



Gary Grief  
Deputy Executive Director

# Texas Lottery Commission

Commissioners - Mary Ann Williamson, Chairman • David J. Schenck • J. Winston Krause



Philip D. Sanderson  
Director

**CERTIFIED MAIL NO. 7005 1820 0004 4682 7350**  
**RETURN RECEIPT REQUESTED**

November 12, 2009

Jane Thompson, President  
Thompson Allstate Bingo Supply, Inc.  
5446 Hwy 290 West, Suite 205  
Austin, TX 78735

Re: Bingo Advisory Opinion Request No. 2010-1014-0002

Dear Ms. Thompson:

This advisory opinion responds to your request for a bingo advisory opinion received on October 14, 2009. You asked whether there is anything in the Bingo Enabling Act that would prohibit Thompson Allstate Bingo Supply, Inc. (Thompson) from hiring a certain person, Craig Johniken, as an employee. You state that Mr. Johniken is currently 2<sup>nd</sup> Jr. Vice State Commander of the Disabled American Veterans Auxiliary and is Commander of the D.A.V. 84 Auxiliary Unit in Lufkin, Texas; his organization has a bingo license and does currently conduct bingo; and Mr. Johniken will have no ownership of Thompson Allstate Bingo Supply.

Review of Commission records shows that Mr. Johniken is listed as officer, operator, and authorized representative for Disabled American Veterans 84 Auxiliary.

ANSWER:

Under the facts presented, the hiring of Mr. Johniken would jeopardize Thompson Allstate Bingo Supply, Inc.'s eligibility to hold a distributor's license. Section 2001.207 of the Bingo Enabling Act (Texas Occupations Code, Chapter 2001) provides that the following persons are not eligible for a distributor's license:

...

(5) a person who conducts, promotes, or administers, or assists in conducting, promoting, or administering bingo for which a license is required by this chapter;

... or

(9) a person:

(A) in which a person described by Subdivision . . . (5) . . . is active or employed; . . .

According to the information provided in your request and Commission records, Mr. Johniken is a person who falls within Subdivision (5). If Mr. Johniken were employed by Thompson, Thompson would fall within Subdivision (9) because it would employ a person who falls within Subdivision (5). Consequently, Thompson would be ineligible for a distributor's license.

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### SUMMARY

Texas Occupation Code §2001.207 proscribes certain persons from eligibility for a distributor's license. According to the information provided in your request and Commission records, Mr. Johniken is a person who falls within §2001.207(5) of the Bingo Enabling Act. If Mr. Johniken were employed by Thompson, Thompson would fall within Subdivision (9) of §2001.207 because it would employ a person who falls within Subdivision (5). Consequently, Thompson would be ineligible for a distributor's license.

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This advisory opinion cannot be construed as a tax ruling or otherwise interpretive of the Internal Revenue Code. The information provided is completely limited to the context of the Bingo Enabling Act and the Charitable Bingo Administrative Rules.

This advisory opinion is based on the laws, rules and regulations in effect at the time of its issuance. All of the information provided herein is subject to change in law.

This opinion is purely advisory in nature and is limited to the particular questions at issue and to the facts presented in the request. Therefore, this opinion must not be relied upon as a previous determination regarding any conduct which is not substantially consistent with the opinions and facts stated in the request.

Yours truly,



Philip D. Sanderson, Director  
Charitable Bingo Operations Division

cc: Mary Ann Williamson, Chairman  
David J. Schenck, Commissioner  
J. Winston Krause, Commissioner  
Gary Grief, Deputy Executive Director  
Kimberly L. Kiplin, General Counsel