

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NEW YORK**

JUDICIAL WATCH, INC.,

Plaintiff,

v.

TODD D. VALENTINE and KRISTEN ZEBROWSKI STAVISKY, in their official capacities as Co-Executive Directors of the New York State Board of Elections; THE BOARD OF ELECTIONS IN THE CITY OF NEW YORK; JODI MORALES and GINO A. MARMORATO, in their official capacities as commissioners of the Bronx County Board of Elections; RODNEY L. PEPE-SOUVENIR and SIMON SHAMOUN, in their official capacities as commissioners of the Kings County Board of Elections; JENNY LOW and FREDERIC M. UMANE, in their official capacities as commissioners of the New York County Board of Elections; JOSE M. ARAUJO and KEITH SULLIVAN, in their official capacities as commissioners of the Queens County Board of Elections; and PATRICIA ANNE TAYLOR and MICHAEL J. COPPOTELLI, in their official capacities as commissioners of the Richmond County Board of Elections;

Defendants.

Case No. 22-CV-3952

**COMPLAINT**

Plaintiff Judicial Watch, Inc., by its undersigned counsel, as and for its complaint against Defendants states and alleges as follows:

**INTRODUCTION**

1. Plaintiffs seek declaratory and injunctive relief to compel Defendants to comply with their voter list maintenance obligations under Section 8 of the National Voter Registration Act of 1993 (“NVRA” or “Act”), 52 U.S.C. § 20507. Plaintiffs also seek reasonable attorneys’

fees, litigation expenses, and costs, which are available to prevailing parties under the Act. *Id.*, § 20510(c).

2. Specifically, this lawsuit concerns Defendants failure to enforce a key provision of the NVRA, which requires them to cancel the registrations of those who do not respond to an address inquiry and do not vote in two federal elections. 52 U.S.C. § 20507(d)(1)(B). By Defendants' own admission, they have removed only 22 such registrations in a period of six years, in a city with more than 5.5 million registered voters.

### **JURISDICTION AND VENUE**

3. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 2201, because the matters in controversy arise under the Constitution and laws of the United States, and in particular under 52 U.S.C. §§ 20507 and 20510(b), and because they are proper subjects for a declaratory judgment.

4. Venue is proper in this district pursuant to 28 U.S.C. § 1391(b)(1), because a defendant resides in this district and all defendants reside in New York, and pursuant to § 1391(b)(2), because a substantial part of the events and omissions giving rise to the claims herein occurred in this district.

### **PARTIES**

5. Plaintiff JUDICIAL WATCH, INC. ("Judicial Watch") is a not-for-profit, educational organization incorporated under the laws of the District of Columbia and headquartered at 425 Third Street SW, Suite 800, Washington, D.C. 20024.

6. Defendants TODD D. VALENTINE and KRISTEN ZEBROWSKI STAVISKY are the Co-Executive Directors of the New York State Board of Elections.

7. New York has designated the Co-Executive Directors of the New York State Board

of Elections as the chief State election officials responsible for coordinating State responsibilities under the NVRA, pursuant to the requirement of 52 U.S.C. § 20509 that each state designate such an official. Defendants Valentine and Stavisky currently share this responsibility. They are sued in their official capacities only.

8. Defendant THE BOARD OF ELECTIONS IN THE CITY OF NEW YORK is an agency established under state law with jurisdiction over the conduct of elections within the five boroughs of New York City and with the responsibility for cancelling the registrations of those who are no longer qualified to vote. N.Y. Elec. §§ 3-200, 5-400, 5-402.

9. Defendants JODI MORALES and GINO A. MARMORATO are commissioners of the Bronx County Board of Elections and of the Board of Elections in the City of New York.

10. Defendants RODNEY L. PEPE-SOUVENIR and SIMON SHAMOUN are commissioners of the Kings County Board of Elections and of the Board of Elections in the City of New York.

11. Defendants JENNY LOW and FREDERIC M. UMANE are commissioners of the New York County Board of Elections and of the Board of Elections in the City of New York.

12. Defendants JOSE M. ARAUJO and KEITH SULLIVAN are commissioners of the Queens County Board of Elections and of the Board of Elections in the City of New York.

13. Defendants PATRICIA ANNE TAYLOR and MICHAEL J. COPPOTELLI are commissioners of the Richmond County Board of Elections and of the Board of Elections in the City of New York.

14. Defendant commissioners are sued in their official capacities only.

#### **STATUTORY BACKGROUND**

15. New York State is subject to the requirements of the NVRA. 52 U.S.C. §§

20502(4), 20503.

16. The NVRA requires states to “conduct a general program that makes a reasonable effort to remove ... from the official lists of eligible voters” the names of voters who have become ineligible by reason of death or a change of residence. 52 U.S.C. § 20507(a)(4).

17. With respect to voters who have changed residence, the NVRA provides that they must be removed from a jurisdiction’s voter rolls in two circumstances.

18. First, they must be removed from the rolls if they confirm in writing that they have moved outside the jurisdiction. 52 U.S.C. § 20507(d)(1)(A).

19. Second, registrants must be removed from the rolls if they (1) fail to respond to an official address confirmation notice, and then (2) fail to vote during a statutory waiting period extending from the date of the notice through the next two general federal elections. 52 U.S.C. § 20507(d)(1)(B). This process is referred to herein as an “NVRA Removal.” This lawsuit is primarily concerned with Defendants’ failure to make NVRA Removals.

20. Federal regulations and New York law refer to voter registrations as “inactive” when a registrant has failed to respond to a notice, and consequently will be subject to removal if the registrant then fails to vote in the next two general federal elections. 11 C.F.R. § 9428.7; N.Y. Elec. § 5-213.

21. Under the NVRA and New York law, voters whose registrations are inactive may still vote on election day. 52 U.S.C. § 20507(d)(2)(A); N.Y. Elec §§ 5-612, 8-504. Accordingly, inactive voters are still registered voters.

22. Section 8(i) of the NVRA grants the public the right to request information concerning voter list maintenance. It provides that “[e]ach State shall maintain for at least 2 years and shall make available for public inspection” and copying “all records concerning the



implementation of programs and activities conducted for the purpose of ensuring the accuracy and currency of official lists of eligible voters.” 52 U.S.C. § 20507(i).

23. Though not purporting to be an exhaustive list, Section 8(i)(2) provides two specific examples of responsive records: “The records maintained . . . shall include lists of the names and addresses of all persons to whom notices described in subsection (d)(2) are sent, and information concerning whether or not each such person has responded to the notice as of the date that inspection of the records is made.” 52 U.S.C. § 20507(i)(2), referring to 52 U.S.C. § 20507(d)(2).

24. The NVRA affords a private right of action to any “person who is aggrieved by a violation of” the Act. 52 U.S.C. § 20510(b). Unless a violation occurred within 30 days of a federal election, a private litigant is required to send notice of any violation to a state’s chief election official prior to commencing a lawsuit. *Id.*, § 20510(b)(1), (2), (3).

## FACTS

### Judicial Watch’s Background, Mission, and Membership

25. Judicial Watch’s mission is to promote transparency, integrity, and accountability in government and fidelity to the rule of law. The organization, which has been in existence since 1994, fulfills its mission through public records requests and litigation, among other means.

26. Judicial Watch is supported in its mission by hundreds of thousands of individuals across the nation. An individual becomes a member of Judicial Watch by making a financial contribution, in any amount, to the organization. Members’ financial contributions are by far the single most important source of income to Judicial Watch and provide the means by which the organization finances its activities in support of its mission. Judicial Watch in turn represents the interests of its members.

27. Over the past several years, Judicial Watch’s members have become increasingly

concerned about the state of the nation's voter registration rolls, including whether state and local officials are complying with the NVRA's voter list maintenance obligations.

28. Members are concerned that failing to comply with the NVRA's voter list maintenance obligations undermines the integrity of elections by increasing the opportunity for ineligible voters to intentionally or accidentally cast ballots.

29. In response to this concern, Judicial Watch commenced a nationwide program to monitor state and local election officials' compliance with their NVRA list maintenance obligations. As part of this program, Judicial Watch utilizes public records laws to request and receive records and data from jurisdictions across the nation about their voter list maintenance efforts. It then analyzes these records and data and publishes the results of its findings to the jurisdictions, to its members, and to the general public.

#### **NVRA Removal Data from the U.S. Election Assistance Commission**

30. In June of each odd-numbered year, the U.S. Election Assistance Commission ("EAC") is required by law to report to Congress its findings relating to state voter registration practices. 52 U.S.C. § 20508(a)(3).

31. Federal regulations require states to provide various kinds of data to the EAC for use in this biennial report, including the numbers of active and inactive registered voters in the last two federal elections, and the numbers of registrants removed from the rolls for any reason—including NVRA Removals—between those elections. 11 C.F.R. § 9428.7(b)(1), (2), (5).

32. The EAC's most recent biennial report was released on August 16, 2021. This report, entitled ELECTION ADMINISTRATION AND VOTING SURVEY 2020 COMPREHENSIVE REPORT: A REPORT FROM THE U.S. ELECTION ASSISTANCE COMMISSION TO THE 117TH CONGRESS (the "EAC Report"), is available online at <https://bit.ly/3bfeWIO>.

33. Along with the EAC Report, the EAC publishes a dataset containing the responses it receives to a voter registration survey it sends to the states. The states, in consultation with their county and local officials, certify their answers to this survey directly to the EAC and, ultimately, to Congress.

34. The most recent survey and the resulting dataset covered the two-year period from November 2018 through November 2020. The survey instrument is available online at <https://bit.ly/3HNViQt>. The states' responses are compiled online at <https://bit.ly/3nbkebf> in Excel spreadsheets and a variety of other data formats, under the heading for "2020," as the "EAVS Datasets Version 1.0 (released August 16, 2021)," and, in a subsequent update, as the "EAVS Datasets Version 1.1 (released October 8, 2021)."

35. The next most recent survey and dataset covered the prior two-year period, from November 2016 through November 2018. The survey instrument for this period is online at <https://bit.ly/3AiIlan>. The states' responses to this survey are compiled online at <https://bit.ly/3nbkebf>, in Excel spreadsheets and other data formats under the heading for "2018." The most recent update for this period is the "EAVS Datasets Version 1.3 (released July 15, 2020)."

36. Question A9e of the EAC's survey instruments for both 2018-2020 and 2016-2018 asked jurisdictions to report the number of registrations removed where the "Reason for Removal" was "Failure to respond to notice sent and failure to vote in two most recent federal elections." These questions concern NVRA Removals under Section 8(d)(1)(b).

37. If a jurisdiction makes few NVRA Removals given the relative size of its voter rolls, that jurisdiction cannot be, and is not, complying with the NVRA.

38. Judicial Watch reviewed the data, including the number of NVRA Removals,

reported to the EAC by Defendants over the four-year period covered by the last two EAC Reports.

39. According to the EAC, Defendants reported that, as of November 2020, the total number of registered and eligible voters

- a. in Kings County (Brooklyn) was 1,735,372,
- b. in Queens County was 1,366,759,
- c. in New York County (Manhattan) was 1,250,793,
- d. in Bronx County was 867,716, and
- e. in Richmond County (Staten Island) was 344,375,

for a combined total of 5,565,015 registered and eligible voters in New York City.

40. However, the datasets published by the EAC indicated that, during the four-year period from November 2016 through November 2020,

- a. Kings County made *zero* NVRA Removals.
- b. Queens County made *zero* NVRA Removals.
- c. New York County made *zero* NVRA Removals.
- d. Bronx County made *one* NVRA Removal.
- e. Richmond County made *zero* NVRA Removals.

41. It is inconceivable that these counties were complying with the NVRA while making almost no NVRA Removals during this four-year period.

42. All of the cited data in the datasets published by the EAC came from information that Defendants themselves provided and certified to the federal EAC.

#### **Judicial Watch's Notice Letters to Defendants**

43. On November 16, 2021, Judicial Watch sent a letter to Defendants the Co-Executive Directors of the New York State Board of Elections. The same day, Judicial Watch sent

separate letters to the Defendant commissioners of the county boards of elections for Kings, Queens, New York, Richmond, and Bronx Counties, in each case copying the Co-Executive Directors of the New York State Board of Elections as the chief State election officials. These letters are attached hereto as Exhibits 1-6 (the “Notice Letters”).

44. The Notice Letters alleged violations of the NVRA on a statewide basis (in the case of the letter to the Co-Executive Directors of the New York State Board of Elections) and by individual counties (in the case of the letters to county commissioners). Specifically, each Notice Letter alleged that the data reported to and published by the EAC showed that particular counties had made shockingly few or no NVRA Removals during the four year period from November 2016 through November 2020.

45. Each Notice Letter alleged that the failure to make NVRA Removals constituted a violation of Section 8(1)(d)(B) and, consequently, of Section 8(a)(4) of the NVRA. Each Notice Letter indicated that it served “as pre-suit notice pursuant to 52 U.S.C. § 20510(b)(1) & (2)” that “Judicial Watch will file a complaint against you” if the identified violations were not corrected within 90 days.

46. Each Notice Letter offered the recipient the opportunity to correct or update the allegations it contained.

47. Each Notice Letter also requested, pursuant to Section 8(i) of the NVRA, the following documents from the State Board of Elections and from each county:

1. Copies of the ... most recent voter registration database ...
2. A list of the names and addresses of all persons to whom notices described in 52 U.S.C. § 20507(d)(2) were sent, and information concerning whether or not each such person responded to the notice.
3. Communications concerning the U.S. Election Assistance Commission’s 2020 Election Administration and Voting Survey ...

4. All records concerning any internal or external audit ... relating to the accuracy and currency of official lists of eligible voters.

5. All records concerning any instance(s) of voter fraud ...

6. All manuals [and] training materials ... concerning efforts to ensure the accuracy and currency of official lists of eligible voters.

7. All contracts with the U.S. Postal Service or any other federal agency to provide change-of-address information concerning registered voters.

48. The Notice Letters made clear that “[i]f we do not hear within two weeks of the date of this letter that you intend to provide these records, we will assume that you do not intend to do so, and will act accordingly.”

49. None of the Defendants offered any substantive explanation in response to the Notice Letters.

50. None of the county Defendants ever provided any documents in response to the Notice Letters.

51. In November 2021, Defendants the Co-Executive Directors of the New York State Board of Elections provided Plaintiff the statewide voter registration list for New York in response to item 1 of Plaintiff’s request.

52. Defendants the Co-Executive Directors failed to provide records responsive to items 2 through 7 of Plaintiff’s request.

53. On February 22, 2022, Defendants the Co-Executive Directors did, however, provide Excel spreadsheets for 33 counties, including the five counties in New York City, which reported the total numbers of removals, including NVRA Removals, for those counties. The time period covered by those spreadsheets, moreover, was both more extensive and more current than the last two EAC Reports. Specifically, the new spreadsheets covered removals for a six-year

period, from the beginning of January 2016 up through the end of December 2021.

54. The data contained in these new spreadsheets corroborates what the State provided to the EAC and amply confirms that Kings, Queens, New York, Bronx, and Richmond Counties have utterly failed to perform NVRA Removals required by the NVRA.

#### **The Updated Data Provided by Defendants**

55. The new data provided directly by Defendants the Co-Executive Directors of the New York State Board of Elections indicates that, during the six-year period from the beginning of January 2016 through the end of December 2021,

- a. Kings County made *one* NVRA Removal.
- b. Queens County made *two* NVRA Removals.
- c. New York County made *eleven* NVRA Removals.
- d. Bronx County made *eight* NVRA Removals.
- e. Richmond County made *zero* NVRA Removals.

56. In sum, Defendants own recent data concedes that there were only 22 total NVRA Removals during a six-year period in a city of over 5.5 million voters. These are ludicrously small numbers of removals given the sizable populations of these counties.

57. It is inconceivable that the five counties comprising New York City were complying with the NVRA while making so few NVRA Removals during that six-year period.

58. For context, note that Defendants also provided Judicial Watch with the removal data for Yates County, one of the smallest counties in New York, with a current total registration of about 14,500 voters. During the same 6-year period, Yates County made 1,251 NVRA Removals. This is, literally, an exponentially greater number than the 22 NVRA Removals made during the same period in all of New York City.

59. For context, the other 28 New York counties for which Defendants provided Excel spreadsheet data cancelled, on average, about 9.45% of their current voter rolls by means of NVRA Removals during that six-year period. By contrast, the numbers of NVRA Removals for the five counties in New York City during that same period rounds to 0.0% of their current voter rolls.

60. For context, the estimated number of voting-age citizens changing residence, *per year*, during the five-year period from 2016 through 2020, in the five counties of New York City was

- a. about 194,000 in Kings County,
- b. about 127,000 in Queens County,
- c. about 190,000 in New York County,
- d. about 82,000 in Bronx County, and
- e. about 21,000 in Richmond County.

61. Accordingly, more than 600,000 voting-age citizens, *per year*, are estimated to have changed residence in New York City during the five-year period from 2016 through 2020.

62. If Defendants were complying with the NVRA, the number of NVRA Removals would be much, much higher in Kings, Queens, New York, Bronx, and Richmond Counties than was reported by Defendants.

### **Judicial Watch's Injuries**

63. Judicial Watch has long been concerned with the voter list maintenance practices of New York State and its counties.

64. As early as April 2017, Judicial wrote to the then-Co-Executive Directors of the New York State Board of Elections, warning of NVRA violations and requesting documents under Section 8(i). Documents were provided, which Judicial Watch reviewed and analyzed.



65. More recently, Judicial Watch's ongoing concerns led it to conduct analyses of New York's registration rates, removal rates, address confirmation notice statistics, and inactive registration rates, and to review census data specifically concerning New York City's citizenship and mobility. Judicial Watch hired consultants to assist with this process.

66. Judicial Watch has expended resources, including staff time, investigating Defendants' failure to comply with their NVRA voter list maintenance obligations, communicating with New York officials about Defendants' failure, and researching and hiring experts to research documents provided by Defendants.

67. The resources expended by Judicial Watch to investigate, address, research, and counteract Defendants' failure to comply with their NVRA voter list maintenance obligations are distinct from and above and beyond Judicial Watch's regular, programmatic efforts to monitor state and local election officials' NVRA compliance.

68. Were it not for Defendants' failure to comply with their NVRA voter list maintenance obligations, Judicial Watch would have expended these same resources on its regular, programmatic activities or would not have expended them at all. Instead, it diverted its resources to counteract Defendants' noncompliance and to protect its New York members' rights.

69. Individual members of Judicial Watch who are lawfully registered to vote in New York have rights under both the U.S. Constitution and the New York Constitution to vote in federal and state elections, as well as statutory rights under both federal and state law to the safeguards and protections set forth in the NVRA.

70. Defendants' failure to comply with their NVRA voter list maintenance obligations burdens the federal and state constitutional rights to vote of all individual members of Judicial Watch who are lawfully registered to vote in New York.

71. The almost complete failure of Kings, Queens, New York, Bronx, and Richmond Counties, over a period of at least six years, to remove voters who have changed residence without notifying their local jurisdiction means that there are untold numbers of New York City registrations belonging to those who are ineligible to vote at their listed address because they have changed residence or are otherwise ineligible to vote.

72. The existence of untold numbers of invalid registrations in Kings, Queens, New York, Bronx, and Richmond Counties belonging to registrants who have changed address or are otherwise ineligible to vote undermines the confidence of members of Judicial Watch who are lawfully registered voters in New York City in the integrity of the electoral process, instills in them the fear that their legitimate votes will be nullified or diluted by ineligible votes, and makes them less willing to participate in the democratic process by voting.

73. Defendants' failure to satisfy their NVRA voter list maintenance obligations infringes on the federal and state statutory rights of all individual members of Judicial Watch who are lawfully registered to vote in Kings, Queens, New York, Bronx, and Richmond Counties. These individuals have a statutory right to vote in elections for federal office that comply with the procedures and protections required by the NVRA, including the voter list maintenance obligations set forth in Section 8.

74. Protecting the voting rights of Judicial Watch members who are lawfully registered to vote in New York State and in Kings, Queens, New York, Bronx, and Richmond Counties is germane to Judicial Watch's mission. It also is well within the scope of the reasons why members of Judicial Watch join the organization and support its mission.

75. In June 2022, Judicial Watch members who are registered to vote in Kings, Queens, New York, Bronx, and Richmond Counties confirmed to Judicial Watch's staff that they were

concerned about Defendants' failure to satisfy their voter list maintenance obligations under the NVRA and the resulting harm to these members' voting rights.

76. Because the relief sought herein will inure to the benefit of Judicial Watch members who are lawfully registered to vote in Kings, Queens, New York, Bronx, and Richmond Counties, neither the claims asserted nor the relief requested requires the participation of Judicial Watch's individual members.

**COUNT I**  
**(Violation of Section 8(a)(4) of the NVRA, 52 U.S.C. § 20507(a)(4))**

77. Plaintiff realleges all preceding paragraphs as if fully set forth herein.

78. Defendants have failed to fulfill their obligations under Section 8(a)(4) of the NVRA to conduct a general program that makes a reasonable effort to cancel the registrations of registrants who are ineligible to vote in New York elections.

79. Plaintiff Judicial Watch and its members have suffered, and will continue to suffer, irreparable injury as a direct result of Defendants' failure to fulfill their obligations to comply with Section 8(a)(4) of the NVRA.

80. Plaintiff Judicial Watch and its members have no adequate remedy at law.

**COUNT II**  
**(Violation of Section 8(i) of the NVRA, 52 U.S.C. § 20507(i))**

81. Plaintiff realleges all preceding paragraphs as if fully set forth herein.

82. Defendants have failed to fulfill their obligations under Section 8(i) of the NVRA to make available to Judicial Watch "all records" within the past two years "concerning the implementation of programs and activities conducted for the purpose of ensuring the accuracy and currency of official lists of eligible voters."

83. Plaintiff Judicial Watch and its members have suffered, and will continue to suffer,

irreparable injury as a direct result of Defendants' failure to fulfill their obligations to comply with Section 8(i) of the NVRA.

84. Plaintiff Judicial Watch and its members have no adequate remedy at law.

### **PRAYER FOR RELIEF**

WHEREFORE, Plaintiff prays for entry of a judgment:

- a. Declaring Defendants to be in violation of Section 8(a)(4) of the NVRA;
- b. Permanently enjoining Defendants from violating Section 8(a)(4) of the NVRA;
- c. Ordering Defendants to develop and implement a general program that makes a reasonable effort to remove ineligible registrations from the voter rolls;
- d. Enjoining Defendants to enforce Section 8(d)(1)(B) of the NVRA;
- e. Declaring that Defendants are in violation of Section 8(i) of the NVRA by refusing to allow Judicial Watch to inspect and copy lawfully requested records;
- f. Permanently enjoining Defendants from refusing to allow Judicial Watch to inspect and copy the records Judicial Watch requested;
- g. Ordering Defendant to pay Judicial Watch's reasonable attorneys' fees, including litigation expenses and costs; and

h. Awarding Judicial Watch such other and further relief as this Court deems just and proper.

Dated: New York, New York  
July 6, 2022

*Neal Brickman*

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# EXHIBIT 1



**Judicial  
Watch®**  
*Because no one  
is above the law!*

November 16, 2021

*VIA USPS CERTIFIED MAIL AND EMAIL*

Todd D. Valentine and Kristen Zebrowski Stavisky  
Co-Executive Directors  
New York State Board of Elections  
40 North Pearl Street, Suite 5  
Albany, NY 12207-2729

**Re: Statutory Notice of Violations of 52 U.S.C. § 20507.**

Dear Executive Directors Valentine and Stavisky:

I write as legal counsel for Judicial Watch, Inc. ("Judicial Watch"). This letter is to notify you that we have determined that New York is in violation of Section 8(a)(4) of the National Voter Registration Act of 1993 (NVRA), which mandates that you conduct a general program that makes a reasonable effort to remove the names of ineligible voters.<sup>1</sup> This letter serves as pre-suit notice pursuant to 52 U.S.C. § 20510(b)(1) & (2). Judicial Watch will file a complaint against you if these violations are not corrected within 90 days.

This letter also serves as a request pursuant to 52 U.S.C. § 20507(i) for records related to voter registration activities, which records you are required to keep and to provide upon request.

**Violations of Section 8 of the NVRA**

Section 8(a)(4) of the NVRA requires states to "conduct a general program that makes a reasonable effort to remove the names of ineligible voters" by reason of death or change of address.<sup>2</sup> We determined the noticed violation of the NVRA based upon the following.

A voter registration is subject to cancellation under Section 8(d)(1)(B) of the NVRA when a voter fails to respond to an address confirmation notice and then fails to vote or correct the

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<sup>1</sup> As executive directors of the Board of Elections, you are designated by law as the chief State election officials responsible for coordinating New York's compliance with the NVRA. See 52 U.S.C. § 20509; N.Y. Elec. § 3-100; N.Y. Elec. § 3-102(13). As such, you are liable for the violations described in this letter. See *U.S. v. Missouri*, 535 F.3d 844, 850, 851 (8th Cir. 2008).

<sup>2</sup> 52 U.S.C. § 20507(a)(4).



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registration record before the second general federal election following the notice.<sup>3</sup> The Supreme Court has held that such removals are mandatory.<sup>4</sup>

Federal law requires the Election Assistance Commission (EAC) to submit a report to Congress every second year assessing the impact of the NVRA on the administration of federal elections during the preceding two years.<sup>5</sup> Federal regulations require chief State election officials to provide data to the EAC for use in this report.<sup>6</sup> The EAC has published the data it received from the states—including your state—for the last two reporting periods. Together these datasets contain four years of self-reported data concerning compliance with the NVRA, from November 2016 through November 2020.<sup>7</sup>

The data shows that sixteen New York counties reported removing *zero* voter registrations pursuant to Section 8(d)(1)(B) in that *four-year* period: Kings County, Queens County, Nassau County, Richmond County, Dutchess County, Niagara County, Oswego County, Putnam County, Steuben County, Sullivan County, Columbia County, Warren County, Washington County, Allegany County, Orleans County, Seneca County. New York County reported removing one registration under that statute during that four year period, and Bronx County reported removing two.

Thirteen other New York counties reported zero statutory removals pursuant to Section 8(d)(1)(B) over the last *two* years: Onondaga County, Saratoga County, Rensselaer County, Schenectady County, Tompkins County, Clinton County, Herkimer County, Livingston County, Genesee County, Cortland County, Franklin County, Essex County, Yates County. Tioga County reported removing four registrations under that statute during those two years, and Chenango County reported removing seven.

If accurate, these numbers are shocking. It is simply not possible to comply with the NVRA while removing zero registrations under that provision. Many tens of thousands of voters must have changed residence without notifying election officials during those years.

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<sup>3</sup> 52 U.S.C. § 20507(d)(1)(B).

<sup>4</sup> *Husted v. A. Philip Randolph Inst.*, 138 S. Ct. 1833, 1841-42 (2018).

<sup>5</sup> 52 U.S.C. § 20508(a)(3).

<sup>6</sup> 11 C.F.R. § 9428.7.

<sup>7</sup> The data are available at <https://www.eac.gov/research-and-data/datasets-codebooks-and-surveys>. Data for the most recent reporting period (November 2018 through November 2020) is available under “2020” as “EAVS Datasets Version 1.1 (released October 8, 2021).” Column “CZ” shows the number of cancellations pursuant to Section 8(d)(1)(B) of the NVRA. Data for the previous reporting period (November 2016 through November 2018) is available under “2018” as “EAVS Datasets Version 1.3 (released July 15, 2020).” Column “CX” shows the relevant cancellations under Section 8(d)(1)(B).



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Accordingly, this letter serves as official statutory notice, pursuant to 52 U.S.C. § 20510(b)(2), of violations of the NVRA. In response to this letter, please indicate whether you admit or contest the accuracy of the cited data. In this regard, please note:

1. The relevant data was provided to a federal commission by your state and your office pursuant to a federal mandate. Thus, it will not do simply to assert that “Judicial Watch got it wrong.” These are your state’s official numbers. If they are incorrect, it is the fault of someone in your office.
2. If the data are incorrect, please provide what you believe to be the correct numbers for the relevant periods.
3. In the same vein, if registrations were removed pursuant Section 8(d)(1)(B) *after* November 2020, please tell us, and tell us how many were removed.
4. Note that we are *only* referring to registrants who were sent an address inquiry notice, failed to respond, and then failed to vote or otherwise appear in the next two consecutive general federal elections, as set forth in Section 8(d)(1)(B) of the NVRA. We are *not* referring to registrations removed for any other reason. Specifically, we are not referring to total removals, to removals on account of the death of the registrant, or to removals where a registrant announces or confirms a change of address to relevant officials.

**Request for Records Pursuant to NVRA Section 8(i)**

Section 8(i)(1) of the NVRA requires that “[e]ach state shall maintain for at least 2 years and shall make available for public inspection . . . all records concerning the implementation of programs and activities conducted for the purpose of ensuring the accuracy and currency of official lists of eligible voters.” 52 U.S.C. § 20507(i)(1). That provision goes on to specifically provide that “[t]he records maintained . . . shall include lists of the names and addresses of all persons to whom [address confirmation] notices . . . are sent, and information concerning whether or not each such person has responded to the notice.” *Id.*, § 20507(i)(2).

Pursuant to Section 8(i), we ask that you provide the following records to Judicial Watch:

1. Copies of the state’s most recent voter registration database, including fields indicating each registered voters’ name, full date of birth, home address, most recent voter activity, and active or inactive status.
2. A list of the names and addresses of all persons to whom notices described in 52 U.S.C. § 20507(d)(2) were sent, and information concerning whether or not each such person responded to the notice.

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3. Communications concerning the U.S. Election Assistance Commission's 2020 Election Administration and Voting Survey, including, but not limited to, responses to Section A of that survey, and any records provided along with those responses.
4. All records concerning any internal or external audit, evaluation, assessment, review, analysis, critique, or request for or response to any of the foregoing, relating to the accuracy and currency of official lists of eligible voters.
5. All records concerning any instance(s) of voter fraud, including, but not limited to, impersonation fraud, double voting, registration fraud, absentee ballot fraud, mail-in ballot fraud, registration or voting by noncitizens, unlawful assistance, or aiding, abetting, or conspiring to commit any of the foregoing.
6. All manuals, training materials, protocols, written standards, and official guidance concerning efforts to ensure the accuracy and currency of official lists of eligible voters.
7. All contracts with the U.S. Postal Service or any other federal agency to provide change-of-address information concerning registered voters.

If we do not hear within two weeks of the date of this letter that you intend to provide these records, we will assume that you do not intend to do so, and will act accordingly.

\* \* \* \* \*

If I have been blunt, it is from long experience in sending notice letters, receiving responses (or not), and commencing litigation under the NVRA. Please do not misinterpret this as any unwillingness to compromise or work together. We are always glad to avoid costly litigation and to amicably resolve any dispute. In fact, we have a track record of resolving NVRA claims on reasonable terms, including, in the early stages, for no fees.

However, if you do not contact us about correcting or otherwise resolving the above-identified problems within 90 days, we will commence a federal lawsuit seeking declaratory and injunctive relief against you. In such a lawsuit we would seek, in addition to injunctive relief, a judgment awarding reasonable attorney's fees, expenses, and costs. *See* 52 U.S.C. § 20510(c). For the reasons set forth above, we believe that such a lawsuit would be likely to succeed.

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We look forward to receiving your prompt response.

Sincerely,

**JUDICIAL WATCH, INC.**

*s/ Robert D. Popper*

Robert D. Popper  
Attorney, Judicial Watch, Inc.

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## EXHIBIT 2





**Judicial  
Watch®**  
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is above the law!*

November 16, 2021

*VIA USPS CERTIFIED MAIL AND EMAIL*

Mr. Simon Shamoun  
Commissioner, Kings County Board of Elections  
345 Adams Street - 4th Floor  
Brooklyn, NY 11201

Todd D. Valentine and Kristen Zebrowski Stavisky  
Co-Executive Directors  
New York State Board of Elections  
40 North Pearl Street, Suite 5  
Albany, NY 12207-2729

**Re: Statutory Notice of Violations of 52 U.S.C. § 20507.**

Dear Mr. Shamoun and Executive Directors Valentine and Stavisky:

I write as legal counsel for Judicial Watch, Inc. ("Judicial Watch"). This letter is to notify you that we have determined that you are in violation of Section 8(a)(4) of the National Voter Registration Act of 1993 (NVRA), which mandates that you conduct a general program that makes a reasonable effort to remove the names of ineligible voters.<sup>1</sup> This letter serves as pre-suit notice pursuant to 52 U.S.C. § 20510(b)(1) & (2). Judicial Watch will file a complaint against officials of Kings County if these violations are not corrected within 90 days.

This letter also serves as a request pursuant to 52 U.S.C. § 20507(i) for records related to voter registration activities, which records you are required to keep and to provide upon request.

**Violations of Section 8 of the NVRA**

Section 8(a)(4) of the NVRA requires states to "conduct a general program that makes a reasonable effort to remove the names of ineligible voters" by reason of death or change of address.<sup>2</sup> We determined the noticed violation of the NVRA based upon the following.

---

<sup>1</sup> The executive directors of the Board of Elections are designated by law as the chief State election officials responsible for coordinating New York's compliance with the NVRA. *See* 52 U.S.C. § 20509; N.Y. Elec. § 3-100; N.Y. Elec. § 3-102(13).

<sup>2</sup> 52 U.S.C. § 20507(a)(4).

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A voter registration is subject to cancellation under Section 8(d)(1)(B) of the NVRA when a voter fails to respond to an address confirmation notice and then fails to vote or correct the registration record before the second general federal election following the notice.<sup>3</sup> The Supreme Court has held that such removals are mandatory.<sup>4</sup>

Federal law requires the Election Assistance Commission (EAC) to submit a report to Congress every second year assessing the impact of the NVRA on the administration of federal elections during the preceding two years.<sup>5</sup> Federal regulations require chief State election officials to provide data to the EAC for use in this report.<sup>6</sup> The EAC has published the data it received from the states—including your state—for the last two reporting periods. Together these datasets contain four years of self-reported data concerning compliance with the NVRA, from November 2016 through November 2020.<sup>7</sup>

The data shows that Kings County reported removing *zero (0)* voter registrations pursuant to Section 8(d)(1)(B) in that *four-year* period. It is simply not possible to comply with the NVRA while removing zero registrations under that provision. Many tens of thousands of voters must have changed residence without notifying election officials during those four years.

Accordingly, this letter serves as official statutory notice, pursuant to 52 U.S.C. § 20510(b)(2), of violations of the NVRA. In response to this letter, please indicate whether you admit or contest the accuracy of the cited data. In this regard, please note:

1. The relevant data was provided to a federal commission by your state, acting pursuant to a federal mandate. Thus, it will not do simply to assert that “Judicial Watch got it wrong.” These are your state’s official numbers. If they are incorrect, it is the fault of someone in your county or state government.

2. If the data are incorrect, please provide what you believe to be the correct numbers for the relevant four-year period.

3. In the same vein, if registrations were removed pursuant Section 8(d)(1)(B) *after* November 2020, please tell us, and tell us how many were removed.

---

<sup>3</sup> 52 U.S.C. § 20507(d)(1)(B).

<sup>4</sup> *Husted v. A. Philip Randolph Inst.*, 138 S. Ct. 1833, 1841-42 (2018).

<sup>5</sup> 52 U.S.C. § 20508(a)(3).

<sup>6</sup> 11 C.F.R. § 9428.7.

<sup>7</sup> The data are available at <https://www.eac.gov/research-and-data/datasets-codebooks-and-surveys>. Data for the most recent reporting period (November 2018 through November 2020) is available under “2020” as “EAVS Datasets Version 1.1 (released October 8, 2021).” Column “CZ” shows the number of cancellations pursuant to Section 8(d)(1)(B) of the NVRA. Data for the previous reporting period (November 2016 through November 2018) is available under “2018” as “EAVS Datasets Version 1.3 (released July 15, 2020).” Column “CX” shows the relevant cancellations under Section 8(d)(1)(B).



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4. Note that we are *only* referring to registrants who were sent an address inquiry notice, failed to respond, and then failed to vote or otherwise appear in the next two consecutive general federal elections, as set forth in Section 8(d)(1)(B) of the NVRA. We are *not* referring to registrations removed for any other reason. Specifically, we are not referring to total removals, to removals on account of the death of the registrant, or to removals where a registrant announces or confirms a change of address to relevant officials.

In the event Judicial Watch files a complaint against you, we are likely to attach a copy of this letter. If your answer is nonresponsive or non-substantive, we will point it out.

**Request for Records Pursuant to NVRA Section 8(i)**

Section 8(i)(1) of the NVRA requires that “[e]ach state shall maintain for at least 2 years and shall make available for public inspection . . . all records concerning the implementation of programs and activities conducted for the purpose of ensuring the accuracy and currency of official lists of eligible voters.” 52 U.S.C. § 20507(i)(1). That provision goes on to specifically provide that “[t]he records maintained . . . shall include lists of the names and addresses of all persons to whom [address confirmation] notices . . . are sent, and information concerning whether or not each such person has responded to the notice.” *Id.*, § 20507(i)(2).

Pursuant to Section 8(i), we ask that Kings County provide the following records to Judicial Watch:

1. Copies of the county’s most recent voter registration database, including fields indicating each registered voters’ name, full date of birth, home address, most recent voter activity, and active or inactive status.
2. A list of the names and addresses of all persons in the county to whom notices described in 52 U.S.C. § 20507(d)(2) were sent, and information concerning whether or not each such person responded to the notice.
3. Communications concerning the U.S. Election Assistance Commission’s 2020 Election Administration and Voting Survey, including, but not limited to, responses to Section A of that survey, and any records provided along with those responses.
4. All records concerning any internal or external audit, evaluation, assessment, review, analysis, critique, or request for or response to any of the foregoing, relating to the accuracy and currency of the county’s official lists of eligible voters.
5. All records concerning any instance(s) of voter fraud, including, but not limited to, impersonation fraud, double voting, registration fraud, absentee ballot fraud, mail-in ballot fraud, registration or voting by noncitizens, unlawful assistance, or aiding, abetting, or conspiring to commit any of the foregoing.

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6. All manuals, training materials, protocols, written standards, and official guidance concerning efforts to ensure the accuracy and currency of official lists of eligible voters.
7. All contracts with the U.S. Postal Service or any other federal agency to provide change-of-address information concerning registered voters.

If we do not hear within two weeks of the date of this letter that you intend to provide these records, we will assume that you do not intend to do so, and will act accordingly.

\* \* \* \* \*

If I have been blunt, it is from long experience in sending notice letters, receiving responses (or not), and commencing litigation under the NVRA. Please do not misinterpret this as any unwillingness to compromise or work together. We are always glad to avoid costly litigation and to amicably resolve any dispute. In fact, we have a track record of resolving NVRA claims on reasonable terms, including, in the early stages, for no fees.

However, if you do not contact us about correcting or otherwise resolving the above-identified problems within 90 days, we will commence a federal lawsuit seeking declaratory and injunctive relief against your county. In such a lawsuit we would seek, in addition to injunctive relief, a judgment awarding reasonable attorney's fees, expenses, and costs. *See* 52 U.S.C. § 20510(c). For the reasons set forth above, we believe that such a lawsuit would be likely to succeed.

We look forward to receiving your prompt response.

Sincerely,

**JUDICIAL WATCH, INC.**

*s/ Robert D. Popper*

Robert D. Popper  
Attorney, Judicial Watch, Inc.



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## EXHIBIT 3



**Judicial  
Watch®**  
*Because no one  
is above the law!*

November 16, 2021

*VIA USPS CERTIFIED MAIL AND EMAIL*

Commissioners Jose M. Araujo and Michael Michel  
Queens County Board of Elections  
118-35 Queens Boulevard, 11th Floor  
Forest Hills, NY 11375

Todd D. Valentine and Kristen Zebrowski Stavisky  
Co-Executive Directors  
New York State Board of Elections  
40 North Pearl Street, Suite 5  
Albany, NY 12207-2729

**Re: Statutory Notice of Violations of 52 U.S.C. § 20507.**

Dear Commissioners Araujo and Michel and Executive Directors Valentine and Stavisky:

I write as legal counsel for Judicial Watch, Inc. ("Judicial Watch"). This letter is to notify you that we have determined that you are in violation of Section 8(a)(4) of the National Voter Registration Act of 1993 (NVRA), which mandates that you conduct a general program that makes a reasonable effort to remove the names of ineligible voters.<sup>1</sup> This letter serves as pre-suit notice pursuant to 52 U.S.C. § 20510(b)(1) & (2). Judicial Watch will file a complaint against officials of Queens County if these violations are not corrected within 90 days.

This letter also serves as a request pursuant to 52 U.S.C. § 20507(i) for records related to voter registration activities, which records you are required to keep and to provide upon request.

**Violations of Section 8 of the NVRA**

Section 8(a)(4) of the NVRA requires states to "conduct a general program that makes a reasonable effort to remove the names of ineligible voters" by reason of death or change of address.<sup>2</sup> We determined the noticed violation of the NVRA based upon the following.

---

<sup>1</sup> The executive directors of the Board of Elections are designated by law as the chief State election officials responsible for coordinating New York's compliance with the NVRA. See 52 U.S.C. § 20509; N.Y. Elec. § 3-100; N.Y. Elec. § 3-102(13).

<sup>2</sup> 52 U.S.C. § 20507(a)(4).

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A voter registration is subject to cancellation under Section 8(d)(1)(B) of the NVRA when a voter fails to respond to an address confirmation notice and then fails to vote or correct the registration record before the second general federal election following the notice.<sup>3</sup> The Supreme Court has held that such removals are mandatory.<sup>4</sup>

Federal law requires the Election Assistance Commission (EAC) to submit a report to Congress every second year assessing the impact of the NVRA on the administration of federal elections during the preceding two years.<sup>5</sup> Federal regulations require chief State election officials to provide data to the EAC for use in this report.<sup>6</sup> The EAC has published the data it received from the states—including your state—for the last two reporting periods. Together these datasets contain four years of self-reported data concerning compliance with the NVRA, from November 2016 through November 2020.<sup>7</sup>

The data shows that Queens County reported removing *zero (0)* voter registrations pursuant to Section 8(d)(1)(B) in that *four-year* period. It is simply not possible to comply with the NVRA while removing zero registrations under that provision. Many tens of thousands of voters must have changed residence without notifying election officials during those four years.

Accordingly, this letter serves as official statutory notice, pursuant to 52 U.S.C. § 20510(b)(2), of violations of the NVRA. In response to this letter, please indicate whether you admit or contest the accuracy of the cited data. In this regard, please note:

1. The relevant data was provided to a federal commission by your state, acting pursuant to a federal mandate. Thus, it will not do simply to assert that “Judicial Watch got it wrong.” These are your state’s official numbers. If they are incorrect, it is the fault of someone in your county or state government.

2. If the data are incorrect, please provide what you believe to be the correct numbers for the relevant four-year period.

3. In the same vein, if registrations were removed pursuant Section 8(d)(1)(B) *after* November 2020, please tell us, and tell us how many were removed.

---

<sup>3</sup> 52 U.S.C. § 20507(d)(1)(B).

<sup>4</sup> *Husted v. A. Philip Randolph Inst.*, 138 S. Ct. 1833, 1841-42 (2018).

<sup>5</sup> 52 U.S.C. § 20508(a)(3).

<sup>6</sup> 11 C.F.R. § 9428.7.

<sup>7</sup> The data are available at <https://www.eac.gov/research-and-data/datasets-codebooks-and-surveys>. Data for the most recent reporting period (November 2018 through November 2020) is available under “2020” as “EAVS Datasets Version 1.1 (released October 8, 2021).” Column “CZ” shows the number of cancellations pursuant to Section 8(d)(1)(B) of the NVRA. Data for the previous reporting period (November 2016 through November 2018) is available under “2018” as “EAVS Datasets Version 1.3 (released July 15, 2020).” Column “CX” shows the relevant cancellations under Section 8(d)(1)(B).



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4. Note that we are *only* referring to registrants who were sent an address inquiry notice, failed to respond, and then failed to vote or otherwise appear in the next two consecutive general federal elections, as set forth in Section 8(d)(1)(B) of the NVRA. We are *not* referring to registrations removed for any other reason. Specifically, we are not referring to total removals, to removals on account of the death of the registrant, or to removals where a registrant announces or confirms a change of address to relevant officials.

In the event Judicial Watch files a complaint against you, we are likely to attach a copy of this letter. If your answer is nonresponsive or non-substantive, we will point it out.

**Request for Records Pursuant to NVRA Section 8(i)**

Section 8(i)(1) of the NVRA requires that “[e]ach state shall maintain for at least 2 years and shall make available for public inspection . . . all records concerning the implementation of programs and activities conducted for the purpose of ensuring the accuracy and currency of official lists of eligible voters.” 52 U.S.C. § 20507(i)(1). That provision goes on to specifically provide that “[t]he records maintained . . . shall include lists of the names and addresses of all persons to whom [address confirmation] notices . . . are sent, and information concerning whether or not each such person has responded to the notice.” *Id.*, § 20507(i)(2).

Pursuant to Section 8(i), we ask that Queens County provide the following records to Judicial Watch:

1. Copies of the county’s most recent voter registration database, including fields indicating each registered voters’ name, full date of birth, home address, most recent voter activity, and active or inactive status.
2. A list of the names and addresses of all persons in the county to whom notices described in 52 U.S.C. § 20507(d)(2) were sent, and information concerning whether or not each such person responded to the notice.
3. Communications concerning the U.S. Election Assistance Commission’s 2020 Election Administration and Voting Survey, including, but not limited to, responses to Section A of that survey, and any records provided along with those responses.
4. All records concerning any internal or external audit, evaluation, assessment, review, analysis, critique, or request for or response to any of the foregoing, relating to the accuracy and currency of the county’s official lists of eligible voters.
5. All records concerning any instance(s) of voter fraud, including, but not limited to, impersonation fraud, double voting, registration fraud, absentee ballot fraud, mail-in ballot fraud, registration or voting by noncitizens, unlawful assistance, or aiding, abetting, or conspiring to commit any of the foregoing.

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6. All manuals, training materials, protocols, written standards, and official guidance concerning efforts to ensure the accuracy and currency of official lists of eligible voters.
7. All contracts with the U.S. Postal Service or any other federal agency to provide change-of-address information concerning registered voters.

If we do not hear within two weeks of the date of this letter that you intend to provide these records, we will assume that you do not intend to do so, and will act accordingly.

\* \* \* \* \*

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However, if you do not contact us about correcting or otherwise resolving the above-identified problems within 90 days, we will commence a federal lawsuit seeking declaratory and injunctive relief against your county. In such a lawsuit we would seek, in addition to injunctive relief, a judgment awarding reasonable attorney's fees, expenses, and costs. *See* 52 U.S.C. § 20510(c). For the reasons set forth above, we believe that such a lawsuit would be likely to succeed.

We look forward to receiving your prompt response.

Sincerely,

**JUDICIAL WATCH, INC.**

*s/ Robert D. Popper*

Robert D. Popper  
Attorney, Judicial Watch, Inc.

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## EXHIBIT 4





**Judicial  
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*Because no one  
is above the law!*

November 16, 2021

*VIA USPS CERTIFIED MAIL AND EMAIL*

Jenny Low and Frederic M. Umane  
Commissioners, New York County Board of Elections  
200 Varick Street - 10th Floor  
New York, NY 10014

Todd D. Valentine and Kristen Zebrowski Stavisky  
Co-Executive Directors  
New York State Board of Elections  
40 North Pearl Street, Suite 5  
Albany, NY 12207-2729

**Re: Statutory Notice of Violations of 52 U.S.C. § 20507.**

Dear Commissioners Low and Umane and Executive Directors Valentine and Stavisky:

I write as legal counsel for Judicial Watch, Inc. ("Judicial Watch"). This letter is to notify you that we have determined that you are in violation of Section 8(a)(4) of the National Voter Registration Act of 1993 (NVRA), which mandates that you conduct a general program that makes a reasonable effort to remove the names of ineligible voters.<sup>1</sup> This letter serves as pre-suit notice pursuant to 52 U.S.C. § 20510(b)(1) & (2). Judicial Watch will file a complaint against officials of New York County if these violations are not corrected within 90 days.

This letter also serves as a request pursuant to 52 U.S.C. § 20507(i) for records related to voter registration activities, which records you are required to keep and to provide upon request.

**Violations of Section 8 of the NVRA**

Section 8(a)(4) of the NVRA requires states to "conduct a general program that makes a reasonable effort to remove the names of ineligible voters" by reason of death or change of address.<sup>2</sup> We determined the noticed violation of the NVRA based upon the following.

---

<sup>1</sup> The executive directors of the Board of Elections are designated by law as the chief State election officials responsible for coordinating New York's compliance with the NVRA. *See* 52 U.S.C. § 20509; N.Y. Elec. § 3-100; N.Y. Elec. § 3-102(13).

<sup>2</sup> 52 U.S.C. § 20507(a)(4).

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A voter registration is subject to cancellation under Section 8(d)(1)(B) of the NVRA when a voter fails to respond to an address confirmation notice and then fails to vote or correct the registration record before the second general federal election following the notice.<sup>3</sup> The Supreme Court has held that such removals are mandatory.<sup>4</sup>

Federal law requires the Election Assistance Commission (EAC) to submit a report to Congress every second year assessing the impact of the NVRA on the administration of federal elections during the preceding two years.<sup>5</sup> Federal regulations require chief State election officials to provide data to the EAC for use in this report.<sup>6</sup> The EAC has published the data it received from the states—including your state—for the last two reporting periods. Together these datasets contain four years of self-reported data concerning compliance with the NVRA, from November 2016 through November 2020.<sup>7</sup>

The data shows that New York County reported removing *two* (2) voter registrations pursuant to Section 8(d)(1)(B) in that *four-year* period. It is simply not possible to comply with the NVRA while removing so few registrations under that provision. Many tens of thousands of voters must have changed residence without notifying election officials during those four years.

Accordingly, this letter serves as official statutory notice, pursuant to 52 U.S.C. § 20510(b)(2), of violations of the NVRA. In response to this letter, please indicate whether you admit or contest the accuracy of the cited data. In this regard, please note:

1. The relevant data was provided to a federal commission by your state, acting pursuant to a federal mandate. Thus, it will not do simply to assert that “Judicial Watch got it wrong.” These are your state’s official numbers. If they are incorrect, it is the fault of someone in your county or state government.

2. If the data are incorrect, please provide what you believe to be the correct numbers for the relevant four-year period.

3. In the same vein, if registrations were removed pursuant Section 8(d)(1)(B) *after* November 2020, please tell us, and tell us how many were removed.

---

<sup>3</sup> 52 U.S.C. § 20507(d)(1)(B).

<sup>4</sup> *Husted v. A. Philip Randolph Inst.*, 138 S. Ct. 1833, 1841-42 (2018).

<sup>5</sup> 52 U.S.C. § 20508(a)(3).

<sup>6</sup> 11 C.F.R. § 9428.7.

<sup>7</sup> The data are available at <https://www.eac.gov/research-and-data/datasets-codebooks-and-surveys>. Data for the most recent reporting period (November 2018 through November 2020) is available under “2020” as “EAVS Datasets Version 1.1 (released October 8, 2021).” Column “CZ” shows the number of cancellations pursuant to Section 8(d)(1)(B) of the NVRA. Data for the previous reporting period (November 2016 through November 2018) is available under “2018” as “EAVS Datasets Version 1.3 (released July 15, 2020).” Column “CX” shows the relevant cancellations under Section 8(d)(1)(B).



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4. Note that we are *only* referring to registrants who were sent an address inquiry notice, failed to respond, and then failed to vote or otherwise appear in the next two consecutive general federal elections, as set forth in Section 8(d)(1)(B) of the NVRA. We are *not* referring to registrations removed for any other reason. Specifically, we are not referring to total removals, to removals on account of the death of the registrant, or to removals where a registrant announces or confirms a change of address to relevant officials.

In the event Judicial Watch files a complaint against you, we are likely to attach a copy of this letter. If your answer is nonresponsive or non-substantive, we will point it out.

#### **Request for Records Pursuant to NVRA Section 8(i)**

Section 8(i)(1) of the NVRA requires that “[e]ach state shall maintain for at least 2 years and shall make available for public inspection . . . all records concerning the implementation of programs and activities conducted for the purpose of ensuring the accuracy and currency of official lists of eligible voters.” 52 U.S.C. § 20507(i)(1). That provision goes on to specifically provide that “[t]he records maintained . . . shall include lists of the names and addresses of all persons to whom [address confirmation] notices . . . are sent, and information concerning whether or not each such person has responded to the notice.” *Id.*, § 20507(i)(2).

Pursuant to Section 8(i), we ask that New York County provide the following records to Judicial Watch:

1. Copies of the county’s most recent voter registration database, including fields indicating each registered voters’ name, full date of birth, home address, most recent voter activity, and active or inactive status.
2. A list of the names and addresses of all persons in the county to whom notices described in 52 U.S.C. § 20507(d)(2) were sent, and information concerning whether or not each such person responded to the notice.
3. Communications concerning the U.S. Election Assistance Commission’s 2020 Election Administration and Voting Survey, including, but not limited to, responses to Section A of that survey, and any records provided along with those responses.
4. All records concerning any internal or external audit, evaluation, assessment, review, analysis, critique, or request for or response to any of the foregoing, relating to the accuracy and currency of the county’s official lists of eligible voters.
5. All records concerning any instance(s) of voter fraud, including, but not limited to, impersonation fraud, double voting, registration fraud, absentee ballot fraud, mail-in ballot fraud, registration or voting by noncitizens, unlawful assistance, or aiding, abetting, or conspiring to commit any of the foregoing.

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6. All manuals, training materials, protocols, written standards, and official guidance concerning efforts to ensure the accuracy and currency of official lists of eligible voters.
7. All contracts with the U.S. Postal Service or any other federal agency to provide change-of-address information concerning registered voters.

If we do not hear within two weeks of the date of this letter that you intend to provide these records, we will assume that you do not intend to do so, and will act accordingly.

\* \* \* \* \*

If I have been blunt, it is from long experience in sending notice letters, receiving responses (or not), and commencing litigation under the NVRA. Please do not misinterpret this as any unwillingness to compromise or work together. We are always glad to avoid costly litigation and to amicably resolve any dispute. In fact, we have a track record of resolving NVRA claims on reasonable terms, including, in the early stages, for no fees.

However, if you do not contact us about correcting or otherwise resolving the above-identified problems within 90 days, we will commence a federal lawsuit seeking declaratory and injunctive relief against your county. In such a lawsuit we would seek, in addition to injunctive relief, a judgment awarding reasonable attorney's fees, expenses, and costs. *See* 52 U.S.C. § 20510(c). For the reasons set forth above, we believe that such a lawsuit would be likely to succeed.

We look forward to receiving your prompt response.

Sincerely,

**JUDICIAL WATCH, INC.**

*s/ Robert D. Popper*

Robert D. Popper  
Attorney, Judicial Watch, Inc.

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# EXHIBIT 5





**Judicial  
Watch®**  
*Because no one  
is above the law!*

November 16, 2021

*VIA USPS CERTIFIED MAIL AND EMAIL*

Commissioners Patricia Anne Taylor and John W. Zaccone  
Richmond County Board of Elections  
1 Edgewater Plaza  
Staten Island, NY 10305

Todd D. Valentine and Kristen Zebrowski Stavisky  
Co-Executive Directors  
New York State Board of Elections  
40 North Pearl Street, Suite 5  
Albany, NY 12207-2729

**Re: Statutory Notice of Violations of 52 U.S.C. § 20507.**

Dear Commissioners Taylor and Zaccone and Executive Directors Valentine and Stavisky:

I write as legal counsel for Judicial Watch, Inc. ("Judicial Watch"). This letter is to notify you that we have determined that you are in violation of Section 8(a)(4) of the National Voter Registration Act of 1993 (NVRA), which mandates that you conduct a general program that makes a reasonable effort to remove the names of ineligible voters.<sup>1</sup> This letter serves as pre-suit notice pursuant to 52 U.S.C. § 20510(b)(1) & (2). Judicial Watch will file a complaint against officials of Richmond County if these violations are not corrected within 90 days.

This letter also serves as a request pursuant to 52 U.S.C. § 20507(i) for records related to voter registration activities, which records you are required to keep and to provide upon request.

**Violations of Section 8 of the NVRA**

Section 8(a)(4) of the NVRA requires states to "conduct a general program that makes a reasonable effort to remove the names of ineligible voters" by reason of death or change of address.<sup>2</sup> We determined the noticed violation of the NVRA based upon the following.

---

<sup>1</sup> The executive directors of the Board of Elections are designated by law as the chief State election officials responsible for coordinating New York's compliance with the NVRA. See 52 U.S.C. § 20509; N.Y. Elec. § 3-100; N.Y. Elec. § 3-102(13).

<sup>2</sup> 52 U.S.C. § 20507(a)(4).

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A voter registration is subject to cancellation under Section 8(d)(1)(B) of the NVRA when a voter fails to respond to an address confirmation notice and then fails to vote or correct the registration record before the second general federal election following the notice.<sup>3</sup> The Supreme Court has held that such removals are mandatory.<sup>4</sup>

Federal law requires the Election Assistance Commission (EAC) to submit a report to Congress every second year assessing the impact of the NVRA on the administration of federal elections during the preceding two years.<sup>5</sup> Federal regulations require chief State election officials to provide data to the EAC for use in this report.<sup>6</sup> The EAC has published the data it received from the states—including your state—for the last two reporting periods. Together these datasets contain four years of self-reported data concerning compliance with the NVRA, from November 2016 through November 2020.<sup>7</sup>

The data shows that Richmond County reported removing *zero (0)* voter registrations pursuant to Section 8(d)(1)(B) in that *four-year* period. It is simply not possible to comply with the NVRA while removing zero registrations under that provision. Many tens of thousands of voters must have changed residence without notifying election officials during those four years.

Accordingly, this letter serves as official statutory notice, pursuant to 52 U.S.C. § 20510(b)(2), of violations of the NVRA. In response to this letter, please indicate whether you admit or contest the accuracy of the cited data. In this regard, please note:

1. The relevant data was provided to a federal commission by your state, acting pursuant to a federal mandate. Thus, it will not do simply to assert that “Judicial Watch got it wrong.” These are your state’s official numbers. If they are incorrect, it is the fault of someone in your county or state government.

2. If the data are incorrect, please provide what you believe to be the correct numbers for the relevant four-year period.

3. In the same vein, if registrations were removed pursuant Section 8(d)(1)(B) *after* November 2020, please tell us, and tell us how many were removed.

---

<sup>3</sup> 52 U.S.C. § 20507(d)(1)(B).

<sup>4</sup> *Husted v. A. Philip Randolph Inst.*, 138 S. Ct. 1833, 1841-42 (2018).

<sup>5</sup> 52 U.S.C. § 20508(a)(3).

<sup>6</sup> 11 C.F.R. § 9428.7.

<sup>7</sup> The data are available at <https://www.eac.gov/research-and-data/datasets-codebooks-and-surveys>. Data for the most recent reporting period (November 2018 through November 2020) is available under “2020” as “EAVS Datasets Version 1.1 (released October 8, 2021).” Column “CZ” shows the number of cancellations pursuant to Section 8(d)(1)(B) of the NVRA. Data for the previous reporting period (November 2016 through November 2018) is available under “2018” as “EAVS Datasets Version 1.3 (released July 15, 2020).” Column “CX” shows the relevant cancellations under Section 8(d)(1)(B).



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4. Note that we are *only* referring to registrants who were sent an address inquiry notice, failed to respond, and then failed to vote or otherwise appear in the next two consecutive general federal elections, as set forth in Section 8(d)(1)(B) of the NVRA. We are *not* referring to registrations removed for any other reason. Specifically, we are not referring to total removals, to removals on account of the death of the registrant, or to removals where a registrant announces or confirms a change of address to relevant officials.

In the event Judicial Watch files a complaint against you, we are likely to attach a copy of this letter. If your answer is nonresponsive or non-substantive, we will point it out.

**Request for Records Pursuant to NVRA Section 8(i)**

Section 8(i)(1) of the NVRA requires that “[e]ach state shall maintain for at least 2 years and shall make available for public inspection . . . all records concerning the implementation of programs and activities conducted for the purpose of ensuring the accuracy and currency of official lists of eligible voters.” 52 U.S.C. § 20507(i)(1). That provision goes on to specifically provide that “[t]he records maintained . . . shall include lists of the names and addresses of all persons to whom [address confirmation] notices . . . are sent, and information concerning whether or not each such person has responded to the notice.” *Id.*, § 20507(i)(2).

Pursuant to Section 8(i), we ask that Richmond County provide the following records to Judicial Watch:

1. Copies of the county’s most recent voter registration database, including fields indicating each registered voters’ name, full date of birth, home address, most recent voter activity, and active or inactive status.
2. A list of the names and addresses of all persons in the county to whom notices described in 52 U.S.C. § 20507(d)(2) were sent, and information concerning whether or not each such person responded to the notice.
3. Communications concerning the U.S. Election Assistance Commission’s 2020 Election Administration and Voting Survey, including, but not limited to, responses to Section A of that survey, and any records provided along with those responses.
4. All records concerning any internal or external audit, evaluation, assessment, review, analysis, critique, or request for or response to any of the foregoing, relating to the accuracy and currency of the county’s official lists of eligible voters.
5. All records concerning any instance(s) of voter fraud, including, but not limited to, impersonation fraud, double voting, registration fraud, absentee ballot fraud, mail-in ballot fraud, registration or voting by noncitizens, unlawful assistance, or aiding, abetting, or conspiring to commit any of the foregoing.

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6. All manuals, training materials, protocols, written standards, and official guidance concerning efforts to ensure the accuracy and currency of official lists of eligible voters.
7. All contracts with the U.S. Postal Service or any other federal agency to provide change-of-address information concerning registered voters.

If we do not hear within two weeks of the date of this letter that you intend to provide these records, we will assume that you do not intend to do so, and will act accordingly.

\* \* \* \* \*

If I have been blunt, it is from long experience in sending notice letters, receiving responses (or not), and commencing litigation under the NVRA. Please do not misinterpret this as any unwillingness to compromise or work together. We are always glad to avoid costly litigation and to amicably resolve any dispute. In fact, we have a track record of resolving NVRA claims on reasonable terms, including, in the early stages, for no fees.

However, if you do not contact us about correcting or otherwise resolving the above-identified problems within 90 days, we will commence a federal lawsuit seeking declaratory and injunctive relief against your county. In such a lawsuit we would seek, in addition to injunctive relief, a judgment awarding reasonable attorney's fees, expenses, and costs. *See* 52 U.S.C. § 20510(c). For the reasons set forth above, we believe that such a lawsuit would be likely to succeed.

We look forward to receiving your prompt response.

Sincerely,

**JUDICIAL WATCH, INC.**

*s/ Robert D. Popper*

Robert D. Popper  
Attorney, Judicial Watch, Inc.

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## EXHIBIT 6





**Judicial  
Watch®**  
*Because no one  
is above the law!*

November 16, 2021

*VIA USPS CERTIFIED MAIL AND EMAIL*

Commissioners Miguelina Camilo and Gino A. Marmorato  
Bronx County Board of Elections  
1780 Grand Concourse-5th Floor  
Bronx, NY 10457

Todd D. Valentine and Kristen Zebrowski Stavisky  
Co-Executive Directors  
New York State Board of Elections  
40 North Pearl Street, Suite 5  
Albany, NY 12207-2729

**Re: Statutory Notice of Violations of 52 U.S.C. § 20507.**

Dear Commissioners Camilo and Marmorato and Executive Directors Valentine and Stavisky:

I write as legal counsel for Judicial Watch, Inc. ("Judicial Watch"). This letter is to notify you that we have determined that you are in violation of Section 8(a)(4) of the National Voter Registration Act of 1993 (NVRA), which mandates that you conduct a general program that makes a reasonable effort to remove the names of ineligible voters.<sup>1</sup> This letter serves as pre-suit notice pursuant to 52 U.S.C. § 20510(b)(1) & (2). Judicial Watch will file a complaint against officials of Bronx County if these violations are not corrected within 90 days.

This letter also serves as a request pursuant to 52 U.S.C. § 20507(i) for records related to voter registration activities, which records you are required to keep and to provide upon request.

**Violations of Section 8 of the NVRA**

Section 8(a)(4) of the NVRA requires states to "conduct a general program that makes a reasonable effort to remove the names of ineligible voters" by reason of death or change of address.<sup>2</sup> We determined the noticed violation of the NVRA based upon the following.

---

<sup>1</sup> The executive directors of the Board of Elections are designated by law as the chief State election officials responsible for coordinating New York's compliance with the NVRA. See 52 U.S.C. § 20509; N.Y. Elec. § 3-100; N.Y. Elec. § 3-102(13).

<sup>2</sup> 52 U.S.C. § 20507(a)(4).

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A voter registration is subject to cancellation under Section 8(d)(1)(B) of the NVRA when a voter fails to respond to an address confirmation notice and then fails to vote or correct the registration record before the second general federal election following the notice.<sup>3</sup> The Supreme Court has held that such removals are mandatory.<sup>4</sup>

Federal law requires the Election Assistance Commission (EAC) to submit a report to Congress every second year assessing the impact of the NVRA on the administration of federal elections during the preceding two years.<sup>5</sup> Federal regulations require chief State election officials to provide data to the EAC for use in this report.<sup>6</sup> The EAC has published the data it received from the states—including your state—for the last two reporting periods. Together these datasets contain four years of self-reported data concerning compliance with the NVRA, from November 2016 through November 2020.<sup>7</sup>

The data shows that Bronx County reported removing *one (1)* voter registrations pursuant to Section 8(d)(1)(B) in that *four-year* period. It is simply not possible to comply with the NVRA while removing one registration under that provision. Many tens of thousands of voters must have changed residence without notifying election officials during those four years.

Accordingly, this letter serves as official statutory notice, pursuant to 52 U.S.C. § 20510(b)(2), of violations of the NVRA. In response to this letter, please indicate whether you admit or contest the accuracy of the cited data. In this regard, please note:

1. The relevant data was provided to a federal commission by your state, acting pursuant to a federal mandate. Thus, it will not do simply to assert that “Judicial Watch got it wrong.” These are your state’s official numbers. If they are incorrect, it is the fault of someone in your county or state government.
2. If the data are incorrect, please provide what you believe to be the correct numbers for the relevant four-year period.
3. In the same vein, if registrations were removed pursuant Section 8(d)(1)(B) *after* November 2020, please tell us, and tell us how many were removed.

---

<sup>3</sup> 52 U.S.C. § 20507(d)(1)(B).

<sup>4</sup> *Husted v. A. Philip Randolph Inst.*, 138 S. Ct. 1833, 1841-42 (2018).

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In the event Judicial Watch files a complaint against you, we are likely to attach a copy of this letter. If your answer is nonresponsive or non-substantive, we will point it out.

**Request for Records Pursuant to NVRA Section 8(i)**

Section 8(i)(1) of the NVRA requires that “[e]ach state shall maintain for at least 2 years and shall make available for public inspection . . . all records concerning the implementation of programs and activities conducted for the purpose of ensuring the accuracy and currency of official lists of eligible voters.” 52 U.S.C. § 20507(i)(1). That provision goes on to specifically provide that “[t]he records maintained . . . shall include lists of the names and addresses of all persons to whom [address confirmation] notices . . . are sent, and information concerning whether or not each such person has responded to the notice.” *Id.*, § 20507(i)(2).

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3. Communications concerning the U.S. Election Assistance Commission’s 2020 Election Administration and Voting Survey, including, but not limited to, responses to Section A of that survey, and any records provided along with those responses.
4. All records concerning any internal or external audit, evaluation, assessment, review, analysis, critique, or request for or response to any of the foregoing, relating to the accuracy and currency of the county’s official lists of eligible voters.
5. All records concerning any instance(s) of voter fraud, including, but not limited to, impersonation fraud, double voting, registration fraud, absentee ballot fraud, mail-in ballot fraud, registration or voting by noncitizens, unlawful assistance, or aiding, abetting, or conspiring to commit any of the foregoing.

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6. All manuals, training materials, protocols, written standards, and official guidance concerning efforts to ensure the accuracy and currency of official lists of eligible voters.
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We look forward to receiving your prompt response.

Sincerely,

**JUDICIAL WATCH, INC.**

*s/ Robert D. Popper*

Robert D. Popper  
Attorney, Judicial Watch, Inc.