exclusively designed to increase the rate of fire of a semiautomatic firearm. These devices, when attached to a firearm, result in the firearm discharging more than one shot with a single function of the trigger. ATF has been asked whether these devices fall within the definition of machinegun under the National Firearms Act (NFA) and Gun Control Act of 1968 (GCA). As explained herein, these devices, once activated by a single pull of the trigger, initiate an automatic firing cycle which continues until either the finger is released or the ammunition supply is exhausted. Accordingly, these devices are properly classified as a part "*designed and intended solely and exclusively, or combination of parts designed and intended, for use in converting a weapon into a machinegun*" and therefore machineguns under the NFA and GCA.

The National Firearms Act (NFA), 26 U.S.C. Chapter 53, defines the term "firearm" to include a machinegun.

Section 5845(b) of the NFA defines "machinegun" as "*any weapon which shoots, is designed to shoot, or can be readily restored to shoot, automatically more than one shot, without manual reloading, by a single function of the trigger. The term shall also include the frame or receiver of any such weapon, any part designed and intended solely and exclusively, or combination of parts designed and intended for use in converting a weapon into a machinegun, and any combination of parts from which a machinegun can be assembled if such parts are in the possession or under the control of a person.*" The Gun Control Act of 1968 (GCA), 18 U.S.C. Chapter 44, defines machinegun identically to the NFA. 18 U.S.C. 921(a)(23). Pursuant to 18 U.S.C. 922(o), machineguns manufactured on or after May 19, 1986, may only be transferred to or possessed by Federal, State, and local government agencies for official use.

ATF has examined several firearms accessory devices that are designed and intended to accelerate the rate of fire for semiautomatic firearms. One such device consists of the following components: two metal blocks; the first block replaces the original manufacturer's V-Block of a Ruger 10/22 rifle and has attached two rods approximately 1/4 inch in diameter and approximately 6 inches in length; the second block, approximately 3 inches long, 1 3/4 inches wide, and 3/4 inch high, has been machined to allow the two guide rods of the first block to pass through. The second block supports the guide rods and attaches to the stock. Using 1/4 inch rods, metal washers, rubber and metal bushings, two collars with set screws, one coiled spring, C-clamps, and a split ring, the two blocks are assembled together with the composite stock. As attached to the firearm, the device per-

mits the entire firearm (receiver and all its firing components) to recoil a short distance within the stock when fired. A shooter pulls the trigger which causes the firearm to discharge. As the firearm moves rearward in the composite stock, the shooter's trigger finger contacts the stock. The trigger mechanically resets, and the device, which has a coiled spring located forward of the firearm receiver, is compressed. Energy from this spring subsequently drives the firearm forward into its normal firing position and, in turn, causes the trigger to contact the shooter's trigger finger. Provided the shooter maintains finger pressure against the stock, the weapon will fire repeatedly until the ammunition is exhausted or the finger is removed. The assembled device is advertised to tire approximately 650 rounds per minute. Live-fire testing of this device demonstrated that a single pull of the trigger initiates an automatic firing cycle which continues until the finger is released or the ammunition supply is exhausted.

As noted above, a part or parts designed and intended to convert a weapon into a machinegun, *i.e.,* a weapon that will shoot automatically more than one shot, without manual reloading, by a single function of the trigger, is a machinegun under the NFA and GCA. ATF has determined that the device constitutes a machinegun under the NFA and GCA. This determination is consistent with the legislative history of the National Firearms Act in which the drafters equated "single function of the trigger" with "single pull of the trigger." *See, e.g., National Firearms Act: Hearings Before the Comm. on Ways and Means, House of Representatives, Second Session on H.R 9066,* 73rd Cong., at 40 (1934). Accordingly, conversion parts that, when installed in a semiautomatic rifle, result in a weapon that shoots more than

one shot, without manual reloading, by a single pull of the trigger, are a machinegun as defined in the National Firearms Act and the Gun Control Act.

Held, a device (consisting of a block replacing the original manufacturer's V-Block of a Ruger 10/22 rifle with two attached rods approximately 1/4 inch in diameter and approximately 6 inches in length; a second block, approximately 3 inches long, 1 3/8 inches wide, and 3/4 inch high, machined to allow the two guide rods of the first block to pass through; the second block supporting the guide rods and attached to the stock; using 1/4 inch rods; metal washers; rubber and metal bushings; two collars with set screws; one coiled spring; C-clamps; a split ring; the two blocks assembled together with the composite stock) that is designed to attach to a firearm and, when activated by a single pull of the trigger, initiates an automatic firing cycle that continues until either the finger is released or the ammunition supply is exhausted, is a machinegun under the National Firearms Act, 26 U.S.C. 5845(b), and the Gun Control Act, 18 U.S.C. 921(a)(23).

Held further, manufacture and distribution of any device described in this ruling must comply with all provisions of the NFA and the GCA, including 18 U.S.C. 922(o).

To the extent that previous ATF rulings are inconsistent with this determination, they are hereby overruled.

Date approved: Dec. 13, 2006

Michael J. Sullivan
Director

U.S. Department of Justice

Bureau of Alcohol, Tobacco,
Firearms and Explosives

Martinsburg, WV 25405
www.atf.gov

[June 18, 2008]

[REDACTED] Foeller II
[REDACTED]
[REDACTED]

Dear Mr. Foeller:

This is in reference to your submitted item, as well as accompanying correspondence, to the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), Firearms Technology Branch (FTB). This item, consisting of a metal type shoulder stock, was submitted with a request for classification under the Gun Control Act (OCA) and National Firearms Act (NFA).

As background information, the NFA, 26 U.S.C. Section 5845(b), defines "**machinegun**" as—

" . . . *any weapon which shoots, is designed to shoot, or can be readily restored to shoot, automatically more than one shot, without manual reloading, by a single function of the trigger. The term shall also include the frame or receiver of any such weapon,* ***any part designed an intended solely and exclusively, or combination of parts designed and intended, for sue in converting a weapon into a machinegun****, and any combination of parts from which a machinegun can be assembled if*

such parts are in the possession or under the control of a person."

The device submitted for evaluation consists of the following:

- Two sections of square metal tubing, the exterior tube measuring approximately 10 x 1-1/2 x 1-1/2 inches. Additionally, a flat piece of metal similar in shape to a butt plate is welded to the rear of the exterior tube.
- An interior tube measuring approximately 12-9/16 x 1-1/4 x 1-1/4 inches.
- A flat piece of metal measuring 4-3/4 x 1-3/8 x 3/16 inches attached by means of welding to the bottom and located on the front of the exterior tubing.
- A cylindrically shaped section of pipe that acts as pistol grip and is attached to the previously described flat piece of metal by means of welding. It measures approximately 4-1/8 inches in length and 1-5/16 inches in diameter.
- A support bar attached to the pistol grip and butt plate by means of welding. It measures approximately 11-1/4 x 13/16 x 3/8 inches.
- Interior tubing that has been drilled and lapped for two oval head screws which are located on the left and right side. These screws are used to stop the rearward movement after a short distance of travel. Additionally, two holes have been drilled and tapped into the top of the interior tube which allow attachment of the device to an AK-type rifle.

- An exterior-tube slot (1-3/16 inches) milled on the bottom, approximately 4-3/16 inches from the front of the tube. The interior tubing has a hole drilled and tapped to accept an oval head screw. This screw supports the two previously mentioned slop screws on the interior tubing. It also stops the forward travel of the interior tubing after a short distance of travel.

To install this shoulder-stock device on an AK-type rifle, the shoulder stock and independent pistol grip has to be removed. Next, the front of the interior tube has to be inserted into the interior cavity of the receiver of the AK-type rifle, and the attachment screws installed.

The FTB live-fire testing of the submitted device indicates that if, as a shot is fired, an *intermediate* amount of pressure is applied to the fore-end with the support hand, the shoulder stock device will recoil rearward far enough to allow the trigger to mechanically reset. Continued intermediate pressure applied to the fore-end will then push the receiver assembly forward until the trigger re-contacts the shooter's stationary firing hand finger, allowing a subsequent shot to be fired. In this manner, the shooter pulls the firearm forward to fire each shot, each shot being fired by a single function of the trigger. Further, every subsequent shot depends on the shooter applying the appropriate amount of forward pressure to the fore-end and timing it to contact the trigger finger on the firing hand.

Since your device is incapable of initiating an automatic firing cycle that continues until either the finger is released or the ammunition supply is exhausted, FTB finds that it is NOT a machinegun under the NFA, 26 U.S.C. 5845(b), or the GCA, 18 U.S.C. 921(a)(23).

Please note that this classification is based on the item as submitted. Any changes to its design features or characteristics **will void** this classification. In addition, we caution that the addition of an accelerator spring or any other non-manual source of energy which allows this device to operate automatically as described will result in the manufacture of a machinegun as defined in the NFA, 26 U.S.C. 5845(b).

Please provide our Branch with a FedEx account number so that we may return this item to you.

We thank you for your inquiry and trust the foregoing has been responsive to your request.

Sincerely yours,

/s/ JOHN R. SPENCER
JOHN R. SPENCER
Chief, Firearms Technology Branch

U.S. Department of Justice

Bureau of Alcohol, Tobacco,
Firearms and Explosives

Martinsburg, WV 25405
www.atf.gov

[June 26, 2008]

[REDACTED] Johnson

Dear Mr. Johnson:

This is in reference to your submitted item, as well as accompanying correspondence, to the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), Firearms Technology Branch (FTB). This item, consisting of a Ruger 10/22 rifle and stock which you have modified to incorporate what you refer to as an Akins Accelerator type device of your own manufacture, was submitted with a request for classification under the Gun Control Act (GCA) and National Firearms Act (NFA). This submission was sent in response to our earlier reply to your initial correspondence (see FTB #3311/2007-383).

As you may be aware, the National Firearms Act (NFA), 26 U.S.C. § 5845(b), defines the term "**machinegun**" as follows:

" . . . *any weapon which shoots, is designed to shoot, or can be readily restored to shoot, automatically more than one shot, without manual reloading, by a single function of the trigger. The term shall also include the frame or receiver of any such weapon, any part designed an intended solely and exclusively, or combina-*

tion of parts designed and intended, for sue in converting a weapon into a machinegun, and any combination of parts from which a machinegun can be assembled if such parts are in the possession or under the control of a person."

Further, **ATF Ruling 2006-2** describes a device that is designed and intended to accelerate the rate of fire of a semiautomatic weapon and classifies it as follows:

Held, a device (consisting of a block replacing the original manufacturer's V-Block of a Ruger 10/22 rifle with two attached rods approximately 1/4 inch in diameter and approximately 6 inches in length; a second block, approximately 3 inches long, 1 3/8 inches wide, and 3/4 inch high, machined to allow the two guide rods of the first block to pass through; the second block supporting the guide rods and attached to the stock; using 1/4 inch rods; metal washers; rubber and metal bushings; two collars with set screws; one coiled spring; C-clamps; a split ring; the two blocks assembled together with the composite stock) that is designed to attach to a firearm and, when activated by a single pull of the trigger, initiates an automatic firing cycle that continues until either the finger is released or the ammunition supply is exhausted, is a machinegun under the NFA, 26 U.S.C. 5845(b), and the GCA, 18 U.S.C. 921(a)(23).

The submitted device (also see enclosed photos, pages 4 and 5) incorporates the following features:

- A metal block that replaces the original manufacturer's V-Block from the 10/22 rifle. The replacement block has two rods attached that are approximately 1/4 inch in diameter and approximately 6 inches in length.

- A second metal block which has been machined to allow the two guide rods to pass through. This component serves as a support for the guide rods and as an attachment to the modified stock.
- A third rod, threaded into the outside rear of the 10/22 receiver, rides within a bushing inletted into the tang area of the stock immediately behind the receiver.
- Two external finger stops mounted to the stock, adjacent to the rifles trigger guard, which limit the rearward travel of the shooter's trigger finger.
- The device does not incorporate an operating spring like the original Akins Accelerator, but has been modified to utilize a thumbscrew which protrudes downward through the fore end of the stock, and allows the operator to apply manual forward pressure to the device.

The absence of an accelerator spring in the submitted device prevents the device from operating automatically as described in ATF Ruling 2006-2. Conversely, forward pressure must be applied to the thumb screw with the support hand, bringing the receiver assembly forward to a point where the trigger can be pulled by the firing hand. If strong forward pressure is applied to the thumb screw with the support hand, the rifle can be fired in a conventional semiautomatic manner since the reciprocation of the receiver assembly is eliminated. If, upon firing, weak pressure is applied to the thumb screw with the support hand, the receiver assembly will recoil rearward past the finger stops, requiring that the

shooter push the receiver assembly forward before a subsequent shot can be fired.

The FTB live-fire testing of the submitted device indicates that if, as a shot is fired, an *intermediate* amount of pressure is applied to the thumb screw with the support hand, the receiver assembly will recoil rearward far enough to allow the trigger to mechanically reset. Continued intermediate pressure applied to the thumb screw will then push the receiver assembly forward until the trigger re-contacts the shooter's stationary firing hand finger, allowing a subsequent shot to be fired. In this manner, the shooter pulls the receiver assembly forward to fire each shot, each shot being fired by a single function of the trigger.

Since your device does not, when activated by a single function of the trigger initiate an automatic firing cycle that continues until either the finger is released or the ammunition supply is exhausted, FTB finds that it is NOT a machinegun under the NFA, 26U.S.C. 5845(b), or the GCA, 18 U.S.C. 921(a)(23).

Please note that this classification is based on the item as submitted. Any changes to its design features or characteristics will void this classification. Moreover, we caution that the addition of an accelerator spring or any other non-manual source of energy which allows this device to operate automatically as described in ATF Ruling 2006-2 will result in the manufacture of a machinegun as defined in the NFA, 26 U.S.C. 5845(b).

Please provide our Branch with a FedEx account number so that we may return this item to you.

We thank you for your inquiry and trust that the foregoing has been responsive.

Sincerely yours,

/s/ JOHN R. SPENCER
JOHN R. SPENCER
Chief, Firearms Technology Branch

Enclosures

U.S. Department of Justice

Bureau of Alcohol, Tobacco,
Firearms and Explosives

Martinsburg, WV 25405
www.atf.gov

[June 7, 2010]

[REDACTED] Compton
[REDACTED]
[REDACTED]

Dear Mr. Compton:

This is in reference to your submission and accompanying letter to the Firearms Technology Branch (FTB), Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), asking for on evaluation of a replacement shoulder stock for an AR-15 type rifle. Your letter advises that the stock (referenced in this reply as a "bump-stock") is intended to assist persons whose hands have limited mobility to "bump-fire" an AR-15 type rifle. Your submission includes the following: a block to replace the pistol grip while providing retention for the selector stop spring; a hollow shoulder stock intended to be installed over the rear of an AR-15 fitting with a sliding-stock type buffer-tube assembly; and a set of assembly instructions.

The FTB evaluation confirmed that the submitted stock (see enclosed photos) does attach to the rear of an AR-15 type rifle which has been fitted with a sliding shoulder-stock type buffer-tube assembly. The stock has no automatically functioning mechanical parts or

springs and performs no automatic mechanical function when installed. In order to use the installed device, the shooter must apply constant forward pressure with the non-shooting hand and constant rearward pressure with the shooting hand. Accordingly, we find that the "bump-stock" is a firearm part and is not regulated as a firearm under Gun Control Act or the National Firearms Act.

Per your telephoned instructions, we will contact you separately to make return delivery arrangements.

We thank you for your inquiry and trust that the foregoing has been responsive.

Sincerely yours,

/s/ JOHN R. SPENCER
JOHN R. SPENCER
Chief, Firearms Technology Branch

Enclosure

U.S. Department of Justice

Bureau of Alcohol, Tobacco,
Firearms and Explosives

Martinsburg, WV 25405
www.atf.gov

[May 26, 2011]

[REDACTED] Savage
Historic Arms, LLC
[REDACTED]
[REDACTED]

Dear Mr. Savage:

This is in reference to your sample, as well as accompanying correspondence, which was submitted to the Firearms Technology Branch (FTP), Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF). You have submitted this item, consisting of a Chinese Type 56 (SKS) rifle and a stock of your own manufacture with a request for classification under the National Firearms Act (NFA)

As you know, the NFA, **26 U.S.C. § 5845(b)**, defines the term "machinegun" as follows:

. . . any weapon which shoots, is designed to shoot, or can be readily restored to shoot, automatically more than one shot, without manual reloading, by a single function of the trigger. The term shall also include the frame or receiver of any such weapon, any part designed an intended solely and exclusively, or combination of parts designed and intended, for sue in converting a weapon into a machinegun, and any combination

of parts from which a machinegun can be assembled if such parts are in the possession or under the control of a person."

Further, **ATF Ruling 2006-2** describes a device that is designed and intended to accelerate the rate of fire of a semiautomatic weapon and classifies it as follows:

Held, a device (consisting of a block replacing the original manufacturer's V-Block of a Ruger 10/22 rifle with two attached rods approximately 1/4 inch in diameter and approximately 6 inches in length; a second block, approximately 3 inches long, 1 3/8 inches wide, and 3/4 inch high, machined to allow the two guide rods of the first block to pass through; the second block supporting the guide rods and attached to the stock; using 1/4 inch rods; metal washers; rubber and metal bushings; two collars with set screws, one coiled spring; C-clamps; a split ring; the two blocks assembled together with the composite stock) that is designed to attach to a firearm and, when activated by a single pull of the trigger, initiates an automatic firing cycle that continues until either the finger is released or the ammunition supply is exhausted, is a machinegun under the National Firearms Act, 26 U.S.C. 5845(b), and the Gun Control Act: GCA, 18 U.S.C. 921(a)(23).

The submitted device (also see enclosed photos) incorporates the following features or characteristics:

- A metal block which secures the SKS trigger mechanism to the remainder of the weapon (a function formerly accomplished by the weapons factory stock). A metal rod is attached and protrudes from the rear section of this metal block. This rod rides within a bushing inletted into the rear portion of your "ALM" stock.

- A second metal block which has been machined to allow the three guide rods located in the front portion of your stock to pass through it. This component serves as a support for the front portion of the SKS rifle and as an attachment to the modified stock.
- A forward hand guard/gripping surface which is attached to the bottom portion of the second metal block noted above.
- Lack of any operating springs, bands, or other devices which would permit automatic firing.

Your ALM stock is designed to allow the SKS rifle mounted within it to reciprocate back and forth in a linear motion. The absence of an accelerator spring or similar component in the submitted device prevents the device form operating automatically as described in ATF Ruling 2006-2. When operated, forward pressure must be applied to the above noted forward hand-guard/gripping surface with the support hand, bringing the receiver assembly forward to a point where the trigger can be pulled by the firing hand. If sufficient forward pressure is not applied to the hand guard with the support hand, the rifle can be fired in a conventional semi-automatic manner since the reciprocation of the receiver assembly is eliminated.

The FTP life-fire testing of the submitted device indicates that if, as a shot is fired and a *sufficient* amount of pressure is applied to the hand guard/gripping surface with the shooter's support hand, the SKS rifle assembly will come forward until the trigger re-contacts the shooter's stationary firing-hand trigger finger, allowing a subsequent shot to be fired. In this manner, the shooter pulls the receiver assembly forward to fire

each shot, each shot being fired by a single function of the trigger.

Since your device does not initiate an automatic firing cycle by a single function of the trigger, FTB finds that it is NOT a machinegun under the NFA, 26 U.S.C. 5845(b), or the GCA, 18 U.S.C. 921(a)(23).

Please note that this classification is based on the item as submitted. Any changes to its design features or characteristics will void this classification. Moreover, we caution that the addition of an accelerator spring or any other non-manual source of energy which allows this device to operate automatically as described in Ruling 2006-2 will result in the manufacture of a machinegun as defined in the NFA, 26 U.S.C. 5845(b).

Please provide our Branch with a FedEx account number so that we may return this item to you.

We thank you for your inquiry and trust that the foregoing has been responsive to your evaluation request.

Sincerely yours,

/s/ JOHN R. SPENCER
JOHN R. SPENCER
Chief, Firearms Technology Branch

Enclosure

U.S. Department of Justice

Bureau of Alcohol, Tobacco,
Firearms and Explosives

Martinsburg, WV 25405
www.atf.gov

[Apr. 2, 2012]

[REDACTED] Smith
[REDACTED]
[REDACTED]

Dear Mr. Smith:

This is in reference to your correspondence to the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), Firearms Technology Branch (FTB), requesting FTB to evaluate an accompanying tock and determine if its design would violate any Federal statutes.

As background information, the National Firearms Act (NFA), 26 U.S.C. § 5845(b), defines "**machinegun**" as—

. . . *any weapon which shoots, is designed to shoot, or can be readily restored to shoot, automatically more than one shot, without manual reloading, by a single function of the trigger. The term shall also include the frame or receiver of any such weapon,* ***any part designed an intended solely and exclusively, or combination of parts designed and intended, for sue in converting a weapon into a machinegun****, and any combination of parts from which a machinegun can be assembled if such parts are in the possession or under the control of a person.*"

The FTB evaluation confirmed that you have submitted a plastic shoulder stock designed to function on an AR-15 type rifle (see enclosed photos). For your stock to function in the manner intended, it has to be attached to an AR-15 type platform that is assembled with a collapsible-stock receiver extension. Along with the should stock, you have submitted what you have identified as a "receiver module." This module is a plastic block approximately 1-5/16 inches high, about 1-3/8 inches long, and approximately 7/8-inch wide. Additionally, there are two extensions, one on each side, that are designed to travel in the two slots configured on the shoulder stock. The receiver module replaces the AR-15 pistol grip.

Further, submitted custom shoulder stock incorporates a pistol grip. This grip section has a cavity for the receiver module to move forward and backward. Additionally, two slots have been cut for the receiver module extensions to travel in. The upper section of the shoulder stock is designed to encapsulate the collapsible receiver extension. Further, the custom stock is designed with a "lock pin." When the handle on the lock pin is facing in the 3- to 9-o'clock positions, the stock is fixed and will not move; and when the handle on the lock pin is facing in the 12- to 6-o'clock positions, the stock is movable.

The FTB live-fire testing of the submitted device indicates that if, as a shot is fired, an *intermediate* amount of pressure is applied to the fore-end with the support hand, the shoulder stock device will recoil sufficiently rearward to allow the trigger to mechanically reset. Continued intermediate pressure applied to the fore-end will then push the receiver assembly forward until the trigger re-contacts the shooter's stationary firing

hand finger, allowing a subsequent shot to be fired. In this manner, the shooter pulls the firearm forward to fire each shot, the firing of each shot being accomplished by a single trigger function. Further, each subsequent shot depends on the shooter applying the appropriate amount of forward pressure to the fore-end and timing it to contact the trigger finger on the firing hand, while maintaining constant pressure on the trigger itself.

Since your device is incapable in initiating an automatic firing cycle that continues until either the finger is released or the ammunition supply is exhausted, FTB finds that it is **not** a machinegun under the NFA, 26 U.S.C. 5845(b), or the Gun Control Act, 18 U.S.C. 921(a)(23).

Please be advised that our findings are based on the item as submitted. Any changes to its design features or characteristics **will void** this classification. Further, we caution that the addition of an accelerator spring or any other non-manual source of energy which allows this device to operate automatically as described will result in the manufacture of a machine gun as defined in the NFA, 5845(b).

To facilitate the return of your sample, to include the module, please provide FTB with the appropriate FedEx or similar account information within 60 days of receipt of this letter. If their return is not necessary, please fax FTB at 304-616-4301 with authorization to destroy them on your behalf.

We thank you for your inquiry and trust that the foregoing has been responsive to your evaluation request.

Sincerely yours,

/s/ JOHN R. SPENCER
JOHN R. SPENCER
Chief, Firearms Technology Branch

Enclosure

U.S. Department of Justice

Bureau of Alcohol, Tobacco,
Firearms and Explosives

Martinsburg, WV 25405
www.atf.gov

[Apr. 20, 2012]

[REDACTED] Stern
[REDACTED]
[REDACTED]

Dear Mr. Stern:

This is in reference to your sample, as well as accompanying correspondence, which was submitted to the Firearms Technology Branch (FTB), Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF). The sample, consisting of a mounting device designed for use with a semiautomatic Browning 1919-pattern type firearm, was furnished to FTB with a request for classification under Federal firearms laws.

As you know the National Firearms Act (NFA), 26 U.S.C. § 5845(b), defines the term "**machinegun**" as—

. . . any weapon which shoots, is designed to shoot, or can be readily restored to shoot, automatically more than one shot, without manual reloading, by a single function of the trigger. The term shall also include the frame or receiver of any such weapon, any part designed an intended solely and exclusively, or combination of parts designed and intended, for sue in converting a weapon into a machinegun, and any combination of parts from which a machinegun can be assembled if

such parts are in the possession or under the control of a person.

Further, **ATF Ruling 2006-2** describes a device that is designed and intended to accelerate the rate of fire of a semiautomatic weapon and classifies it as follows:

Held, a device (consisting of a block replacing the original manufacturer's V-Block of a Ruger 10/22 rifle with two attached rods approximately 1/4 inch in diameter and approximately 6 inches in length; a second block, approximately 3 inches long, 1 3/8 inches wide, and 3/4 inch high, machined to allow the two guide rods of the first block to pass through; the second block supporting the guide rods and attached to the stock; using 1/4 inch rods; metal washers; rubber and metal bushings; two collars with set screws, one coiled spring; C-clamps; a split ring; the two blocks assembled together with the composite stock) that is designed to attach to a firearm and, when activated by a single pull of the trigger, initiates an automatic firing cycle that continues until either the finger is released or the ammunition supply is exhausted, is a machinegun under the NFA, 26 U.S.C. 5845(b), and the . . . [Gun Control Act: GCA] . . . 18 U.S.C. 921(a)(23).

The submitted device (also see enclosure) incorporates the following features or characteristics:

- A steel mount or cradle which accepts a Browning 1919 type firearm and is designed to be utilized with a standard, M2-type pintle and tripod.
- Two steel pins which secure the firearm to the cradle.

- Four roller assemblies, also secured by the above-mentioned steel pins, which allow the firearm to move laterally within the cradle.
- A trigger bar or trip lever which, when pulled, raises a trip which fires the firearm mounted in the cradle.
- A mount or cradle lacking any operating springs, bands, or other devices which would permit automatic firing.

With respect to your mount/cradle, FTB confirmed that it is designed to allow the Browning 1919 typo semiautomatic firearm mounted to it to reciprocate back end forth in a linear motion. The absence of an accelerator spring or similar component in the submitted device prevents it from operating automatically as described in ATF Ruling 2006-2. When operated, forward pressure must be applied by the non-firing hand to the rear portion of the 1919-type firearm mounted in your device, bringing the receiver assembly forward to a point where the trip can contact the trigger of the weapon. If sufficient forward pressure is not applied to the firearm with the non-firing hand, the firearm can be fired in a conventional, semiautomatic manner since the reciprocation of the receiver assembly is eliminated,

The FTB examination of the submitted device indicates that if as a shot is tired and a *sufficient* amount of pressure is applied to the rear section of the firearm by the shooter's non-firing band, the Browning, 1919 semiautomatic firearm will come forward until the trigger re-contacts the trip, which is being held in an elevated position by the trigger bar/trip lever manipulated by the shooters firing hand; this "re-contact" allows a subsequent shot to be fired. In this manner, the shooter

pushes the receiver assembly forward to fire each shot, each firing utilizing a single function of the trigger. Letting go of the receiver or trigger bar/trip lever will halt this process.

Since your device does not initiate an automatic firing cycle by a single function of the trigger, FTB finds that it is NOT a machine gun under the NFA, 26 U.S.C. §5845(b), or the GCA, 18 U.S.C. 921(a)(23).

We caution that our findings are based on the item as submitted. Any changes to its design, features, or characteristics will void this classification. Moreover, we should point out that the addition of an accelerator spring or any other non-manual source of energy which allows this device to operate automatically as described in Ruling 2006-2 will result in the manufacture of a "machinegun" as defined in the NFA, 26 U.S.C. 5845(b).

Please provide our Branch with a FedEx account number so that we may return your device.

We thank you for your inquiry and trust that the foregoing has been responsive to your evaluation request.

Sincerely yours,

/s/ JOHN R. SPENCER
JOHN R. SPENCER
Chief, Firearms Technology Branch

Enclosure

U.S. Department of Justice

Bureau of Alcohol, Tobacco,
Firearms and Explosives

Martinsburg, WV 25405
www.atf.gov

[July 13, 2012]

[REDACTED] Vesligaj
Phoenix Technology, Ltd.
[REDACTED]
[REDACTED]

Dear Mr. Vesligaj:

This is in reference to your sample, as well as accompanying correspondence, which was submitted to the Firearms Technology Branch (FTB), Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF). The sample, consisting of a replacement "bump-fire" type stock designed for use with a semiautomatic AK-pattern type rifle, was furnished to FTB with a request for classification under Federal firearms laws. (As received, the left-side wall of this stock was cracked.)

As you know the National Firearms Act (NFA), **26 U.S.C. § 5845(b)**, defines the term "**machinegun**" as—

. . . *any weapon which shoots, is designed to shoot, or can be readily restored to shoot, automatically more than one shot, without manual reloading, by a single function of the trigger. The term shall also include the frame or receiver of any such weapon, any part designed an intended solely and exclusively, or combination of parts designed and intended, for sue in convert-*

ing a weapon into a machinegun, and any combination of parts from which a machinegun can be assembled if such parts are in the possession or under the control of a person.

Further, **ATF Ruling 2006-2** describes a device that is designed and intended to accelerate the rate of fire of a semiautomatic weapon and classifies it as follows:

Held, a device (consisting of a block replacing the original manufacturer's V-Block of a Ruger 10/22 rifle with two attached rods approximately 1/4 inch in diameter and approximately 6 inches in length; a second block, approximately 3 inches long, 1 3/8 inches wide, and 3/4 inch high, machined to allow the two guide rods of the first block to pass through; the second block supporting the guide rods and attached to the stock; using 1/4 inch rods; metal washers; rubber and metal bushings; two collars with set screws, one coiled spring; C-clamps; a split ring; the two blocks assembled together with the composite stock) that is designed to attach to a firearm and, when activated by a single pull of the trigger, initiates an automatic firing cycle that continues until either the finger is released or the ammunition supply is exhausted, is a machinegun under the NFA, 26 U.S.C. 5845(b), and the . . . [Gun Control Act: GCA] . . . 18 U.S.C. 921(a)(23).

The submitted device (also see enclosed photos) incorporates the following features or characteristics:

- A plastic block which is designed to be inserted into the rear section of a stamped AK-type receiver and secures the "burst stock" to the remainder of the weapon utilizing the factory tang of the AKM rifle. This block is attached to a pistol-like assembly which reciprocates within a hol-

low metal buffer-style tube attached to the rear section of your stock.

- A collapsible AR-15 style shoulder stock
- An attached pistol grip assembly
- Two screws used to secure your stock to the AKM rifle.
- The stock's lack of any operating springs, bands, or other devices which would permit automatic firing.

Your stock is designed to allow the AKM-type semiautomatic rifle mounted to it to reciprocate back and forth in a linear motion. The absence of an accelerator spring or similar component in the submitted device prevents it from operating automatically as described in ATF Ruling 2006-2. When operated, forward pressure must be applied to the forward handguard/fore-end of the AKM rifle mounted to your stock with the support hand, bring in the the receiver assembly forward to a point where the trigger can be pulled by the firing hand. If sufficient forward pressure is not applied to the handguard with the support hand, the rifle can be fired in a conventional semiautomatic manner since the reciprocation of the receiver assembly is eliminated.

The FTB examination of the submitted device indicate that if, as a shot is fired and a *sufficient* amount of pressure is applied to the handguard/gripping surface with the shooter's support hand, the AKM rifle assembly will come forward until the trigger re-contacts the shooter's stationary firing-hand trigger finger, allowing a subsequent shot to be fired. In this manner, the shooter pulls the receiver assembly forward to fire each shot, each shot being fired by a single function of the trigger.

Since your device does not initiate an automatic firing cycle by a single function of the trigger, FTB finds that it is not a machine gun under the NFA, 26 U.S.C. 5845(b), or the GCA, 18 U.S.C. 921(a)(23).

We caution that our findings are based on the item as submitted. Any changes to its design, features, or characteristics will void this classification. Moreover, we should point out that the addition of an accelerator spring or any other non-manual source of energy which allows this device to operate automatically as described in Ruling 2006-2 will result in the manufacture of a "machinegun" as defined in the NFA, 26 U.S.C. 5845(b).

Please provide our Branch with a FedEx account number so that we may return your device.

We thank you for your inquiry and trust that the foregoing has been responsive to your evaluation request.

Sincerely yours,

/s/ JOHN R. SPENCER
JOHN R. SPENCER
Chief, Firearms Technology Branch

Enclosure

U.S. Department of Justice

Bureau of Alcohol, Tobacco,
Firearms and Explosives

www.atf.gov

[July 9, 2012]

[REDACTED] McElwaney
Saigatechusa/Ramlake, LLC
[REDACTED]
[REDACTED]

Dear Mr. McElwaney:

This is in reference to your recent submission and accompanying letter to the Firearms Technology Branch (FTB), Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), asking for an evaluation of a replacement shoulder stock for a Saiga-12 type shotgun. Your letter advises that the stock (referenced in this reply as a "Rapid Fire Stock") is intended to assist persons with limited mobility to "bump-fire" an AK-type weapon (such as the Saiga-12 shotgun). The submitted Saiga-12 shotgun has been fitted with an AR-15 stock adapter, as well as a modified, AR-15 type, collapsible stock assembly. The modified assembly incorporates a trigger finger stop **and** allows the shotgun to slide back and forth, independently of the shoulder stock and pistol grip.

The FTB evaluation confirmed that the submitted stock (see enclosed photos) has no automatically functioning mechanical parts or springs and performs no automatic mechanical function when installed. In order to use the

installed device, the shooter must apply constant forward pressure with the non-shooting hand and constant rearward pressure with the shooting hand. Accordingly, we find that the "Rapid Fire Stock" is a firearm part and is not regulated as a firearm under Gun Control Act or the National Firearms Act.

Please note that this determination pertains to the Rapid Fire Stock as received and evaluated by our Branch. Any changes to the design features or physical characteristics of the Rapid Fire Stock will void this classification. We thank you for your inquiry and trust that the foregoing has been responsive to your evaluation request.

Sincerely yours,

/s/ JOHN R. SPENCER
JOHN R. SPENCER
Chief, Firearms Technology Branch

Enclosure

U.S. Department of Justice

Bureau of Alcohol, Tobacco,
Firearms and Explosives

Martinsburg, WV 25405
www.atf.gov

[Feb. 11, 2013]

[REDACTED] Foster
FosTecH Outdoors, LLC
[REDACTED]
[REDACTED]

Dear Mr. Foster:

This is in reference to your sample, as well as accompanying correspondence, which was submitted to the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), Firearms Technology Branch (FTB). The sample, consisting of a replacement "bump-fire" type stock (or "Bumpski") designed for use with a semiautomatic AK-pattern type rifle, was furnished to FTB for classification under Federal firearms laws.

As you know the National Firearms Act (NFA), 26 U.S.C. § 5845(b), defines the term "**machinegun**" as—

. . . any weapon which shoots, is designed to shoot, or can be readily restored to shoot, automatically more than one shot, without manual reloading, by a single function of the trigger. The term shall also include the frame or receiver of any such weapon, any part designed an intended solely and exclusively, or combination of parts designed and intended, for sue in converting a weapon into a machinegun, and any combination

of parts from which a machinegun can be assembled if such parts are in the possession or under the control of a person.

The submitted device (also see enclosed photos) incorporates the following features:

- A non-ferrous metal "upper portion" of the stock, designed for insertion into the rear section of a stamped AK-type receiver and, also, for securing the "Bumpski" to the remainder of the weapon utilizing the factory tang of the AKM rifle.
- "Lower portion" to which this "upper portion" is assembled: The "lower" consists of a pistol-gripped assembly which reciprocates within the "upper portion" of the buttstock.
- Four screws used to secure your stock to the AKM rifle.
- A "selector bar" to prevent linear movement of the non-ferrous "lower portion" of the stock.
- Lack of any operating springs, bands, or other parts which would permit automatic firing.

Your stock is designed to allow the AKM-type semi-automatic rifle mounted to it to reciprocate back and forth in a linear motion. The absence of an accelerator spring or similar component in the submitted device prevents ii from operating automatically. When operated, forward pressure must be applied with the support hand to the forward handguard/fore-end of the AKM rifle mounted to your stock, bringing the receiver assembly forward to a point where the trigger can be pulled by the firing hand. If sufficient forward pressure is not applied to the handguard with the support hand, the rifle

can be fired in o conventional semiautomatic manner since the reciprocation of the receiver assembly is eliminated.

The FTB examination of the submitted device indicates that if, as a shot is fired and a *sufficient* amount of pressure is applied to the handguard/gripping surface with the shooter's support hand, the AKM rifle assembly will come forward until the trigger re-contacts the shooter's stationery firing-hand trigger finger, allowing a subsequent shot to be fired. In this manner, the shooter pulls the receiver assembly forward to fire each shot, each shot being fired by a single function of the trigger.

Since your device does not initiate an automatic firing cycle by a single function of the trigger, FTB finds that it is NOT a machinegun under the NFA, 26 U.S.C. 5845(b), or the amended Gun Control Act of 1968, 18 U.S.C. § 921(a)(23).

We caution that our findings are based on the item as submitted. ***Any changes to its design features or characteristics will void this classification***. Moreover, we should point out that the addition of an accelerator spring or any other non-manual source of energy which allows this device to operate automatically will result in the manufacture of a machinegun as defined in the NFA, 5845(b).

We thank you for your inquiry and trust the foregoing has been responsive to your evaluation request.

Sincerely yours,

/s/ JOHN R. SPENCER
JOHN R. SPENCER
Chief, Firearms Technology Branch

Enclosure

U.S. Department of Justice

Bureau of Alcohol, Tobacco,
Firearms and Explosives

Martinsburg, WV 25405
www.atf.gov

May 1, 2013

[REDACTED] Erskine
[REDACTED]
[REDACTED]

Dear Mr. Erskine:

This is in reference to your sample, as well as accompanying correspondence, which was submitted in December 2012 to the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), Firearms Technology Branch (FTB), for classification under Federal firearms laws. The sample—which you call "the HailStorm"—consists of a replacement "bump-fire" type stock designed for use with a semiautomatic AR-15 type rifle.

As you know the National Firearms Act (NFA), 26 U.S.C. § 5845(b), defines the term "machinegun" as—

. . . any weapon which shoots, is designed to shoot, or can be readily restored to shoot, automatically more than one shot, without manual reloading, by a single function of the trigger. The term shall also include the frame or receiver of any such weapon, any part designed an intended solely and exclusively, or combination of parts designed and intended, for sue in converting a weapon into a machinegun, and any combination

of parts from which a machinegun can be assembled if such parts are in the possession or under the control of a person.

The submitted device (also see enclosed photos) incorporates the following features:

• A plastic, adjustable AR-type buttstock "anchor tube" that is designed to be installed onto the buffer tube of an AR-type firearm and, also, to house the "stabilizer bar."

• A "stock adjusting pin" to prevent linear movement of the "anchor tube" while it is installed to the buffer tube.

• Lack of any operating springs, bands, or other parts which would permit automatic firing.

Your stock is designed to allow the AR-type semiautomatic rifle mounted to it to reciprocate back and forth in a linear motion. The absence of an accelerator spring or similar component in the submitted device prevents it from operating automatically. When operated, forward pressure must be applied with the support hand to the forward handguard/fore-end of the AR-type rifle mounted to your stock, bringing the receiver assembly forward to a point where the trigger can be pulled by the firing hand. If sufficient forward pressure is not applied to the handguard with the support hand, the rifle can be fired in a conventional, semiautomatic manner since the reciprocation of the receiver assembly is eliminated.

The FTB examination of the submitted device indicates that if as a shot is fired—and a sufficient amount of pressure is applied to the handguard/gripping surface with the shooter's support hand—the AR-type rifle as-

sembly will come forward until the trigger re-contacts the shooter's stationary firing-hand trigger finger: Re-contacting allows the firing of a subsequent shot. In this manner, the shooter pulls the receiver assembly forward to tire each shot, each succeeding shot firing with a single trigger function.

Since your device does not initiate an automatic firing cycle by a single function of the trigger, FTB finds that it is NOT a machine gun under the NFA, 26 U.S.C. 5845(b), or the amended Gun Control Act of 1968, 18 U.S.C. § 921(a)(23).

We caution that our findings are based on the item as submitted. Any changes to its design features or characteristics will void this classification. Moreover, we should point out that the addition of an accelerator spring or any other non-manual source of energy which allows this device to operate automatically will result in the manufacture of a "machinegun" as defined in the NFA, 5845(b).

We thank you for your inquiry and trust the foregoing has been responsive to your evaluation request.

Sincerely yours,

/s/ EARL GRIFFITH
EARL GRIFFTIH
Chief, Firearms Technology Branch

U.S. Department of Justice

Bureau of Alcohol, Tobacco,
Firearms and Explosives

Martinsburg, WV 25405
www.atf.gov

[Jan. 14, 2014]

[REDACTED] Erskine
FosTecH Outdoors, LLC
[REDACTED]
[REDACTED]

Dear Mr. Erskine:

This is in reference to your sample, as well as accompanying correspondence, which was submitted to the Firearms Technology Branch (FTB), Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), for a new classification under Federal firearms laws. The sample—which you call "the HailStorm"—consists of a replacement "bump-fire" type stock designed for use with a semiautomatic AR-15 type rifle.

As you know the National Firearms Act (NFA), 26 U.S.C. § 5845(b), defines the term "**machinegun**" as—

. . . any weapon which shoots, is designed to shoot, or can be readily restored to shoot, automatically more than one shot, without manual reloading, by a single function of the trigger. The term shall also include the frame or receiver of any such weapon, any part designed an intended solely and exclusively, or combination of parts designed and intended, for sue in converting a weapon into a machinegun, and any combination

of parts from which a machinegun can be assembled if such parts are in the possession or under the control of a person.

The submitted device (also see enclosed photos) incorporates the following features:

- A plastic, adjustable AR-type buttstock "anchor tube" that is designed to be installed onto the buffer tube of an AR-type firearm and, also, to house the "stabilizer bar."
- A "stock adjusting pin" to prevent linear movement of the "anchor tube" while it is installed to the buffer tube.
- Lack of any operating springs, bands, or other parts which would permit automatic firing.

Your stock is designed to allow the AR-type semiautomatic rifle mounted to it to reciprocate back and forth in a linear motion. The absence of an accelerator spring or similar component in the submitted device prevents it from operating automatically. When operated, forward pressure must be applied with the support hand to the forward handguard/fore-end of the AR-type rifle mounted to your stock, bringing the receiver assembly forward to a point where the trigger can be pulled by the firing hand. If sufficient forward pressure is not applied to the handguard with the support hand, the rifle can be fired in a conventional, semiautomatic manner since the reciprocation of the receiver assembly is eliminated.

The FTB examination of the submitted device indicates that if as a shot is fired—and a *sufficient* amount of pressure is applied to the handguard/gripping surface with the shooter's support hand—the AR-type rifle as-

sembly will come forward until the trigger re-contacts the shooter's stationary firing-hand trigger finger: Re-contacting allows the firing of a subsequent shot. In this manner, the shooter pulls the receiver assembly forward to tire each shot, each succeeding shot firing with a single trigger function.

Since this sample does not initiate an automatic firing cycle by a single function of the trigger, FTB finds that it is NOT a machine gun under the NFA, 26 U.S.C. 5845(b), or the amended Gun Control Act of 1968, 18 U.S.C. § 921(a)(23).

We caution that our findings are based on the item as submitted. Any changes to its design features or characteristics will void this classification. Moreover, we should point out that the addition of an accelerator spring or any other non-manual source of energy which allows this device to operate automatically will result in the manufacture of a "machinegun" as defined in the NFA, 5845(b).

We thank you for your inquiry and trust the foregoing has been responsive to your evaluation request. Your sample will be returned via the accompanying U.S. Postal Service label and postage.

Sincerely yours,

/s/ [ILLEGIBLE] [for]
EARL GRIFFITH
Chief, Firearms Technology Branch

U.S. Department of Justice

Bureau of Alcohol, Tobacco,
Firearms and Explosives

Martinsburg, WV 25405
www.atf.gov

[July 31, 2014]

[REDACTED] Marcotte
[REDACTED]
[REDACTED]

Dear Mr. Marcotte:

This is in reference to your sample, as well as accompanying correspondence and DVD, which was submitted to the Firearms Technology Branch (FTB), Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF). The sample, consisting of a device which hosts a semi-automatic AR-type firearm; and allows the subject firearm to "bump fire", was furnished to FTB with a request for classification under Federal firearms laws.

As you know the National Firearms Act (NFA), 26 U.S.C. § 5845(b), defines the term "**machinegun**" as—

. . . any weapon which shoots, is designed to shoot, or can be readily restored to shoot, automatically more than one shot, without manual reloading, by a single function of the trigger. The term shall also include the frame or receiver of any such weapon, any part designed an intended solely and exclusively, or combination of parts designed and intended, for sue in converting a weapon into a machinegun, and any combination of parts from which a machinegun can be assembled if

such parts are in the possession or under the control of a person.

The submitted device (also see enclosed photos) incorporates the following features:

- A non-ferrous metal frame; measuring approximately 22-1/2 inches in length, approximately 5 inches in width and approximately 2 inches in height.
- A piece of polymer measuring approximately 6 inches square and approximately 1 inch thick; attached to the rear of the BAM Simulator frame by two bolts; which has a hole configured to accept an AR-type buffer tube assembly.
- A piece of polymer, measuring approximately 6 inches long, approximately 4 inches in width and 2 inches in height incorporating a linearly centrally located dovetailed groove which is designed to accept a compatible Weaver-type rail attachment.
- The submitted item is devoid of any operating springs, bands, or other devices which would permit automatic firing.

Your item is designed to allow the AR-type semiautomatic rifle mounted to it; to reciprocate back and forth in a linear motion. The absence of an accelerator spring or similar component in the submitted device prevents it from operating automatically.

When operated, forward pressure must be applied to the rear of the buffer tube, bringing the host firearm forward to a point where the trigger can be actuated by a steel cross-bolt. If sufficient forward pressure is not

applied to the rear of the subject buffer tube, the firearm can be fired in a conventional semiautomatic manner since the reciprocation of the firearm is eliminated.

The FTB examination of the submitted device indicates that if, as a shot is fired and a *sufficient* amount of pressure is applied to the rear of the buffer tube; the AR rifle assembly will come forward until the trigger recontacts the steel cross-bolt, allowing a subsequent shot to be fired. In this manner, the shooter pushes the firearm forward to fire each shot each shot being fired by a single actuation of the trigger.

Since your device docs not initiate an automatic firing cycle by a single function of the trigger. FTB finds that it is NOT a machinegun under the NFA, 26 U.S.C. 5845(b), or the GCA, 18 U.S.C. 921(a)(23).

We caution that our findings are based on the item as submitted. **Any changes to its design features or characteristics will void this classification**. Moreover, we should point out that the addition of an accelerator spring or any other non-manual source of energy which allows this device to operate automatically; will result in the manufacture of a machinegun as defined in the NFA, 26 U.S.C. 5845(b).

We thank you for your inquiry and trust that the foregoing has been responsive to your evaluation request.

Sincerely yours,

/s/ EARL GRIFFITH
EARL GRIFFITH
Chief, Firearms Technology Branch

U.S. Department of Justice

Bureau of Alcohol, Tobacco,
Firearms and Explosives

Martinsburg, WV 25405
www.atf.gov

[June 29, 2015]

[REDACTED] Dewitt
[REDACTED]
[REDACTED]

Dear Mr. Dewitt:

This is in reference to your sample, as well as accompanying correspondence, which was submitted to the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), Firearms Technology Industry Service Branch (FTISB), for classification under Federal firearms laws. The sample—which is marked "Chuckbuster"—consists of a replacement "bump-fire" type grip assembly designed for use with a semiautomatic AR-type rifle.

As you know the National Firearms Act (NFA), 26 U.S.C. § 5845(b), defines the term "**machinegun**" as—

. . . any weapon which shoots, is designed to shoot, or can be readily restored to shoot, automatically more than one shot, without manual reloading, by a single function of the trigger. The term shall also include the frame or receiver of any such weapon, any part designed an intended solely and exclusively, or combination of parts designed and intended, for sue in converting a weapon into a machinegun, and any combination of parts from which a machinegun can be assembled if

such parts are in the possession or under the control of a person.

The submitted device (see enclosed photos) incorporates the following features:

- A plastic, three-piece housing AR type, replacement grip assembly; that is designed to be installed on an AR-type firearm.
- A "plastic insert" containing a series of grooves to allow linear movement of the "two-piece housing"; which is assembled by three screws; while it is installed to the receiver of an AR-type firearm.
- Lack of any operating springs, bands, or other parts which would permit automatic firing.

Your grip is designed to allow the AR-type semiautomatic rifle mounted to it to reciprocate back and forth in a linear motion. The absence of an accelerator spring or similar component in the submitted device prevents it from operating automatically. When operated, forward pressure must be applied with the support hand to the forward handguard/fore-end of the AR-type rifle mounted to your grip, bringing the receiver assembly forward to a point where the trigger can be pulled by the firing hand.

If sufficient forward pressure is not applied to the handguard with the support hand, the rifle can be fired in a conventional manner since the reciprocation of the receiver assembly is eliminated.

The FTISB examination of the submitted device indicates that once a shot is fired—and a sufficient amount of pressure is applied to the handguard/gripping surface with the shooter's support hand—the AR-type rifle

assembly moves forward until the trigger re-contacts the shooter's stationary firing-hand trigger finger: This re-contacting allows the firing of a subsequent shot. In this manner, the shooter pulls the receiver assembly forward to fire each shot, each succeeding shot firing with a single trigger function.

FTISB has determined your device does not initiate an automatic firing cycle by a single function of the trigger, when assembled to an AR-type rifle; therefore it is not a "machinegun" as defined in the NFA, 26 U.S.C. 5845(b), or the amended Gun Control Act of 1968, 18 U.S.C. § 921(a)(23).

We caution that our findings are based on the item as submitted. Any changes to its design features or characteristics or assembled to firearms other than described will void this classification. Moreover, we should point out that the addition of an accelerator spring or any other non-manual source of energy which allows this device to operate automatically will result in the manufacture of a "machinegun" as defined in the NFA, 5845(b).

We thank you for your inquiry and trust the foregoing has been responsive to your evaluation request.

Sincerely,

/s/ MAX KINGERY
MAX KINGERY
Acting Chief, Firearms Technology
Industry Services Branch

Enclosure

U.S. Department of Justice

Bureau of Alcohol, Tobacco,
Firearms and Explosives

Martinsburg, WV 25405
www.atf.gov

[Sept. 14, 2015]

[REDACTED] Ruble
[REDACTED]
[REDACTED]

Dear Mr. Ruble:

This refers to your recent correspondence and submission of a physical sample to the Bureau of Alcohol, Tobacco, Firearms and Explosives(ATF), Firearms Technology Industry Services Branch (FTISB), Martinsburg, West Virginia. Specifically, you ask FTISB to evaluate your prototype design and determine its classification under Federal law.

The Gun Control Act of 1968 (GCA), 18 U.S.C. § 921(a)(3), defines the term "firearm" as follows:

Additionally, the National Firearm Act (NFA), 26 U.S.C. § 5845(b), defines "machinegun" as—

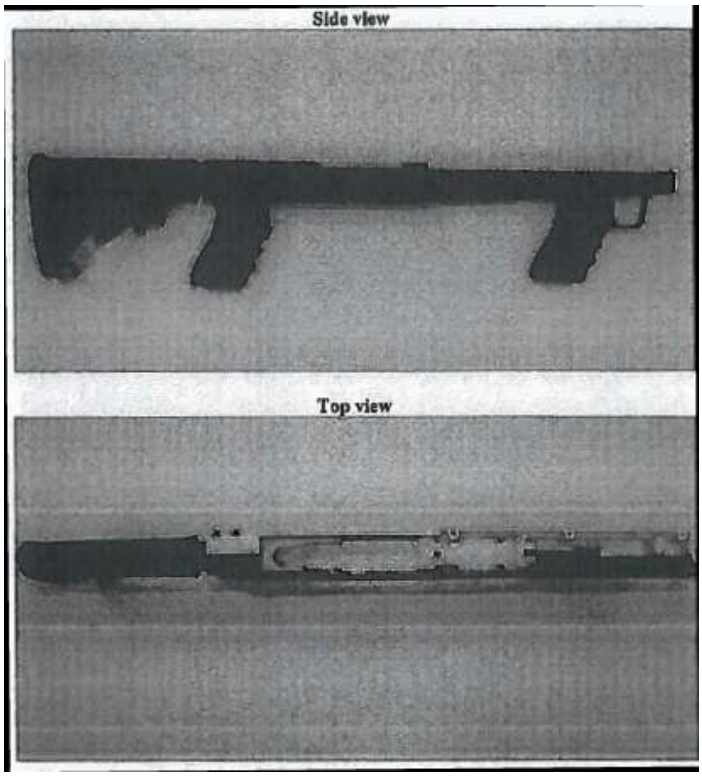
" . . . (A) any weapon (including a starter gun) which will or is designed to or may readily be converted to expel a projectile by the action of an explosive; (B) the frame or receiver of any such weapon; (C) any firearm muffler or firearm silencer; or (D) any destructive device. Such term does not include an antique firearm."

You have submitted to FTISB a prototype 3D printed 10/22-style rifle stock. This is a follow-up design from a previous submission (907020:MRC 3311/302558) that FTISB classified as a machinegun.

Your submission consists of the following components:

- Rifle stock/Gun support
- Pivot toggle
- Shuttle link
- Shuttle
- Forward actuator

You provided the prototype shown below:



Your prototype is designed in a manner that for firing requires the shooter (if right handed) to grip the forward pistol style grip with their left hand. The right hand will grip the rearward pistol grip requiring that the shooter place his/her trigger finger on the extension incorporated into the grip. The left forefinger will putt the forward actuator rearward causing the 10/22 barreled action to move forward until the Ruger 10/22 trigger contacts the shooters trigger finger and a projectile is expelled from the firearm barrel.

When a shot is fired, an intermediate amount of pressure is applied to the forward actuator with the left hand forefinger, and the barreled action via the shuttle recoils sufficiently rearward to allow the trigger to mechanically reset. Continued intermediate pressure applied to the forward actuator will then pull the receiver assembly forward until the trigger re-contacts the

shooter's stationary firing hand finger, allowing a subsequent shot to be fired. In this manner, the shooter pulls the firearm forward to fire each shot so that the action of firing is accomplished by a single trigger function. Further, each subsequent shot depends on the shooter applying the appropriate amount of forward pressure to the forward actuator and timing it to contact the trigger-finger on the firing hand.

As stated above, the NFA defines machinegun, in relevant part, as "any weapon which shoots . . . automatically more than one shot, without manual reloading, by a single function of the trigger." ATF has long held that a "single function of the trigger" is a single "pull" or a single "release" of the trigger. Therefore, a firearm that fires a single projectile upon a pull of the trigger and then fires another single projectile upon the release of that trigger would not be classified as a "machinegun" under Federal law.

Since your device is incapable of initiating an automatic firing cycle that continues until either the finger is released or the ammunition supply is exhausted. FTISB finds that it is not a machinegun as defined under the NFA, 26 U.S.C. § 5845(b), or the Gun Control Act, 18 U.S.C. § 921(a)(23).

Please be advised that our findings are based on the item as submitted. Any changes to its design features or characteristics will void this classification. Further, we caution that the addition of an accelerator spring or any other non-manual source of energy which allows this device to operate automatically as described will result in the manufacture of a machinegun as defined in the NFA, § 5845(b).

To facilitate the return of your sample, please provide FTB with the appropriate FedEx or similar account information within 60 days of receipt of this letter. If their return is not necessary, please fax FTB at (304) 616-4300 with authorization to destroy them on your behalf.

We thank you for your inquiry and trust the foregoing has been responsive to your evaluation request.

Sincerely yours,

/s/ MAX KINGERY
MAX KINGERY
Acting Chief, Firearms Technology
Industry Services Branch

U.S. Department of Justice

Bureau of Alcohol, Tobacco,
Firearms and Explosives

Martinsburg, WV 25405
www.atf.gov

[Apr. 6, 2017]

[REDACTED] Wolff
[REDACTED]
[REDACTED]

Dear Mr. Wolff:

This refers to your correspondence, and sample AR15-type "Bump Fire Stock" to the Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF), Firearms Technology Industry Services Branch (FTISB), in which you ask for a review of your sample device and if it would be regulated by the provisions of the Gun Control Act of 1968 (GCA) or the National Firearms Act (NFA).

As background to our evaluation, the amended Gun Control Act of 1968 (GCA), 18 U.S.C. § 921(a)(1), defines the term "firearm" to include *any weapon (including a starter gun) which, will or is designed to or may be readily converted to expel a projectile by the action of an explosive . . . [and] . . . the frame or receiver of any such weapon. . . .*

Further, the National Firearms Act (NFA), 26 U.S.C. § 5845(b), defines "machinegun" to mean—

. . . any weapon which shoots, is designed to shoot, or can be readily restored to shoot, automatically more than one shot, without manual reloading, by a single function of the trigger. The term shall also include the frame or receiver of any such weapon, any part designed an intended solely and exclusively, or combination of parts designed and intended, for sue in converting a weapon into a machinegun, and any combination of parts from which a machinegun can be assembled if such parts are in the possession or under the control of a person.

Your bump fire grip device consists of the following:

One AR-style pistol grip that it attached to and adjustable buttstock by a flat metal bar bent to contour to the buttstock. The pistol grip has two plastic pieces attached by small screws, one is the extension for resting your finger on while firing and the other is a shield to prevent the pistol grip from pinching the grip fingers of the firing hand.

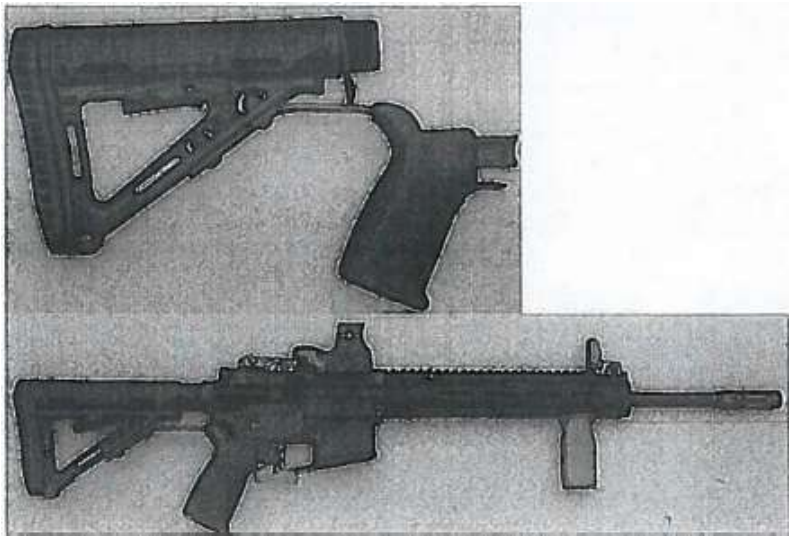
Your stock is designed to allow an AR-type semiautomatic rifle mounted to it to reciprocate back and forth in a linear motion. The absence of an accelerator spring or similar component in the submitted device prevents it from operating automatically. When operated, forward pressure must be applied with the support hand to the forward handguard/fore-end of the AR-type rifle mounted to your stock, bringing the receiver assembly forward to a point where the trigger can be pulled by the firing hand. If sufficient forward pressure is not applied to the handguard with the support hand, the rifle can be fired in a conventional, semiautomatic manner since the reciprocation of the receiver assembly is eliminated.

The FTISB examination of the submitted device indicates that if as a shot is fired—and a *sufficient* amount of pressure is applied to the handguard/gripping surface with the shooter's support hand—the AR-type rifle assembly will come forward until the trigger re-contacts the shooter's stationary firing-hand trigger finger: Re-contacting allows the firing of a subsequent shot. In this manner, the shooter pulls the receiver assembly forward to fire each shot, each succeeding shot firing with a single trigger function.

Since your device does not initiate an automatic firing cycle by a single function of the trigger, FTISB fins that it is NOT a machinegun under the NFA, 26 U.S.C. § 5845(b),or the amended GCA, 18 U.S.C. § 921(a)(23).

We caution that our findings are based on the item as submitted. Any changes to its design features or characteristics will void this classification. Moreover, we should point out that the addition of an accelerator spring or any other non-manual source of energy which allows this device to operate automatically wilt result in the manufacture of a "machinegun" as defined in the NFA, 5845(b).

Submitted device



Your device will be returned to you via your provided UPS shipping label.

We thank you for your inquiry and trust the foregoing is responsive to your request.

Sincerely yours,

/s/ MICHAEL R. CURTIS
MICHAEL R. CURTIS
Chief, Firearms Technology Industry Services Branch

To: Allen, Joseph J [**REDACTED**]
From: Griffith, Earl L.
Sent: Tue 10/3/2017 1:34:06 PM
Subject: Bump Fire Device.docx
Bump Fire Device.docx

Bump Fire Device points from emails and letters.

The operation of a bump fire device during live-fire testing indicates that if, as a shot is fired, an *intermediate* amount of pressure is applied to the fore-end with the support hand, and a shoulder stock device will recoil rearward far enough to allow the trigger to mechanically reset. Continued intermediate pressure applied to the fore-end will then push the receiver assembly forward until the trigger re-contacts the shooter's stationary firing hand finger, allowing a subsequent shot to be fired. In this manner, the shooter pulls the firearm forward to fire each shot, each shot being fired by a single function of the trigger. Further, every subsequent shot depends on the shooter applying the appropriate amount of forward pressure to the fore-end and timing it to contact the trigger finger on the firing hand.

We also say that "Since your device is incapable of initiating an automatic firing cycle that continues until either the finger is released or the ammunition supply is exhausted, FTB finds that it is NOT a machinegun under the NFA, 26 U.S.C. 5845(b), or the GCA, 18 U.S.C. 921(a)(23).

So, unless there is some self-acting mechanism that allows a weapon to shoot more than one round, you cannot have a machinegun. The spring in the Akins accelerator appears to be that mechanism. A mechanism suggests a mechanical device. This is distinguished from a quick trigger finger or shoulder exertion or pressure.

In the Olofson case it seems to support our conclusions concerning "bump firing."

"Thus defined, in § 5845(b) the adverb "automatically," as it modifies the verb "shoots; delineates how the dis-

charge of multiple rounds from a weapon occurs: as the result of a self-acting mechanism. That mechanism is one that is set in motion by a single function of the trigger and is accomplished without manual reloading."

U.S. Department of Justice

Bureau of Alcohol, Tobacco,
Firearms and Explosives

Office of Chief Counsel

Washington, DC 20226
www.atf.gov

Oct. 5, 2017

MEMORANDUM TO:
Office of the Attorney General
United States Department of Justice

FROM:
Chief Counsel
Bureau of Alcohol, Tobacco, Firearms and Explosives

SUBJECT:
Legality of "Bump-Fire" Rifle Stocks

[**Redacted**] Since 2008, ATF has issued private letter determinations to nine manufacturers of "bump-fire"-type devices advising the manufacturers that the devices submitted for review were not classified as machineguns for purposes of Federal law. These letters were issued after ATF firearm experts conducted a technical evaluation of a voluntarily submitted prototype[1] of each device to determine whether the device en-

[1] ATF does not have authority to require manufacturers to submit prototypes of firearm accessories for review to determine if the ac-

abled a semi-automatic firearm to discharge more than one shot with a single function of the trigger, and therefore fell within the statutory definition of a machinegun. The key factor in making the determination that these "bump-fire" devices did not fall within the statutory machinegun definition was whether the device artificially enhanced the rate of fire by using a mechanical feature, as opposed to facilitating a shooter's ability to physically pull the trigger at a higher rate than would be possible without the device. In the former case, the device was typically classified as a machinegun. In the latter case, it typically was not.

[**REDACTED**]

Relevant Background

As amended by the Firearm Owners Protection Act of 1986, the GCA at 18 U.S.C § 922(o) prohibits the transfer or possession of a "machinegun" except by government agencies and those lawfully possessed before May 19, 1986 and registered in the National Firearms Registration and Transfer Record (NFRTR) in accordance with the NFA, 26 U.S.C. § 5841. Unregistered machineguns are also prohibited from being possessed and transferred under the NFA, 26 U.S.C. 5861(d), (e). A "machinegun" is defined under the NFA and GCA as follows:

> [A]ny weapon which shoots, is designed to shoot, or can be readily restored to shoot, automatically more than one shot, without manual reloading, by a single function of the trigger. The term shall also include the frame or receiver of any such weapon, any part

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cessory should be classified as a firearm subject to federal regulation.

> designed and intended solely and exclusively, or combination of parts designed and intended, for use in convening u weapon into a machinegun, and any combination of parts from which a machinegun can be assembled, if such parts are in the possession or under the control of a person.

26 U.S.C. § 5845(b); 18 U.S.C. § 921(a)(23); *see also* 27 C.F.R. § 478.11 (stating same).

In August of 2003, a prototype of a device called the "Akins Accelerator" was submitted to ATF for classification.[2] Initially, ATF classified that device as a non-machinegun, which was consistent with a 1989 evaluation or a firearm with a "two-stage trigger," *(i.e.,* causing a shot to be fired when the trigger was depressed and a shot tired when the trigger was released). ATF had determined such firearms were not machineguns because the phrase "single function of the trigger" meant a single *movement* of the trigger; the two-stage trigger moved twice. However, after a subsequent test fire, ATF determined the Akins device converted a semiautomatic rifle into a weapon capable of firing automat-

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[2] The Akins Accelerator was an accessory firearm stock that, once attached to a Ruger 10/22 semiautomatic rifle, accelerated the rifle's rate of fire. The shooter pulled the trigger one time, which imitated an automatic firing sequence that causes the rifle to recoil within the stock permitting the trigger to lose contact with the finger and manually reset, springs then force the rifle forward in the stock, forcing the trigger against the finger, causing the weapon to auto automatically discharge the ammunition until the shooter released the trigger or the ammunition is exhausted. Put another way, the device caused the firearm to cycle back and forth, impacting the trigger finger—which remained stationary—and firing the firearm automatically. The advertised rate of fire for a weapon with the Akins Accelerator was 650 rounds per minute.

ically by a single function of the trigger and was, therefore, a machinegun. ATF's classification letter stated, "it is the position of this agency that conversion parts that are designed and intended to convert a weapon into a machinegun, that is, one that will shoot more than one shot, without manual reloading, by a single *pull* of the trigger, are regulated as machineguns under the National Firearms Act and the Gun Control Act." Simply put, the device was a machinegun because once the trigger was pulled, the firearm continued to shoot until the trigger pressure was removed or the ammunition was exhausted.

Concerned about the public safety implications if these devices were sold without oversight, ATF issued Ruling 2006-2, which holds that trigger activating devices that require only one pull of the trigger to initiate a repeating cycle of lire, such as the Akins Accelerator, are properly classified as machineguns. The Ruling explained that these devices were machineguns because they are parts designed and intended to convert a weapon into a machinegun, *i.e.,* a weapon that will shoot automatically more than one shot, without manual reloading, by a single function of the trigger. The Ruling cited legislative history of the NFA as authority for equating the phrase "single function or the trigger" with "single pull of the trigger.[3]

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[3] Hearings before the Committee on Ways and Means, House of Representatives, 73rd Cong., Second Sess. on H.R. 9066 at 40 (1934) ("The distinguishing feature of a machine gun is that by a single pull of the trigger the gun continues to fire as long as there is any ammunition in the belt or the magazine. Other guns require a separate pull of the trigger for every shot fired, and such guns are not properly designed as machine guns"); *see also Staples v. United*

Mr. Akins then sued ATF, and ultimately the Eleventh Circuit upheld ATF's classification of this device, explaining as follows:

> A machinegun is a weapon that fires "automatically more than one shot, without manual reloading, by a single function of the trigger." 26 U.S.C. § 5845(b). The interpretation by the Bureau that the phrase "single function of the trigger" means a "single pull of the trigger" is consonant with the statute and its legislative history. After a single application of the trigger by a gunman, the Accelerator uses its internal spring and the force of recoil to fire continuously the rifle cradled inside until the gunman releases the trigger or the ammunition is exhausted. Based on the operation of the Accelerator, the Bureau had authority to "reconsider and rectify" what it considered to be a classification error. That decision was not arbitrary and capricious.

Akin v. United States, 312 F. App'x 197, 200 (11th Cir. 2009).

In contrast, in 2008, ATF had examined a shoulder-stock device that relied on the shooter to apply forward pressure on the fore-end of the firearm and timed to contact the trigger finger on the firing hand. ATF concluded that this device wasn't a machinegun because it was "incapable of initiating an automatic firing cycle that continues until either the finger is released or the ammunition supply is exhausted." Similarly, in 2010,

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States, 511 U.S. 600, 600 (1994) ("The National Firearms Act criminalizes possession of an unregistered "firearm." 26 U.S.C. § 5861(d), including a 'machinegun,' § 5845(a)(6), which is defined as a weapon that automatically fires more than one shot with a single pull of the trigger, § 5845(b).").

ATF examined a replacement shoulder stock for the AR-15 type rifle that stated intent or which was to assist persons whose hands have limited mobility to "bump-fire"" an AR-15 rifle. ATF concluded that this device was *not* a machinegun because, unlike the springs in the Akins Accelerator, it had "no automatically functioning mechanical parts or springs and performs no automatic mechanical function when installed." The classification further explained that, in order to use the installed device, "the shooter must apply constant forward pressure with the non-shooting hand and constant rearward pressure with the shooting hand."

Analysis

[**REDACTED**]

[**REDACTED**]

[**REDACTED**]

[**REDACTED**]

[**REDACTED**]

If you have any questions, I can be reached at 202-648-[**REDACTED**]

[**REDACTED**]

Charles R. Gross

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[4] *Cf U.S. v. Olofson*, 563 F.3d 652, 658 (7th Cir. 2009) ("Thus defined in § 5845(b) the adverb "automatically," as it modifies the verb "shoots," delineates how the discharge of multiple rounds from a weapon occurs as the result of a self-acting mechanism. That mechanism is one that is set in motion by a single function of the trigger and is accomplished without manual reloading.")

To: Griffith, Earl L. **[Redacted]** Kingery, Max M. **[Redacted]** Curtis, Michael R. [**Redacted**] Richardson, Marvin G. **[Redacted]** Gilbert, Curtis W. **[Redacted]**
Cc: Allen Joseph J. **[Redacted]**
From: Powell, Michael
Sent: Wed 10/11/2017 12:39:17 PM
Subject: Vasquez' Slide Fire Analysis Position Paper
Vasquez_Slide_Fire_Analysis.pdf

In case you haven't already seen this.

Please see attachment.

R/s,

Michael C. Powell
Firearms Technology Specialist
Firearms & Ammunition Technology Division
Bureau of Alcohol, Tobacco, Firearms & Explosives
244 Needy Road
Martinsburg, WV 25405
Office: (304) 616- **[REDACTED]**
Fax: (304) 616-4301

Slide Fire Analysis
Rick Vasquez

When ATF makes a classification on any device, pan, or firearm, the classification is based on the definitions in the Gun Control Act (GCA) and the National Firearms Act (NFA). Also, classifications are based on any previous Rulings or court decisions based on the GCA and the NFA.

The task of making evaluations is relegated to the Firearms Technology Branch (FTB). As the senior Technical Expert for ATF it was my role to render an opinion or concur or disagree with opinions rendered by technicians of the FTB. In relation to the Slide Fire examination, since it was submitted as a device that would enhance the rate of fire of an AR type firearm, the predominant definition used by FTB for classification was the definition of a machinegun

The complete definition of a machinegun is as follows:

As defined in 26 United States Code, Chapter 53, section 5845(b) ***Machinegun.*** *The term '**machinegun**' means any weapon which shoots, is designed to shoot, or can be readily restored to shoot, automatically more than one shot, without manual reloading, by a single function of the trigger.* The term shall also include the frame or receiver of any such weapon, *any part designed and intended solely and exclusively,* or combination of parts designed and intended, for use in converting a weapon into a machinegun, and any combination of parts from which a machinegun can be assembled if such parts are in the possession or under the control of a person.

The first sentence of the definition of a machinegun *designed to shoot, or can be readily restored to shoot, automatically more than one shot, without manual reloading, by a single function of the trigger,"* is the basis for the determination that a slide fire stock is not a machinegun. Additionally, it was not classified as, *any part designed and intended solely and exclusively,* or combination of parts designed and intended for use in converting a weapon into a machinegun, a conversion device.

Another key component in determining what should be classified as a machinegun is understanding what a single function of the trigger is. Pulling and releasing of the trigger is two functions. The single function is pulling the trigger straight to the rear and causing a weapon to fire. If a shooter initially pulls and holds the trigger to the rear and a firearm continues to shoot continuously, that is a firearm shooting more than one shot with the single function of a trigger. This is critical to understanding why or why not a firearm is classified as a machinegun.

The Slide Fire does not fire automatically with a single pull/function of the trigger. It is designed to reciprocate back and forth from the inertia of the fired cartridge. When firing a weapon with a Slide Fire, the trigger finger sits on a shelf and the trigger is pulled into the trigger finger. Once the rifle fires the weapon, due to the push and pull action of the stock and rifle, the rifle will reciprocate sufficiently to recock and reset the trigger. It then reciprocates forward and the freshly cocked weapon fires again when the trigger strikes the finger on its forward travel.

After lengthy analysis, ATF could not classify the slide fire as a machinegun or a machinegun conversion device, as it did not fit the definition of a machinegun as stated in the GCA and NFA.

Method of Evaluation:

An item that has been submitted for classification is logged in and assigned to a firearm enforcement officer (technician) for evaluation and classification. A tracking number is assigned and it awaits its place in the queue.

The following are procedures for how items were evaluated when I was a member of the Firearms Technology Branch. There may have been changes to those processes so I can only speak to the processes during the timeframe that I was employed at FTB.

Firearms and firearm-related accessories are submitted to the FTB for analysis from the public and firearms industry. The item is generally accompanied by a letter of request on how the submitter wants the item to be classified as. There are many categories or classification. For example: Is it an importable firearm? Is it a sporting firearm? Will it shoot automatically and be classified as a machinegun? Does a component fit the definition of an accessory or a firearm, and so forth.

Housed in the FTB are Standard Operation Procedures (SOPs) that memorialize the method of evaluation for most things that are submitted. Once a technician begins the evaluation, he will follow these SOPs in his evaluation. Many of the items submitted are redundant and have been seen time and time again. These items are reviewed and approved by the supervisor and the evaluation is over. For example, handguns for importation have a factoring criteria that must meet certain points to be imported.

Items such as the Slide fire bump Fire stock is a device that would have had additional scrutiny, especially since a device of this nature had not been previously approved. Once again, any evaluation is based on the definitions held in the GCA, NFA, previous opinions and rulings. These laws were implemented by Congress. Rulings and opinions were authored by council with input from the Department of Treasury and the Department of Justice.

The definition of a machinegun as stated above was used for the foundation of the classification of the Slide Fire and it did not meet the definition of a machinegun.

This opinion was sent to Chief Counsel and higher authority for review. After much study on how the device operates, the opinion, based on definitions in the GCA and NFA, was that the Slide Fire was not a machinegun nor a firearm, and, therefore, did not require any regulatory control.

Conclusion:

The methodology of evaluation listed above has been condensed for the reader. ATF is tasked with making classifications of items based on the GCA and NFA. Personal opinions are not tolerated in the classification process. The Slide Fire bump fire stock was properly classified in accordance with the definitions codified in 1968 in the GCA and Title II of the GCA which is the NFA.

Rick Vasquez
Former Assistant Chief and Acting Chief of the Firearms Technology Branch Firearms Consultant and Security Advisor

ATF Association

Oct. 12, 2017

Representative Carlos Curbelo
U.S. House of Representatives
1404 Longworth H.O.B.
Washington DC 20515

Representative Curbelo,

The ATF Association consists of current and former employees of the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) and is supported by organizations and citizens across the country. Recently, some have attempted to cast blame on ATF for not banning devices like the "bump slide"' used in the Las Vegas shootings. We would like to clarify this confusing issue to protect honorable ATF employees from false allegations that they chose to make this item legal when it was the law that prohibited them from regulating the item. We also hope this information will assist you in a better understanding of this issue.

The National Firearms Act of 1934, Title 26 U.S.C. 5845(b) defines a "machine gun" as any combination of parts designed and intended for use in converting a weapon **to shoot automatically more than one shot**, without manual reloading, **by a single function of the trigger**. ATF also holds that any item that can cause a firearm to fire more than one shot by the single function of the trigger is also regulated as a machinegun.

The Las Vegas killer used a "'bump slide" accessory that attaches to the stock of a semi-automatic rifle and enhances the rate at which the shooter can pull the trigger on the firearm. This increases the rate of fire close to that of an actual machine gun. **However, under the current law, it does not make it a machinegun**.

The **bump slide** and several other similar after-market accessories that increase the rate at which a shooter can pull the trigger are **engineered to avoid regulation under Federal law**. These accessories DO NOT cause the firearm to shoot more than one shot by the single function of a trigger pull. The notion that ATF chose not to regulate an item it had the authority to regulate is false. **The law is very clear and it does not currently allow ATF to regulate such accessories**.

In the past, ATF has reviewed accessories that DID cause a semi-automatic rifle or pistol to fire more than one shot with a single pull of the trigger, such as the Lightning Link, the Atkins Accelerator and other "Drop in Sears" which cause semi-automatic rifles to function as machine guns. ATF makes rulings based on the statutory authority contained in law and **cannot change the law** to add new accessories that do not fall within the scope of existing law. A link to many of these ATF rulings can be found at the following link: https://www.atf.gov/firearms/docs/atf-national-firearms-act-handbook-appendix-b/download.

If it is determined that bump slides and similar devices should be regulated, one way it would be accomplished is to support adding a new category to the National Firearms Act of 1934 allowing for the regulation of multi-burst trigger activators". California and New York already regulate such items. The new category of

Federal law would encompass other accessories on the market that make semi-automatic rifles fire like a machine gun but are engineered in a way to avoid regulation under current Federal law. These are commonly available for sale in firearms stores and on websites such as Rapidfiretriggers.net and Rockinlock.com.

We hope you will support legislation to regulate these multi-burst trigger activators. As noted, the National Firearms Act of 1934 works well with the items that it regulates. We also hope you will not allow the honorable employees of ATF, who followed existing law in their bump stock ruling, to be falsely accused of not doing their job by those who seek to exploit the situation for political gain.

Thank you for time and attention. I look forward to your response.

Sincerely,

/s/ MICHAEL R. BOUCHARD
MICHAEL R. BOUCHARD
President, ATFA

To: Allen, Joseph J. **[Redacted]**
Cc: Gross, Charles R. [Charles.Gross@atf.gov]
From: Brandon, Thomas E.
Sent: Fri 11/10/2017 12:51:16 AM
Subject: Re: moving ahead on bump stocks

10-4, Joe

Sent from my iPad

On Nov 9, 2017, at 7:43 PM, Allen, Joseph J. **[Redacted]** wrote:

> No response yet.
>
> **From:** Allen, Joseph J.
> **Sent:** Thursday, November 9, 2017 6:23 PM
> **To:** Barnett, Gary E. (OAG) (JMD) **[Redacted]** **[Redacted]**
> **Subject:** FW: moving ahead on bump stocks
>
> Gary, Per our discussion today, Acting Director Brandon has directed ATF staff to develop a proposed rule for the regulation bump-stocks. On the advice of Chief Counsel as outlined in the attached emails, he is requesting that the Department provide an informal written summary to assist in the development of that rule.
>
> I am available to discuss at your convenience.
>
> Thank you, Joe

From: Brandon, Thomas E.
Sent: Thursday, November 9, 2017 6:11 PM
To: Gross, Charles R. Charles.Gross@atf.gov; Allen, Joseph J. **[Redacted]**
Subject: Fwd: moving ahead on bump stocks

Chuck,

Thank you for your evaluation and recommendation. I concur.

Joe,

As discussed, I have advised Chief Counsel Gross and other senior executives that the Department has reached a decision that ATF is to move forward with the issuance of a regulation on bump-stocks. At my direction, you have consulted with the Deputy Attorney General's Office as to implementation of this decision. As a result of that consultation, you hve advised me that ATF is to execute the decision ASAP.

Please communicate to OAG by forwarding this email that I have directed ATF personnel to expeditiously execute that decision. To allow ATF to efficiently, effectively, and timely accomplish this objective, please also request that the Department provide me with an informal written summary outlining the basis for OLC's conclusion that the statue allows for further regulation.

ATF is totally committed to public safety and this undertaking is being executed under that umbrella.

Thanks,
Tom

Sent from my iPad

Being forwarded message:

From: "Gross, Charles R." <Charles.Gross@atf.gov>
Date: November 9, 2017 at 5:18:03 PM EST
To: "Brandon, Thomas E." <Thomas.Brandon@atf.gov>
Subject: **moving ahead on bump stocks**

Sir:

I understand that we are expected to move forward with the regulation of bump stock devices, relying upon the legal analysis performed by OLC that concluded there was a path forward under the applicable law. I also understand that we will not be getting either a formal or informal opinion from OLC articulating its analysis of the relevant statutory language. **[REDACTED]** we ask OLC for a statement of its conclusion that a path forward exists, and a written summary of it's analytical framework.

V/r

Chuck

To: Gross, Charles R. [Charles.Gross@atf.gov]; Allen, Joseph J. **[REDACTED]**
From: Thomas.Brandon@atf.gov
Sent: Thur 11/9/2017 10:23:39 PM
Subject: Re: moving ahead on bump stocks

Chuck,

Much thanks for your email and I agree with you.

Joe,

Please ask: "OLC for a statement of its conclusion that a path forward exists, and a written summary of it's analytical framework.

Thanks,

Tom

Sent from my iPad

On Nov. 9, 2017, at 5:18 PM, Gross, Charles R. [Charles.Gross@atf.gov] wrote:

> Sir:
>
> I understand that we are expected to move forward with the regulation of bump stock devices, relying upon the legal analysis performed by OLC that concluded there was a path forward under the applkab1e raw. I also understand that we will not be getting either a formal or informal opinion from OLC articulating its analysis of the relevant statutory language. **[REDACTED]** we ask OLC for a statement of its conclusion that a path forward exists, and a written summary of it's analytical framework.
>
> V/r
>
> Chuck

7949
Federal Register
Vol. 83, No. 37
Friday, February 23, 2018
Presidential Documents

Title 3—

The President

Memorandum of February 20, 2018

Application of the Definition of Machinegun to "Bump Fire" Stocks and Other Similar Devices

Memorandum for the Attorney General

After the deadly mass murder in Las Vegas, Nevada, on October 1, 2017, I asked my Administration to fully review how the Bureau of Alcohol, Tobacco, Firearms and Explosives regulates bump fire stocks and similar devices.

Although the Obama Administration repeatedly concluded that particular bump stock type devices were lawful to purchase and possess, I sought further clarification of the law restricting fully automatic machineguns.

Accordingly, following established legal protocols, the Department of Justice started the process of promulgating a Federal regulation interpreting the definition of "machinegun" under Federal law to clarify whether certain bump stock type devices should be illegal. The Advanced Notice of Proposed Rulemaking was published in the Federal Register on December 26, 2017. Public comment concluded on January 25, 2018, with the Department of Justice receiving over 100,000 comments.

Today, I am directing the Department of Justice to dedicate all available resources to complete the review of the comments received, and, as expeditiously as possible, to propose for notice and comment a rule banning all devices that turn legal weapons into machineguns.

Although I desire swift and decisive action, I remain committed to the rule of law and to the procedures the law prescribes. Doing this the right way will ensure that the resulting regulation is workable and effective and leaves no loopholes for criminals to exploit. I would ask that you keep me regularly apprised of your progress.

You are authorized and directed to publish this memorandum in the *Federal Register*.

/s/ DONALD TRUMP
DONALD TRUMP

THE WHITE HOUSE
Washington, February 20, 2018

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

No. 1:19-CV-00349-DAE

MICHAEL CARGILL, PLAINTIFF

v.

WILLIAM BARR, IN HIS OFFICIAL CAPACITY AS ATTORNEY GENERAL OF THE UNITED STATES, ET AL., DEFENDANTS

Sept. 9, 2020

Transcript of Bench Trial
Before the Honorable David A. Ezra
Senior United States District Judge

APPEARANCES:

FOR THE PLAINTIFF:

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Mark Chenoweth, Esquire
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FOR THE DEFENDANTS:
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Matthew James Glover, Esquire
Christopher Alan Bates, Esquire
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Washington, DC 20003
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[48]

* * * demonstrate just how fast somebody can fire a semi-automatic weapon.

(*Video playing.*)

In this next little section, you'll have a good view from the side. And if you watch his trigger finger, his trigger finger is going back and forth for every single shot, but that is quite fast.

MR. SOSKIN: I would note for the record at this point that although Mr. Smith's exhibit is demonstrative, there is in the administrative record comments that were submitted by various commenters on the notice of proposed rule making directing the government's attention to Mr. Miculek, whose name I'm also butchering, and videos such as the one—

THE COURT: Quite frankly, maybe there's a reason for this, but it seems to me—now, I happen to be familiar with semi-automatic, automatic weapons because of my military background in both the Marine Corps and the Army, but there may well be some judges and I say this with respect because, you know, there's a lot of professional—some of the most highly qualified professional people in the world who aren't carefully familiar with firearms who may not be. I don't see why

these undisputed videos for both the defense and the government shouldn't be admitted.

MR. SOSKIN: Your Honor, that goes to the government's position that this is a matter for review on an administrative [49] record and so that the appropriate actual matters in evidence should be either the contents of that administrative record, otherwise they are simply background information that the agency was familiar with.

THE COURT: Well, my concern is that I would love to have the Appellate Court be in a position to view these videos for—I mean, is there any objection to the Appeals Court looking at these for familiarity purposes, if nothing else? I have no authority to admit something or tell the Appeals Court what to look at or what not to look at, that's for sure, but for instance, the difference between a semi-automatic and how the bump-stock fires semi-automatic verses automatic. These videos would be very instructive for someone who may be a hunter and use a hunting rifle, but I don't know many people who hunt with automatic weapons, at least not legally in the United States, so—

MR. SOSKIN: Your Honor, as a jurist who is familiar with firearms, we believe the Court could take judicial notice that a video such as the one linked here is illustrative of the background principles that Mr. Smith described, but we would hew to our position that the appropriate way of reviewing plaintiff's challenge in this case—

THE COURT: I don't deny that, I understand what your position is. I'm just saying that I would like to see these videos be made available for the Court of Appeals to look at.

* * * * *

[65]

* * * mentioned, isn't that right?

A. Yes, it has two springs that press the fire control mechanism and receiver back forward inside the stock.

Q. And so when you're using an Akins device on a—and you mount it the same way, don't you, you mount it on a semi-automatic firearm like an AR15?

A. Yes, the one that I examined was actually mounted on a Ruger 1022.

Q. And so the device, Akins device is mounted on the semi-automatic and it's a shoulder stock just like the Slide Fire, right?

A. Yes, sir.

Q. And when the shooter fires it, the recoil of the firearm drives it back towards the shooter's arm, right?

A. Yes. When the shooter pulls the trigger, the way the Akins type device works is the stock is pressed into the shoulder, pull on the trigger, that will actually initiate the firing sequence. The receiver and fire control mechanism will under recoil slide back into the stock and the two springs will actually drive the trigger mechanism and receiver back forward into the shooter's trigger finger. So you actually only need one hand to fire and it will continue to fire until you remove your trigger finger from the trigger guard or it runs out of ammunition.

Q. So instead of having to push forward with the non-shooting [66] hand, the springs drive the device—the weapon forward, isn't that right?

A. That is correct.

Q. The Slide Fire obviously does not have a spring, right?

A. That is correct.

Q. And so that's what you mentioned about the pushing forward with the non-shooting hand, right?

A. Correct.

Q. That is the primary distinction between those two devices?

A. Yes.

Q. Okay. You testified earlier about the operation of a machine gun, right?

A. Yes.

Q. And what we normally think of as a machine gun are things like what Judge Ezra mentioned, Browning automatic rifle, Thompson submachine gun, right?

A. Those are types of machine guns, yes, sir.

Q. Now, you understand that a weapon's trigger can be initiated in more than one way, right, not just pulling the trigger, is that fair?

A. Yes, there are multiple ways of initiating that cycle of operations. Like an aircraft, it's a trigger on a joystick, for some long-range precision firearms you enter a key on a keyboard, for artillery pieces it's similar, there's an enter key or lanyard, it may not necessarily be a physical trigger [67] that you're pulling.

Q. And when you say—when you understand the term "single function of a trigger", that's what you're refer-

encing, the way the trigger mechanism is initiated, is that fair?

A. Yes.

Q. Now, a machine gun is a device that will require once there's an initial input it will fire until it's out of ammunition without an additional input, isn't that right?

A. It may require continued input. As I showed in the M16 video, the shooter has to continue to pull the trigger. Of course, if they release the trigger, that would be another input to stop the cycle of operation.

Q. There are some machine guns, though, that don't require any additional input, right?

A. That is correct.

Q. Like you mentioned, there are some that are button operated, you hit the button and they just fire?

A. Correct. You hit the button, it will fire until you either run it out of ammunition, it malfunctions or you do another input, another press of a button to stop it from firing.

Q. And the semi-automatic firearm is one that needs additional input between rounds, isn't that right?

A. Correct. As I mentioned and as I showed with the AR15, most semi-automatic firearms have some sort of disconnect so that they will not continue to fire until the shooter does some [68] sort of secondary input.

Q. And so when you were looking earlier at the AR15 when it was semi-automatic firearm, if the shooter pulls back on the trigger lever—

A. Yes.

Q. —it will fire once, right?

A. Correct, because the hammer will catch on the disconnecter.

Q. And if the shooter continues to hold the trigger, doesn't release it, it will not fire again, right?

A. Correct, it should not.

Q. And that it does so mechanically and that's the animation you showed us, right?

A. That is correct.

Q. Now, I noticed on your CV the course where you received training on historic firearms. Do you recall that course?

A. Yes.

Q. And one of the firearms you received training on is actually the Gatling gun, right?

A. Correct.

Q. Gatling gun is a weapon, and correct me if I'm wrong here, where the shooter turns a crank basically and it fires repeatedly, is that accurate?

A. It depends on the type of Gatling gun. For some types that is correct.

Q. Okay. And a Gatling gun is not a machine gun, isn't that [69] right?

A. I don't believe I'm here to testify as far as actual classifications.

Q. Well, are you aware of what the ATF has classified a Gatling gun?

A. Some Gatling guns are not classified as machine guns, they are classified as firearms.

Q. And the reason they're not classified as machine guns is because—and I'm talking about the mechanical crank here, you have to turn the crank and every time you turn the crank it advances another round, isn't that right?

A. Yes.

THE COURT: Gatling gun covers a huge range of weapons.

MR. KRUCKENBERG: Yes.

THE COURT: Are you talking about the kind of Gatling gun they had in the 1860s and '70s where it was on a big wheel cart and you would turn the crank or are you talking about a modern Gatling gun you can find in the Army arsenal, the Marines, the Air Force has them on jets? They can fire thousands of rounds a minute. There's even something called a mini gun.

MR. KRUCKENBERG: Yes, Your Honor. And I think I'm making that distinction.

Q. Mr. Smith, so we're clear, when I reference the Gatling gun [70] that's what I'm talking about, the old trigger crank with the entire barrel—that has multiple barrels and they turn.

THE COURT: Because the old Gatling gun didn't fire actually very fast.

MR. KRUCKENBERG: Yes, Your Honor.

THE COURT: It just didn't. I'm not offering evidence here, but I think I can take judicial notice, I don't think anybody would object. I mean when you were

cranking, that thing was dut-dut-dut-dut-dut-dut-dut. You could fire faster with a Spencer repeating rifle.

MR. KRUCKENBERG: I think we saw, Your Honor, you can fire faster with a pistol if you're Mr. Jerry Miculek.

THE COURT: I think the witness would agree with me that an old style 1850 or 1860s Gatling gun—

THE WITNESS: Yes, the way those operate is as you turn the crank, it actually rotates the barrel and in rotating the barrel the bolt actually runs on a slide within the receiver. So what actually happens is as you rotate the barrel, the bolt comes back, extracts ejects the current cartridge. As it continues to rotate, it will strip the next cartridge out of the magazine and as it goes all the way forward it has a trip already set in the receiver so that as it locks it will fire that next round.

Again as you rotate, turn the crank, it will remove that bolt, pull it back, extract, ejects and as it goes forward it [71] will strip the next cartridge and when it gets forward and is locked into place it will trip the firing mechanism and fire the next round.

BY MR. KRUCKENBERG:

Q. You mentioned something on your direct examination called on auto sear, isn't that right?

A. Yes, sir. M16 has an auto sear in it.

Q. That is a mechanical part of a machine gun, some machine guns, that allows the weapon to continuously fire, isn't that right?

A. Correct. It is the mechanical piece that allows it to continue to fire automatically without further input from the shooter.

Q. And what it allows is when the shooter pulls back on the trigger mechanism, engages the trigger, it allows the firing pin to continuously strike another round, isn't that right?

A. Mechanically what it does is it allows the hammer to interact with the auto sear instead of interacting with the disconnecter. The disconnecter would keep it from shooting a second round without the actual red part, the mechanical trigger being released and then pulled again. What it does, it allows that hammer to be caught on an auto sear and as the bolt comes home and locks, the rear of the bolt carrier trips it so that the hammer falls, hits the firing pin, ignites the primer and repeat the cycle of operation.

[72]

Q. You agree that the rate of fire of a weapon does not determine whether or not it is a machine gun, isn't that right?

A. That is correct.

Q. And that's why we watched the video earlier of the shooter who can fire a semi-automatic very quickly, right?

A. That is correct.

Q. Now, just talking about the Slide Fire itself, it's a basically a piece of plastic, isn't that right?

A. It's several pieces of plastic and rubber yes, sir.

Q. And as you mentioned, there are no internal springs in the Slide Fire, right?

A. Not in the one I examined and not described in any of the patents I examined.

Q. And it has no other mechanical components to it, does it?

A. It has the slideway that attaches where the pistol grip would go and then the chassis system to which everything else attaches.

Q. And you'll agree with me that when you install a Slide Fire on a semi-automatic firearm, you don't change any of the trigger mechanisms, the auto sear or the hammer or anything like that, is that correct?

A. Correct.

Q. And so it doesn't remove a semi-automatic firearm's disconnecter, right?

A. Correct, it does not.

[73]

Q. And it doesn't add an auto sear, right?

A. No, it does not.

Q. And so—I'll move on.

Now, you agree with me also that the ATF previously examined the Slide Fire device and issued a classification, right?

A. Yes, it did.

Q. And the original classification was that a Slide Fire was not a machine gun, right?

A. The original classification I believe was that it was an accessory.

Q. Now, the ATF's current understanding is that the Slide Fire device itself is a machine gun, isn't that right?

A. I'm not here again to give technical classifications. Under the current rules and regulations as I understand them, yes, it would be.

Q. And that's independent of whether it's attached to another firearm, isn't that right?

A. Correct. Under my current understanding of the rules and regulations, it's an accessory designed and intended to convert a semi-automatic weapon to fire automatically.

Q. Mr. Smith, I'm going to show you a video that's been admitted as Plaintiff's Exhibit Two. And before we get into it, Mr. Smith, have you seen this video before?

A. From that screen, I don't know if I have or not.

[74]

Q. Can you see the video in front of you?

A. Yes, I can.

(*Video playing.*)

Q. So Mr. Smith, I'm going to stop the video here for about 12 seconds in and we're looking at an AR15 type rifle, isn't that right?

A. It would appear so.

Q. And looking at this video, it also appears that there is a Slide Fire bump-stock attached to that rifle, isn't that right?

A. Yes, sir.

Q. And if you look at the stock itself, if you look at the shooter's cheek here, if you look down, you can see what's called the selector knob, isn't that right?

A. Yes, sir.

Q. One of the features of the Slide Fire is that it has a knob on the stock that allows the shooter to either lock it in place or unlock it, isn't that right?

A. On some of the later versions, yes, sir.

Q. And when you lock it in place, the stock operates just like a normal semi-automatic firearm, isn't that right?

A. Yes, as long as you do not engage the finger rest.

Q. And when you unlock it, the Slide Fire slides back and forth, right?

A. The receiver and upper assembly slide back and forth inside the Slide Fire chassis system, yes.

[75]

Q. And that is essentially how a bump-stock works is it allows this sliding back and forth while they're shooting, isn't that right?

A. Yes.

Q. Hence the name Slide Fire, right?

A. I believe so, I don't have any evidence as to exactly how they came up with the name.

Q. Fair enough. So if we look at this video, this is a high-speed video showing the stock in the locked position. And you'll agree with me looking at this video this is a normal semi-automatic fire, isn't that right?

(*Video playing.*)

A. Yes, sir, you can see that he has to move his trigger finger forward to allow the trigger to reset before he fires again.

Q. So we're at about 36 seconds into this video and there's a close-up here on what's happening with the trigger finger, do you see that?

A. Yes, sir.

Q. So you'll agree with me that the shooter here is he's pulling the trigger and when he pulls the trigger it—the gun fires a round, right?

A. Yes, sir.

Q. And just as that's happening, you can actually see the magazine is transparent, you can see another round coming up, [76] isn't that right?

A. Yes. You can see the bolt go to the rear, you can see it extract, eject, you can see it chambering the next round.

Q. And if you look at his trigger finger, we can see he's pulling back on the trigger and then we see at some point his finger coming forward and the trigger mechanism reset. And if you look at I think it was 104, again this is a high-speed camera, you actually see his finger bounce, can't we? I'll play it again.

(*Video playing.*)

Did you see his finger bounce when it came back?

A. Yes, as he released it, you can see that his trigger finger moved.

Q. And that would be what happens when the trigger mechanism is resetting, isn't that right?

A. Yes, the trigger actually has to pivot on the trigger pin and actually move forward to reset onto the sear surface with the hammer.

Q. And for the firearm to reset like that, his finger has to come out of contact or he has to release the trigger, doesn't he?

A. He has to allow the trigger to move forward a certain amount.

Q. Because if he just holds it back, it won't reset?

A. Correct, if he continues to hold it back, the hammer will [77] stay on the disconnecter until he allows the trigger to rotate forward a certain amount.

Q. I'm going to fast forward this video a little bit.

(*Video playing.*)

I'm going to stop the video here, we're at about three minutes and 19 seconds into the video. This shows, according to the video, bump fire intended use, do you see that?

A. Yes, sir, I see it on the left-hand corner.

Q. And we just watched a very brief clip that appeared to be bump fire, isn't that right?

A. I honestly didn't catch enough of it.

Q. Let me go back slightly so that you can see it. Looking at the video, we're about 2:20 now and it's again high-speed image, you'll agree with me that that is bumped firing that we're seeing?

A. Yes, sir.

Q. And this is what happens when the shooter now has unlocked the stock and allows it to operate as a bump-stock, right?

A. Yes, sir.

Q. And if we're looking at the mechanism here, this is somewhat similar to the video you showed of yourself firing a Slide Fire, right?

A. Yes, sir.

Q. So we look at his non-shooting hand, in this case his left hand, it's on the barrel, right?

[78]

A. It's on the fore grip, yes.

Q. On the fore grip. And you'll agree with me he's pushing forward with his hand on the fore grip, right?

A. Yes, sir.

Q. And as we watch the video, here is a close-up at 3:35, we can see the trigger mechanism, right?

A. Yes, sir. You can see the trigger.

Q. So let me play the video briefly.

(*Video playing.*)

So at 3:47 we have another angle and I'm going to stop it here. Here in this video, we can see the trigger ledge, right?

A. Yes, the finger rest.

Q. The finger rest. And we see the shooter's trigger finger is resting on that rest, right?

A. Yes, sir.

Q. That's one of the parts of the Slide Fire?

A. That is correct.

Q. When the weapon fires and the recoil drives the weapon back and slides back into the shooter's shoulder, his trigger finger loses contact with the trigger lever, doesn't it?

A. Yes, it does.

Q. And that creates some amount of space between the trigger lever and the shooter's trigger finger, right?

A. Correct.

Q. And that is what allows the trigger mechanism to reset, [79] right?

A. Yes. As I said, the firing sequence is initiated by pressing forward on the secondary grip with the shooter's trigger finger as you can see on the trigger rest, that brings the mechanical trigger in contact with the shooter's finger. The recoil impulse, basically the physics of firing a round will drive the receiver and upper assembly back inside the Slide Fire or bump fire type device far enough to allow the mechanical trigger to reset and eventually the shooter will be able to overcome that recoil impulse by continuing to press forward bringing it back into—that mechanical trigger back in contact with the trigger finger firing the next round.

Q. I'm going to back up slightly. I'm going to show you just a brief portion of this video starting at three minutes 45 seconds. And I'll ask you to just look at the trigger finger here.

(*Video playing.*)

It was pretty quick there, but it was about three minutes 47 seconds. Looking at the trigger mechanism, the lever coming down from the trigger, you actually see that bounce as it resets, don't we?

A. You see it move forward.

Q. Move forward.

A. Yes, it rotates forward on that pivot pin.

Q. And it locks into place, right?

[80]

A. Yes. What you're actually seeing is when it's pulled to the rear, of course that releases the hammer off the front sear surface, hammer catches on the disconnecter. As the trigger, the body itself moves forward, that moves the disconnecter out of contact with the hammer and the hammer resets on that front sear surface of the trigger.

Q. You'll agree with me that you cannot shoot a Slide Fire—a weapon equipped with a Slide Fire bump stock with one hand, isn't that right?

A. Without the more modern Slide Fire type devices locked in place, it would move back in the stock and the way the trigger area is formed, you can't reach far enough to pull the trigger.

Q. And I guess what I mean is when we're talking about bump firing, what you showed in your video, right, you could only do that using both hands, right?

A. Yes.

Q. And I think you testified when you're bump firing, if you stopped doing one of three things it stopped shooting. You said if you stopped pressing forward, you

stopped pulling rearward or the weapon runs out of ammunition, right?

A. I said you can call it pulling rearward, but you're just typical holding the stock in your shoulder, you really don't have to pull to the rear. Pressing forward which is your initiator, if you stop pressing forward, if you remove your trigger finger or if it runs out of ammunition.

[81]

Q. And if you stopped any of those things, it stops firing, right?

A. Correct.

Q. You said you don't have to pull rearward, right, but you do have to hold your finger on the trigger ledge, right?

A. Yes, you do.

Q. You also have to hold the weapon, don't you?

A. Yes.

Q. So you would have to hold it against your shoulder?

A. A little bit, yes.

Q. Otherwise it would sort of go all over the place, right?

A. It would, but the Slide Fire type device as long as you hold your finger on the trigger ledge and are pressing forward, you would still bump fire the weapon.

THE COURT: Let me ask you a question. Let's say that you're comparing an AR15 with a bump-stock—

THE WITNESS: Yes, sir.

THE COURT: —properly installed to what we've described as the equivalent which is an M16 switched on to full automatic.

THE WITNESS: Yes, sir.

THE COURT: Are there any operational—I mean I understand the mechanics are different as to how, but let's say if you're firing an M16 on full automatic, in order to continue to fire full automatic you have to continue to keep your finger [82] down on the trigger, is that right?

THE WITNESS: Yes, sir.

THE COURT: If you take your finger off, you're going to stop firing.

THE WITNESS: Yes. On M16 as long as you pull the trigger to the rear and the selector is in the automatic position and you have ammunition, it will continue to fire.

THE COURT: Right. So the difference between the bump-stock is that you wouldn't have your hand on the trigger, you'd have your hand on what we call the finger rest or the trigger ledge or something?

THE WITNESS: Yes, sir. As I said—

THE COURT: And you would just have to keep your—instead of keeping the trigger pulled, you would pull back the—what do you call it?

THE WITNESS: The secondary grip, sir.

THE COURT: The secondary grip.

THE WITNESS: Whether that be fore end secondary grip.

THE COURT: And then it would fire continuously until you let that go.

THE WITNESS: You're actually pushing forward.

THE COURT: Pushing forward, and that would continue to fire continuously until you either released it or let it fall back.

THE WITNESS: Yes, sir. Mechanically, as I said, you [83] could replace your trigger finger on a Slide Fire bump fire type device with a post and it would operate the same. What starts the firing sequence is that pressing forward.

THE COURT: So basically the pressing forward on the bump-stock AR15 is the equivalent of pulling the trigger on the military version of that rifle, the M16 in full automatic.

THE WITNESS: That is correct, sir.

THE COURT: Okay. You can continue. Just wanted to make sure I clarified that in my own mind.

MR. KRUCKENBERG: Yes, Your Honor.

BY MR. KRUCKENBERG:

Q. And when you're talking about pushing forward with a bump-stock, M16 with a bump-stock, when the shooter is continuously pushing forward, the trigger mechanism still resets between each round, doesn't it?

A. The physical trigger mechanism, yes, it is actually going through the full cycle operation of pressing against the trigger finger, at which point it is pivoted

back, releasing the hammer, connecting with the disconnecter as, you know, the receiver and everything is sliding back. As the physical trigger comes out of contact with the trigger finger, that allows it to pivot forward, the hammer resets on the sear surface.

Q. And with the hand that's pushing forward, you'll agree with me looking at the video of you firing, your hand isn't [84] stationary, is it?

A. No. As I mentioned, it's physics, when you fire a round the weapon recoils. The weapon recoils faster than you can react. That is part of how the bump fire system works is that you are attempting to continually press forward, but the recoil impulse overcomes your ability to press forward, moves the firearm back inside the stock and mentally you're doing nothing but pressing forward and so it brings it back in contact with your trigger finger and fires again.

Q. So the action when we're looking at it because of the recoil, the firearm goes back against the shoulder and then we see the forward hand, the non-shooting hand pushing it forward?

A. Yes.

Q. And that continuous pushing forward, that's the mechanism that allows it to be fired again?

A. Yes.

Q. Because you're pushing the trigger into your stationary finger?

A. Yes, in effect you have moved the initiation of the firing sequence from the mechanical trigger to that pushing forward motion.

Q. You will agree with me that a bump-stock Slide Fire doesn't change the distance forward that the trigger lever has to move to be reset, right?

A. No, it does not.