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The State of South Carolina
OFFICE OF THE ATTORNEY GENERAL

HENRY McMASTER
ATTORNEY GENERAL

November 15, 2004

Mack Underwood, Chief
Savannah River Site Law Enforcement Department
United States Department of Energy
Post Office Box W
Aiken, South Carolina 29802

Dear Mr. Underwood:

In a letter to this office you asked for clarification of an opinion written to Representative Roland Smith dated September 21, 2004. In that opinion, the question was raised as to the law enforcement status of Mr. Jason Usry who worked part-time with the Burnetttown Police Department and who is employed with Wackenhut Services at the Savannah River nuclear facilities. The question was raised as to whether Mr. Usry could continue to hold a law enforcement commission as a Burnetttown police officer or whether the dual office-holding provision of the State Constitution would prevent him from serving as such while working for Wackenhut. The opinion concluded as follows:

I have been informed...that Mr. Usry does not hold a commission as a special State constable nor is he licensed as a private security guard. An individual with Wackenhut specifically informed me that Mr. Usry is employed in a separate division with no law enforcement authority. Therefore, based upon such understanding of such employment, in my opinion Mr. Usry could continue to serve as a part-time law enforcement officer with the Burnetttown Police Department.

In your recent letter you stated that Mr. Usry has limited federal arrest authority. I have checked and been advised that while Wackenhut has been granted a license by SLED to engage in "the business of contract security", no individuals, including Mr. Usry, are granted any law enforcement or arrest authority by such license. It is also my understanding that Mr. Usry has not been appointed as a special State constable pursuant to S.C. Code Ann. §23-7-10 et seq. Furthermore, I have been advised that Mr. Usry is not separately licensed as a security guard or officer by SLED. As a result, it is my information that Mr. Usry possesses no license, appointment or other qualification which would provide him any State law enforcement authority in association with his duties with Wackenhut.

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As stated above, it is my understanding that Mr. Usry possesses only federal arrest authority. This office has consistently concluded that a position established pursuant to federal law would not be an office for purposes of Article XVII, § 1A, the State constitutional provision prohibiting dual office-holding. See, Ops. S.C. Atty. Gen., dated March 19, 2003; June 27, 1997; May 31, 1996 and opinions cited therein. Therefore, holding a position with federal arrest authority would not constitute an office for dual office holding purposes in South Carolina.

Consistent with the understandings outlined above, in my opinion, Mr. Usry does not hold through his employment with Wackenhut any office for State dual office-holding purposes. As a result, he would not be prevented by his employment with Wackenhut from working as a reserve police officer with another law enforcement agency in this State.

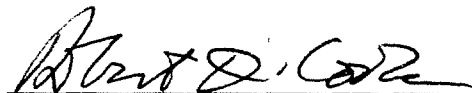
With kind regards, I am,

Very truly yours,



Charles H. Richardson
Senior Assistant Attorney General

REVIEWED AND APPROVED BY:



Robert D. Cook
Assistant Deputy Attorney General

cc: The Honorable J. Roland Smith
Member, House of Representatives

William R. Neill, Deputy Director
SC Criminal Justice Academy Division / Department of Public Safety

Charles Truesdale, Chief of Police
Burnettown Police Department