

GAMBLING: Suit Clubs.

3-20

March 19, 1936.

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Hon. Barker Davis  
Prosecuting Attorney  
Lewis County  
Canton, Missouri

Dear Sir:

We have your request for an opinion which is as follows:

"Enclosed herewith and attached hereto please find plan, termed 'Suit Club Rules'. The number taken in each so-called club is limited to exactly 50 persons by oral agreement between the store and the signers. Each so-called member signs his name on back of sheet similar to the one attached hereto and such signed sheet is held by store. The rest of the plan is fully set out on the attached sheet.

#### SUIT CLUB RULES

Based on \$22.50 Suits and Overcoats.

1. Payments: \$2.50 first week and \$2.00 week thereafter for ten weeks, terminating in eleven weeks. If member desires a suit at more than \$22.50 he may have same by paying the difference.
2. A drawing will be held each Saturday night and the member whose name is drawn will pay no more and will get his \$22.50 suit for the amount paid up to that time. PROVIDED HE IS NOT IN ARREARS WITH HIS PAYMENTS, IN WHICH CASE HIS NAME WILL BE PUT BACK AND ANOTHER DRAWN.

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3. At the end of eleven weeks those who have not been drawn will have their suits paid for and may make their selections. EVERY MEMBER GETS A SUIT.

4. The name drawn at the first drawing will get his suit for \$2.50; the second drawing, \$4.50; the third drawing, \$6.50, etc. until the tenth. The name drawn at the eleventh drawing will be entitled to a \$25.00 suit.

5. Those who drop out after the second payment will be given a credit slip for the amount paid in to be used on a suit at \$22.50 or more at any time. This credit will not be good on other merchandise, and the member will not be eligible to participate in the drawings but can be reinstated at any time by making up back payments.

6. Those who wish to get their suits before the last drawing can do so by paying the full price of \$22.50. In case one of these names is drawn the member will receive a cash refund for the difference between \$22.50 and the amount that would have been due at the time his name was drawn.

7. New members will not be accepted to replace those who have been drawn out. The member whose name is drawn will get his suit whether he is present at the drawing or not."

Section 4314 R. S. Missouri 1929 covers either the establishing or setting up of any lottery or given enterprise. It is now well established in this state, as well as in every other jurisdiction, that the three essential elements of lottery are (1) prize, (2) consideration, and (3) chance. This is the holding of State vs. Emerson, 188 W. (2d) 109.

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It appears that State ex rel. vs. Mayer Tailoring Company et al. 25 S. W. (2d) 98, covers a state of facts similar to those presented by you herein. It was held that the maturing of certificates for suits of clothes by an arbitrary method was a violation of the lottery law of this state.

It is therefore the opinion of this office that the "Suit Club Rules" as outlined in your request for an opinion constitute a lottery and are in violation of Section 4314 R. S. Missouri 1929.

Yours very truly,

FRANKLIN E. REAGAN,  
Assistant Attorney General

APPROVED:

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JOHN W. HOFFMAN, Jr.,  
(Acting) Attorney General

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