



TEXAS LOTTERY COMMISSION

Anthony J. Sadberry, Executive Director William L. Atkins, Director Charitable Bingo Operations

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February 23, 2007

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FILE # ML-45134-07

The Honorable Greg Abbott
Office of the Attorney General
P.O. Box 12548
Austin, Texas 78711-2548

OPINION COMMITTEE

I.D. # 45134

RQ-0573-GA

Dear General Abbott:

As chairman of the Texas Lottery Commission (the commission), I am seeking your opinion about whether a person¹ is ineligible for a bingo manufacturer's or distributor's license under the Bingo Enabling Act (Tex. Occ. Code ch. 2001) if an individual required to be named in the license application holds a ten percent or more proprietary, equitable, or credit interest in a holding company that has a proprietary, equitable, or credit interest in a manufacturer or distributor licensed under Tex. Occ. Code ch. 2001.

Tex. Occ. Code §§. 2001.202 and 2001.207, which are basically identical, list the following persons as ineligible for manufacturers' and distributors' licenses under the Bingo Enabling Act

- (1) a person convicted of a felony, criminal fraud, a gambling or gambling-related offense, or a crime of moral turpitude if less than 10 years has elapsed since the termination of a sentence, parole, community supervision, or mandatory supervision served for the offense;
- (2) a person who is or has been a professional gambler or gambling promoter;
- (3) an elected or appointed public officer or a public employee;
- (4) an owner, officer, director, shareholder, agent, or employee of a licensed commercial lessor;
- (5) a person who conducts, promotes, or administers, or assists in conducting, promoting, or administering bingo for which a license is required by this chapter;
- (6) a manufacturer required to be licensed under this chapter;

¹ "Person" means an individual, partnership, corporation, or other group. Tex. Occ. Code §2001.002 (20)

(7) a person who has had a license to manufacture, distribute, or supply bingo equipment or supplies revoked within the preceding year by another state;

(8) an owner, officer, director, or shareholder of, or a person having an equitable or credit interest in, another manufacturer or distributor licensed or required to be licensed under this chapter; or

(9) a person:

(A) in which a person described by Subdivision (1), (2), (3), (4), (5), (6), (7), or (8) or in which a person married or related in the first degree by consanguinity or affinity, as determined under Subchapter B, Chapter 573, Government Code, to one of those persons has greater than a 10 percent proprietary, equitable, or credit interest or in which one of those persons is active or employed; or

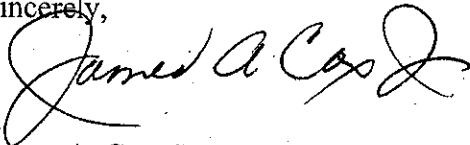
(B) in whose application a person described by Subdivision (1), (2), (3), (4), (5), (6), (7), or (8) is required to be named.

AGO GA-0186 (2004) concluded that a corporate applicant is ineligible if an individual holding ten percent of the corporation's shares also holds shares, in any quantity, in, or holds an equitable or credit interest in, another licensed bingo manufacturer or distributor.

The question now presented is whether the disqualifications described in Tex. Occ. Code §§2001.202 and 2001.207 apply if there is a layer of ownership between the two manufacturers or distributors. For example, is A ineligible in the following example. A owns 100% of B, a licensed distributor. A also owns 50% of C, a holding company. C owns 100% of D, another licensed distributor. Does this sort of relationship create an equitable, proprietary or credit interest that makes A ineligible for a distributor license?

Thank you for your attention to this matter. If you need any additional information, please contact Sandra Joseph at (512) 344-5109.

Sincerely,



James A. Cox, Jr.
Chairman, Texas Lottery Commission

cc: C. Tom Clowe, Commissioner
Anthony Sadberry, Executive Director
Phil Sanderson, Assistant Director, Charitable Bingo Operations Division