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BY:  DEPUTY

Attorneys for Defendant Secretary of State

IN THE FIRST JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR CARSON CITY

ZENAIDA DAGUSEN, and individual, *et al.*,

Case No.: 24 OC 00153 1B

Plaintiffs,

Dept. No. I

vs.

FRANCISCO AGUILAR, in his official
capacity as Nevada Secretary of State, *et al.*,

Defendants

SECRETARY OF STATE'S MOTION TO DISMISS

Defendant Francisco Aguilar, in his official capacity as Nevada Secretary of State ("Secretary"), hereby files his Motion to Dismiss Plaintiffs Republican National Committee ("RNC"), Nevada Republican Party ("NVGOP"), Donald J. Trump for President 2024, Inc. ("Trump Campaign" and together with RNC and NVGOP, "Organizational Plaintiffs"), and Zenaida Dagusen's Complaint for Declaratory and Injunctive Relief ("Complaint").

This Motion is made and based upon the following Memorandum of Points and Authorities and the papers and pleadings on file.

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MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

This lawsuit is part of a campaign to wrest control of Nevada's list maintenance procedures from Nevada's elections representatives and substitute Plaintiffs' policy judgments. Plaintiffs' allegations stack speculation on guesswork, but Plaintiffs still fail to provide a basis for their requested extraordinary relief.

Plaintiffs' own Complaint is evidence that Nevada's elected representatives are best situated to set policy regarding list maintenance (and that they have done so appropriately). Plaintiffs first reference then-Secretary Barbara Cegavske's statements in 2017 about the Department of Motor Vehicles ("DMV") registering individuals despite those individuals having presented evidence of non-citizenship. Compl. ¶¶ 56–57. But to the extent this stale information indicates any problem, it is one that has long since been solved: shortly after her statements, Secretary Cegavske implemented a regulatory fix that eliminated any such issues. *See* NAC 293.407–.408.

Plaintiffs next cite their own self-serving claims to Secretary Cegavske in 2021 that noncitizens were registered based on outdated DMV records. Compl. ¶¶ 58–65. As Secretary Cegavske explained in her response, *id.* ¶ 63, of those individuals, there were 4,057 with vote history for 2020, but there were also 40,676 naturalized immigrants between 2015 and 2019, and there is no reason to think these voters were not among those naturalized, Ex. 1, Sec'y Cegavske Letter at 3–4. There was and is nothing to suggest any of those voters were ineligible when they cast their votes; DMV records are a poor proxy for voter eligibility because of high rates of naturalization.

These sources failing, Plaintiffs try a third approach. They claim that by failing to adopt their preferred policies, Nevada is necessarily opening itself to noncitizen voting. *See* Compl. ¶¶ 66–102. They make outsized, speculative assumptions based on far-flung and unreliable "evidence." Even if Plaintiffs were correct that this "evidence" were probative of an issue with Nevada's voter lists, which they are not, this attempt to manufacture a problem cannot support any cognizable injury-in-fact.

1 As a result, Plaintiffs are forced to resort to piling on another level of speculation,
2 asserting that noncitizen voting means that a Democratic presidential candidate would
3 gain 2,005 votes over a Republican presidential candidate in Nevada. *See id.* ¶ 99.
4 The specificity of this allegation is an attempt to obscure its lack of soundness. Plaintiffs
5 postulate that purported noncitizen preferences for presidential candidates are indicative
6 of actual voting behavior, *see id.* ¶ 98, ignoring that such preferences say nothing about the
7 partisan lean of any subset of noncitizens that might actually cast a vote. Individuals
8 registering to vote are informed that they cannot register if they are not a U.S. citizen, and
9 swear or affirm that they are U.S. citizens.¹ There are also steep consequences that attend
10 noncitizen voting: state and federal criminal charges, and a permanent determination of
11 inadmissibility under federal immigration law. NRS 293.775(1); 18 U.S.C. § 611;
12 8 U.S.C. §§ 1182(a)(6)(C)(ii), (10)(D). Plaintiffs do not grapple with these safeguards in
13 their attempt to engineer an injury here.

14 Plaintiffs' attempts to manufacture standing here all fail. Plaintiffs cannot allege
15 any cognizable harm, and particularly not one that is traceable to anything the Secretary
16 has done. They also fail to state any claim. The Complaint should be dismissed.

17 II. LEGAL STANDARDS

18 A complaint that fails to state a claim upon which relief can be granted is due to be
19 dismissed pursuant to NRCP 12(b)(5). The pleading must be liberally construed, and all
20 factual allegations in the complaint accepted as true. *See Buzz Stew, LLC v. City of N. Las*
21 *Vegas*, 124 Nev. 224, 228, 181 P.3d 670, 672 (2008). Nevertheless, a plaintiff's allegations
22 must be legally sufficient to constitute the elements of the claims asserted. *Munda v.*
23 *Summerlin Life & Health Ins. Co.*, 127 Nev. 918, 923, 267 P.3d 771, 774 (2011). Dismissal
24 is also warranted pursuant to NRCP 12(b)(1) and 12(h)(3) "when a lack of subject matter
25 jurisdiction is apparent on the face of the complaint." *See Craig v. Donnelly*, 135 Nev. 37,
26 39, 439 P.3d 413, 415 (Ct. App. 2019) (citations omitted).

27
28 ¹ Nev. Sec'y of State, State of Nevada Voter Registration Application,
<https://www.nvsos.gov/SOSVoterRegForm/home.aspx>.

1 **III. ARGUMENT**

2 **A. Plaintiffs Do Not Have Standing²**

3 Nevada “caselaw generally requires the same showing of injury-in-fact,
4 redressability, and causation that federal cases require for Article III standing.”
5 *Nat’l Assoc. of Mut. Ins. Cos. v. Dep’t of Bus. & Indus., Div. of Ins.*, 524 P.3d 470, 476
6 (Nev. 2023) (citations omitted). Plaintiffs have failed to make that showing.

7 1. Vote Dilution. Plaintiffs claim harm based on a supposed dilution of votes.
8 *See, e.g.*, Compl. ¶¶ 7, 8, 9, 20. While vote dilution is cognizable as an injury where there
9 are “irrationally favored” voters, such as where voters from one county are disfavored based
10 on malapportionment, *see, e.g., Baker v. Carr*, 369 U.S. 186, 207–08 (1962), “a veritable
11 tsunami” of decisions confirm that vote dilution as alleged here is not cognizable as harm,
12 *O’Rourke v. Dominion Voting Sys. Inc.*, Civil Action No. 20-cv-03747-NRN,
13 2021 WL 1662742, at *9 (D. Colo. Apr. 28, 2021), *aff’d* No. 21-1161, 2022 WL 1699425
14 (10th Cir. May 27, 2022); *see also, e.g., Wood v. Raffensberger*, 981 F.3d 1307, 1314–15
15 (11th Cir. 2020) (vote dilution where “‘no single voter is specifically disadvantaged’ if a vote
16 is counted improperly” is “a paradigmatic generalized grievance that cannot support
17 standing”); *Bognet v. Sec’y Commonwealth Pa.*, 980 F.3d 336, 359 (3d Cir. 2020) (“[I]t [does]
18 not follow that every such ‘false’ or incorrect tally is an injury in fact for purposes of an
19 Equal Protection Clause claim.”), *cert. granted* 131 S. Ct. 2508 (2021) (dismissed as moot).

20 Plaintiffs do not allege disproportionate weighting of a vote relative to others’ votes
21 and cannot establish a vote dilution injury.

22 2. Competitive Harm. The Organizational Plaintiffs appear to assert competitive
23 harm to Republican presidential candidates as an injury. *See, e.g.*, Compl. ¶¶ 97–102.
24 A competitive harm occurs when a party alleges the “potential loss of an election,”
25

26 ² On a motion to dismiss, Nevada courts have not definitively resolved the issue of
27 standing as one of subject matter jurisdiction (NRCP 12(b)(1)) or as a failure to state a
28 claim (NRCP 12(b)(5)). *See Superpumper, Inc. v. Leonard*, 137 Nev. 429, 433 n.2, 495 P.3d
101, 106 n.2 (2021) (reserving question of “whether standing and subject matter
jurisdiction are distinct principles”). Either way, Plaintiffs lack standing here, and
dismissal is appropriate.

1 *Drake v. Obama*, 664 F.3d 774, 783 (9th Cir. 2011) (citation omitted), or when a party is
2 “forced to compete under the weight of a state-imposed disadvantage,” *Mecinas v. Hobbs*,
3 30 F.4th 890, 899 (9th Cir. 2022). To support this alleged harm, Plaintiffs inappropriately
4 extrapolate conclusions from outdated, small surveys. Plaintiffs’ theory of harm is plainly
5 unacceptably speculative and insufficient. *See Bd. of Pharmacy v. Cannabis Equity &*
6 *Inclusion Comm.*, Nos. 85756, 86128, 2024 WL 3664464, at *1 (Nev. Aug. 5, 2024)
7 (unpublished disposition) (“A speculative injury that ‘is merely apprehended or feared’ is
8 insufficient to establish justiciability.”).

9 As to a potential loss of an election, Plaintiffs claim a 2,005-vote advantage
10 specifically for Democratic presidential candidates. *See* Compl. ¶ 99. This competitive
11 disadvantage is based on an untenably far-afield source: the purported historical partisan
12 preferences of noncitizens. *Id.* ¶ 98. First, there is no evidence that this data is in any way
13 relevant to the purported population of noncitizens who actually vote in Nevada. Moreover,
14 this illogical leap is based on historical data from 2006 through 2023.³ *See id.* ¶ 98.
15 But voting trends have shifted markedly in 2024. While Republican presidential
16 candidates lost the popular vote from 2008 through 2020, Donald Trump won the popular
17 vote in 2024.⁴ Even if some trends could be reliably inferred from the historical dataset, it
18 is speculative that they apply today.

19 Further, the data Plaintiffs rely on to suggest 3,731 noncitizens will vote or have
20 voted in Nevada is based on a vanishingly small sample size of 64 purported noncitizens,
21 collected from across at least six years. *See id.* ¶¶ 70–71, 99. Of those, even Plaintiffs
22 admit only approximately 11 reported that they were registered to vote. *See id.* ¶ 71.
23 And there is no indication of how many—if any—actually voted. The guide to using data
24 Plaintiffs rely on “advise[s] caution when analyzing very small subsamples as random
25 ///

26
27 ³ Kuriwaki, Shiro, Cumulative CES Common Content (2024), <https://dataverse.harvard.edu/dataset.xhtml?persistentId=doi%3A10.7910/DVN/II2DB6>.

28 ⁴ *See* United States presidential election, Electoral college results, Wikipedia, https://en.wikipedia.org/wiki/United_States_presidential_election.

1 measurement error may lead to faulty inferences.”⁵ In fact, following heavy critique of
2 noncitizen voting estimates,⁶ the same author that Plaintiffs cite from 2014 as saying 25%
3 of noncitizens were likely registered to vote, *see* Compl. ¶ 88, has more recently revised that
4 number to only 1% based on the Cooperative Election Study data.⁷ This is an unacceptably
5 speculative basis to conclude that there is a potential harm to Plaintiffs here. *See Kingman*
6 *Park Civic Ass’n v. Gray*, 27 F. Supp. 3d 142, 157 (D.D.C. 2014) (noting study “underlines
7 the speculative nature of any injury Plaintiff’s members would suffer”).

8 Regardless, even if Plaintiffs’ allegation of a 2,005 vote advantage were correct, that
9 margin is not enough to determine any recent presidential election.⁸ *See RNC v. Burgess*,
10 Case No. 3:24-cv-00198-MMD-CLB, 2024 WL 3445254, at *2 (D. Nev. July 17, 2024)
11 (causation not established where it was speculative that challenged votes would be
12 “sufficient in number to change the outcome of the election to [Republicans] detriment”).

13 These calculations—even assuming they are reliable—also fail to establish a state-
14 imposed disadvantage. Nevada law criminalizes voting when ineligible, NRS 293.775(1),
15 and it further criminalizes registering, or aiding someone to register, when they are
16 ineligible, NRS 293.800(4). The Secretary also advises registrants that they must be U.S.
17 citizens on the voter registration application.⁹ The same laws apply to all, and the
18 Secretary has done nothing that would make noncitizens registering and voting legal.

19 ⁵ Ansolabehere, et al., Guide to the 2022 Cooperative Election Study at 22,
20 Cooperative Election Study, *available at* <https://dataverse.harvard.edu/file.xhtml?fileId=7359254&version=4.0>.

21 ⁶ Ansolabehere, The Perils of Cherry Picking Low Frequency Events in Large Sample
22 Surveys, Cooperative Election Study, <https://cces.gov.harvard.edu/news/perils-cherry-picking-low-frequency-events-large-sample-surveys>.

23 ⁷ Mike Wendling, Investigating Trump campaign’s biggest illegal voter claim, BBC
24 (Oct. 22, 2024), <https://www.bbc.com/news/articles/cz040d1plx2o> (Jesse Richman concluded
in 2023, based on the Cooperative Election Study, that 1% of noncitizens were registered
to vote).

25 ⁸ Nevada’s recent presidential races have been decided by far greater margins.
26 *See, e.g.*, Nev. Sec’y of State, Silver State 2024 General Election Results, <https://silverstateelection.nv.gov/> (over 46,000 vote advantage for Trump); Nev. Sec’y of State, Silver
27 State 2020 Election Results, <https://www.nvsos.gov/silverstate2020gen/USPresidential/>
(over 33,000 vote advantage for Joseph Biden); Nev. Sec’y of State, Silver State 2016
Election Night Results, <https://www.nvsos.gov/silverstate2016gen/> (over 27,000 vote
advantage for Hillary Clinton).

28 ⁹ Nev. Sec’y of State, State of Nevada Voter Registration Application,
<https://www.nvsos.gov/SOSVoterRegForm/home.aspx>.

1 Finally, even assuming *arguendo* that some noncitizens *did* vote, the causal link
2 between the Secretary's actions and any supposed competitive injury is too attenuated
3 because it depends "on speculation about the unfettered choices made by independent
4 actors," i.e., voters. *See FDA v. All. for Hippocratic Medicine*, 602 U.S. 367, 383 (2024)
5 (citation omitted). Plaintiffs rely on speculation about the probability that a noncitizen will
6 vote, Compl. ¶ 96, and further compounding this speculation, they make no attempt to
7 allege that noncitizens who are willing to risk a felony conviction and permanent
8 inadmissibility under federal immigrant law are more likely to vote for a Democratic
9 presidential candidate and thereby disadvantage Plaintiffs.

10 3. Diversion of Resources. To the extent the Organizational Plaintiffs claim direct
11 organizational standing based on a theory of a diversion of resources, *see* Compl. ¶¶ 16, 17,
12 19, 20, 21, 110, their allegations are insufficient. Direct organizational standing will not
13 "lie wherever the [challenged] action impairs the organization's ability to achieve its
14 mission and the organization uses its resources to oppose the action and advocate for
15 change." *Bd. of Pharmacy*, 2024 WL 3664464, at *3 (citing *All. for Hippocratic Med.*,
16 602 U.S. at 393–95). Stated differently, an organization "cannot spend its way into
17 standing' by diverting resources to oppose disfavored policies." *Id.* (quoting *All. for*
18 *Hippocratic Med.*, 602 U.S. at 394–95). Instead, an organization must "show it suffered a
19 concrete injury that directly affected and interfered with its core business activities." *Id.*
20 (citing *All. for Hippocratic Med.*, 602 U.S. at 393–94). Plaintiffs' allegations of diverting
21 resources "to clean up Nevada's voter rolls" are insufficient, Compl. ¶¶ 17, 110; the
22 challenged action must directly harm their existing core activities "*apart from [their]*
23 *response*" to that action.¹⁰ *See Ariz. All. for Retired Americans v. Mayes*, 117 F.4th 1165,
24 1173, 1170 (9th Cir. 2024). Because the Organizational Plaintiffs do not claim they are
25 unable to continue their core activities, *id.* at 1178, they fail to "thread the needle to show

26 ¹⁰ It is unclear what resources the Organizational Plaintiffs claim they have had to
27 divert. To the extent they are resources to bring this litigation, litigation costs cannot
28 confer standing. *Rodriguez v. City of San Jose*, 930 F.3d 1123, 1134 (9th Cir. 2019);
Comite de Jornaleros de Redondo Beach v. City of Redondo Beach, 657 F.3d 936, 943
(9th Cir. 2011).

1 how” the Secretary’s actions “directly affect[] or interfere[] with [their] core” activities,
2 *Bd. of Pharmacy*, 2024 WL 3664464, at *3, 4.

3 4. Associational Standing. The Organizational Plaintiffs fail to establish
4 associational standing because they fail to show they have members who “would otherwise
5 have standing to sue in their own right.” *Hunt v. Wash. State Apple Advert. Comm’n*,
6 432 U.S. 333, 343 (1977).

7 **B. Plaintiffs Have Not Stated Any Claim**

8 **1. Plaintiffs’ Equal Protection Claim Fails as a Matter of Law**

9 Plaintiffs’ first claim is based on Nevada’s Equal Protection Clause. Compl.
10 ¶¶ 103–11. “The threshold question in equal protection analysis” is whether there is
11 “dissimilar treatment of similarly situated persons.” *See Rico v. Rodriguez*, 121 Nev. 695,
12 703, 120 P.3d 812, 817 (2005). Unlike in the apportionment context, nothing the Secretary
13 has done treats similarly situated persons differently. *Cf.* Compl. ¶¶ 106–08
14 (citing *Reynolds v. Sims*, 377 U.S. 533 (1964); *Baker v. Carr*, 369 U.S. 186 (1962)).

15 Plaintiffs therefore must allege that the Secretary’s actions are “a device designed to
16 impose different burdens on different classes of persons.” *Rico*, 121 Nev. at 703, 120 P.3d at
17 817. For the same reasons their standing allegations fail, Plaintiffs cannot do so.
18 First, as discussed above, there is no state “device designed” to do anything here; to the
19 contrary, Nevada’s law criminalizes noncitizen voting. Nor does individuals engaging in
20 criminal activity “impose different burdens on different classes of people.” At most, Plaintiffs
21 point to partisan preferences of noncitizens, but as discussed above, this is not evidence of
22 any “burden” imposed on any class of Nevadans by the alleged criminal behavior here.
23 Plaintiffs’ claim is just as incoherent as an equal protection claim based on the property
24 preferences of people who own guns, because they may at some point become armed robbers.
25 Indeed, it is telling that the same cause of action, demanding the same use of the Systematic
26 Alien Verification for Entitlements (“SAVE”) database and jury duty information, was
27 brought in 2020 against Secretary Cegavske, a Republican. *See generally*, Compl. for Decl.

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1 and Injunctive Relief, *Kramer v. Cegavske*, Case No. 20 OC 00178 1B
2 (1st Jud. Dist. Ct. Nev. Dec. 22, 2020).

3 These failures doom Plaintiffs' Equal Protection claim; Plaintiffs have not alleged "the
4 elements of the claim asserted." *Munda*, 127 Nev. at 923, 267 P.3d at 774 (citation omitted).

5 **2. Plaintiffs' Due Process Claim Fails as a Matter of Law**

6 Plaintiffs' second claim is based on Nevada's Due Process Clause. Compl. ¶¶ 112–17.
7 A Due Process claim must be rejected if it alleges only "garden variety election irregularities,"
8 and not those that would render an election "fundamentally unfair." *Soules v. Kauaians for*
9 *Nukolii Campaign Comm.*, 849 F.2d 1176, 1183 (9th Cir. 1988) (citation omitted). Garden
10 variety irregularities "do not violate the Due Process Clause, even if they control the outcome
11 of the vote or election," and "[m]ere fraud or mistake will not render an election invalid."
12 *Bennett v. Yoshina*, 140 F.3d 1218, 1226 (9th Cir. 1998). Instead, substantive due process is
13 generally violated only where there has been "(1) likely reliance by voters on an established
14 election procedure and/or official pronouncements about what the procedure will be in the
15 coming election; and (2) significant disenfranchisement that results from a change in the
16 election procedures." *Id.* at 1226–27.

17 First, Plaintiffs allege no disenfranchisement or change in election procedures.
18 Second, by their own admission, any irregularity was vanishingly small: Plaintiffs allege
19 a mere 3,731 "noncitizen" votes, Compl. ¶ 99, out of over two million votes cast in the 2024
20 general election, or (0.18% of the vote).¹¹ Even if Plaintiffs' calculations were reliable,
21 which they are not, Plaintiffs have alleged no fundamental unfairness. *See Pettengill v.*
22 *Putnam Cnty. R-1 Sch. Dist.*, 472 F.2d 121, 122 (8th Cir. 1973) (rejecting claim based on
23 improper counting of 129 ballots out of 2,192 (or 5.9%) ballots cast); *Powell v. Power*,
24 436 F.2d 84, n.1, 2 (2d Cir. 1970) (rejecting claim based on 1,232 improper votes out of
25 24,589 (or 5.0%) votes cast). Plaintiffs essentially ask the Court to agree to "be thrust into
26 the details of virtually every election, tinkering with the state's election machinery . . . for
27

28 ¹¹ See Silver State 2024 General Election Results, Voter Turnout, 2024 General
Election Total, <https://silverstateelection.nv.gov/vote-turnout/>.

1 all manner of error and insufficiency under state and federal law.” *Soules*, 849 F.2d at 1184
2 (citation omitted). The Court should decline Plaintiffs’ invitation.

3 **3. Plaintiffs’ Right to Vote Claim Fails as a Matter of Law**

4 Plaintiffs’ third claim is based on the right to vote articulated in Article II, Section 1
5 of the Nevada Constitution. Compl. ¶¶ 118–22. There is no allegation in the Complaint
6 that any eligible voter was denied the ability to vote. Instead, Plaintiffs repackage their
7 Equal Protection vote dilution claim. They cite, however, no case suggesting that a
8 violation of the Nevada Constitution’s right to vote can be premised on allegations of vote
9 dilution.

10 Plaintiffs cite *Reynolds* for the proposition that the right to vote requires all votes to
11 be counted “at full value without dilution or discount.” Compl. ¶ 120. *Reynolds*, and the
12 case *Reynolds* cites for this proposition, were apportionment cases and said nothing about
13 supposedly illegal votes. *See Reynolds*, 377 U.S. at 537; *South v. Peters*, 339 U.S. 276, 277
14 (1950). This is an important distinction. Plaintiffs’ theory of when the right to vote is
15 violated would mean that even one single improper vote would result in a violation.
16 The Secretary is unaware of any case that has endorsed such an expansive reading of the
17 right to vote. *Cf. Soules*, 849 F.2d at 1184 (explaining “[e]lections are, regrettably, not
18 always free from error,” but holding that the court would not thrust itself “into the details
19 of virtually every election”).

20 **4. Plaintiffs’ Declaratory Judgment Claim Fails as a Matter of Law**

21 Plaintiffs’ declaratory judgment claim, Compl. ¶¶ 123–28, starts from the faulty
22 premise that NRS 293.675 requires the Secretary to scrub voter rolls for noncitizens using
23 the SAVE database, jury duty data, and DMV data, *see, e.g.*, Compl. ¶¶ 28, 30, 33, 93, 95,
24 100; *id.* at 21–22. As a matter of pure statutory construction, NRS 293.675 does not require
25 the Secretary to use information from the SAVE database or jury duty data.¹²
26 While NRS 293.675 requires that voter rolls be “regularly maintained to ensure the integrity
27

28 ¹² Plaintiffs’ request for relief relating to the November 2024 general election, Compl. at 22, is also moot at this time.

1 of the registration process and the election process,” NRS 293.675(3)(h), the Legislature
2 identified sources the Secretary must consult in performing list maintenance under
3 NRS 293.675. Specifically, the Secretary is required to enter into agreements with the State
4 Registrar of Vital Statistics and the DMV, and the DMV must also take specific actions.
5 NRS 293.675(5)–(8). There is no other mandatory agreement required under NRS 293.675.

6 By specifically identifying mandatory sources for list maintenance under
7 NRS 293.675, the Legislature has foreclosed Plaintiffs’ argument that the Secretary is
8 required to use SAVE or jury duty data. *See, e.g., Harvey v. State*, 136 Nev. 539, 543,
9 473 P.3d 1015, 1019 (2020) (“We follow ‘the maxim “*expressio unius est exclusio alterius*,” the
10 expression of one thing is the exclusion of another.”). At bottom, Plaintiffs’ grievances about
11 jury duty and SAVE data are better directed at the Legislature as the Legislature is best
12 positioned to weigh the value of using those sources and the costs of doing so.

13 Plaintiffs also request that the Secretary be required to use DMV non-citizenship data.
14 Compl. at 22. This request does not find support in NRS 293.675. Under NRS 293.675(5),
15 DMV data is to be used “to verify the accuracy of the information in an application to register
16 to vote.” Plaintiffs do not allege that the DMV’s non-citizenship data is accurate for purposes
17 of voter registration. Nor could they. There is no prohibition on naturalized citizens using
18 old immigration documents to apply for a license or identification card at the DMV, and there
19 is no requirement that a naturalized citizen update the DMV upon naturalization.
20 With many thousands of Nevadans gaining citizenship each year,¹³ DMV non-citizenship
21 data does not meet the requirement for mandatory use under NRS 293.675(5) because it
22 cannot be used to verify the accuracy of a person’s citizenship status.

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27 ¹³ *See Profiles on Naturalized Citizens: 2022 State*, Office of Homeland Security
28 Statistics (Feb. 12, 2024), <https://www.dhs.gov/ohss/topics/immigration/naturalizations/profiles/2022/state> (over 10,000 were naturalized in Nevada in 2022).

1 IV. CONCLUSION

2 For the foregoing reasons, the Court should dismiss the Complaint.

3 DATED this 2nd day of December, 2024.

4 AARON D. FORD
5 Attorney General

6 By:  #10450
7 LAENA ST-JULES (Bar No. 15156)
8 Senior Deputy Attorney General
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11 *Attorneys for Secretary of State*
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I certify that I am an employee of the State of Nevada, Office of the Attorney General, and that on this 2nd day of December, 2024, I served a true and correct copy of the foregoing **SECRETARY OF STATE'S MOTION TO DISMISS** by electronic mail addressed to:

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INDEX OF EXHIBITS

EXHIBIT No.	EXHIBIT DESCRIPTION	NUMBER OF PAGES
1.	Secretary of State Barbara Cegavske Letter Re: Elections Integrity Violation Reports (Apr. 21, 2021)	13

Exhibit 1

Exhibit 1



**OFFICE OF THE
SECRETARY OF STATE**

April 21, 2021

NevadaGOP.org
press@nevadagop.org

via Email

Re: Elections Integrity Violation Reports

On March 4, 2021, members of the Nevada GOP ("NVGOP") delivered four boxes to the Capitol building in Carson City. After applying security protocols, the Capitol Police delivered the four boxes to the Office of the Secretary of State. Over the following weeks, the elections staff inventoried and labeled the boxes and their contents and investigated the accompanying allegations of voter fraud. This consumed more than 125 hours of staff time.

Although the NVGOP's initial reports indicated that there were 122,918 records to support the accompanying allegations, the agency inventory identified 3,963 unique Elections Integrity Violation Reports (EIVRs). The larger figure provided by the NVGOP encompasses the individual line items on the spreadsheets that accompanied each of the EIVRs. Ultimately 3,963 unique EIVRs were counted along with 3 business cards and 1 USB drive. Our investigation into these documents revealed that some incidents were already under investigation. These involved discrete, readily verifiable events. However, most of the complaints related to voter registration records that the NVGOP deemed to be inaccurate or suspicious for a variety of reasons.

For example, the EIVRs contained the following allegations among others: 1) that 16,953 voters were registered at commercial addresses or fictitious addresses; 2) that 2,479 voters apparently relocated to another state or foreign country during the 30-day period preceding the November 3 election; 3) that 42,284 voters cast more than one ballot in the November 3 election; and 4) that 1,506 votes were cast in the names of persons who are deceased. Our investigation revealed that these allegations and others are based largely upon an incomplete assessment of voter registration records and lack of information concerning the processes by which these records are compiled and maintained.

And while the NVGOP raises policy concerns about the integrity of mail-in voting, automatic voter registration, and same-day voter registration, these concerns do not amount to evidentiary support for the contention that the 2020 general election was plagued by widespread voter fraud. The details of that investigation are explained in the attachment to this letter.

If you have any questions, please contact the Elections Division at (775) 684-5705 or NVElect@sos.nv.gov.

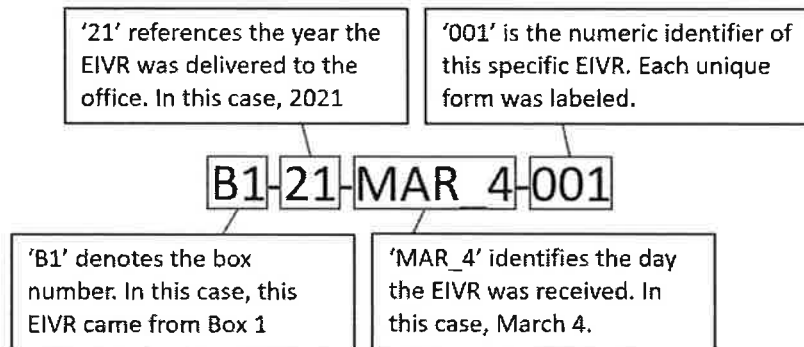
Regards,

Barbara K. Cegavske
Secretary of State

By: Mark Wlaschin
Mark Wlaschin, Deputy Secretary for Elections

Detailed Summary:

Upon receipt of the four boxes of information on March 4, 2021, the contents were first inventoried and labeled in order to ensure that each received appropriate attention. The following labeling system was employed for every Elections Integrity Violation Report (EIVR):



Once labeled, the EIVRs were investigated according to the nature of the allegation. Some EIVRs alleged issues with voter list maintenance; others alleged voter fraud or non-compliance with federal or state laws. Each EIVR was researched individually which involved coordination between employees of the Office of the Secretary of State, county elections officials, and applicable law enforcement agencies. The allegations in each EIVR were addressed as follows:

B1-21-MAR 4-001: This EIVR identified 16 individuals on the Statewide Voter Registration List (SVRL) that have no first name listed and a last name identified as the word: 'Resident'. We ran a separate set of queries on the Statewide Voter Registration List (SVRL) to identify any additional individuals with a similar set of values including, for example, a first name of 'Resident'. A total of 57 registered voters were identified that had either no first name and a last name of 'Resident' or that lacked a first name in the SVRL. Of the 57 individuals, 22 had vote history from the 2020 general election. The investigation revealed that these symbols and the use of the name 'Resident' were placeholders used by county officials when the handwritten documents provided by registering voters were illegible. These placeholders enabled the clerks to rapidly identify the voters who needed to be contacted so that they could follow up and request additional information. This information was provided to the county clerks in order to facilitate further list maintenance and to affect the correction of the records. The individuals with vote history whose records were identified as lacking a first or last name in the Statewide Voter Registration List (SVRL) had complete records on the applicable county voter registration list.

B1-21-MAR 4-002: This EIVR alleged that members of the Nevada Native Vote Project violated 18 U.S.C. § 597 and NRS 293.700. This alleged violation is currently under investigation by law enforcement.

B1-21-MAR 4-003: This EIVR alleged that 3,987 individuals who may not be citizens cast a ballot during the 2020 general election. This concern was originally communicated to the office on December 1, 2020 and, even though the NVGOP did not provide data or evidence until March 4, 2021, the Secretary of State took the following actions:

The Elections Deputy requested from the Nevada Department of Motor Vehicles (DMV) a spreadsheet of individuals who presented an immigration document while obtaining a drivers' license over the last 5 years, specifically including 'Date of Birth', 'Last 4 SSN', and 'Drivers' License numbers' along with all other publicly available information for all individuals in an encrypted email or spreadsheet. The requested information was provided to the Office of the Secretary of State by the DMV via an encrypted server on December 2, 2020. The list included a total of 110,163 individuals. Of that total, 5,320 were identified as active registered voters. This represents less than 5% of all documented immigrants who obtained drivers' licenses and identification cards from the DMV. Based on the Statewide Voter Registration List, we determined that 4,057 of those active registered voters had a vote history from the 2020 general election.

Public records show that 40,676 documented immigrants were naturalized between 2015 and 2019. On average, almost three years had passed between the date of each registered voter's DMV transaction and the November 3 election. Given the large number of naturalizations that occur on an annual basis in Nevada, the data suggests that many voters were likely naturalized between the date of the DMV transaction and the election. Alternatively, it is possible that some voters had already been naturalized as the date of the DMV transaction but were still in possession of their immigration documents. Regardless, there is no federal data base that can be accessed for the purpose of evaluating bulk data relative to current immigration status. Furthermore, the U.S. Supreme Court, as well as U.S. Courts of Appeal in the Ninth Circuit and elsewhere, have ruled that election officials cannot lawfully require documentary proof of citizenship as a condition of voter registration. Nevada law is consistent with federal law in this regard.

Therefore, as federal and state law currently stands, a person's affirmation is sufficient to establish U.S. citizenship for purposes of voter registration. Without specific evidence to establish that identified individuals were foreign nationals when they voted in the November 3 election, there is nothing further that can be investigated. In summary, the generalized information acquired from DMV cannot serve as a basis for an investigation into alleged voter fraud.

B1-21-MAR 4-004: This EIVR alleged voter fraud from 2,479 Nevada voters. The allegation relates to individuals who filed permanent change of address notifications with the US Post Office (USPS), but were still shown as being mailed ballots during the 2020 election. The EIVR alleged that all 2,479 of these voters requested a change of address more than the 30-day days before the election, suggesting that they did not meet the voter residency requirement identified in NRS 293.485:

NRS 293.485 Qualifications to vote: Citizenship; age; residence; registration.

1. Every citizen of the United States, 18 years of age or over, who has continuously resided in this State and in the county 30 days and in the precinct 10 days next preceding the day of the next succeeding:
 - (a) Primary election;
 - (b) Primary city election;
 - (c) General election; or
 - (d) General city election,↪ and who has registered in the manner provided in this chapter, is entitled to vote at that election.
2. This section does not exclude the registration of eligible persons whose 18th birthday or the date of whose completion of the required residence occurs on or before the next succeeding:
 - (a) Primary election;

- (b) Primary city election;
- (c) General election;
- (d) General city election; or
- (e) Any other election.

(Added to NRS by 1960, 271; A 1961, 295; 1967, 851; 1971, 1267; 1973, 27; 1987, 355; 1995, 2630)

There are several reasons that an individual may have requested a change of address through the USPS while retaining their original Nevada voter registration address. An individual may have moved out of state temporarily, purchased a second home or apartment, or simply chosen to have their non-elections mail forwarded to a different location. Many of the individuals on this list moved to cities and towns adjacent to military bases, likely on military orders, or to “college towns” potentially to continue their education. While 1,892 of the 2,479 individuals on the list do have vote history from the 2020 general election, it is probable that many of these voters were Nevada residents during the 30-day period preceding the election. In fact, it is equally probable that many of these voters continue to claim Nevada as their permanent residence even though they are temporarily located outside of the state. Additionally, pursuant to 52 U.S.C. § 10502 and NRS 298.250, a voter need not meet a durational residency requirement of state law when voting for the office of the President and Vice President. Given these considerations, it is not cost-effective to expend additional resources to verify the Nevada-residency status of each of the 1,892 voters in question who cast their votes by mail. Although this particular complaint highlights the ways in which mail-in voting can make it easier for people to skirt durational residency requirements, it does not warrant further investigation absent particularized allegations and detailed evidence of voter fraud.

B1-21-MAR 4-005: This EIVR identified 1,506 Nevada voters who allegedly voted by mail in the 2020 general election, but who were also allegedly listed as deceased by the Social Security Administration (SSA) Master Death File, Consumer Data Vendors, Public Obituary Data Matches, and Credit Bureau Deceased Data Information. We contacted the Office of Vital Statistics on March 18, 2021 to validate that the alleged dates of death were accurate to see if the individuals were deceased. The Office of Vital Statistics reported that only 10 of the 1,506 records were identified as being deceased according to their records. This immediately raised questions about the quality of the information that spurred this allegation. The Office of Vital Statistics receives their information directly from sources who have first-hand knowledge of an individual dying. When a person dies, a funeral home will create the record. Once the record is created they work with a medical certifier, physician, coroner, etc. to ensure the information is accurate. When the record is completed, Vital Statistics Registrars review it for completeness and accuracy. If it is in order, they register the record and a death certificate can be provided relating to that record. Vital Statistics then sends data to the Social Security Administration, National Center for Health Statistics (Part of the CDC), and other various state agencies including the Office of the Secretary of State. The Office of Vital Statistics does not work with the Credit Bureau and the only consumer agency they liaise with is Consumer Product Safety. Of the 1,506 individuals identified, 1,473 of them did have vote history from the 2020 general election, but only 10 appeared questionable. The cases regarding these 10 individuals were referred for investigation by appropriate law enforcement.

B1-21-MAR 4-006: This EIVR claimed to provide a list of 42,284 individuals who allegedly voted twice during the 2020 general election. More accurately, this list alleges that 21,142 individuals may have voted twice during the 2020 general election (21,142 x 2 votes each = 42,284 allegations). First, we compared the list to our Statewide Voter Registration List to confirm how many had actually cast a ballot during the 2020 general election. Through this process we identified that 2,828 of the “double voters” cast one ballot during the 2020 general election. This indicates that the issue may have merely been a duplicate registration or other data entry error. The information on these 2,828 individuals has been provided to the county clerks in order to confirm that the error has been addressed.

For the remaining 18,314 alleged double voters, we started by comparing them to the Multiple Votes Cast report. The Multiple Votes Cast report is a special query that is conducted after each election. This query examines all Nevada voter histories to determine who has cast more than one ballot during an election. This report is possible because every single ballot that is counted is attributed to an individual in their voter history, thus eliminating the possibility of “ballot box stuffing” where additional registered voters are improperly created and then illegal ballots are cast. The Multiple Votes Cast report identifies those records of voters whose vote history needed to be reconciled by the county clerks. Immediately following the 2020 general election, the office identified 1,778 voter records that required reconciliation by the clerks and registrars. Of these 1,778 voter records, only 10 were identified as warranting further investigation and have been already referred to appropriate law enforcement.

To confirm the validity of the allegations of this EIVR, we compared the 1,778 voter records and determined that none of these voters were listed on the spreadsheet delivered to the Office of the Secretary of State on March 4, 2021. This is due to the high level of detail in the Personally Identifiable Information that the Office of the Secretary of State uses (and that is not publicly accessible) to identify duplicates and the immediate nature of their reconciliation.

Regarding the remainder of the alleged “double voters,” there is a significantly lower chance that the alleged violation occurred due to the nature of the data comparison. While the first lines of data identified individuals who had matching birthdates, addresses, and similar names (e.g., Edward vs. Edwin), the remaining 18,314 pairs of individuals have distinct differences in their names, addresses, birthdates, and other information suggesting that they are not the same person. For example, many of the individuals seem to have been matched on such minimal information as “birth year” and “street address” so there are a number of alleged “double voters” who merely live on the same street as someone else born in the same year. As such, these additional 18,314 allegations did not warrant further investigation.

B2-21-MAR 4-001: This EIVR called into question the legitimacy of registrations updated by Federal Post Card Applications (FPCA). The FPCA form is intended for use by absent Uniformed Service members, their families, and citizens residing outside the United States. It is used to register to vote, request an absentee ballot, and update voter contact information. This EIVR attempts to call into question all 352 individual records in Clark County that were created or updated using an FPCA form. Of note, 345 of the 352 individuals listed have vote history from the 2020 general election. This EIVR states:

During post-election investigation [sic], a number of Nevada voters used the Federal Post Card system to update their voter registration. While the vast majority of these are likely legitimate military changes, some were flagged ***as their age put them in a group that could not be active-duty military*** [emphasis added]. Given these flagged issues, it calls all registrants via this method into question. It is requested that the Secretary of State investigate this list, determine which voters used this for intra/inter county registration changes (which should not be FPC updates), and why these were processed at all if they were not an active-duty military/overseas change of address.

While the EIVR states that some of the individuals on this list were of "...an age that could not be active duty military", there is no age limitation on citizens who chose to live overseas. Additionally, as the form itself states here, the FPCA is intended for contact information adjustments. This would include an update from a service member whose spouse moves from one Nevada county to another while their loved one is forward deployed as part of our nation's defense. As such, there is no discernable information in this complaint nor the accompanying spreadsheet that identifies an improper use of the FPCA form or indicated anything worthy of investigation.

B2-21-MAR 4-002: This EIVR alleged that 8,842 Nevada voters have a commercial address on file as their registration address. The information provided in the attached spreadsheet did not have a specific date indicating when it was captured. This is important because of the continuous nature of voter list maintenance. Many of the records on this sheet could have been corrected or removed by county clerks after this document was created. Of note, 8,356 of the 8,842 voters identified on the spreadsheet have a confirmed vote history from the 2020 general election. More importantly, under NRS 293.507, a voter may register to vote using a commercial address if the applicant resides there:

NRS 293.507 Applications: Forms; distribution; contents; requirements regarding identification and residence; use of affidavits and identification numbers under certain circumstances; regulations.

1. The Secretary of State shall prescribe:
 - (a) Standard forms for applications to preregister or register to vote;
 - (b) Special forms for preregistration and registration to be used in a county where registrations are performed and records of registration are kept by computer; and
 - (c) A standard form for the affidavit described in subsection 5.
2. The county clerks shall provide forms for applications to preregister or register to vote to field registrars in the form and number prescribed by the Secretary of State.
3. Each form for an application to preregister or register to vote must include a:
 - (a) Unique control number assigned by the Secretary of State; and
 - (b) Receipt which:
 - (1) Includes a space for a person assisting an applicant in completing the form to enter the person's name; and
 - (2) May be retained by the applicant upon completion of the form.
4. The form for an application to preregister or register to vote must include:
 - (a) A line for use by the applicant to enter:
 - (1) The number indicated on the applicant's current and valid driver's license issued by the Department of Motor Vehicles, if the applicant has such a driver's license;
 - (2) The last four digits of the applicant's social security number, if the applicant does not have a driver's license issued by the Department of Motor Vehicles and does have a social security number; or
 - (3) The number issued to the applicant pursuant to subsection 5, if the applicant does not have a current and valid driver's license issued by the Department of Motor Vehicles or a social security number.
 - (b) A line on which to enter the address at which the applicant actually resides, as set forth in NRS 293.486.

(c) A notice that the applicant may not list a business as the address required pursuant to paragraph (b) unless the applicant actually resides there.

(d) A line on which to enter an address at which the applicant may receive mail, including, without limitation, a post office box or general delivery.

5. If an applicant does not have the identification set forth in subparagraph (1) or (2) of paragraph (a) of subsection 4, the applicant shall sign an affidavit stating that he or she does not have a current and valid driver's license issued by the Department of Motor Vehicles or a social security number. Upon receipt of the affidavit, the county clerk shall issue an identification number to the applicant which must be the same number as the unique identifier assigned to the applicant for purposes of the statewide voter registration list.

6. The Secretary of State shall adopt regulations to carry out the provisions of subsections 3, 4 and 5.

(Added to NRS by 1960, 273; A 1975, 942; 1985, 561; 1993, 2191; 1995, 2271; 1999, 947; 2001, 2596, 2952; 2003, 2179; 2005, 1437; 2007, 2602; 2017, 3854)

Additionally, while it is not legal to use a commercial address when registering to vote, this alone is not indicative of fraud, but more often reflects a lack of awareness of the qualified prohibition against using a commercial address. It may also reflect a "key punch" error by the voter. In these cases, the respective clerk or registrar would contact the voter, explain NRS 293.507, and would allow the voter to correct or update their voter registration.

To investigate this allegation against the 8,842 registered voters, we conducted a statistical analysis of the information provided, as the office is not staffed to conduct in-person investigations of 8,842 individual addresses spread across Nevada. The statistical sampling was designed to achieve a 95% certainly level $\pm 5\%$ and reviewed every 24th record for a total of 369 records. Of the 369 records reviewed, each address was entered into an internet search engine and the location reviewed producing the following results:

- 137 are apartment complexes (37%),
- 75 are RV or mobile home parks (20%),
- 36 are hotels with long term rental options (10%),
- 34 are commercial addresses with an attached living space or home-based businesses (9%),
- 18 are houses (5%),
- 11 are rehabilitation facilities (3%),
- 11 are student dorms (3%),
- 11 are retirement communities (3%),
- 9 are assisted living facilities (2%),
- 8 are shelters for women or families (2%),
- 4 are veterans homes (1%),
- 4 are a church or monastery (1%), and
- 2 are medical facilities (<1%).

There were 9 addresses that are possible commercial addresses without an attached living space (2%). This information has been provided to the appropriate clerks and registrars for reconciliation.

B2-21-MAR 4-003: This EIVR alleged that 8,111 Nevada voters registered to vote using a non-existent address. This allegation cites a report by Mr. Jesse Kamzol. Judge Russell of the First Judicial Court of Nevada commented on the information provided by Mr. Kamzol in his 'Order Granting Motion To Dismiss Statement Of Contest' dated December 4, 2020, in which he said:

ii. **Jesse Kamzol**

62. Contestants offered Mr. Kamzol to opine that significant illegal voting occurred in Nevada during the 2020 General Election, based on his analysis of various commercially available databases of voters.

63. The Court questions Mr. Kamzol's methodology because he had little to no information about or supervision over the origins of his data, the manner in which it had been matched, and what the rate of false positives would be. Additionally, there was little or no verification of his numbers. Kamzol Dep. 58:6-11 , 58:15-17, 59:22-24.

Mr. Kamzol's report includes the following accusation:

I reviewed the Washoe County and Clark County voter database files and found 8,111 voters who voted in Nevada but whose registered addresses are physically non-existent, as in, these are vacant lots, apartment numbers that do not exist, and house address numbers that do not exist.

I found 8,111 voters who did not have a Nevada mailing address meeting the postal requirements of a zip+4 location. Of those, 3,262 voted in Nevada by mail, and 4,849 voted in person.

Using CASS (Coding Accuracy Support System) standard marketing software, and utilizing standard address hygiene processing, primarily CASS (Coding Accuracy Support System) marketing software, I was able to identify voters that voted from addresses that the US Postal Service deems mail not reaching its intended recipient because the address is: incorrect, incomplete, illegible, or undeliverable.

4,287 people registered to vote at a non-existent Nevada address voted by mail in Nevada. I believe the correct universe may be larger than what I reviewed given the fact that Clark County refuses to produce its complete list of addresses where ballots were mailed this election cycle.

Regarding the last paragraph, we have confirmed that the Office of the Clark County Registrar will provide the complete list of addresses where mail-in ballots were sent during every election cycle upon request and that it also posts it on its website. The Office of the Secretary of State is now also in possession of this list and can provide it upon request.

The overall nature of this complaint relates to the CASS program used by the USPS. The CASS system does not include every residence across Nevada because it includes only those addresses that have street delivery by the USPS. The CASS system is so limited because **its purpose is to ensure successful street delivery**. According to <https://postalpro.usps.com/certifications/cass>:

The CASS™ certification process is designed in cooperation with the mailing industry to improve the accuracy of postal codes, i.e., Five-Digit ZIP Code®, ZIP + 4®, delivery point (DPCs), and carrier route codes that appear on mailpieces.

Nevada residences that only have PO Box delivery are never included in the CASS system. As new housing proliferates in Nevada, the builders coordinate directly with the USPS to identify whether a given residence will receive mail through street delivery. If it will, then the parties work together to ensure that the house is entered in the CASS system. As of April 2021, of the approximately 3.1 million residents in Nevada, the USPS only provides street delivery to 1,276,894 million locations.

UDSF (All Routes) District "890 NEVADA SIERRA" - active/delivery (>=3) SUMMARY															
Fiscal Year: 2021 - Period: Week ending Apr 9															
Delivery Routes (inc auxiliary)		Residential						Business						Total PDs	
Type	Count	Other	SDWK	Curb	CBU	CENT	Total	Other	SDWK	Curb	CBU	CENT	Total		
City	1320	177720	6795	55506	410320	218287	875018	34478	94	1010	19158	3980	58733	933761	
Rural	351	6229	122	46192	109491	26622	250606	4016	3	603	3529	1095	9446	260162	
HCR	219	161	2	18318	58361	4775	81617	210	0	565	560	153	1424	85041	
Carries Total	1920	184110	6919	126406	644172	251684	1207291	38704	67	2518	23260	5234	69603	1276894	
PO Box Routes		Residential						Business						Total	
Count	Facility	Contract	Detached	NPU	Total		Facility	Contract	Detached	NPU	Total				
2790	101306	627	0	0	102233		20945	51	0	0	20996		123229		
Other Boxes		Residential						Business						Total	
	Carrier Service	Remittance	Context	Other	Total		Carrier Service	Remittance	Context	Other	Total				
	2	0	0	0	2		472	0	0	0	0	472	474		
Phantom/Auxiliary Routes		City				Rural				HCR				Total	
Type	Count	Deliveries		Count	Deliveries		Count	Deliveries		Count	Deliveries		Count	Deliveries	
Phantom	0	0		0	0		0	0		0	0		0	0	
Auxiliary	39	20772		39	10516		0	0		0	0		77	40265	

As for the 8,111 residences that are "...physically non-existent, as in, these are vacant lots, apartment numbers that do not exist, and house address numbers that do not exist", we conducted a statistical analysis of the information provided, as the office is not staffed to conduct in-person investigations of 8,111 individual addresses spread across Nevada. The statistical sampling was designed to achieve a 95% certainly level $\pm 5\%$ and reviewed every 22nd record for a total of 369 records. Of the 369 records reviewed, each address was entered into an internet search engine and the location reviewed. Of the 369 addresses researched by staff, approximately 95% were quickly identified as being valid residences, although they do not receive street delivery from the USPS. Based upon this information, and given the role and limitations of the CASS system as explained by USPS, there is nothing further to investigate.

B2-21-MAR 4-004: This EIVR alleged that the Clark County Registrar deliberately caused an error in the conduct of maintaining accurate voter rolls. Specifically, this EIVR alleges that:

There were 81,971 voters in Clark County who were undeliverable [sic] in the Primary, and had been Active voters. Due to Joe Gloria's malfeasance in maintaining accurate voter rolls, despite Clark County normally providing extremely timely updates to the voter rolls, these voters had a delay of 7 weeks, and ran up against the 90-day deadline to modify voter rolls as required by the National Voter Registration Act. The full 81,971 list is provided as an attachment to this, but of concern are the 8,529 voters in the previously undeliverable universe who cast mail in ballots from previously undeliverable addresses.

This EIVR was discussed and addressed previously. On July 8 and 9, 2020, the Clark County Registrar's office received an Electronic Registration Information Center (ERIC) report from the Office of the

Secretary of State. In response to the report, the Clark County Registrar's office sent a mail verification to the voters listed in that report. If the voters did not respond within 33 days (allowing 3 days for mailing and 30 days for a response), then the voters' registrations were changed from "active" to "inactive". On August 5, 2020, the Clark County Registrar's office inactivated the 81,971 voters who did not respond to the mail verification. On August 6, 2020, the Elections Deputy and staff realized that the 90 day "blackout period" (where voter registration list maintenance was prohibited pursuant to the National Voter Registration Act) had begun on August 5, 2020. Recognizing that the voters were inactivated after the blackout period began, and that AB4 prescribed that all active registered voters be sent a mail-in ballot, the Elections Deputy coordinated with the Clark County Registrar of Voters to reactivate all 81,971 voters to ensure they received a mail-in ballot.

It is important to note that the 81,971 voters were not going to be removed from the voter rolls by the intended list maintenance action. Instead, their status was changed from "active" to "inactive" and then returned to active status after the timeline error was discovered. All the voters who were affected by this error were mailed a ballot as prescribed by AB4. Of the 81,971 voters who were changed back to "active," 8,462 have vote history from the 2020 general election. There are any number of reasons why these persons may have a vote history despite having previously been flagged for address verification. For example, they may have updated their addresses via internet or same-day registration, or their addresses may have been correct all along. Further, those persons with a vote history represent a mere 10% of the total. This is consistent with ordinary experience: inactive voters are legally eligible to vote and approximately 32,000 inactive voters cast a ballot in the 2018 primary or general election; a total of approximately 13 percent of all "inactive voters." Because the percentage of persons with vote history is not a statistically significant deviation from the norm, this allegation does not warrant further investigation.

B2-21-MAR 4-005: This EIVR alleged that some Clark County election workers were directed to accept out-of-state drivers' licenses and identification cards when processing ballots with a "ID required" flags. The EIVR lists 31,643 Nevadans and states that it lists:

...the entire flagged list of ID required voters that voted by mail and requests the Secretary of State verify if Nevada identification documents were used to satisfy the requirement for ballots cast by mail. While this may seem excessive, the information revealed by whistleblowers reveals that the potential contamination by at least 1 vote which was counted despite not meeting Nevada legal requirements.

The crux of this concern, that the Clark County Registrar's office allowed out-of-state ID to be used to complete the voter registration process, is not indicative of voter fraud given the circumstances surrounding the November 3 election. In this regard, the Department of Motor Vehicles did not offer the normal range of services in the months and weeks before the election due to the pandemic. Consequently, many new Nevada residents were unable to obtain Nevada drivers' licenses and identification cards prior to November 3. When similar claims were raised during the 2020 general election, the issues were discussed with the Registrar who discussed these and other concerns with his staff and ensured that the poll workers and others understood the proper procedures for ID verification.

Further, pursuant to NRS 298.259, a new resident to Nevada is not required to meet Nevada's 30-day durational residency requirement to vote in Nevada for the office of President and Vice President. Additionally, the redacted affidavits included with this EIVR were some of the many that Judge Russell reviewed and described in his 'Order Granting Motion To Dismiss Statement Of Contest' dated December 4, 2020 in which he said:

57. Much of Contestants' evidence consists of non-deposition evidence in the form of witness declarations. These declarations fall outside the scope of the contest statute, which provides that election contests "shall be tried and submitted so far as may be possible upon depositions and written or oral argument as the court may order." NRS 293.415. The reason for this is to allow for the cross-examination of the deponent under oath.

58. *These declarations also constitute hearsay, as they are out-of-court statements offered in evidence to prove the truth of the matters asserted. See NRS 51.035, 51.065; Cramer v. State, 126 Nev. 388,392,240 P.3d 8, 11 (2010) ("An affidavit is generally inadmissible hearsay. "). Most of these declarations were self-serving statements of little or no evidentiary value.* [emphasis added]

59. The Court nonetheless considers the totality of the evidence provided by Contestants in reaching and ruling upon the merits of their claims.

This EIVR does not merit further investigation because the allegations are not indicative of voter fraud.

B2-21-MAR 4-006: This complaint is a standalone and redacted affidavit. This redacted affidavit was written by an individual claiming to be a licensed attorney in Pennsylvania who served as an election observer from the early voting period through Election Day. This anonymous person alleged malfeasance by the Clark County Registrar of Voters and his staff. The complaints in this affidavit relate to such issues as "ineffective meaningful observation" and procedural issues that have all been discussed with the Clark County Registrar and other clerks. This affidavit was one of the many that Judge Russell reviewed and described in his 'Order Granting Motion To Dismiss Statement Of Contest' dated December 4, 2020 (referenced above). Although they were previously reviewed in a judicial setting, the issues identified in this and other affidavits were closely reviewed for their prospective value. In fact, these and similar issues were raised and discussed during the month of November 2020. Some of the subjects covered will be incorporated into future discussions about possible amendments to regulations and procedures. The goal is to alleviate concerns about process, procedure, and public observation in future elections cycles.

B3-21-MAR 4-001 through B3-21-MAR 4-2116 and B4-21-MAR 4-001 through B4-21-MAR 4-1834 :

These 3,950 EIVRs were the same complaint, but each document had a different voter record printed on it. Further research revealed that these 3,950 EIVRs were all related to a single spreadsheet provided on the USB drive. The USB drive that was included with the four boxes on March 4, 2021 contained a full list which identified 15,170 individuals, but only 3,950 had a printed EIVR associated with it.

Every document claimed that it identified an individual who had an out of state mailing address. Specifically, every one of the EIVRs alleged:

...this complaint addresses a Nevada voter that has an out of state address on file as their mailing address, but has a Nevada registration address. These are voters that returned a mail in ballot in the 2020 election. These were raised in the attached complaints. Please investigate to confirm residency and if each of this [sic] is, in fact, a valid Nevada voter.

Of the full list of 15,170 individuals listed on the spreadsheet, 14,771 had vote history from the 2020 general election. As discussed above, there are reasons why a Nevada-registered voter may permanently or temporarily live out of state, including to attend college or to satisfy military orders. This request to verify the Nevada residency of more than 15,000 individuals is unreasonable, as it is not likely to lead to the discovery of evidence of a crime or a violation of Nevada election law.

B4-21-MAR 4-1835: This complaint is not an EIVR, but is simply the print-out of the full report and allegations by Mr. Kamzol. Mr. Kamzol's report was described earlier in 'B2-21-MAR_4-003. His allegations have been addressed in the paragraphs above.