

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

_____	)	
<b>Len Savage,</b>	)	
	)	
<b>Plaintiff,</b>	)	
	)	
<b>v.</b>	)	
	)	
<b>Bureau of Alcohol, Tobacco, Firearms,</b>	)	<b>Civil Action No. 1:16-cv-1212</b>
<b>and Explosives,</b>	)	<b>(CRC)</b>
	)	
<b>Defendants.</b>	)	
_____	)	

**ANSWER**

Defendant, Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF), by and through undersigned counsel, hereby answers the Complaint filed in the above-styled action as follows:

**JURISDICTION AND VENUE**

1. Paragraph No. 1 is Plaintiff’s statement citing the Freedom of Information Act (“FOIA”) as the statutory basis of his complaint, and not an averment of fact for which an answer is required. To the extent an answer is deemed necessary, the assertion is denied.

2. Paragraph No. 2 is Plaintiff’s statement regarding this Court’s jurisdiction to hear his claim, and not an averment of fact for which an answer is required. To the extent that an answer is deemed necessary, the assertion is denied, except to admit that the Court has jurisdiction over a proper FOIA action.

3. Paragraph No. 3 is Plaintiff’s statement of venue, and not an averment of fact for which an answer is required. To the extent that an answer is deemed necessary, the assertion is denied, except to admit that venue would exist in this Court in a proper FOIA action.

**PARTIES**<sup>1</sup>

4. Defendant admits the allegations in Paragraph No. 4 only to the extent that Plaintiff is the sole owner of and responsible person for a corporate entity that holds a Type 7 License, Manufacturer of Firearms Other than Destructive Devices, as issued by Defendant ATF.

5. Defendant admits the allegations in the first sentence of Paragraph No. 5. Defendant is without sufficient knowledge to admit or deny the allegation in the second sentence of Paragraph No. 5, because Defendant is still searching its records for responsive documents.

**STATEMENT OF FACTS**

6. Defendant admits the allegation in the first sentence of Paragraph No. 6 only to the extent that ATF received a FOIA request from Plaintiff dated May 7, 2016. Defendant admits the allegation in the second sentence of Paragraph No. 6. Defendant respectfully refers the Court the cited documents (attached to Plaintiff's Complaint as Exhibit A and Exhibit B) for a full, fair and accurate account of their contents.

7. Defendant admits the allegation in the first sentence of Paragraph No. 7. Defendant denies the allegation in the second sentence of Paragraph No. 7. Defendant admits the allegation in the third sentence of Paragraph No. 7 only to the extent that the 20-day initial response period prescribed by FOIA ended on or about June 7, 2016 in the instant matter.

8. Defendant admits the allegation in the first sentence of Paragraph No. 8 only to the extent that Defendant issued an acknowledgment letter on May 16, 2016 in response to Plaintiff's FOIA request. Defendant respectfully refers the Court to view the document (attached to Plaintiff's Complaint as Exhibit C) for a full, fair and accurate account of its contents.

9. Defendant admits the allegations in Paragraph No. 9.

10. Defendant admits the allegations in Paragraph No. 10 only to the extent that Defendant received a phone call regarding Plaintiff's FOIA request, and Defendant

---

<sup>1</sup> Where Defendant has included the headings from Plaintiff's Complaint it has done so simply to aid in review of the answer. By including those headings, Defendant does not admit that they are accurate.

did not return that phone call.

11. Paragraph No. 11 constitutes a legal conclusion rather than an averment of fact for which an answer is required. To the extent that an answer is deemed necessary, Defendant respectfully refers the Court to the cited statute for a full, fair and complete assessment of its requirements.

12. Defendant admits the allegations in Paragraph No. 12 only to the extent that Defendant did not issue a final determination letter to Plaintiff within 20 days of receiving Plaintiff's FOIA request.

13. Paragraph No. 13 constitutes a legal conclusion rather than an averment of fact for which an answer is required. To the extent that an answer is deemed necessary, Defendant admits the allegation in Paragraph No. 13 only to the extent that Defendant did not issue a final determination letter to Plaintiff within 20 days of receiving Plaintiff's FOIA request.

### **COUNT I**

14. Defendant incorporates by reference each and every response stated in Defendant's answer to Paragraph Nos. 1 to 13 as if fully stated herein.

15. Defendant denies the allegation in Paragraph No. 15.

16. Defendant denies the allegations in Paragraph No. 16.

The remainder of the Complaint is Plaintiff's Prayer for Relief to which no answer is required. To the extent that an answer is deemed necessary, Defendant denies that Plaintiff is entitled to the relief requested or to any relief whatsoever.

Pursuant to Rule 8(b) of the Federal Rules of Civil Procedure, Defendant asserts a general denial as to those allegations contained in Plaintiff's Complaint that are not clearly and specifically admitted herein.

Respectfully submitted,

CHANNING D. PHILLIPS, DC Bar #415793  
United States Attorney

DANIEL F. VAN HORN, DC Bar #924092  
Chief, Civil Division

By: \_\_\_\_\_/s/  
W. MARK NEBEKER, DC Bar #396739  
Assistant United States Attorney  
555 4th Street, N.W.  
Washington, DC 20530  
(202) 252-2536  
mark.nebeker@usdoj.gov

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that service of the foregoing Answer has been made through the Court's electronic transmission facilities on this 26th day of September 2016

\_\_\_\_\_/s/  
W. MARK NEBEKER, DC Bar #396739  
Assistant United States Attorney  
555 4th Street, N.W.  
Washington, DC 20530  
(202) 252-2536  
mark.nebeker@usdoj.gov

