
From: Weich, Ron (SMO)
To: Burton, Faith (SMO); Colborn, Paul P (SMO); Axelrod, Matthew (ODAG)
Sent: 6/14/2011 4:16:20 PM
Subject: Fw: 26 C.F.R. 16.26
Attachments: 45 Fed Reg 83208.pdf; Letter: [ATF] re: [ATF] Subpoena.pdf; XP-0900636_EXCHANGE_06142011-105911.pdf

FYI.

From: Davis, Kolan (Judiciary-Rep) [mailto:Kolan_Davis@judiciary-rep.senate.gov]
Sent: Tuesday, June 14, 2011 04:13 PM
To: Weich, Ron (SMO)
Subject: FW: 26 C.F.R. 16.26

More unacceptable problems from ATF that need fixing:

From: Foster, Jason (Judiciary-Rep)
Sent: Tuesday, June 14, 2011 4:07 PM
To: gary.grindler@usdoj.gov
Cc: Castor, Stephen (Stephen.Castor@mail.house.gov); Davis, Kolan (Judiciary-Rep)
Subject: 26 C.F.R. 16.26
Importance: High

Gary,

I just learned that the ATF Chief Counsel, [ATF] sent a letter to Agent [ATF] counsel today citing alleged restrictions on his ability to testify tomorrow pursuant to 26 C.F.R. 16.26. Mr. [ATF] has made this claim to witnesses in this investigation before.

However, as I explained to ATF Deputy Director Billy Hoover at around 3:18 pm on May 6, these regulations are explicitly not applicable to a Congressional subpoena. This is not merely a Legislative Branch position. It is explicitly stated by the Executive Branch itself in the attached Federal Register notice.

Mr. Hoover represented to me that he would make sure that Mr. [ATF] was made aware of his error.

I hope you can understand why we would be seriously concerned about the appearance of intimidation and bad faith caused by an ATF lawyer citing a regulation that he ***knows*** does not apply in an attempt to limit the scope of a witness's testimony before Congress.

I have also attached for your reference Mr. [ATF] letter and the reply from Agent [ATF] counsel.

Cordially,
Jason A. Foster
Chief Investigative Counsel

Charles E. Grassley, Ranking Member
Committee on the Judiciary
152 Dirksen Senate Office Building
United States Senate

Direct: (202) 224-7142