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January 25, 1999

The Honorable John Cornyn  
Texas Attorney General  
Office of the Attorney General  
Post Office Box 12548  
Austin, Texas 78711-2548

Dear General Cornyn:

Pursuant to Texas Constitution Article 4, Sec. 22, and Government Code Sec. 402.042, I request your analysis and opinion regarding the Charitable Raffle Enabling Act.

St. Jude Children's Research Hospital, a national institution registered as a Texas foreign non-profit, is a hospital which provides treatment for children with cancer and other catastrophic childhood diseases. The hospital, located in Tennessee, provides treatment to children without regard to race, religion, creed or ability to pay. ALSAC/St. Jude, the hospital's fund-raising arm, pays all costs associated with treatment beyond those covered by insurance. Families who have no insurance are never asked to pay. The hospital conducts fundraising activities in Texas. More than 180 children from Texas have been treated at St. Jude, including 57 who are current patients. In addition, the hospital provides all its research and clinical care protocols nationwide, including to hospitals in Texas.

This opinion request seeks clarification of the Charitable Raffle Enabling Act on behalf of St. Jude's and for the benefit of other charities in Texas that may wish to conduct charitable raffles. St. Jude has conducted raffles of a finished home to raise funds for the hospital in other states and would welcome the opportunity to do the same in Texas.

The Charitable Raffle Enabling Act allows certain qualified organizations to conduct raffles. Tex. Rev. Civ. Sta. Ann. art. 179f Sec. 1, et. seq. (Vernon Supp. 1998). Section 3 (g) of this Act states, in part, "the value of a prize that is offered or awarded at the raffle and that is purchased by the organization or for which the organization provides any

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Opinion Committee

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consideration may not exceed \$50,000.” I would like your interpretation of this clause, specifically with regard to whether this clause would allow the organization to raffle a prize in excess of \$50,000. This clause appears to state that only if the organization purchases the prize that is offered or awarded at the raffle, or if they provide consideration for a prize that is offered or awarded at the raffle, the value of the prize may not exceed \$50,000. The language of this statute appears to allow an organization to raffle a prize valued in excess of \$50,000 if the prize is obtained through donations and the organization does not contribute any money for the prize.

Along the same lines, I would like to know from your interpretation whether this clause would prohibit an organization from helping fund a raffle prize worth in excess of \$50,000 through donations received from other fund raising efforts, such as other raffles or donations from outside sources.

A final related question is, in view of Section 3(d) which states “all proceeds from the sale of tickets from the raffle must be spent toward charitable purposes of the organization,” whether profits received from the raffle may be used to help fund the ongoing raffle or a future raffle. Fundraising is the lifeblood of a charitable organization and directly benefits that organizations’ charitable purposes. Therefore, it would appear that the charitable organization under Section 3(g) would be spending the funds for the “charitable purposes” as defined in Section 2(a)(2) of the Act if the monies are used, in part, for additional fundraising efforts. Thus, please provide your interpretation of Section 3(d) of the Act.

In summary, I respectfully submit the following questions for your analysis and opinion:

1. Whether Section 3(g) of the Charitable Raffle Enabling Act permits an organization to raffle a prize valued in excess of \$50,000.
2. Whether the Charitable Raffle Enabling Act prohibits an organization from funding a prize valued in excess of \$50,000 though donations received from other fundraising events.
3. Whether Section 3(d) of the Charitable Raffle Enabling Act allows profits received from the raffle to be used for the ongoing raffle or future raffles that in turn support the “charitable purposes” of the organization.

Thank you for your assistance on this matter.

Very truly yours,

A handwritten signature in black ink, reading "Carol Keeton Rylander". The signature is written in a cursive, flowing style.

CAROLE KEETON RYLANDER