

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NORTH DAKOTA**

FIREARMS REGULATORY
ACCOUNTABILITY COALITION, INC.,
and FRANKLIN ARMORY, INC.,

Plaintiffs,

v.

MERRICK B. GARLAND, in his official
capacity as Attorney General of the United
States, *et al.*,

Defendants.

Civil Action No. 1:23-cv-00003-DLH

ANSWER

Defendants Merrick Garland, in his official capacity as Attorney General of the United States, Steven Dettelbach, in his official capacity as Director of the Bureau of Alcohol, Tobacco, Firearms and Explosives (“ATF”), and ATF, by and through undersigned counsel, hereby answer Plaintiffs’ Amended Complaint (ECF No. 22) as follows, in correspondingly numbered paragraphs:

1. This paragraph consists of a description of Plaintiffs’ claims in this case, not factual allegations to which a response is required. To the extent a response is required, Defendants admit that Plaintiffs challenge two classification decisions by ATF and seek mandamus to compel agency action. Defendants deny that ATF’s classification decisions were erroneous and deny that the agency has unreasonably withheld any action required by law.

2. This paragraph consists of a description of Plaintiffs’ first claim in this case, not factual allegations to which a response is required. To the extent a response is required,

Defendants admit that Plaintiffs challenge ATF's classification of the FAI-15 Antithesis ("Antithesis"). Defendants deny that ATF's classification decision was erroneous.

3. Admit that the Gun Control Act ("GCA"), 18 U.S.C. § 921 *et seq.*, and the National Firearms Act ("NFA"), 26 U.S.C. § 5801 *et seq.*, contain the language quoted. Defendants respectfully refer the Court to the text of these statutes for a full and accurate statement of their contents.

4. Defendants admit that the Antithesis is capable of firing cartridges with a single projectile or multiple projectiles and deny that the Antithesis is designed and intended to fire multiple projectiles.

5. This paragraph consists of a legal conclusion, not a factual allegation to which a response is required. To the extent a response is required, deny.

6. This paragraph consists of a legal conclusion, not a factual allegation to which a response is required. To the extent a response is required, deny.

7. Admit that after testing and evaluation, ATF determined that the Antithesis constituted a short-barreled rifle under 18 U.S.C. § 921(a)(8) and a "firearm" as defined under both the GCA and NFA, 18 U.S.C. § 921(a)(3) and 26 U.S.C. § 5845(a)(3). Defendants respectfully refer the Court to ATF's Antithesis classification decision, located at Pl.'s Ex. F, ECF No. 22-6, for a full and accurate statement of ATF's determination.

8. This paragraph consists of a legal conclusion, not a factual allegation to which a response is required. To the extent a response is required, deny.

9. This paragraph consists of a legal conclusion, not a factual allegation to which a response is required. To the extent a response is required, Defendants deny that ATF's

classification decision was erroneous, in excess of statutory authority, or contrary to congressional intent.

10. This paragraph consists of a description of Plaintiffs' second claim in this case, not factual allegations to which a response is required. To the extent a response is required, Defendants admit that Plaintiffs challenge ATF's classification of Reformation as a short-barreled shotgun under the NFA and GCA.

11. Admit that the Reformation fires rifle cartridges and ammunition designed for the Reformation though a barrel with straight cut lands and grooves.

12. Admit that the cited GCA and NFA definitions include the term "smooth bore." Defendants respectfully refer the Court to the text of these statutes for a full and accurate statement of their contents.

13. This paragraph consists of a legal conclusion, not a factual allegation to which a response is required. To the extent a response is required, Defendants deny that the Reformation cannot be a short-barreled shotgun under the GCA and NFA.

14. Admit that the NFA definition of shotgun includes the term "fixed shotgun shell." Defendants respectfully refer the Court to the text of that statute for a full and accurate statement of its contents.

15. This paragraph consists of a legal conclusion, not a factual allegation to which a response is required. To the extent a response is required, Defendants deny that the Reformation cannot be a short-barreled shotgun under the NFA.

16. Admit that ATF classified the Reformation as a short-barreled shotgun under the GCA in 2018, and as a firearm under the NFA in May 2023. Defendants respectfully refer the Court to ATF's Reformation classification decisions, located at Pl.'s Ex. L, ECF No. 22-12, and

Pl.'s Ex. Q, ECF No. 22-17, for a full and accurate statement of ATF's determination. Defendants deny that ATF's 2023 classification decision was undertaken in response to this litigation.

17. This paragraph consists of a legal conclusion, not a factual allegation to which a response is required. To the extent a response is required, deny.

18. This paragraph consists of legal conclusions, not a factual allegation to which a response is required. To the extent a response is required, Defendants deny that ATF's classification decisions were erroneous, in excess of statutory authority, or contrary to congressional intent.

19. This paragraph consists of a description of Plaintiffs' third claim in this case, not factual allegations to which a response is required. To the extent a response is required, Defendants admit that Plaintiffs seek to compel ATF to create procedures by which to seek authorization to sell, deliver, or transport across state lines weapons classified as short-barreled shotguns under the GCA alone.

20. Admit that ATF classified the Reformation as a short-barreled shotgun under the GCA in 2018. Defendants respectfully refer the Court to ATF's first Reformation classification decision, located at Pl.'s Ex. L, ECF No. 22-12, for a full and accurate statement of ATF's initial determination.

21. As to the first sentence, admit. Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations contained in the second sentence.

22. Admit.

23. Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations contained in the last sentence; otherwise admit.

24. Admit that in its classification letter dated November 13, 2018, ATF determined that the Reformation was a short-barreled shotgun under the GCA, that by amended classification letter dated May 4, 2023, ATF determined the Reformation was a short-barreled shotgun under the GCA and NFA, and that ATF never issued forms or procedures for GCA-only short-barreled shotguns where ATF is unaware of any such firearm currently in existence. The remainder of the paragraph is denied.

25. Deny. On page three of its amended classification letter dated May 4, 2023, ATF explained its concerns surrounding forms or procedures for GCA-only short-barreled shotguns. Defendants respectfully refer the Court to that letter, Pl.'s Ex. Q, ECF No. 22-17, for a full and accurate statement of its contents.

26. This paragraph consists of a legal conclusion, not a factual allegation to which a response is required. To the extent a response is required, deny.

27. This paragraph consists of a legal conclusion, not a factual allegation to which a response is required. To the extent a response is required, deny.

28. This paragraph consists of a legal conclusion, not a factual allegation to which a response is required. To the extent a response is required, deny.

29. Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations contained in this paragraph.

30. Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations contained in this paragraph.

31. Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations contained in this paragraph.

32. Admit that the Firearms Regulatory Accountability Coalition (“FRAC”) has filed comments with firearms regulatory agencies and engaged in litigation. Defendants respectfully refer the Court to the cited comments and legal filings for a full and accurate statement of FRAC’s filings.

33. Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations contained in this paragraph.

34. Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations contained in this paragraph.

35. Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations contained in this paragraph.

36. Admit that Franklin Armory, Inc. (“Franklin”) is a corporation engaged in the manufacture of firearms.

37. Admit.

38. Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations contained in this paragraph.

39. Admit.

40. Admit.

41. Admit.

42. Admit.

43. This paragraph consists of legal conclusions concerning jurisdiction, not factual allegations to which a response is required.

44. This paragraph consists of legal conclusions, not factual allegations to which a response is required.

45. This paragraph consists of a legal conclusion concerning venue, not a factual allegation to which a response is required.

46. Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations contained in this paragraph.

47. Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations contained in this paragraph.

48. Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations contained in this paragraph.

49. Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations contained in this paragraph.

50. Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations contained in this paragraph.

51. Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations contained in this paragraph.

52. Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations contained in this paragraph.

53. Admit that the North Dakota Secretary of State lists FRAC as a “Corporation – Nonprofit – Foreign,” with a “filing date” of “2/16/2021,” on its website, <https://firststop.sos.nd.gov/search/business>. Defendants lacks knowledge or information sufficient to form a belief about when FRAC first registered.

54. Defendants deny that ATF misclassified the Antithesis.

55. Admit that ATF classified the Antithesis as a short-barreled rifle subject to the NFA and GCA. Defendants deny that ATF misclassified the Antithesis, and deny that the conditions imposed on its sale by virtue of ATF's classification are unlawful.

56. Defendants deny that ATF's classification of the Antithesis was erroneous.

57. This paragraph consists of legal conclusions concerning redressability, not factual allegations to which a response is required. To the extent a response is required, Defendants deny that ATF's classification of the Antithesis was erroneous.

58. Defendants deny that ATF misclassified the Reformation.

59. Admit that ATF classified the Reformation as a short-barreled shotgun subject to the NFA and GCA. Defendants deny that ATF misclassified the Reformation, and deny that the conditions imposed on its sale by virtue of ATF's classification are unlawful.

60. Defendants deny that ATF's classification of the Reformation was erroneous.

61. This paragraph consists of legal conclusions concerning redressability, not factual allegations to which a response is required. To the extent a response is required, Defendants deny that ATF's classification of the Reformation was erroneous.

62. Defendants deny that Franklin is financially injured by the lack of a mechanism for obtaining authorization to transfer weapons classified as short-barreled shotguns under the GCA but not the NFA. To Defendants' knowledge, Franklin does not produce weapons classified as short-barreled shotguns under the GCA but not the NFA. Authorization processes allowing for the sale, transfer, and delivery of weapons classified as firearms under both the NFA and GCA—such as the Reformation and Antithesis—are currently available to gunmakers including Franklin, because the requirements of 18 U.S.C. § 922(a)(4) and 18 U.S.C. § 922(b)(4) are fulfilled for a

firearm regulated under the GCA and NFA by the completion and approval of ATF Form 5320.4 (known as Form 4) and ATF Form 5320.20.

63. Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations regarding Franklin's revenue contained in this paragraph. Defendants deny that Franklin is unable to seek authorization for the sale, transfer, and delivery of the Reformation. Authorization processes allowing for the sale, transfer, and delivery of weapons classified as firearms under both the NFA and GCA—such as the Reformation and Antithesis—are currently available to gunmakers including Franklin, because the requirements of 18 U.S.C. § 922(a)(4) and 18 U.S.C. § 922(b)(4) are fulfilled for a firearm regulated under the GCA and NFA by the completion and approval of ATF Form 5320.4 (known as Form 4) and ATF Form 5320.20.

64. Deny.

65. This paragraph consists of legal conclusions concerning redressability, not factual allegations to which a response is required. To the extent a response is required, deny.

66. This paragraph consists of legal conclusions, not factual allegations to which a response is required.

67. Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations contained in this paragraph.

68. Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations contained in this paragraph.

69. This paragraph consists of legal conclusions, not factual allegations to which a response is required.

70. This paragraph consists of legal conclusions, not factual allegations to which a response is required.

71. This paragraph consists of legal conclusions, not factual allegations to which a response is required. To the extent a response is required, Defendants admit that this paragraph quotes from FRAC's website. Defendants respectfully refer the Court to the webpage cited for a full and accurate statement of its contents.

72. Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations regarding the conclusions of FRAC's Board and officers contained in this paragraph.

73. This paragraph consists of legal conclusions, not factual allegations to which a response is required. To the extent a response is required, Defendants deny that ATF's classifications were unlawful.

74. This paragraph consists of legal conclusions, not factual allegations to which a response is required. To the extent a response is required, deny.

75. This paragraph consists of legal conclusions, not factual allegations to which a response is required. To the extent a response is required, Defendants deny that ATF abuses its classification process, and deny that ATF's actions were unlawful.

76. This paragraph consists of a legal conclusion, not factual allegations to which a response is required. To the extent a response is required, deny.

77. This paragraph consists of legal conclusions, not factual allegations to which a response is required. To the extent a response is required, Defendants deny that participation of individual members is not required, and admit that Plaintiffs seek only declaratory and prospective injunctive relief.

78. This paragraph consists of a legal conclusion, not factual allegations to which a response is required. To the extent a response is required, deny.

79. This paragraph consists of a legal conclusion, not factual allegations to which a response is required. To the extent a response is required, deny.

80. This paragraph consists of a legal conclusion, not factual allegations to which a response is required. To the extent a response is required, deny.

81. This paragraph consists of a legal conclusion, not factual allegations to which a response is required. To the extent a response is required, Defendants deny that Plaintiffs' claims do not require individualized proof from individual members and admit that this case should be decided on the administrative record without discovery.

82. Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations contained in this paragraph.

83. Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations contained in this paragraph.

84. Admit that the GCA and NFA are federal statutes passed by Congress regulating firearms in the United States. Defendants respectfully refer the Court to the text of these statutes for a full and accurate statement of their contents.

85. Admit that the GCA and NFA establish various categories of weapons. Defendants respectfully refer the Court to the text of these statutes for a full and accurate statement of their contents.

86. Admit. Defendants respectfully refer the Court ATF's classification decisions for a full and accurate statement of ATF's classification of the Antithesis and Reformation.

87. Admit that the GCA and NFA contain the language quoted. Defendants respectfully refer the Court to the text of these statutes for a full and accurate statement of their contents.

88. Admit that the GCA and NFA contain the language quoted. Defendants respectfully refer the Court to the text of these statutes for a full and accurate statement of their contents.

89. Admit that after testing and evaluation, ATF determined that the Antithesis constituted a short-barreled rifle under 18 U.S.C. § 921(a)(8) and a “firearm” as defined under both the GCA and NFA, 18 U.S.C. § 921(a)(3) and 26 U.S.C. § 5845(a)(3). Defendants respectfully refer the Court to ATF’s Antithesis classification decision, located at Pl.’s Ex. F, ECF No. 22-6, for a full and accurate statement of ATF’s determination.

90. Admit that the GCA and NFA contain the language quoted. Defendants respectfully refer the Court to the text of these statutes for a full and accurate statement of their contents.

91. Admit that the GCA contains the language quoted. Defendants respectfully refer the Court to the text of the statute for a full and accurate statement of its contents.

92. Admit that the NFA contains the language quoted. Defendants respectfully refer the Court to the text of the statute for a full and accurate statement of its contents.

93. Admit that ATF classified the Reformation as a short-barreled shotgun under the GCA in 2018, and as a “firearm” under the NFA in May 2023. Defendants respectfully refer the Court to ATF’s Reformation classification decisions, located at Pl.’s Ex. L, ECF No. 22-12, and Pl.’s Ex. Q, ECF No. 22-17, for a full and accurate statement of ATF’s determination.

94. Admit. Defendants respectfully refer the Court to 8 C.F.R. § 478.92(c) for a full and accurate statement of the regulation’s classification process.

95. Admit. Defendants respectfully refer the Court to 8 C.F.R. § 478.92(c) for a full and accurate statement of the regulation’s classification process.

96. Admit. Defendants respectfully refer the Court to 8 C.F.R. § 478.92(c) for a full and accurate statement of the regulation’s classification process.

97. Admit.

98. Admit.

99. Admit that weapons classified as firearms under the NFA are subject to various requirements. Defendants respectfully refer the Court to the text of the statute for a full and accurate statement of these requirements.

100. Admit. Defendants respectfully refer the Court to the text of the statute and regulations for a full and accurate statement of these requirements.

101. Admit. Defendants respectfully refer the Court to the text of the statute and regulations for a full and accurate statement of these requirements.

102. Admit. Defendants respectfully refer the Court to the text of the statute and regulations for a full and accurate statement of these requirements.

103. Admit. Defendants respectfully refer the Court to the text of the statute and regulations for a full and accurate statement of these requirements.

104. Admit. Defendants respectfully refer the Court to the text of the statute for a full and accurate statement of these requirements.

105. Admit that weapons classified as short-barreled shotguns or short-barreled rifles under the GCA are subject to various requirements governing sale, delivery, and interstate transportation of such weapons. Defendants respectfully refer the Court to the text of the statute and regulations for a full and accurate statement of these requirements.

106. Admit that the GCA includes requirements for licensure as described at 18 U.S.C. § 923(c). Defendants respectfully refer the Court to the text of the statute and regulations for a full and accurate statement of these requirements.

107. Admit that Plaintiffs have accurately quoted portions of 18 U.S.C. § 922(a)(1)(A). Defendants respectfully refer the Court to the text of the statute for a full and accurate statement of these requirements.

108. Admit that Plaintiffs have accurately quoted portions of 18 U.S.C. § 922(b). Defendants respectfully refer the Court to the text of the statute and regulations for a full and accurate statement of these requirements.

109. Admit that Plaintiffs have accurately quoted portions of 18 U.S.C. § 922(a)(4). Defendants respectfully refer the Court to the text of the statute for a full and accurate statement of these requirements.

110. Admit that Plaintiffs have accurately quoted portions of 18 U.S.C. § 922(a)(4). Defendants respectfully refer the Court to the text of the statute and regulations for a full and accurate statement of these requirements.

111. Admit. Defendants respectfully refer the Court to the text of the statute for a full and accurate statement of these requirements.

112. This paragraph consists of a legal conclusion, not factual allegations to which a response is required. Defendants respectfully refer the Court to the text of the Act for a full and accurate statement of these requirements.

113. Admit that under 28 C.F.R. §§ 0.130(a)(1)-(3) and 28 U.S.C. § 510, the Director of ATF is authorized to enforce the provisions of the GCA and NFA at issue in this case. Defendants respectfully refer the Court to the text of the regulation for a full and accurate statement of its contents.

114. Admit. Defendants respectfully refer the Court to Franklin's classification request for a full and accurate statement of its contents.

115. Admit that the Antithesis has a rifled barrel that accepts both .410 bore shotshells and .45 Long Colt cartridges; deny that it was designed to be anything other than rifle.

116. Admit.

117. Admit that the Antithesis sample examined by ATF bore an inscription reading “.410/.45LC.” Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations regarding Franklin’s intent with regard to the inscription.

118. Admit that Franklin’s classification letter stated that Franklin had tested the Antithesis in the manner described. Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations regarding the results of Franklin’s testing. Defendants respectfully refer the Court to Franklin’s classification request for a full and accurate statement of its contents.

119. Admit that Franklin’s classification letter stated that Franklin had tested the Antithesis in the manner described. Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations regarding Franklin’s test results. Defendants respectfully refer the Court to Franklin’s classification request for a full and accurate statement of its contents.

120. Admit that Franklin’s letter to ATF stated Franklin’s belief that the Antithesis was not a rifle under the GCA or NFA. Defendants respectfully refer the Court to Franklin’s letter for a full and accurate statement of its contents. Franklin’s assertion that the Antithesis is not a rifle under the GCA or the NFA is a legal conclusion, not a factual allegation to which a response is required. To the extent a response is required, deny.

121. Admit that Franklin’s letter to ATF argued that the Antithesis is designed and intended to fire shot. Defendants respectfully refer the Court to Franklin’s letter for a full and accurate statement of its contents. Franklin’s assertion regarding the design and intent of the

Antithesis is a legal conclusion, not a factual allegation to which a response is required. To the extent a response is required, deny.

122. Admit that Franklin's letter contained the language quoted. Defendants respectfully refer the Court to Franklin's letter for a full and accurate statement of its contents.

123. Admit that Franklin's letter contained the language quoted. Defendants respectfully refer the Court to Franklin's letter for a full and accurate statement of its contents.

124. Admit that Franklin's classification request contained the language quoted. Defendants respectfully refer the Court to Franklin's classification request for a full and accurate statement of its contents.

125. Admit that Franklin's classification request referred to the weapons referenced in this paragraph and contained the language quoted. Defendants respectfully refer the Court to Franklin's classification request for a full and accurate statement of its contents.

126. Admit that Franklin's letter to ATF stated Franklin's belief that the Antithesis was not a shotgun under the GCA or NFA. Defendants respectfully refer the Court to Franklin's letter for a full and accurate statement of its contents. Franklin's assertion that the Antithesis is not a shotgun under the GCA or the NFA is a legal conclusion, not a factual allegation to which a response is required. To the extent a response is deemed required, deny.

127. Admit that ATF classified the Antithesis as a short-barreled rifle subject to the NFA and GCA. Defendants deny that ATF's Antithesis classification was erroneous, and respectfully refer the Court to ATF's classification decision for a full and accurate statement of its contents.

128. Admit that ATF's classification decision contained the language quoted. Defendants respectfully refer the Court to ATF's classification decision for a full and accurate statement of its contents.

129. Admit that ATF's classification decision contained the language quoted. Defendants respectfully refer the Court to ATF's classification decision for a full and accurate statement of its contents.

130. Admit that ATF acknowledged that the Antithesis may be capable of expelling multiple projectile ammunition, in spite of the objective design of the weapon. Defendants respectfully refer the Court to ATF's classification decision for a full and accurate statement of its contents.

131. Admit that ATF determined that the Antithesis was designed and made to fire only a single projectile through a rifled bore. Defendants respectfully refer the Court to ATF's classification decision for a full and accurate statement of its contents.

132. Admit that ATF's classification decision contained the language quoted. Defendants respectfully refer the Court to ATF's classification decision for a full and accurate statement of its contents.

133. Admit that ATF's classification decision contained the language quoted. Defendants respectfully refer the Court to ATF's classification decision for a full and accurate statement of its contents.

134. Admit that ATF determined that a rifled bore is an objective design feature designed and made to fire only a single projectile. Defendants respectfully refer the Court to ATF's classification decision for a full and accurate statement of its contents.

135. Deny that ATF failed to consider any important aspects relevant to its classification of the Antithesis.

136. This paragraph consists of a legal conclusion, not factual allegations to which a response is required. To the extent a response is required, deny.

137. Defendants deny that ATF failed to consider Franklin's argument that projectile stabilization is not necessary in "comparatively short-range engagements." Defendants respectfully refer the Court to ATF's classification decision for a full and accurate statement of its contents.

138. Defendants deny that ATF failed to consider Franklin's argument that rapidly spreading the shot pattern enhances the weapon's utility in some contexts. Defendants respectfully refer the Court to ATF's classification decision for a full and accurate statement of its contents.

139. This paragraph consists of a legal conclusion, not factual allegations to which a response is required. To the extent a response is required, Defendants deny that ATF failed to consider these aspects of the Antithesis, and respectfully refer the Court to ATF's classification decision for a full and accurate statement of its contents.

140. This paragraph consists of a legal conclusion, not factual allegations to which a response is required. To the extent a response is required, Defendants deny that ATF failed to consider these aspects of the Antithesis, and respectfully refer the Court to ATF's classification decision for a full and accurate statement of its contents.

141. Defendants deny that ATF failed to consider its results firing shot from the Antithesis. Defendants respectfully refer the Court to ATF's classification decision for a full and accurate statement of its contents.

142. Defendants deny that ATF failed to consider Franklin's assertion that Franklin had achieved "great results" when firing shot from the Antithesis. Defendants respectfully refer the Court to ATF's classification decision for a full and accurate statement of its contents.

143. This paragraph consists of a legal conclusion, not factual allegations to which a response is required. To the extent a response is required, Defendants deny that ATF failed to

consider the Antithesis's ability to fire shot, and respectfully refer the Court to ATF's classification decision for a full and accurate statement of its contents.

144. This paragraph consists of a legal conclusion, not factual allegations to which a response is required. To the extent a response is required, Defendants admit that Plaintiffs have quoted portions of the cited First Circuit decision, and respectfully refer the Court to the decision cited for a full and accurate statement of its contents.

145. This paragraph consists of a legal conclusion, not factual allegations to which a response is required. To the extent a response is required, Defendants deny that ATF failed to consider the Antithesis's capability to fire shot, and respectfully refer the Court to ATF's classification decision for a full and accurate statement of its contents.

146. Defendants admit that ATF considered Franklin's stated intent for the Antithesis, and deny that ATF failed to consider Franklin's stated intent in its classification decision. Defendants respectfully refer the Court to ATF's classification decision for a full and accurate statement of its contents.

147. Admit that Plaintiffs have quoted a portion of ATF's Antithesis classification decision. Defendants respectfully refer the Court to ATF's classification decision for a full and accurate statement of its contents.

148. This paragraph consists of a legal conclusion, not factual allegations to which a response is required. To the extent a response is required, admit that Franklin asserted that its stated intent was for the Antithesis to fire shot and slugs from .410 bore shotshells and singular projectiles from .45 Long Colt. Defendants deny that Franklin's assertions regarding the weapon's stated intent are determinative for classification. Defendants respectfully refer the Court to ATF's classification decision for a full and accurate statement of its contents.

149. Defendants deny that ATF failed to consider the inscription on the weapon. Defendants respectfully refer the Court to ATF's classification decision for a full and accurate statement of its contents.

150. This paragraph consists of a legal conclusion, not factual allegations to which a response is required. To the extent a response is required, admit that Franklin asserted that its stated intent was for the Antithesis to fire shot and slugs from .410 bore shotshells and singular projectiles from .45 Long Colt. Defendants deny that Franklin's inscription is determinative for classification. Defendants respectfully refer the Court to ATF's classification decision for a full and accurate statement of its contents.

151. This paragraph consists of a legal conclusion, not factual allegations to which a response is required. To the extent a response is required, admit that Franklin asserted that its stated intent was for the Antithesis to fire shot and slugs from .410 bore shotshells and singular projectiles from .45 Long Colt. Defendants deny that Franklin's assertions regarding the weapon's stated intent are determinative of classification. Defendants respectfully refer the Court to ATF's classification decision for a full and accurate statement of its contents.

152. Admit that Plaintiffs have quoted portions of ATF's Antithesis classification decision. Defendants respectfully refer the Court to ATF's classification decision for a full and accurate statement of its contents.

153. This paragraph consists of a legal conclusion, not factual allegations to which a response is required. To the extent a response is required, Defendants deny that ATF's classification of the Antithesis was erroneous and deny that a weapon's possible commercial advantage is determinative of classification.

154. This paragraph consists of a legal conclusion, not factual allegations to which a response is required. To the extent a response is required, Defendants deny that a weapon's possible consumer demand is determinative of classification.

155. This paragraph consists of a legal conclusion, not factual allegations to which a response is required. To the extent a response is required, Defendants deny that a weapon's possible marketability or commercial advantage is determinative of classification.

156. This paragraph consists of a legal conclusion, not factual allegations to which a response is required. To the extent a response is required, Defendants deny that consumer preference or the possible value placed by a consumer on one capability of a weapon is determinative of classification.

157. This paragraph consists of a legal conclusion, not factual allegations to which a response is required. To the extent a response is required, Defendants admit that ATF considers the manufacturer's purported use of the item as a factor in the classification process. Defendants respectfully refer the Court to ATF's classification decision and the regulation for a full and accurate statement of its contents.

158. This paragraph consists of a legal conclusion, not factual allegations to which a response is required. To the extent a response is required, Defendants deny that ATF's classification of the Antithesis was erroneous and deny that ATF failed to properly analyze the record evidence.

159. This paragraph consists of a legal conclusion, not factual allegations to which a response is required. To the extent a response is required, Defendants deny that ATF's classification of the Antithesis was erroneous and deny that the requirements of the NFA and GCA are inapplicable to the Antithesis.

160. This paragraph consists of a legal conclusion, not factual allegations to which a response is required. To the extent a response is required, admit that the statute imposes requirements on owners of weapons covered by the NFA. Defendants respectfully refer the Court to the text of the statute for a full and accurate statement of its contents.

161. This paragraph consists of a legal conclusion, not factual allegations to which a response is required. To the extent a response is required, admit that the statute imposes requirements on owners of weapons covered by the NFA. Defendants respectfully refer the Court to the text of the statute for a full and accurate statement of its contents.

162. This paragraph consists of a legal conclusion, not factual allegations to which a response is required. To the extent a response is required, admit that the statute imposes requirements on FFL holders seeking to sell or deliver of weapons covered by the GCA. Defendants respectfully refer the Court to the text of the statute for a full and accurate statement of its contents.

163. This paragraph consists of a legal conclusion, not factual allegations to which a response is required. To the extent a response is required, admit that the statute imposes requirements on unlicensed individuals seeking to transfer across state lines weapons covered by the GCA. Defendants respectfully refer the Court to the text of the statute for a full and accurate statement of its contents.

164. Deny. As of April 1, 2024, the processing time for a Form 4 individual is 245 days for paper and 53 days for eForms. *See Current Processing Times*, ATF, <https://www.atf.gov/resource-center/current-processing-times> (last accessed April 18, 2024).

165. Admit that ATF received the letter described in this paragraph. Defendants respectfully refer the Court to Franklin's letter for a full and accurate statement of its contents.

166. Admit that Franklin's letter contained the quoted language. Defendants respectfully refer the Court to Franklin's letter for a full and accurate statement of its contents.

167. Admit that Franklin's letter to ATF argued that the barrel was not a rifle under the GCA or NFA. Defendants respectfully refer the Court to Franklin's letter for a full and accurate statement of its contents. Franklin's assertion that the barrel would cause the firearm to be neither a rifle under the GCA nor the NFA is a legal conclusion, not a factual allegation to which a response is required. To the extent a response is required, deny.

168. Admit that Franklin's letter to ATF argued that the barrel was not a shotgun under the GCA or NFA. Defendants respectfully refer the Court to Franklin's letter for a full and accurate statement of its contents. Franklin's assertion that the barrel would cause the firearm to be neither a shotgun under the GCA nor the NFA is a legal conclusion, not a factual allegation to which a response is required. To the extent a response is required, deny.

169. Admit. Defendants respectfully refer the Court to ATF's letter for a full and accurate statement of its contents.

170. Admit. Defendants respectfully refer the Court to Franklin's letter for a full and accurate statement of its contents.

171. Admit. Defendants respectfully refer the Court to ATF's letter for a full and accurate statement of its contents.

172. Admit. Defendants respectfully refer the Court to Franklin's letter for a full and accurate statement of its contents.

173. Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations contained in this paragraph, and respectfully refer the Court to Franklin's letter for a full and accurate statement of its contents.

174. Admit that in its decision letter of November 13, 2018, ATF determined that the Reformation constituted a firearm under the GCA, 18 U.S.C. § 921(a)(3), a shotgun under 18 U.S.C. § 921(a)(5), and a short-barreled shotgun under 18 U.S.C. § 921(a)(6). Defendants respectfully refer the Court to ATF's letter, located at Pl.'s Ex. L, ECF No. 22-12, for a full and accurate statement of its contents.

175. Admit that ATF's November 13, 2018 letter contained the language quoted. Defendants respectfully refer the Court to ATF's letter for a full and accurate statement of its contents.

176. Admit that in its decision letter of November 13, 2018, ATF determined that the Reformation constituted a shotgun under 18 U.S.C. § 921(a)(5). Defendants deny that ATF's classification was erroneous, and respectfully refer the Court to ATF's letter for a full and accurate statement of its contents.

177. Admit that in its decision letter of November 13, 2018, ATF determined that the Reformation constituted a short-barreled shotgun under 18 U.S.C. § 921(a)(6). Defendants respectfully refer the Court to ATF's letter for a full and accurate statement of its contents.

178. Admit. Defendants respectfully refer the Court to ATF's letter for a full and accurate statement of its contents.

179. Admit. Defendants respectfully refer the Court to Franklin's letter for a full and accurate statement of its contents.

180. Deny. In an amended classification letter issued to Franklin President Jay Jacobson on May 5, 2023, ATF explained that it had reconsidered its initial classification of the Reformation, and determined that the Reformation is correctly classified as a shotgun under both

the GCA and the NFA. Defendants respectfully refer the Court to ATF's letter, located at Pl.'s Ex. Q, ECF No. 22-17, for a full and accurate statement of its contents.

181. Admit that ATF sent Franklin a letter containing the language quoted. Defendants respectfully refer the Court to ATF's letter, located at Pl.'s Ex. N, ECF No. 22-14, for a full and accurate statement of its contents.

182. Admit that ATF sent Franklin a letter containing the language quoted. Defendants respectfully refer the Court to ATF's letter, located at Pl.'s Ex. N, ECF No. 22-14, for a full and accurate statement of its contents.

183. Admit that ATF sent Franklin a letter containing the language quoted. Defendants respectfully refer the Court to ATF's letter, located at Pl.'s Ex. N, ECF No. 22-14, for a full and accurate statement of its contents.

184. Admit that ATF sent Franklin a letter containing the language quoted. Defendants respectfully refer the Court to ATF's letter, located at Pl.'s Ex. N, ECF No. 22-14, for a full and accurate statement of its contents.

185. Admit that ATF sent Franklin a letter containing the language quoted. Defendants respectfully refer the Court to ATF's letter, located at Pl.'s Ex. N, ECF No. 22-14, for a full and accurate statement of its contents.

186. Admit that ATF issued an open letter containing the language quoted. Defendants respectfully refer the Court to ATF's letter, located at Pl.'s Ex. O, ECF No. 22-15, for a full and accurate statement of its contents.

187. Admit that ATF issued an open letter containing the language quoted. Defendants respectfully refer the Court to ATF's letter, located at Pl.'s Ex. O, ECF No. 22-15, for a full and accurate statement of its contents.

188. This paragraph consists of a legal conclusion, not factual allegations to which a response is required. To the extent a response is required, Defendants deny that the Reformation is not a shotgun under the NFA. Defendants respectfully refer the Court to the text of the statute for a full and accurate statement of its contents.

189. Admit that ATF issued an open letter containing the language quoted. Defendants respectfully refer the Court to ATF's letter, located at Pl.'s Ex. O, ECF No. 22-15, for a full and accurate statement of its contents.

190. Admit that ATF has not implemented procedures or forms by which to seek authorization to transfer GCA-only short-barreled shotguns. ATF is unaware of any such firearm currently in existence.

191. Admit that Plaintiffs sought mandamus in their original Complaint. Defendants respectfully refer the Court to Plaintiffs' original Complaint, ECF No. 1, for a full and accurate statement of its contents.

192. Deny.

193. Admit that Defendants sought an extension of time to respond to Plaintiffs' original Complaint because ATF was "currently considering the relief Plaintiffs requested regarding the Reformation firearm at issue in this case, which may have bearing on the litigation," to which Plaintiffs agreed. Defendants respectfully refer the Court to their extension request, ECF No. 6, for a full and accurate statement of its contents.

194. Admit that Defendants filed a motion to dismiss in response to Plaintiffs' original Complaint on the grounds that venue was improper and FRAC lacked associational standing. Defendants further admit that their motion to dismiss stated that ATF was "actively considering the relief Plaintiffs requested regarding the Reformation[,]" and "expect[ed] to reach a decision as

to the Reformation within 45 to 60 days.” *See* Def.’s Mot. Dismiss or Transfer at 3 n.1, ECF No. 9. Defendants respectfully refer the Court to their motion for a full and accurate statement of its contents.

195. Deny except to admit that Defendants argued in their motion that venue was improper and FRAC lacked associational standing. Defendants respectfully refer the Court to their motion for a full and accurate statement of its contents.

196. Deny except to admit that Plaintiffs filed a premature motion for summary judgment in response to Defendants’ motion to dismiss. Defendants respectfully refer the Court to the parties’ filings for a full and accurate statement of their contents.

197. Defendants admit that ATF issued an amended classification letter on May 5, 2023, explaining that it had reconsidered its initial classification of the Reformation, and determined that the Reformation is correctly classified as a shotgun under both the GCA and the NFA. Defendants respectfully refer the Court to ATF’s letter, located at Pl.’s Ex. Q, ECF No. 22-17, for a full and accurate statement of its contents.

198. Admit that ATF’s classification letter contains the language quoted. Defendants respectfully refer the Court to ATF’s letter for a full and accurate statement of its contents.

199. Admit that ATF’s classification letter contains the language quoted. Defendants respectfully refer the Court to ATF’s letter for a full and accurate statement of its contents.

200. Deny.

201. Deny except to admit that ATF’s classification letter contains the language quoted. Defendants respectfully refer the Court to ATF’s letter for a full and accurate statement of its contents.

202. Admit that 18 U.S.C. § 922(a)(4) and (b)(4) require “specific authoriz[ation]” from the Attorney General and that 27 C.F.R. § 478.28 requires that all those seeking authorization “shall submit a written request” containing certain information, including a description of the weapon, dates transferred, and mode of transportation. Defendants respectfully refer the Court to 27 C.F.R. § 478.28 for a full and accurate statement of its requirements. Admit that 18 U.S.C. § 926(a) prohibits ATF from maintaining a “system of registration of firearms.” Defendants respectfully refer the court to section 926(a) for a full and accurate statement of its contents. Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations contained in the last sentence of this paragraph.

203. As to the first sentence, deny. As to the second sentence, deny except to admit that ATF’s classification letter explained that ATF had “revisited the relevant definitions and the Congressional intent of the above-referenced provisions of the GCA and NFA,” which formed the basis for ATF’s amended classification decision. Defendants respectfully refer the Court to ATF’s letter for a full and accurate statement of its contents.

204. This paragraph consists of a legal conclusion, not factual allegations to which a response is required. To the extent a response is required, Defendants deny that ATF’s classification of the Reformation is contrary to law, and respectfully refer the Court to ATF’s letter for a full and accurate statement of its contents.

205. This paragraph consists of legal conclusions, not factual allegations to which a response is required. To the extent a response is required, Defendants admit that ATF’s classification letter contained the language quoted, deny that ATF’s classification of the Reformation was erroneous, tautological, or contrary to law, and respectfully refer the Court to ATF’s letter for a full and accurate statement of its contents.

206. Deny except to admit that ATF issued an amended classification letter determining that the Reformation is correctly classified as a shotgun under both the GCA and the NFA. Defendants respectfully refer the Court to ATF's letter, located at Pl.'s Ex. Q, ECF No. 22-17, for a full and accurate statement of its contents.

207. This paragraph consists of a legal conclusion, not factual allegations to which a response is required. To the extent a response is required, deny.

208. This paragraph consists of a legal conclusion, not factual allegations to which a response is required. To the extent a response is required, deny.

209. Admit that ATF's initial classification letter contained the language quoted. Defendants respectfully refer the Court to ATF's letter for a full and accurate statement of its contents.

210. This paragraph consists of a legal conclusion, not factual allegations to which a response is required. To the extent a response is required, deny.

211. This paragraph consists of a legal conclusion, not factual allegations to which a response is required. To the extent a response is required, deny except to admit that ATF's initial classification letter contained the language quoted. Defendants respectfully refer the Court to ATF's letter for a full and accurate statement of its contents.

212. This paragraph consists of a legal conclusion, not factual allegations to which a response is required. To the extent a response is required, deny.

213. Admit that ATF's amended classification letter contains the language quoted. Defendants respectfully refer the Court to ATF's letter for a full and accurate statement of its contents.

214. This paragraph consists of a legal conclusion, not factual allegations to which a response is required. To the extent a response is required, deny except to admit that ATF's amended classification letter contained the language quoted. Defendants respectfully refer the Court to ATF's letter for a full and accurate statement of its contents.

215. Admit that the NFA contains the language quoted. Defendants respectfully refer the Court to text of the statute for a full and accurate statement of its contents.

216. This paragraph consists of a legal conclusion, not factual allegations to which a response is required. To the extent a response is required, deny except to admit that the NFA uses the terms "fixed cartridges," "fixed shotgun shells," and "fixed ammunition." Defendants respectfully refer the Court to text of the statute for a full and accurate statement of its contents.

217. This paragraph consists of a legal conclusion, not factual allegations to which a response is required. To the extent a response is required, deny except to admit that the NFA contains the terms quoted. Defendants respectfully refer the Court to text of the statute for a full and accurate statement of its contents.

218. This paragraph consists of legal conclusions, not factual allegations to which a response is required. To the extent this paragraph relies upon books and case citations, Defendants respectfully refers the Court to those sources for a full and accurate statement of their contents. To the extent that a response is deemed required, Defendants deny that there is a practical discernable difference between the components of a cartridge and shotgun shell within the meaning of the NFA.

219. This paragraph consists of a legal conclusion, not factual allegations to which a response is required. To the extent this paragraph relies upon a case citation, Defendants respectfully refers the Court to the decision for a full and accurate statement of its contents.

220. This paragraph consists of a legal conclusion, not factual allegations to which a response is required. To the extent a response is required, deny except to admit that the GCA contains the language quoted. Defendants respectfully refer the Court to text of the statute for a full and accurate statement of its contents.

221. Admit that the statutes cited contain the language quoted. Defendants respectfully refer the Court to text of the statutes for a full and accurate statement of their contents.

222. This paragraph consists of a legal conclusion, not factual allegations to which a response is required. To the extent this paragraph relies upon a case citation, Defendants respectfully refers the Court to the decision for a full and accurate statement of its contents.

223. This paragraph consists of a legal conclusion, not factual allegations to which a response is required. To the extent a response is required, deny.

224. This paragraph consists of a legal conclusion, not factual allegations to which a response is required. To the extent a response is required, deny. To the extent this paragraph relies upon a case citation, Defendants respectfully refers the Court to the decision for a full and accurate statement of its contents.

225. This paragraph consists of a legal conclusion, not factual allegations to which a response is required. To the extent a response is required, deny.

226. Admit that prior to ATF's issuance of its amended classification letter on May 5, 2023, ATF had classified the Reformation as a shotgun under the GCA and not the NFA. Admit that ATF has not implemented procedures or forms by which to seek authorization to sell, deliver, or transfer interstate GCA-only shotguns. ATF is unaware of any such firearm currently in existence.

227. Admit that ATF's letter contained the language quoted, and that ATF has not implemented procedures or forms by which to seek authorization to sell, deliver, or transfer interstate GCA-only shotguns. ATF is unaware of any such firearm currently in existence.

228. Admit that in its decision letter of November 13, 2018, ATF determined that the Reformation constituted a shotgun under the GCA. Defendants respectfully refer the Court to ATF's initial classification letter for a full and accurate statement of its contents.

229. Admit that ATF has not implemented procedures or forms by which to seek authorization to sell, deliver, or transfer interstate GCA-only shotguns. ATF is unaware of any such firearm currently in existence.

230. Deny except to admit that ATF has not implemented procedures or forms by which to seek authorization to sell, deliver, or transfer interstate GCA-only shotguns. ATF is unaware of any such firearm currently in existence.

231. Deny except to admit that ATF has not implemented procedures or forms by which to seek authorization to sell, deliver, or transfer interstate GCA-only shotguns. ATF is unaware of any such firearm currently in existence.

232. This paragraph consists of a legal conclusion, not factual allegations to which a response is required. To the extent a response is required, deny except to admit that the statute contains the language quoted. Defendants respectfully refer the Court to the statute for a full and accurate statement of its contents.

233. This paragraph consists of a legal conclusion, not factual allegations to which a response is required. To the extent a response is required, deny except to admit that the statute contains the language quoted. Defendants respectfully refer the Court to the statute and cited material for a full and accurate statement of their contents.

234. This paragraph consists of a legal conclusion, not factual allegations to which a response is required. To the extent a response is required, deny except to admit that the statute and case law cited contain the language quoted. Defendants respectfully refer the Court to the statute and decision for a full and accurate statement of their contents.

235. Admit except to deny that the GCA requires ATF to create a process for submitting authorization requests for GCA-only short-barreled shotguns where no such weapon currently exists.

236. Deny that such a mechanism is currently necessary; admit that Plaintiffs have quoted portions of ATF's open letter while rearranging the word order. Defendants respectfully refer the Court to ATF's letter for a full and accurate statement of its contents.

237. Admit that ATF's open letter contained the language quoted. Defendants respectfully refer the Court to the letter for a full and accurate statement of its contents.

238. Admit that ATF's open letter contained the language quoted. Defendants respectfully refer the Court to the letter for a full and accurate statement of its contents.

239. This paragraph consists of a legal conclusion, not factual allegations to which a response is required. To the extent a response is required, Defendants deny that ATF has a duty to promulgate forms and procedures by which to seek authorization to sell, deliver, or transfer GCA-only short-barreled shotguns, where ATF is unaware of any such firearm currently in existence.

240. This paragraph consists of a legal conclusion, not factual allegations to which a response is required. To the extent a response is required, deny.

241. Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations regarding Franklin's sales of the Reformation contained in this paragraph. The Reformation may be lawfully sold or transferred to the holder of an appropriate FFL, and

authorization processes allowing for the sale, transfer, and delivery to non-licensees of weapons classified as firearms under both the NFA and GCA—such as the Reformation—are currently available to gunmakers including Franklin, because the requirements of 18 U.S.C. § 922(a)(4) and 18 U.S.C. § 922(b)(4) are fulfilled for a firearm regulated under the GCA and NFA by the completion and approval of ATF Form 5320.4 (known as Form 4) and ATF Form 5320.20.

242. Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations regarding the market for the Reformation contained in this paragraph. The Reformation may be lawfully sold or transferred to the holder of an appropriate FFL, and authorization processes allowing for the sale, transfer, and delivery to non-licensees of weapons classified as firearms under both the NFA and GCA—such as the Reformation—are currently available to gunmakers including Franklin, because the requirements of 18 U.S.C. § 922(a)(4) and 18 U.S.C. § 922(b)(4) are fulfilled for a firearm regulated under the GCA and NFA by the completion and approval of ATF Form 5320.4 (known as Form 4) and ATF Form 5320.20.

243. Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations regarding Franklin’s ability to market the Reformation contained in this paragraph. The Reformation may be lawfully sold or transferred to the holder of an appropriate FFL, and authorization processes allowing for the sale, transfer, and delivery to non-licensees of weapons classified as firearms under both the NFA and GCA—such as the Reformation—are currently available to gunmakers including Franklin, because the requirements of 18 U.S.C. § 922(a)(4) and 18 U.S.C. § 922(b)(4) are fulfilled for a firearm regulated under the GCA and NFA by the completion and approval of ATF Form 5320.4 (known as Form 4) and ATF Form 5320.20.

244. Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations regarding the Franklin’s finances contained in this paragraph. Defendants deny

that the absence of forms and procedures for the sale of GCA-only firearms causes Franklin any financial loss today. Authorization processes allowing for the sale, transfer, and delivery of weapons classified as firearms under both the NFA and GCA—such as the Reformation—are currently available to gunmakers including Franklin, because the requirements of 18 U.S.C. § 922(a)(4) and 18 U.S.C. § 922(b)(4) are fulfilled for a firearm regulated under the GCA and NFA by the completion and approval of ATF Form 5320.4 (known as Form 4) and ATF Form 5320.20.

245. Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations contained in this paragraph.

246. Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations contained in this paragraph.

247. Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations regarding Franklin's sales of the Reformation contained in this paragraph. The Reformation may be lawfully sold or transferred to the holder of an appropriate FFL, and authorization processes allowing for the sale, transfer, and delivery to non-licensees of weapons classified as firearms under both the NFA and GCA—such as the Reformation—are currently available to gunmakers including Franklin, because the requirements of 18 U.S.C. § 922(a)(4) and 18 U.S.C. § 922(b)(4) are fulfilled for a firearm regulated under the GCA and NFA by the completion and approval of ATF Form 5320.4 (known as Form 4) and ATF Form 5320.20.

248. Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations regarding Franklin's sales of the Reformation contained in this paragraph.

249. Defendants admit the press release cited contains the language quoted. Defendants respectfully refer the Court to the text of the release for a full and accurate statement of its contents.

250. Defendants admit that the National Association of Sporting Goods Wholesalers describes itself as a trade association located in the United States. Defendants lack knowledge or information sufficient to form a belief about the truth of the remaining allegations contained in this paragraph.

251. Defendants admit that the Professional Outdoor Media Association describes itself as an outdoor sporting association. Defendants lack knowledge or information sufficient to form a belief about the truth of the remaining allegations contained in this paragraph.

252. Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations regarding enthusiasm for the Reformation contained in this paragraph.

253. Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations contained in this paragraph.

254. Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations contained in this paragraph.

255. Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations contained in this paragraph.

256. Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations contained in this paragraph.

257. Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations contained in this paragraph.

258. This paragraph consists of a legal conclusion, not factual allegations to which a response is required. To the extent a response is required, Defendants deny that Franklin is unable to seek authorization to sell or transfer the Reformation. Authorization processes allowing for the sale, transfer, and delivery of weapons classified as firearms under both the NFA and GCA—such

as the Reformation—are currently available to gunmakers including Franklin, because the requirements of 18 U.S.C. § 922(a)(4) and 18 U.S.C. § 922(b)(4) are fulfilled for a firearm regulated under the GCA and NFA by the completion and approval of ATF Form 5320.4 (known as Form 4) and ATF Form 5320.20.

259. This paragraph consists of a legal conclusion, not factual allegations to which a response is required. To the extent a response is required, Defendants deny that Franklin is unable to seek authorization to sell or transfer the Reformation. Authorization processes allowing for the sale, transfer, and delivery of weapons classified as firearms under both the NFA and GCA—such as the Reformation—are currently available to gunmakers including Franklin, because the requirements of 18 U.S.C. § 922(a)(4) and 18 U.S.C. § 922(b)(4) are fulfilled for a firearm regulated under the GCA and NFA by the completion and approval of ATF Form 5320.4 (known as Form 4) and ATF Form 5320.20.

260. This paragraph consists of a legal conclusion, not factual allegations to which a response is required. To the extent a response is required, Defendants deny that Franklin is unable to seek authorization to sell or transfer the Reformation. Authorization processes allowing for the sale, transfer, and delivery of weapons classified as firearms under both the NFA and GCA—such as the Reformation—are currently available to gunmakers including Franklin, because the requirements of 18 U.S.C. § 922(a)(4) and 18 U.S.C. § 922(b)(4) are fulfilled for a firearm regulated under the GCA and NFA by the completion and approval of ATF Form 5320.4 (known as Form 4) and ATF Form 5320.20.

261. This paragraph consists of a legal conclusion, not factual allegations to which a response is required. To the extent a response is required, Defendants deny that ATF has instituted a *de facto* ban, and deny that Franklin is unable to seek authorization to sell or transfer the

Reformation. Authorization processes allowing for the sale, transfer, and delivery of weapons classified as firearms under both the NFA and GCA—such as the Reformation—are currently available to gunmakers including Franklin, because the requirements of 18 U.S.C. § 922(a)(4) and 18 U.S.C. § 922(b)(4) are fulfilled for a firearm regulated under the GCA and NFA by the completion and approval of ATF Form 5320.4 (known as Form 4) and ATF Form 5320.20.

262. This paragraph consists of a legal conclusion, not factual allegations to which a response is required. To the extent a response is required, deny. Authorization processes allowing for the sale, transfer, and delivery of weapons classified as firearms under both the NFA and GCA—such as the Reformation—are currently available to gunmakers including Franklin, because the requirements of 18 U.S.C. § 922(a)(4) and 18 U.S.C. § 922(b)(4) are fulfilled for a firearm regulated under the GCA and NFA by the completion and approval of ATF Form 5320.4 (known as Form 4) and ATF Form 5320.20.

263. Deny. On page three of ATF's amended classification letter regarding the Reformation dated May 4, 2023, ATF explained its concerns surrounding forms or procedures for GCA-only short-barreled shotguns. Defendants respectfully refer the Court to that letter, Pl.'s Ex. Q, ECF No. 22-17, for a full and accurate statement of its contents.

264. Admit that ATF's letter contained the language quoted. Defendants respectfully refer the Court to the letter for a full and accurate statement of its contents.

265. Deny that ATF did not take any action to create a process; admit that ATF did not issue a new procedure or forms.

266. This paragraph consists of a legal conclusion, not factual allegations to which a response is required. To the extent a response is required, deny.

267. Deny.

268. This paragraph consists of a legal conclusion, not factual allegations to which a response is required. To the extent a response is required, deny. Sections 922(a)(4) and (b)(4) require specific authorization from the Attorney General and 27 C.F.R. § 478.28 requires that all those seeking such authorization “shall submit a written request” containing certain information, including a description of the weapon, dates transferred, and mode of transportation. Defendants respectfully refer the Court to 27 C.F.R. § 478.28 for a full and accurate statement of its requirements. The authorization required by sections 922(a)(4) and (b)(4) cannot be proven without records of approvals.

269. This paragraph consists of a legal conclusion, not factual allegations to which a response is required.

270. This paragraph does not contain a factual allegation to which a response is required. To the extent a response is required, admit that ATF issued a final rule amending its regulations to update the regulatory definitions of “firearm frame or receiver,” “frame or receiver,” “firearm,” and “gunsmith,” and to provide definitions of terms such as “complete weapon,” “complete muffler or silencer device,” “multi-piece frame or receiver,” “privately made firearm,” and “readily,” and to amend ATF’s regulations on marking and recordkeeping to implement these new or amended definitions.

271. Admit that the remarks cited contained the language quoted. Defendants respectfully refer the Court to the Attorney General’s remarks for a full and accurate statement of their contents.

272. Admit that ATF issued a final rule amending its regulations to update the regulatory definitions of “firearm frame or receiver,” “frame or receiver,” “firearm,” and “gunsmith,” and to provide definitions of terms such as “complete weapon,” “complete muffler or silencer device,”

“multi- piece frame or receiver,” “privately made firearm,” and “readily,” and to amend ATF’s regulations on marking and recordkeeping to implement these new or amended definitions. Defendants respectfully refer the Court to the text of the final rule for a full and accurate statement of its contents.

273. Admit that approximately one year passed from the Attorney General’s remarks on April 8, 2021, until the Final Rule: “Definition of ‘Frame or Receiver’ and Identification of Firearms” was published in the Federal Register on April 26, 2022.

274. This paragraph consists of a legal conclusion, not factual allegations to which a response is required. To the extent a response is required, deny.

275. This paragraph consists of a legal conclusion, not factual allegations to which a response is required. To the extent a response is required, Defendants deny that ATF amended its classification of the Reformation in response to this litigation and deny that ATF abdicated its regulatory responsibilities or wasted court resources. Defendants respectfully refer the Court to its amended classification decision for a full and accurate statement of its contents.

276. Deny that at the time of the quoted language from the Open Letter, dated December 19, 2019, that claim was false. Defendants admit that ATF did not ultimately issue a new procedure or forms.

277. This paragraph consists of a legal conclusion, not factual allegations to which a response is required. To the extent a response is required, deny. The Reformation may be lawfully sold or transferred to the holder of an appropriate FFL, and authorization processes allowing for the sale, transfer, and delivery to of weapons classified as firearms under both the NFA and GCA—such as the Reformation—are currently available to gunmakers including Franklin, because the requirements of 18 U.S.C. § 922(a)(4) and 18 U.S.C. § 922(b)(4) are fulfilled for a firearm

regulated under the GCA and NFA by the completion and approval of ATF Form 5320.4 (known as Form 4) and ATF Form 5320.20

278. Deny.

279. As to the first sentence, admit. As to the second sentence, Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations regarding the opinions of Franklin's potential customers.

280. This paragraph consists of a legal conclusion, not factual allegations to which a response is required. To the extent a response is required, deny.

281. Admit. Defendants respectfully refer the Court to the text of the cited regulations for a full and accurate statement of their contents.

282. This paragraph consists of a legal conclusion, not factual allegations to which a response is required. To the extent a response is required, admit that NFA weapons are subject to additional regulations. Defendants respectfully refer the Court to the text of the NFA for a full and accurate statement of its contents.

283. This paragraph consists of a legal conclusion, not factual allegations to which a response is required. To the extent a response is required, deny.

284. The paragraph contains of Plaintiffs' requested relief, not factual allegations to which a response is required. To the extent that a response is deemed required, Defendants deny that Plaintiffs are entitled to any relief.

285. Defendants repeat their answers to the foregoing paragraphs.

286. Admit that the Administrative Procedure Act ("APA") contains the language quoted. Defendants respectfully refer the Court to the text of the statute for a full and accurate statement of its contents.

287. This paragraph consists of a legal conclusion, not factual allegations to which a response is required. To the extent a response is required, deny.

288. This paragraph consists of a legal conclusion, not factual allegations to which a response is required. To the extent a response is required, deny.

289. This paragraph consists of a legal conclusion, not factual allegations to which a response is required. To the extent a response is required, deny.

290. This paragraph consists of a legal conclusion, not factual allegations to which a response is required. To the extent a response is required, deny.

291. This paragraph consists of a legal conclusion, not factual allegations to which a response is required. To the extent a response is required, deny.

292. This paragraph consists of a legal conclusion, not factual allegations to which a response is required. To the extent a response is required, deny.

293. This paragraph consists of a legal conclusion, not factual allegations to which a response is required. To the extent a response is required, deny except to admit that ATF's Antithesis classification letter contained the language quoted. Defendants respectfully refer the Court to the letter for a full and accurate statement of its contents.

294. This paragraph consists of a legal conclusion, not factual allegations to which a response is required. To the extent a response is required, deny except to admit that ATF's Antithesis classification letter contained the language quoted. Defendants respectfully refer the Court to the letter for a full and accurate statement of its contents.

295. Defendants repeat their answers to the foregoing paragraphs.

296. Admit that the APA contains the language quoted. Defendants respectfully refer the Court to the text of the statute for a full and accurate statement of its contents.

297. This paragraph consists of a legal conclusion, not factual allegations to which a response is required. To the extent a response is required, deny.

298. This paragraph consists of a legal conclusion, not factual allegations to which a response is required. To the extent a response is required, deny.

299. This paragraph consists of a legal conclusion, not factual allegations to which a response is required. To the extent a response is required, deny.

300. Defendants repeat their answers to the foregoing paragraphs.

301. This paragraph consists of a legal conclusion, not factual allegations to which a response is required. To the extent a response is required, deny.

302. Admit that ATF has not implemented procedures or forms by which to seek authorization to transfer GCA-only short-barreled shotguns. ATF is unaware of any such firearm currently in existence.

303. This paragraph consists of a legal conclusion, not factual allegations to which a response is required. To the extent a response is required, deny.

304. Admit only that the ATF's letter contains the language quoted. Defendants respectfully refer the Court to the letter for a full and accurate statement of its contents.

305. Admit only that the ATF's letter contains the language quoted. Defendants respectfully refer the Court to the letter for a full and accurate statement of its contents.

306. This paragraph consists of a legal conclusion, not factual allegations to which a response is required. To the extent a response is required, deny.

307. This paragraph consists of a legal conclusion, not factual allegations to which a response is required. To the extent a response is required, deny.

308. This paragraph consists of a legal conclusion, not factual allegations to which a response is required. To the extent a response is required, deny.

309. This paragraph consists of a legal conclusion, not factual allegations to which a response is required. To the extent a response is required, admit that the legal decisions cited contain the language quoted. Defendants respectfully refer the Court to the decisions for a full and accurate statement of their contents.

310. This paragraph consists of a legal conclusion, not factual allegations to which a response is required. To the extent a response is required, admit that the legal decision cited contains the language quoted. Defendants respectfully refer the Court to the decision for a full and accurate statement of its contents.

311. Deny.

312. This paragraph consists of a legal conclusion, not factual allegations to which a response is required. To the extent a response is required, deny.

313. This paragraph consists of a legal conclusion, not factual allegations to which a response is required. To the extent a response is required, admit that the legal decision cited contains the language quoted. Defendants respectfully refer the Court to the decision for a full and accurate statement of its contents.

314. This paragraph consists of a legal conclusion, not factual allegations to which a response is required. To the extent a response is required, Defendants deny that Plaintiffs are prejudiced by a lack of authorization to sell, deliver, or transfer interstate GCA-only short-barreled shotguns. ATF is unaware of any such firearm currently in existence.

315. This paragraph consists of a legal conclusion, not factual allegations to which a response is required. To the extent a response is required, Defendants deny that Plaintiffs are

injured by a lack of authorization to sell, deliver, or transfer interstate GCA-only short-barreled shotguns. ATF is unaware of any such firearm currently in existence.

316. This paragraph consists of a legal conclusion, not factual allegations to which a response is required. To the extent a response is required, Defendants deny that the public is injured by a lack of authorization to sell, deliver, or transfer interstate GCA-only short-barreled shotguns. ATF is unaware of any such firearm currently in existence.

317. This paragraph consists of a legal conclusion, not factual allegations to which a response is required. To the extent a response is required, deny except to admit that 18 U.S.C. § 922(a)(4), (b)(4), contains the language quoted. Defendants respectfully refer the Court to the text of the statute for a full and accurate statement of its contents.

318. This paragraph consists of a legal conclusion, not factual allegations to which a response is required. To the extent a response is required, deny except to admit that the legal decision cited contains the language quoted. Defendants respectfully refer the Court to the decision for a full and accurate statement of its contents.

319. This paragraph consists of a legal conclusion, not factual allegations to which a response is required. To the extent a response is required, Defendants deny that ATF is required to take the action described, and deny that promulgating the forms and procedures in question would not have required significant time or resources.

320. This paragraph consists of a legal conclusion, not factual allegations to which a response is required. To the extent a response is required, Defendants deny that ATF has unlawfully delayed taking an action required by law.

321. This paragraph consists of a legal conclusion, not factual allegations to which a response is required. To the extent a response is required, deny except to admit that the legal

decision cited contains the language quoted. Defendants respectfully refer the Court to the decision for a full and accurate statement of its contents.

322. This paragraph consists of a legal conclusion, not factual allegations to which a response is required. To the extent a response is required, deny.

323. The paragraph contains of Plaintiffs' requested relief, not factual allegations to which a response is required. To the extent that a response is deemed required, Defendants deny that Plaintiffs are entitled to any relief.

324. Defendants repeat their answers to the foregoing paragraphs.

325. Admit that the APA contains the language quoted. Defendants respectfully refer the Court to the text of the statute for a full and accurate statement of its contents.

326. This paragraph consists of a legal conclusion, not factual allegations to which a response is required. To the extent a response is required, deny.

327. This paragraph consists of a legal conclusion, not factual allegations to which a response is required. To the extent a response is required, deny.

328. This paragraph consists of a legal conclusion, not factual allegations to which a response is required. To the extent a response is required, deny.

The remainder of the Amended Complaint contains Plaintiffs' requested relief, not factual allegations to which a response is required. To the extent that a response is deemed required, Defendants deny that Plaintiffs are entitled to any relief.

Defendants deny all allegations in Plaintiffs' Amended Complaint not expressly admitted or denied herein to which a response is deemed required.

DEFENSES

1. One or more claims of requests for relief in the Amended Complaint no longer presents a live controversy and is moot.

2. Defendants at all relevant times acted in accordance with applicable legal authority, and did not violate the APA, or any other applicable statute, regulation, or legal authority, and Plaintiffs are accordingly not entitled to any relief.

Dated: April 18, 2024

Respectfully submitted,

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