8217 Library

HENRY MCMASTER
ATTORNEY GENERAL

July 31, 2006

Charles E. Brown, Director of Investigations
South Carolina Secretary of State's Office
Post Office Box 11350
Columbia, South Carolina 29211

Dear Mr. Brown:

You forwarded a letter to this office regarding a proposed promotion, Chuck-A-Puck, that the South Carolina Stingrays wish to conduct. The promotion is structured as follows:

1. Attendees at each Stingrays home game will be offered the opportunity to purchase a Stingrays puck or similar item for a small fee, one to two dollars.

2. On the night of purchase, each participant will be able to aim and then toss his puck from his seat onto the ice attempting to land it closest to a bulls-eye or other target.

3. The individual landing his puck closest to the target point will be able to participate in the final round.

4. That individual from a selected distance will attempt to shoot a regulation puck from a specified distance through a hole in a board covering the hockey goal.

5. If the individual is able to shoot the puck entirely through the slot into the goal from the designated shooting point, the participant will win $1,000,000.00 payable in installments.

It has been questioned whether such promotion violates State law.

This State's Constitution and statutes prohibits lotteries in this State. As set forth in Darlington Theatres v. Coker, 190 S.C. 282, 2 S.E.2d 782 (1962), the elements of a lottery are the offering of a prize, the payment of money or other consideration for the opportunity to win a prize, and the awarding of the prize by chance.

Legal Letter

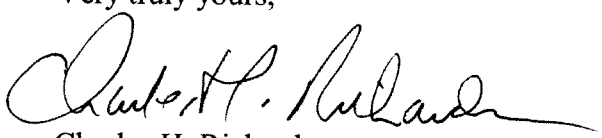
Enclosed is a copy of a prior opinion of this office dated September 5, 1995 which dealt with a proposed hole-in-one competition. That opinion recognized that other prior opinions of this office had concluded that playing the game of golf predominantly involves skill, not chance, as it relates to lotteries. Another opinion of this office dated March 24, 1986 defined "chance" for purposes of a lottery as "...the attempt to attain certain ends, not by skill or any other known nor fixed rules, but by the happening of a subsequent event, incapable of ascertainment or accomplishment by means of human foresight or ingenuity...It is not necessary that this element of chance be pure chance, but it may be accompanied by an element of calculation or event of certainty; it is sufficient if chance is the dominant or controlling factor." The enclosed opinion concluded that the proposed hole-in-one competition would likely constitute a lottery, as well as gambling, also prohibited by State law. The opinion stated that

> [w]e find particularly persuasive the reasoning that, unlike a golf tournament, where skill is primarily involved, the making of a hole-in-one "is such a fortuitous event that skill is almost an irrelevant factor."

Consistent with the referenced opinion, it is my opinion that the proposed Stingrays promotion would also probably constitute an illegal lottery as it involves the necessary three elements of a lottery as outlined above. In my opinion, the element of chance in the proposed promotion dominates over any element of skill in determining a winner is such a competition.

With kind regards, I am,

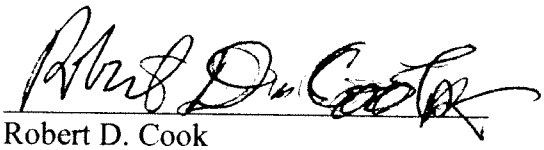
Very truly yours,



Charles H. Richardson
Senior Assistant Attorney General

Enclosure

REVIEWED AND APPROVED BY:



Robert D. Cook
Assistant Deputy Attorney General