

From: Burton, Faith (SMO)
To: Hoover, William J. (ATF); [REDACTED] **ATF**
CC: Weich, Ron (SMO); Axelrod, Matthew (ODAG)
Sent: 6/14/2011 4:50:13 PM
Subject: RE: 26 C.F.R. 16.26

I know - [REDACTED] **DP** Wld like to confer with you all about how best to do that. Thanks. Faith 514-1653

-----Original Message-----

From: Hoover, William J. (ATF)
Sent: Tuesday, June 14, 2011 4:49 PM
To: Burton, Faith (SMO); [REDACTED] **ATF**
Cc: Weich, Ron (SMO); Axelrod, Matthew (ODAG)
Subject: RE: 26 C.F.R. 16.26

Faith,

[REDACTED] **DP**

These letters were prepared in consultation with Matt.

Sent with Good (www.good.com)

-----Original Message-----

From: Burton, Faith (SMO) [mailto:Faith.Burton@usdoj.gov]
Sent: Tuesday, June 14, 2011 04:28 PM Eastern Standard Time
To: [REDACTED] **ATF** Hoover, William J.
Cc: Weich, Ron (SMO) (JMD); Axelrod, Matthew (ODAG) (JMD)
Subject: FW: 26 C.F.R. 16.26

Please see below - [REDACTED] **DP**
[REDACTED] **DP**

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, [REDACTED] **ATF** sent a letter to [REDACTED] **ATF** counsel today citing alleged restrictions on his ability to testify tomorrow pursuant to 26 C.F.R. 16.26. [REDACTED] **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 [REDACTED] **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. Orlow's letter and the reply from
counsel.

ATF

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