

# The State of South Carolina



## Office of the Attorney General

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August 10, 1990

The Honorable Douglas L. Hinds  
Senator, District No. 34  
Post Office Drawer 1410  
Georgetown, South Carolina 29442

Dear Senator Hinds:

In a letter to this Office you questioned whether a proposed golf tournament to be hosted by Pawleys Plantation Golf and Country Club violates any criminal or gambling statutes, including but not limited to Section 16-19-130 of the Code, or any statutes regulating real estate or rules and regulations promulgated by the State Real Estate Commission. Section 16-19-130 generally prohibits betting, pool selling, bookmaking and similar transactions.

You described the proposed golf tournament as follows:

The first seventy-two (72) purchasers of single family lots and full golf memberships following the announcement of the tournament will be invited by Pawleys to participate in the tournament. Participants will be limited to seventy-two (72) persons. If any of the first seventy-two (72) purchasers decline Pawleys' invitation to play in the tournament, Pawleys will invite the next seventy-two (72) purchasers of single family lots and full golf memberships to participate. If vacancies remain after these next seventy-two (72) purchasers are invited to play, Pawleys will invite full golf members of Pawleys Plantation to play. If there still remain vacancies, the general public will be invited to play. Owners and employees and the immediate families of any owner or employee of Pawleys Plantation, Sands Investments, Inc., Sands Properties, Inc., Pawleys Plantation Founders, Inc., CHK, Inc., or the Wyndham Oceans Dunes shall be prohibited from playing in the tournament.

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Participants in the golf tournament may be a husband, wife, or child of a purchaser. All participants must have current amateur status under the United States Golf Association guidelines and any child participating must meet the membership criteria set forth in Pawleys Plantation current by-laws.

The tournament will be held within six (6) months of the closing of the first seventy-two (72) purchasers of lots and full golf memberships following the announcement of the tournament, or if additional invitations are required to be extended because of vacancies, within six (6) months of the acceptance by seventy-two (72) invitees.

The entry fee for the tournament will be One Hundred And No/100 (\$100.00) Dollars. All entry fees, net proceeds from the sale of tickets to the tournament, if any, and net proceeds from the sale of concessions shall be donated to the Tara Hall Home for Boys, pending approval from the Board of Governors of Tara Hall.

The tournament will be a three day event, with participants ranked one (1) through seventy-two (72) based upon their current verified handicaps. Participants will be paired with different partners each day based upon their assigned ranking. The format will be a captain's choice event, with each team being given a handicap each day equal to one-fourth (1/4) of the combined handicap of its A and B players. Each player will receive a score equal to his team's score less his team's handicap each day. The player with the lowest score for the three day event will be the tournament winner. In the event of a tie, there will be a sudden death playoff with full handicap on an individual format.

During the captain's choice play, no player will be allowed to hit two consecutive shots on any hole. All men will play from the permanent blue tee markers and the women from the red tee markers. All tee and pin placements will be set by the head golf professional and his staff each

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day. All players will tee off on every hole. The player whose drive is selected will not hit the second shot. The player whose second shot is selected will not hit the third shot. Therefore, after the tee shot, only three players will hit each shot until the hole is complete. A scorer will accompany each group each day. The winner of the tournament will receive lot, and any and all improvements thereon, located at 223 Wigeon Court, Pawleys Plantation, Pawleys Island, South Carolina.

I am enclosing a copy of a prior opinion of this Office dated March 24, 1986 which concluded that a golf tournament described in that opinion did not constitute a lottery so as to be violative of State statutory and constitutional provisions. The opinion stated

While two elements of a lottery, a prize and payment of consideration for an opportunity to win the prize, are present, it does not appear that the necessary third element, the awarding of the prize by chance is present.

The opinion referenced that at least one court has determined that the game of golf is a game of skill and not gambling. It was noted that the conclusion was based on the understanding that an individual's success in the tournament was based entirely on his skills as a golfer and that no element of pure chance was present.

Similarly, it is my understanding that determining the winner of the tournament you referenced is based entirely on the skills of an individual player and the element of chance is not present. Therefore, as with the tournament described in the referenced opinion, while the elements of a prize and consideration are present, the third element necessary for a lottery, chance, is absent. As to your question regarding the applicability of Section 16-19-130 of the Code, I am enclosing a copy of a prior opinion of this Office dated October 11, 1972 which should be reviewed.

You also questioned whether there would be any violation of State real estate laws or regulations promulgated by the State Real Estate Commission if the golf tournament is conducted as set forth above. Mark Stauffer, General Counsel to the Commission, has advised that based upon his review of the description of the format for the tournament, there would be no violations of State real estate licensing laws. However, in a letter to this Office he further

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advised

... this determination is based upon the assumption that individuals who market the single family lots in Pawleys Plantation subdivision meet requisite licensure requirements. We would also suggest that the "improvements" which will be included with the lot the winner of the tournament will receive be further described in order to ensure that participants in the promotion fully understand what is included.

If there is anything further, please advise.

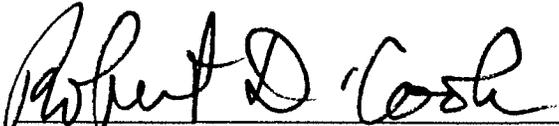
Sincerely,



Charles H. Richardson  
Assistant Attorney General

CHR/an  
Enclosures

REVIEWED AND APPROVED BY:



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