

ADVISORY OPINION 1975-63

Honorariums to Federal Officeholders Appearing at Non-Campaign Fundraiser

This advisory opinion is rendered under 2 U.S.C. SS 437f in response to a request for an advisory opinion which was submitted by "Womenfor," a registered political committee and published as AOR 1975-63 in the Federal Register for September 18, 1975. Interested parties were given an opportunity to submit written comments relating to the request. No comments were received.

The request poses the question of whether an honorarium paid to a Member of Congress for speaking at a fundraising luncheon sponsored by a registered political committee, must be treated as a political contribution. The request asks the same question with respect to the reimbursement of travel expenses to the speaker and to the speaker's spouse.

The Commission has been informed that the speaker was Representative Bella Abzug who appeared before a luncheon audience in California that was not comprised of her constituents. At the time of the luncheon (October 13, 1975) Representative Abzug had become a candidate in New York for election to the U. S. Senate and re-election to the House of Representatives under the definition in 2 U.S.C. §431(b) and 18 U.S.C. §591(b).

A contribution is defined in 2 U.S.C. §431(e) and 18 U.S.C. §591(e) as a gift, subscription, loan, advance, deposit of money, or anything of value made for the purpose of "influencing the nomination for election or election of any person to Federal office." Thus, in certain circumstances, an honorarium and accompanying travel expenses can also be a contribution. The Commission has expressly characterized an honorarium paid by a political committee as a contribution in those circumstances where: (1) the individual is a candidate for Federal office; and (2) the audience for the speech or appearance is comprised in substantial part of individuals from the electorate with respect to which the individual is a Federal candidate. See AO 1975-20, Part 7, 40 FR 45292 (October 1, 1975).

As the Commission's information on Womenfor's fundraising luncheon clearly shows that the speaker's audience was not a part of the electorate with respect to which she is a Federal candidate; neither the honorarium nor the reimbursement for actual travel expenses for the speaker and the speaker's spouse constitutes a contribution as defined in 2 U.S.C. §431(e) and 18 U.S.C. §591(e). Thus the honorarium is subject only to the limitations of 18 U.S.C. §616. Womenfor is a reporting political committee under the Act and is required to disclose the honorarium and travel expenses in the appropriate report to the Commission, even though these disbursements are not considered by the Commission as a "contribution" or "expenditure."

The Commission emphasizes that all situations where a political committee pays an honorarium and/or actual travel expenses to or on behalf of a Federal candidate are subject to examination or audit for any implications that the "honorarium" is in fact paid and treated by the recipient as made for the purpose of "influencing" the recipient's nomination or election to Federal office, 2 U.S.C. SS 431(e), (f) and 18 U.S.C. §591(e), (f). At a future date the Commission intends to establish additional criteria as to when an honorarium paid by a political committee will be treated as a "contribution" or "expenditure."

This advisory opinion is issued only on an interim basis pending the promulgation by the Commission of rules and regulations or policy statements of general applicability.