

James A. Cox, Jr.
Chairman

C. Tom Clowe, Jr.
Commissioner



TEXAS LOTTERY COMMISSION

Anthony J. Sadberry, Executive Director

Philip D. Sanderson, Charitable Bingo Operations Director

CERTIFIED MAIL NO. 7004 1350 0000 5061 8822
RETURN RECEIPT REQUESTED

BAO # 2008-1217-0006

February 14, 2008

Mr. Jeffrey Minch
President, CEO
Littlefield Corporation
2501 North Lamar Blvd.
Austin, Texas 78705

Re: Bingo Advisory Opinion No. 2008-1217-0006

Dear Mr. Minch:

This advisory opinion responds to your request received on December 17, 2007. Your request includes ten sets of questions resulting from the scenario you provided in which a Texas Lottery Commission (Commission) investigator interviews an individual who makes a false statement that is ultimately the basis for the Charitable Bingo Operations Division's writing a violation. Specifically you asked:

1. Does the making of a false statement to a TLC CBOD investigator during an interview pursuant to an official investigation constitute a violation of the Bingo Enabling Act? If so, which provisions and what actions would the TLC CBOD subsequently take in response to this violation? Does the TLC CBOD routinely take any enforcement actions when it becomes apparent that an individual has made a false official statement about a material element of an official investigation?
2. Does the making of a false statement to a TLC CBOD investigator during an interview pursuant to an official investigation constitute a violation of any Texas statute? If so, which statutes and what actions would the TLC CBOD subsequently take in response to learning an individual had made a false official statement to its investigator?

P.O. Box 16630 • Austin, Texas 78761-6630

Phone (512) 344-5000 • FAX (512) 478-3682 • Bingo FAX (512) 344-5142

www.txlottery.org • www.txbingo.org

3. Would the making of a false statement by an individual (who is listed on the Bingo Registry) to a TLC CBOD investigator during an interview pursuant to an official investigation disqualify that individual from inclusion on the Bingo Registry?
4. In the course of an official investigation by the TLC CBOD is there any obligation on the part of the investigator, the investigator's superiors or the legal staff to verify, substantiate or validate alleged statements which are "hearsay" and which may form the material basis for the allegation of a violation?
5. In the course of an official investigation by the TLC CBOD is there any obligation on the part of the investigator, the investigator's superiors or the legal staff to verify, substantiate or validate statements which are "hearsay" by interviewing the person who is alleged to have made such a statement before proceeding with the writing of a violation in which the alleged statement forms the material basis for the allegation of a violation?
6. Does the TLC CBOD routinely write violations on the basis of unsubstantiated "hearsay" evidence? If so, why?
7. When the TLC CBOD writes a violation on the basis of a conversation which is alleged to have occurred between two individuals is an effort made to substantiate the accuracy of the reported conversation and to verify the veracity of the account of the conversation by interviewing both participants before writing a violation based upon the content of that conversation? If not, why not?
8. During the course of an investigation does the TLC CBOD have any obligation or is the policy of the TLC CBOD to interview all the parties to any alleged violation before writing a violation?
9. When it becomes apparent during the resolution of an alleged violation pursuant to the dispute resolution methodology of the Bingo Enabling Act or the Rules that an alleged violation is based upon a false official statement and the violation is subsequently resolved with no admission of wrongdoing, violation or penalty does the party against which the violation is alleged have any recourse to recover its legal expenses, attorneys fees or costs from the TLC CBOD? Is there any provision of the Bingo Enabling Act which would preclude the party against which the violation is alleged from seeking reimbursement of legal expenses, attorneys fees or costs from the TLC CBOD in this instance?

10. Is there any provision of the Bingo Enabling Act which would preclude a party who is the victim of a false official statement made by an individual to a TLC CBOC investigator during the course of an official investigation from seeking legal redress in a Texas Court of competent jurisdiction for the legal expenses, attorneys fees or costs incurred as a result of this false official statement?

ANSWER:

Section 2001.059(a) of the Bingo Enabling Act (Act) provides:

A person may request from the commission an advisory opinion regarding compliance with this chapter and the rules of the commission.

Consistent with the statute cited above, a request for an advisory opinion must relate to compliance with the Act or the Commission's rules. Although your questions numbered 1, 3, 9 and 10 are regarding compliance with the Bingo Enabling Act or the Charitable Bingo Administrative Rules (Rules), the issues presented are not addressed in the Act or the Rules.

Because the remainder of your questions do not relate to compliance with the Act or rules, they do not fall within the statutory parameters established for advisory opinion requests. Therefore, they are not proper subjects for an advisory opinion under the Act.

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