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**COMMISSIONER ELLEN L. WEINTRAUB**  
**FEDERAL ELECTION COMMISSION**  
WASHINGTON, D.C. 20463

**AGENDA ITEM**

**For the meeting of**

**June 8, 2022**

**AGENDA DOCUMENT NO. 22-23-A**

**SUBMITTED LATE**

**MEMORANDUM**

TO: Commission  
FROM: Commissioner Ellen L. Weintraub *ELW*  
SUBJECT: Audit Division document regarding Excessive Contributions remaining  
After the *Cruz* decision in Mike Braun for Indiana audit (A19-02)  
DATE: June 2, 2022

Attached for the Commission's consideration at its June 8 open meeting is a document prepared by the Audit Division that explains its analysis of excessive contributions accepted by Mike Braun for Indiana and the effect on that analysis of the Supreme Court's decision in *FEC v. Cruz*. As shown in the document, even after the Supreme Court's decision is fully taken into account, \$732,429 in excessive contributions remain.

The original document was prepared by Audit and distributed to the Commission after the Commission's March 10, 2022 vote on the ADRM in this matter. It was prepared in anticipation of the *Cruz* decision, but before the decision was handed down. (This version also includes a subsequent clarifying edit from the Audit Division.) The Commission did not have the benefit of this detailed analysis at the time it voted on the ADRM.

At the meeting, I plan to make a motion to include a finding on these \$732,429 in excessive contributions in the Commission's Report of this audit.

Attachment

**Mike Braun for Indiana (MBFI)  
Excessive Contributions from Individuals**

**Remaining Excessive Contributions (if Candidate Repayment Limits are Eliminated)**

<b>Excessive Contributions - Testing Method</b>	
Sample Projection Amount <sup>1</sup>	\$351,529
High Dollar Review Contribution Error Amount	\$380,900
<b>Total Amount of Excessive Contributions</b>	<b>\$732,429</b>
<b>Reason for Excessive Contributions</b>	
Contributions not resolved via presumptive letter or refund	\$551,029
Contributions not resolved via signed reattribution letter or refund	\$87,500
Contributions refunded untimely or untimely presumptive letter/signed reattribution letter	\$93,900 <sup>2</sup>
<b>Total Amount of Excessive Contributions</b>	<b>\$732,429</b>

**Reasons for Excessive Contributions (if Candidate Repayment Limits are Eliminated)**

If the Supreme Court decision eliminates the \$250,000 limit on candidate loan repayments, MBFI will then have primary and general election debt, in the form of outstanding candidate loans. This debt, in turn, will make some contributions received after the primary and general elections, no longer excessive. A review of MBFI's contributions, taking this likely Supreme Court decision into consideration, would result in excessive contributions totaling \$732,429, reduced from the \$898,166 that previously remained, after MBFI's Draft Final Audit Report response (see chart on pg 2).

The Audit staff reviewed the documents provided by MBFI (solicitation forms, contributor forms, check copies, credit card documentation) and determined contributions were excessive for the following reasons:

<sup>1</sup> The sample error amount (\$351,529) was projected using a Monetary Unit Sample with a 95 percent confidence level. The sample estimate could be as low as \$283,428 or as high as \$634,957.

<sup>2</sup> If the Supreme Court decides the \$250,000 limit is unconstitutional in the Cruz matter, then MBFI provided untimely presumptive letters and refunds totaling \$44,400 and signed reattribution letters totaling \$49,500.

- Joint Account checks with only one signature that are reattributed to another contributor; MBFI did not have the presumptive notification
- Joint Account checks presumptively redesignated to another election; MBFI did not have the presumptive notification
- Single Account checks presumptively redesignated to another election; MBFI did not have the presumptive notification
- Single Account checks presumptively reattributed to another contributor; MBFI did not have the signed letter to reattribute the contribution
- Credit card contributions presumptively redesignated to another election; MBFI did not have the presumptive notification
- Contributors reached the limit for the elections, so refunds were required
- MBFI untimely resolved the excessive portions of contributions

**Remaining Excessive Contribution - After MBFI Response to the Draft Final Audit Report**

<b>Excessive Contributions - Testing Method</b>	
Sample Projection Amount <sup>3</sup>	\$494,066
High Dollar Review Contribution Error Amount	\$404,100
<b>Total Amount of Excessive Contributions</b>	<b>\$898,166</b>
<b>Reason for Excessive Contributions</b>	
Contributions not resolved via presumptive letter or refund	\$268,310
Contributions not resolved via signed reattribution letter or refund	\$566,556
Contributions refunded untimely or untimely presumptive letter /signed reattribution letter	\$63,300 <sup>4</sup>
<b>Total Amount of Excessive Contributions</b>	<b>\$898,166</b>

<sup>3</sup> The sample error amount (\$494,066) was projected using a Monetary Unit Sample with a 95 percent confidence level. The sample estimate could be as low as \$364,179 or as high as \$858,246.

<sup>4</sup> MBFI provided untimely presumptive letters and refunds totaling \$49,800 and signed reattribution letters totaling \$13,500.