

April 23, 2007

The Honorable Wallace B. Scarborough
Member, House of Representatives
306-C Blatt Building
Columbia, South Carolina 29211

Dear Representative Scarborough:

In a letter to this office you referenced a pending Holy City Charity Poker Challenge being promoted by a radio station in Charleston. As to the circumstances involved, you indicated that no alcohol would be served, no cash or prizes would be given out, admission is a suggested donation to charity and is not required for admission. You further stated that the charity stands to make about \$10,000.00 from the event and the same event was held last year. According to your letter, “[a]ll they want to do is play cards and raise a lot of money for charity.” While you stated that “no gambling whatsoever will take place during that evening”, according to a newspaper article on the event, the game is billed as an open Texas hold’em tournament with proceeds going to charity. As set forth by the game itself, the event is advertised as a “poker challenge”.

Prior opinions of this office dated November 1, 2006 and February 2, 2006 have recognized that statutory enactments prohibit various forms of playing with cards and dice, gambling and gambling devices in this State. See, e.g., S.C. Code Ann. §§ 16-19-40 (unlawful games, including games with cards or dice, and betting); 16-19-50 (keeping unlawful gaming tables); 16-19-130 (betting or wagers prohibited). In an opinion dated May 4, 2005 it was specifically referenced that

...S.C. Code Ann. § 16-19-40...prohibits any person from playing “...at any tavern, inn, store for the retailing of spiritous liquors or in any house used as a place of gaming, barn, kitchen, stable or other outhouse, street, highway, open wood, race field, or open place at (a) any game with cards or dice.... (emphasis added). This Office has consistently concluded that the game of poker is prohibited even when conducted by charitable organizations during events such as a “Monte Carlo night”. In an opinion dated April 13, 1984 it was determined that games such as poker played at a “Monte Carlo night” violate the various gambling statutes, including § 16-19-40. The 1984 opinion cited Holliday v. Governor of the State of South Carolina et al., 78 F.Supp. 918 (1948), affd. 335 U.S. 803 (1948) which “...recognizes that it is the

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public policy of the State of South Carolina to suppress gambling and that gambling in all forms is illegal in South Carolina.”

Another prior opinion of this office dated August 3, 2000 referenced the decision in Army-Navy Bingo, Garrison No. 2196 v. Plowden, 281 S.C. 226, 228, 314 S.E.2d 339, 340 (1984) as indicating that “[t]here is no fundamental right to gamble, and the State’s power to suppress it is practically unrestrained.”

Referencing the above, in the opinion of this office the Holy City Charity Poker Challenge being promoted by a radio station in Charleston would appear to be violative of State law as an illegal game of cards. As set forth by the game itself, the event is advertised as a “poker challenge” and, therefore, would constitute illegal gambling. While such constitutes the opinion of this office, I would only add that there is a declaratory judgment action regarding the playing of poker in this State that is presently pending. Until a court rules, the issue is not final.

With kind regards, I am,

Very truly yours,

Henry McMaster
Attorney General

By: Charles H. Richardson
Senior Assistant Attorney General

REVIEWED AND APPROVED BY:

Robert D. Cook
Assistant Deputy Attorney General