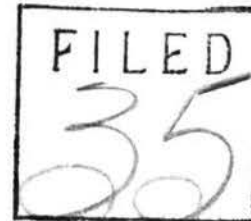


LOTTERIES: Money Quest Nite.

April 13, 1938

H-14



Mr. G. Derk Green
Prosecuting Attorney
Linn County
Linneus, Missouri

Dear Sir:

We have your request of April 9, 1938, for an opinion which is in part as follows:

"The manager of the theatre selected ten persons from the audience and asked them to come upon the stage. There he suggested that he had ten questions that he wished to ask them and proceeded to ask each person one question. If the person gave a correct answer then the manager of the theatre paid to that person \$1.00. If the answer was not correct then that person did not receive anything but the \$1.00 was placed in a fund or pot for the purpose as I will mention later. Several of the persons gave correct answers and received the \$1.00, others could not answer correctly and the \$1.00 was placed in the larger fund. Then the manager proceeded to ask each of the ten persons what he designated as a "master question." The person able to answer the "master question" received all of the money placed in the fund from the failure of others to answer the other question."

April 13, 1938

At the very outset it appears that the manager of the theater selects ten persons from those in the audience. All the people in the show have paid an admission price. This furnishes the element of consideration. All of the patrons who pay admission to the show, which includes a paid consideration for the right of participating in "Money Quest Nite" are excluded from participation unless they happen to be one of the ten selected by the manager.

Commenting upon this phase of lotteries, we find the following statement in 45 Harvard Law Review, page 1212:

"It is somewhat surprising to find a fairly large number of decisions involving the award of prizes in the uncontrolled discretion of a judge. All of them agree that the contest is a lottery."

Under date of March 15, 1938, this office rendered an opinion to the Honorable Claude T. Wood, Prosecuting Attorney, Waynesville, Missouri, holding that "Doctor Quizzer" is a lottery, a scheme in most details similar to this one.

CONCLUSION

It is therefore the opinion of this office that the scheme "Money Quest Nite" is a lottery within the meaning of Section 4313 R. S. Missouri 1929.

Respectfully submitted,

FRANKLIN E. REAGAN,
Assistant Attorney General

APPROVED:

J. E. TAYLOR
(Acting) Attorney General

FER: MM