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U.S. Department of Justice

Bureau of Alcohol, Tobacco,
Firearms and Explosives

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Washington, DC 20226

www.atf.gov

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Mr. Joshua Prince, Esq.
Prince Law Offices, P.C.
646 Lenape Road
Bechtelsville, Pennsylvania 19505

Dear Mr. Prince:

This is in response to your letters dated March 22 and 31, 2011, to the Attorney General and the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) in which you ask ATF to provide you with an estimate of the cost of investigating a petition for relief from Federal firearms disabilities pursuant to 18 U.S.C. § 925(c). We understand that you made this request based on the understanding that your clients could privately fund ATF's investigation into their petitions for relief. As explained below, ATF is barred from using private funds for that purpose.

As you correctly stated in your letters, since 1992, Congress in every annual bill appropriating funds for ATF has prohibited ATF from expending any funds to investigate or act upon applications for relief from Federal firearms disabilities under 18 U.S.C. § 925(c) submitted by individuals. *See e.g.* Consolidated Appropriations Act, 2010, Public Law 111-117, December 16, 2009. The United States Supreme Court discussed the appropriation restriction at length when it considered whether the Federal courts had the power to review ATF's inaction on a petition for relief from disabilities in *United States v. Bean*, 537 U.S. 71 (2002). The Court held that ATF's inaction on an application for relief did not amount to an appealable denial of relief.

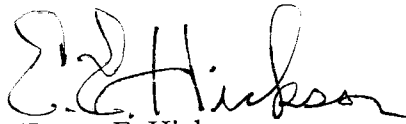
We understand Congress' explicit restriction on ATF's use of funds to investigate or act upon applications for relief from Federal firearms disabilities from individuals as a clear indication that Congress does not want ATF to act on such applications. If ATF were to investigate and act upon these applications with private funds, ATF's actions would circumvent Congressional intent. Moreover, ATF is prohibited by Federal law from using funds that have not been appropriated to ATF by Congress. Title 31, United States Code, Section 1341, prohibits any officer or employee of the United States Government from "making an expenditure exceeding an amount available in an appropriation..." Since Congress has not appropriated any money for the purpose of investigating and acting on relief petitions, any expenditure of funds for this purpose would violate the law.

Mr. Joshua Prince, Esq.

Finally, if private individuals were to provide ATF with funds for the purpose of investigating and acting on relief petitions, ATF could not deposit the money into any ATF account. Title 31, United States Code, Section 3302, provides that "an official or agent of the Government receiving money for the Government from any source shall deposit the money in the Treasury as soon as practicable without deduction for any charge or claim." Thus, any funds so received would have to be deposited into the Government's general fund, which is separate and distinct from ATF's budgetary funds.

We hope this information proves helpful to your clients. Please let me know if we can be of further assistance.

Sincerely yours,

A handwritten signature in dark ink, appearing to read "E. E. Hickson". The signature is fluid and cursive, with the first and last names being more prominent than the middle initial.

Ernest E. Hickson

Chief of Staff

Public and Governmental Affairs