

Firearms Technology Criminal Branch
Report of Technical Examination



244 Needy Road #1600
Martinsburg, WV 25405

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To:
Special Agent (b) (6)
Bureau of Alcohol, Tobacco, Firearms and Explosives
1301 Clay Street
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Oakland, CA 94612

Date:

UI#: (b)(7)(A)

RE: (b) (6)

FTCB#: 2019-096 (b) (6)
310015

Date Exhibit Received: 11/7/2018

Type of Examination Requested:

Delivered By: FedEx (b) (6)

Examination, Test, Classification

Exhibit:

(b)(3)-(26 USC 6103) serial number (b) (6) suspected short-barreled rifle).

Pertinent Authority:

Title 28 of the United States Code (U.S.C.) Chapter 40A Section 599a provides the Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF) the authority to investigate criminal and regulatory violations of Federal firearms law at the direction of the Attorney General. Under the corresponding Federal regulation at 28 CFR § 0.130 the Attorney General provides ATF with the authority to investigate, administer, and enforce the laws related to firearms, in relevant part, under 18 U.S.C. Chapter 44 (Gun Control Act) and 26 U.S.C. Chapter 53 (National Firearms Act). Pursuant to the aforementioned statutory and regulatory authority, the ATF Firearms Ammunition and Technology Division (FATD) provides expert technical support on firearms and ammunition to federal, state, and local law enforcement agencies regarding the Gun Control Act and National Firearms Act.

The amended Gun Control Act of 1968 (GCA), 18 U.S.C. § 921(a)(3), defines the term "firearm" in part 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". (See 18 U.S.C. § 921(a)(3).)

The GCA defines "rifle" to mean: "...a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned and made or remade to use the energy of an explosive to fire only a single projectile through a rifled bore, for each single pull of the trigger." (See 18 U.S.C. § 921(a)(7).)

The GCA defines “**short-barreled rifle**” to mean: “...a rifle having one or more barrels less than sixteen inches in length and any weapon made from a rifle (whether by alteration, modification, or otherwise) if such weapon, as modified, has an overall length of less than twenty-six inches.” (See 18 U.S.C. § 921(a)(8).)

The GCA defines “**handgun**,” to mean, defines “handgun” to mean, in part: “...a firearm which has a short stock and is designed to be held and fired by the use of a single hand...” (See 18 U.S.C. § 921(a)(29).)

Additionally, 27 CFR § 478.11, a regulation implementing the GCA, defines “**pistol**” as: “...a weapon originally designed, made, and intended to fire a projectile (bullet) from one or more barrels when held in one hand, and having (a) a chamber(s) as an integral part(s) of, or permanently aligned with, the bore(s); and (b) a short stock designed to be gripped by one hand and at an angle to and extending below the line of the bore(s).” (See 27 CFR § 478.11.)

Also, the National Firearms Act (NFA), 26 U.S.C. § 5845(a), defines “**firearm**” to mean, in part: “(3) a rifle having a barrel or barrels of less than 16 inches in length; (5) any other weapon, as defined in subsection (e)” (See 26 U.S.C. § 5845(a).)

Further, the NFA, 26 U.S.C. § 5845(e) defines “**any other weapon (AOW)**” as: “...any weapon or device capable of being concealed on the person from which a shot can be discharged through the energy of an explosive, a pistol or revolver with a smooth bore designed or redesigned to fire a fixed shotgun shell, weapons with combination shotgun and rifle barrels 12 inches or more, less than 18 inches in length, from which only a single discharge can be made from either barrel without manual reloading, and shall include any such weapon which may be readily restored to fire. Such term shall not include a pistol or revolver having a rifled bore, or rifled bores, or weapons designed, made, or intended to be fired from the shoulder and not capable of firing fixed ammunition.” (See 26 U.S.C. § 5845(e).)

The NFA, “**Identification of firearms**,” states: “...(a) Identification of firearms other than destructive devices. - Each manufacturer and importer and anyone making a firearm shall identify each firearm, other than a destructive device, manufactured, imported, or made by a serial number which may not be readily removed, obliterated, or altered, the name of the manufacturer, importer, or maker, and such other identification as the Secretary may by regulations prescribe. (b) Firearms without serial number. - Any person who possesses a firearm, other than a destructive device, which does not bear the serial number and other information required by subsection (a) of this section shall identify the firearm with a serial number assigned by the Secretary and any other information the...[latter]... may by regulations prescribe.” (See 26 U.S.C. § 5842.)

Findings:

Exhibit 40 is an AR-15-type firearm utilizing a receiver manufactured by (b)(3)-(26 USC 6103) (b)(3)-(26 USC 6103) old Exhibit 40 as a receiver with pistol grip and “SBA3 adjustable pistol brace”. As received, the “SBA3 adjustable pistol brace” has a magazine secured in it. Further, a complete upper assembly has been installed, and a fore-grip has been attached to the handguard of Exhibit 40.

Findings (Cont.):

ATF has not previously examined or classified the "SBA3 adjustable pistol brace." When configured on a firearm, as with the Exhibit 40 AR-type, the "SBA3 adjustable pistol brace" exhibits the objective design characteristics of a stock/buttstock or shouldering device.

The objective design features to determine if an item is a stabilizing brace include, but are not limited to: the type of firearm on which the stabilizing brace is used; the weight and length of the firearm used with the stabilizing brace; the length of pull to the end of the stabilizing brace when installed on a firearm; the design of the stabilizing brace and how it functions, to include material, surface area available for contact with the shoulder, and shared or interchangeable parts with known buttstocks/stocks.

"Stabilizing braces" are firearm accessories designed to assist with the operation and use of certain pistols or firearms, by aiding the shooter in stabilizing the firearm for shooting with one (1) hand. ATF has determined that such an accessory assists in supporting pistols or firearms which are generally large and heavy for firing with one (1) hand. ATF has found that such a firearm accessory is not necessary for use with standard sized semiautomatic pistols and revolvers as these pistols are generally too small and lightweight to necessitate the use of a "stabilizing brace." The use of an accessory marketed as a "stabilizing brace" in the assembly of a firearm can result in the redesign of a firearm or pistol into a "short-barreled rifle" or "short-barreled shotgun" due to the firearm being redesigned to be fired from the shoulder.

Merriam-Webster and other dictionaries define "**buttstock**" to mean "*the part of the stock located behind the breech mechanism of a firearm.*"

Oxford and other dictionaries define "**stock**" to mean "*the part of a rifle or other firearm to which the barrel and firing mechanism are attached, held against one's shoulder when firing the gun.*"

The National Rifle Association (NRA) and other sources define "**length of pull**" as "*the distance from the center of the trigger to the center of the buttplate or recoil pad.*"

The appearance and adjustable function of the "SBA3 adjustable pistol brace" is very similar to a M4-type buttstock.

I measured the maximum length of pull of Exhibit 40 in the following manner: I placed the Exhibit on a flat surface and measured the distance between the center of the trigger and the center of the fully extended "SBA3 adjustable pistol brace" rear surface. I determined the maximum length of pull on Exhibit 40 is approximately (b) (4) inches.

The buffer tube on Exhibit 40 has an approximate length of (b) (4) inches and five (5) recesses designed to adjust the length of pull. A standard M4 buttstock will install and function properly on the Exhibit 40 buffer tube with no modifications.

The M4 rifle has a buffer tube with an approximate length of (b) (4) inches with four (4) recesses designed to adjust the length of pull of the stock/buttstock. The rear surface of the stock/buttstock acts as the buttplate or recoil pad. The length of pull on a M4 rifle is adjustable from approximately (b) (4) inches to (b) (4) inches.

Findings (Cont.):

The rear surface of the "SBA3 adjustable pistol brace" is made from a combination of plastic and rubber that is wider and longer than a standard M4 buttstock. This creates more surface area for shouldering than a standard M4 buttstock.

The "SBA3 adjustable pistol brace" has small flaps with curved ends that make it difficult to place the flaps around a forearm. The elastic Velcro strap for securing the shooters forearm inside the flaps is very short and difficult to stretch long enough to secure even with the "SBA3 adjustable pistol brace" at its shortest position so that it goes around the smallest part of a forearm possible. The Velcro straps on the "SBA3 adjustable pistol brace" do hold the flaps together with no forearm inserted between them and with the curved flap design provide a conventional buttstock/stock profile.

The "SBA3 adjustable pistol brace" is a stock/buttstock because of its interchangeability of parts, similarity of function, appearance, length of pull, and shouldering surface area compared with known stock/buttstock designs, thus the firearm meets the definition of a "rifle" under the GCA and NFA.

I measured the overall length of Exhibit 40 in the following manner: I placed the Exhibit on a flat surface and measured the distance between the extreme ends of the Exhibit with the "SBA3 adjustable pistol brace" fully extended, and measured along a line parallel to the center line of the bore and noted the measurement. I determined Exhibit 40 has an overall length of approximately (b) (4) inches.

I measured the barrel of Exhibit 40 in the following manner: I placed the Exhibit on a flat surface and then closed the bolt; inserted a cylindrical scale into the muzzle of the barrel until it touched the bolt face; and noted the measurement. I determined that the length of barrel on Exhibit 40 is approximately (b) (4) inches. My examination revealed that the bore of the barrel is rifled.

During my examination, I observed the following markings on Exhibit 40:

Receiver (left side):

(b)(3)-(26 USC 6103)

Pistol grip (left side):

SBA3 pistol brace (rear):

Pistol grip (right side):

Findings (Cont.):

Receiver (right side):

Fore-end (right side):

Angled fore-grip (right side):

Barrel:

Angled fore-grip (left side):

Fore-end (left side):

(b)(3)-(26 USC 6103)

I test-fired Exhibit 1 on January 10, 2019, at the ATF test range, Martinsburg, WV, using commercially available, PMC brand, 5.56x45mm caliber ammunition and the supplied magazine.

I placed the safety in the fire position, inserted a one-round ammunition load and pulled the trigger. Exhibit 1 successfully expelled a single projectile by the action of an explosive. I repeated this method of test-fire one additional time obtaining the same result.

After I inserted a two-round ammunition load, with the safety in the fire position, I pulled the trigger. Exhibit 1 fired one round with a single function of the trigger. I repeated this method of test-fire once more obtaining the same result.

Exhibit 40 is a weapon which will expel a projectile by the action of an explosive one time for each single pull of the trigger, and is designed and intended to be fired from the shoulder with a barrel of less than sixteen (16) inches in length. Therefore, Exhibit 40 is a "firearm," a "rifle," and "short-barreled rifle" as defined in the GCA and "firearm" as defined in the NFA.

Conclusions:

Exhibit 40, being a weapon which will expel a projectile by the action of an explosive and incorporating the receiver of a firearm, is a "firearm" as defined in 18 U.S.C. § 921(a)(3)(A)&(B).

Exhibit 40, being a rifle having a barrel of less than 16 inches in length, is a "short-barreled rifle" as defined in 18 U.S.C. § 921(a)(8).

Exhibit 40, being a short-barreled rifle, is also a "firearm" as defined in 26 U.S.C. § 5845(a)(3).

Examined By:

(b) (6)

Firearms Enforcement Officer

Approved By:

(b) (6)

(b) (6)

Chief

Firearms Technology Criminal Branch

Attachment: 5 pages bearing a total of 11 photographs.

Enclosed is a **Firearms Technology Criminal Branch** report provided in response to your request for assistance. (b)(3)-(26 USC 6103)

(b)(3)-(26 USC 6103)

3010015 - Exhibit 40 - Picture 1, 2: Exhibit 40

(b)(3)-(26 USC 6103), (b) (6), (b) (7)(C)



Firearms Technology Criminal Branch
Report of Technical Examination



244 Needy Road #1600
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Phone: 304-616-4300
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To:

Special Agent (b) (6)
Bureau of Alcohol, Tobacco, Firearms and Explosives
201 East Washington Street, Suite 940
Phoenix, Arizona 85004

Date: 10/16/2019

UI#: (b)(7)(A)

RE: (b) (6) PPD
SBR case

FTCB#: 2020-045 (b) (6)
312191

Date Exhibits Received: 10/15/2019

Type of Examination Requested:

Delivered By: Fed Ex (b) (6)

Examination, Test, Classification

Exhibits:

1. (b)(3) - 26 USC 6103, 5.56mm NATO caliber firearm bearing serial number (b) (6) (suspected short-barrel rifle).
2. (b)(3) - 26 USC 6103, 5.56mm NATO caliber firearm bearing serial number (b) (6) (suspected short-barrel rifle).
3. (b)(3) - 26 USC 6103, 5.56mm NATO caliber firearm bearing serial number (b) (6) (suspected short-barrel rifle).

Pertinent Authority:

Title 28 of the United States Code (U.S.C.) provides the Bureau of Alcohol, Tobacco Firearms and Explosives (ATF) the authority to investigate criminal and regulatory violations of Federal firearms law at the direction of the Attorney General. Under the corresponding Federal regulation at 28 C.F.R. 0.130 the Attorney General provides ATF with the authority to investigate, administer, and enforce the laws related to firearms, in relevant part, under 18 U.S.C. Chapter 44 (Gun Control Act) and 26 U.S.C. Chapter 53 (National Firearms Act). Pursuant to the aforementioned statutory and regulatory authority, the ATF Firearms Ammunition and Technology Division (FATD) provides expert technical support on firearms and ammunition to federal, state and local law enforcement agencies regarding the Gun Control Act and the National Firearms Act.

The **Gun Control Act of 1968 (GCA)**, 18 U.S.C. § 921(a)(3), defines “firearm” to include:

“...(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 silencer; or (D) any destructive device. Such term does not include an antique firearm.”

Pertinent Authority (cont.):

The GCA, 18 U.S.C. § 921(a)(7), defines "rifle" as:

"a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned and made or remade to use the energy of an explosive to fire only a single projectile through a rifled bore for each single pull of the trigger."

Additionally, the GCA, 18 U.S.C. § 921(a)(8), defines "short-barreled rifle" to mean:

"... a rifle having one or more barrels less than sixteen inches in length and any weapon made from a rifle (whether by alteration, modification, or otherwise) if such weapon, as modified, has an overall length of less than twenty-six inches."

The National Firearms Act (NFA), 26 U.S.C. § 5845(a), defines the term "firearm" as:

"...(1) a shotgun having a barrel or barrels of less than 18 inches in length; (2) a weapon made from a shotgun if such weapon as modified has an overall length of less than 26 inches or a barrel or barrels of less than 18 inches in length; (3) a rifle having a barrel or barrels of less than 16 inches in length (4) a weapon made from a rifle if such weapon as modified has an overall length of less than 26 inches or a barrel or barrels of less than 16 inches in length; (5) any other weapon, as defined, as defined in subsection (e); (6) a machinegun; (7) any silencer (as defined in 18 U.S.C. § 921); and (8) a destructive device. The term "firearm" shall not include an antique firearm or any device (other than a machinegun or destructive device) which, although designed as a weapon, the...[Attorney General]... finds by reason of the date of its manufacture, value, design and other characteristics is primarily a collector's item and is not likely to be used as a weapon."

Further, the NFA, § 5842, "Identification of firearms," states:

"... (a) Identification of firearms other than destructive devices. - Each manufacturer and importer and anyone making a firearm shall identify each firearm, other than a destructive device, manufactured, imported, or made by a serial number which may not be readily removed, obliterated, or altered, the name of the manufacturer, importer, or maker, and such other identification as the ...[Attorney General]... may by regulations prescribe. (b) Firearms without serial number. - Any person who possesses a firearm, other than a destructive device, which does not bear the serial number and other information required by subsection (a) of this section shall identify the firearm with a serial number assigned by the ... [Attorney General]... and any other information the...[latter]... may by regulations prescribe."

Findings:

Exhibit 1 is a 5.56mm NATO caliber firearm manufactured by an unknown person utilizing a receiver manufactured by (b)(3) - 26 USC 6103. As received, Exhibit 1 is equipped with a muzzle device, flip-up sights, a Sparc brand red-dot scope, and an SB Tactical, SBA3 Pistol Stabilizing Brace is installed on the receiver extension. Additionally, Exhibit 1 is equipped with a vertical fore-grip.

Findings (cont.):

The SBA3 device installed on the receiver extension of Exhibit 1 is approximately (b) (4) inches in length and approximately (b) (4) inches in width. The butt of the device tapers from a maximum width of approximately (b) (4) inches to approximately (b) (4) inches and the butt is approximately (b) (4) inches in height. The device manufacturer states that the *Pistol Stabilizing Brace* design is intended to provide the shooter with the advantages of a handgun but with a third point of contact that adds greater stability, accuracy, and control. The SBA3 installed on Exhibit 1 does not incorporate any design features that preclude or discourage shouldering the Exhibit.

Exhibit 1 is also equipped with a vertical fore-grip, and, as such, it is not designed to be held and fired by the use of a single hand, and when utilized as designed, the aiming system scope is unusable without shouldering the Exhibit. Therefore, the SBA3 device, regardless of the manufacturers stated intent, is being used as the shouldering device for Exhibit 1. This indicates that Exhibit 1 is designed and intended to be fired from the shoulder. As received, Exhibit 1 is a weapon designed and intended to be fired from the shoulder and contains a rifled barrel; therefore, Exhibit 1 is a *rifle*.

Exhibit 1 has a rifled barrel with a length of approximately (b) (4) inches and an overall length of approximately (b) (4) inches. I measured the overall length of Exhibit 1 by placing the Exhibit on a flat surface and measuring the distance between the extreme ends along a line parallel to the center line of the bore. Additionally, I measured the barrel of Exhibit 1 by placing the Exhibit on a flat surface and then closing the bolt and inserting a cylindrical scale into the muzzle of the barrel until it touched the bolt face. Being a rifle having a barrel of less than 16 inches in length, Exhibit 1 is also a *short-barreled rifle* as defined.

During my examination, I observed the following external markings on Exhibit 1:

On the left side of the receiver

(b)(3)-(26 USC 6103), (b) (6)

On the barrel

(b)(3) - 26 USC 6103

Exhibit 1 utilizes semiautomatic fire control components, and my examination revealed that the Exhibit field-tested as a semiautomatic firearm only. As received, the Exhibit is devoid of a bolt carrier assembly. In order to demonstrate that Exhibit 1 is designed to expel a projectile by the action of an explosive, I obtained a bolt carrier assembly from the ATF National Firearms Collection (NFC) and installed it in Exhibit 1.

Findings (cont.):

I test-fired Exhibit 1 on October 16, 2019, at the ATF test range, Martinsburg, West Virginia, using commercially available, PMC brand, .223 Remington caliber ammunition. I inserted one round of ammunition into a magazine obtained from the NFC, inserted the magazine into the Exhibit, retracted and released the charging handle to cock the Exhibit and chamber the cartridge, and squeezed the trigger. Exhibit 1 successfully expelled a projectile by the action of an explosive.

Exhibit 2 is a 5.56mm NATO caliber firearm manufactured by an unknown person utilizing a receiver manufactured by (b)(3)-(26 USC 6103). As received, Exhibit 2 is equipped with a muzzle device, flip-up sights, a Sparc brand red-dot scope, and an SB Tactical, SBA3 *Pistol Stabilizing Brace* is installed on the receiver extension. Additionally, Exhibit 2 is equipped with a vertical fore-grip.

The SBA3 device installed on the receiver extension of Exhibit 2 is approximately (b) (4) inches in length and approximately (b) (4) inches in width. The butt of the device tapers from a maximum width of approximately (b) (4) inches to approximately (b) (4) inches and the butt is approximately (b) (4) inches in height. The device manufacturer states that the *Pistol Stabilizing Brace* design is intended to provide the shooter with the advantages of a handgun but with a third point of contact that adds greater stability, accuracy, and control. The SBA3 installed on Exhibit 2 does not incorporate any design features that preclude or discourage shouldering the Exhibit.

Exhibit 2 is also equipped with a vertical fore-grip, and, as such, it is not designed to be held and fired by the use of a single hand, and when utilized as designed the aiming system scope is unusable without shouldering the Exhibit. Therefore, the SBA3 device, regardless of the manufacturers stated intent, is being used as the shouldering device for Exhibit 2. This indicates that Exhibit 2 is designed or redesigned and intended to be fired from the shoulder. As received, Exhibit 2 is a weapon designed and intended to be fired from the shoulder and contains a rifled barrel; therefore, Exhibit 2 is a *rifle*.

Exhibit 2 has a rifled barrel with a length of approximately (b) (4) inches and an overall length of approximately (b) (4) inches. Being a rifle having a barrel of less than 16 inches in length, Exhibit 2 is also a *short-barreled rifle* as defined.

During my examination, I observed the following external markings on Exhibit 2:

On the left side of the receiver

(b)(3) - 26 USC 6103, (b)(6)

On the barrel

(b)(3) - 26 USC 6103

Findings (cont.):

Exhibit 2 utilizes semiautomatic fire control components, and my examination revealed that the Exhibit field-tested as a semiautomatic firearm only.

I test-fired Exhibit 2 on October 16, 2019, at the ATF test range, Martinsburg, West Virginia, using commercially available, PMC brand, .223 Remington caliber ammunition. I inserted one round of ammunition into a magazine obtained from the NFC, inserted the magazine into the Exhibit, retracted and released the charging handle to cock the Exhibit and chamber the cartridge, and squeezed the trigger. Exhibit 2 successfully expelled a projectile by the action of an explosive.

Exhibit 3 is a 5.56mm NATO caliber firearm manufactured by an unknown person utilizing a receiver manufactured by (b)(3)-(26 USC 6103). As received, Exhibit 3 is equipped with a muzzle device, flip-up sights, a Sparc brand red-dot scope, and an SB Tactical, SBA3 *Pistol Stabilizing Brace* is installed on the receiver extension. Additionally, Exhibit 3 is equipped with a vertical fore-grip.

The SBA3 device installed on the receiver extension of Exhibit 3 is approximately (b) (4) inches in length and approximately (b) (4) inches in width. The butt of the device tapers from a maximum width of approximately (b) (4) inches to approximately (b) (4) inches and the butt is approximately (b) (4) inches in height. The device manufacturer states that the *Pistol Stabilizing Brace* design is intended to provide the shooter with the advantages of a handgun but with a third point of contact that adds greater stability, accuracy, and control. The SBA3 installed on Exhibit 3 does not incorporate any design features that preclude or discourage shouldering the Exhibit.

Exhibit 3 is also equipped with a vertical fore-grip, and, as such, it is not designed to be held and fired by the use of a single hand, and when utilized as designed, the aiming system scope is unusable without shouldering the Exhibit. Therefore, the SBA3 device, regardless of the manufacturers stated intent, is being used as the shouldering device for Exhibit 3. This indicates that Exhibit 3 is designed and intended to be fired from the shoulder. As received, Exhibit 3 is a weapon designed and intended to be fired from the shoulder and contains a rifled barrel; therefore, Exhibit 3 is a *rifle*.

Exhibit 3 has a rifled barrel with a length of approximately (b) (4) inches and an overall length of approximately (b) (4) inches. I measured the overall length of Exhibit 3 by placing the Exhibit on a flat surface and measuring the distance between the extreme ends along a line parallel to the center line of the bore. Additionally, I measured the barrel of Exhibit 3 by placing the Exhibit on a flat surface and then closing the bolt and inserting a cylindrical scale into the muzzle of the barrel until it touched the bolt face. Being a rifle having a barrel of less than 16 inches in length, Exhibit 3 is also a *short-barreled rifle* as defined.

During my examination, I observed the following external markings on Exhibit 3:

On the left side of the receiver

(b)(3)-(26 USC 6103), (b) (6)

Findings (cont.):

(b)(3) - 26 USC 6103

On the barrel

(b)(3) - 26 USC 6103

Exhibit 3 utilizes semiautomatic fire control components, and my examination revealed that the Exhibit field-tested as a semiautomatic firearm only. As received, the Exhibit is devoid of a bolt carrier assembly. In order to demonstrate that Exhibit 3 is designed to expel a projectile by the action of an explosive, I obtained a bolt carrier assembly from the NFC and installed it in Exhibit 3.

I test-fired Exhibit 3 on October 16, 2019, at the ATF test range, Martinsburg, West Virginia, using commercially available, PMC brand, .223 Remington caliber ammunition. I inserted one round of ammunition into a magazine obtained from the NFC, inserted the magazine into the Exhibit, retracted and released the charging handle to cock the Exhibit and chamber the cartridge, and squeezed the trigger. Exhibit 3 successfully expelled a projectile by the action of an explosive.

Conclusions:

Exhibit 1 is a weapon which is designed to expel a projectile by the action of an explosive and incorporates the receiver of a firearm; therefore, Exhibit 1 is a "**firearm**" as defined in 18 U.S.C. § 921(a)(3)(A) and (B).

Exhibit 1, being a rifle having a barrel of less than 16 inches in length, is a "**short-barreled rifle**" as defined in 18 U.S.C. § 921(a)(8).

Being a "rifle having a barrel less than sixteen inches in length," Exhibit 1 is also a "**firearm**" as defined in 26 U.S.C. § 5845(a)(3).

Exhibit 1 bears no NFA manufacturer's marks of identification as required by 26 U.S.C. § 5842.

Exhibit 2 is a weapon which will expel a projectile by the action of an explosive and incorporates the receiver of a firearm; therefore, Exhibit 2 is a "**firearm**" as defined in 18 U.S.C. § 921(a)(3)(A) and (B).

Exhibit 2, being a rifle having a barrel of less than 16 inches in length, is a "**short-barreled rifle**" as defined in 18 U.S.C. § 921(a)(8).

Being a "rifle having a barrel less than sixteen inches in length," Exhibit 2 is also a "**firearm**" as defined in 26 U.S.C. § 5845(a)(3).

Exhibit 2 bears no NFA manufacturer's marks of identification as required by 26 U.S.C. § 5842.

Conclusions (cont.):

Exhibit 3 is a weapon which is designed to expel a projectile by the action of an explosive and incorporates the receiver of a firearm; therefore, Exhibit 3 is a "firearm" as defined in 18 U.S.C. § 921(a)(3)(A) and (B).

Exhibit 3, being a rifle having a barrel of less than 16 inches in length, is a "short-barreled rifle" as defined in 18 U.S.C. § 921(a)(8).

Being a "rifle having a barrel less than sixteen inches in length," Exhibit 3 is also a "firearm" as defined in 26 U.S.C. § 5845(a)(3).

Exhibit 3 bears no NFA manufacturer's marks of identification as required by 26 U.S.C. § 5842.

Examined by:

(b) (6)

Firearms Enforcement Officer

Approved by:

(b) (6)

(b) (6) Acting Chief
Firearms Technology Criminal Branch

Attachment: Nine pages bearing photographs

This Firearms Technology Criminal Branch report is provided in response to your request for assistance. (b)(3) - 26 USC 6103

(b) (3) - 26 USC 6103

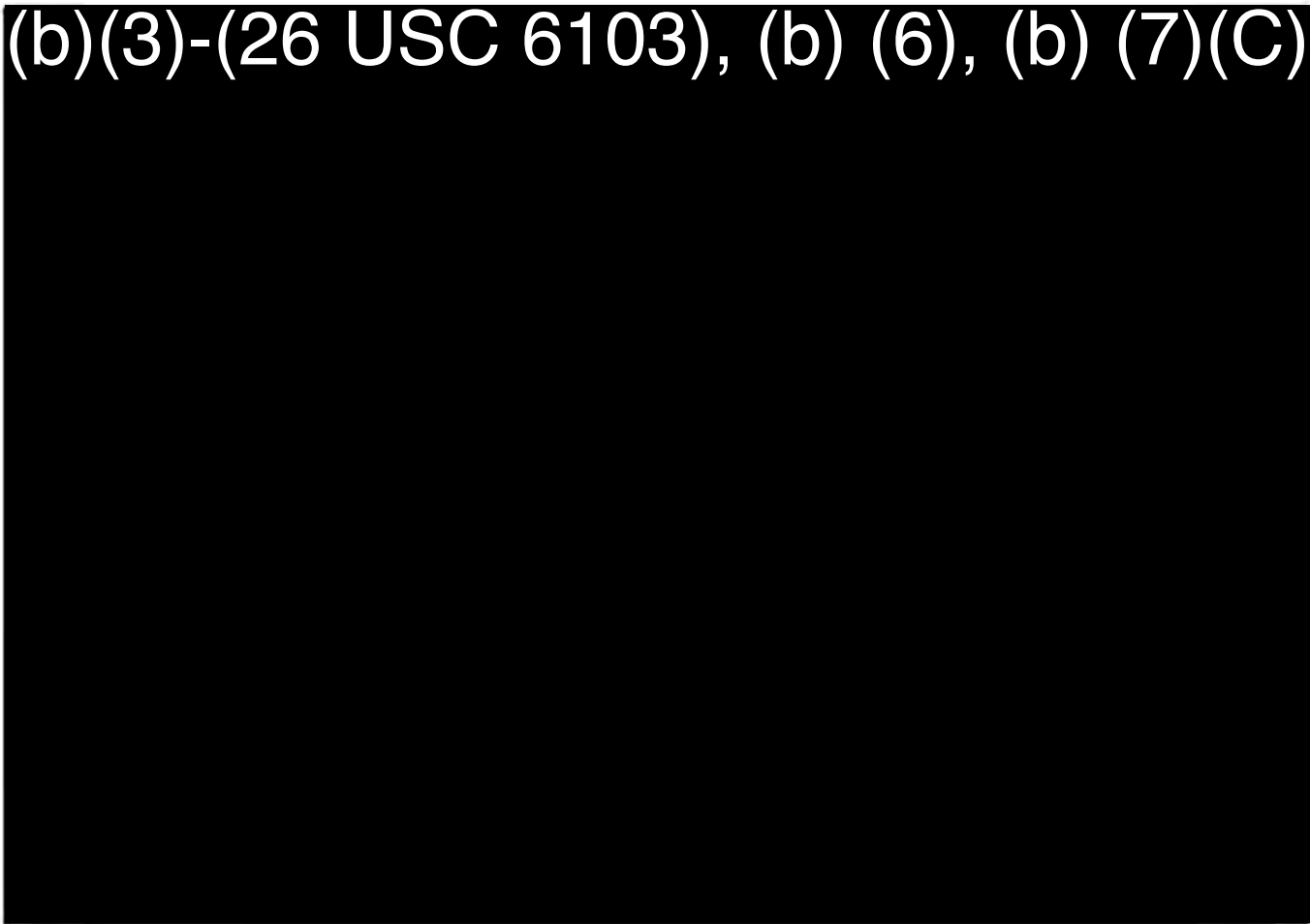
Exhibit 1





(b) (4)

(b)(3)-(26 USC 6103), (b) (6), (b) (7)(C)



(b)(3)-(26 USC 6103), (b) (6), (b) (7)(C)



(b) (4)

Exhibit 3





(b) (4)

(b) (5)

(b) (5)

Firearms Technology Criminal Branch
Report of Technical Examination



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Martinsburg, WV 25405

Phone: 304-616-4300
Fax: 304-616-4301

To:
Special Agent (b) (6)
Bureau of Alcohol, Tobacco, Firearms and Explosives
3161 West White Oak Drive
Suite #200
Springfield, IL 62704

Date: MAR 03 2020
UI#: (b) (7)(A)
RE: (b)(3)-(26 USC 6103)
Shotgun
FTCB#: 2020-230 (b) (6)
312922

Date Exhibits Received: 12/20/2019

Type of Examination Requested:

Delivered By: FedEx (b) (6)

Examination, Test, Classification

Exhibits:

1. (b)(3)-(26 USC 6103) 12 gauge firearm, serial number (b) (6)
(suspected short-barreled shotgun).

Pertinent Authority:

Title 28 of the United States Code (U.S.C.) provides the Bureau of Alcohol, Tobacco Firearms and Explosives (ATF) the authority to investigate criminal and regulatory violations of Federal firearms law at the direction of the Attorney General. Under the corresponding Federal regulation at 28 CFR § 0.130, the Attorney General provides ATF with the authority to investigate, administer, and enforce the laws related to firearms, in relevant part, under 18 U.S.C. Chapter 44 (Gun Control Act) and 26 U.S.C. Chapter 53 (National Firearms Act). Pursuant to the aforementioned statutory and regulatory authority, the ATF Firearms Ammunition and Technology Division (FATD) provides expert technical support on firearms and ammunition to federal, state and local law enforcement agencies regarding the Gun Control Act (GCA) and the National Firearms Act (NFA).

The GCA, 18 U.S.C. § 921(a)(3), defines the term “firearm” 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 silencer or (D) any destructive device. Such term does not include an antique firearm.”

The GCA, 18 U.S.C. § 921(a)(5), defines “shotgun” to mean: “...a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned and made or remade to use the energy of an explosive to fire through a smooth bore either a number of ball shot or a single projectile for each single pull of the trigger.”

Pertinent Authority (cont.):

The GCA, 18 U.S.C. § 921(a)(6), defines the term “**short-barreled shotgun**” to mean: “...*a shotgun having one or more barrels less than eighteen inches in length and any weapon made from a shotgun (whether by alteration, modification, or otherwise) if such weapon, as modified, has an overall length of less than twenty-six inches....*”

The NFA, 26 U.S.C. § 5845(a), defines “**firearm**” as: “...*(1) a shotgun having a barrel or barrels of less than 18 inches in length; (2) a weapon made from a shotgun if such weapon as modified has an overall length of less than 26 inches or a barrel or barrels of less than 18 inches in length; (3) a rifle having a barrel or barrels of less than 16 inches in length; (4) a weapon made from a rifle if such weapon as modified has an overall length of less than 26 inches or a barrel or barrels of less than 16 inches in length; (5) any other weapon, as defined in subsection (e) (6) a machinegun; (7) any silencer (as defined in 18 U.S.C. § 921); and (8) a destructive device. The term ‘firearm’ shall not include an antique firearm or any device (other than a machinegun or destructive device) which, although designed as a weapon, the ...[Attorney General]... finds by reason of the date of its manufacture, value, design, and other characteristics is primarily a collector’s item and is not likely to be used as a weapon.*”

Findings:

Exhibit 1 is a 12 gauge firearm manufactured (b)(3)-(26 USC 6103) As received, Exhibit 1 is equipped with an SB Tactical, SBA3 “*Pistol Stabilizing Brace*” accessory installed onto a carbine-type receiver extension, and a CAA vertical fore-grip. Exhibit 1 is a 12 gauge (b)(3)-(26 USC 6103) (b)(3)-(26 USC 6103)

The Exhibit has an overall length of approximately (b) (4) inches (with shouldering device extended) and contains a barrel approximately (b) (4) inches in length. I measured the overall length of Exhibit 1 by placing the Exhibit on a flat surface and measuring the distance between the extreme ends of the Exhibit (shouldering device extended), along a line parallel to the center line of the bore and noted the measurement. Additionally, I measured the barrel of Exhibit 1 by placing the Exhibit on a flat surface and then closed the bolt. I then inserted a cylindrical scale into the muzzle of the barrel until it touched the bolt face and noted the measurement.

During my examination, I observed the following markings:

On the receiver (underneath)

(b)(3)-(26 USC 6103), (b) (6)

Findings (cont.):

The selector markings (right side of receiver)

(b)(3)-(26 USC 6103)

Handguards (left and right sides)

(b)(3)-(26 USC 6103)

Receiver Extension

(b)(3)-(26 USC 6103)

SBA3 accessory

(b)(3)-(26 USC 6103)

The SBA3 accessory installed on the receiver extension of Exhibit 1 is approximately (b) (4) inches in length and approximately (b) (4) inches in width. The rear of the device tapers from a maximum width of approximately (b) (4) inches to approximately (b) (4) inches and the butt is approximately (b) (4) inches in height. The device manufacturer states that the "*Pistol Stabilizing Brace*" design is intended to provide the shooter with the advantages of a handgun but with a third point of contact that adds greater stability, accuracy, and control. The SBA3 installed on Exhibit 1 does not incorporate any design features that preclude or discourage shouldering the Exhibit. Further, the SBA3 accessory installed onto Exhibit 1, is comparable to known shoulder stocks, both in length and shouldering surface (see attached photographs).

Measuring the distance between the center of the trigger of Exhibit 1 and the center of the SBA3 accessory rear surface, the submitted firearm has a length of pull of approximately (b) (4) inches when fully extended (see attached photograph).

Exhibit 1 is also equipped with a vertical fore-grip, and, as such, it is not designed to be held and fired by the use of a single hand. Exhibit 1 weighs approximately 8.10 pounds with an unloaded five-round magazine. The combination of objective design features of Exhibit 1, including: the similarity of the SBA3 accessory to common shoulder stocks; rear surface area of the SBA3 accessory, a "length of pull" useful for shouldering the firearm, a weight contradictory to one-handed firing, and the presence of a secondary grip; combine to provide objective design features consistent with weapons designed and intended to be fired from the shoulder.

Therefore, the SBA3 accessory, regardless of the manufacturers stated intent, is being used as the shouldering device for Exhibit 1. This indicates that Exhibit 1 is designed and intended to be fired from the shoulder. As received, Exhibit 1 is a weapon designed and intended to be fired from the shoulder and contains a smoothbore barrel; therefore, Exhibit 1 is a "shotgun." Further, being a shotgun having a barrel of less than 18 inches in length, Exhibit 1 is also a "short-barreled shotgun" as defined.

Exhibit 1 utilizes semiautomatic fire control components, and my examination revealed that the Exhibit field-tested as a semiautomatic firearm only.

I test-fired Exhibit 1 on December 27, 2019, at the ATF test range, Martinsburg, West Virginia, using commercially available, Remington brand, 12 gauge ammunition. I inserted one round of ammunition into a magazine obtained from the NFC, inserted the magazine into the Exhibit, retracted and released the charging handle to cock the Exhibit and chamber the cartridge, and squeezed the trigger. Exhibit 1 successfully expelled a projectile by the action of an explosive.

Conclusions:

Exhibit 1, being a weapon which will expel a projectile by the action of an explosive and incorporating the receiver of a firearm, is a "firearm" as defined in 18 U.S.C. § 921(a)(3).

Exhibit 1 is a "short-barreled shotgun" as defined in 18 U.S.C. § 921(a)(6).

Exhibit 1, being a shotgun having a barrel less than 18 inches in length, is a "firearm" as defined in 26 U.S.C. § 5845(a)(1).

Examined by:

(b) (6)

Firearms Enforcement Officer

Approved by:

(b) (6)

Chief, Firearms Technology Criminal Branch

Attachment: 12 pages, 22 photographs.

Enclosed is a Firearms Technology Criminal Branch report provided in response to your request for assistance. (b)(3)-(26 USC 6103)

(b)(3)-(26 USC 6103)

(b)(3)-(26 USC 6103), (b) (6), (b) (7)(C)



EXHIBIT 1

(b)(3)-(26 USC 6103), (b) (6)




Exhibit 1 Receiver Markings

(b) (3) - (26 USC 6103)

Exhibit 1 Accessory Markings

(b) (3)-(26 USC 6103)

Exhibit 1 Receiver Extension and Shouldering Device Markings

(b) (4)

(b) (4)

(b) (4)

Exhibit 1 Measurements (Taken with Shoulder Stock Extended)



Exhibit 1 - Weight with Unloaded Five-Round Magazine



(b)(3)-(26 USC 6103)

Exhibit 1 SB Tactical SBA3 accessory attached to Carbine Receiver Extension

(b) (3) - (26 USC 6103)

Exhibit 1 (middle) compared to AK-pattern firearms with traditional shoulder stocks

(b)(3)-(26 USC 6103), (b) (4)

Exhibit 1 with attached SBA3 accessory has a “length of pull” of approximately (b) (4) inches when fully extended



Exhibit 1 Vertical Forward Grip (Secondary Grip)



(b)(3)-(26 USC 6103)

Exhibit 1 – SBA3 accessory utilized to “*stabilize*” one-handed firing



(b)(3)-(26 USC 6103)

Exhibit 1 – SBA3 accessory and vertical foregrip utilized to facilitate firing from the shoulder

Firearms Technology Criminal Branch
Report of Technical Examination



244 Needy Road #1600
Martinsburg, WV 25405

Phone: 304-616-4300
Fax: 304-616-4301

To:

Special Agent (b) (6)
Bureau of Alcohol, Tobacco, Firearms and Explosives
257 East 200 South
Suite #475
Salt Lake City, Utah 84111

Date: SEP 15 2020

UI#: (b)(7)(A)

RE: Firearms and Narcotics

FTCB#: 2020-682 (b) (6)
315018

Date Exhibits Received: 9/9/2020

Type of Examination Requested:

Delivered By: FedEx (b) (6)

Examination, Test, Classification

Exhibits:

13. (b)(3) - 26 USC 6103 (b) (6) 12 gauge firearm, serial number (b) (6) (suspected short-barreled shotgun).

Pertinent Authority:

Title 28 of the United States Code (U.S.C.) provides the Bureau of Alcohol, Tobacco Firearms and Explosives (ATF) the authority to investigate criminal and regulatory violations of Federal firearms law at the direction of the Attorney General. Under the corresponding Federal regulation at 28 CFR § 0.130, the Attorney General provides ATF with the authority to investigate, administer, and enforce the laws related to firearms, in relevant part, under 18 U.S.C. Chapter 44 (Gun Control Act) and 26 U.S.C. Chapter 53 (National Firearms Act). Pursuant to the aforementioned statutory and regulatory authority, the ATF Firearms Ammunition and Technology Division (FATD) provides expert technical support on firearms and ammunition to federal, state and local law enforcement agencies regarding the Gun Control Act and the National Firearms Act.

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

"...(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 silencer or (D) any destructive device. Such term does not include an antique firearm."

The GCA, 18 U.S.C. § 921(a)(5), defines "shotgun" to mean:

"...a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned and made or remade to use the energy of an explosive to fire through a smooth bore either a number of ball shot or a single projectile for each single pull of the trigger."

Pertinent Authority (cont.):

The GCA, 18 U.S.C. § 921(a)(6), defines “**short-barreled shotgun**” to mean:

“...a shotgun having one or more barrels less than eighteen inches in length and any weapon made from a shotgun (whether by alteration, modification, or otherwise) if such weapon, as modified, has an overall length of less than twenty-six inches.”

The National Firearms Act (NFA), 26 U.S.C. § 5845(a), defines “**firearm**” as:

“...(1) a shotgun having a barrel or barrels of less than 18 inches in length; (2) a weapon made from a shotgun if such weapon as modified has an overall length of less than 26 inches or a barrel or barrels of less than 18 inches in length; (3) a rifle having a barrel or barrels of less than 16 inches in length; (4) a weapon made from a rifle if such weapon as modified has an overall length of less than 26 inches or a barrel or barrels of less than 16 inches in length; (5) any other weapon, as defined in subsection (e) (6) a machinegun; (7) any silencer (as defined in 18 U.S.C. § 921); and (8) a destructive device. The term ‘firearm’ shall not include an antique firearm or any device (other than a machinegun or destructive device) which, although designed as a weapon, the ...[Attorney General]... finds by reason of the date of its manufacture, value, design, and other characteristics is primarily a collector’s item and is not likely to be used as a weapon.”

Background:

ATF evaluates a firearm with a “*stabilizing brace*” accessory attached to determine whether the firearm is intended to be fired from the shoulder or if the “*stabilizing brace*” accessory is legitimately used to fire a heavy firearm with one hand.

In determining whether a firearm is “intended” to be fired from the shoulder, ATF considers the weapon’s objective design features and uses, as well as the manufacturer’s stated intent. While FATD considers a manufacturer’s stated intent in classifying any product, it is not required to simply accept those statements when contradicted by objective evidence including the design and intended use of the item in question. See *Sig-Sauer v. Brandon*, 826 F.3d 598 (1st Cir. 2016). To rely exclusively on a manufacturer’s assertion would permit manufacturers to market devices under their own classification, whether or not they may have a legitimate alternate use; simply by asserting that they are neither designed nor intended for any illicit use. Classifications based solely on the stated intent of the manufacturer would create an absurd result: Federal regulation of only those items the manufacturer wanted to market as such, leaving other items completely unregulated.

The objective design features considered to determine whether the weapon is designed, made and intended to be held and fired with one hand, with an attached “*stabilizing brace*” accessory or, alternatively, is a weapon intended to be fired from the shoulder include, but are not limited to:

- The type and caliber of firearm to which the “*stabilizing brace*” accessory is installed;
- The weight and length of the firearm used with the “*stabilizing brace*,”
- The “length of pull” when installed on a firearm. While 13-1/2 inches is an *extreme limit* indicator, it does not serve as a demarcation line; shoulder fired weapons may possess a “length of pull” as little as 7 inches (see *Troy Tomahawk Short*);

Background (cont.):

- The attachment method of the “*stabilizing brace*” accessory, to include modified stock attachments, extended receiver extensions, and the use of spacers;
- The objective design features of the attached “*stabilizing brace*” accessory, to include:
 - Function of the accessory when utilized as a “*stabilizing brace*” compared to alternate use as a shouldering device;
 - Design of the “*stabilizing brace*” compared to known shoulder stock designs;
 - Rear contact surface area of the “*stabilizing brace*,”
 - Material used to make the accessory;
 - Shared or interchangeable parts with known shoulder stocks;
- Appropriate aim point when utilizing the “*stabilizing brace*” accessory, no upward or downward slant;
- Presence of a secondary grip, demonstrating the weapon is not designed be held and fired by one hand;
- Incorporation of sights/scopes that possess eye relief incompatible with one-handed firing;
- Installation of other peripheral accessories, to include bipods/monopods, large capacity magazines/drums, etc.

In addition to the objective design features of a submitted sample, FATD also considers the marketing of both the accessory and the firearm to which it is assembled, compared to the manufacturer’s stated intent when submitting an item. FATD has found that manufacturers often assert that a device is a “*stabilizing brace*” when submitting a firearm for classification. The same manufacturers will then advertise their products as devices that permit customers to fire their “*pistols*” from the shoulder – that is, making a “**short-barreled rifle**” without complying with the requirements of the NFA. This is far from the “incidental” use of an arm brace as a shouldering device, but is instead marketing material that directly contradicts the stated purpose as submitted to ATF. FATD also examines how the device is actually being utilized by members of the firearms industry, firearm writers and enthusiasts, and the general public. These sources provide insight into any inconsistencies between a manufacturer’s stated intent in marketing their product and the actual use of the product, i.e., as a “*stabilizing brace*” or a shouldering device.

“*Stabilizing brace*” accessories may function to assist injured veterans and others fire large, heavy handguns, but the presence of such a device is not by itself determinative as to the classification of that weapon under the NFA. ATF makes this classification based on the objective design features of firearms as configured. Based on these objective design characteristics, attachment of a “*stabilizing brace*” accessory can result in the redesign of a firearm or pistol into a “**short-barreled rifle**” or “**short-barreled shotgun**,” because such firearm is redesigned such that it is intended to be fired from the shoulder.

In conclusion, ATF does not regulate the manufacture, sale or possession of firearm accessories, such as stocks, secondary grips, or “*stabilizing braces*.” While these items are unregulated on their own, attachment of these items could change the classification of the firearm to which they are attached. Therefore, depending on the overall objective design features of a weapon, the attachment of a “*stabilizing brace*” accessory could design or redesign a weapon to be fired from the shoulder. Any firearm designed or redesigned to be fired from the shoulder with a rifled barrel of less than 16 inches or a smoothbore barrel of less than 18 would be classified as a NFA “**firearm**.”

Findings:

Exhibit 13 is a 12 gauge firearm assembled by (b)(3) - 26 USC 6103

As received, Exhibit 13 is equipped with an SB Tactical SBA3 "*Pistol Stabilizing Brace*" accessory, which has been previously and repetitively determined to be a shouldering device, not a "*stabilizing brace*" (discussed below).

The Exhibit has an overall length of approximately (b) (4) inches (with shouldering device extended) and contains a smoothbore barrel approximately (b) (4) inches in length. I determined the overall length of Exhibit 13 by placing the Exhibit on a flat surface, and measuring the distance between the extreme ends of the Exhibit (shouldering device extended), along a line parallel to the center line of the bore. Additionally, I measured the barrel of Exhibit 13 in the following manner: I closed the bolt, placed the Exhibit on a flat surface, inserted a graduated cylindrical scale into the muzzle of the barrel until it touched the bolt face, noted the measurement, and removed the rod from the barrel.

During my examination, I observed the following markings:

The right side of the receiver

(b)(3) - 26 USC 6103

The left side of the receiver

(b)(3) - 26 USC 6103, (b)(6)

As stated above, in determining whether a firearm with a "*stabilizing brace*" accessory is "intended" to be fired from the shoulder, ATF considers the weapon's objective design features and overall configuration. The objective design features considered when determining whether the weapon is designed, made and intended to be held and fired with one hand, with an attached "*stabilizing brace*" accessory, or alternatively, when a weapon is intended to be fired from the shoulder include, but are not limited to: the weight and overall length of the firearm utilizing the "*stabilizing brace*" accessory; the length of pull; the design of the "*stabilizing brace*" accessory as compared to known shoulder stocks; the attachment method for the "*stabilizing brace*" accessory; whether the "*stabilizing brace*" accessory functions as designed when assembled on the firearm; presence of a secondary grip which demonstrates the weapon is not designed to be held and fired with one hand; incorporation of sights/scopes that possess eye relief incompatible with one-handed firing; and any other peripheral accessories that demonstrate the weapon is intended to be fired from the shoulder.

Findings (cont.):

ATF's Firearms Technology Industry Services Branch (FTISB) previously notified SB Tactical that:

"FTISB does not approve "stabilizing braces" which are similar or based off of shoulder stock designs." (see FTISB letter #308999, dated July 18, 2018, attached).

Since the date of this notification, SB Tactical has continued to market these accessories as *"ATF Compliant Pistol Stabilizing Braces."* Although ATF has made a consistent effort to inform SB Tactical they are perpetuating a false narrative regarding the accessories they market, SB Tactical has taken the position that ATF has no authority to regulate an accessory manufacturer. This has essentially left SB Tactical's business partners, such as (b)(3) - 26 USC 6103, in the position where they are unknowingly manufacturing and marketing unregistered NFA firearms.

In February 2019, SB Tactical was made aware, through outside sources, that ATF determined in a criminal examination that the SBA3 accessory is a shouldering device and not a "stabilizing brace." Although SB Tactical is aware of this determination, it has continued to attempt to flood the market with the SBA3 accessory, misleading its business partners that the attachment of the accessory will not change the classification of a firearm.

In September 2019, while handling the resolution regarding (b)(3) - 26 USC 6103, which were classified as "short-barreled shotguns," ATF's Chief Counsel informed (b)(3) - 26 USC 6103 (b)(3) - 26 USC 6103 SBA3 accessory was very similar in design to a recent classification FATD had made and would also likely be classified as a "short-barreled shotgun" as well. After Chief Counsel informed (b)(3) - 26 USC 6103 that they may be selling an additional unregistered NFA "firearm," their legal counsel (b) (6) provided a response (see attached letter), rejecting the "guidance." Rejecting this information, (b)(3) - 26 USC 6103 (b)(3) with SBA3 accessory was never submitted for classification.

When measuring the distance between the center of the trigger of Exhibit 13 and the center of the SBA3 accessory rear surface, the submitted firearm has a length of pull of approximately (b) (4) inches when fully extended. ATF considers any firearm with a "length of pull" over 13-1/2 inches to be an indicator that the firearm is designed to be fired from the shoulder. Therefore, Exhibit 13 possesses a "length of pull" consistent with similar shotguns and useful for shouldering the firearm.

The SBA3 "*Pistol Stabilizing Brace*" accessory contains two bifurcated (split) rubber flaps and a Velcro strap which wrap around a shooter's arm. Unlike the original SB Tactical SB15 "*stabilizing brace*" accessory, the rubber flaps have been greatly reduced in size, resulting in the flaps on the SBA3 "*Pistol Stabilizing Brace*" accessory being nearly ineffectual. An attempt was made to utilize the SBA3 "*Pistol Stabilizing Brace*" accessory in accordance with the manufacturer's stated intent of "stabilizing" one-handed firing. In the collapsed position, the flaps on the SBA3 "*Pistol Stabilizing Brace*" accessory barely fit around a portion of the shooter's arm providing limited "stabilizing" support. In the extended position, the flaps on the SBA3 "*Pistol Stabilizing Brace*" accessory are completely ineffective and the accessory provides limited "*stabilizing*" support.

Findings (cont.):

Further, the examination revealed that the included Velcro strap is manufactured out an elastic material. This appears to be an attempt to make the SBA3 accessory “usable” as a “*stabilizing brace*” as SB Tactical has been aware that the strap is too short to wrap around a shooter’s arm in the extended position. While this allows the strap to be stretched around the shooter’s arm, it also results in the elimination of “*stabilizing*” support - the strap stretches as opposed to securing the firearm to the shooter’s arm.

Finally, during the attempt to use the SBA3 accessory “*as designed to stabilize*” one-handed firing, it was determined that this resulted in an impractical downward trajectory of any projectiles expelled from this firearm (see attached photographs). Conversely, the SBA3 accessory provides a comfortable and practical shouldering device for the submitted firearm.

Therefore, although the (b)(3) - 26 USC 6103 with SBA3 accessory” is marketed by (b)(3) - 26 USC 6103 as a non-NFA “*GCA firearm*,” the Exhibit’s objective design features including: utilizing the SBA3 accessory (a known shouldering device), incorporating a length of pull consistent with shoulder-fired weapons, an Velcro strap manufactured from elastic material, and incorporating an impractical downward slant, do not support this self-classification. Instead, the objective design of Exhibit 13 including the incorporation of the SBA3 “*Pistol Stabilizing Brace*” accessory, supports the conclusion that the Exhibit is designed and intended to be fired from the shoulder.

As received, Exhibit 13 is a weapon designed, made, and intended to be fired from the shoulder and designed and made to use the energy of an explosive to fire through a smooth bore either a number of ball shot or a single projectile for each single pull of the trigger; therefore, Exhibit 13 is a “**shotgun**” as defined. Exhibit 13, being a shotgun having a barrel of less than 18 inches in length, is a “**short-barreled shotgun**” as defined.

I test-fired Exhibit 13 on September 11, 2020, at the ATF test range, Martinsburg, West Virginia, using commercially available, Winchester brand, 12 gauge ammunition. After I inserted a one-round ammunition load, set the selector to the “*FIRE*” position, chambered the round, and pulled the trigger, Exhibit 13 successfully expelled a projectile by the action of an explosive. I inserted a two-round ammunition load, charged and chambered the first round, and pulled the trigger, Exhibit 13 fired a single round of ammunition for each pull of the trigger.

Conclusions:

Exhibit 13, being a weapon which will expel a projectile by the action of an explosive and incorporating the receiver of such a weapon, is a “**firearm**” as defined in 18 U.S.C. § 921(a)(3)(A)&(B).

Exhibit 13, being a weapon that is designed, made, and intended to be fired from the shoulder and designed and made to use the energy of an explosive to fire through a smooth bore either a number of ball shot or a single projectile for each single pull of the trigger; is a “**shotgun**” as defined in 18 U.S.C. § 921(a)(5).

Exhibit 13, being a shotgun having a barrel less than 18 inches in length, is a “**short-barreled shotgun**” as defined in 18 U.S.C. § 921(a)(6).

Exhibit 13, being a shotgun having a barrel less than 18 inches in length, is a “**firearm**” as defined in 26 U.S.C. § 5845(a)(1).

Special Agent (b) (6)

788035-20-0106
2020-682-(b) (6)
Page 7

Examined by:

(b) (6)

Firearms Enforcement Officer

Approved by:

(b) (6)

Chief, Firearms Technology Criminal Branch

Attachments: 13 pages bearing 25 photographs,
FTISB letter #308999
Letter from (b)(3) - 26 USC 6103, (b)(6)
FTISB letter #311192

Enclosed is a Firearms Technology Criminal Branch report provided in response to your request for assistance. (b)(3) - 26 USC 6103

(b)(3) - 26 USC 6103



(b)(3) - 26 USC 6103, (b)(6), (b)(7)(C)

(b)(3) - 26 USC 6103, (b)(6), (b)(7)(C)



Exhibit 13

(b)(3) - 26 USC 6103, (b)(6)

(b)(3) - 26 USC 6103

Exhibit 13 Markings

(b) (4)

(b) (4)

(b) (4)

Exhibit 13 Measurements



**Exhibit 13 SBA3 accessory installed onto
Carbine Receiver Extension**

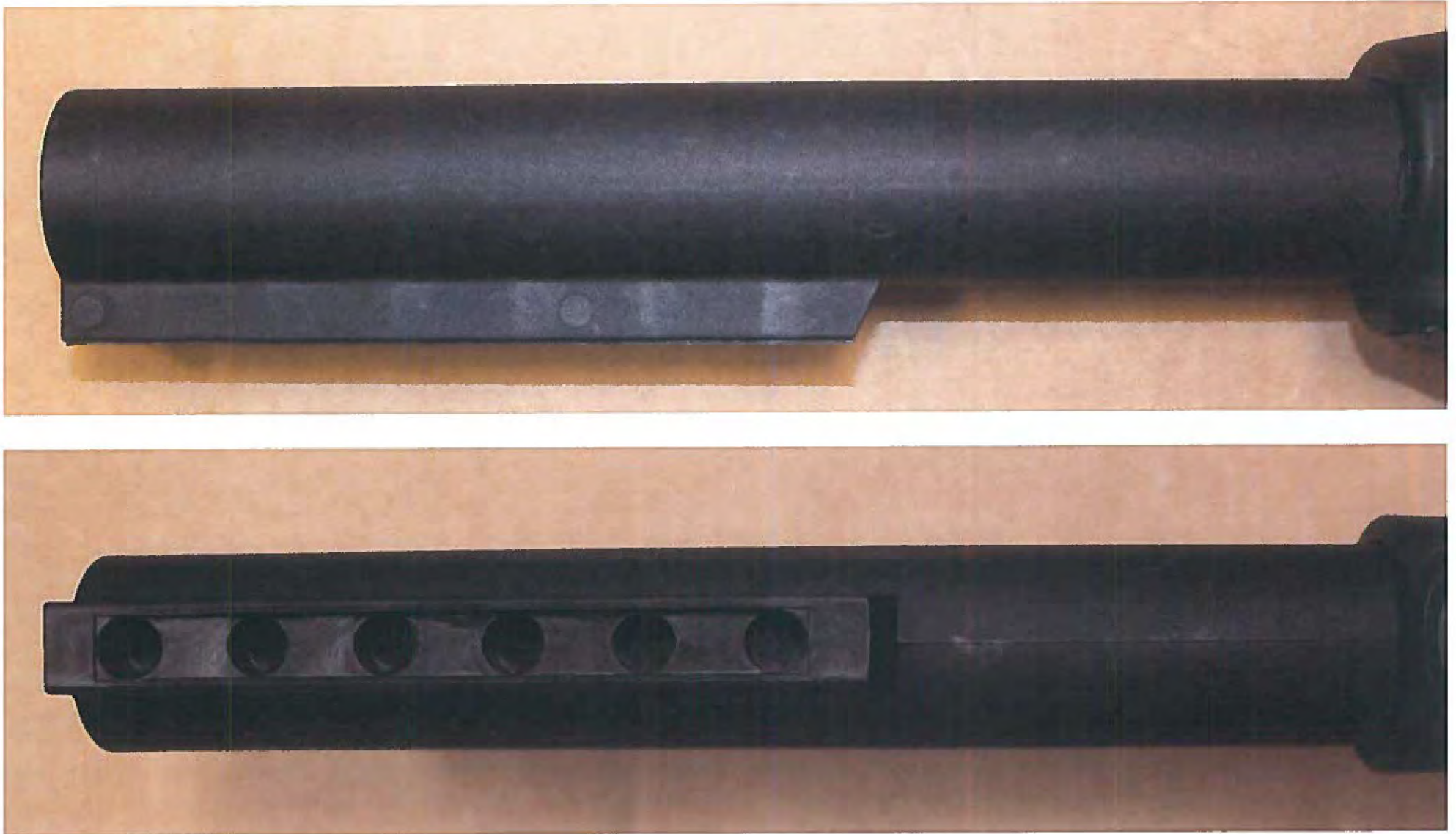


Exhibit 13 Carbine Receiver Extension

(b)(3) - 26 USC 6103, (b)(4)

(b)(3) - 26 USC 6103, (b)(4)

Exhibit 13 has a length of pull of approximately (b) (4) inches
– consistent with shoulder-fired weapons



**Exhibit 13 SBA3 accessory – Known
Shouldering Device**

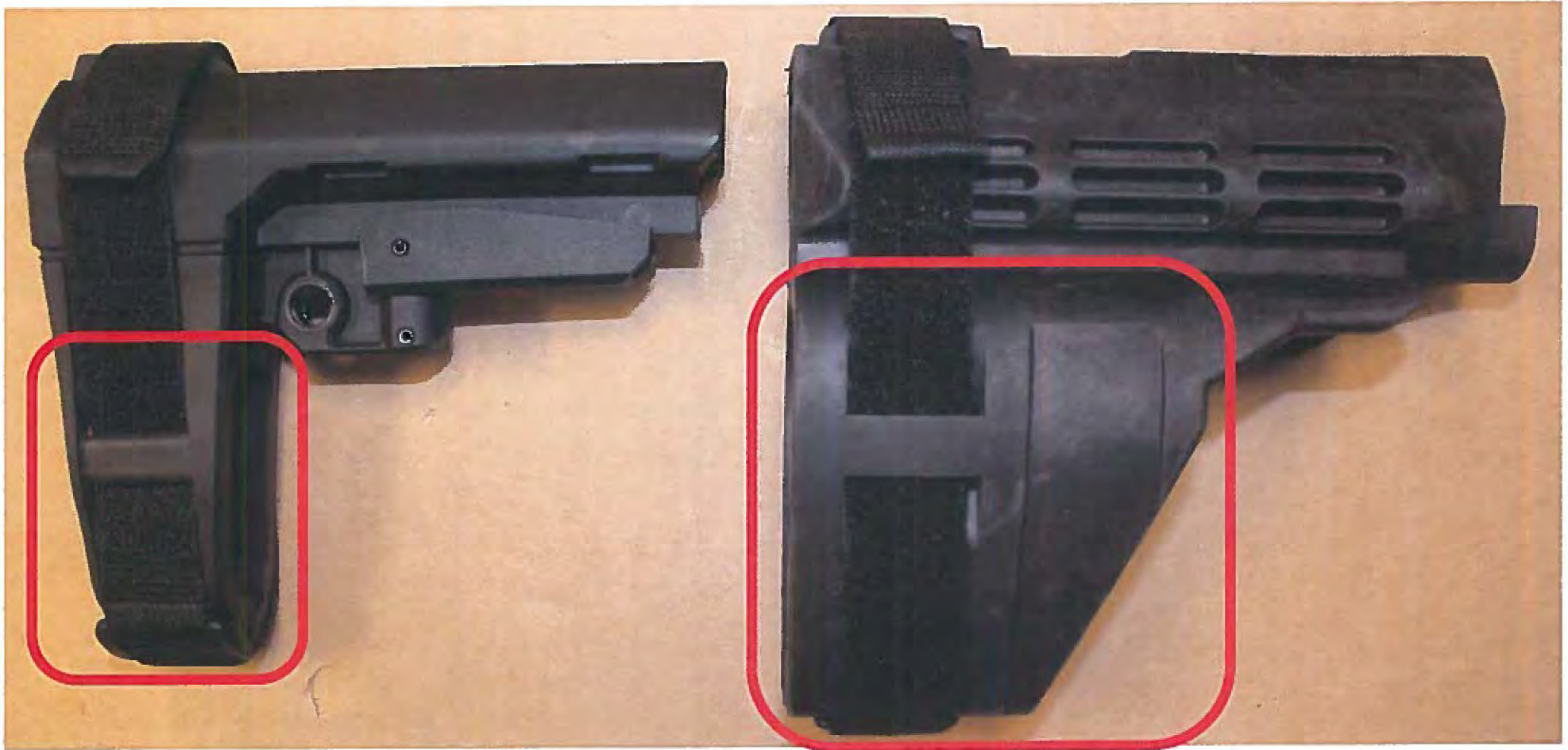


Exhibit 13 SBA3 accessory (left) compared to original submitted SB15 accessory (right), arm flap highlighted in red.



Exhibit 13 SBA3 accessory (left) compared to original submitted SB15 accessory (right), arm flap highlighted in red.

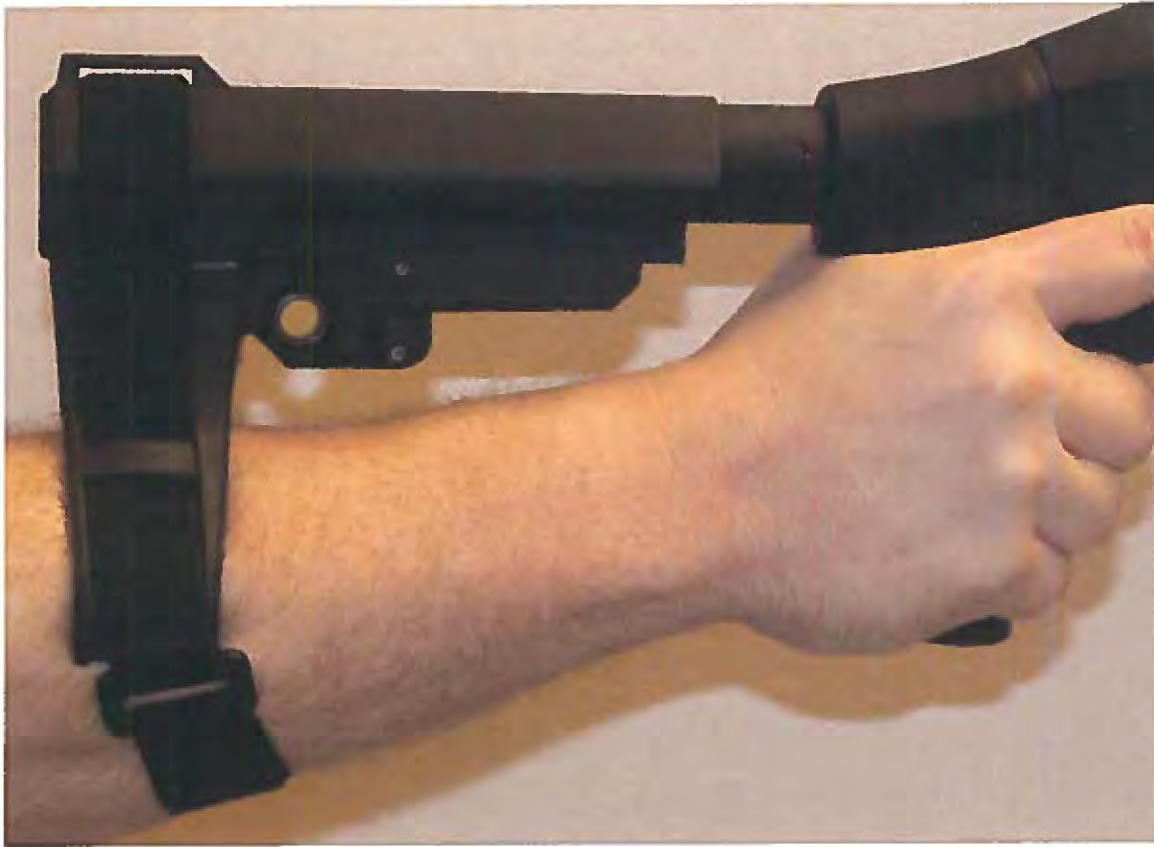


Exhibit 13 – In the collapsed position the SBA3 accessory provides an insufficient amount of coverage of shooter's arm, and incorporates an elastic Velcro strap, making it ineffective at providing "*stabilizing*" support



Exhibit 13 – In the extended position the SBA3 accessory provides an insufficient amount of coverage of shooter's arm, and incorporates an elastic Velcro strap, making it ineffective at providing “*stabilizing*” support

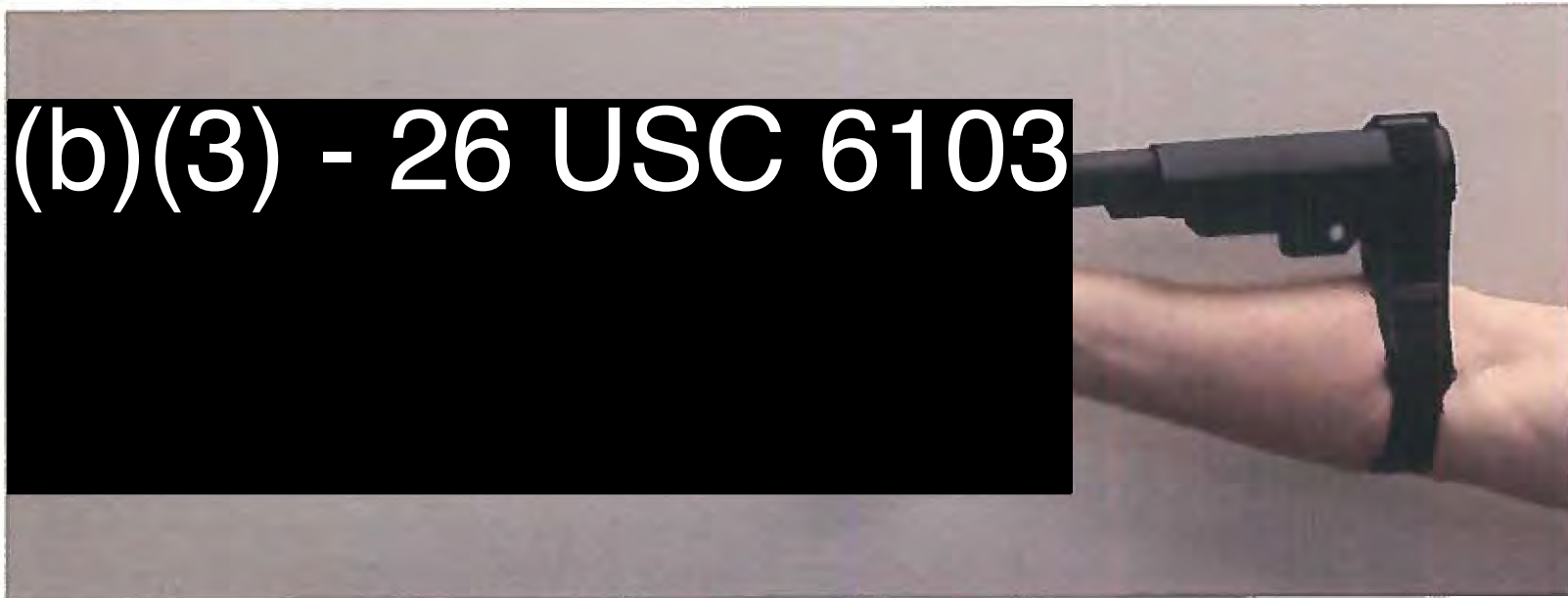
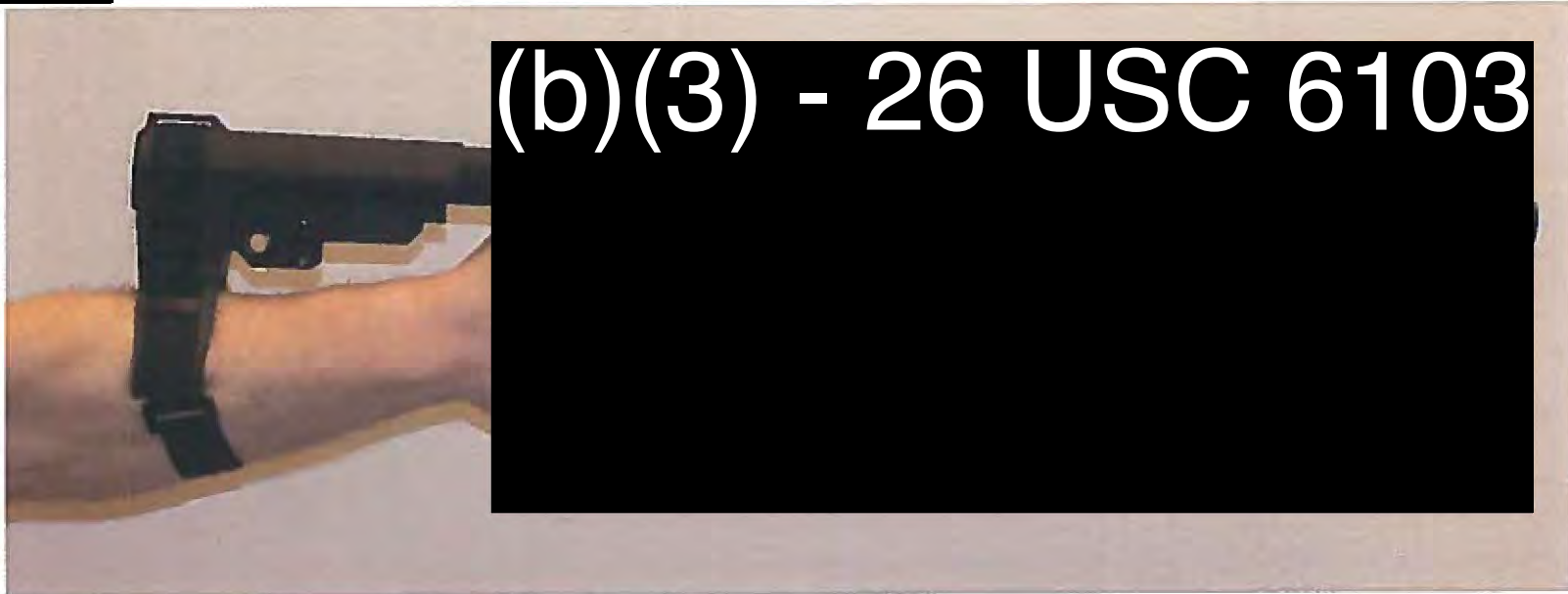


Exhibit 13 SBA3 accessory creates a downward slant and unusable aimpoint

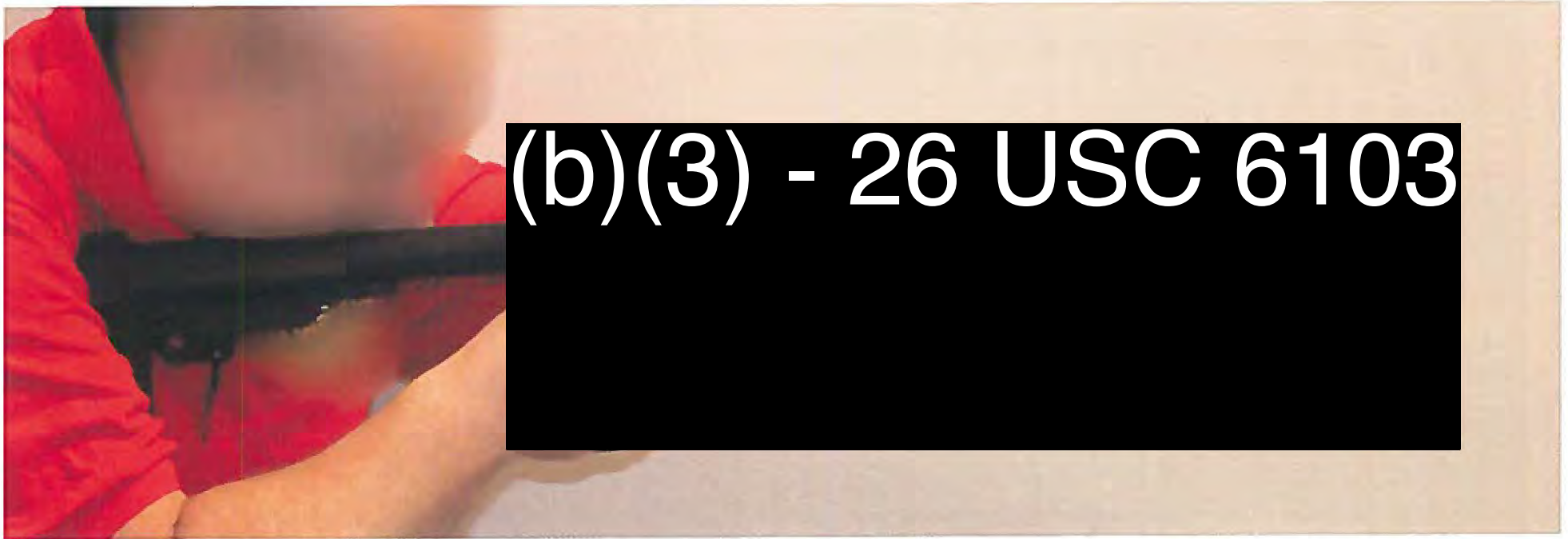


Exhibit 13 is designed and intended to be fired from the shoulder

Firearms Technology Criminal Branch
Report of Technical Examination



244 Needy Road #1600
Martinsburg, WV 25405

Phone: 304-616-4300
Fax: 304-616-4301

To:
Special Agent (b) (6)
Bureau of Alcohol, Tobacco, Firearms and Explosives
1011 Boulder Springs Drive
Suite #300
Chesterfield, VA 23225

Date:

UI#: (b)(7)(A)

RE: Technical Assistance to
FBI

FTCB#: 2020-487 (b) (6)
314200

Date Exhibits Received: 5/29/2020

Type of Examination Requested:

Delivered By: FedEx (b) (6)

Examination, Test, Classification

Exhibits:

1. (b)(3) - 26 USC 6103, .300 BLK caliber, AR-type firearm, serial number (b) (6) suspected short-barreled rifle).

Pertinent Authority:

Title 28 of the United States Code (U.S.C.) provides the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) the authority to investigate criminal and regulatory violations of Federal firearms law at the direction of the Attorney General. Under the corresponding Federal regulation at 28 CFR § 0.130, the Attorney General provides ATF with the authority to investigate, administer, and enforce the laws related to firearms, in relevant part, under 18 U.S.C. Chapter 44 (Gun Control Act) and 26 U.S.C. Chapter 53 (National Firearms Act). Pursuant to the aforementioned statutory and regulatory authority, the ATF Firearms Ammunition and Technology Division (FATD) provides expert technical support on firearms and ammunition to federal, state and local law enforcement agencies regarding the Gun Control Act and the National Firearms Act.

The Gun Control Act of 1968 (GCA), 18 U.S.C. § 921(a)(3), defines the term “**firearm**” to include:

“...(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 silencer or (D) any destructive device. Such term does not include an antique firearm.”

The GCA defines the term “**rifle**” as:

“...a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned and made or remade to use the energy of the explosive to fire only a single projectile through a rifled bore for each single pull of the trigger...” (See 18 U.S.C. § 921(a)(7).)

(b) (6)

(b) (6)

Pertinent Authority (cont.):

The GCA defines the term “**short-barreled rifle**” to mean:

“...a rifle having one or more barrels less than sixteen inches in length and any weapon made from a rifle (whether by alteration, modification, or otherwise) if such weapon, as modified, has an overall length of less than twenty-six inches...” (See 18 U.S.C. § 921(a)(8).)

The National Firearms Act (NFA), 26 U.S.C. § 5845(a), defines “**firearm**” as:

“... (1) a shotgun having a barrel or barrels of less than 18 inches in length; (2) a weapon made from a shotgun if such weapon as modified has an overall length of less than 26 inches or a barrel or barrels of less than 18 inches in length; (3) **a rifle having a barrel or barrels of less than 16 inches in length**; (4) a weapon made from a rifle if such weapon as modified has an overall length of less than 26 inches or a barrel or barrels of less than 16 inches in length; (5) any other weapon, as defined in subsection (e) (6) a machinegun; (7) any silencer (as defined in 18 U.S.C. § 921); and (8) a destructive device. The term ‘firearm’ shall not include an antique firearm or any device (other than a machinegun or destructive device) which, although designed as a weapon, the ...[Attorney General] ... finds by reason of the date of its manufacture, value, design, and other characteristics is primarily a collector's item and is not likely to be used as a weapon.”

Also, the NFA, § 5842, “Identification of firearms,” states:

“...(a) Identification of firearms other than destructive devices. - Each manufacturer and importer and anyone making a firearm shall identify each firearm, other than a destructive device, manufactured, imported, or made by a serial number which may not be readily removed, obliterated, or altered, the name of the manufacturer, importer, or maker, and such other identification as the Secretary may by regulations prescribe. (b) Firearms without serial number. - Any person who possesses a firearm, other than a destructive device, which does not bear the serial number and other information required by subsection (a) of this section shall identify the firearm with a serial number assigned by the Secretary and any other information the...[latter] ... may by regulations prescribe.”

Findings:

Exhibit 1 is a .300 BLK caliber, AR-type firearm assembled by (b)(3) - 26 USC 6103

(b)(3) - 26 USC 6103

. The Exhibit is equipped with a “*proprietary Pistol Stabilizing Brace*” accessory, a Cherry Bomb muzzle device and an Aimpoint Micro T-2 red dot sight.

The Exhibit has an overall length of approximately (b) (4) inches (with shouldering device extended) and contains a rifled barrel approximately (b) (4) inches in length. I determined the overall length of Exhibit 1 by placing the Exhibit on a flat surface, and measuring the distance between the extreme ends of the Exhibit (shouldering device extended and muzzle device removed), along a line parallel to the center line of the bore. Additionally, I measured the barrel of Exhibit 1 in the following manner: I closed the bolt, placed the Exhibit on a flat surface, inserted a graduated cylindrical scale into the muzzle of the barrel until it touched the bolt face, noted the measurement, and removed the rod from the barrel.

(b) (6)

(b) (6)

Findings (cont.):

During my examination, I observed the following markings:

The right side of the receiver

(b)(3) - 26 USC 6103



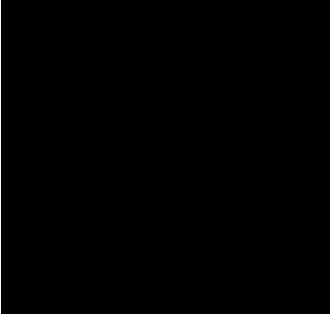
The left side of the receiver

(b)(3) - 26 USC 6103, (b)(6)



The receiver front of magazine well

(b)(3) - 26 USC 6103



On the upper assembly

(b)(3) - 26 USC 6103



The selector markings

(b)(3) - 26 USC 6103



(b) (6)

(b) (6)

Findings (cont.):

In determining whether a firearm with a "stabilizing brace" accessory is "intended" to be fired from the shoulder, ATF considers the weapon's objective design features and overall configuration. The objective design features considered when determining whether the weapon is designed, made and intended to be held and fired with one hand, with an attached "stabilizing brace" accessory, or alternatively, when a weapon is intended to be fired from the shoulder include, but are not limited to: the weight and overall length of the firearm utilizing the "stabilizing brace" accessory; the length of pull; the design of the "stabilizing brace" accessory as compared to known shoulder stocks; the attachment method for the "stabilizing brace" accessory; whether the "stabilizing brace" accessory functions as designed when assembled on the firearm; presence of a secondary grip which demonstrates the weapon is not designed to be held and fired with one hand; incorporation of sights/scopes that possess eye relief incompatible with one-handed firing; and any other peripheral accessories that demonstrate the weapon is intended to be fired from the shoulder.

Exhibit I incorporates a proprietary PDW (Personal Defense Weapon)-type housing attached to the rear of the AR-type receiver which facilitates the use of twin guide rails to attach the "proprietary Pistol Stabilizing Brace" accessory. This PDW-type housing and use of twin guide rails are identical to those used in the attachment of the traditional shoulder stock on the (b) (3) - 26 USC 6103 rifle (see attached photographs). By all outward appearances the "proprietary Pistol Stabilizing Brace" is simply a modified version of the (b) (3) - 26 USC 6103 shoulder stock and not a legitimate "stabilizing brace" accessory. Further, (b) (3) - 26 USC 6103 firearm with the "proprietary Pistol Stabilizing Brace" was never submitted to ATF for an official classification.

(b) (3) - 26 USC 6103 website states:

(b) (3) - 26 USC 6103

ATF's Firearms Technology Industry Services Branch (FTISB) previously notified SB Tactical that:

"FTISB does not approve "stabilizing braces" which are similar or based off of shoulder stock designs." (see FTISB letter #308999, dated July 18, 2018, attached).

While ATF considers many of SB Tactical's accessories to be modified shoulder stocks and therefore shoulder devices themselves, SB Tactical has continued to market these accessories as "ATF Compliant Pistol Stabilizing Braces." Although ATF has made a consistent effort to inform SB Tactical they are perpetuating a false narrative regarding the accessories they market, SB Tactical has taken the position that ATF has no authority to regulate an accessory manufacturer. This has essential left SB Tactical's business partners and "friends" on the hook for unknowingly manufacturing and marketing unregistered NFA firearms.

The "proprietary Pistol Stabilizing Brace" accessory installed onto the twin guide rails of the PDW-type housing extends approximately (b) (4) inches from the rear of the receiver. The "proprietary Pistol Stabilizing Brace" accessory is approximately (b) (4) inches in height and approximately (b) (3) - 26 USC 6103 inches at its maximum width. This provides a rear surface area larger than the actual (b) (3) - 26 USC 6103 rifle's shoulder stock. The "proprietary Pistol Stabilizing Brace" accessory does not incorporate any design features that preclude or discourage shouldering the Exhibit. Further, the "proprietary Pistol Stabilizing Brace" accessory installed onto Exhibit I is comparable to known PDW-type shoulder stocks; specifically, the (b) (3) - 26 USC 6103 rifle's shoulder stock, both in length and shouldering surface (see attached photographs).

(b) (6)

(b) (6)

Findings (cont.):

Measuring the distance between the center of the trigger of Exhibit 1 and the center of the “*proprietary Pistol Stabilizing Brace*” accessory rear surface, the submitted firearm has a length of pull of approximately (b) (4) inches when fully extended. By comparison, the (b)(3) - 26 USC 6103 rifle has a length of pull of approximately (b) (4) inches. (see attached photograph). Therefore, Exhibit 1 possesses a “length of pull” consistent with similar rifles and useful for shouldering the firearm.

The “*proprietary Pistol Stabilizing Brace*” accessory contains two bifurcated (split) rubber flaps and a Velcro strap which wrap around a shooter’s arm. Unlike the original SB Tactical SB15 “*stabilizing brace*” accessory, the rubber flaps have been greatly reduced in size, resulting in the flaps on the Exhibit’s “*proprietary Pistol Stabilizing Brace*” accessory being nearly ineffectual in wrapping around a shooter’s arm. An attempt was made to utilize the “*proprietary Pistol Stabilizing Brace*” accessory in accordance to the manufacturer’s stated intent of “stabilizing” one-handed firing. In the collapsed position, the flaps on the “*proprietary Pistol Stabilizing Brace*” accessory barely cover a shooter’s arm providing limited “stabilizing” support. In the extended position the flaps on the “*proprietary Pistol Stabilizing Brace*” accessory are completely ineffective. Further the included Velcro strap is not long enough to wrap around a shooter’s arm when the accessory is in the extended position (see attached photographs).

Further, under the “*Common Features and Specs*” section on (b)(3) - 26 USC 6103 website, the manufacturer states that Exhibit 1, is equipped with a “**2-Position Telescoping Stock.**” The FTCB examination has determined that this is statement is factual.

Therefore, the “*proprietary Pistol Stabilizing Brace*” accessory, regardless of the manufacturers stated intent, is designed and intended to be used as the shouldering device for Exhibit 1. This indicates that Exhibit 1 is designed and intended to be fired from the shoulder. As received, Exhibit 1 is a weapon designed, made, and intended to be fired from the shoulder and designed and made to use the energy of an explosive to fire only a single projectile through a rifled bore for each single pull of the trigger; therefore, Exhibit 1 is a “**rifle**” as defined. Exhibit 1, being a rifle having a barrel of less than 16 inches in length, is a “**short-barreled rifle**” as defined.

I test-fired Exhibit 1 on June 6, 2020, at the ATF test range, Martinsburg, West Virginia, using commercially available, Fiocchi brand, .300 BLK caliber ammunition and a magazine from the National Firearms Collection (NFC). After I inserted a one-round ammunition load, set the selector to the “*FIRE*” position, charged and chambered the round, and pulled the trigger, Exhibit 1 successfully expelled a projectile by the action of an explosive. I inserted a two-round ammunition load, charged and chambered the first round, and pulled the trigger, Exhibit 1 fired a single round of ammunition for each pull of the trigger.

Conclusions:

Exhibit 1, being a weapon which is designed to expel a projectile by the action of an explosive and incorporating the receiver of such a weapon, is a “**firearm**” as defined in 18 U.S.C. § 921(a)(3)(A)&(B).

Exhibit 1, being a rifle having a barrel less than 16 inches in length, is a “**short-barreled rifle**” as defined in 18 U.S.C. § 921(a)(8).

(b) (6)

(b) (6)

Conclusions (cont.):

Exhibit 1, being a rifle having a barrel less than 16 inches in length, is a “**firearm**” as defined in 26 U.S.C. § 5845(a)(3).

Examined by:

(b) (6)

Firearms Enforcement Officer

Approved by:

(b) (6)

Chief, Firearms Technology Criminal Branch

Attachments: 17 pages bearing 28 photographs,
FTISB letter #308999

Enclosed is a Firearms Technology Criminal Branch report provided in response to your request for assistance. (b)(3) - 26 USC 6103

[Redacted]

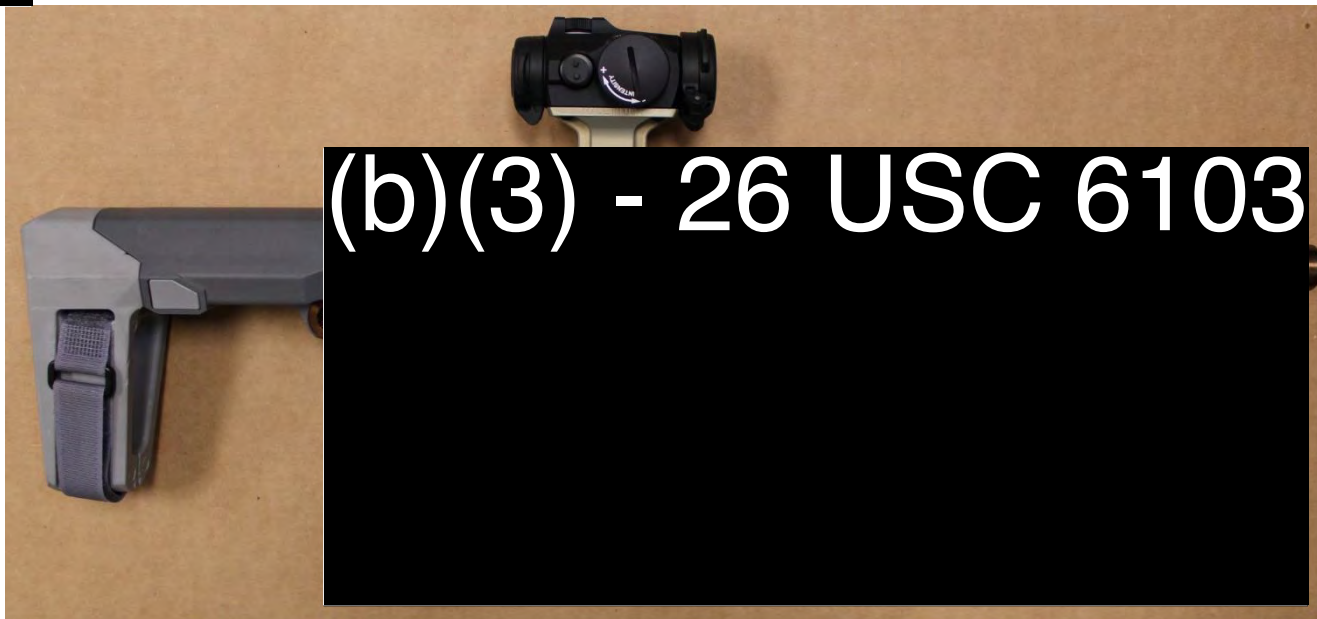


Exhibit 1

(b)(3) - 26 USC 6103

(b)(3) - 26 USC 6103

(b)(3) - 26 USC 6103

(b)(3) - 26 USC 6103

(b)(3) - 26 USC 6103

Exhibit 1 Markings

(b) (4)

(b) (4)

(b) (4)

Exhibit 1 Measurements (shouldering device extended)



Exhibit 1 “*proprietary Pistol Stabilizing Brace*”
accessory –Modified Shoulder Stock



Exhibit 1 (top) compared to rifle (bottom) – shouldering devices collapsed (b)(3) - 26 USC 6103



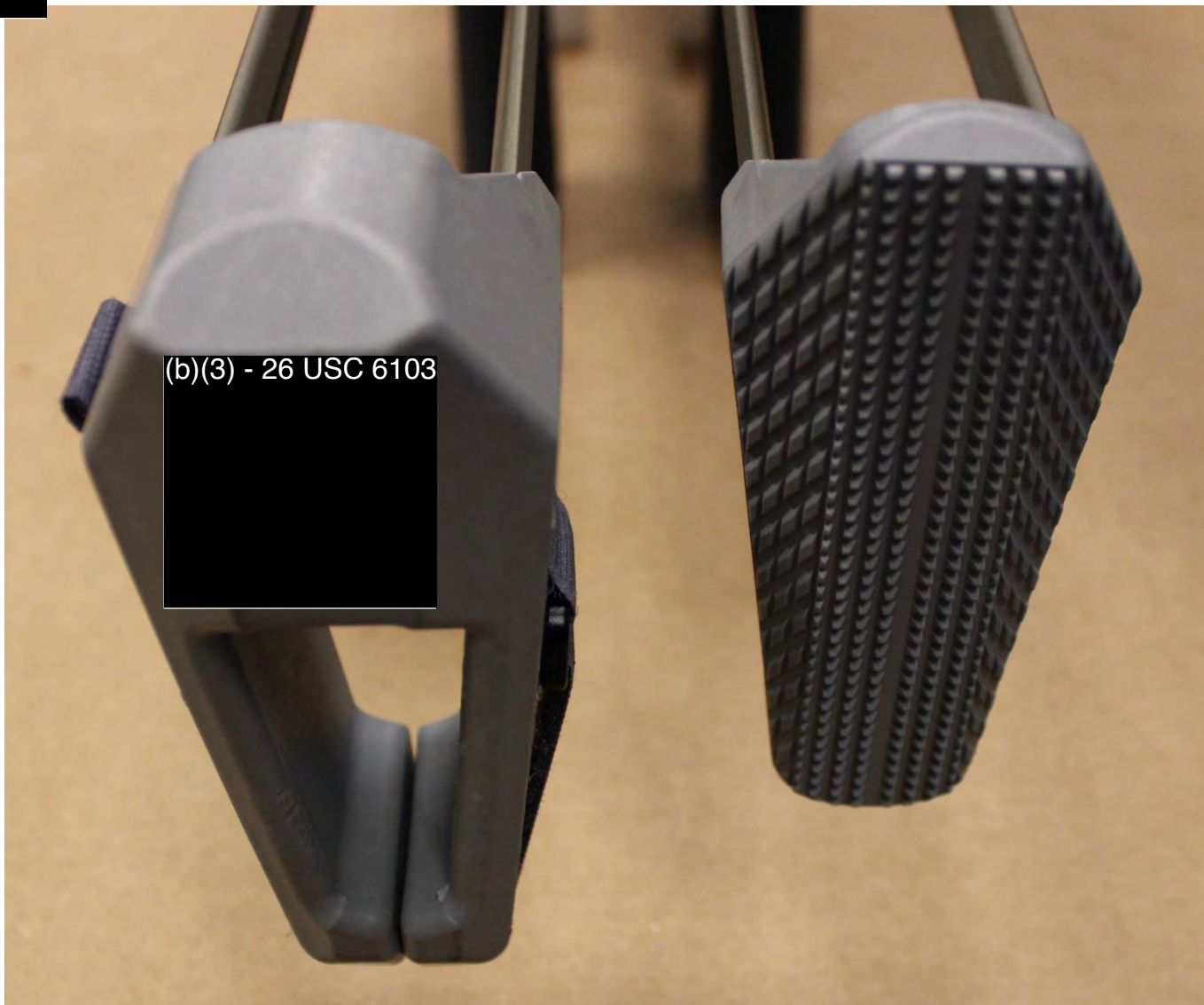
(b)(3) - 26 USC 6103

(b)(3) - 26 USC 6103

Exhibit 1 (top) compared to (b)(3) - 26 USC 6103 rifle (bottom) – shouldering devices extended



Exhibit 1 shouldering device (top) compared to (b)(3) - 26 USC 6103 traditional stock (bottom)



Rearview of the Exhibit 1 shouldering device (left) compared to traditional stock (right)

(b) (4)

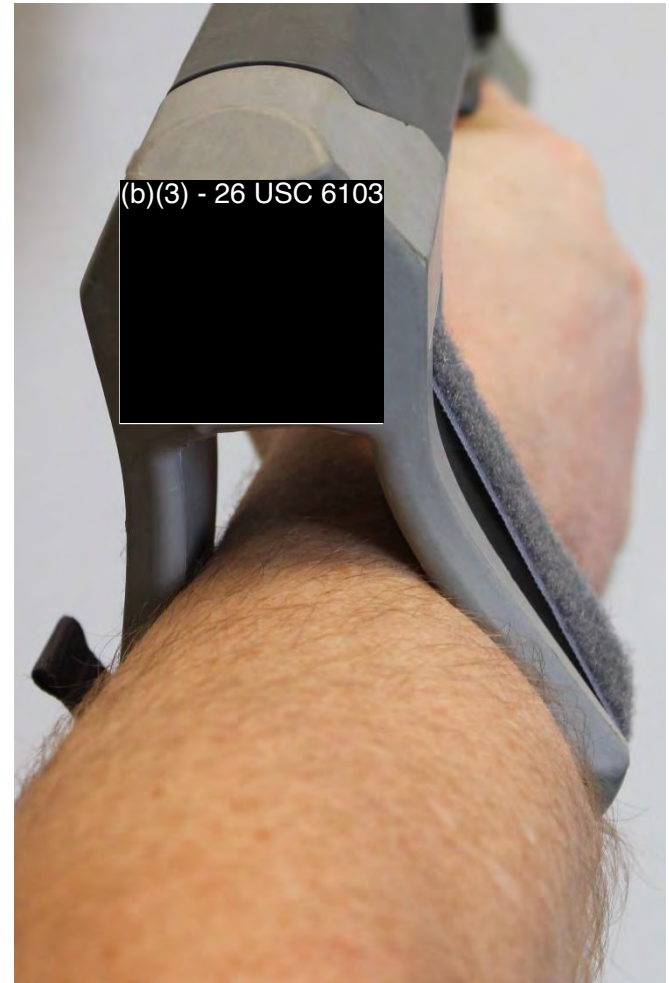
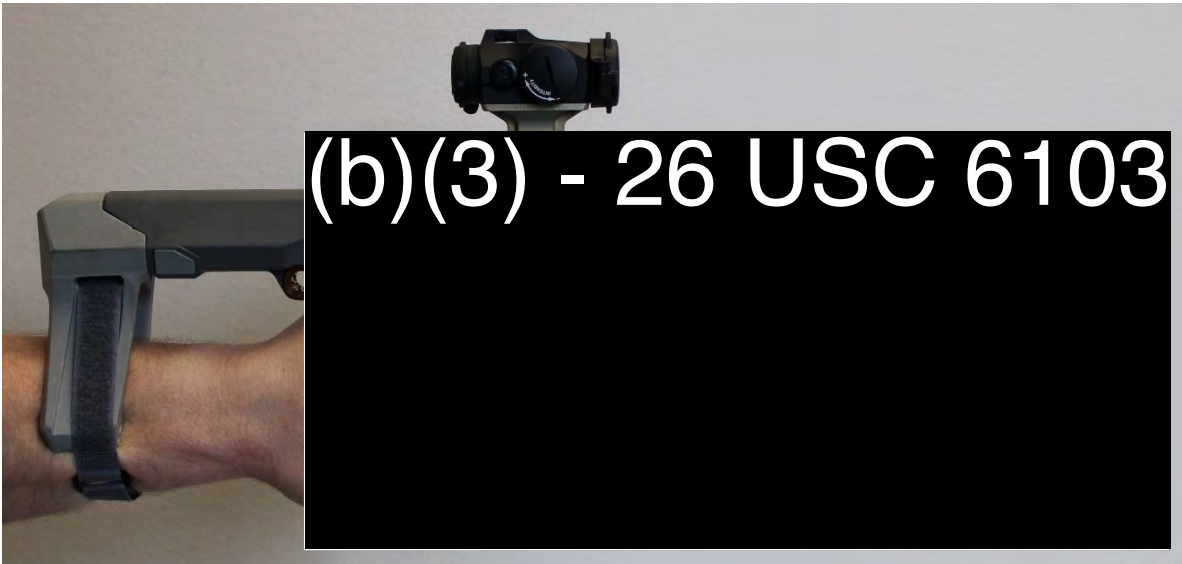
(b) (4)

(b)(3) - 26 USC 6103 rifle with “*proprietary Pistol Stabilizing Brace*” has a length of pull of approximately (b) (4) inches

(b) (4)

(b) (4)

(b)(3)-(26 USC 6103) rifle with traditional shoulder stock has a length of pull of approximately (b) (4) inches



The flaps on the Exhibit 1 accessory when device is collapsed provide limited coverage of shooter's arm



The flaps on the Exhibit 1 accessory when device is extended provide a greatly reduced amount of coverage of shooter's arm, making it far less effective at providing "*stabilizing*" support



In addition to the flaps not covering the shooter's arm, the Velcro strap on Exhibit 1 fails to wrap around a shooter's arm when the accessory is extended

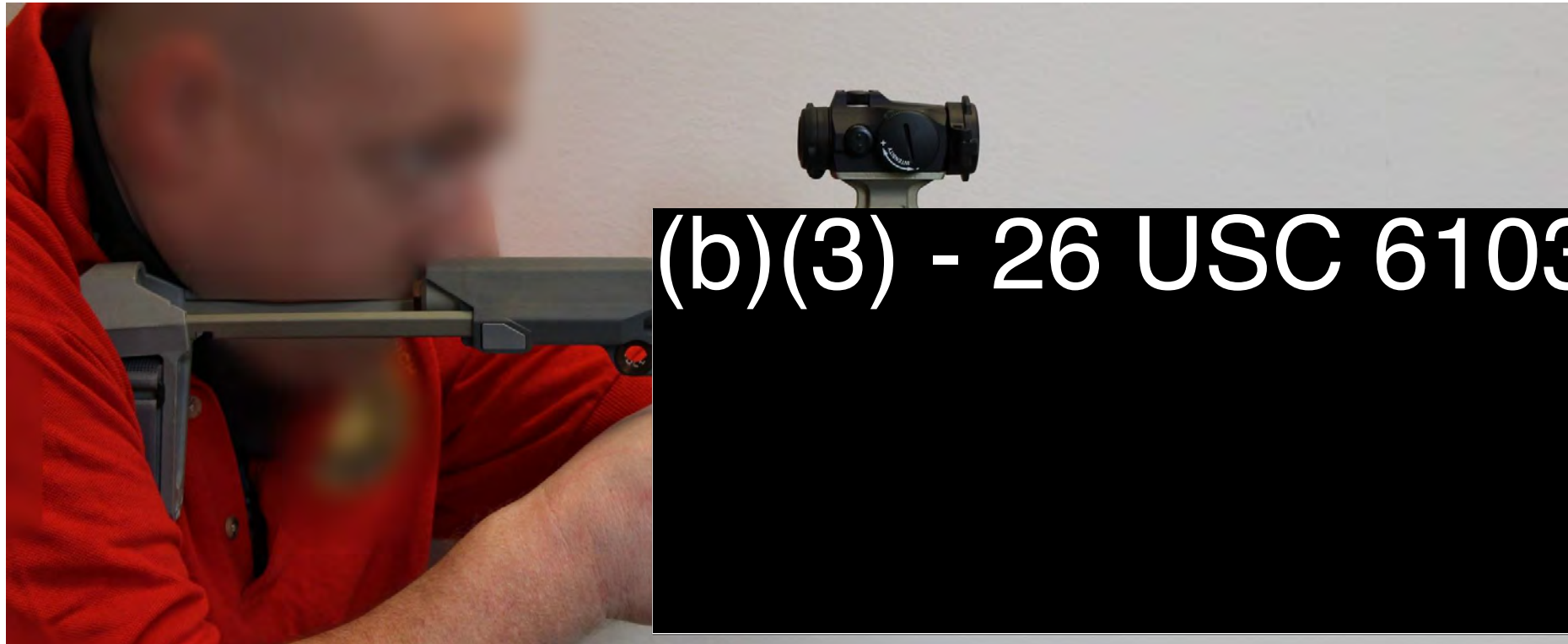


Exhibit 1 is designed and intended to be fired
from the shoulder

(b)(3) - 26 USC 6103

(b) (3) - 26 USC 6103



(b)(3) - 26 USC 6103





U.S. Department of Justice

Bureau of Alcohol, Tobacco,
Firearms and Explosives

Martinsburg, WV 25405

www.atf.gov

90701 (b) (6)
3311/311127

MAR 03 2020

(b)(3)-(26 USC 6103), (b) (6)

Dear (b) (6)

This refers to your correspondence to the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), Firearms Technology Industry Services Branch (FTISB), which accompanied your submitted sample of one (b)(3)-(26 USC 6103) firearm, with attached SB Tactical SBA3 accessory. Specifically, you requested an examination and classification of this sample with regard to the amended Gun Control Act of 1968 (GCA) and the National Firearms Act (NFA).

This letter is not a final classification letter and does not constitute final agency action. However, it represents our current analysis based on the information we have, and we offer this letter for your review in advance of issuing a final classification letter. If you have additional information you want to submit to ATF before it issues its final classification, you may send the information in writing within 10 days from the date of this letter. You may also, within the 10 day period, request an in-person meeting to present this additional information provided the meeting takes place within 10 days of the request. Please submit written comments or a request for an in-person meeting via email to fire_tech@atf.gov. If additional information is received, it will be included in the analysis when the final classification is sent to you.

The objective design features of the firearm, as submitted, are consistent with weapons designed and intended to be fired from the shoulder. Therefore, because the submitted sample has a rifled bore, the submitted Ruger AR-type weapon with the attached SBA3 accessory – in the submitted configuration – is classified as a “rifle” as defined in the GCA. Additionally, because the barrel length of this firearm is under 16 inches, it is properly classified as a “short-barreled rifle” and a “firearm” as defined in the GCA and NFA, respectively. The following is our analysis for the classification of the subject firearm as submitted with the attached accessory.

(b) (6)

As background, the National Firearms Act (NFA), 26 U.S.C. § 5845(a), defines “firearm” to mean, in part *“a rifle having a barrel or barrels of less than 16 inches in length.”*

Additionally, 27 CFR §§ 478.11, 479.11, regulations implementing the GCA and NFA, define “pistol” as: *...a weapon originally designed, made, and intended to fire a projectile (bullet) from one or more barrels when held in one hand, and having (a) a chamber(s) as an integral part(s) of, or permanently aligned with, the bore(s); and (b) a short stock designed to be gripped by one hand and at an angle to and extending below the line of the bore(s).*

Background:

On November 12, 2012, (b) (6) submitted the original sample (which would become the SB15) to the Firearms Technology Branch (FTB) (now the Firearms & Ammunition Technology Division) for classification (Attachment A). In the accompanying correspondence, (b) (6) stated: *“The brace is intended to assist those with limited strength or mobility while shooting from the one-handed pistol precision stance or one handed supported stance.”* Therefore, in FTB letter 2013-0172, dated November 26, 2012 (Attachment B), FTB determined that when used in accordance to the stated intent, the SB15 accessory did not change the classification of an AR-type pistol when installed.

On August 14, 2015, (b)(3)-(26 USC 6103) legal representation (b) (6) submitted a letter requesting classification of an “adjustable pistol stabilizing brace” (Attachment C). FTISB letter #303984, dated November 30, 2015 (Attachment D), stated that adjustability is a characteristic of rifle/shotgun shoulder stocks, and such a device would likely result in the redesign of a pistol to a weapon intended to be fired from the shoulder. ATF provided that a physical sample be submitted and examined in order to make a formal determination.”

On December 2, 2015, in response to FTISB’s November 30, 2015 letter, (b)(3)-(26 USC 6103) submitted through their counsel, (b) (6) representing (b)(3)-(26 USC 6103), a prototype of the “adjustable pistol stabilizer brace” attached to a (b)(3)-(26 USC 6103) pistol (Attachment E). The request stated *“that the purposes of the adjustment mechanism is to assist those with shorter arms and disabled individuals who require a shorter arm brace for shooting particular types of handguns.”* FTISB letter #304296, dated December 22, 2015 (Attachment E), determined that the “adjustable pistol stabilizer brace” (which became the (b)(3)-(26 USC 6103) (b)(3)-(26 USC 6103) did not change the (b)(3)-(26 USC 6103) pistol classification when used according to the manufacturer’s stated intent. However, it should be noted, that the actual (b)(3)-(26 USC 6103) shoulder stock, on which the PSB accessory is based, was never submitted for comparison.

Following these letters, FTISB received an increase in requests for clarification from the public regarding the use of “stabilizing brace” accessories in order to fire pistols from the shoulder. In January 2015, FATD issued the “Open Letter on the Redesign of ‘Stabilizing Braces’” (Attachment G), which stated:

The pistol stabilizing brace was neither “designed” nor approved to be used as a shoulder stock, and therefore use as a shoulder stock constitutes a “redesign” of the device because a possessor has changed the very function of the item. Any individual letters stating otherwise are contrary to the plain language of the NFA, misapply Federal law, and are hereby revoked.

(b) (6)

(b) (6) requested a "Reversal of ATF Open Letter on the Redesign of 'Stabilizing Braces'" in a letter to ATF Acting Director Thomas Brandon on January 5, 2017. In the response to (b) (6) (b) (6) ATF clarified its position that classifications of firearms with "stabilizing brace" accessories would be made based on the objective design features of that weapon. (Attachment H).

The letter contained a paragraph that stated, "incidental, sporadic, or situational 'use' of an arm-brace (in its original approved configuration) equipped firearm from a firing position at or near the shoulder" would not constitute a "redesign" of the pistol into a rifle. SB Tactical proceeded to use that paragraph to market its products without acknowledging the context of the entire letter. SB Tactical began marketing its "stabilizing brace" accessories as a way to circumvent the NFA and "Stiff Arm The Establishment" (SB Tactical's home webpage from approximately June 2017 to May 2019 - Attachment I).

SB Tactical then proceeded to expand on the variation of accessories it offered, claiming they were all "stabilizing braces" and "ATF Compliant." Many of these "stabilizing brace" accessories were clearly based upon known stock designs (often advertised as such) and may have been better suited to serve as shouldering devices than "stabilizing braces."



Figure 1 – Statements made on SB Tactical Accessory Packaging

In July 2018 (FTISB letter #308999, dated July 18, 2018 – Attachment J), SB Tactical was notified to cease advertising its products as "ATF Compliant" because the vast majority of SB Tactical's accessories were never submitted to FTISB for evaluation. The letter specifically noted the "stabilizing brace" accessories SB Tactical submitted on a firearm for evaluation and those "stabilizing brace" accessories SB Tactical had not submitted on a firearm for classification.

These are the SB Tactical braces submitted to ATF:

- SB15 (Original submission)
- MPX PSB

SB Tactical braces not submitted to ATF:

- | | | | | |
|-------------|--------------|--------------|------------|-----------|
| • SBA3 | • SBT5KA | • SBPDW | • SBTEVO | • SOB |
| • SBT805 | • SBL | • SBT | • SBM4 | • SBT5A |
| • SBTI | • SBL-Mini | • VECTOR PSB | • SBX-K | • UZI PSB |
| • SBV | • TAC14-SBM4 | • SBM47 | • 590-SBM4 | • SOB47 |
| • TAC14-SBL | • SBT5 | • 590-SBL | | |

(b) (6)

Having not received any further submissions from SB Tactical, FTISB purchased several of the above mentioned accessories. In examining these purchased accessories, specifically the SBA3 accessory, it became evident that the design of SB Tactical's accessories were distinguishable from the original design and were becoming more useful as shouldering devices than actual "*stabilizing braces*."

As a result of FTISB letter #308999, SB Tactical requested an in-person meeting, which was accommodated on August 1, 2018. In this meeting, attended by (b) (6) and (b) (6) ATF informed SB Tactical to cease marketing the above mentioned, non-evaluated accessories as "*ATF Compliant*." ATF again offered SB Tactical the opportunity to submit a complete firearm, with an attached SB Tactical accessory for an official classification.

Additionally (b) (6) made clear that, through outside channels, SB Tactical was made aware that the Firearms Technology Criminal Branch (FTCB) had received several firearms equipped with the SBTEVO and SBT805 accessories and had determined that each of those accessories redesigned their host firearms to be fired from the shoulder. (Evidence of SB Tactical's knowledge of these classifications resides in the "*Brace Chart*" (b) (6) provided ATF, which lists both the SBTEVO and SBA3 as "*stocks*" – Attachment K). Although SB Tactical had clear knowledge that these accessories did indeed change the classification of certain firearms when installed, SB Tactical continued to advertise them as "*ATF Compliant*" and describe them as accessories that would not change the classification of firearms when installed (See Figure 1).

In December 2018, FTCB examined its first firearm with the SBA3 accessory attached. This firearm was determined to be designed to be fired from the shoulder and was classified as a "*short-barreled rifle*." (b) (6) and SB Tactical became aware of this classification through the legal defense of the defendant (as evidenced by the Attachment K - "*Brace Chart*") yet SB Tactical continued to advertise the SBA3 accessory as described above. In May 2019, SB Tactical, through its legal representation, informed ATF it has sold over 333,000 devices advertised as a "*stabilizing brace*."


As a result of several criminal cases involving firearms with SB Tactical accessories attached, another in-person meeting was requested of then Acting ATF Director Thomas Brandon. ATF accommodated this request on April 4, 2019. Attending this meeting on behalf of SB Tactical was (b) (6) via telephone. SB Tactical was again informed it needed to cease utilizing the phrase "*ATF Compliant*" to market accessories which were never submitted for evaluation. Further, SB Tactical was again informed that it would need to submit a complete firearm with an attached accessory for classification.

On May 2, 2019, SB Tactical released the SBA4 accessory. Even though ATF had not evaluated a firearm with several of SB Tactical "*stabilizing braces*" attached, including the SBA4, SB Tactical advertised the SBA4 and all other SB Tactical accessories as "**BATFE Compliant**" (see Figure 2 below).

(b) (6)

ATF Compliant

Like all SB Tactical Pistol Stabilizing Braces, the SBA4 is BATFE compliant, U.S. veteran designed, and proudly made in the USA.



[Learn More](#)

Figure 2 – SB Tactical email release of the SBA4 accessory on May 2, 2019, stating “all SB Tactical Pistol Stabilizing Braces as BATFE compliant”

In conclusion, while ATF does not regulate the sale of firearm accessories and does not classify accessories, an accessory when configured on a firearm may alter the classification of that firearm. This is because accessories serve specific functions and are therefore indicative of the how the firearm is intended to be fired. ATF informed SB Tactical dating back to August 1, 2018, that SB Tactical accessories may alter the classification of a firearm and SB Tactical may submit any product for a firearms classification under the National Firearms Act or Gun Control Act. On May 8, 2019, ATF received multiple submissions from SB Tactical that included a firearm with SB Tactical accessories installed.

Results of the FTISB examination of the submitted firearm, fully identified below, is as follows:

(b)(3)-(26 USC 6103) caliber firearm, serial number **(b) (6)** with attached SB Tactical SBA3 accessory



As submitted, the firearm has the following attributes:

- AR-type firearm.
- Semiautomatic operation.
- Utilizes a removable magazine.
- 5.56x45mm (5.56 NATO) caliber.
- Mil-Spec AR-type carbine receiver extension.
- SB Tactical SBA3 “*stabilizing brace*” accessory installed onto receiver extension.
- Barrel length: approximately **(b) (4)** inches rifled bore.

(b) (6)

- Overall length with accessory collapsed: approximately (b) (4) inches.
- Overall length with accessory extended: approximately (b) (4) inches.

Further, FTISB found the following markings:

Upper Assembly – (right side):

Receiver – (right side):

Receiver – (left side):

(b)(3)-(26 USC 6103)

In your correspondence, you inquire as to whether the submitted SB Tactical SBA3 accessory changes the classification of a "pistol" when installed. The submitted firearm is an AR-type firearm which has never had a *traditional* stock installed. This evaluation is to determine if the SB Tactical SBA3 accessory is designed to "stabilize" one handed firing of a "pistol" or redesigns the firearm to be *designed and intended to be fired from the shoulder*; thereby making a "rifle."

Classification:

In determining whether a firearm is "intended" to be fired from the shoulder, ATF considers the weapon's objective design features and uses, as well as the manufacturer's stated intent. But while FTISB considers a manufacturer's stated intent in classifying any product, it is not required to simply accept those statements when contradicted by objective evidence including the design of the item in question. *See Sig-Sauer v. Brandon*, 826 F.3d 598 (1st Cir. 2016). To rely exclusively on a manufacturer's assertion would permit manufacturers to market devices under their own classification, whether or not they may have a legitimate alternate use; simply by asserting that they are neither designed nor intended for any illicit use. Classifications based solely on the stated intent of the manufacturer would create an absurd result: Federal regulation of only those items the manufacturer wanted to market as such, leaving other items completely unregulated.

(b) (6)

The objective design features considered to determine whether the weapon is designed, made and intended to be held and fired with one hand, with an attached "*stabilizing brace*" accessory or, alternatively, is a weapon intended to be fired from the shoulder include, but are not limited to:

- The type and caliber of firearm to which the "*stabilizing brace*" accessory is installed;
- The weight and length of the firearm used with the "*stabilizing brace*;"
- The "length of pull" when installed on a firearm. While 13-1/2 inches is an *extreme limit* indicator, it does not serve as a demarcation line; shoulder fired weapons may possess a "length of pull" as little as 7 inches (see *Troy Tomahawk Short*);
- The attachment method of the "*stabilizing brace*" accessory, to include modified stock attachments, extended receiver extensions, and the use of spacers;
- The objective design features of the attached "*stabilizing brace*" accessory, to include:
 - Function of the accessory when utilized as a "*stabilizing brace*" compared to alternate use as a shouldering device;
 - Design of the "*stabilizing brace*" compared to known shoulder stock designs;
 - Rear contact surface area of the "*stabilizing brace*;"
 - Material used to make the accessory;
 - Shared or interchangeable parts with known shoulder stocks;
- Appropriate aim point when utilizing the "*stabilizing brace*" accessory, no upward or downward slant;
- Presence of a secondary grip, demonstrating the weapon is not designed be held and fired by one hand;
- Incorporation of sights/scopes that possess eye relief incompatible with one-handed firing;
- Installation of other peripheral accessories, to include bipods/monopods, large capacity magazines/drums, etc.

In addition to the objective design features of a submitted sample, FTISB also considers the marketing of both the accessory and the firearm to which it is assembled, compared to the manufacturer's stated intent when submitting an item. FTISB has found that manufacturers often assert that a device is a "*stabilizing brace*" when submitting a firearm for classification. The same manufacturers will then advertise their products as devices that permit customers to fire their "*pistols*" from the shoulder – that is, making a "**short-barreled rifle**" without complying with the requirements of the NFA. This is far from the "incidental" use of an arm brace as a shouldering device, but is instead marketing material that directly contradicts the stated purpose submitted to ATF. FTISB also examines how the device is actually being utilized by members of the Firearms Industry, Firearm Writers, and the general public. These sources provide insight into the ways that manufacturers market their products and whether it is actually useful in shouldering a particular firearm.

As a concept, "*stabilizing braces*" are firearm accessories designed to assist those with limited strength and/or mobility due to a disability in the operation and use of heavy handguns. The "*stabilizing brace*" aids the shooter in stabilizing the firearm for shooting with one hand. ATF has determined that such an accessory's only purpose is to assist in supporting firearms (generally pistols) which are large, heavy, and therefore more difficult to fire with one hand. ATF has found that such a firearm accessory is not for use with standard sized semiautomatic

(b) (6)

pistols and revolvers as these pistols are generally small, lightweight, and therefore do not necessitate the use of a "stabilizing brace." "Stabilizing braces" may function to assist injured veterans and others fire large, heavy handguns, but the presence of such a device is not determinative as to the classification of that weapon. Based on the objective design characteristics of the firearm, including attachment of a "stabilizing brace," use of this device in the assembly of a firearm can result in the redesign of that firearm or pistol into a "short-barreled rifle" or "short-barreled shotgun" because such firearm is redesigned such that it is intended to be fired from the shoulder.

Submitted sample general characteristics:

The submitted sample is a 5.56 NATO caliber, AR-type firearm, weighing approximately 5-1/2 pounds (without SBA3 accessory), and having an overall length of approximately (b) (4) inches. As such, the firearm is generally recognized as both larger and heavier than standard sized handguns, validating the use of a "stabilizing brace" accessory to assist with one handed firing.

Submitted sample "length of pull":

As stated above, one indicator FTISB utilizes when determining the classification of a firearm equipped with a "stabilizing brace" accessory is "length of pull." The "length of pull" is measured from the center of the trigger to the center of the rear of the "stabilizing brace." By analyzing a number of rifles and shotguns, FTISB determined the average "length of pull" in various rifles and shotguns is between 13-1/2 and 14-1/2 inches. This is consistent with the "NRA Firearms Sourcebook," which provides that the average length of pull found on shoulder-fired weapons is approximately 13-1/2 to 14-1/2 inches. Although many common rifles and shotguns are equipped with shouldering-devices that result in shorter length of pull measurements (AK-types usually have a 12-1/2 to 13-1/2 inch length of pull), FTISB considers a "length of pull" over 13-1/2 inches to be a strong indicator that the firearm is designed to be fired from the shoulder.

Measuring the distance between the center of the trigger of the AR-type firearm and the center of the SBA3 accessory rear surface, the submitted firearm has a length of pull of approximately 12-1/2 inches when fully extended (see photograph below).

(b)(3)-(26 USC 6103), (b) (4)

(b)(3)-(26 USC 6103) with attached SBA3 accessory has a "length of pull" of approximately (b) (4) inches when fully extended

(b) (6)

However, “length of pull” alone is not determinative of whether that firearm is designed to be fired from the shoulder. FTISB considers all objective design features previously discussed in classifying firearms.

Further, the submitted sample has a “length of pull” consistent with AR-type rifles. A photographic comparison of “length of pull” found on AR-type firearms is provided below.

(b)(3)-(26 USC 6103), (b) (4)



(b)(3)-(26 USC 6103) with common M4-type collapsible stock has a “length of pull” of approximately (b) (4) inches when fully extended

(b)(3)-(26 USC 6103), (b) (4)



(b)(3)-(26 USC 6103) with fixed buttstock has a “length of pull” of approximately (b) (4) inches

(b)(3)-(26 USC 6103), (b) (4)



(b)(3)-(26 USC 6103) with Maxim Defense COB stock has a “length of pull” of approximately (b) (4) inches when fully extended

(b)(3)-(26 USC 6103), (b) (4)



(b)(3)-(26 USC 6103) with Troy Defense Tomahawk Short stock has a “length of pull” of approximately (b) (4) inches when fully extended

(b) (6)

Therefore, while the “length of pull” on the submitted firearm with attached SBA3 accessory of approximately (b) (4) inches is shorter than the (b) (4) inch extreme limit indicator, it is in line with common AR-type rifles.

Submitted sample attachment method:

The submitted firearm incorporates a Mil-Spec carbine receiver extension (commonly referred to as a “buffer tube”). Mil-Spec carbine receiver extensions are commonly utilized to facilitate the attachment of a collapsible shoulder stock. Mil-Spec carbine receiver extensions allow horizontal adjustment of shoulder stocks, allowing the shoulder stock to lock into position in order to absorb recoil during firing. Mil-Spec carbine receiver extensions are not commonly utilized in the attachment of “*stabilizing brace*” accessories, which being intended to “*stabilize*” the firing of a “*pistol*,” generally use round *pistol* receiver extensions (photograph comparison below).



Submitted Sample with Mil-Spec Receiver Extension (top) compared to Sample Round Pistol Receiver Extension (bottom)



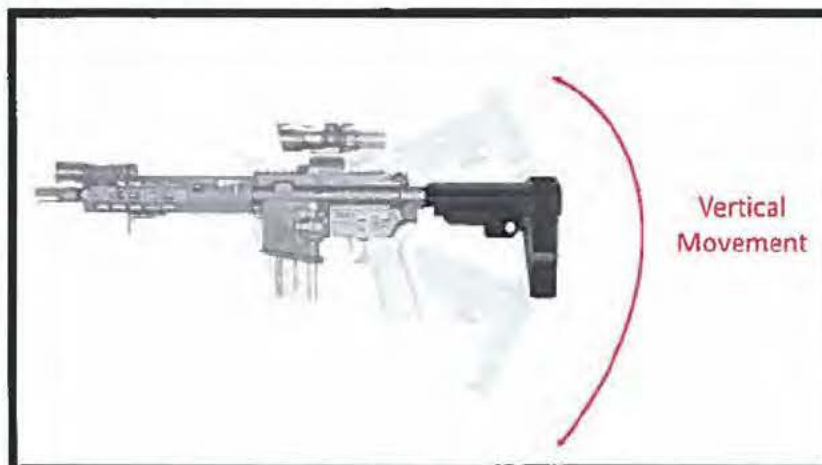
Submitted Sample with Mil-Spec Receiver Extension (top) compared to Sample Round Pistol Receiver Extension (bottom)

(b) (6)

The attachment method of a “*stabilizing brace*” accessory is a key factor in determining the true intent of an installed device. The original submission, the SB Tactical SB15 “*stabilizing brace*” accessory, is inherently adjustable when installed onto a standard AR-type pistol receiver extension. The “*stabilizing brace*” slides freely – without locking into any position – and can be pushed forward or pulled rearward to adjust to the shooter’s need while maintaining *vertical support* and pressure on the receiver extension. This vertical support allows the “*stabilizing brace*” accessory to function according to the manufacturer’s stated intent, providing stability to the firearm. By contrast, if a shooter places pressure on the rear of the firearm by firing the firearm from the shooter’s shoulder, the SB Tactical SB15 would collapse toward the front of the receiver extension. As a result, the length of pull is diminished to the point where firing the firearm from the shoulder is impracticable.



SB Tactical SB15 “*stabilizing brace*” provides vertical support



SB Tactical SBA3 accessory when utilized as a “*stabilizing brace*” provides vertical support

(b) (6)

In stark contrast, the use of a Mil-Spec carbine receiver extension provides *horizontal support*, preventing the SBA3 accessory from sliding forward when extended. This feature is common with adjustable shoulder stocks, and serves no function in supporting the SBA3 accessory for use as a “*stabilizing brace*.” The horizontal support is a design feature which locks a firearm stock in place to allow an individual to place pressure on the rear of the accessory when firing the weapon. Therefore, the use of the Mil-Spec carbine receiver extension to attach the SBA3 accessory is further supportive evidence that the submitted firearm is designed and intended to be fired from the shoulder.



The use of the Mil-Spec carbine receiver extension on the submitted firearm provides horizontal support for use as a shouldering device

Submitted sample SBA3 accessory objective design features:

Attached to the Mil-Spec carbine receiver extension on the AR-type firearm submitted is the SBA3 accessory, marketed as an “**ATF compliant**” “*stabilizing brace*.” The SBA3 accessory is marketed as a device which when attached: “*dramatically improves the performance of PDW [personal defense weapon] pistols...by adding a third point of contact.*” This information is included on the SBA3 accessory box and the SB Tactical website.



SB Tactical’s SBA3 accessory webpage advertising it as “ATF compliant”



SB Tactical's SBA3 accessory packaging

In your correspondence, you state that there are two firing techniques for using the SBA3 accessory to stabilize a "pistol." You state: *"The first is where the forearm is inserted through the flaps and the second is where the forearm is secured to the outside of the flaps, similar to the 'Shockwave' design."*



Submitted firearm with SBA3 accessory in the collapsed position, used in accordance with the manufacturer's stated intent to "stabilize" the firearm.

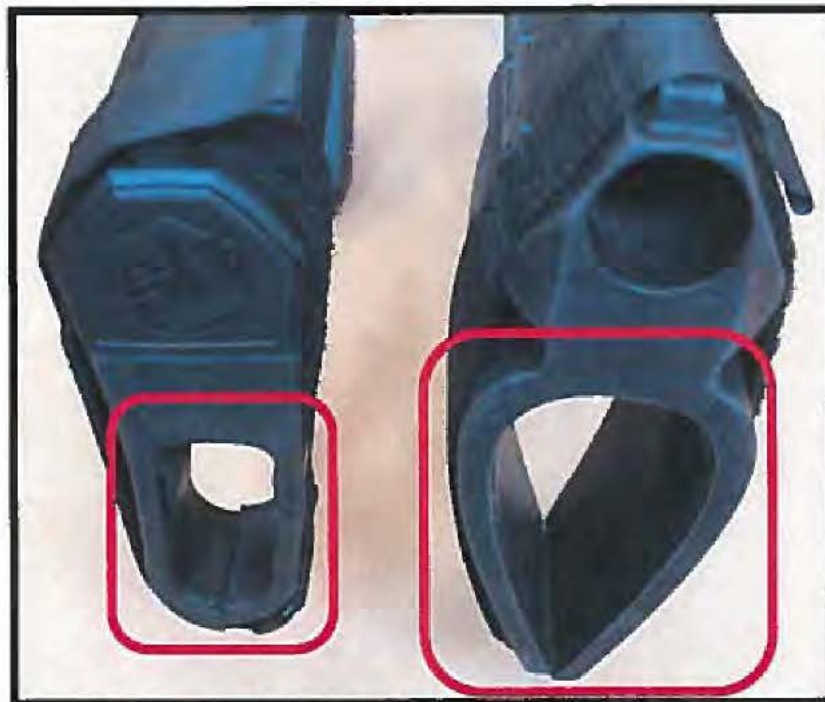


Submitted firearm with SBA3 accessory in the extended position, used in accordance with the manufacturer's stated intent to "stabilize" the firearm.

When comparing the SBA3 accessory to the original SB15 “*stabilizing brace*” accessory, the bifurcated (split) rubber flaps which wrap around a shooter’s arm have been greatly reduced in size. This results in the flaps on the SBA3 accessory being nearly ineffective in wrapping around a shooter’s arm. In addition to the other design features discussed, the lack of material to wrap around a shooter’s arm is indicative that an AR-type firearm configured with the SBA3 accessory is designed and intended to be fired from the shoulder, rather than with one hand.



SBA3 accessory (left) compared to original submitted SB15 accessory (right), arm flaps highlighted in red.



SBA3 accessory (left) compared to original submitted SB15 accessory (right), arm flaps highlighted in red.



The flaps on the SBA3 accessory (left) wrap around only a small portion of the shooter's arm, while the SB15 accessory (right) wraps almost completely around a shooter's arm, providing support and comfort for use as a "stabilizing brace."



SB15 accessory wraps almost completely around a shooter's arm



SB15 accessory wraps almost completely around a shooter's arm



The flaps on the SBA3 accessory when device is collapsed provide limited coverage of shooter's arm.



The flaps on the SBA3 accessory when device is collapsed provide limited coverage of shooter's arm.



The flaps on the SBA3 accessory when device is extended provide a greatly reduced amount of coverage of shooter's arm, making it far less effective at providing "stabilizing" support.



The flaps on the SBA3 accessory when device is extended provide a greatly reduced amount of coverage of shooter's arm, making it far less effective at providing "stabilizing" support.

In your correspondence, you provide that a "second method" for utilizing the SBA3 accessory as a "stabilizing brace" is to place the shooter's arm outside of the brace and utilize the Velcro strap to provide stability. This is not covered in SB Tactical's patent (US Utility Patent #US8869444B2), nor the stated intent of the original submitted SB15 accessory. FTISB found the objective design characteristics provide no support that the SBA3 accessory was designed to be utilized in this manner. Further, FTISB found that the "second method" could only be attempted on the left arm, as the attachment of the Velcro strap did not provide the ability to wrap the shooter's right arm to the outside of the accessory.

(b) (6)



FTISB attempted to utilize the SBA3 accessory in accordance with the “second method” and found objective design features of the accessory did not support the manufacturer’s stated intent.

Your correspondence explains that the SBA3 accessory can be utilized as a “stabilizing brace” in a manner similar to that of a competitor’s product known as the “Shockwave Blade.” However, these are two completely different accessory designs. The “Shockwave Blade” and similar accessories utilize a very thin “fin” providing minimal rear surface which discourages misuse as a shoulder stock. The SBA3 accessory bears no resemblance to common “fin-type” accessories (photograph comparison below).



Rear view of the SBA3 accessory (left) compared to “Shockwave Blade” (right), showing minimum amount of rear surface area on “fin”-type accessories

Therefore, FTISB finds the “second method” to use the SBA3 accessory as a “stabilizing brace” to fire the firearm with one hand is not clear from the design. Simply wrapping a Velcro strap around a shoulder stock or modified shoulder stock does not create a “stabilizing brace” and preclude a weapon from being designed and intended to be fired from the shoulder.

Further, SB Tactical states on the box of the SBA3 accessory: “dramatically improves the performance of PDW [personal defense weapon] pistols...**by adding a third point of contact.**” A “third point of contact” is not consistent with the original stated intent of SB Tactical’s “stabilizing brace” accessories, which you state as: “The brace is intended to assist those with limited strength or mobility while shooting from the one-handed pistol precision stance or one handed supported stance.” A third point of contact is consistent with firing a weapon from the shoulder (photographs below, and further demonstrated in photographs on Page 24).

(b) (6)



Submitted sample utilizing two points of contact



Submitted sample utilizing three points of contact

The SBA3 accessory also incorporates several design features common to shoulder stocks that install onto AR-type carbine receiver extensions, which indicate that this firearm is intended to be fired from the shoulder. For example, the SBA3 accessory features a lever (common to essentially all telescoping/collapsible shoulder stocks) for adjustment along the AR-type Mil-Spec carbine receiver extension (discussed above). The SBA3 accessory also incorporates a QD (quick detach) socket, for the attachment of a sling. While QD sockets are increasingly common on shoulder stocks, such as the below pictured Magpul CTR, Hogue, IMI Delta, and Valken ATS shoulder stocks, they are not generally featured on accessories designed to be used as "stabilizing braces."



Design features of the SBA3 accessory as provided on packaging.

(b) (6)



Side view of the SBA3 accessory highlighting design features.

The upper portion of the SBA3 accessory is made of a hard polymer/plastic material, similar to common shoulder stocks. The bottom of the accessory is made of a hardened rubber material, and “*bifurcated arm flaps made of thermoplastic elastomer.*” These bifurcated (split) arm flaps are greatly reduced in size (discussed and pictured above) from the originally submitted SB15 accessory. The SBA3 accessory also incorporates a Velcro strap for vertical support when firing the firearm with one hand.

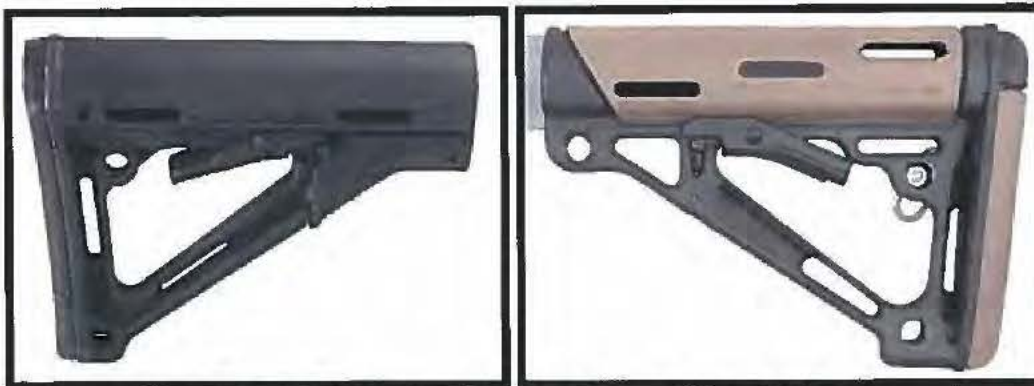


Rear view of the SBA3 accessory highlighting design features.

In contrast to the original submitted SB15 accessory, which was purposely designed to serve as a “*stabilizing brace.*” the SBA3 accessory, by all outward appearances, is a shoulder stock which has been modified (see photographs below).



Left picture: Original submitted SB15 accessory (top) compared to the submitted SBA3 accessory (bottom) Right Picture: SBA3 accessory (left) compared to common M4-type stock (right)



MagPul CTR Stock (left) / Hogue Stock (right)



IMI Delta Stock (left) / Valken ATS Stock (right)

Further, the attached SBA3 accessory, while split at the bottom, provides an ample amount of rear shouldering surface area, similar to known shoulder stock designs (photographs above). Additionally, the submitted sample lacks any features that would prevent its misuse as a shouldering device.

(b) (6)



Rear view of the SBA3 accessory showing ample amount of hardened shouldering surface and no features precluding use as a shouldering device.



Rear view of the SBA3 accessory (left) compared to common AR-type adjustable shoulder stock (right), showing similar amount of rear surface area



SBA3 accessory is fully functional as a shoulder stock, lacking any features to prevent misuse as such.

(b) (6)

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A critical element in SB Tactical's accessories, which supports the manufacturer's stated intent of use as a "stabilizing brace" is the Velcro strap. The Velcro strap, in conjunction with the bifurcated rubber flaps, wrap around a shooter's arm in order to "stabilize" a heavy firearm. FTISB noticed the strap on the SBA3 accessory attached to the submitted firearm is longer than on every previously examined SBA3 accessory.



Velcro strap on the submitted sample (left) compared to two current FTISB submissions (center two) and FTISB commercially purchased sample (right).

(b)(3)-(26 USC 6103), (b) (4)

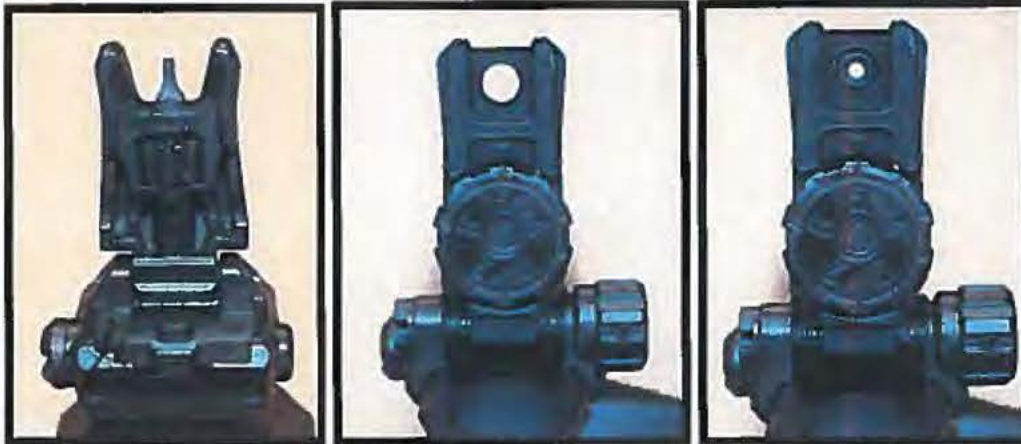
Velcro strap on the submitted sample (top) is approximately (b) (4) inches longer than other marketed and sold SBA3 accessories.

FTISB determined that the Velcro strap on the submitted sample has been extended approximately (b) (4) inches, compared to all other SBA3 accessories examined by either FTISB or FTCB. Therefore, the submitted SBA3 accessory is inconsistent with SBA3 accessories that have been previously marketed and sold. Previously examined SBA3 accessories, incorporating the shorter Velcro straps were found incapable of wrapping around the shooter's arm, especially when the SBA3 accessory was in the extended position. Without the ability of the Velcro strap to wrap around a shooter's arm, these SBA3 accessories do not function as "stabilizing braces" in accordance to the manufacturer's stated intent or US Utility Patent #US8869444B2.

Submitted sample peripheral accessories:

Examining the sights on the submitted sample, FTISB was able to determine they facilitate aiming the submitted firearm, when the weapon is held and fired with one hand, or if the weapon is shouldered. When the rear sight is in the night sight position, it can be used with the weapon extended and fired with one hand. When the weapon is fired from the shoulder, the rear sight can be utilized in either the night sight or day sight position for more accurate aimed shots. It should be noted, the day sight cannot be effectively utilized when the weapon is held and fired with one hand.

(b) (6)

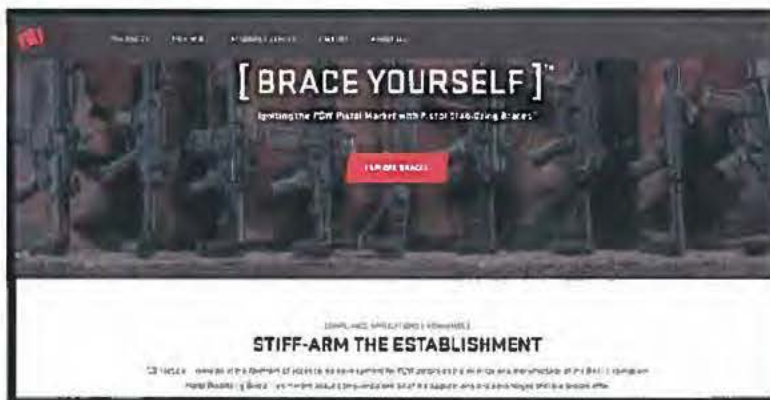


Front sight (left), Rear sight in “night” position (center) and Rear sight in “day” position (right).

The submitted sample is devoid of any additional peripheral accessories which could provide objective evidence that a firearm is designed to be fired from the shoulder. Accessories such as secondary grips, sights/scopes with limited eye relief, bipods/monopods, large capacity magazines/drums, etc., could change a firearm’s classification when evaluated as a whole weapon.

Marketing and utilization of firearms with the SBA3 accessory:

Finally, as mentioned above, after the release of the clarification letter sent to (b) (6) in which he requested a reversal on ATF’s *Open Letter*, SB Tactical has proceeded to market its products as a way to avoid NFA controls and “*Stiff Arm the Establishment.*” While such advertising is not prohibited, such statements can provide insight in to SB Tactical’s intent in designing products. No prohibition exists on possessing pistols with arm braces, but one must register and pay a \$200 tax to possess a short-barreled rifle. Marketing such as the above is evidence that SB Tactical intends customers use its product to possess a short-barreled rifle without the necessity of registering or paying the requisite tax.



SB Tactical’s Homepage from June 2017 to May 2019 (background picture changed, but *Stiff Arm the Establishment* appeared during that entire timeframe)

SB Tactical’s marketing strategy of its accessories as replacement shoulder stocks is apparent with firearms supplied by its business partners to firearm writers for review (photographs below).

(b) (6)



Firearms writer (b) (6) utilizing the SBA3 accessory as a shoulder stock (Firearms News, September 2018, Issue 18) to fire a Patriot Ordnance Factory (POF) "Revolution," 7.62 NATO caliber firearm with long- distance scope – Note this firearm is being sold as a "pistol" while clearly designed and intended to be a "rifle"



Guns & Ammo (September 2019, page 36) covering the Bravo Company Manufacturing (BCM) Recce-11 MCMR 5.56 NATO caliber firearm with long-distance scope – Note this firearm is being sold as a "pistol" while clearly designed and intended to be a "rifle"



RECOIL magazine/website showing the SBA3 accessory utilized as a shoulder stock on multiple weapon platforms

Extend the stock and successfully engage targets out to 300 yards.

KING OF THE COMPACT HAMMERS

INTRODUCING THE HIGHLANDER U.S. Gravel Pistol

Factory 112 gr ammunition exits the 11 inch barrel at 2,300 fps. With a 2.5 inch sight height and a 204 yd zero, the trajectory is very flat out to 300 yds. The shooting window is less than 12 inches out to 300 yds. That's amazing!

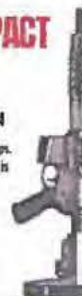
8 Yards	2.58 inches	100 Yards	1.15 inches
100 Yards	1.15 inches	200 Yards	0.80
200 Yards	0.80	300 Yards	11.12 inches

The compact Highlander can easily be stored in your truck, car, boat, or home.

Extend the stock and successfully engage targets out to 300 yards.

If you want a compact hammer to defend your family or harvest game, then this is the firearm for you.

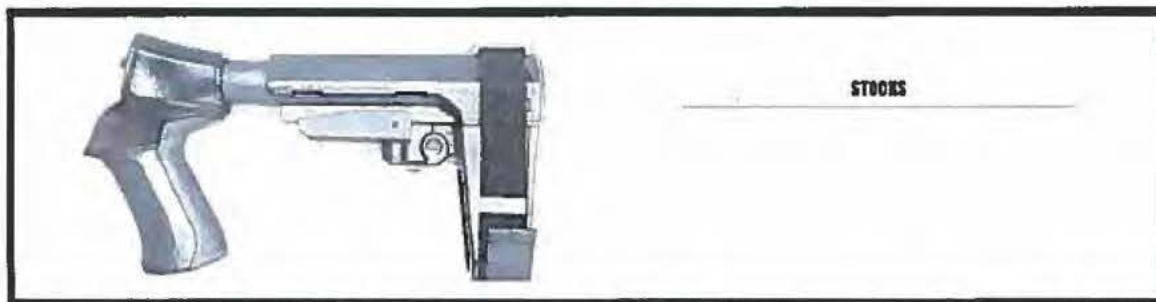
Alexander Arms



HIGHLANDER

Highlander also available in 17 H&E, 16 Hornet, and 200 Gr. Call (340) 637-6216 or visit www.AlexanderArms.com

Alexander Arms advertisement for Highlander "Pistol" with attached SBA3 "stock" (advertisement ran in Guns & Ammo June/July 2019)



Black Aces Tactical webpage advertising the SBA3 accessory as a "stock"

CMMG
RipBrace

The RipBrace features CMMG's FASTBACK Technology that allows users to simply pull straight back to extend the brace without pressing a release lever or button like most adjustable AR arm braces employ. This instant deployment is a one-of-a-kind feature that makes the RipBrace an optimal choice for any AR pistol designed for personal defense.

This revolutionary brace also has personal point-of-aim (POA) Technology. It allows users to adjust a screw into different adjustment holes to ensure the stock extends to the same preferred position each time. This revolutionary brace is exceptionally lightweight, has no moving parts, and is ATF Compliant.

cmmginc.com

Small Arms Review magazine of the "RipBrace" version of the SBA3 accessory, advertising the ability to quickly extend the "stock."

(b) (6)

Conclusion:

Be advised that just because an item might be used as a “*stabilizing brace*” when attached to a firearm, such incidental use is not proof that it is not intended to be fired from the shoulder. A “**rifle**” would not lose such classification simply because a shooter uses the stock to brace the firearm against his forearm, and fires the rifle with one hand. FTISB has previously determined that a firearm with a modified shoulder stock attached as a “*stabilizing brace*” is still “intended” to be fired from the shoulder. The design of a “*stabilizing brace*” must be new and unique, because a modified stock is evidence that the firearm is actually intended to be fired from the shoulder and is meant merely to avoid NFA controls.

The submitted firearm incorporates the following objective design features:

- The firearm is large and heavy, warranting the use of a “*stabilizing brace*” accessory;
- The assembled firearm can be fired with one hand, utilizing the SBA3 accessory for stabilizing support, however this stabilizing support is reduced compared to the previously submitted SB15 “*stabilizing brace*” accessory;
- The firearm has a “length of pull” of approximately (b) (4) inches, which while shorter than (b) (4) inches, is still in line with common AR-type shoulder-fired weapons;
- The firearm incorporates an adjustable SBA3 accessory installed onto a standard AR-type Mil-Spec carbine (rifle) receiver extension, which provides horizontal support for shouldering;
- The firearm incorporates a SBA3 accessory which is more similar to the design of a traditional shoulder stock than the previously submitted SB15 “*stabilizing brace*” accessory;
- Unlike the original SB15 accessory, the bifurcated flaps on the SBA3 accessory are reduced to a size that they no longer wrap around a shooter’s arm, making the SBA3 far less effective at providing “*stabilizing*” support;
- The firearm incorporates a SBA3 accessory which incorporates ample rear surface area and is fully functional as a shouldering device;
- The SBA3 accessory has an extended Velcro strap inconsistent with other SBA3 accessories FTISB and FTCB have examined, which were found to be incapable of wrapping around the shooter’s arm;
- The firearm incorporates “flip-up” sights which are more effective when the weapon is fired from the shoulder;
- The submitted firearm with attached SBA3 accessory is consistent with firearms SB Tactical and its business partners have marketed as a way to avoid NFA registration and “*Stiff Arm the Establishment*,”
- Manufacturers often refer to the SBA3 accessory as a “*stock*” demonstrating intent to build “**short-barreled rifles**” while avoiding NFA controls.

The FTISB evaluation of all objective design features of the submitted firearm, to include: the similarity of the SBA3 accessory to known shoulder stocks in form and function; rear hardened surface area of the SBA3 accessory; utilization of standard AR-type Mil-Spec carbine receiver extension; and a “length of pull” useful for shouldering the firearm; combine to provide objective design features consistent with weapons designed and intended to be fired from the shoulder.

(b) (6)

Therefore, because the submitted sample has a rifled bore, the submitted (b)(3)-(26 USC 6103) weapon with the attached SBA3 accessory – in the submitted configuration – is therefore classified as a “rifle” as defined in the GCA. Additionally, because the barrel length of this firearm is under 16 inches, it is properly classified as a “short-barreled rifle” and a “firearm” as defined in the GCA and NFA, respectively.

Further, ATF does not regulate the manufacture, sale or possession of firearm accessories, such as stocks, secondary grips, or “stabilizing brace” accessories. While these items are unregulated on their own, attachment of these items could change the classification of the firearm to which they are attached. As such, the SBA3 accessory is an unregulated product in and of itself. However, as demonstrated above, the SBA3 accessory can redesign a weapon to be fired from the shoulder, and its attachment to a firearm with a rifled barrel of less than 16 inches or a smoothbore barrel of less than 18 inches could result in the making of an NFA “firearm.”

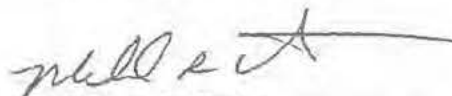
FTISB would like to reiterate that this analysis for the classification of the firearm/accessory configuration is based on the sample as submitted. *In making its findings, FTISB has taken into consideration the information you provided about the product in the pre-submission meetings that you participated in with ATF.* As noted above, if you have additional information you want to submit to ATF before it issues its final classification, you may send the information in writing within 10 days from the date of this letter. You may also, within the 10 day period, request an in-person meeting to present this additional information provided the meeting takes place within 10 days of the request. Please submit written comments or a request for an in-person meeting via email to fire_tech@atf.gov. If additional information is received, it will be included in the analysis when the final classification is sent to you.

Please note however, because the firearm in question was manufactured as a “short-barreled rifle,” and therefore a “rifle,” it can never be reconfigured as a “pistol.” Absent a shoulder stock or other shouldering device, the firearm would remain a “**weapon made from a rifle**” and an NFA “firearm” under 26 U.S.C. § 5845(a)(4). The only option to remove such a firearm from the purview of the NFA, would be to both install a barrel of at least 16 inches and ensure the overall length is at least 26 inches.

We should remind you that the information found in correspondence from FTISB is intended only for use by the addressed individual or company with regard to a specific scenario(s) or item(s) described within that correspondence.

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

Sincerely yours,



Michael R. Curtis

Chief, Firearms Technology Industry Services Branch

Attachment

A

Attn: Mr. John Spencer, Chief, Firearms Technology Branch
Firearms Technology Branch (FTB)
Bureau of Alcohol Tobacco and Firearms
244 Needy Rd.
Martinsburg West Virginia
25405

Thursday, November 8, 2012

Forearm Brace Directions:

The Forearm Brace Slips onto any AR15 Pistol Buffer tube with a 1.1" diameter.

Note: To snugly fit the brace, the use of some black tape may be required.

1. **To correctly mount the Brace;**
Push the brace firmly through the buffer tube until the tube projects from the rear of the brace.



2. **To correctly use the brace;**
Slide your hand and forearm in between the bisected sides of the brace as if it were a glove, then use the Velcro straps to tighten comfortably around the forearm. Note: In order to correctly tighten the Velcro straps, the buckle of the straps should be as close to the hole on the right side (ejection port side) of the brace as possible, and the Velcro should be threaded with the Velcro side up from right side of brace to left side, then looped underneath and back through the buckle to tighten.

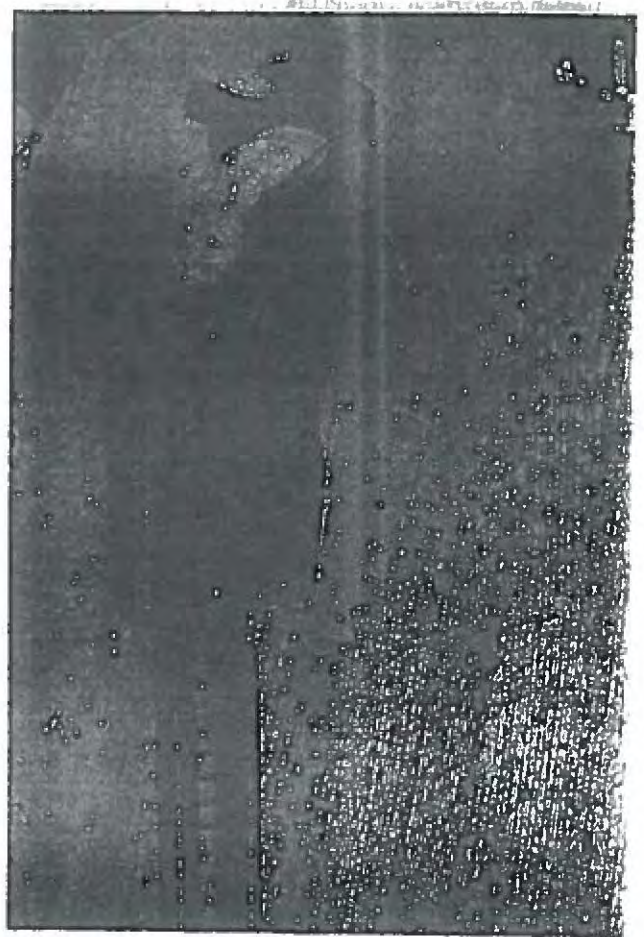
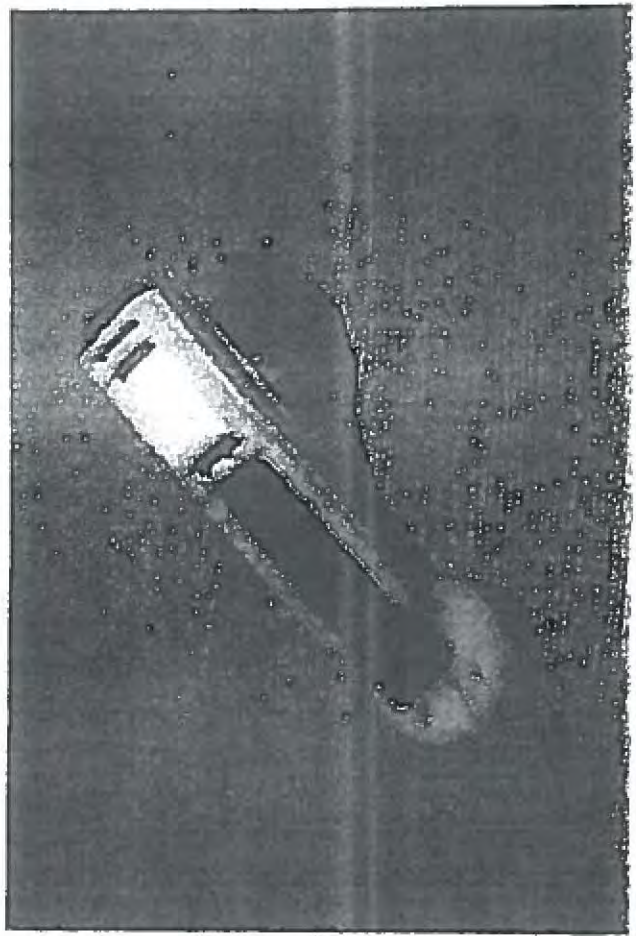
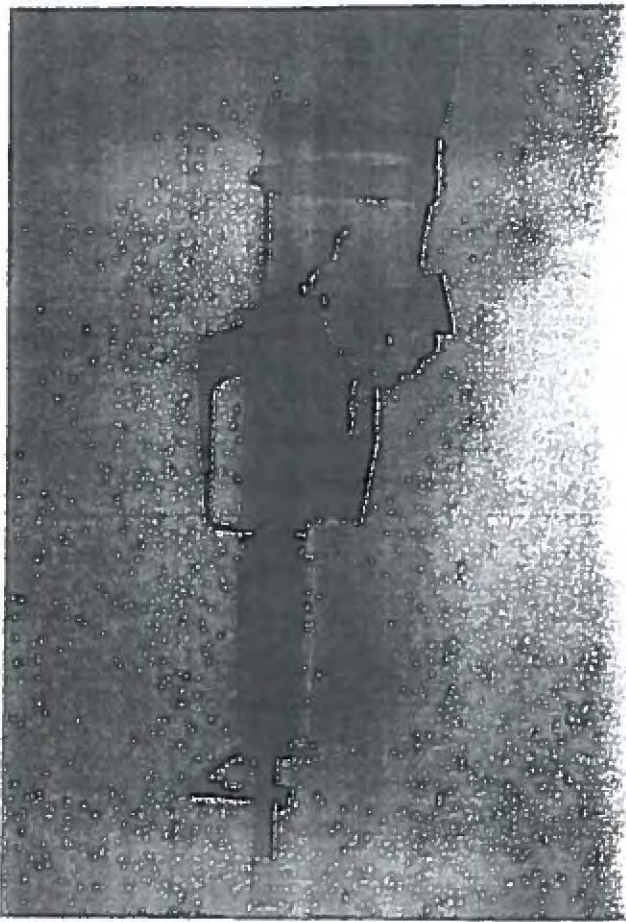
The Brace is intended to assist those with limited strength or mobility while shooting from the one-handed pistol precision stance or one handed supported stance. Keeping that in mind, the Straps should be fitted tightly enough so as to distribute the forward weight of the pistol away from the wrist and towards the forearm.



NSI Global LLC FFL# 1-59-103-08-41-14032
5830 Venetian Blvd NE, Saint Petersburg Florida 33708

TEL:
(727) 687 9808

EMAIL
ATEL@NSIGLOBAL.COM



Attn: Mr. John Spencer, Chief, Firearms Technology Branch
Firearms Technology Branch (FTB)
Bureau of Alcohol Tobacco and Firearms
244 Needy Rd.
Martinsburg West Virginia
25405

Thursday, November 8, 2012

Packing List:

1. One Airsoft AR15 Pistol. We have sent the Airsoft version to minimize cost. Please, remember that the actual AR15 pistol version with 10.5 inch barrel weighs considerably more.
2. Two Rubber Forearm Brace's.
3. One original Ar15 buffer tube. The tube was removed from an Olympic Arms K23 Pistol and the forearm brace has been mounted. I have sent the original buffer tube so that it can be used to better evaluate my product.
4. Four Velcro straps

NST Global LLC FFL# 1-59-109-08-41-14032
5890 Venetian Blvd NE, Saint Petersburg Florida 33703

TEL:

EMAIL:

(b) (6)

Attachment B



U.S. Department of Justice

Bureau of Alcohol, Tobacco,
Firearms and Explosives

Martinsburg, West Virginia 25403

www.atf.gov

903050 (b) (6)
3311/2013-0172

(b)(3)-(26 USC 6103), (b) (6)

NOV 26 2012

Dear (b) (6)

This refers to your recent correspondence and accompanying sample sent to the Firearms Technology Branch (FTB), Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), for evaluation. You are asking if the addition of this sample, a buffer tube forearm brace, would convert a firearm in a manner that would cause it to be classified as a "rifle" and thus a "firearm" regulated by the National Firearms Act (NFA), specifically, 26 U.S.C. § 5845(a).

The FTB evaluation revealed that the submitted device is constructed of a foam-type rubber (similar to that used in developing prosthetic devices) and two Velcro straps. The device (see enclosed photos) is molded to a pistol style buffer tube for an AR-type firearm, and is shaped to form an upside down "U".

A shooter would insert his or her forearm into the device while gripping the pistol's handgrip—then tighten the Velcro straps for additional support and retention. Thus configured, the device provides the shooter with additional support of a firearm while it is still held and operated with one hand. We find that the device is not designed or intended to fire a weapon from the shoulder.

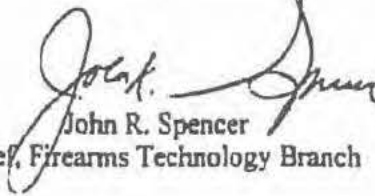
Based on our evaluation, FTB finds that the submitted forearm brace, when attached to a firearm, does not convert that weapon to be fired from the shoulder and would not alter the classification of a pistol or other firearm. While a firearm so equipped would still be regulated by the Gun Control Act, 18 U.S.C. § 921(a)(3), such a firearm would not be subject to NFA controls.

To facilitate the return of your submitted sample, please arrange for return shipping. This may be done via a UPS "cal-tag" pick-up or simply by using a return shipping label from the U.S. Postal Service or any common carrier. If you wish to accomplish return via "call-tag," please give FTB prior notice so the item can be readied for shipping since UPS will only make three pick-up attempts.

(b) (6)

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

Sincerely yours,



John R. Spencer
Chief, Firearms Technology Branch

Enclosure

Attachment C

MARK BARNES*
CHRISTOPHER THOMAS*
JOANNA C. LEWIS††
MICHAEL PAUCETTE**

* Also Admitted In Arizona and Alaska
* Also Admitted in Arizona



Mark Barnes & Associates

HEATHER HAMILTON**
OF COUNSEL

** Also Admitted in Maryland
†† Only Admitted in Virginia
** Only Admitted in Maryland

August 14, 2015

BY ELECTRONIC COMMUNICATION

TO: MAX KINGERY
CHIEF
FIREARMS TECHNOLOGY DIVISION
BUREAU OF ALCOHOL, TOBACCO AND FIREARMS

FROM:

(b) (6)

ATTORNEY AT LAW

(b) (6)

ATTORNEY AT LAW

(b) (6)

SUBJECT: **Retractable Pistol Stabilizing Braces.**

The purpose of this memorandum is to request a determination from the Bureau of Alcohol, Tobacco, Firearms and Explosives ("ATF"), as to whether the attachment of a retractable stabilizing brace to a pistol with a barrel length under 16 inches, constitutes the making of a "firearm" pursuant to 26 U.S.C. § 5845 of the National Firearms Act ("NFA").

26 U.S.C. § 5845(a) defines "firearm" as "a rifle having a barrel or barrels of less than 16 inches in length." That section defines both "rifle" and "shotgun" as "a weapon designed or redesigned, made or remade, and *intended to be fired from the shoulder. . . .*" (Emphasis added). Therefore, when a shoulder stock is attached to a pistol with a barrel of less than 16 inches in length, it constitutes the making of an NFA weapon. As detailed below, ATF has concluded that the simple act of adding a stabilizing brace to a pistol does not create an NFA weapon.

I. Description of Stabilizing Brace Mechanism

The actual brace at issue here is the standard stabilizing brace that has been considered by FTD to not constitute a rifle stock when used as intended. It consists of two rubber fins that wrap around the forearm and are secured with Velcro straps.

(b)(6)

In light of the variations in the size/length of shooters' forearms, a new pistol stabilizing brace mechanism that would allow the user to retract the brace forward or backward, depending on the length of the user's forearm, in order maintain better balance and control of the pistol when firing has been developed. The mechanism would consist of two telescoping tubes or rods that affix to both sides of the pistol receiver and run parallel to the barrel. (See schematic attached hereto as Exhibit A). The stabilizing brace would attach to one end of the tubes, thereby allowing it to telescope forward or backward, depending on the user's preference. See Exhibit A.

II. Legal Analysis

We are aware of ATF's position "that attaching the brace to a firearm does not alter the classification of the firearm or subject the firearm to National Firearms Act (NFA) control."¹ Additionally, in this same letter, ATF went on to articulate that when "the [stabilizing brace] is redesigned for use as a shoulder stock on a handgun with a rifled barrel under 16 inches in length, the firearm is properly classified as a firearm under the NFA." *Id.* Thus, we reiterate that the stabilizing brace at issue in this memorandum is not intended, nor designed to be used as a stock, but rather, is intended and designed to assist users in firing a pistol with the use of a single hand.

With that said, we recognize that certain items attached to the rear of a pistol receiver can constitute the making of a Short Barreled Rifle ("SBR") "firearm" under the NFA, even if not designed or intended to be used a shoulder stock. Accordingly, the attachment of such a mechanism must serve "a legitimate, vital function in the operation of the weapon system" for it not be considered a shoulder stock.² For example, ATF has determined that when a buffer tube is added to an AR-style pistol, its classification as a pistol would not be altered in that the buffer tube serves a *legitimate and vital function* by allowing the bolt carrier to recoil into the tube. Alternatively, the same buffer tube mechanism, when affixed to an AK-type pistol would *not* serve a legitimate, vital function to the operation of the weapon since the AK-type pistol uses a gas piston. Thus, the attachment of such a mechanism, when "not functionally required in the operation on a firearm," would constitute the making of an SBR.³

However, ATF has gone on to say that even when not serving a legitimate or vital function to the internal mechanism of the firearm, the addition of a receiver extension or buffer tube will *not* result in the manufacturing of an SBR when used to "facilitate the attachment of a . . . stabilizing brace accessory."⁴

¹ ATF Open Letter dated January 16, 2015 [Attachment B](#)

² ATF Letter, Feb. 11, 2015. 907010:EEE 3311/302736 [Attachment C](#)

³ ATF Letter, Nov. 10, 2014. 903050:MMK 3311/2013-0172 [Attachment D](#)

⁴ ATF Letter, Feb. 11, 2015. 907010:EEE 3311/302736

III. Conclusion

In light of the above-mentioned ATF letter rulings, it is clear that the addition of the retractable stabilizing brace to a pistol would not constitute the making an NFA weapon, provided it is used as intended. Here, the telescoping rods affixed to both sides the pistol receiver are strictly used to “facilitate the attachment of a stabilizing brace.”⁵ ATF has confirmed “that if used as designed—to assist shooters in stabilizing a handgun while shooting with a single hand—the device is not considered a shoulder stock and therefore may be attached to a handgun without making a NFA firearm.”⁶ Moreover, the mechanism’s ability to retract the rubber brace does not alter its utility as a device designed and intended to assist users in the shooting of long barreled pistols with a single hand. Rather, the retractability allows users of different arm lengths to adjust the position on their forearm to wear the brace.

Additionally, we wish to point out that the adjustment mechanism is an advantage for some disabled individuals who positively need an arm brace for shooting particular types of handguns. While medical advances in prosthesis devices has been remarkable in creating more comfortable devices, there is a need for arm braces to be adjustable for these shooters so that the arm brace attaches in a manner and length that gives the greatest comfort for those using a prosthesis.

If you have any questions or require additional information, please to not hesitate to contact (b) (6)

(b) (6)

(b) (6)

⁵ ATF Letter, Feb. 11, 2015. 907010:EEE 3311/302736

⁶ ATF Open Letter dated January 16, 2015

Attachment

D



U.S. Department of Justice

Bureau of Alcohol, Tobacco,
Firearms and Explosives

Firearms Technology Industry Services Branch

Martinsburg, WV

www.atf.gov

NOV 20 2015

907010 (b) (6)
3311/303984

(b)(3)-(26 USC 6103), (b) (6)

Dear (b) (6)

This refers to your correspondence, including diagrams, to the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), Firearms Technology Industry Services Branch (FTISB), pertaining to a "Retractable Pistol Stabilizing Brace". Specifically, you asked whether the subject device could be lawfully installed on a handgun.

As you may be aware, the amended Gun Control Act of 1968 (GCA), 18 U.S.C. § 921(a)(3), 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....*

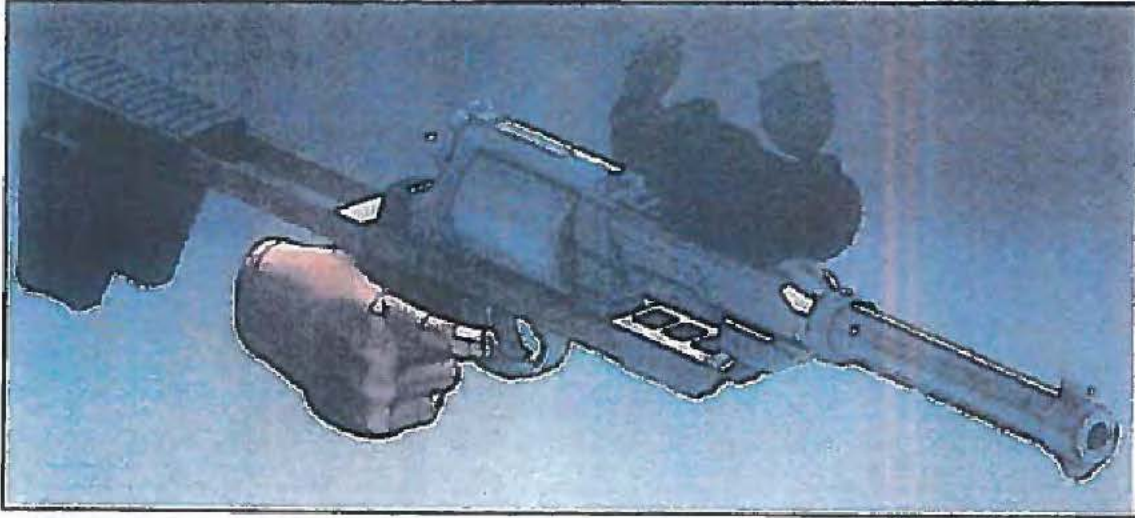
Also, with respect to the definitions of "handgun" and "pistol" under Federal statutes and regulations, you may be aware that the GCA, 18 U.S.C. § 921(a)(29), defines "handgun" to mean, in part *...a firearm which has a short stock and is designed to be held and fired by the use of a single hand....*

Additionally, 27 CFR § 478.11, a regulation implementing the GCA, defines "pistol" as *...a weapon originally designed, made, and intended to fire a projectile (bullet) from one or more barrels when held in one hand, and having (a) a chamber(s) as an integral part(s) of, or permanently aligned with, the bore(s); and (b) a short stock designed to be gripped by one hand and at an angle to and extending below the line of the bore(s).*

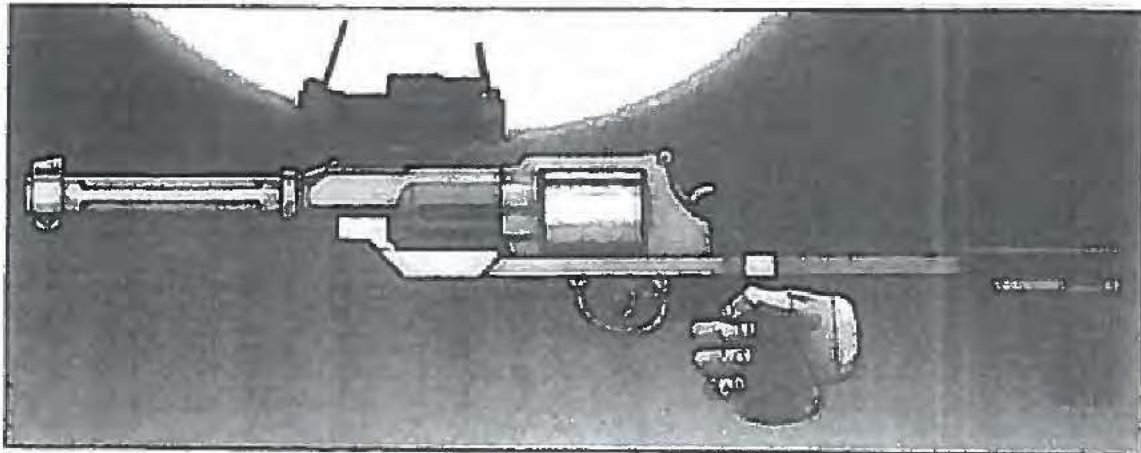
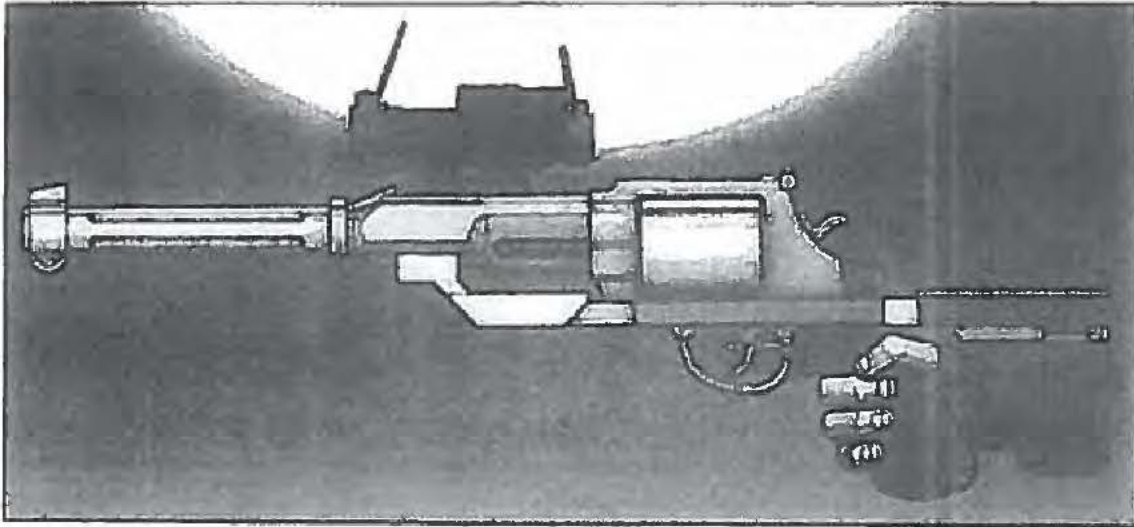
Please note also that the GCA, 18 U.S.C. § 921(a)(7), defines the term "rifle" to include *...a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder...* Finally, the National Firearms Act (NFA), 26 U.S.C. § 5845(a)(3), defines "firearm" to include *...a rifle having a barrel or barrels of less than 16 inches in length....*

(b) (6)

The subject device (pictured below) utilizes two telescoping metal tubes or rods that affix to both sides of a handgun frame:



(b) (6)



While the attachment of certain stabilizing brace devices to some handguns has been approved by ATF in the past, your intention to utilize a modified version could be interpreted as a change in the function of that part. The approved devices generally were not configurable to a position or setting in which the device more closely resembled a buttstock or shoulder stock in form and function, rather than its stated purpose as an arm brace.

Further, modifying the length of that part serves to extend a contact surface rearward of the pistol grip on the above-depicted handgun, a feature commonly associated with butt stocks/shoulder stocks as well as firearms designed and intended to be fired from the shoulder.

(b) (6)

Therefore, we should inform you that your (b)(3)-(26 USC 6103) would likely be classified as a device similar in form and function to a buttstock when installed on a firearm thus reconfiguring the firearm into a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder. Consequently, the installation of the device or possession of the device with a compatible pistol or revolver, containing a barrel of less than 16 inches in length, could result in the manufacture of a "short-barreled rifle" (SBR) as defined in 26 U.S.C. § 5845(a)(3).

However, FTISB is unable to make a formal determination based solely upon diagrams and a written description. A physical sample would have to be examined in order to make a formal determination. Our shipping address is the same as our mailing address—

Bureau of Alcohol, Tobacco, Firearms and Explosives
Firearms Technology Industry Services Branch
244 Needy Road
Martinsburg, West Virginia 25405

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

Sincerely yours,



Michael R. Curtis
Chief, Firearms Technology Industry Services Branch

Attachment E

MARK BARNES*
CHRISTOPHER THOMAS*
JOANNA C. LEWIS**
MICHAEL GAUCETTE**

* Also Admitted in Arizona and Alaska
* Also Admitted in Arizona



Mark Barnes & Associates
ATTORNEYS

HEATHER HAMILTON**
OF COUNSEL

** Also Admitted in Maryland
** Only Admitted in Virginia
** Only Admitted in Maryland

EVAL.

304-296-(b) (6)

December 2, 2015

BY ELECTRONIC COMMUNICATION

Mr. Max Kingery
Chief
Firearms Technology Industry Services Branch
Bureau Of Alcohol, Tobacco, Firearms, & Explosives
244 Needy Road
Martinsburg, WV 25405

RECEIVED
DEC 08 2015
BY.....F.T.B.

Re: Follow up: FATD Case #303-984 – Adjustable Pistol Stabilizing Brace

These two firearms are submitted by SB Tactical in response to your November 30, 2015 determination stating that a physical sample on the Adjustable Pistol Stabilizing Brace ("Adjustable Brace") would be needed in order to make a final determination. The physical samples is attached to a (b)(3)-(26 USC 6103), (b) (6) and, for comparison purposes, we have also provided an (b)(3)-(26 USC 6103), (b) (6) (b)(3)-(26 USC 6103), (b) (6) with the widely available and ATF-approved SB15 stabilizing brace.

In your letter you state that the attachment of an adjustable stabilizing brace to a pistol constitutes the making of a "firearm" under the NFA, based on the pictures we submitted. Specifically, you state that previously approved devices "were not configurable to a position or setting in which the device more closely resembled" a rifle stock rather than an arm brace. You go on to say that "modifying the length of [the brace] serves to extend a contact surface rearward of the pistol grip . . . a feature commonly associated" with rifle stocks.

In light of the analysis provided in your letter, there are some aspects of the physical sample we would like to bring to your attention. When fully extended, the distance from mounting surface of the pistol receiver to the back of the Adjustable Brace is shorter than the approved devices or standard SB15 brace at approximately (b) (4) inches versus (b) (4) inches.¹ See attached photo. Thus, the Adjustable Brace is not configurable to a position or setting that extends as far rearward as even the approved devices. The modification of length does not extend the contact surface rearward of the approved devices; rather, it allows the user to shorten length of the brace forward. This helps stabilize the pistol for users with shorter or prosthetic arms.

¹ As you may know, the length of the "approved devices" may be easily adjusted by sliding the brace forward or rearward on the buffer tube. They are simply held in place by friction. Additionally, different sized buffer tubes can extend the position or setting of the brace's contact surface to over 10 inches from receiver.

Additionally, we wish to reiterate that the purpose of the adjustment mechanism is to assist those with shorter arms and disabled individuals who require a shorter arm brace for shooting particular types of handguns. The Adjustable Brace only allows users to make the brace shorter, not longer, than approved devices available on the market today.

If you have any questions or require additional information, please do not hesitate to contact (b) (6)
(b) (6)

Respectfully,

(b) (6)

Attorney at Law
Mark Barnes & Associates
Outside counsel to (b)(3)-(26 USC 6103)

(b)(3)-(26 USC 6103), (b) (4)

Attachment

F



U.S. Department of Justice

Bureau of Alcohol, Tobacco,
Firearms and Explosives

Firearms Technology Industry Services Branch

Martinsburg, WV

www.atf.gov

DEC 23 2015

907010 (b) (6)
3311/304296

(b)(3)-(26 USC 6103), (b) (6)

Dear (b) (6)

This refers to your correspondence to the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), Firearms Technology Industry Services Branch (FTISB), which accompanied your submitted sample of an "Adjustable Pistol Stabilizing Brace" mounted on a semiautomatic pistol. Specifically, you asked whether the subject device could be lawfully installed on a handgun.

As you may be aware, the amended Gun Control Act of 1968 (GCA), 18 U.S.C. § 921(a)(3), 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....*

Also, with respect to the definitions of "handgun" and "pistol" under Federal statutes and regulations, you may be aware that the GCA, 18 U.S.C. § 921(a)(29), defines "handgun" to mean, in part *...a firearm which has a short stock and is designed to be held and fired by the use of a single hand....*

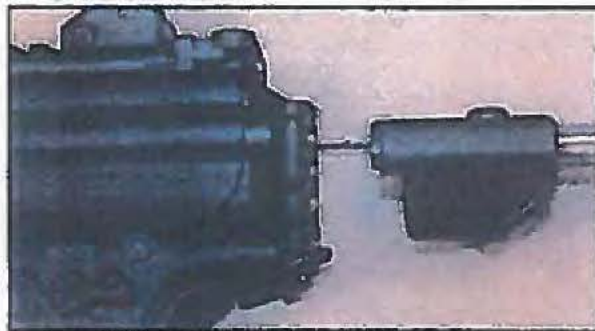
Additionally, 27 CFR § 478.11, a regulation implementing the GCA, defines "pistol" as *...a weapon originally designed, made, and intended to fire a projectile (bullet) from one or more barrels when held in one hand, and having (a) a chamber(s) as an integral part(s) of, or permanently aligned with, the bore(s); and (b) a short stock designed to be gripped by one hand and at an angle to and extending below the line of the bore(s).*

Please note also that the GCA, 18 U.S.C. § 921(a)(7), defines the term "rifle" to include *...a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder ...*

Finally, the National Firearms Act (NFA), 26 U.S.C. § 5845(a)(3), defines "firearm" to include *...a rifle having a barrel or barrels of less than 16 inches in length....*

(b) (6)

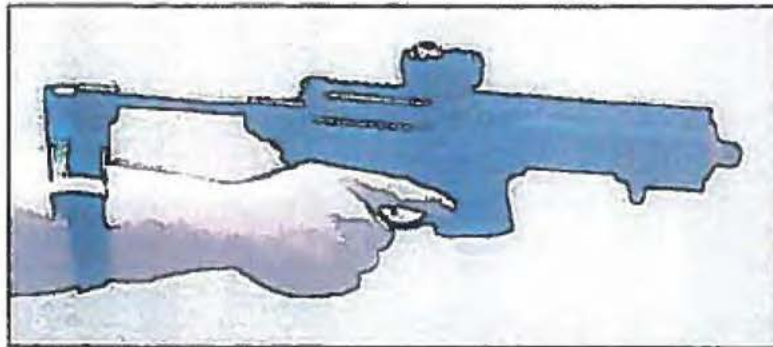
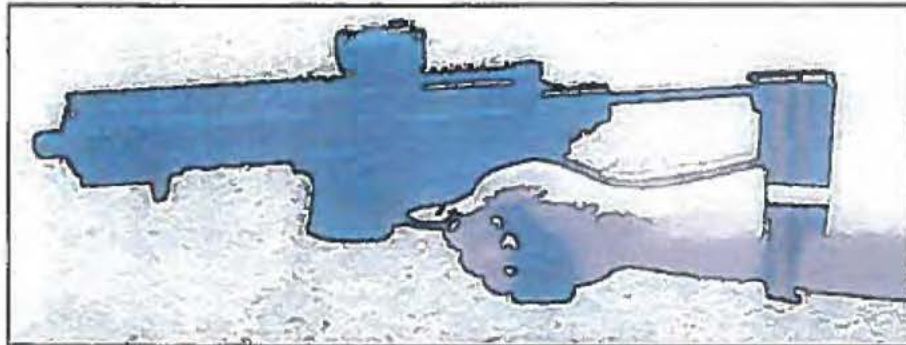
The submitted device (pictured below) utilizes two telescoping metal rods that affix to both sides of an adapter mounted to the rear of a **(b)(3)-(26 USC 6103)** caliber pistol:



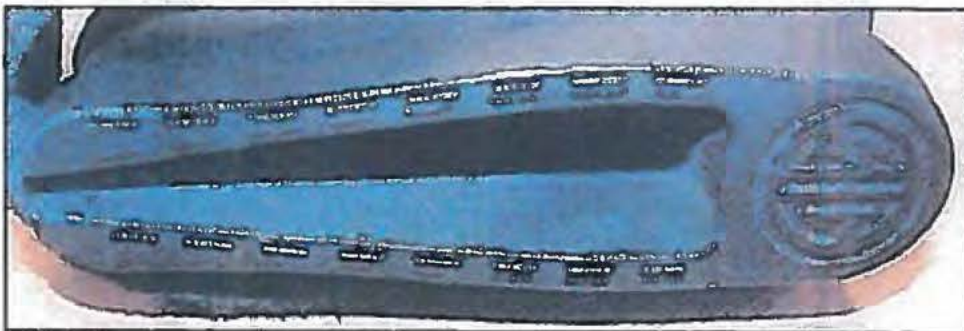
(b) (6)

The submitted (b)(3)-(26 USC 6103) with adjustable brace installed, has the following attributes:

- Brace adapter attached to rear of pistol frame.
- Adjustable stabilizing brace attached to adapter.
- Pistol weight without brace attached: 81 ounces.
- Pistol weight with brace attached: 105 ounces.
- Distance from rear of frame to end of fully extended brace: approximately (b) (4) inches.
- Accessory rails.
- Utilizes a detachable magazine (not submitted).
- 9mm Luger caliber (b) (4) inch barrel with attached flash suppressor.
- Overall length of approximately (b) (4) inches.



Further, the submitted brace contains a series of raised ridges at its rear (see photo below):



(b) (6)

The subject ridges on the rear of the submitted sample serve no functional purpose in the design of a pistol brace; however, the ridges do provide a non-slip, gripping surface, a feature commonly associated with butt stocks/shoulder stocks as well as firearms designed and intended to be fired from the shoulder. You indicate production models will not have this raised surface so as to preclude its usefulness to be shouldered.

The submitted weapon, as described and depicted above, would be classified as a "pistol" subject to GCA provisions; however, it would not be a "firearm" as defined by the NFA provided the "Adjustable Pistol Stabilizing Brace" is used as originally designed; NOT used as a shoulder stock; and the raised ridges are removed from the rear of the brace. Please note that if the subject firearm is concealed on a person, the classification with regard to the NFA may change.

We understand that the current design differs from a previously approved design because of a difference in materials used as well as production cost considerations. We also understand that the device was developed to be shorter than the previous design to allow smaller and/or shorter shooters to effectively utilize a brace.

Central to ATF's determination is your representation that the purpose and intent of your design, as with previously approved designs, is solely to allow shooters—particularly those with disabilities—to better support large handguns or pistols when firing one-handed. For example, the handgun that you submitted weighs 81 ounces without a magazine installed. Conventional handguns available to the public typically weigh between 20 and 40 ounces, depending on frame material and frame size, without a magazine installed. FTISB believes that the designed use provides support for your position that the submitted sample is not actually intended to be used as a shoulder stock.

Your submission would therefore be approved for use on handguns similar to that attached to your submission, provided there are no raised ridges on the rear of the brace. Its use on smaller, or more conventional handguns, would not be authorized because the purported intent and design offers no benefit for small handguns.

Further, should an individual utilize the "Adjustable Pistol Stabilizing Brace" on the submitted sample as a shoulder stock to fire the weapon from the shoulder, this firearm would then be classified as a "short-barreled rifle" as defined in the NFA, 26 U.S.C. § 5845(a)(3) because the subject firearm, with attached brace, has then been made or remade, designed or redesigned from its originally intended purpose.

In closing, FTISB finds that the submitted sample is approved for use as a pistol stabilizing brace provided the raised ridges are removed from the rear of the device and not added at a later time.

To facilitate return of the submitted item, please provide FTISB with an appropriate FedEx or similar account number within 60 days of receipt of this letter.

(b) (6)

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

Sincerely yours,



Michael R. Curtis

Chief, Firearms Technology Industry Services Branch

Attachment G

OPEN LETTER ON THE REDESIGN OF “STABILIZING BRACES”

The Firearms and Ammunition Technology Division (FATD), Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) has received inquiries from the public concerning the proper use of devices recently marketed as “stabilizing braces.” These devices are described as “a shooter’s aid that is designed to improve the single-handed shooting performance of buffer tube equipped pistols.” The device claims to enhance accuracy and reduce felt recoil when using an AR-style pistol.

These items are intended to improve accuracy by using the operator’s forearm to provide stable support for the AR-type pistol. ATF has previously determined that attaching the brace to a firearm does not alter the classification of the firearm or subject the firearm to National Firearms Act (NFA) control. However, this classification is based upon the use of the device as designed. When the device is redesigned for use as a shoulder stock on a handgun with a rifled barrel under 16 inches in length, the firearm is properly classified as a firearm under the NFA.

The NFA, 26 USCS § 5845, defines “firearm,” in relevant part, as “a shotgun having a barrel or barrels of less than 18 inches in length” and “a rifle having a barrel or barrels of less than 16 inches in length.” That section defines both “rifle” and “shotgun” as “a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder...” (Emphasis added).

Pursuant to the plain language of the statute, ATF and its predecessor agency have long held that a pistol with a barrel less than 16 inches in length and an attached shoulder stock is a NFA “firearm.” For example, in Revenue Ruling 61-45, Luger and Mauser pistols “having a barrel of less than 16 inches in length with an attachable shoulder stock affixed” were each classified as a “short barrel rifle...within the purview of the National Firearms Act.”

In classifying the originally submitted design, ATF considered the objective design of the item as well as the stated purpose of the item. In submitting this device for classification, the designer noted that

The intent of the buffer tube forearm brace is to facilitate one handed firing of the AR15 pistol for those with limited strength or mobility due to a handicap. It also performs the function of sufficiently padding the buffer tube in order to reduce bruising to the forearm while firing with one hand. Sliding and securing the brace onto ones forearm and latching the Velcro straps, distributes the weight of the weapon evenly and assures a snug fit. Therefore, it is no longer necessary to dangerously "muscle" this large pistol during the one handed aiming process, and recoil is dispersed significantly, resulting in more accurate shooting without compromising safety or comfort.

In the classification letter of November 26, 2012, ATF noted that a “shooter would insert his or her forearm into the device while gripping the pistol’s handgrip-then tighten the Velcro straps for additional support and retention. Thus configured, the device provides the shooter with additional support of a firearm while it is still held and operated with one hand.” When strapped to the wrist and used as designed, it is clear the device does not allow the firearm to be fired from the shoulder. Therefore, ATF concluded that, pursuant to the information provided, “the device

is not designed or intended to fire a weapon from the shoulder.” In making the classification ATF determined that the objective design characteristics of the stabilizing brace supported the stated intent.

ATF hereby confirms that if used as designed—to assist shooters in stabilizing a handgun while shooting with a single hand—the device is not considered a shoulder stock and therefore may be attached to a handgun without making a NFA firearm. However, ATF has received numerous inquiries regarding alternate uses for this device, including use as a shoulder stock. Because the NFA defines both rifle and shotgun to include any “weapon designed or *redesigned*, made or *remade*, and *intended to be fired from the shoulder*,” any person who *redesigns* a stabilizing brace for use as a shoulder stock makes a NFA firearm when attached to a pistol with a rifled barrel under 16 inches in length or a handgun with a smooth bore under 18 inches in length.

The GCA does not define the term “redesign” and therefore ATF applies the common meaning. “Redesign” is defined as “to alter the appearance or function of.” See e.g. Webster’s II New College Dictionary, Third Ed. (2005). This is not a novel interpretation. For example ATF has previously advised that an individual possesses a destructive device when possessing anti-personnel ammunition with an otherwise unregulated 37/38mm flare launcher. See ATF Ruling 95-3. Further, ATF has advised that even use of an unregulated flare and flare launcher as a weapon results in the making of a NFA weapon. Similarly, ATF has advised that, although otherwise unregulated, the use of certain nail guns as weapons may result in classification as an “any other weapon.”

The pistol stabilizing brace was neither “designed” nor approved to be used as a shoulder stock, and therefore use as a shoulder stock constitutes a “redesign” of the device because a possessor has changed the very function of the item. Any individual letters stating otherwise are contrary to the plain language of the NFA, misapply Federal law, and are hereby revoked.

Any person who intends to use a handgun stabilizing brace as a shoulder stock on a pistol (having a rifled barrel under 16 inches in length or a smooth bore firearm with a barrel under 18 inches in length) must first file an ATF Form 1 and pay the applicable tax because the resulting firearm will be subject to all provisions of the NFA.

If you have any questions about the issues addressed in this letter, you may contact the Firearms and Ammunition Technology Division at fire_tech@atf.gov or by phone at (304) 616-4300.



Max M. Kingery
Acting Chief
Firearms Technology Criminal Branch
Firearms and Ammunition Technology Division

Attachment

H



U.S. Department of Justice

Bureau of Alcohol, Tobacco,
Firearms and Explosives

Assistant Director

Washington, DC 20226
www.atf.gov

MAR 21 2017

90000 (b) (6)
5000

(b)(3)-(26 USC 6103), (b) (6)

Re: Reversal of ATF Open Letter on the Redesign of "Stabilizing Braces"

Dear (b) (6)

I am writing in response to your letter dated January 5, 2017, to Thomas Brandon, the Acting Director of the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) on behalf of your client (b)(3)-(26 USC 6103). Your letter requests that ATF reconsider its position articulated in ATF's "Open Letter on the Redesign of 'Stabilizing Braces'" issued on January 16, 2015 (hereafter, the "Open Letter"). The *Open Letter* made it clear that stabilizing braces are perfectly legal accessories for large handguns or pistols. However, when employed as a shoulder stock with a firearm with a barrel less than 16 inches in length, the result would be making an unregistered NFA firearm. Your letter challenges the legal correctness of this latter conclusion and asks that ATF disavow it. Since receiving your letter we have re-examined the conclusions contained in the *Open Letter*. Although we stand by those conclusions, we agree that the *Open Letter* may have generated some confusion concerning the analytical framework by which those conclusions were reached. Thank you for the opportunity to clarify our analysis.

Background

As you are aware, the NFA, 26 USC § 5845, defines "firearm," in relevant part, as "a shotgun having a barrel or barrels of less than 18 inches in length" and "a rifle having a barrel or barrels of less than 16 inches in length." That section defines both "rifle" and "shotgun" as "a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder...." Pursuant to the plain language of the statute, ATF and its predecessor agency have long held that a pistol with a barrel less than 16 inches in length and an attached shoulder stock is an NFA "firearm."

(b) (6)

In 2012, ATF determined that a specific arm-stabilizing brace—marketed as “a shooter’s aid” to assist in shooting large buffer tube equipped pistols—was not a shoulder stock and therefore could be attached to a firearm without that act constituting the making of an NFA firearm. Following this determination, the firearms industry and members of the public sought clarification on whether the stabilizing brace may lawfully be used as a shoulder stock. To respond to these inquiries, ATF published the January 2015 *Open Letter*. In that letter ATF confirmed its previous determination that the use of stabilizing braces, as designed, would not create a short-barreled rifle when attached to a firearm. ATF also advised, however, that because the stabilizing brace was not designed as a shoulder stock, “use” of the device as a shoulder stock would constitute a “redesign” of the firearm to which it was attached, resulting in the classification of that firearm as a short-barreled rifle.

Your letter asserts that ATF’s analysis of “use” is untenable because the mere use of an otherwise lawfully possessed item for a purpose for which it was not designed does not constitute “redesign” as defined in the NFA. You support this argument with analogies involving items that are not firearms (*i.e.*, misuse of a screwdriver or hammer), and by distinguishing a prior ATF ruling, ATF Ruling 95-2, on which the *Open Letter* relies in its analysis of use. The unstated, but logical, result of your argument is that stabilizing braces, although designed, intended and marketed for use only to shoot from the arm, could be attached to a firearm and used as a shoulder stock without falling within the purview of the NFA. Under certain circumstances, such an absolute result is simply not consistent with the letter and intent of the NFA, as we illustrate in the next paragraph.

An accessory that can be attached to a firearm in any one of several configurations must be evaluated to determine whether attaching it in each of those configurations constitutes “making” an NFA firearm under both objective and subjective analyses. With respect to stabilizing braces, ATF has concluded that attaching the brace to a handgun as a forearm brace does not “make” a short-barreled rifle because in the configuration as submitted to and approved by FATD, it is not intended to be and cannot comfortably be fired from the shoulder. If, however, the shooter/possessor takes affirmative steps to configure the device for use as a shoulder-stock—for example, configuring the brace so as to permanently affix it to the end of a buffer tube, (thereby creating a length that has no other purpose than to facilitate its use as a stock), removing the arm-strap, or otherwise undermining its ability to be used as a brace – and then in fact shoots the firearm from the shoulder using the accessory as a shoulder stock, that person has objectively “redesigned” the firearm for purposes of the NFA. This conclusion is not based upon the mere fact that the firearm was fired from the shoulder at some point. Therefore, an NFA firearm has not necessarily been made when the device is not re-configured for use as a shoulder stock – even if the attached firearm happens to be fired from the shoulder.

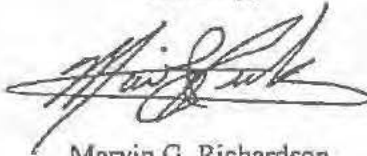
(b) (6)

To the extent the January 2015 *Open Letter* implied or has been construed to hold that incidental, sporadic, or situational "use" of an arm-brace (in its original approved configuration) equipped firearm from a firing position at or near the shoulder was sufficient to constitute "redesign," such interpretations are incorrect and not consistent with ATF's interpretation of the statute or the manner in which it has historically been enforced.

In that regard, we also note that the "making" of an NFA firearm pursuant to 26 U.S.C. § 5821 includes the altering of an existing firearm such that, after the alteration, the firearm meets one of the enumerated descriptions in 26 U.S.C. § 5845(a), whether or not that alteration is permanent. So, for example, one "makes" a short-barreled shotgun subject to the NFA by replacing a 20 inch barrel with a 16 inch barrel, even though that configuration may not be permanent. Nothing in the NFA requires that the "making" be irreversible. Similarly, an item that functions as a stock if attached to a handgun in a manner that serves the objective purpose of allowing the firearm to be fired from the shoulder may result in "making" a short-barreled rifle, even if the attachment is not permanent. *See*, Revenue Ruling 61-45. The fact that the item may allow, or even be intended by its manufacturer for other lawful purposes, does not affect the NFA analysis.

Again, to the extent the *Open Letter* was confusing, we appreciate the opportunity to clarify our position. Thank you for your inquiry regarding this matter.

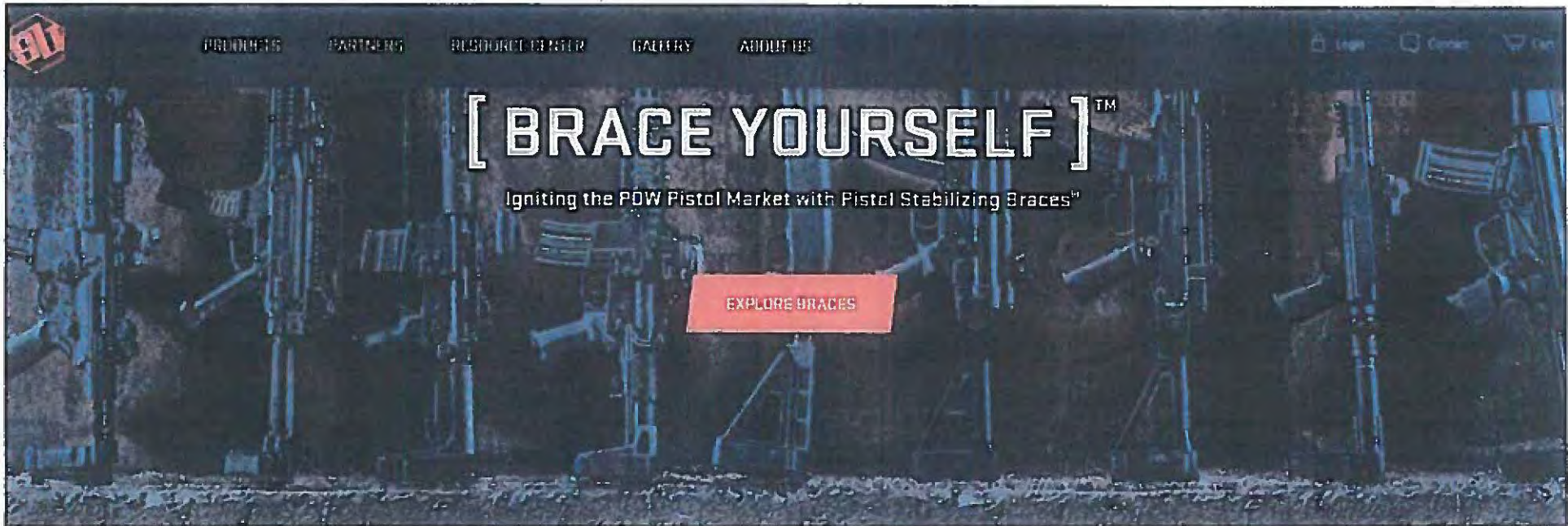
Sincerely,



Marvin G. Richardson
Assistant Director
Enforcement Programs and Services

Attachment

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COMPLIANCE APPLICATIONS & ADVANTAGES

STIFF-ARM THE ESTABLISHMENT










SB Tactical[®] remains at the forefront of accessories development for PDW pistols as the inventor and manufacturer of the BATFE compliant Pistol Stabilizing Brace. Learn more about compliance and all of the applications and advantages that our braces offer.








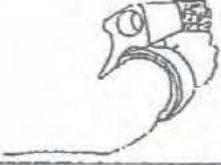


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Attachment

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FE	Model	FATD Examiner	Rear Photo	Side Photo	ATF LANGUAGE	ATF Description	ATF's New Disqualifiers for Shoulder Stock Similarities					
							Interchangeability of Parts with Stock	Similarity of Function	Appearance of Stock	Length of Pull	Mounting Surface Area	Shoulder Material
5/13	5815 Case #2013-0172	(b) (6)			(b) (5)	Brace ✓	(b) (5)					
5/14	Shotgorene Model: Case #302 672	(b) (6)			(b) (5)	Brace ✓	(b) (5)					
12/14	Thomson Case #302 787	(b) (6)			(b) (5)	Brace ✓	(b) (5)					
12/15	MPS Case #304 250	(b) (6)			(b) (5)	Brace ✓	(b) (5)					
12/18	Tullman Model: Case #304 475	(b) (6)			(b) (5)	Brace ✓	(b) (5)					

ITE	Model	FKTD Esnumber	Rear Photo	Side Photo	ATF LANGUAGE	ATF Determination	ATF's New Disqualifiers for Shoulder Stock Similarities					
							Interchangeability of Parts with Stock	Similarity of Function	Appearance of Stock	Length of Pull	Shouldering Surface Area	Flatter Material
7/17	Talbot Smith Case #324-511	(b) (6)			(b) (5)	Brace ✓	(b) (5)					
4/17	CI Receiver Extension Mag Case #305-434	(b) (6)			(b) (5)	Stock ✗	(b) (5)					
12/17	Double Star Safe Pistol Arm Spring Case #387-312	(b) (6)			(b) (5)	Brace ✓	(b) (5)					
3/17	Stiller INDUSTRIES Stabilizer Case #300-879	(b) (6)			(b) (5)	Brace ✓	(b) (5)					
11/17	Sho-Lock SMAC Case #308-715	(b) (6)			(b) (5)	Brace ✓	(b) (5)					

ATF	Model	FACTD Examiner	Rear Photo	Side Photo	ATF LANGUAGE	ATF Determination	ATF's New Disqualifiers for Shoulder Stock Similarities					
							Interchangeability of Parts with Stock	Shaftality of Function	Appearance of Stock	Length of Pull	Stabilizing Surface Area	Similar Material
7/17	Shockwave Blade 2.0 #307-361	(b) (6)			(b) (5)	Brace ✓	(b) (5)	(b) (5)	(b) (5)	(b) (5)	(b) (5)	
14/18	T-bolt Force Core #303-415	(b) (6)			(b) (5)	Brace ✓	(b) (5)	(b) (5)	(b) (5)	(b) (5)	(b) (5)	
3/18	SBTEVO Core #231 375	(b) (6)			(b) (5)	Stock ✗	(b) (5)	(b) (5)	(b) (5)	(b) (5)	(b) (5)	
7/18	1547 Core #2018-89	(b) (6)			(b) (5)	Stock ✗	(b) (5)	(b) (5)	(b) (5)	(b) (5)	(b) (5)	