



FEDERAL ELECTION COMMISSION
Washington, DC 20463

October 27, 1976

Re: AOR 1976-59

Jack P. Jefferies, Esquire
Lord, Day & Lord
25 Broadway
New York, New York 10004

Dear Mr. Jefferies:

This letter responds to your request of July 30, 1976, for an advisory opinion concerning whether "travel and incidental expenses" paid by a corporate political action committee to a candidate for an appearance, speech, or article, are subject to limitations under the Federal Election Campaign Act of 1971, as amended ("the Act").

Specifically, you ask whether the American Hotel and Motel Association Political Action Committee ("AHMPAC") is limited under the Act as to the amount of travel and incidental expenses which it may provide to a candidate who is not a holder of an elected or appointed Federal office. It is clear that the provisions relating to travel and incidental expenses which appear in 2 U.S.C. §441i with relation to honorariums are applicable only to elected or appointed officers or employees at the Federal level; they do not apply to a candidate who is not a Federal officeholder. Similarly, while 2 U.S.C. §§431(e)(5)(I) and 441i, taken together, exempt from the definition of "contribution" any money paid to a Federal officer or employee for an honorarium and related expenses,¹ there is no such provision concerning candidates who are not Federal officers or employees. Thus, Federal candidates who are not simultaneously Federal officeholders are not limited under the Act as to the amount of honoraria and related expenses they may receive for an appearance, speech, or article. Honoraria paid to candidates who are Federal officeholders would be outside the exception of 2 U.S.C. §431(e)(5)(I) if in excess of the

¹ It is provided in §110.12(b) of the Commission's proposed regulations (copy enclosed) that the phrase "related expenses" includes the "payment for or provision of actual travel and subsistence, including transportation, accommodations, and meals for the officer or employee and spouse or an aide." The payment by a political committee of these expenses (or an honorarium) would have to be reported as a disbursement pursuant to §104.2(b) of the proposed regulations.

limits of 2 U.S.C. §441i, and, accordingly, such honoraria may be regarded as contributions subject to the Act including, in particular, 2 U.S.C. §§441a, 441b, and 441c.

You also inquire as to whether any limitation exists on the amount that may be paid by AHMPAC for travel and incidental expenses to a candidate who already holds a Federal elective or appointive office. Since §100.4(b)(10) exempts "related expenses" from the definition of "contribution" and 2 U.S.C. §441i excludes these expenses from the limitations applicable to honorariums, the payment of "related expenses" by AHMPAC to a candidate who is a holder of an elected or appointed Federal office will not be subject to the limitations imposed by the Act. However, as indicated in footnote 1, these expenses are within the exemption only to the extent they are to defray actual travel and subsistence costs. Furthermore, payment of these expenses or an honorarium to a candidate by any reporting committee would have to be reported as a disbursement pursuant to §104.2(b) of the proposed regulations.

This response relates to your opinion request but may be regarded as informational only and not as an advisory opinion since it is based in part on proposed regulations of the Commission. These proposed regulations were formally adopted by the Commission and serve as interpretative rules of the Commission as to the meaning of the pertinent statutory language. The proposed rules were transmitted to the Congress on August 3, 1976. See 2 U.S.C. §438(c). For your information I enclose a copy of a recent Commission policy statement regarding those rules.

Sincerely yours,

(signed)
Vernon W. Thomson
Chairman for the
Federal Election Commission

Enclosures