



WILLIAM J. SCOTT
ATTORNEY GENERAL
STATE OF ILLINOIS
SPRINGFIELD



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SPORTS AND GAMING:
Political Contributions
Under the Horse Racing
Act of 1975

Anthony Scariano
Chairman
Illinois Racing Board
Room 1000
160 North LaSalle Street
Chicago, Illinois 60601

Dear Mr. Scariano:

This responds to your letter in which you ask whether section 24(f) of the Horse Racing Act of 1975 (Ill. Rev. Stat. 1976 Supp., ch. 8, par. 37-24(f)) applies to charity racing. I understand that your specific question is whether unsalaried officers or directors of charitable entities may make personal political contributions.

Section 24(f) provides as follows:

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"No organization or concessionaire or officer, director or holder or controller of 5% or more legal or beneficial interest in any organization or concession shall make any sort of gift or contribution of any kind or pay or give any money or other thing of value to any person who is a public official, or a candidate or nominee for public office, or to any fund-raising committee or other fund-raising entity that gives, lends or otherwise provides funds to meet the expenses of any candidate for public office."

Section 3.10 (Ill. Rev. Stat. 1976 Supp., ch. 8, par. 37-3.10) defines the term "organization" as used in this Act as "any person who is licensed to conduct a horse race meeting".

"Person" is defined, in turn, by section 3.14 (Ill. Rev. Stat. 1976 Supp., ch. 8, par. 37-3.14) as "any individual, partnership, corporation, or other association or entity, trustee or legal representative". Thus, a charitable entity which is licensed to hold a horse race meeting is clearly an "organization" within the meaning of section 24(f).

The Racing Board is authorized to issue organization licenses directly to charitable organizations or entities.

(Ill. Rev. Stat. 1976 Supp., ch. 8, par. 37-20(f).) In contrast, section 3.03 (Ill. Rev. Stat. 1976 Supp., ch. 8, par. 37-3.03) provides:

"'Charity days' means racing days granted to a licensed racing organization for the purpose of

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contributing net proceeds from such days to charitable entities or racing days granted to charitable entities which days shall be held by a licensed racing organization as agent of the charitable entity or entities, with net proceeds from such days contributed to the charitable entities."

This statute seems to provide that a charity may receive the proceeds of a racing date only by having a licensed racing association as its agent or by receiving the proceeds as a contribution from a licensed racing association. I understand that it has been the past and present practice of the Board to issue the license to a racing association as agent for a charitable entity rather than to the charitable entity directly.

Where a charitable entity is issued an organization license directly the entity is an "organization" within the meaning of section 24(f), and the officers and directors of such a charitable entity are clearly prohibited from making political contributions. On the other hand, where a charitable entity is not licensed but receives racing proceeds through a licensed racing association the charitable entity is not literally within the definition of an "organization" as used

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in section 24(f). It follows that the officers and directors of such a charitable entity are not prohibited from making political contributions by a literal reading of the statute.

Furthermore, an examination of the purpose of section 24(f) reveals that the prohibition of political contributions by officers and directors of charitable entities is not within the purpose of that statute. The obvious purpose of section 24(f) is to prevent persons and organizations who have a financial interest in racing from making political contributions, which might further that financial interest. In the case of an unsalaried officer or director of a charitable entity making a personal political contribution the officer or director has no financial interest in the charity or the proceeds it receives from racing. At most, the officer or director can only hope to further the financial interests of the charity by making the contribution. Therefore, since his contributions cannot further his own financial interest, the rationale behind section 24(f) does not apply to personal political contributions by an officer or director of a charitable entity which receives racing proceeds from a licensed racing association acting as its agent.

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In summary, it is clear from the language of section 24(f) and the legislative purpose behind this provision that it does not apply to personal political contributions by officers or directors of charities which receive racing proceeds from licensed racing associations acting as their agents. I am therefore of the opinion that such contributions can be made without violating section 24(f).

Very truly yours,

A T T O R N E Y G E N E R A L