



FEDERAL ELECTION COMMISSION  
Washington, DC 20463

December 15, 1978

AO 1978-96

Honorable Clarence J. Brown  
United States House of Representatives  
Washington, D.C. 20515

Dear Mr. Brown:

This refers to your letter of November 20, 1978, requesting an advisory opinion concerning application of the Federal Election Campaign Act of 1971, as amended ("the Act"), to certain procedures which you have selected regarding honorariums.

Your letter explains that in an effort to comply with 2 U.S.C. 441i\* you will accept speaking engagements and reimbursement of any actual and necessary travel expenses incurred while meeting those engagements. You will, however, refuse to accept any honoraria. Rather, you will ask by letter that any designated honoraria be contributed to any of five charitable organizations listed therein. Specifically, you ask if these procedures are in compliance with the Act.

Section 441i(b) provides that: "If an honorarium payable to a person is paid instead at his request to a charitable organization selected by payor from a list of 5 or more charitable organizations provided by that person, that person shall not be treated, for purposes of 5441i(a), as accepting that honorarium. For purposes of 441i(b) the term 'charitable organization' means an organization described in 170(c) of the Internal Revenue Code of 1954."

The letter you plan to send to the sponsoring organizations (noted in your letter requesting an opinion as enclosure A but marked enclosure B) that invite you to appear requests the organization to contribute the honorarium amount to one or more of five listed organizations which, according to your letter, you recognize must be charitable organizations under 26 U.S.C. 170(c). The letter you propose to send to charitable organizations (noted in your letter requesting an opinion as enclosure B but marked enclosure A) informs the charitable organization that it will be designated on the list of 5 you provide to organizations that sponsor a speech or appearance you make. In that letter to the charitable organization, you explain that by law you

---

\* 441i(a) states in part that no person while an elected or appointed 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); or (2) honorariums aggregating more than \$25,000 in any calendar year.

cannot exercise "any degree of control with regard to . . . [selections of charitable donees made by] sponsoring organizations but I would hope that many sponsoring organizations would look with favor at the (name of charity)." The Commission concludes that your use of the proposed letters in the circumstances described would comply with 2 U.S.C. 441i(b).

The Commission does not express any opinion on these procedures as to application of House Rule XLVII, nor does it express an opinion as to "disqualified person" status for tax purposes since those issues are not within its jurisdiction.

This response constitutes an advisory opinion concerning application of a general rule of law stated in the Act or prescribed as a Commission regulation to the specific factual situation set forth in your request. See 2 U.S.C. 437f.

Sincerely yours,

(signed)

Joan D. Aikens  
Chairman for the  
Federal Election Commission