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BAO # 2007-0925-0002

December 1, 2006

Francisco Rodriguez
LULAC 291
P.O. Box 147
Weslaco, TX 78599-0147

Re: Bingo Funds

Dear Mr. Rodriguez:

This advisory opinion responds to your request which was received by the Texas Lottery Commission (Commission) on September 25, 2006. You requested an opinion about whether your organization, LULAC 291, may use \$10,000 from your bingo account to pay expenses related to the organization's 50th anniversary and social banquet.

ANSWER:

Texas Occupations Code §2001.453(a) provides that an organization may withdraw funds from the bingo account only for (1) payment of necessary and reasonable expenses incurred and paid in connection with the conduct of bingo, (2) charitable purposes, or (3) deposit into a bingo savings account pending disbursement to a charitable purpose.

Expenses related to the organization's 50th anniversary and social banquet do not fall within any of the three permissible uses of bingo account funds. Such expenses clearly are not deposits into a bingo savings account. Likewise, the expenses are not incurred or paid in connection with the conduct of bingo. The issue presented by this request is whether the proposed uses of bingo funds would qualify as disbursements for charitable purposes.

Texas Occupations Code §2001.454(b) provides:

(b) Except as otherwise provided by law, the net proceeds derived from bingo and any rental of premises are dedicated to the charitable purposes of the organization only if directed to a cause, deed, or activity that is

consistent with the federal tax exemption the organization obtained under 26 U.S.C. Section 501 and under which the organization qualifies as a nonprofit organization as defined by Section 2001.002. If the organization is not required to obtain a federal tax exemption under 26 U.S.C. Section 501, the organization's net proceeds are dedicated to the charitable purpose of the organization only if directed to a cause, deed, or activity that is consistent with the purposes and objectives for which the organization qualifies as an authorized organization under Section 2001.002.

Charitable Bingo Administrative Rule 16 TAC §402.502 clarifies §2001.454. It states that an expenditure does not meet the standard set in §2001.454 if the expenditure "inures to the benefit of any shareholder, individual, officers, governing body or member other than as reasonable compensation for services rendered." Providing a banquet for members would be a benefit, and therefore, use of bingo account funds to pay banquet expenses would not meet the criteria of a charitable purpose.

SUMMARY

LULAC 291 may not use bingo account funds to pay expenses related to the organization's 50th anniversary and social banquet.

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