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State Ethics Commission

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SEC AO92-051 January 27, 1992

SUBJECT: PUBLIC EMPLOYEES SPEAKING/LECTURING AT CLE SEMINARS

SUMMARY:

Public employees are not prohibited from speaking, or lecturing at Bar-sponsored seminars, however, they may not receive anything of value, other than a meal, from the Bar for such participation. The employee's agency may request reimbursement from the Bar and reimburse the employee in accordance with agency travel reimbursement policies.

QUESTION:

The Public Services Director of the South Carolina Bar questions whether public employees are prohibited from speaking/lecturing at CLE or JCLE seminars. She states that the Bar is a lobbyist principal. Seminar speakers are currently offered a modest meal allowance, lodging, if appropriate, and mileage reimbursement. A pre-seminar dinner/planning meeting is held the evening before a seminar. No honoraria are paid to members of the Bar or the USC Law School faculty, however, they do receive a complimentary pass entitling them to attend one six-hour Bar-sponsored CLE seminar.

DISCUSSION:

This opinion is rendered in response to a letter dated December 19, 1991 requesting an opinion from the State Ethics Commission. The Commission's jurisdiction is limited to the applicability of the Ethics, Government Accountability, and Campaign Reform Act of 1991 (Act No. 248 of 1991; Section 8-13-100 et. seq., as amended, 1976 Code of Laws). This opinion does not supersede any other

statutory or regulatory restrictions or procedures which may apply to this situation.

In Advisory Opinion SEC AO92-023, the State Ethics Commission advised that a public employee would not be prohibited from accepting a meal at a function where the meal is provided to all other participants in the same event. Section 8-13-715 provides:

> A public official, public member, or public employee acting in an official capacity may not receive anything of value for speaking before a public or private group. Notwithstanding the limitations of Section 2-17-90, a public official or public member may receive payment or reimbursement for actual expenses incurred for a speaking engagement. The expenses must be reasonable and must be incurred in a reasonable time and manner in which to accomplish the purpose of the engagement. If the expenses are incurred out of state, the public official or public member incurring the expenses must receive prior written approval for the payment or reimbursement from:
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> (1) the Governor, in the case of a public official of a state agency who is not listed in an item in this section;
> (2) a statewide constitutional officer, in the case of himself;
> (3) the President Pro Tempore of the Senate, in the case of a member of the Senate;
> (4) the Speaker of the House, in the case of a member of the House of Representatives; or
> (5) the chief executive of the governmental entity in all other cases.

In Advisory Opinion SEC AO92-023, the Commission advised that the public agency could be reimbursed by the sponsoring group for the costs and then reimburse the employee for actual costs in accordance with agency travel reimbursement policies and procedures. Consequently, there is no prohibition against a public employee participating in such seminars, however, such travel expenses must be reimbursed by the agency, not the Bar Association. The employee's agency may contract with the Bar Association to reimburse the agency for the costs of such participation and reimburse the employee according to agency reimbursement policies and procedure.

The definition of "anything of value" includes an honorarium or compensation for services. See Section 8-13-100(i)(a)(xii).

This prohibition would encompass the receipt of a complimentary pass to a six-hour CLE program.

The State Ethics Commission notes that the Bar is a lobbyist principal and, therefore, advises that the Secretary of State's Office be contacted concerning restrictions involving lobbyist principals.