



# CONSUMER NEWS

## SAN DIEGO CITY ATTORNEY'S OFFICE

### Sweepstakes Contests and Lotteries

September 2012

*Congratulations, it's your lucky day! You've just won knowledge about how to protect yourself!*

Every year, consumers lose thousands of dollars by falling victim to untrustworthy contests, sweepstakes, and lotteries. Most assurances that you have won a prize are meant to deceive you into paying more money. Watch out for con artists who capitalize on everyone's desire to be a winner.

This newsletter describes rules and tips on how to safeguard against unscrupulous sweepstakes, contests and lotteries.

#### ***SWEEPSTAKES:***

Sweepstakes are a game of chance requiring *no purchase* or payment in order to participate. To be a legal sweepstakes, each entry must have the same chance of winning the prize, whether or not the entrant makes a purchase.

A recent poll by the FTC shows that more than half of all

American adults entered sweepstakes within the past year. Most of these sweepstakes were run by reputable marketers and non-profit organizations to promote their products and services. Con artists can disguise their schemes to look legitimate. In fraudulent sweepstakes, winners have to pay to enter a contest or collect their prize.

#### ○ *Rules:*

Sweepstakes solicitation materials:

- Must contain a statement that no purchase is necessary to enter.
- May not contain a statement that a person has won a prize unless that person has in fact won.
- May not state that an entry with an order for products or services will be eligible for additional prizes, or will be more likely to win than an entry without an order.
- May not have seals, names, or terms that imply an affiliation with or

endorsement by the government.

- Must correctly represent the odds of winning each prize.

#### ***CONTESTS:***

A contest is a game or scheme based on talent and skill. It requires payment for the opportunity to receive or compete for prizes. Chance may also play a role (like guessing the number of jelly beans in a jar).

Contests usually aim at increasing sales or consumer awareness about a particular product. Unlike sweepstakes, contests may legally require contestants to buy something or make a payment or donation to enter.

Many consumers are deceived into playing contests by easy initial questions or puzzles. Once they've sent in their money and started to play, the questions get harder and the entry fees get higher. However, entrants rarely win.

○ *Rules:*

A person who runs a contest must disclose:

- The contest rules, terms and conditions.
- The prize and its value.
- The total amount of money a participant will be asked to pay.
- How many rounds in the contest, the end date, and when the prize will be awarded.
- Future contests or tie breakers and whether they will be more difficult.
- The contest's sponsor and an address where you can reach the sponsor to request that your name be removed from the mailing list.

If you win or reach a tiebreaker, do not pay more money to receive a prize!

*LOTTERIES:*

A lottery is a scheme of chance that gives prize money to people who *pay* for the opportunity to receive a prize. If you didn't buy a ticket, you didn't enter and didn't win. You should not be required to pay taxes up front if you do win.

○ *Rules:*

Except for state-run lotteries and certain charitable games, lotteries are illegal in California. Lotteries have three elements:

- A prize.
- Payment of consideration to be a eligible for the prize.
- The distribution of the prize by chance.

If one of these three elements is missing, the scheme is not a

lottery. The odds of winning a lottery are on the ticket or materials, and are usually extremely low.

*BEFORE YOU ENTER:*

Always read the fine print on any contest, sweepstake, or lottery. Be careful not to agree to buy other products or services. Consider that cash prizes are taxable income, so the prize may not be worth the expense. Read the rules carefully. Disregard any sweepstakes letter which tells you you've already won and need to send in a donation to collect your prize.

*How to Stop Receiving Solicitations:*

The best way to protect yourself is to remove your name from mail and telephone solicitation lists. To do this:

- Register on the National Do Not Call Registry: [www.donotcall.gov](http://www.donotcall.gov), or call 1-888-382-1222 from the phone you want to register.
- Contact the Direct Marketing Association to have your name removed from direct mail marketing lists: [www.dmaconsumers.org](http://www.dmaconsumers.org)

*How To Identify A Scam:*

If you receive a letter or phone call saying you've won a prize, be skeptical. The prize may cost you hundreds of dollars in taxes or service charges, or it may never arrive.

If you receive a telephone call, email, or letter saying that you won, do not pay anything else!

- Do not pay taxes up front! If you win, the promoter

will withhold taxes or report the winnings to the IRS.

- Do not pay delivery charges. The promoter will pay them.
- Do not send in extra money.
- Do not give a credit card to verify eligibility.

*ENFORCEMENT:*

If you believe an advertisement for a sweepstake, contest, or lottery is misleading, contact:

**The Federal Trade Commission**

10877 Wilshire Blvd., Suite 700. Los Angeles, California 90024. [www.ftc.gov/complaint](http://www.ftc.gov/complaint)

If the solicitation was received in the mail, contact:

**U.S. Postal Inspector**

P.O. Box 121011  
San Diego, CA 92112

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**San Diego  
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This newsletter was written by City Attorney Post Bar Clerk Dalia Astalos

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Sources: **Sweepstakes** Penal Code §319; Business & Professions Code §17539.5, 17539.15, and 17539.55; **Contests** Business & Professions Code § 17539.1-17539.3; **Lotteries** Penal Code § 319-329; FTC Consumer Alert, "Prize Offers: You Don't Have to Pay to Play!"; National Do Not Call Registry; California Attorney General's Office Department of Consumer Affairs, "Be Smart Buy Smart:

*What Smart Shoppers Know  
About Sweepstakes, Contests,  
and Lotteries.”*

The information provided in this newsletter is intended to convey general information and is not intended to be relied upon as legal advice.

To report violations of consumer protection laws, call the City Attorney's Hotline at **(619) 533-5600**.