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November 22, 2022

Dear Mr. McIntyre,

We write on behalf of our clients, the Arizona Alliance for Retired Americans and Stephani Stephenson, regarding actions taken by the Cochise County Board of Supervisors (the “Board”). We are aware that on November 18, 2022, the Board voted 2-1 to postpone canvassing the election results to November 28, 2022. Supervisor Crosby stated that the Board made this decision to delay the canvass of election results “until such evidence about lawful certification [of voting equipment] by an accredited laboratory is presented and confirmed by persons with expertise in that field.”<sup>1</sup> But all of the statutory prerequisites to certification have been completed, including the necessary hand-count audit under A.R.S.

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<sup>1</sup> Video Recording of Nov. 18, 2022, Special Meeting at 2:15:28-2:15:51, available at <https://www.youtube.com/watch?v=RvAxd054xoM>.

§ 16-602—which found no discrepancies in any race<sup>2</sup>—and the Board receiving the complete election results.<sup>3</sup> The Board must now canvass the election results.

The Board’s decision to delay the County’s canvass is the latest chapter in a long, baseless effort to call into question the results of the 2022 general election. First, the Board ignored the advice of its own legal counsel and voted to conduct an unlawful 100% hand count audit at its October 24, 2022 meeting. This prompted our clients to file a lawsuit to require the Board to conduct only the limited hand audit authorized under Arizona law. The Arizona Superior Court quickly granted our clients’ requested relief in full. *See Ariz. All. For Ret. Ams. v. Crosby*, No. CV202200518, November 7, 2022 Order (Ariz. Sup. 2022). Our clients intend to seek attorney fees and costs incurred in this action.

But the Board was undeterred, filing motions for an expedited appeal in the Arizona Court of Appeals and to transfer jurisdiction to the Arizona Supreme Court. After those courts denied both motions, the Board lacked any viable legal path to conduct its illegal expanded hand count audit. The Board nonetheless continued to take steps to conduct an illegal supplemental hand count audit with Cochise County Recorder David Stevens. Upon learning of the Board’s plans, our clients sent the Board and Recorder Stevens a letter on November 13, 2022, notifying them of our clients’ intent to move to hold them in contempt because the plan to conduct a supplemental hand count audit violated the Superior Court’s November 7 order. Supervisors Judd and Crosby then filed a patently frivolous lawsuit against the County Elections Director in her personal capacity seeking to compel her to conduct an unlawful expanded hand count audit or to illegally relinquish custody of the ballots. Supervisors Judd and Crosby abruptly withdrew that petition after our clients moved to intervene in the litigation.

Now, the Board has voted to delay its canvass and condition it upon irrelevant evidence from unknown “experts.” But as you and the Board are no doubt aware—and as State Elections Director Kori Lorick explained to you in her November 21, 2022, letter—Arizona law requires the Board to “meet and canvass the election” no later than “twenty days following the election,” or November 28. A.R.S. § 16-642(A). This ministerial duty is mandatory, not discretionary: the Board “must canvass” the election results and, as stated in the 2019 Elections Procedures Manual (“EPM”), “[t]he Board of Supervisors has a non-discretionary duty to canvass the returns as provided by the County Recorder or other

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<sup>2</sup> The results of this audit are available on the Arizona Secretary of State’s website at <https://azsos.gov/sites/default/files/2022GeneralHandCountReport-Cochise.pdf>.

<sup>3</sup> These complete election results are available on the Board’s website at [https://destinyhosted.com/cochidocs/2022/SPCL/20221118\\_2470/6792\\_ElectionUpdate\\_Final.pdf](https://destinyhosted.com/cochidocs/2022/SPCL/20221118_2470/6792_ElectionUpdate_Final.pdf).

officer in charge of elections and ***has no authority to change vote totals or reject the election results.***<sup>4</sup> EPM at 240 (emphasis added). Moreover, the Secretary of State's office has already provided written proof of the accreditation of the laboratories that tested and certified the voting equipment used in Cochise County.

Given that the Board has already received the complete election results, any further postponements or refusal to canvass the election results by November 28 would be unlawful and would violate the Board's mandatory duty under A.R.S. § 16-642 and the EPM.

If the Board refuses to perform its mandatory statutory duty to accept and canvass the election results by November 28, 2022, we will take swift legal action and seek attorney fees and costs.

Respectfully,

*Lali Madduri*

Lali Madduri

*Counsel for Arizona Alliance for Retired  
Americans and Stephani Stephenson*

CC: Bryan Blehm (bryan@thevalleylawgroup.com)

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<sup>4</sup> The 2019 EPM is available on the Arizona Secretary of State's website at [https://azsos.gov/sites/default/files/2019\\_ELECTIONS\\_PROCEDURES\\_MANUAL\\_APPROVE\\_D.pdf](https://azsos.gov/sites/default/files/2019_ELECTIONS_PROCEDURES_MANUAL_APPROVE_D.pdf).