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Comptroller of the Currency  
Administrator of National Banks

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Washington, DC 20219

**Interpretive Letter #900  
January 2001  
12 USC 25a(a)**

June 19, 2000

Subject:      Participation in Lotteries by National Banks

Dear [      ]:

This is in response to your letter of June 13, 2000, requesting confirmation that certain activities would not cause your client to be in violation of 12 U.S.C. § 25a, which prohibits lottery activities by national banks. As we recently discussed on the telephone, it is my opinion that the described activities would not be prohibited by this statute.

According to your letter, your client, a national bank ("the Bank"), has a branch in a town that wishes to hold a raffle to raise funds for the construction of a new community building. The Bank would like to donate a print for this effort, and this will be the only item in the raffle. Lottery tickets will be sold by local merchants, who will also publicize the lottery on their premises. The Bank will not sell any lottery tickets, nor will it allow its premises to be used to publicize the lottery. Understandably, though, the Bank would like to receive credit for donating the print. Therefore, you asked if the Bank could be identified as the donor of the item in the lottery advertising that will be displayed in local stores or elsewhere not on Bank premises. Specifically, you asked whether identifying the Bank as the donor would violate the statutory prohibition on publicizing of a lottery by national banks.

Twelve U.S.C. § 25a generally prohibits national banks from involvement in lotteries. The portion relevant to your inquiry provides that "a national bank may not . . . announce, advertise, or publicize the existence of any lottery." 12 U.S.C. § 25a(a). It seems clear that this language requires some affirmative action by a national bank to publicize a lottery, for example, by displaying advertising on its premises. You have represented that no lottery publicity will be displayed on Bank premises.

In my view, simply noting on an advertisement that the Bank has donated the item to be raffled would not constitute action by the Bank to publicize the lottery, provided the Bank has no involvement with the sponsoring or display of the advertisement. From the Bank's standpoint, the situation you describe is no different than a newspaper article or television story reporting that the Bank has donated the item. To attribute such third party activities to the Bank would be to impose vicarious liability upon the Bank for the acts of others, which is not authorized by the language of the statute.

Since it does not appear that there will be any affirmative action by the Bank to publicize the lottery, I conclude that the facts you describe would not cause the Bank to violate the prohibition of 12 U.S.C. § 25a against publicizing a lottery, or any other provision of that statute. This opinion is based on the representations made in your letter, and any material change in the facts could lead to a different conclusion.

I trust that this has been responsive to your inquiry. If you have further questions, please feel free to contact me at (202) 874-5300.

Sincerely,

**-signed-**

Christopher C. Manthey  
Senior Attorney  
Bank Activities and Structure Division