August 10, 2009

Sergeant Tommy Clamp
Anderson County Sheriff's Office
P. O. Box 5497
Anderson, South Carolina 29625

Dear Sergeant Clamp:

In a letter to this office you questioned whether your department can return a firearm to the individual who found the firearm after it has been determined that the firearm was not stolen and the person can legally possess the firearm.

S.C. Code Ann. § 16-3-55 states as follows:

(A) A handgun that is found and turned over to a law enforcement agency must be held for a period of ninety days. During that period, the agency shall make a diligent effort to determine:

> (1) if the handgun is stolen;
> (2) if the handgun has been used in the commission of a crime; and
> (3) the true owner of the handgun.

(B) At least twice during the ninety-day holding period, the agency shall advertise the handgun with its full description in a newspaper having general circulation in the county where the handgun was found.

(C) After the ninety days have elapsed from publication of the first advertisement, and upon request of the individual who found and turned over the handgun, the agency shall return the handgun to this person if the individual fully completes the application process as described in Section 23-31-140 and in federal law, and pays all advertising and other costs incidental to returning the handgun. No handgun may be returned until the individual fully completes the application.
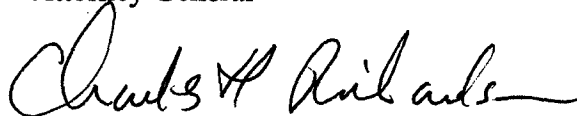
(D) Upon proper completion of the application, the law enforcement agency shall provide copies of the application in compliance with Section 23-31-140.

Therefore, pursuant to such provision, the firearm may be returned to the individual who found such upon compliance with the requirements of such statute.
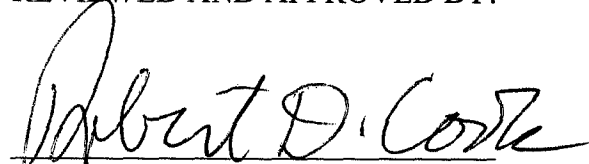
With kind regards, I am,

Very truly yours,

Henry McMaster
Attorney General

By: Charles H. Richardson
       Senior Assistant Attorney General

REVIEWED AND APPROVED BY:

Robert D. Cook
Deputy Attorney General