

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

LEN SAVAGE
1486 Cherry Road
Franklin, GA 30217

Plaintiff,

V.

BUREAU OF ALCOHOL, TOBACCO,
FIREARMS AND EXPLOSIVES
99 New York Ave. NE
Washington, DC 20226

Defendant.

COMPLAINT
(Freedom of Information
Act, 5 U.S.C. §552)

Comes now the Plaintiff, by and through undersigned counsel, and allege
as follows:

1. This is an action under the Freedom of Information Act, 5 U.S.C. § 552, for injunctive and other appropriate relief and seeking the disclosure and release of agency records improperly withheld from Plaintiff by Defendant Bureau of Alcohol, Tobacco, Firearms and Explosives (“BATFE”).

JURISDICTION AND VENUE

2. This Court has jurisdiction over this matter pursuant to 28 U.S.C. §1331 and 5 U.S.C. §552(a)(4)(B).

3. Venue lies in this district under 28 U.S.C. §1391(e).

PARTIES

4. Plaintiff Len Savage is a Federal Firearms Licensee, i.e., is licensed to transact business in firearms, including those regulated by the National Firearms Act (“NFA”).

5. Defendant BATFE is a component of the Department of Justice and an agency within the meaning of 5 U.S.C. § 552(f). Defendant BATFE has possession, custody and control of records to which Plaintiff seeks access.

STATEMENT OF FACTS

6. On May 7, 2016 Plaintiff transmitted a Freedom of Information Act (“FOIA”) request to Defendant BATFE. The FOIA was submitted via email and facsimile. A true and correct copy of the FOIA is attached as Exhibit “A.” See also Fax Delivery Confirmation as Exhibit “B.”

7. The request was “received” by BATFE on May 9, 2016. Pursuant to FOIA, 5 U.S.C. §552(a)(6)(A)(i), Defendant BATFE had 20 business days in which to produce the requested records. This period expired on June 7, 2016, excluding weekends and legal holidays.

8. Plaintiff received an acknowledgment from Defendant BATFE dated May 16, 2016. A true and correct copy is attached as Exhibit “C.”

9. BATFE's acknowledgement suggests potentially limiting the scope of the FOIA and identified the FOIA Public Liaison, Stephanie Boucher as the contact.

10. Despite numerous phone calls to the FOIA Public Liaison, no phone calls were returned.

11. Pursuant to 5 U.S.C. §552(a)(6)(A)(i), Defendant was required to determine whether to comply with the request within twenty (20) working days of receipt and to notify Plaintiff immediately of its determination, the reasons therefore, and the right to appeal any adverse determination.

12. As of the date of this Complaint, Defendant has failed to: (i) determine whether to comply with the request; (ii) notify Plaintiff of any such determination or the reasons therefore; (iii) advise Plaintiff of the right to appeal any adverse determination; or (iv) produce the requested records or otherwise demonstrate that the requested records are exempt from production.

13. Because Defendant has failed to comply with the time limit set forth in 5 U.S.C. §552(a)(6)(A), Plaintiff is deemed to have exhausted any and all administrative remedies pursuant to 5 U.S.C. §552(a)(6)(C).

COUNT I
(Violation of FOIA, 5 U.S.C. §552 Against BATFE)

14. Plaintiff realleges paragraphs 1 through 14 as if fully stated herein.

15. Defendant BATFE is unlawfully withholding records requested by Plaintiff pursuant to 5 U.S.C. §552.

16. Plaintiff is being irreparably harmed by reason of Defendant's unlawful withholding of records responsive to Plaintiff's FOIA request, and Plaintiff will continue to be irreparably harmed unless Defendant BATFE is compelled to conform their conduct to the requirements of the law.

WHEREFORE, Plaintiff respectfully requests that the Court:

(1) Order Defendant to conduct a search for any and all responsive records to Plaintiff's FOIA request and demonstrate that it employed search methods reasonably likely to lead to the discovery of records responsive to Plaintiff's FOIA request;

(2) Order Defendant to produce, by a date certain, any and all non-exempt records to Plaintiff's FOIA request, and a *Vaughn* index of any responsive records withheld under claim of exemption;

(3) Enjoin Defendant from continuing to withhold any and all non-exempt records responsive to Plaintiff's FOIA request;

(4) Grant Plaintiff an award of attorneys' fees and other litigation costs reasonably incurred in this action pursuant to 5 U.S.C. §552(a)(4)(E); and

(5) Grant Plaintiff such other relief as the Court deems just and proper.

Dated: June 21st, 2016

Respectfully Submitted,

LEN SAVAGE

/s/ Stephen D. Stamboulieh

Stephen D. Stamboulieh

Stamboulieh Law, PLLC

P.O. Box 4008

Madison, MS 39130

(601) 852-3440

stephen@sdslaw.us

DC District Court Bar# MS0009

Counsel for Plaintiff



P.O. Box 4008, Madison, MS 39130 | (601) 852-3440 | stephen@sdsllaw.us

May 7, 2016

ATTN: Disclosure Division, Room 4E.301
99 New York Avenue, NE
Washington, DC 20226
Email: foiamail@atf.gov
Fax: (202) 648-9619

Via Electronic Mail and Facsimile

RE: Freedom of Information Act Request

To whom this may concern:

Pursuant to the Freedom of Information Act (5 U.S.C. § 552), the Bureau of Alcohol Tobacco Firearms and Explosives is requested to the following within twenty (20) business days. I represent Len Savage in this request. It is unknown to this Requester where electronic mail, correspondence, and other documents and/or petitions requested are stored.

Please provide the following information:

- 1) Please provide any and all documents, emails, correspondence, petitions for rulemaking and communications from and/or to the National Firearms Act Trade & Collectors Association ("NFATCA") from 2000 to present;
- 2) Please provide any and all documents, emails, correspondence, petitions for rulemaking and communications from and/or to John Brown, President of NFATCA, from 2000 to present;
- 3) Please provide any and all documents, emails, correspondence, petitions for rulemaking and communications from and/or to Curt Wolf, Vice President of NFATCA, from 2000 to present;
- 4) Please provide any and all documents, emails, correspondence, petitions for rulemaking and communications from and/or to Jeff Folloder, Executive Director of NFATCA, from 2000 to present;
- 5) Please provide any and all documents, emails, correspondence, petitions for rulemaking and communications from and/or to Robert Landies, Board Member of NFATCA, from 2000 to present;
- 6) Please provide any and all documents, emails, correspondence, petitions for rulemaking and communications from and/or to Wayne Weber, Board Member of NFATCA, from 2000 to present;

Exhibit "A"

- 7) Please provide any and all documents, emails, correspondence, petitions for rulemaking and communications from and/or to Robert Segel, Board Member of NFATCA, from 2000 to present; and
- 8) Please provide any and all documents, emails, correspondence, petitions for rulemaking and communications from and/or to Dan Shea, prior Board Member of NFATCA, from 2000 to present.

The Category of Requester is "All Other Requesters" and because this is a matter of great public interest; I request that the fee is waived. If the fee is not waived, my client will pay up to \$100 for this request. Should the fee for this request exceed \$100, please let me know in advance. I look forward to receiving the requested documents and a full fee waiver within twenty business days.

Warm regards,


STEPHEN D. STAMBOULIEH

HP LaserJet Pro MFP M225dw

Fax Confirmation

May-7-2016 7:48AM

Job	Date	Time	Type	Identification	Duration	Pages	Result
3	5/ 7/2016	7:46:37AM	Send	2026489619	1:31	2	OK



Stamboulieh Law, PLLC

P.O. Box 4008, Madison, MS 39130 | (601) 852-3440 | stephen@sdsilaw.us

May 7, 2016

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- 6) Please provide any and all documents, emails, correspondence, petitions for rulemaking and communications from and/or to Wayne Weber, Board Member of NFATCA, from 2000 to present;

Exhibit "B"



P.O. Box 4008, Madison, MS 39130 | (601) 852-3440 | stephen@sdslaw.us

May 7, 2016

ATTN: Disclosure Division, Room 4E.301
99 New York Avenue, NE
Washington, DC 20226
Email: foiamail@atf.gov
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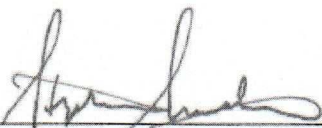
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Warm regards,



STEPHEN D. STAMBOULIEH



U.S. Department of Justice

Bureau of Alcohol, Tobacco,
Firearms and Explosives

www.atf.gov

May 16, 2016

REFER TO: 2016-0549

Mr. Stephen Stamboulieh
Stamboulieh Law, PLLC
PO Box 4008
Madison, MS 39130-4009

Dear Mr. Stamboulieh:

This is to acknowledge receipt of your Freedom of Information Act request dated May 7, 2016 and received in this Office on May 9, 2016, in which you requested records concerning Petitions for Rulemaking. Your request has been assigned number 2016-0549. Please refer to this number on any future correspondence.

Because this Office is not assessing any fees in connection with the processing of your request, there is no need for us to consider your request for a waiver of fees.

For your information, this Office assigns incoming requests to one of three tracks: simple, complex, or expedited. Each request is then handled on a first-in, first-out basis in relation to other requests in the same track. Simple requests usually receive a response in approximately one month, whereas complex requests necessarily take longer. At this time, your request has been assigned to the complex track. You may wish to narrow the scope of your request to limit the number of potentially responsive records or agree to an alternative time frame for processing, should records be located; or you may wish to await the completion of our records search to discuss either of these options. If you would like to discuss the track associated with your request, please contact our FOIA Public Liaison, Stephanie Boucher, at (202) 648-8740. You may also discuss any aspect of your request with our FOIA Public Liaison.

Sincerely,

A handwritten signature in cursive script that reads "Stephanie M. Boucher".

Stephanie M. Boucher
Chief, Disclosure Division

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

Len Savage

Plaintiff

v.

Bureau of Alcohol, Tobacco, Firearms, Explosives

Defendant

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Civil Action No.

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)*

Bureau of Alcohol, Tobacco, Firearms, and Explosives
99 New York Ave. NE
Washington DC, 20226

A lawsuit has been filed against you.

Within 30 days after service of this summons on you (not counting the day you received it) you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

Stephen D. Stamboulieh
P.O. Box 4008
Madison, MS 39130

If you fail to respond, judgment by default may be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

ANGELA D. CAESAR, CLERK OF COURT

Date: _____

Signature of Clerk or Deputy Clerk

Civil Action No. _____

PROOF OF SERVICE*(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))*

This summons for *(name of individual and title, if any)* _____
 was received by me on *(date)* _____.

☐ I personally served the summons on the individual at *(place)* _____
 _____ on *(date)* _____; or

☐ I left the summons at the individual's residence or usual place of abode with *(name)* _____
 _____, a person of suitable age and discretion who resides there,
 on *(date)* _____, and mailed a copy to the individual's last known address; or

☐ I served the summons on *(name of individual)* _____, who is
 designated by law to accept service of process on behalf of *(name of organization)* _____
 _____ on *(date)* _____; or

☐ I returned the summons unexecuted because _____; or

☐ Other *(specify)*: _____.

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ 0.00.

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc: