



FEDERAL ELECTION COMMISSION

1325 K STREET N.W.
WASHINGTON, D.C. 20463

25 AUG 1976

Re: AOR 1975-112

Mr. Richard F. McAdoo
Vice President
Security Pacific National Bank
Suite 712
1730 Rhode Island Avenue, N.W.
Washington, D. C. 20036

Dear Mr. McAdoo:

This is in further response to your request for an advisory opinion concerning certain activities of Security Pacific National Bank's Active Citizenship Today program.

As you know, the Supreme Court, during the period in which your request was pending, issued its opinion in Buckley v. Valeo, 424 U.S. 1, 96 S. Ct. 612 (decided January 30, 1976). The Court held that the Commission as then constituted lacked the power to issue advisory opinions. From the date of that decision until reconstitution of the Commission on May 21, 1976, no advisory opinions could be issued. We apologize for the unavoidable delay in responding to your request.

You stated in your letter that Security Pacific National Bank has sponsored Congressional Forums for its branch managers at which the congressman of the district involved appears for private, off-the-record discussions with the Bank's employees. In the past, the Bank has paid for the travel expenses of the congressman appearing at the Forums. You inquired whether in view of previous advisory opinions issued by the Commission the payment of such travel expenses constitutes a "contribution."

On May 11, 1976, the Federal Election Campaign Act Amendments of 1976 were enacted. Those amendments not only reconstituted the Commission, but also added certain provisions which bear directly upon your inquiry. Section 431(e)(5)(I) of Title 2, United States Code, exempts from the definition of "contribution," any



honorarium (within the meaning of section 441i). Section 441i states in pertinent part:

No person while an elected officer or employee of any branch of the Federal Government shall accept (1) any honorarium of more than \$2,000 (excluding amounts accepted for actual travel and subsistence expenses for such person and his spouse or an aide to such person and excluding amounts paid or incurred for any agents' fees or commissions) for any appearance, speech or article; or (2) honorariums (not prohibited by paragraph (1) of this section) aggregating more than \$25,000 in any calendar year.

The Commission has recently granted final approval to proposed regulations. Section 100.4(b)(10) of those regulations (copy enclosed) states that "related expenses" paid in conjunction with an appearance, speech, or article by a Federal officer or employee are also exempted from the definition of "contribution."

The above-noted provision appears to answer your inquiry. The Commission's proposed regulations must, however, be submitted to the Congress for review and may be prescribed by the Commission only if not disapproved by either the House or the Senate within thirty legislative days from the date they receive the regulations. See 2 U.S.C. 5438(c). The regulations were submitted to Congress on August 3, 1976.

In view of the circumstances, it appears that no further action is necessary. Again, I apologize for the delay involved. Your patience and understanding are greatly appreciated.

Sincerely yours,

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N. Bradley Litchfield
Assistant General Counsel

Enclosure [§100.4 of proposed regulations]