

BAO 2004-0406-00011	Date Issued: 06/03/2004	View Request RQ 2004-0406-00011
Summary:	N/A	

**CERTIFIED MAIL NO. 7001 2510 0002 0891 8187
RETURN RECEIPT REQUESTED**

2004-0406-00011

June 3, 2004

Brian J. O'Toole
Kasling, O'Toole, Hemphill & Dolezal, L.L.P.
700 Lavaca Street, Suite 1000
Austin, Texas 78701-3109

Re: Request for Advisory Opinion

Dear Mr. O'Toole:

Regarding your letter requesting an advisory opinion which was received by the Texas Lottery Commission (the "Commission") on Tuesday, April 6, 2004, an advisory opinion will not be issued other than to provide a response which refers to the applicable statutes and rules. Title 16 TAC 402.531(d) provides in pertinent part:

(d) Subject of an Advisory Opinion

(1) The commission will not issue an advisory opinion that concerns the subject matter of pending litigation or contested case notice of hearing known to the commission other than to provide a response which refers to the applicable statutes and rules cited in the pending litigation or contested case proceeding notification.

(2) An advisory opinion cannot resolve a disputed question of fact other than to provide a response which refers to the applicable statutes and rules.

The Commission has received information that the facts provided in your request for an advisory opinion are in dispute. In addition, the issues presented in your request for an advisory opinion concern the subject matter of pending litigation in Federal District Court. Thus, the Commission will not issue an advisory opinion other than to direct your attention to the applicable statutes and rules. The applicable statutes, as identified in your request, are Texas Occupations Code, Sections 2001.202(8) & (9) and 2001.207(8) & (9).

If you have any questions, please contact me or Kevin Oldham at (512)344-5465.

Yours truly,

William L. Atkins, Director
Charitable Bingo Operations Division

CC: C. Tom Clowe, Jr., Chairman
Jim Cox, Jr., Commissioner
Rolando Olvera, Commissioner

Kimberly L. Kiplin, General Counsel
Kevin Oldham, Assistant General Counsel