UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

Center for Public Integrity,	
Plaintiff,	
v.	Civil Action No. 17-1162 (CRC)
Federal Election Commission,	ECF
Defendant.	

PLAINTIFF'S REPLY IN SUPPORT OF ITS CROSS-MOTION FOR SUMMARY JUDGMENT

In its Cross-Motion for Summary Judgment (Docket No. 13, at 5), Plaintiff argued that the @altFEC emails must contain some segregable, non-exempt information, such as the names of the senders and recipients, and the dates of the emails. In response, Defendant has apparently conceded the point and disclosed this information via its Vaughn index (Docket No. 16-1). Given this, there is no legal basis for Defendant to withhold these emails in full. The Freedom of Information Act requires that they be released in redacted form, if not in full.

Plaintiff has separately moved for *in camera* review of the withheld records (Docket No. 15). If granted, *in camera* review would provide the Court with evidence as to whether there is other information that is both non-exempt and segregable. Whether to order in camera review is, of course, a matter within the Court's discretion. See *Ray v. Turner*, 587 F.2d 1187, 1195 (D.C. Cir. 1978) (per curiam).

If, as Defendant has urged, the Court does not order *in camera* review, then the Court must find that Defendant has not met its burden to justify its withholdings. It has not provided any evidence that the records contain no reasonably segregable non-exempt information. The

Declaration submitted (Docket No. 12-1, at ¶ 6) states only that Defendant's "Administrative Law Team *concluded* that the remaining 14 pages of documents ... did not contain any reasonably segregable non-exempt information." (emphasis added) The Court may credit testimony (or a declaration) that *describes* the contents of the documents, but the *de novo* review required under FOIA (at 5 U.S.C. § 552(a)(4)(B)) necessarily bars the Court from accepting an agency's conclusions unsupported by evidence.

For these reasons and those stated in the previous Memorandum of Points and Authorities, the Court should grant Plaintiff's Cross-Motion for Summary Judgment.

Respectfully submitted,

/S/

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