

**EDMUND G. BROWN JR.**  
*Attorney General*

*State of California*  
**DEPARTMENT OF JUSTICE**



DIVISION OF LAW ENFORCEMENT  
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September 10, 2007

Mr. Benjamin Cannon  
1083 Vine Street, #215  
Healdsburg, CA 95448

Re: Receivers Seized from RMB Enterprises - Availability for Return or Transfer

Dear Mr. Cannon:

I am writing in regards to the 219 AR-15 style lower receivers that were seized by agents of the Firearms Division of the California Department of Justice (DOJ) from RMB Enterprises on January 27, 2006. A property receipt listing the serial numbers of the receivers is attached for your reference.

The receivers - which are considered "firearms" for purposes of the provisions of California law which regulate the sale and transfer of firearms - were seized during a routine inspection of RMB Enterprises because they were not "secured" as required by California law. (Pen. Code §§ 12001, subd. (e); 12071, subd. (a)(14); 12071, subd. (a)(20)(G)(ii).) Subsequent investigation disclosed that you purchased all of the firearms from a licensed firearms dealer who imported the receivers into the state. Our investigation also showed that you attempted to sell the vast majority of those 219 firearms to other private individuals for a profit and directed that all of the firearms be transferred to RMB Enterprises so that they could be delivered to the individual purchasers without disclosing the fact on RMB's records that you were the true seller of the firearms.

Federal law provides that a "person who devotes time, attention, and labor to dealing in firearms as a regular course of trade or business with the principal objection of livelihood and profit through the repetitive purchase and resale of firearms" is in the business of selling firearms. (18 U.S.C. § 921(a)(21)(C).) Such a person is required to obtain a federal firearms license (FFL) in order to engage in the business of selling firearms. (18 U.S.C. § 922(a)(1)(A).) By selling more than 200 firearms for a substantial profit, you were in the business of selling firearms and therefore violated federal law by doing so without an FFL. As a result, the federal Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) warned you on May 2, 2006 to cease and desist from engaging in the business of selling firearms without an FFL.

California law requires a person who sells long-guns on a regular basis to be licensed by DOJ as a firearms dealer. (§§ 12070, subd. (a); 12070, subd. (c)(1)(B).) State law also requires firearms transactions between private parties to be conducted through a licensed firearms dealer. (§ 12072, subd. (d).) Acquiring a firearm for the purpose of selling, transferring or loaning the

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firearm with the intent to avoid Section 12072(d) is punishable as either a felony or a misdemeanor. (§ 12072, subd. (g)(3)(A).) By attempting to sell hundreds of firearms without either being a licensed firearms dealer yourself, or conducting a private party sale of firearms pursuant to Section 12072, you violated state law.

Nevertheless, the Bureau of Firearms' investigation of this matter has been completed, and no criminal charges will be filed against you. Although the firearms seized by DOJ are evidence of crimes that *could have been filed against you*, they are not contraband, or Section 12028 nuisance weapons. Therefore, you are entitled to have the firearms returned to you, as long as you satisfy the requirements of Section 12021.3. (See *People v. Beck* (1994) 25 Cal.App.4th 1095, 1103.) You should be aware that any future violations of these provisions by you will be investigated and prosecuted by the Bureau of Firearms to the full extent of the law.

Any person who claims title to any firearm that is in the custody or control of a law enforcement agency and who wishes to have the firearm returned to him or her shall make application for a determination by the Department of Justice as to whether he or she is eligible to possess a firearm. (§ 12021.3(a)(1).) A law enforcement agency that has taken custody of a firearm is prohibited from returning the firearm unless the individual seeking return "presents to the agency or court notification of a determination by the department pursuant to subdivision (e) that the person is eligible to possess firearms." (Pen. Code § 12021.3(b).) The Department of Justice will return the 219 firearms that were seized by agents of the Firearms Division of the California Department of Justice (DOJ) from RMB Enterprises on January 27, 2006 to you upon your presentation of an approved Law Enforcement Gun Release application. (§ 12021.3(a).)

Alternatively, a person who owns a firearm that is in the custody of a law enforcement agency who does not wish to obtain possession of the firearm and has right to title of the firearm may direct the law enforcement agency to transfer the firearm to a licensed firearms dealer as defined in Section 12071. (§ 12021.3, subd. (a)(2).) Therefore, the Bureau of Firearms will transfer the 219 firearms to a licensed firearms dealer upon your request.

An LEGR application is enclosed with this letter. The form can also be found on the Bureau of Firearms website at [www.ag.ca.gov/firearms](http://www.ag.ca.gov/firearms). Information about the LEGR process can be found on the website, or by calling (916) 263-4887. The fee for processing an LEGR application is twenty dollars. An LEGR application that is approved by DOJ is valid for thirty days after the date of approval.

Please contact Kathi Busath, Property Controller for the Bureau of Firearms, by mail at Post Office Box 160487, Sacramento, CA 95816-0486 to make the arrangements regarding the disposition of your property. If you do not wish to have the 219 firearms returned to you, the Bureau will arrange for the firearm(s) to be transferred to a licensed California firearms dealer of

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your choice. In that case, please include the name and address of the licensed California Firearms Dealer in your letter to Ms. Busath.

You should be aware that state law provides that no law enforcement agency shall be required to retain a firearm for more than 180 days after the owner of the firearm has been notified by the agency that the firearm is available for return to its owner or transfer to a dealer. (§ 12021.3, subd. (g).) Any unclaimed firearm may be disposed of after the 180-day period has expired. (*Ibid.*) If you do not respond to the Bureau of Firearms regarding the disposition of your firearms by either presenting an approved LEGR application, or directing the Bureau of Firearms to transfer the firearms to a licensed firearms dealer for sale or transfer within 180 days of the date that you received this certified letter, all evidence (including firearms) relating to this case will be destroyed.

Sincerely,



ALISON Y. MERRILEES  
Deputy Attorney General  
Bureau of Firearms

For EDMUND G. BROWN JR.  
Attorney General

Enclosure(s)

cc: Mr. Jason Davis, Attorney at Law