



James V. Brown, III
Chairman

C. Tom Clowe, Jr.
Commissioner

TEXAS LOTTERY COMMISSION

Anthony J. Sadberry, Executive Director

Philip D. Sanderson, Charitable Bingo Operations Director

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OPINION COMMITTEE

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January 17, 2008

RQ-0668-GA

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

FILE # AL-45518-08
ID. # 045518

Re: Government Code section 467.025(a)

Dear General Abbott:

As Chairman of the Texas Lottery Commission, I am requesting your opinion in regard to Government Code section 467.025(a), which sets out a number of prohibitions that apply to members of the Texas Lottery Commission. One of those prohibitions, which is patterned after language in the federal Hatch Act, provides broadly that a member of the Texas Lottery Commission may not "directly or indirectly coerce, attempt to coerce, command, or advise a person to pay, lend, or contribute anything of value to another person for political purposes." Gov't Code § 467.025(a)(5).

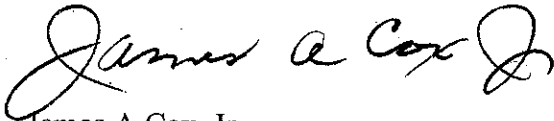
In 1996, then Attorney General Dan Morales issued an advisory opinion in regard to section 467.025(a)(5). Attorney General Opinion No. DM-408 (1996). That opinion concluded that section 467.025(a)(5) prohibited a member of the Texas Lottery Commission from soliciting a political contribution in the commissioner's personal capacity. The opinion also stated, "[W]e do not believe a court would find section 467.025(a)(5) unconstitutional on its face, although certain applications of the statute may be unconstitutional." I am now requesting further clarification about the appropriate interpretation of section 467.025(a)(5). Specifically, I request your opinion on the following questions:

1. Does section 467.025(a)(5) prohibit a member of the Lottery Commission either from inviting someone to attend a political fundraising event or from authorizing the inclusion of his or her name as a sponsor or host of a political fundraising event?

2. Does section 467.025(a)(5) prohibit a member of the Lottery Commission from soliciting a contribution to a candidate for a federal office? Does the answer to the preceding question turn on whether the candidate currently held a Texas state office?
3. Is Attorney General Morales' conclusion about the constitutionality of section 467.025(a)(5) correct in light of subsequent developments in case law regarding political speech?

Thank you for your attention to this matter. If you need additional information, please contact Kim Kiplin, General Counsel of the Lottery Commission, at (512) 344-5105.

Sincerely,

A handwritten signature in cursive script that reads "James A. Cox, Jr." The signature is written in dark ink and is positioned above the printed name and title.

James A Cox, Jr.
Chairman, Texas Lottery Commission

cc: Commissioner C. Tom Clowe, Jr.
Commissioner David J. Schenck
Anthony J. Sadberry, Executive Director