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Legal Analysis Report

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To: Advocacy & Management Group, Inc.

Attn: Jackie Miller

From: Association Legal Services

Date: June 7, 2010

Re: California Raffles

Under specific conditions, raffles are an approved way of raising funds for an association tax-exempt under California Revenue & Taxation Code, sec. 23701e [the California counterpart of IRC sec. 501(c)(6)]. One of the conditions is:

At least 90 percent of **the gross receipts generated from the sale of raffle tickets** for any given draw are used by the eligible organization conducting the raffle to benefit or provide support for **beneficial or charitable purposes**, or it may use those revenues to benefit another private, nonprofit organization, provided that an organization receiving these funds is itself an eligible organization as defined in subdivision (c).

As used in this section, "beneficial purposes" excludes purposes that are intended to benefit officers, directors, or members, as defined by Section 5056 of the Corporations Code, of the eligible organization. In no event shall funds raised by raffles conducted pursuant to this section be used to fund any beneficial, charitable, or other purpose outside of California.

This section does not preclude an eligible organization from using funds from sources other than the sale of raffle tickets to pay for the administration or other costs of conducting a raffle.

(Penal Code section 320.5, subsection 4(a); emphasis added.)

Analysis: The above 90/10 rule applies to 23701e associations. Moreover, the California Attorney General answered the question as to whether the 90/10 rule applies to 50/50 raffles as follows: *“The 90/10 rule applies to 50/50 raffles, in which 50 percent of ticket-sale revenue is awarded as the prize and 50 percent of the revenue is retained by the organization conducting the raffle, 50/50 raffles are illegal because 90 percent of the gross ticket-sale revenue is not used for charitable [or beneficial] purposes.”* (ag.ca.gov/charities/faq.php#raffles.)

In other words, the Attorney General confirms that under any circumstances 90 percent of the gross receipts derived from a raffle must be devoted to “beneficial,” purposes, those purposes consistent with the association’s tax-exemption under section 23701e.

The corollary of the 90 percent requirement that 90 percent of the gross receipts be devoted to beneficial purposes is that the association may spend no more than 10 percent of the gross receipts for administrative or other costs of conducting the raffle. However, the association may use other sources of funding than the gross receipts for that purpose.