# Congress of the United States

# House of Representatives

COMMITTEE ON OVERSIGHT AND REFORM 2157 RAYBURN HOUSE OFFICE BUILDING WASHINGTON, DC 20515–6143

> MAJORITY (202) 225–5051 MINORITY (202) 225–5074 https://oversight.house.gov

March 16, 2022

V.A. Shiva Ayyadurai, Ph.D.President and Chief Executive OfficerEchoMail, Inc.701 Concord AvenueCambridge, MA 02138

Dear Dr. Ayyadurai:

We are writing to request information regarding EchoMail's participation in an "audit" of the 2020 election in Otero County, New Mexico. The Oversight Committee is investigating the rise of partisan "audits" of the 2020 election results that threaten to undermine the integrity of our election critical infrastructure and perpetuate misinformation about election results. We are deeply concerned about your company's role in this effort, given your participation in the discredited "audit" in Maricopa County, Arizona, and your personal embrace of election conspiracy theories. The Committee is also alarmed by your company's involvement in a door-to-door canvass of Otero County voters, which is apparently being conducted by volunteers from a conspiracist group whose leaders aim to "pinpoint" a "list of suspects" for "criminal prosecution," and called for "arrests," "prosecutions," and "firing squads."<sup>1</sup> This potentially illegal canvass is already under way, and more than sixty Otero County residents have contacted state and local officials expressing concerns about interactions with the canvassers.<sup>2</sup>

The right to vote is protected by the Constitution and is the cornerstone of our democratic system of government. The Committee is investigating whether your company's audit and canvass in New Mexico illegally interferes with Americans' right to vote by spreading disinformation about elections and intimidating voters.

## **EchoMail's Voter Canvass**

According to the cover letter that accompanies EchoMail's contract with Otero County, in addition to "auditing" ballot images and signatures from the 2020 election, EchoMail was

<sup>&</sup>lt;sup>1</sup> Election "Vigilante" Group Posing as County Workers, Says New Mexico's State Auditor, Daily Beast (Mar. 14, 2022) (online at www.thedailybeast.com/vigilante-new-mexico-audit-force-posing-as-county-workers-says-state-auditor?ref=scroll).

<sup>&</sup>lt;sup>2</sup> Election Audit Rattles Residents of Otero County, KUNM (Mar. 2, 2022) (online at www.kunm.org/localnews/2022-03-02/election-audit-rattles-residents-of-otero-county).

contracted to "[p]erform door-to-door canvass of Otero County voter registration database to determine accuracy of voter registration database."<sup>3</sup> The contract and cover letter state that the canvass would not be conducted by EchoMail itself, but by "volunteers under the direction of New Mexico Audit Force ('Volunteers') with guidance from EchoMail."<sup>4</sup>

According to press reports, New Mexico Audit Force is not a legally incorporated entity nor is it currently overseen by any government agency. Rather, it is a non-governmental group, loosely organized on the messaging platform Telegram, and is led by "Big Lie" conspiracy theorists.<sup>5</sup> In presenting the details of the "audit" to the Otero County Commissioners, the group's leaders, Erin Clements, and her husband, David Clements, emphasized that the volunteers would act independently of county supervision. Ms. Clements stated that the goal of the canvass was to "pinpoint at least a pretty small list of suspects and then hand it over for criminal prosecution from there."<sup>6</sup> Mr. Clements, speaking about the plan to a church group in February 2022, laid bare the goals of the audit and canvass: "I want arrests, I want prosecutions, I want firing squads."<sup>7</sup> Advocates of the "audit" have begun privately fundraising with the support of election conspiracist Lin Wood, who has called for former Vice President Mike Pence to face execution by firing squad.<sup>8</sup>

Potentially illegal canvassing is already taking place in New Mexico and elsewhere. In February 2022, Erin and David Clements told Otero County Commissioners that their organization has already canvassed several hundred voters "all over the state" and that it currently "oversees 30 canvassing operations in 30 states."<sup>9</sup> Recently, dozens of Otero County

<sup>4</sup> Letter from Dr. V.A. Shiva Ayyadurai; President and Chief Executive Officer; EchoMail, Inc., to Gerald Matherly, Couy Griffin, and Vickie Marquardt, County Commissioners, Otero County, New Mexico (Dec. 29, 2021) (online at agendasuite.org/iip/otero/file/getfile/22352).

<sup>5</sup> This Pro-Trump County Is Carrying Out a Wild Audit of Its Own 2020 Votes, Daily Beast (Feb. 7, 2022) (online at www.thedailybeast.com/pro-trump-otero-county-in-new-mexico-is-carrying-out-a-wild-audit-of-2020-votes?ref=author).

<sup>6</sup> Otero County, *County Commission Regular Meeting January 13, 2022* (Jan. 13, 2022) (online at youtu.be/C3oETQGHtnA?t=7077).

<sup>7</sup> Election "Vigilante" Group Posing as County Workers, Says New Mexico's State Auditor, Daily Beast (Mar. 14, 2022) (online at www.thedailybeast.com/vigilante-new-mexico-audit-force-posing-as-county-workers-says-state-auditor?ref=scroll).

<sup>8</sup> Otero County has agreed to pay EchoMail \$49,750 in taxpayer funds for the proposed canvass and audit. *This Pro-Trump County Is Carrying Out a Wild Audit of Its Own 2020 Votes*, Daily Beast (Feb. 7, 2022) (online at www.thedailybeast.com/pro-trump-otero-county-in-new-mexico-is-carrying-out-a-wild-audit-of-2020-votes?ref=author).

<sup>9</sup> Otero County, *County Commission Regular Meeting January 13, 2022* (Jan. 13, 2022) (online at youtu.be/C3oETQGHtnA?t=7077) (02:12:51–02:33:01). *See also New Mexico State University Professor Who Bucked COVID-19 Vaccine, Mask Mandates Reportedly Fired*, Las Cruces Sun-News (Oct. 11, 2021) (online at www.lcsun-news.com/story/news/education/nmsu/2021/10/11/nmsu-professor-david-clements-fired-for-bucking-covid-19-mandates/6090555001/).

<sup>&</sup>lt;sup>3</sup> Letter from Dr. V.A. Shiva Ayyadurai, President and Chief Executive Officer, EchoMail, Inc., to Gerald Matherly, Couy Griffin, and Vickie Marquardt, County Commissioners, Otero County, New Mexico (Dec. 29, 2021) (online at agendasuite.org/iip/otero/file/getfile/22352). See also Echomail, Master License and Services Agreement Between EchoMail Inc and Otero County Commission and Its Subordinates and Affiliates (online at agendasuite.org/iip/otero/file/getfile/22351) (accessed Feb. 11, 2022).

residents began reporting canvassing visits from these volunteers. In one instance recorded on video, the canvasser claimed to be acting on behalf of the county.<sup>10</sup>

#### **EchoMail's Propagation of Election Conspiracy Theories**

In 2021, Arizona Senate President Karen Fann hired EchoMail as a subcontractor for the discredited Maricopa County election audit, run by the now-defunct Cyber Ninjas, LLC. As part of that contract, EchoMail investigated the county's early voting envelopes and claimed to find "critical anomalies in the signature matching system."<sup>11</sup> However, journalists, outside experts, and election professionals demonstrated conclusively that EchoMail's claims were inaccurate and based on "complete misunderstandings of state laws and election procedures."<sup>12</sup> In particular, your widely circulated claim that the existence of multiple images of the same envelope was evidence of ballot fraud was immediately debunked as "blatantly false."<sup>13</sup>

In addition to your propagation of false information regarding Maricopa County's ballot envelopes, you have repeatedly embraced election conspiracy theories.<sup>14</sup> Recently, while appearing on Steve Bannon's podcast, you suggested that 4.2% of former President Trump's votes could have been taken away from him by "a bunch of nerds" based on a formula identified in Douglas Adams' comedic novel "The Hitchhiker's Guide to the Galaxy."<sup>15</sup> You have also repeatedly joined with other advocates of the "Big Lie" to cast doubt on the legitimacy of the

<sup>12</sup> "Audit" Expert Shiva Ayyadurai Didn't Understand Election Procedures. He Made a Number of False Signature Claims, AZ Mirror (Oct. 1, 2021) (online at www.azmirror.com/2021/10/01/audit-expert-shiva-ayyaduraididnt-understand-election-procedures-he-made-a-number-of-false-signature-claims/); Maricopa County, Arizona, Maricopa County Analysis of Senate Review – Envelopes (EchoMail Report) (Oct. 6, 2021) (online at recorder.maricopa.gov/justthefacts/pdf/Maricopa%20County%20Analysis%20of%20Senate%20Review%20%E2% 80%93%20EchoMail%20Report.pdf).

<sup>13</sup> "Audit" Expert Shiva Ayyadurai Didn't Understand Election Procedures. He Made a Number of False Signature Claims, AZ Mirror (Oct. 1, 2021) (online at www.azmirror.com/2021/10/01/audit-expert-shiva-ayyaduraididnt-understand-election-procedures-he-made-a-number-of-false-signature-claims/); see also Maricopa County, Arizona Elections Department, Correcting the Record: Maricopa County's In-Depth Analysis of the Senate Inquiry (Jan. 2022) (online at recorder.maricopa.gov/justthefacts/pdf/Correcting%20The%20Record%20-%20January%202022%20Report.pdf).

<sup>14</sup> GOP Election Truthers Tap a Failed Politician and Conspiracy Theorist for Sham Audit, Yahoo (Sept. 17, 2021) (online at ca.sports.yahoo.com/news/gop-election-truthers-tap-failed-084409216.html?src=rss); see also Fact Check: Massachusetts Election Officials Have Not Destroyed Ballots or Committed Election Fraud, Reuters (Oct. 2, 2020) (online at www.reuters.com/article/uk-factcheck-election-ballot-massachuset/fact-check-massachusetts-election-officials-have-not-destroyed-ballots-or-committed-election-fraud-idUSKBN26N2AF).

<sup>15</sup> Gableman Almost Hired Conspiracy Theorist to Look at Voting Data, Milwaukee Journal Sentinel (Feb. 12, 2022) (online at www.jsonline.com/story/news/politics/2022/02/11/michael-gableman-considered-hiring-conspiracy-theorist-wisconsin-voting-machines/6737674001/).

<sup>&</sup>lt;sup>10</sup> New Mexico Leaders Warn Otero County Voters Not to Share Personal Information Amid "Vigilante Audit," Alamogordo Daily News (Mar. 2, 2022) (online at

www.alamogordonews.com/story/community/2022/03/02/otero-county-voters-warned-new-mexico-audit-force-private-information-maggie-toulouse-oliver/9349256002/).

<sup>&</sup>lt;sup>11</sup> See Maricopa County, Arizona, Arizona Senate Contract Records with Maricopa County – Schedule A (online at www.documentcloud.org/documents/21060123-arizona-senate-contract-records-regarding-maricopa-county-election-audit) (detailing EchoMail's statement of work regarding election envelope analysis).

election results, appearing alongside conspiracy theorists Rudy Giuliani, Jenna Ellis, and Mike Lindell to spread misinformation about the 2020 election.<sup>16</sup>

#### Potential Violations of the Voting Rights Act

Section 11(b) of the Voting Rights Act states:

No person, whether acting under color of law or otherwise, shall intimidate, threaten, or coerce, or attempt to intimidate, threaten, or coerce any person for voting or attempting to vote, or intimidate, threaten, or coerce, or attempt to intimidate, threaten, or coerce any person for urging or aiding any person to vote or attempt to vote.<sup>17</sup>

The Committee is deeply concerned that EchoMail's "canvass" of Otero County residents may lead to voter intimidation in violation of Section 11(b).

This is not the first time your company has been associated with a potentially illegal voter canvass. On May 5, 2021, the Department of Justice (DOJ) sent a letter to Arizona Senate President Fann raising concerns about a similar proposed canvass during the "audit" of election results in Maricopa County.<sup>18</sup> DOJ raised concerns that such canvassing could lead to the "potential intimidation of voters" in violation of Section 11(b) of the Voting Rights Act, and noted, "[p]ast experience with similar investigative efforts around the county has raised concerns that they can be directed at minority voters."<sup>19</sup> As a result, the Arizona State Senate chose not to conduct an official canvass.<sup>20</sup>

The canvass in Otero County raises similar concerns. Your documented history of trafficking in destructive election conspiracy theories, along with the explicit plans of the leaders of the New Mexico Audit Force to use the audit to "pinpoint" a "list of suspects" and "hand it

<sup>19</sup> Id.

<sup>&</sup>lt;sup>16</sup> Madhouse on McDowell: An Unabashedly Premature Oral History of the Election Recount, Phoenix Magazine (July 7, 2021) (online at www.phoenixmag.com/2021/07/07/madhouse-on-mcdowell-an-unabashedly-premature-oral-history-of-the-election-recount/); VA Shiva, *Steve Bannon Interviews Dr. Shiva at Mike Lindell's Cyber Symposium* (Aug. 18, 2021) (online at vashiva.com/steve-bannon-interviews-dr-shiva-at-mike-lindells-cyber-symposium/).

<sup>&</sup>lt;sup>17</sup> Voting Rights Act of 1965 § 11(b), Pub. L. No. 89-110 (codified at 52 U.S.C. § 10307(b)); *see also* 52 U.S.C. § 10101(b) ("No person, whether acting under color of law or otherwise, shall intimidate, threaten, coerce, or attempt to intimidate, threaten, or coerce any other person for the purpose of interfering with the right . . . to vote or to vote as he may choose for, any candidate for the office of President, Vice President, presidential elector, Member of the Senate, or Member of the House of Representatives, Delegates or Commissioners from the Territories or possessions, at any general, special, or primary election held solely or in part for the purpose of selecting or electing any such candidate.").

<sup>&</sup>lt;sup>18</sup> Letter from Pamela S. Karlan, Principal Deputy Assistant Attorney General, Civil Rights Division, Department of Justice, to Karen Fann, President, Arizona State Senate (May 5, 2021) (online at s3.documentcloud.org/documents/20698904/doj-letter-to-fann-5-5-21.pdf).

<sup>&</sup>lt;sup>20</sup> Letter from Karen Fann, President, Arizona State Senate, to Pamela S. Karlan, Principal Deputy Assistant Attorney General, Civil Rights Division, Department of Justice (May 7, 2021) (online at s3.documentcloud.org/documents/20700735/fann-response-to-doj-5-7-21.pdf).

over for criminal prosecution," clearly presents a serious risk that you plan to intimidate qualified voters and deter them from seeking to vote in the future.<sup>21</sup> The canvas may have a particular impact on minority communities in Otero County. Nearly 40% of the county's population is non-white Hispanic, 11% of the county's population was born outside of the United States, and 6% identify as Native American or Alaskan.<sup>22</sup> Otero County's diversity makes it susceptible to the same threat identified by DOJ in Maricopa County—that canvasses of this nature, even when sponsored by local governments, can result in intimidation directed at minority voters.<sup>23</sup>

At least one local official, Otero County Attorney R.B. Nichols, raised questions about the legality of the "audit." At the County Commission meeting authorizing the County's contract with EchoMail, Mr. Nichols warned that the canvass "could be potentially reported and viewed as voter intimidation," and expressed concerns that "there are potential consequences" such as "litigation as well as violations of the elections code."<sup>24</sup> Mr. Nichols also raised concerns about EchoMail's demonstrated lack of election knowledge in the Maricopa County "audit" and noted that the proposed contract mentioned checking signature verifications that were not relevant under New Mexico law.<sup>25</sup> New Mexico's State Auditor recently discovered potential violations of state law in your contract with Otero County, and New Mexico's Attorney General has reportedly begun an investigation into allegations of intimidation by canvassers.<sup>26</sup>

#### **Committee's Request for Information**

<sup>22</sup> Data USA, *Otero County, NM* (online at datausa.io/profile/geo/otero-county-nm) (accessed Feb. 11, 2022).

<sup>23</sup> See Otero County to Spend \$49,750 on 2020 Election Audit, Alamogordo Daily News (Jan. 18, 2022) (online at www.alamogordonews.com/story/community/2022/01/18/otero-county-spend-49-7550-2020-election-audit/6527530001/).

<sup>24</sup> Otero County, *County Commission Regular Meeting January 13, 2022* (Jan. 13, 2022) (online at youtu.be/C3oETQGHtnA?t=14302) (01:57:57–01:59:06).

<sup>25</sup> *Id.* (02:00:51–02:02:26).

<sup>&</sup>lt;sup>21</sup> See Letter from Pamela S. Karlan, Principal Deputy Assistant Attorney General, Civil Rights Division, Department of Justice, to Karen Fann, President, Arizona State Senate (May 5, 2021) (online at www.justice.gov/crt/case-document/file/1424586/download); 52 U.S.C. § 10307(b) ("No person, whether acting under color of law or otherwise, shall intimidate, threaten, or coerce, or attempt to intimidate, threaten, or coerce any person for voting or attempting to vote."); 52 U.S.C. § 10101(b) ("No person, whether acting under color of law or otherwise, shall intimidate, threaten, coerce, or attempt to intimidate, threaten, or coerce any other person for the purpose of interfering with the right . . . to vote or to vote as he may choose, or of causing such other person to vote . . . or not to vote for, any candidate for the office of President, Vice President, presidential elector, Member of the Senate, or Member of the House of Representatives, Delegates or Commissioners from the Territories or possessions, at any general, special, or primary election held solely or in part for the purpose of selecting or electing any such candidate.").

<sup>&</sup>lt;sup>26</sup> State Auditor Finds Problems with Otero County's 2020 Election Audit Contract, Alamogordo Daily News (Mar. 15, 2022) (online at www.alamogordonews.com/story/community/2022/03/15/state-auditor-finds-problems-otero-countys-audit-contract-echomail-trump-ballot-election/7035789001/); Otero County Election Audit Worries State Officials, KRQE (Mar. 2, 2022) (online at www.krqe.com/news/new-mexico/otero-county-election-audit-worries-state-officials/).

Protecting the constitutionally guaranteed right to vote and the integrity of our elections is a priority for the Committee.<sup>27</sup> Congress has enacted legislation to safeguard this right and to ensure that elections are safe, secure, and fairly and impartially administered.<sup>28</sup> Congress is also empowered to investigate any conduct that may infringe on this fundamental right,<sup>29</sup> and the Committee has examined state voting and elections issues on numerous occasions.<sup>30</sup> In connection with this investigation, the Committee intends to study the need for legislative reforms to ensure the right to vote is protected before, during, and after an election and that third parties do not interfere with this right.

The Committee is deeply concerned that EchoMail's actions could undermine the integrity of federal elections and violate Americans' right to vote. Your company's proven lack of knowledge about the details of election administration, your personal advocacy of election conspiracy theories, and your partnership with a conspiracist volunteer group to canvass voters raise serious concerns that your actions will damage election integrity in Otero County and beyond, including by intimidating voters in violation of federal law.

For all of these reasons, the Committee requests that EchoMail produce the following documents by March 31, 2022.

- 1. All internal and external communications regarding the Otero County "audit" or canvass, including but not limited to communications involving any EchoMail employee and volunteer, including you, and:
  - a. Erin Clements;
  - b. David Clements;
  - c. Any individual associated with the New Mexico Audit Force;

<sup>28</sup> See, e.g., Help America Vote Act of 2002, Pub. L. No. 107-252; National Voter Registration Act of 1993, Pub. L. No. 103-31; Uniformed and Overseas Citizens Absentee Voting Act, Pub. L. No. 99-410 (1986).

<sup>29</sup> See, e.g., Eastland v. United States Servicemen's Fund, 421 U.S. 491 (1975) (holding that Congress's power to investigate "is as penetrating and far-reaching as the potential power to enact and appropriate under the Constitution").

<sup>30</sup> See, e.g., Committee on Oversight and Reform, *Hearing on "Assessing the Election 'Audit' in Arizona and Threats to American Democracy* (Oct. 7, 2021); Committee on Oversight and Reform, *Hearing on Voter Suppression in Minority Communities: Learning from the Past to Protect Our Future*, 116th Cong. (Feb. 26, 2020) (examining the results of the Committee's investigation of voter suppression allegations in Georgia, Texas, and Kansas); Committee on Oversight and Government Reform, *Hearing on Cyber-Securing the Vote: Ensuring the Integrity of the U.S. Election Systems*, 115th Cong. (July 24, 2018); Committee on Oversight and Government Reform, Subcommittee on Information Technology and Subcommittee on Intergovernmental Affairs, *Joint Hearing on Cybersecurity of Voting Machines*, 115th Cong. (Nov. 29, 2017).

<sup>&</sup>lt;sup>27</sup> U.S. Const., amend. XV ("The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude. The Congress shall have power to enforce this article by appropriate legislation."); U.S. Const. art. I, §. 4 ("The times, places and manner of holding elections for Senators and Representatives, shall be prescribed in each state by the legislature thereof; but the Congress may at any time by law make or alter such regulations.").

- d. L. Lin Wood;
- e. Doug Logan;
- f. Philip Waldron;
- g. County Commissioner Couy Griffin;
- h. County Commissioner Gerald Matherly; and
- i. County Commissioner Vickie Marquardt.
- 2. All documents relating to the "audit" of the election and canvass of voters in Otero County, including but not limited to:
  - a. training materials;
  - b. volunteer outreach and recruitment materials;
  - c. canvass procedure manuals;
  - d. canvass questionnaire used by the New Mexico Audit Force;
  - e. subcontract agreements with entities supplying staff and volunteers for canvassing; and
  - f. policies, procedures, and materials related to the storage and security of canvass questionnaire responses.
- 3. All documents and communications related to payment and funding reimbursement for the Otero County audit and canvass, including but not limited to the sources, amounts, terms and conditions of funding and fundraising efforts;
- 4. A list of all individuals and organizations that provided funding for the Otero County audit and canvass, along with the amount provided and the date of the donation;
- 5. All documents and communications regarding outside fundraising for the Otero County audit and canvass, including but not limited to, communications with funders of the election "audit" in Maricopa County, Arizona; and
- 6. Documents sufficient to show all individuals and entities with direct or indirect interests in, or control of, EchoMail, including, but not limited to, officers, board members, and shareholders.

The Committee on Oversight and Reform is the principal oversight committee of the House of Representatives and has broad authority to investigate "any matter" at "any time" under House Rule X. An attachment to this letter provides additional instructions for responding to this request. If you have any questions regarding this request, please contact Committee staff at (202) 225-5051.

Sincerely,

Carolyn B. Maloney

Carolyn B. Maloney Chairwoman Committee on Oversight and Reform

Rashi

Jamie Raskin Chairman Subcommittee on Civil Rights and Civil Liberties

Enclosure

cc: The Honorable James Comer, Ranking Member Committee on Oversight and Reform

> The Honorable Nancy Mace, Ranking Member Subcommittee on Civil Rights and Civil Liberties