

Date Issued: February 5, 1982 (AGO 82-7)

Requested by: Representative Dave Koland

- QUESTION PRESENTED -

Whether a private club, as an organization licensed to conduct games of chance, may lawfully hold a drawing where each member signs his name as he enters, deposits money with the club, and a nightly drawing is held with the winner receiving all such money deposited.

- ATTORNEY GENERAL'S OPINION -

It is my opinion that such an activity constitutes an illegal game of chance.

- ANALYSIS -

Section 53-06.1-07(1) of the North Dakota Century Code states as follows:

53-06.1-07. GAMES OF CHANCE ALLOWED. Eligible organizations shall be permitted to conduct the following games of chance:

1. Eligible organizations licensed by the attorney general shall be permitted to conduct bingo, raffles, pull tabs, jars, punch boards, twenty-one, and sports pools for professional sports only.

Section 10-04-02-04 of the Administrative Rules promulgated by the North Dakota Attorney General defines raffles:

"Raffle" means a game of chance in which the prize or prizes other than cash are won by one or more numerous persons buying chances. The winner is determined by drawing a number or numbers from a container holding numbers corresponding to all chances sold. The date of the drawing, the prize or prizes to be awarded, the name of the organization, the name of the licensing or authorizing authority, the license or authorizing resolution number, and the price of the chance shall be clearly printed on the raffle tickets which shall be numbered consecutively. (Emphasis added).

Section 12.1-28-02, N.D.C.C., states in part as follows:

Except as permitted by law: . . .

2. It shall be a class A misdemeanor to:

- a. Sell, purchase, receive, or transfer a chance to participate in a lottery; or
- b. Disseminate information about a lottery with intent to encourage participation in it.

Section 12.1-28-01, N.D.C.C., defines lottery as "any plan for the distribution of a thing of value whether tangible or intangible, to a person or persons selected by chance from among participants, some or all of whom have given a consideration for the chance of being selected."

A drawing in which each member of a private club signs his name upon entering a club, contributes money and then the name of one member is drawn who wins the entire pot would constitute a lottery. Such activity is illegal under the laws of the State of North Dakota. The activity would not qualify as a raffle as it does not follow within the definition thereof. Such activity is illegal regardless of whether the winner is present or not when the drawing occurred.

Therefore, it is my opinion that the activity described is illegal.

- EFFECT -

This opinion is issued pursuant to section 54-12-01, N.D.C.C. It governs the actions of public officials until such time as the question presented is decided by the courts.

ROBERT O. WEFALD
Attorney General

Prepared by: John E. Jacobson
Assistant Attorney General