

The State of South Carolina

3910 Libraries



Office of the Attorney General

T. TRAVIS MEDLOCK
ATTORNEY GENERAL

REMBERT C. DENNIS BUILDING
POST OFFICE BOX 11549
COLUMBIA, S.C. 29211
TELEPHONE: 803-734-3970
FACSIMILE: 803-253-6283

December 12, 1989

The Honorable W. Richard Lee
Senator, District No. 11
P. O. Box 16010
Bowling Springs Station
Spartanburg, South Carolina 29316

Dear Senator Lee:

In a letter to this Office you questioned whether a proposed fundraising promotion would constitute a lottery. As you are aware, lotteries in this State are prohibited. See: Sections 16-19-10 et seq. of the Code; Article XVII, Section 7 of the State Constitution.

As noted in your letter:

(t)he association in question would have coupon books printed and solicited on its behalf. These coupon books would sell for a ten dollar (\$10.00) donation and have a redemption value of between five hundred (\$500.00) to one thousand dollars (\$1,000.00). Included in each book would be a free bonus coupon which the patron could fill out and deposit at a local automobile dealership. At a later prescribed date, a drawing would be held to determine the winner of an automobile.

You asked whether the free bonus coupon included in the coupon book would exempt the fundraiser from the lottery prohibition.

In Darlington Theatres v. Coker, 190 S.C. 282, 2 S.E.2d 782 (1939) the State Supreme Court determined that a lottery consists of three elements:

1. the offering of a prize;

The Honorable W. Richard Lee

Page 2

December 12, 1989

2. the payment of money or other consideration for an opportunity to win the prize;
3. the awarding of the prize by chance.

As stated in a prior opinion of this Office dated March 24, 1986, there is no exception for lotteries which are conducted by or on behalf of charitable organizations.

Based upon my review of the referenced proposal, the three elements of a lottery would be present. The elements of prize and chance are present in that there would be a drawing for an automobile. While the bonus coupon is described as "free," such "free" coupon is included in a coupon book which must be purchased. In other words, it is my understanding that only those individuals who buy a coupon book would have access to the "free" coupon included in such books. Therefore, the third element of a lottery, which is consideration, would be present. In such circumstances, a lottery would exist.

If there is anything further, please advise.

Sincerely,


Charles H. Richardson
Assistant Attorney General

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REVIEWED AND APPROVED BY:


Robert D. Cook
Executive Assistant for Opinions

cc: John Caudle, Executive Director
SC Law Enforcement Officers' Association
P. O. Box 210709
Columbia, South Carolina 29211-0709