



STATE OF KANSAS

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May 2, 1986

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ATTORNEY GENERAL OPINION NO. 86- 62

The Honorable Donna Whiteman
Representative, 102nd District
Reno County
P.O. Box 11
Hutchinson, Kansas 67501-0011

Re: Crimes and Punishments -- Code; Crimes Against
the Public Morals -- Gambling; Mystery Game
As Fundraiser.

Synopsis: A game or contest in which the participants
purchase a game packet and solve a mystery
based on clues and knowledge in order to win
a prize does not include the element of chance.
Thus, the game would not violate Kansas laws
prohibiting gambling. Cited herein: K.S.A.
21-4302.

* * *

Dear Representative Whiteman:

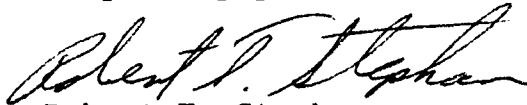
You have requested an opinion as to whether a certain fund-
raising activity would be illegal under Kansas law.

The game packet would sell for \$1.00 to \$5.00 and contain
instructions, rules, questions and clues. The participants
would be required to solve the mystery set out in the
clues, based on the participants' knowledge or from
information obtained from books or other sources. The
prize would be awarded to the first person who solves the
mystery. In case of a tie, the tied participants would
have to solve another mystery.

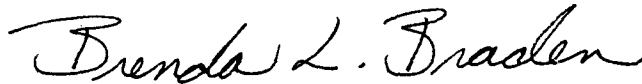
K.S.A. 21-4302 defines a bet as "a bargain in which the parties agree that, dependent upon chance, one stands to win or lose something of value specified in the agreement." (Emphasis added.) A lottery is defined as "an enterprise wherein for a consideration the participants are given an opportunity to win a prize, the award of which is determined by chance." (Emphasis added.) Id. at (1). Consideration is defined in part as "anything which is a commercial or financial advantage to the promoter or a disadvantage to any participant." Id. at (3).

The game you describe does involve consideration since the participants are required to purchase the game packet. A prize is awarded. However, the game does not involve the element of chance. The contestant wins the prize based on the contestant's skill in solving the mystery. A tie is not broken by "chance," but again, only by the contestant's skill. Since there is no "chance" involved, the game is not a "bet" or a "bargain" by definition. Therefore, the game would be legal in Kansas.

Very truly yours,



Robert T. Stephan
Attorney General



Brenda L. Braden
Deputy Attorney General

RTS:BLB:may