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FILE NO. 86-001

SPORTS AND GAMING:  
The Illinois Horse  
Racing Act of 1975

Farrel J. Griffin, Acting Chairman  
Illinois Racing Board  
Room 1000, State of Illinois Building  
160 North LaSalle Street  
Chicago, Illinois 60601

Dear Mr. Griffin:

I have your letter wherein you inquire whether the phrase "costs and expenses in connection with the gathering, transmission, and dissemination of all data necessary to the conduct of inter-track wagering", as used in subsection 26(h)(11) of the Illinois Horse Racing Act of 1975 (Ill. Rev. Stat. 1983, ch. 8, par. 37-26), includes the salary expense of parimutuel clerks employed by inter-track wagering licensees. You also ask whether the Illinois Racing Board has the authority to promulgate rules defining the aforementioned phrase.

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For the reasons hereinafter stated, it is my opinion that the salaries of parimutuel clerks are not "costs and expenses in connection with the gathering, transmission, and dissemination of all data necessary to the conduct of inter-track wagering", as that phrase is used in the Act. Further, it is my opinion that the Board has the authority to promulgate reasonable rules defining those costs and expenses which properly may be included under the provisions of subsection 26(h)(11) of the Act.

Subsection 26(h)(11) provides, in pertinent part:

"(11) After payment of the privilege tax, any other applicable taxes, and the costs and expenses in connection with the gathering, transmission, and dissemination of all data necessary to the conduct of inter-track wagering, the remainder of the monies retained by the inter-track wagering licensee shall be allocated evenly between (1) the two participating licensees and (2) purses.

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(Emphasis added.)

The language of subsection 26(h)(11) is clear. For an employee's salary to be considered a "cost and expense" under subsection 26(h)(11), it must be connected with the gathering, transmission and dissemination of data necessary to conduct inter-track wagering.

Inter-track wagering is conducted by simultaneously telecasting a horse race taking place at one Illinois race track to another Illinois race track, and conducting parimutuel wagering on the race at the latter track. The data necessary

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to conduct inter-track wagering consists primarily of the horse races televised to the second track. (See Ill. Rev. Stat. . 1983, ch. 8, par. 37-26(h).) Consequently, the phrase "gathering, transmission, and dissemination of all data necessary to the conduct of inter-track wagering", refers to the procedures required to simultaneously televise a horse race. It is my opinion, therefore, that an employee's salary may be considered "costs and expenses" under subsection 26(h)(11) only if the employee's duties are directly connected to the process of simultaneously televising a horse race.

A parimutuel clerk is employed to sell parimutuel tickets, not to assist in the process of simultaneously televising a horse race. Although a parimutuel clerk is involved, to some extent, in the gathering and dissemination of data related to parimutuel wagering, such involvement is secondary and merely incidental to the primary function of the clerk. Therefore, it is my opinion that a parimutuel clerk's salary expense is not included in the phrase "costs and expenses in connection with the gathering, transmission, and dissemination of all data necessary to the conduct of inter-track wagering" as that phrase is used in subsection 26(h)(11) of the Act.

In response to your second question, the Board has been granted broad powers and authority to control and administer horse racing in Illinois. Section 2 of the Act (Ill. Rev. Stat. 1983, ch. 8, par. 37-2) grants to the Board "the

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powers necessary and proper to enable it to fully and effectively execute all the provisions and purposes of this Act".

Moreover, control of inter-track wagering is specifically granted in subsection 26(h)(12) of the Act, which provides in pertinent part:

"(12) The board shall have all powers necessary and proper to fully supervise and control the conduct of inter-track wagering including, but not limited to the following:

(A) The Board is vested with power to promulgate reasonable rules and regulations for the purpose of administering the conduct of inter-track wagering and to prescribe reasonable rules, regulations and conditions under which such wagering shall be held and conducted. Such rules and regulations are to provide for the prevention of practices detrimental to the public interest and for the best interests of said wagering and to impose penalties for violations thereof.

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(Emphasis added.)

As the emphasized text of this section shows, the Board has the authority "to fully supervise and control the conduct of inter-track wagering", including the power to make reasonable rules and regulations relating thereto. An express legislative grant of authority to an administrative body includes the power to do all that is reasonably necessary to execute that authority.

(People v. Floom (1977), 52 Ill. App. 3d 971, 975.) In order for the Board to be able to control the conduct of inter-track wagering fully and prevent practices detrimental to the public

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interests, it must be able to promulgate regulations governing the accounting practices of racing organizations.

Therefore, it is my opinion that the Board is authorized to promulgate reasonable rules defining "costs and expenses in connection with the gathering, transmission, and dissemination of all data necessary to the conduct of inter-track wagering" as that phrase is used in subsection 26(h)(11) of the Act.

Very truly yours,

  
ATTORNEY GENERAL