

Memorandum

To : File No. T-90-353

Date : May 16, 1990

From : **FAIR POLITICAL PRACTICES COMMISSION**
Kathryn E. Donovan, General Counsel

Subject : Telephone Advice Provided to Justice David Eagleson, California
Supreme Court

On May 15 and 16, 1990, I provided telephone advice to Supreme Court Justice David Eagleson about his ability to accept a \$3,500 honorarium from McGeorge School of Law for giving the commencement address on May 19, 1990.

I advised Justice Eagleson that Government Code Section 85400 prohibits any elected state or local officer from accepting an honorarium in excess of \$1,000 per calendar year from a single source in connection with a speech on the governmental process. (See also Regulation 18540.) As a person who holds elective office, as defined in Government Code Section 82023, he is subject to this prohibition.

I reviewed a draft copy of Justice Eagleson's speech and determined that it generally concerns how to be a good lawyer, a subject which is not related to the governmental process. I expressed concern, however, that on page 17, his speech refers to the attorney discipline responsibilities of the California Supreme Court, a subject that would appear to relate to the governmental process. He said he would eliminate the sentence which refers to the California Supreme Court and instead say, "Scores of attorneys are disbarred and disciplined every year." I advised him that, with that change, his speech did not relate to the governmental process and that the honoraria limit in Section 85400 would therefore not apply. A copy of his draft speech is attached.

We also discussed whether acceptance of an honorarium in excess of \$1,000 would raise questions from the press about his taking advantage of a legal technicality. We agreed that issue involves a personal choice on his part, rather than a legal duty.

cc: Chairman John H. Larson



Supreme Court of California

STATE BUILDING
350 McALLISTER STREET
SAN FRANCISCO, CALIFORNIA 94102

FPPC
May 21 10 31 AM '90

DAVID N. EAGLESON
ASSOCIATE JUSTICE

May 17, 1990

Ms. Kathy Donovan
General Counsel
California Fair Political Practices
Commission
428 J Street
P. O. Box 807
Sacramento, California 95804-0807

Dear Ms. Donovan:

Thank you for counseling with me with respect to the speech I intend to deliver at the McGeorge Law School graduation ceremony on Saturday, May 19.

I have deleted any possible reference to governmental activities which, in the stretch in someone's imagination, might be construed to be in violation of Prop. 73.

Thank you for your counsel and my best wishes for a speedy and easy delivery of your first child.

Respectfully yours,

A handwritten signature in cursive script that reads "David N. Eagleson".

DAVID N. EAGLESON

DNE/cr



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