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C L A R E L O C K E

L L P

MEGAN L. MEIER

April 2, 2021

Via Email

Patrick Colbeck

Email: patrick@mifreedomcenter.org

Re: Your False Statements and Self-Serving Disinformation Campaign Against Dominion

Mr. Colbeck:

We write again on behalf of US Dominion, Inc.¹ Since the November 2020 election, you have repeatedly and falsely claimed that the election in Michigan (and elsewhere) was stolen through the manipulation of vote counts in Dominion machines, including before Michigan's Republican-led State Legislature and in Mike Lindell's false and defamatory "documentary," *Absolute Proof*.

You have now taken your disinformation campaign on the road, touring Michigan, giving a PowerPoint presentation titled, "Case for MI Decertification" (the "Presentation"), and falsely blaming Dominion for stealing the election from former President Trump. You are knowingly sowing discord in our democracy, all the while soliciting exorbitant amounts of money—***totaling over \$1 million so far***—from your audiences paid directly to your personal business. Throughout the many stops on your disinformation campaign across Michigan, you have regurgitated the failed arguments put forward by, among others, Sidney Powell, Mike Lindell, Patrick Byrne, Russell Ramsland, Josh Merritt, Navid Keshavarz-Nia, Mellissa Carone, and other proven liars, passing off your and their widely ridiculed and already dismissed claims as "new evidence" to deceive your audiences for money.

So there is no doubt whatsoever that your claims are not just false but have been repeatedly debunked by bipartisan election officials, actual election security experts, judges, and numerous Trump administration officials and allies, we have included links to the four separate lawsuits Dominion has filed against Sidney Powell, Rudy Giuliani, Mike Lindell, and Fox News Network, LLC for broadcasting the same lies about Dominion.² Because your demonstrably false claims have caused and continue to cause enormous irreparable harm to Dominion, its employees, and

¹ We also represent and write on behalf of its subsidiaries, Dominion Voting Systems, Inc., and Dominion Voting Systems Corporation (collectively, "Dominion").

² *Dominion v. Powell et al*, No. 1:21-cv-00040 (D.D.C. Jan. 8, 2021), <https://www.courtlistener.com/docket/29090821/1/us-dominion-inc-v-p>; *Dominion v. Giuliani*, No. 1:21-cv-00213 (D.D.C. Jan. 25, 2021), <https://www.courtlistener.com/docket/41955367/1/us-dominion-inc-v-giuliani>; *Dominion v. My Pillow, Inc. et al*, No. 1:21-cv-00445 (D.D.C. Feb. 22, 2021), <https://www.courtlistener.com/docket/59670901/1/us-dominion-inc-v-my-pillow-inc/>; *Dominion v. Fox News Network, LLC*, No. 21C-03-257 (Del. Super. Ct. Mar. 26, 2021), <https://www.documentcloud.org/documents/20527880-dominion-v-fox-news-complaint>.

American democracy, we write to demand that you retract your false claims and set the record straight, as set forth below.

I. Your Presentation Relies on Proven Liars and Discredited Individuals, and Utterly Fails to Meaningfully Source Any of the Data or Statistics in It.

As an initial matter, throughout your Presentation, you reference and rely on the same proven liars and discredited individuals that courts and (actual) experts alike have thoroughly discredited, including:

- **Russell Ramsland**. Throughout your Presentation, you tout Russell Ramsland as a source of “evidence” that Dominion machines rigged the 2020 election in Michigan. But as you are no doubt aware, Ramsland is a failed Republican congressional candidate and a deep-state conspiracy theorist who claimed, among other facially ludicrous and inherently improbable things, that George Soros, while less than 10 years old, helped form the “Deep State” in Nazi Germany in the 1930s—along with President George H.W. Bush’s father, the Muslim Brotherhood, and leftists.³ And this is the same Russell Ramsland who, in a sworn affidavit claiming that voting “exceeded 100%” in *Michigan*, listed and cited to 44 precincts in *Minnesota*—and even then, none of those precincts reported having more votes than registered voters.⁴
- **Melissa Carone**. You likewise claim that Melissa Carone—someone who was hired through a staffing agency for one day of work on election day to clean glass on machines and complete other menial tasks—is a source of “evidence” that Dominion’s machines were connected to the internet while tabulating votes. Carone, as you know, notoriously went viral—in the bad way—when Rudy Giuliani had to “shush” her for leveling unhinged accusations at Republican officials in Michigan who asked her follow-up questions about her dubious claims. But more importantly, Wayne County Circuit Judge Timothy Kenny determined that her accusations—*as well as yours*—were “simply not credible.”⁵
- **Josh Merritt aka “Spyder”**. On page 65 of your Presentation, you refer to a 305th Military Intelligence Battalion Analyst as providing evidence both for foreign control of Dominion machines and that Dominion machines were connected to the internet. And on page 82, you published a screenshot from that same analyst’s affidavit.⁶ As you are aware, that so-called analyst is Josh Merritt, code-name “Spyder,” who was outed as a total fraud by the Washington Post because he admitted to knowingly signing, under penalty of perjury, a “misleading” declaration falsely claiming he was a “military intelligence expert” even though he has *never* worked in military intelligence and even though a

³ John Savage, *Texas Tea Partiers Are Freaking Out Over ‘Deep State’ Conspiracy Theories*, Vice (Sept. 30, 2018), <https://www.vice.com/en/article/mbwgxx/texas-tea-partiers-are-freaking-out-over-deep-state-conspiracy-theories>.

⁴ Louis Jacobson & Noah Kim, *Giuliani cites affidavit with crucial errors in press conference*, PolitiFact (Nov. 20, 2018), <https://www.politifact.com/factchecks/2020/nov/20/rudy-giuliani/giuliani-cites-affidavit-crucial-errors-press-conf/>.

⁵ See Op. & Order at 7, *Constantino v. City of Detroit*, No. 20-014780 (Mich. 3d Jud. Dist. Ct. Nov. 13, 2020).

⁶ Affidavit of Josh Merritt, *King v. Whitmer*, No. 20-cv-13134 (E.D. Mich. Nov. 25, 2020) [Dkt. 1-15] (“Merritt Declaration”).

spokesperson for the U.S. Army Intelligence Center of Excellence said he “kept washing out” of courses.⁷

- **Navid Keshavarz-Nia.** Also on page 65 of your Presentation, you reference Navid Keshavarz-Nia as similarly providing “evidence” of “foreign control” over Dominion machines, and you reference Keshavarz-Nia on page 77 as a source of evidence for “Security Issues.” But as you are also aware, his claims about the 2020 election were described by then-CISA director and Trump-appointee Chris Krebs as “nonsense.”⁸

But your Presentation doesn’t just promote and endorse knowingly unreliable sources; you also largely fail to provide your audience with any sourcing for the incendiary—and flat-out wrong—data you reference throughout. For example, in your series of slides on the “Big switch” in Kent, Macomb, Oakland, and Wayne Counties (pages 26-30), you simply cut-and-pasted unsourced screenshots of random data and passed it off as legitimate.⁹ Tellingly, after you posted your Presentation and summary to your website on January 6, 2021, you promised your readers that, “A link to the evidence cited in this post will be provided as soon as all of the materials have been uploaded to the site.” But of course, you have never posted any evidence to your website or made any actual evidence public.

II. There was no “Little Switch” in Antrim County and no “Big Switch” in Kent, Macomb, Oakland, or Wayne Counties.

As part of your disinformation campaign across Michigan and starting on page 24 of your Presentation, you cite to and repeat the false claims from both Ramsland’s Antrim County report and his deeply flawed affidavit filed in Sidney Powell’s sham lawsuit in Michigan to claim that there was both a “Little Switch” in Antrim County and a “Big Switch” in Kent, Macomb, Oakland, and Wayne Counties. In other words, you are spreading the lie that Dominion machines manipulated vote counts in all five of those counties to steal Michigan from Trump.

- A. There is no actual controversy surrounding Dominion machines in Antrim County—the initial issue was a result of human error and swiftly corrected, and Ramsland’s report is a proven sham.**

As an initial matter, voters in Antrim County, Michigan used pens and pencils to hand mark paper ballots, which remain in the custody of Republican election officials in Antrim County. Dominion machines simply counted the votes on those paper ballots. If foreign countries, hackers, Democrats, space aliens, or anyone else had hacked into the Dominion machines in Antrim County

⁷ Emma Brown, Aaron C. Davis & Alice Crites, *Sidney Powell’s secret ‘military intelligence expert,’ key to fraud claims in election lawsuits, never worked in military intelligence*, Washington Post (Dec. 11, 2020), available at, https://www.washingtonpost.com/investigations/sidney-powell-spider-spyder-witness/2020/12/11/0cd567e6-3b2a-11eb-98c4-25dc9f4987e8_story.html.

⁸ Zach Montellaro and Kyle Cheney, *Pro-Trump legal crusade peppered with bizarre blunders*, Politico (Dec. 3, 2020), available at, <https://www.politico.com/news/2020/12/03/sidney-powell-trump-election-lawsuit-442472>.

⁹ However, you—and we—know that the data from pages 26 and 30 were pulled directly from Ramsland’s affidavit. See Affidavit of Russell James Ramsland, Jr., *King v. Whitmer*, No. 20-cv-13134 (E.D. Mich. Nov. 25, 2020) [Dkt. 1-14] (“Ramsland Affidavit”).

and manipulated the vote tallies in those machines, then the machine tallies would not match the votes on the paper ballots in the possession of the Republican county officials. In fact, they do match, as confirmed by a hand recount of the paper ballots.¹⁰ Therefore, your claim on page 24 of your Presentation that “If you Count the Paper Ballots In Each State Trump Wins Overwhelmingly” is false, including as to Antrim County, and you must immediately retract it.

But above and beyond the fact that the hand recount conclusively disproves Ramsland’s (and your) false accusations, Ramsland’s report also contains a staggering number of inaccuracies; obvious misrepresentations about election procedures, hardware, and software; and other obvious indicia of unreliability. It is fraught with errors and gross misrepresentations of election security and voting machines and software. For example:

- The report references the “allowable election error rate established by the Federal Election Commission.” The FEC does not regulate voting machines or software. It regulates campaign finance. The authors of the report apparently confused the FEC and the Election Assistance Commission (“EAC”) because they lack basic familiarity with election security and the regulations pertaining to it. Dominion’s election voting system suite is, as you know, certified by the EAC.
- The report also says that a “forensics team” “perform[ed a] forensic duplication of the Antrim County Election Management Server running Dominion Democracy Suite 5.5.3-002.” But there is no Democracy Suite 5.5.3-002. Instead, 5.5.3-002 is the version of the ImageCast Precinct tabulator (i.e., the actual scanner), not the election management server or software. This demonstrates that the report’s creators don’t even know the difference between the relevant hardware, software, and servers involved.
- The report also claims that “all adjudication log entries for the 2020 election cycle are missing” and must have been “manually removed.” In fact, Antrim County only purchased (and therefore only used) certain components of Dominion’s voting system suite; they neither purchased nor used nor possessed the hardware required to use the adjudication software. Therefore, no adjudication log entries were “manually removed” because there were no adjudication log entries to begin with.
- The report’s claim of a 68% “error rate” evidences a fundamental misunderstanding of election software. The report bases that so-called “error rate” off the tabulation logs. But the tabulation logs do not reflect the machine’s tabulation of votes; they record activities logged by the machine during the tabulation process. So the report’s claim that “these ... tabulation totals were used as the official results” is false (because they are a recording of machine activity, not votes). Simply put, the authors of the report grossly misrepresented what the logs show. While the report asserts that a huge percentage of machine activity reflected in the tabulation logs were “errors” or

¹⁰ *Trump still wins small Michigan county after hand recount*, Associated Press (Dec. 17, 2020), <https://apnews.com/article/election-2020-joe-biden-donald-trump-michigan-elections-07e52e643d682c8033a0f26b0d863387>.

“warnings,” it offers no explanation of how its authors identified or defined an “error” or “warning.” The report references three settings—“reverse,” “divert,” and “override”—as examples of these so-called “critical errors” or “warnings.” But these are not “errors.” They are parameters used in the tabulator to handle ballots that, for example, include write-in candidates or ballots that contain votes for two candidates for the same office. Calling these “errors” is analogous to claiming that the low fuel indicator light turning on in a car is an “error”—it is of course not an error; the car is operating precisely how it is supposed to. Similarly, just because the tabulator recorded, for example, “divert,” does not mean that there was an error with the ballot or the vote; precisely the opposite—it means that the machine operated properly in response to that ballot.

People who are actually knowledgeable about election security and procedures in Antrim County promptly, publicly, and forcefully rebutted Ramsland’s report. Antrim County officials determined—and publicly announced—that the report was “riddled with false and unsupported claims, baseless attacks, and incorrect use of technical terms.”¹¹ Similarly, the former acting director of the EAC’s Voting System Testing and Certification program said that the report showed a “grave misunderstanding” of Antrim County’s voting system and “a lack of knowledge of election technology and process.”¹² Michigan’s Attorney General and Secretary of State issued a joint statement that the report was “critically flawed, filled with dramatic conclusions without any evidence to support them.”¹³ And the Republican county clerk for Antrim County stated that the report contained “many misleading statements” and was “simply not accurate.”¹⁴

As you are well aware from numerous credible sources in the public domain, the issue in Antrim County was caused by human error, not Dominion machines:

- The Office of Michigan’s Secretary of State publicly announced that the “erroneous reporting of unofficial results in Antrim county was a result of accidental error on the part of the Antrim County Clerk. The equipment and software did not malfunction and all ballots were properly tabulated.”¹⁵

¹¹ See Ali Swenson, *Report spreads debunked claims about Dominion machines in Michigan county*, Associated Press (Dec. 15, 2020), <https://apnews.com/article/fact-checking-afs:Content:9847904839>.

¹² See Todd Spangler, *Former election security chief for Trump knocks down Antrim County report*, The Detroit Free Press (Dec. 16, 2020), <https://www.freep.com/story/news/politics/elections/2020/12/16/antrim-county-report-debunked-by-former-trump-election-official/3923499001/>.

¹³ AG, SOS: *Plaintiff’s Report in Antrim County Election Lawsuit Demonstrates Lack of Credible Evidence in Widespread Fraud or Wrongdoing*, Michigan Dep’t of Attorney General (Dec. 14, 2020), https://www.michigan.gov/ag/0,4534,7-359-92297_47203-547422-,00.html.

¹⁴ Craig Mauger, *Michigan election officials slam report on votes in Antrim County*, The Detroit News (Dec. 14, 2020), <https://www.detroitnews.com/story/news/politics/2020/12/14/michigan-judge-allows-release-report-antrim-county-voting/6537394002/>.

¹⁵ The Office of Secretary of State Jocelyn Benson, *False claims from Ronna McDaniel have no merit* (Nov. 6, 2020), https://www.michigan.gov/sos/0,4670,7-127-1640_9150-544676-,00.html.

- A spokesperson for the Michigan Secretary of State confirmed, “We have not seen any evidence of fraud or foul play in the actual administration of the election ... What we have seen is that it was smooth, transparent, secure and accurate.”¹⁶
- Following a bipartisan investigation into the vote in Antrim County, Michigan, the state’s Republican Senate Majority Leader Mike Shirkey announced, “Our investigation, which has been very intense, discovered none, none of the allegations and accusations against Dominion [are] true.”¹⁷

There was no malfeasance in Antrim County—and you know it.

B. There was no “Big Switch” in Kent, Macomb, Oakland, and Wayne Counties—two of which are counties Dominion does not even operate in.

Just as damning as your knowingly false claims about the “Little Switch” in Antrim County are your completely fabricated claims about the “Big Switch” in Kent, Macomb, Oakland, and Wayne Counties on page 25 of your Presentation. For starters, *Dominion does not operate in Macomb or Oakland county*. And the scanning capacity of the machines used in Wayne County alone exceeds 200,000 ballots during the so-called “Spike Duration”—far more than you claim in your false Presentation. It is not surprising that the statistics you cite on page 25 of your Presentation are completely wrong—they were entirely made up by Ramsland in his affidavit for Powell’s sham Michigan lawsuit.¹⁸

Therefore, your claim that “At least 289,866 ballots illegal votes [sic] were cast” is demonstrably false, and you must cease making it and retract it immediately.

C. Rank Choice Voting was not implemented in Michigan. Period.

Similarly, you claim on page 30 of your Presentation that Dominion’s machines used a “Rank Choice Voting Module” to weight votes for Biden over Trump. Your claim is based on random numbers you swiped from Ramsland’s affidavit showing decimals of total votes. Just like your (and Ramsland’s) other claims, this one also falls apart under the slightest amount of scrutiny.

First, there is nothing at all nefarious about the idea of ranked choice voting. Indeed, it is precisely how certain jurisdictions in the United States elect their leaders. However, as you well know, Michigan does not use ranked choice voting for its elections and no Dominion machines in Michigan had this feature. Your and Ramsland’s ranked choice voting fear mongering is a complete red herring.

¹⁶ Nick Corasaniti, Reid J. Epstein & Jim Rutenberg, *The Times Called Officials in Every State: No Evidence of Voter Fraud*, N. Y. Times (Nov. 10, 2020), <https://www.nytimes.com/2020/11/10/us/politics/voting-fraud.html>.

¹⁷ Abigail Censky, *How Misinformation Lit The Fire Under A Year Of Political Chaos In Michigan*, NPR (Jan. 1, 2021), <https://www.npr.org/2021/01/01/952528193/how-misinformation-lit-the-fire-under-a-year-of-political-chaos-in-michigan>.

¹⁸ See Ramsland Affidavit.

Second, there is absolutely no evidence that the random “excerpt” Ramsland pasted into his affidavit—and you co-opted for your Presentation—is at all accurate (it is not), and the only indication as to where he got that data from is a vague reference to a “direct feed to news outlets.” Notably, in your Presentation, you altered that source to “Dominion’s Direct Feed to Edison,” but it has been publicly reported that Edison Research refuted any claims that its data shows any vote manipulation.¹⁹

Third, you have repeatedly peddled the lie that rank choice voting was used in Michigan to anyone who will listen, including and specifically Michigan’s Republican-led State Legislature. But those legislators rejected your claims and you have refused to produce to those legislators (or anyone else) the evidence or actual sources showing this fractional voting—because as you know, none exists.

Lastly, and most importantly, if your data is indeed from Edison Research, it is not at all proof that there was any fractional voting used. As Edison Research notes in descriptions of its methodology, its National Election Pool (NEP) is explicitly not a real-time tracker of actual vote counts—instead, the NEP reports “the status of the vote count as a percentage of total expected vote.”²⁰ That is why, if your numbers are even real, Edison Research’s data *might* show fractional numbers rather than whole ones. As an “aerospace engineer,” this fact certainly did not escape your knowledge, but you recklessly disregarded your own knowledge in order to falsely claim that a rank choice module that does not exist on Michigan’s Dominion machines must have been implemented.

Indeed, if you actually had evidence of any fractional voting or any vote manipulation, you would provide it. The fact that you have repeatedly refused to publish or publicly provide any of your evidence—whether it is to the Michigan State Legislature or to visitors to your website—proves that you have none and that you are knowingly spreading lies about Dominion.

* * *

Your continued efforts to falsely undermine the results in Michigan (and elsewhere) by claiming that votes were manipulated, flipped, deleted, or weighted in favor of Biden over Trump *for money* has caused irreparable damage to Dominion in Michigan and beyond, and must stop immediately.

III. Dominion Machines Were Not Connected to the Internet During Vote Tabulation.

On page 17 of your Presentation, you falsely claim that “Tabulators, Adjudicators, and Detroit Election Official computers were networked together on a network connected to the internet,” which led to the systems being hacked by nefarious foreign actors from Iran, China, and elsewhere. But yet again, you have absolutely *no evidence* to back up these false claims and indeed,

¹⁹ Alec Dent, *Did Edison Research Find That Dominion Deleted Trump Votes or Switched Votes to Biden?* No., The Dispatch (Nov. 12, 2020), <https://factcheck.thedispatch.com/p/did-edison-research-find-that-states>. Even OAN, which has similarly peddled lies about Dominion, retracted a story connecting Edison Research with claims that Dominion software manipulated vote counts.

²⁰ Joe Lenski, *NEP Methodology for total expected vote*, Edison Research (Oct. 19, 2020), http://graphics.thomsonreuters.com/data/election-assets/img/NEP_ExpectedVoteMethodology.pdf.

you have deceptively manufactured and mischaracterized publicly available information to fit your false narrative about Dominion.

First, on page 21 of your Presentation, you state that your false claim about internet connectivity is based on “Exhibit 19 in Sidney Power [sic] Michigan lawsuit,” which is Navid Keshavarz-Nia’s affidavit.²¹ But, as noted above and as you well know, he is a wholly unreliable source and his affidavit is a work of fiction. Here are just a few highlights:

- He touts the nonexistent “Hammer and Scorecard tools” as the means by which Dominion’s machines can be penetrated, attributing that information to, among others, Dennis Montgomery—the “maestro behind what many current and former U.S. officials and others familiar with the case now believe was one of the most elaborate and dangerous hoaxes in American history.”²² The fact is that the “Hammer and Scorecard” conspiracy theory has been publicly debunked by *actual* experts like Trump appointee and election security expert Chris Krebs and other credible sources.²³
- He claimed that “In another case for Edison County, MI, Vice President Biden received more than 100% of the votes at 5:59PM EST on November 4, 2002, and again he received 99.61% of the votes at 2:23PM EST on November 5, 2020,” which he claimed “indicate fraud.”²⁴ But there is a huge problem with this claim: *there is no “Edison County” in Michigan or anywhere in the United States.*
- He claimed—without any evidence at all—that Dominion transferred data to Scytl for vote counting in Spain, Germany, and other places in Europe. But of course, all votes are counted in the U.S. by local election officials—*not by Dominion*—and Dominion’s voting systems are, by design, meant to be used as closed systems that are not networked, and therefore it is technologically impossible to access or manipulate votes remotely through Dominion machines. Furthermore, Scytl has expressly noted that (1) it has no “servers or computers in Germany,” (2) any Scytl technologies used in the U.S. “are hosted and managed within the United States by our local subsidiary, SOE Software, based in

²¹ See Affidavit of Navid Keshavarz-Nia, *King v. Whitmer*, No. 20-cv-13134 (E.D. Mich. Nov. 25, 2020) [Dkt. 1-19] (“Keshavarz-Nia Affidavit”).

²² Travis Daub, *How a Reno casino con man duped the CIA and pulled on the of the ‘most dangerous hoaxes’ in American History*, PBS (Oct. 14, 2014), available at, <https://www.pbs.org/newshour/nation/reno-casino-conman-pulled-greatest-hoax-american-history>.

²³ Chris Krebs (@CISAKrebs), Twitter (Nov. 7, 2020), <https://twitter.com/CISAKrebs/status/1325188644966117376>; Jon Greenberg, *Debunking the ‘Hammer and Scorecard’ election fraud conspiracy theory*, PolitiFact (Nov. 10, 2020), <https://www.politifact.com/factchecks/2020/nov/10/pamela-geller/debunking-hammer-and-scorecard-election-fraud-cons/>; Angelo Fichera & Saranac Hale Spencer, *Bogus Theory Claims Supercomputer Switched Votes in Election*, FactCheck.org (Nov. 13, 2020), <https://www.factcheck.org/2020/11/bogus-theory-claims-supercomputer-switched-votes-in-election/>.

²⁴ Keshavarz-Nia Affidavit at 7.

Tampa, Florida,” and (3) Scytl did not provide any products in the U.S. for the 2020 election that did or could “tabulate, tally or count votes.”²⁵

- He claimed that “In 2019, a computer laptop and several USB memory cards containing the cryptographic key to access [Dominion] systems were stolen in Philadelphia.” But as both you and Keshavarz-Nia are surely aware from information that was readily available in the public domain, *Dominion does not operate in Philadelphia*²⁶ and the claimed theft occurred in October 2020 and was from an *ES&S system—not Dominion*.²⁷

Second, on page 22 of your presentation, you claim that the National Institute for Standards and Technology (NIST) posted information about Dominion’s machines that provided hackers with all the information they needed to gain access to Dominion’s machines and manipulate votes. But again, you knew that this information—which Dominion and all other voting machine companies are required to provide to NIST—in no way gives anyone the information they need to hack or gain access to the machines listed. Indeed, as NIST notes on the very website you linked to in your Presentation, the very reason NIST provided this information is so that the jurisdictions using these machines can “*verify that voting software files have not been modified*” to ensure safe and secure vote tabulations—the exact opposite purpose you have baselessly asserted.²⁸

Third, you claim in your Presentation that Iranian, Chinese, and/or Russian hackers gained access to Dominion’s machines and cite again to Merritt’s and Keshavarz-Nia’s wholly unreliable statements to support those claims. But more tellingly, on page 65 of your Presentation, you cited two CISA Alerts for the prospect that Iran gained access to Dominion’s machines and manipulated vote counts. But those two CISA Alerts say no such thing. CISA Alert AA20-304A noted that an Iranian actor had targeted and potentially accessed “publicly available state websites,” which were mostly “false positives” anyway, and the information obtained resulted in “the mass dissemination of voter intimidation emails to U.S. citizens and the dissemination of U.S. election-related disinformation in mid-October 2020”—not in the acquisition of any information remotely related to hacking or manipulating actual votes.²⁹ And CISA Alert AA20-296B stated that the Iranian actors were spreading “misinformation about voter suppression, voter fraud, and ballot fraud.”³⁰ Ironically, CISA was warning the public of the precise conduct *you are engaging in*: spreading false

²⁵ Scytl strongly denies the false information related to the U.S. elections, Scytl (Nov. 13, 2020), <https://www.scytl.com/en/fact-checking-regarding-us-elections-debunking-fake-news/>.

²⁶ See Verified Voting, <https://verifiedvoting.org/verifier/#mode/search/year/2020/state/42/country/101>; Ali Swenson, *Philadelphia does not use Dominion Voting Systems technology*, Associated Press (Nov. 22, 2020), <https://apnews.com/article/fact-checking-afs:Content:9798361760>.

²⁷ Frank Bajak & Claudia Lauer, *Laptop, USB drives stolen from Philly election-staging site*, yahoo!money (Oct. 1, 2020), <https://money.yahoo.com/laptop-usb-drives-stolen-philly-185734653.html>.

²⁸ Voting Software Reference Data Set, NIST (Jan. 29, 2020), <https://www.nist.gov/itl/ssd/software-quality-group/voting-software-reference-data-set>.

²⁹ Alert (AA20-304A): *Iranian Advanced Persistent Threat Actor Identified Obtaining Voter Registration Data*, CISA (Oct. 30, 2020), <https://us-cert.cisa.gov/ncas/alerts/aa20-304a>.

³⁰ Alert (AA20-296B): *Iranian Advanced Persistent Threat Actors Threaten Election-Related Systems*, CISA (Oct. 22, 2020), <https://us-cert.cisa.gov/ncas/alerts/aa20-296b>.

and baseless claims about voter and ballot fraud in order to sow discord in the 2020 election and, in your case, to solicit over \$1 million in “donations” from your audiences.

Fourth, the information and screenshots on pages 80 and 81 of your Presentation do not show that Dominion’s machines were connected to the internet while tabulating votes, such that anyone could or did gain access and manipulate vote counts; rather they demonstrate two entirely different circumstances. The information you portray on page 80 refers to an external modem that Dominion is required to provide to jurisdictions that mandate momentary internet access to transmit unofficial results to the county clerk (*while a paper tally is actually hand-delivered to the county clerk*). But that connection is only established and those unofficial results are only transmitted *after the results have been tallied and printed in hardcopy*. Furthermore, that limited and momentary connection is done *in plain sight of poll watchers*—a fact you know because you were present when it happened in Wayne County. Therefore, your claim that there was some sort of covert or constant internet connectivity in Wayne County or elsewhere is bogus, and you know it.

And on page 81, you copy and pasted a page from Dominion’s manual that represents a completely different circumstance—a closed loop system that is *not* connected to the internet. As an “aerospace engineer,” surely you understand the difference between machines being connected and networked locally to each other and an open internet connection. Nonetheless, you have intentionally mischaracterized these features to peddle lies that Dominion machines were hacked by nefarious foreign actors to manipulate votes and steal the election from Trump.

* * *

The fact is that all of the sources you listed as “evidence” that Dominion’s machines were connected to the internet and therefore hacked on page 65 of your Presentation do no such thing. Both Ramsland’s report and affidavit are riddled with errors and demonstrable falsehoods; Keshavarz-Nia’s and Merritt’s affidavits include lies and completely made up claims; Carone has grossly mischaracterized the role she had on election night; NIST has not provided any information to the public that allows or invites hacking, or otherwise compromises any machine’s security; and Dominion’s manuals show only what you already knew and observed—that Dominion’s machines were only connected to the internet after votes had been tabulated and the results were recorded through hardcopy paper tallies. That leaves you as the lone “source” for these bogus claims. But of course, as you were repeatedly told by county officials on election night at the TCF Facility because you repeatedly asked, Dominion’s machines were not connected to the internet during the vote tabulation process. And, as you know, Wayne County Circuit Judge Timothy Kenny determined specifically that “No evidence supports Mr. Colbeck’s [your] position.”³¹ Nonetheless, you have lied repeatedly to your audiences that Dominion’s machines were connected to the internet during the vote tabulation process, which allowed foreign actors to hack the systems and manipulate vote counts in order to dupe your audiences into giving you money.

³¹ See Op. & Order at 7, *Constantino v. City of Detroit*, No. 20-014780 (Mich. 3d Jud. Dist. Ct. Nov. 13, 2020).

IV. Dominion is Not Owned or Controlled by China, Venezuela, or Any Other Enemy of the United States.

As you well know, Dominion was not founded in Venezuela, is not owned by China, and is not manipulated by agents in Iran, Russia, or any other enemy of the United States. It was founded in 2002 in John Poulos's basement in Toronto to help people with visual impairments vote on paper ballots. By 2009, Dominion's business had grown in the United States, and a subsidiary company, Dominion Voting Systems, Inc., was incorporated in Delaware and headquartered in Denver, Colorado. By 2018, the majority of the business's customers and employees were in the United States, so Poulos sold the majority stake of the business to U.S. investors. Dominion is now headquartered in Colorado. Its systems are certified under standards promulgated by the EAC, reviewed and tested by independent testing laboratories accredited by the EAC, and were designed to be auditable and include a paper ballot backup to verify results. Dominion's source code was not designed to steal elections; it is on file with federal and state agencies and is reviewed regularly by third-party labs that are federally accredited by the EAC and NIST.

Dominion and Smartmatic are competitors; neither is owned by the other. Nor is Dominion owned by a company you claim is a front for Smartmatic, SVS Holdings. Indeed, the crude graphic you used on page 67 of your Presentation puts forth no evidence for your grasping attempt at claiming that not only does Smartmatic own Dominion, but that actually China owns them all, including known Dominion competitor, ES&S. You even cite a Delaware Chancery Court case between Smartmatic and Dominion as evidence that they "share the same software." But, as that lawsuit that you cite notes, Dominion and Smartmatic once both serviced an election in the Philippines, in which Dominion's software was licensed to Smartmatic for use in the Philippines—*not the other way around*. And, after the Department of Justice blocked Smartmatic's acquisition of an American voting machine company, Sequoia Voting Systems, Dominion purchased *Sequoia's* assets, which did *not* contain any Smartmatic software, source code, or "algorithms." But as you are well aware from your admitted review of the relevant legal documents, Smartmatic's software and source code was not used in Dominion's machines in the 2020 election. Your attempts to falsely tarnish Dominion by connecting it to Smartmatic—and ultimately Venezuela and China—demonstrate that you understood the relevant documents and that you know your accusations about Dominion are false.

Unsurprisingly, these wild and false allegations appear to be based on the say so of proven liars Merritt and Keshavarz-Nia. But that didn't stop you from using them to misleadingly bolster your claim that the Chinese Communist Party—through UBS and now HSBC—owns and controls Dominion. You even copy-and-pasted Merritt's blurry screenshot showing a patent assignment from Dominion to HSBC Bank Canada (as Collateral Agent), falsely labeling it as evidence that the Chinese Communist Party owns Dominion's security patents.³² But of course, as the AP pointed out, this is yet another "bogus theory promoted by conspiracy websites that stems from a misrepresentation of an SEC filing."³³ And a subsequent fact check by USA Today showed that not only have people like you falsely conflated UBS's New York affiliate with a Chinese counterpart, but

³² See Merritt Affidavit.

³³ Ali Swenson, *Lengthy video makes false claims about 2020 election*, Associated Press (Dec. 24, 2020), <https://apnews.com/article/fact-checking-afs:Content:9900544617>.

the “U.S.-based bank” only “brokered an exchange of securities between institutional investors and private equity firm Staple Street Capital III L.P., but it did not invest in the company.”³⁴ No Chinese entity—let alone the Chinese Communist Party—played any role in either the security exchange or any patent assignment and you have been lying to your audiences throughout your disinformation campaign across Michigan in order to solicit over \$1 million in “donations” to your personal business.

V. It Is Time to Set the Record Straight.

You successfully duped thousands of people across Michigan into believing that the 2020 election was stolen through the manipulation of vote counts in Dominion machines, and you have reaped the benefits from it. You claim to be a University of Michigan-educated aerospace engineer who worked on and helped design the International Space Station.³⁵ You had the precise education and background to know that the data you were looking at was bogus, manipulated, and manufactured out of whole cloth, and to know when a machine is connected to the internet and when it is just plugged into another machine in the same room. And even after your false claims about Dominion were rejected at every turn, you nonetheless took your disinformation campaign on the road.

We do not yet fully understand why someone of your intelligence, academic pedigree, and experience would deliberately mislead the world about the integrity of an American election. We strongly suspect that you maintain political aspirations and will run for governor again in Michigan in 2022, and we know the lengths you are willing to go to try and get what you want, including by falsely accusing a political opponent of ties to terrorism simply because he is a Muslim American.³⁶

But what we do know is that you are raising exorbitant amounts of money—reportedly *more than \$1 million* to date—from your audiences and followers during your disinformation campaign across Michigan. Indeed, when soliciting “donations,” you direct people to donate via PayPal to your privately-owned, for-profit business, Perspective Shifts LLC.³⁷

³⁴ Chelsey Cox, *Fact check: Claim of Chinese investment in Dominion Voting Systems confuses UBS subsidiaries*, USA Today (Jan. 23, 2021), <https://www.usatoday.com/story/news/factcheck/2021/01/23/fact-check-dominion-voting-systems-foreign-investment-claim-false/4038654001/>.

³⁵ Patrick Colbeck, LinkedIn, <https://www.linkedin.com/in/patrickcolbeck/>.

³⁶ Alice Yin, *Michigan candidate criticized over anti-Muslim remarks*, Associated Press (Apr. 26, 2018), <https://apnews.com/article/95e1bf8c8812426e9ac2aeba1dffad0f>.

³⁷ PayPal, Perspective Shifts LLC, https://www.paypal.com/donate/?hosted_button_id=GNX9S63EGWQD8.



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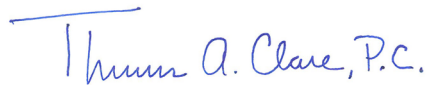
The harm you have caused Dominion in Michigan and beyond is irreparable. Each day that passes and you continue to spread lies about Dominion, the more likely it becomes that Michigan and other states decide not to do business with Dominion—not because what you are saying is true, but because you will have fomented such vitriol that election decision makers have no choice but to abandon Dominion. Make no mistake—Dominion will hold you accountable for these lies.

To that end, as we notified you in December, you have a legal obligation to preserve and retain any and all communications about Dominion—including all text messages, emails, drafts, electronic data, and documents relating in any way to the matters discussed above—for pending and future litigation relating to these matters. We trust you are honoring that legal obligation.

In light of the information that has long been known to you and is additionally set forth above, the only responsible thing for you to do at this point is to publicly and forcefully retract your false claims about Dominion and set the record straight regarding the fake evidence and fake experts you have put forward.

But let us be perfectly clear. There is nothing you can say or do at this point to undo the damage that has been done to Dominion. The company must therefore expressly reserve all legal rights against you and remind you of your ongoing obligation to preserve all materials that relate in any way to these matters.

Regards,



Thomas A. Clare, P.C.



Megan L. Meier