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BAO # 2007-0503-0015

May 11, 2007

Mr. Knowles Cornwell
President
Good Times Action Sales
11827 Judd Ct.
Dallas, Texas 75243

Re: Second Game of Chance

Dear Mr. Cornwell:

This advisory opinion responds to your questions received on May 3, 2007 related to ABC's National Bingo Night television program. You asked whether a licensed authorized conductor may show the ABC's National Bingo Night television program and whether the bingo players may play the ABC's National Bingo Night Home Viewer Sweepstakes (Sweepstakes) game during a bingo occasion. You also raise a question about the permissibility of promotions related to ABC's National Bingo Night television program and the Sweepstakes.

ANSWER:

Based on review of the game rules on the website for ABC's National Bingo Night Home Viewer Sweepstakes and discussions with the show's executive producer, we have determined that the Sweepstakes is not a game of bingo as defined by Texas Occupations Code ch. 2001 (the "Act"). However, it is a game of chance.

Section 2001.416 (a) provides

A game of chance other than bingo or a raffle conducted under Chapter 2002 may not be conducted or allowed during a bingo occasion.

Attorney General Opinion JC-0449 (2002) addressed the meaning of “game of chance” and stated

Thus, the commonly understood meaning of a “game of chance” is a game whose outcome is determined by chance rather than skill.

ABC’s National Bingo Night Sweepstakes website states that the Sweepstakes

. . . is a seeded instant win game. Unlike bingo, where selected numbers are drawn live before an audience of players who have purchased or otherwise obtained randomized cards, in this Sweepstakes the relevant numbers are known to Sponsor ahead of time, due to the nature of the recording schedule of the Show. Based upon the numbers drawn during prior in-studio tapings of the Show, Sponsor then randomly distributes a specific, predetermined number of potentially winning Sweepstakes “Game Cards.”

. . .

Applying the Attorney General’s definition, the Sweepstakes is a game of chance. The question here is whether a licensed authorized conductor would be “conducting” or “allowing” the game of chance during a bingo occasion merely by showing the ABC broadcast during a bingo occasion.

According to ABC’s National Bingo Night Sweepstakes website, the element of chance in the game occurs when a player acquires a card through a random distribution process. It is at the moment of acquiring a game card that the outcome of having a potentially winning or losing card is determined.

Because whether a player has a winning card is determined at the time the player obtains the card, a licensed authorized organization may not distribute or provide the means to obtain a Sweepstakes game card during a bingo occasion. To do so would be to conduct or allow a game of chance prohibited by Section 2001.416.

Viewing the in-studio taping will not affect whether or not a player has a winning card. Therefore, a licensed authorized organization’s showing the ABC National Bingo Night Program would not be conducting or allowing a prohibited game of chance.

Finally, a licensed authorized organization may use bingo account funds for promotions related to ABC’s National Bingo Night if it complies with requirements of the Act and Bingo Administrative Rules for permissible expenses and recordkeeping.

SUMMARY

A licensed authorized organization may not distribute or provide the means to obtain a Sweepstakes game card. A licensed authorized organization's showing the ABC National Bingo Night Program would not violate Tex. Occ. Code Section 2001.416. A licensed authorized organization may use bingo account funds for promotions related to ABC's National Bingo Night and the Sweepstakes if it complies with guidelines and requirements of the Bingo Enabling Act and Bingo Administrative Rules pertaining to permissible expenses and record keeping.

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, Assistant Director
Charitable Bingo Operations Division

cc: James A. Cox, Jr., Chairman
C. Tom Clowe, Jr., Commissioner
Anthony J. Sadberry, Executive Director
Kimberly L. Kiplin, General Counsel