



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

MEMORANDUM

September 10, 2021

TO: Patricia C. Orrock
Chief Compliance Officer

FROM: Neven F. Stipanovic *NFS*
Associate General Counsel
Policy Division

Lorenzo Holloway *LH*
Assistant General Counsel
Compliance Advice

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SUBJECT: Draft Final Audit Report on Mike Braun for Indiana (LRA 1096)

I. INTRODUCTION

The Office of the General Counsel has reviewed the draft Interim Audit Report ("Report") on Mike Braun for Indiana ("Committee"). The Report contains seven findings: (1) Misstatement of Financial Activity; (2) Failure to File 48-Hour Notices; (3) Disclosure of Occupation and/or Name of Employer; (4) Receipt of Apparent Prohibited Contributions — Loans; (5) Receipt of Contributions in Excess of the Limit; (6) Disclosure of Memo Entries and Candidate Loans; and (7) Prohibited Candidate Personal Loan Repayments. We comment on Finding 4 and otherwise concur with the findings. If you have any questions, please contact Danita Alberico, the attorney assigned to this audit.

II. RECEIPT OF APPARENT PROHIBITED CONTRIBUTIONS — LOANS (Finding 4 – Corporate Contributions Reported as Candidate Loans)

The Audit Division identified two checks received by the Committee totaling \$1,500,000 that appear to be from a corporation. The checks were from Meyer Distributing, but the Committee reported them as loans from the Candidate's personal funds. The Committee never repaid the \$1,500,000. In the Interim Audit Report, the Audit Division recommended that the Committee demonstrate that these funds were the personal funds of the Candidate. In response, the Committee contended that the funds were the Candidate's personal funds because Meyer Distributing paid the Candidate \$1,500,000 to purchase his stock. The Committee stated that the Candidate paid personal income taxes on these funds. In support of its contentions, the Committee submitted a letter from Gary Brick, certified public accountant, to show that the two checks totaling \$1,500,000 were from permissible sources. The Audit Division asks whether the letter from Mr. Brick is sufficient to conclude that the funds were permissible. We do not believe that it is. However, we recommend that the auditors raise the issue for the Commission's consideration.

Personal funds of a candidate include income received during the current election cycle, including income from the candidate's stocks or other investments including interest, dividends, or proceeds from the sale or liquidation of such stocks or investments. 11 C.F.R. § 100.33(b)(2). The letter from Mr. Brick does not establish that the two checks totaling \$1,500,000 were the proceeds from the sale of the Candidate's stock, as the Committee contends. Mr. Brick's letter does not contain any assertions of personal knowledge regarding the source of the funds for the Candidate's loan to the Committee. Instead, the letter is Mr. Brick's analysis of information and documents that Mr. Brick appears to have reviewed. For the Audit Division to verify whether the funds at issue were the Candidate's personal funds, however, they must review the actual documents which effectuated the purported stock sale. *See* 11 C.F.R. § 104.14(b)(1) (Political committees must maintain records which provide in sufficient detail the necessary information and data from which filed reports and statements may be verified). A record such as a stock purchase agreement between the Candidate and Meyers Distributing, or the financial documents that Mr. Brick reviewed, may aid the auditors in verifying whether the two checks were the Candidate's personal funds. The Commission, however, has the discretion to accept or reject Mr. Brick's conclusions. We, therefore, recommend that the Audit Division raise this issue in the cover memorandum to the Commission that will accompany this audit report.