



J. Erik Connolly  
71 South Wacker Drive, Suite 1600  
Chicago, Illinois 60606-4637  
Direct Dial: 312.624.6348  
Fax: 312.767.9192  
econnolly@beneschlaw.com

December 15, 2020

**VIA EMAIL AND FEDERAL EXPRESS**

Sidney Powell  
Sidney Powell P.C.  
2911 Turtle Creek Blvd.  
Suite 300  
Dallas, TX 75219-4480  
sidney@federalappeals.com

Re: Legal Notice and Retraction Demand from Smartmatic USA Corp.

Dear Ms. Powell:

I am litigation counsel for Smartmatic USA Corp (“Smartmatic”). You have made numerous statements and postings regarding Smartmatic in connection with the November 3, 2020 election (the “2020 U.S. election”) through various publications. I identify some of those statements below and refer to the totality of your statements regarding Smartmatic from November 2020 through today as the “Statements” for purposes of this letter. I am writing to provide you Smartmatic’s response to the Statements and put you on notice of potential legal claims.

You have engaged in a concerted disinformation campaign against Smartmatic. You appeared on numerous news networks, including but not limited to, Fox News, Fox Business, and Newsmax, and told millions of viewers that Smartmatic was created under the direction of Hugo Chávez, that its software was designed to fix elections, and that Smartmatic conspired with others to defraud the American people and fix the 2020 U.S. election by changing, inflating, and deleting votes. Through your appearances on news networks and published Tweets, you have spread lies about a company that had absolutely nothing to do with the voting that took place in areas at the heart of the “conspiracies” discussed following the 2020 U.S. election.

Smartmatic was the system integrator, manufacturing partner, and software developer for one county during the 2020 U.S. election – Los Angeles County, California – and that technology, developed per County specifications, does not count, tabulate, or store votes. No one has claimed irregularities in connection with the vote count in Los Angeles County, and no one could because it was a successful, transparent, and efficient process. Smartmatic’s technology was not used in any other county, including the states and counties that have received the most attention following election night. Nor does Smartmatic have any relationship with the company or companies who supplied voting technology in those states and counties. Smartmatic’s role in the 2020 U.S. election, while important to the company, was very limited.

Nonetheless, you embarked on a disinformation campaign against Smartmatic shortly after the election closed and continuing today. Over the course of the campaign, you published dozens

of false and misleading statements regarding Smartmatic. You stated and implied that (1) Smartmatic has a corporate relationship with Dominion Voting Systems (“Dominion”), (2) Smartmatic has a corrupt relationship with the Venezuelan government, including Hugo Chávez, (3) Smartmatic’s technology and software were designed and used to fix elections, (4) Smartmatic’s technology and software were widely used in the 2020 U.S. election, (5) Smartmatic’s technology and software were used to fix the 2020 U.S. election, (6) Smartmatic’s technology has been banned from certain jurisdictions, (7) Smartmatic has ties to the Democratic party and George Soros, and (8) Smartmatic’s technology and software has numerous security weaknesses.

All of these statements and implications are false and defamatory. Smartmatic is a global leader in election technology and support services. The over 300 men and women who work at Smartmatic have dedicated their careers to designing and building the most secure, transparent, and auditable voting systems in the world. Smartmatic has no ties to dictatorships. Smartmatic has no relationship with Dominion. Smartmatic had a limited role – one county – in the 2020 U.S. election. Smartmatic did nothing to justify or warrant the campaign you launched against it.

Smartmatic believes you had (and have) no evidence or credible source to support any of the false and misleading statements you published about Smartmatic. Indeed, you would have easily discovered the falsity of the statements and implications being made about Smartmatic by performing even a modicum of investigation. Accurate information was and is readily available regarding Smartmatic on its website ([www.Smartmatic.com](http://www.Smartmatic.com)). Government agencies and election officials have published lists showing the providers of election technologies for the 2020 U.S. election. Both groups also verified the absence of evidence that voting systems deleted, lost, or changed votes. And, news organizations across the ideological spectrum, including the New York Times and Washington Post, have “fact checked” the false information you have disseminated to millions of people. Your statements and implications are factually unsupportable.

You had no right to defame my client when discussing the 2020 U.S. election. Smartmatic demands a full and complete retraction of all false and defamatory statements published by you. This retraction must be done with the same intensity and level of coverage that you used to defame the company in the first place. Further, Smartmatic requests that you take all necessary steps to preserve all communications, videos/recordings, documentation, drafts, and all other work product that you have prepared regarding Smartmatic. This letter serves as notice of potential legal claims against you by my client.

### **Your False and Defamatory Statements/Implications**

Your disinformation campaign against Smartmatic began in November 2020 and continues today. The disinformation campaign includes publication of statements during news programs and press conferences and in social media postings by you. Examples of your false and misleading statements are identified below. Please note that these are just a few examples of the countless

false and defamatory statements and implications made by you over the course of your ongoing campaign.<sup>1</sup>

### **Category 1: False statements and implications regarding a corporate relationship between Smartmatic and Dominion**

Smartmatic has no corporate relationship with Dominion. Smartmatic does not own Dominion. Dominion does not own Smartmatic. Neither is a parent, subsidiary, or intermediary of the other. Smartmatic and Dominion are competitors. Notwithstanding these readily verifiable facts, you published the following:

- Rob Schmitt: “You’re saying *Dominion, the Smartmatic Dominion system*, was used in 2016 when Hillary beat Bernie in the primary?” Sidney Powell: “*Yes.*” Schmitt: “Wow. I don’t think we had heard that yet. That’s . . . an incredible development right there.” (The Count, Newsmax TV, Interview of Sidney Powell (November 21, 2020)).

### **Category 2: False statements and implications regarding a corrupt relationship between Smartmatic and the Venezuelan government**

Antonio Mugica (CEO) and Roger Piñate (President) are Smartmatic’s founders. The majority of the company shares are held by their families. The remaining shares (less than 15%) are held by employees and angel investors.

Smartmatic was founded in Boca Raton, Florida and incorporated in Delaware. Smartmatic has maintained its Florida office since its founding. It is not a Venezuelan company. SGO Corporation Limited, Smartmatic’s parent company, is now headquartered in London. The Venezuelan government, including Hugo Chávez, did not participate in founding or creating the company.

Notwithstanding these readily verifiable facts, you published the following:

- Sidney Powell: “Lord Malloch-Brown’s name has been taken off the website for the company that he runs through the U.K. and Canada --- that has a role in there. It’s either Semantic or Smartmatic . . . one is the [subsidiary] of the other. It’s all inexplicably intertwined. *The money creating it came out of Venezuela and Cuba. It was created for the express purpose of being able to alter votes and secure the reelection of Hugo Chávez and then Maduro.*” (Justice with Judge Jeanine, Fox News, Interview of Sidney Powell (November 14, 2020)).
- Sidney Powell: “I mean that’s just logic [] it’s been [] this [] affidavit also explains it’s been used to change election results all over the world, and *it’s all Venezuelan and Cuban and*

---

<sup>1</sup> We have **not** prepared verbatim transcripts of the broadcasts discussed below, and we do not represent that the quotations identified below in each category are verbatim accounts of what was said during the broadcasts. The quotations represent our attempt to capture what was stated during the broadcasts, including adding punctuation to the oral communications. The broadcasts themselves should be watched for a complete and accurate recitation of what was actually said. Any error in our quotations below is unintentional.

*essentially communist money that's been doing this. It's a foreign-owned company* as you mentioned earlier.” (Lou Dobbs Tonight, Fox Business, Interview of Sidney Powell (November 16, 2020)).

- Sidney Powell: “What we are really dealing with here and uncovering more by the day, is the massive influence of communist money through Venezuela, Cuba, and likely China, in the interference with our elections here in the United States. *The Dominion voting systems, the Smartmatic technology software, and the software that goes in other computerized voting systems*, here in as well, not just Dominion, *were created in Venezuela at the direction of Hugo Chavez* to make sure he never lost an election after one constitutional referendum came out the way he did not want it to come out.” (Legal Team Press Conference (November 19, 2020)).
- Sidney Powell: “*Smartmatic has been associated with the Venezuelan government led by Hugo Chavez* which is openly hostile to the United States and of course as we all know communistic and really brutalizing its own people. The system has been continued there by Mr. Maduro and ensured his election. *Smartmatic's possible connection to the Venezuelan government poses a potential national security concern* in the context of its acquisition of Sequoia because electronic voting machines are susceptible to tampering and insiders are in the best position to engage in such tampering.” (Legal Team Press Conference (November 19, 2020)).

### **Category 3: False statements and implications regarding Smartmatic's technology and software being designed and used to fix elections**

Smartmatic has provided election services and support in more than 307 U.S. jurisdictions and 27 countries in the past 17 years. Smartmatic is an approved Department of Defense vendor and founding member of the Department of Homeland Security Election Infrastructure Sector Coordinating Council. Smartmatic's technology and software were designed to ensure secure, transparent, and auditable elections. They were not designed and cannot be used to change or alter votes.

Smartmatic's technology safeguards votes at every step of the electoral process and its record logs are fully auditable. Smartmatic's technology has been proven effective in audited elections for almost 20 years. Third-party validators have unequivocally authenticated Smartmatic's technology, including the State of California, PwC, and SLI Government Solutions, one of two accredited U.S. Election Assistance Commission Voting Systems Test Labs. The United Nations, Organization of American States, and the European Union have also validated Smartmatic's technology. The Carter Center has called Smartmatic's electronic voting solution “the best in the world.”

Moreover, Smartmatic has no operations in Venezuela. Smartmatic did election projects in Venezuela from 2004 to 2017. Smartmatic stopped doing business in Venezuela after Venezuela's National Electoral Counsel (“CNE”) announced election results that differed from the results reflected in Smartmatic's voting systems. Smartmatic publicly condemned the Venezuelan

election authorities' announcement of the election results as illegitimate. Smartmatic then ceased operations in Venezuela.

Notwithstanding these readily verifiable facts, you published the following:

- Sidney Powell: “Now, we were fixing to overturn the results of the election in multiple States. And President Trump won by not just hundreds of thousands of votes, but by millions of ***votes that were shifted by this software that was designed expressly for that purpose***. We have so much evidence I feel like it’s coming in through a firehose.” (Sunday Morning Futures with Maria Bartiromo, Fox News, Interview of Sidney Powell (November 14, 2020)).
- Sidney Powell: “We’re talking about the ***alteration and changes in millions of votes***. Some being dumped that were for President Trump, some being flipped that were for President Trump. Computers being overwritten to ignore signatures, all kinds of different means of manipulating the Dominion and ***Smartmatic software***, that of course we would not expect Dominion or ***Smartmatic*** to admit.” (Justice with Judge Jeanine, Fox News, Interview of Sidney Powell (November 14, 2020)).
- Sidney Powell: “The money creating it came out of Venezuela and Cuba. ***It was created for the express purpose of being able to alter votes and secure the reelection of Hugo Chávez and then Maduro***. They’ve used it in Argentina, there’s an American citizen who has exported it to other countries. And it’s one huge, ***huge criminal conspiracy*** that should be investigated by military intelligence for its national security implications.” (Justice with Judge Jeanine, Fox News, Interview of Sidney Powell (November 14, 2020)).
- Sidney Powell: “Yes, well he’s listed as retired Admiral Peter Neffenger. He is President of the Board of Directors of Smartmatic and it just so happens he’s on Mr. Biden’s presidential transition team that’s going to be non-existent because we’re fixing to overturn the results of the election in multiple states. [] President Trump won by not just hundreds of thousands of votes but by millions of votes that were ***shifted by this software that was designed expressly for that purpose***.” (Sunday Morning Futures with Maria Bartiromo, Fox News, Interview of Sidney Powell (November 15, 2020)).
- Sidney Powell: “We have sworn witness testimony of why the software was designed. [] ***It was designed to rig elections***. . . He was fully briefed on it. He saw it happen in other countries. It was exported internationally for profit by the ***people that are behind Smartmatic*** and Dominion. ***They did this on purpose***. It was calculated. They’ve done it before. We have evidence from 2016 in California. We have so much evidence I feel like it’s coming in through a fire hose.” (Sunday Morning Futures with Maria Bartiromo, Fox News, Interview of Sidney Powell (November 15, 2020)).
- Sidney Powell: “[T]his is a massive election fraud, and I’m very concerned it involved not only Dominion and its ***Smartmatic software*** but that the software essentially was used by other election machines also. ***It’s the software that was the problem. Even their own manual explains how votes can be wiped away***. They can put, it’s like drag-and-drop Trump votes to a separate folder and then delete that folder. It’s absolutely brazen how people bought this

system and why they bought this system.” (Sunday Morning Futures with Maria Bartiromo, Fox News, Interview of Sidney Powell (November 15, 2020)).

- Maria Bartiromo: “What is the CIA’s role, why do you think Gina Haspel should be fired immediately? [] You’re saying the CIA is behind the Dominion or *Smartmatic voting software* as well?” Sidney Powell: “Well, the CIA and the FBI and other government organizations have received multiple reports of wrongdoing and failures and vulnerabilities in this company’s products. *Their own manual, if you sat down and read it, would explain how and why no honest person would use this system*, and it’s not just Dominion. There are other companies in the voting machine business in this country too, that may very well and are likely using the same software. We’ve detected voting irregularities that are inexplicable and aligned with these problems in other states that think they have valid systems, but the people who bought the Dominion system for sure knew exactly what they were getting. It should never have been installed anywhere and we are going to show the public exactly how rotten the entire state is.” (Sunday Morning Futures with Maria Bartiromo, Fox News, Interview of Sidney Powell (November 15, 2020)).
- Sidney Powell: “Okay, that’s part of it. They can stick a thumb drive in the machine or upload software to it, even from the Internet. They can do it from Germany or Venezuela even. They can remote access anything. They can watch votes in real time. *They can shift votes in real time. We’ve identified mathematically the exact algorithm they used and planned to use from the beginning to modify the votes in this case to make sure Biden won.* [] Well, its massive election fraud. [I]t’s going to undo the entire election, and *they can do anything they want with the votes*. They can have the machines not read the signature. They can have the machines not read the down ballot. They can make the machines read and catalog only the Biden votes. It’s like drag-and-drop whatever you want, wherever you want, upload votes. [I]n fact we’ve got math in Michigan and Pennsylvania, I think it is, that all of a sudden, hundreds of thousands of votes at a 67% ratio for Biden, 23% for Trump, were uploaded multiple times into the system.” (Sunday Morning Futures with Maria Bartiromo, Fox News, Interview of Sidney Powell (November 15, 2020)).
- Sidney Powell: “I’ve just gotten some stunning evidence from a firsthand witness, a high-ranking military officer who was present when *Smartmatic was designed in a way that this . . .* and I’m going to just read you some of these statements if you don’t mind, so I get them exactly right from [] the affidavit: ‘*...designed in a way that the system could change the vote of each voter without being detected.* . . . Smartmatic agreed to create such a system and produced the software and hardware that accomplished the result for President Chávez. After the Smartmatic [] electoral management system was put in place, he closely observed several elections where the *results were manipulated using the Smartmatic software.* [] Persons controlling the vote tabulation computer had the *ability to change the reporting of votes by moving votes from one candidate to another by using the Smartmatic software.*” (Lou Dobbs Tonight, Fox Business, Interview of Sidney Powell (November 16, 2020)).
- Sidney Powell: “So here’s the other kicker: ‘When the *Smartmatic machines . . .* when somebody’s losing, like for example when Maduro and his supporters realized the size of the

other guy's lead, they were worried that they were in crisis mode and would lose the election. The Smartmatic's machines used for voting in each state were connected to the Internet, reported their information over the Internet to the Caracas Control Center real time, says the **decision was made to reset the entire system**. Maduro and his supporters ordered the network controllers to take the Internet itself offline and practically all parts in Venezuela to change the results. It took the voting operators approximately two hours to make the adjustments in the vote from Radonski to Maduro. Then when they turned the internet back on and the online reporting was up and running again, they checked each screen, state by state, to be certain they could see each **vote was changed in favor of Maduro.**" (Lou Dobbs Tonight, Fox Business, Interview of Sidney Powell (November 16, 2020)).

- Sidney Powell: "**One of its most characteristic features is its ability to flip votes**. It can set and run an algorithm that probably ran all over the country to take a certain percentage of votes from President Trump." (Legal Team Press Conference (November 19, 2020)).
- Sidney Powell: "What we are really dealing with here and uncovering more by the day, is the massive influence of communist money through Venezuela, Cuba, and likely China, in the interference with our elections here in the United States. **The Dominion voting systems, the Smartmatic technology software, and the software that goes in other computerized voting systems**, here in as well, not just Dominion, **were created in Venezuela at the direction of Hugo Chavez to make sure he never lost an election after one constitutional referendum came out the way he did not want it to come out.**" (Legal Team Press Conference (November 19, 2020)).
- Sidney Powell: "**In other parts of the world we know that the technology was exported to affect an election in Argentina**. That's admitted by our friend who wrote the affidavit about Hugo Chavez and his interest in Smartmatic." (Legal Team Press Conference (November 19, 2020)).
- Sidney Powell: "**There's an algorithm that runs that automatically flips all the votes**, and then each operator has the ability to go in [to] override settings – they can ignore a signature, they could ignore the top line of the ballot. They can go down ballot and select who they want to change the results for. **The gentleman who founded Smartmatic, there's video of him on the internet, explaining that [] in at least one occasion, he admits, they changed a million votes with no problem.**" (Legal Team Press Conference (November 19, 2020)).
- Rob Schmitt: "You're saying Dominion, **the Smartmatic Dominion system**, was used in 2016 when Hillary beat Bernie in the primary?" Sidney Powell: "Yes." Rob Schmitt: "Wow. I don't think we had heard that yet. That's . . . an incredible development right there." Sidney Powell: ". . . **I'm telling you it's been used for both parties, one of the big problems is that we don't know who was elected by buying their election through Dominion.**" (The Count, Newsmax TV, Interview of Sidney Powell (November 21, 2020)).

**Category 4: False statements and implications regarding Smartmatic's technology and software being widely used during 2020 U.S. election**

Smartmatic was the system integrator, manufacturing partner, and software developer for one county during the 2020 U.S. election – Los Angeles County. Smartmatic is not subcontractor to any companies doing business in the United States. Its software was not used by any other company for the 2020 U.S. election, including Dominion. Dominion did not use Smartmatic's software in any county where its voting technology was used in the 2020 U.S. election. Smartmatic has never provided Dominion with any software, hardware, or other technology. There are no ties between Smartmatic and Dominion, including ownership ties, software licensing, or business at all.

Notwithstanding these readily verifiable facts, you published the following:

- Sidney Powell: “We’re talking about the alteration and changes in millions of votes. Some being dumped that were for President Trump, some being flipped that were for President Trump. Computers being overwritten to ignore signatures, all kinds of different means of manipulating the ***Dominion and Smartmatic software***, that of course we would not expect Dominion or Smartmatic to admit.” (Justice with Judge Jeanine, Fox News, Interview of Sidney Powell (November 14, 2020)).
- Sidney Powell: “Definitely hundreds of thousands have stepped forward with their different experiences of voter fraud, but ***this is a massive election fraud***. And I’m very concerned [it] involved, not only ***Dominion and its Smartmatic software***, but that the ***software essentially was used by other election machines also***.” (Sunday Morning Futures with Maria Bartiromo, Fox News, Interview of Sidney Powell (November 15, 2020)).
- Sidney Powell: “One of its most characteristic features is its ability to flip votes. ***It can set and run an algorithm that probably ran all over the country to take a certain percentage of votes from President Trump***.” (Legal Team Press Conference (November 19, 2020)).
- Sidney Powell: “Gee whiz! ***I wonder how #TarrantCounty Texas went #blue so easily after hiring a #Smartmatic guy?! Thegatewaypundit.com/2020/11/texas-... What do you think @LLinWood ? @realDonaldTrump @GenFlynn @MariaBartiromo @jbinnall #Evidencematters***” (Sidney Powell, @SidneyPowell1 (November 22, 2020, 12:15 AM), <https://twitter.com/SidneyPowell1/status/1330394460732186627>).
- Sidney Powell: “***And #TarrantCounty just went #blue?! What a coincidence! #impoundthemachines #dominionvotingsystems #smartmatic*** What could possibly go wrong with company called #Dominion? @realDonaldTrump @EricTrump @LaraLeaTrump @LLinWood @abigailcfrye” (Sidney Powell, @SidneyPowell1 (November 25, 2020, 5:28 AM), <https://twitter.com/SidneyPowell1/status/1331560285782478849>).



### **Category 5: False statements and implications regarding Smartmatic's technology and software being used to fix 2020 U.S. election**

As you know, the members of the Election Infrastructure Government Coordinating Council ("GCC") and the Election Infrastructure Sector Coordinating Council ("SCC") issued a joint statement on November 12, 2020, concluding as follows: "The November 3<sup>rd</sup> election was the most secure in American history. . . There is no evidence that any voting system deleted or lost votes, changed votes, or was in any way compromised."

Moreover, regardless of the above conclusion, Smartmatic developed technology could not have been used to "fix" the 2020 U.S. election given that technology and software supported by Smartmatic was only used in one county, Los Angeles County. President-elect Biden won approximately 71% of the vote in Los Angeles County compared to 27% for President Trump. This is similar to the voting percentages for the 2016 election, in which Secretary Clinton received 72% of the vote. No one has claimed improprieties relating to the results in Los Angeles County.

Finally, Smartmatic does not believe that you have reviewed or obtained any evidence or credible source indicating that its technology or software were used to alter, change, eliminate, or increase votes in Los Angeles County or elsewhere in the 2020 U.S. election. You could not have reviewed or obtained any such evidence because Smartmatic's technology and software were not used for that purpose during the 2020 U.S. election or any other election.

Notwithstanding these readily verifiable facts, you published the following:

- Sidney Powell: "Now we were fixing to overturn the results of the election in multiple States. And President Trump won by not just hundreds of thousands of votes, but by ***millions of votes that were shifted by this software that was designed expressly for that purpose.*** We have so much evidence I feel like it's coming in through a firehose." (Sunday Morning Futures with Maria Bartiromo, Fox News, Interview of Sidney Powell (November 15, 2020)).
- Sidney Powell: "Well, let me put it this way. First of all, I never say anything I can't prove. Secondly, the evidence is coming in so fast I can't even process it all. Millions of Americans have written I would say by now. Definitely hundreds of thousands have stepped forward with their different experiences of voter fraud, but ***this is a massive election fraud.*** And I'm very concerned [it] involved, not only Dominion and ***its Smartmatic software,*** but that the software essentially was used by other election machines also." (Sunday Morning Futures with Maria Bartiromo, Fox News, Interview of Sidney Powell (November 15, 2020)).
- Sidney Powell: "Yes, well he's listed as retired Admiral Peter Neffenger. He is President of the Board of Directors of Smartmatic, and it just so happens he's on Mr. Biden's presidential transition team that's going to be non-existent because we're fixing to overturn the results of the election in multiple States. [] President Trump won by not just hundreds of thousands of votes but by ***millions of votes that were shifted by this software that was designed expressly for that purpose.***" (Sunday Morning Futures with Maria Bartiromo, Fox News, Interview of Sidney Powell (November 15, 2020)).

- Sidney Powell: “First of all, I never say anything I can’t prove. Secondly, the evidence is coming in so fast, I can’t even process it all. Millions of Americans have written, I would say, by now, definitely hundreds of thousands have stepped forward with their different experiences of voter fraud, but this is a **massive election fraud**, and I’m very concerned [it] involved not only Dominion and its Smartmatic software but that the software essentially was used by other election machines also. It’s the software that was the problem. Even their own manual explains how votes can be wiped away. **They can put, it’s like drag-and-drop Trump votes to a separate folder and then delete that folder. It’s absolutely brazen how people bought this system and why they bought this system.** In fact, every state that bought Dominion, for sure, should have a criminal investigation or at least a serious investigation of the officers in the state who bought the software. We’ve even got evidence from kickbacks, essentially.” (Sunday Morning Futures with Maria Bartiromo, Fox News, Interview of Sidney Powell (November 15, 2020)).
- Maria Bartiromo: “What is the CIA’s role, why do you think Gina Haspel should be fired immediately? You’re saying the CIA is behind the Dominion or Smartmatic voting software as well?” Sidney Powell: “Well, the CIA and the FBI and other government organizations have received multiple reports of wrongdoing and failures and vulnerabilities in this company’s products. Their own manual, if you sat down and read it, would explain how and why no honest person would use this system, and it’s not just Dominion. There are other companies in the voting machine business in this country too, that may very well and are likely using the same software. **We’ve detected voting irregularities that are inexplicable and aligned with these problems in other states that think they have valid systems but the people who bought the Dominion system for sure knew exactly what they were getting.** It should never have been installed anywhere and we are going to show the public exactly how rotten the entire state is.” (Sunday Morning Futures with Maria Bartiromo, Fox News, Interview of Sidney Powell (November 15, 2020)).
- Sidney Powell: “Okay, that’s part of it. They can stick a thumb drive in the machine or upload software to it, even from the Internet. They can do it from Germany or Venezuela even. They can remote access anything. They can watch votes in real time. They can shift votes in real time. **We’ve identified mathematically the exact algorithm they used and planned to use from the beginning to modify the votes in this case to make sure Biden won.** That’s why, he said, he didn’t need your votes now. He would need you later. He was right. I mean, in his demented state he had no filter and he was speaking the truth more than once including when he said he had the largest voter fraud organization ever. **Well, its massive election fraud. It’s going to undo the entire election, and they can do anything they want with the votes.** They can have the machines not read the signature. They can have the machines not read the down ballot. They can make the machines read and catalog only the Biden votes. **It’s like drag-and-drop whatever you want wherever you want, upload votes. In fact we’ve got math in Michigan and Pennsylvania, I think it is, that all of a sudden, hundreds of thousands of votes at a 67% ratio for Biden, 23% for Trump, were uploaded multiple times into the system.**” (Sunday Morning Futures with Maria Bartiromo, Fox News, Interview of Sidney Powell (November 15, 2020)).

- Sidney Powell: “*One of its most characteristic features is its ability to flip votes.* It can set and run an algorithm that probably ran all over the country to take a certain percentage of votes from President Trump.” (Legal Team Press Conference (November 19, 2020)).

#### **Category 6: False statements and implications regarding Smartmatic being banned from jurisdictions due to reported problems**

No protest case questioning the results of a Smartmatic assisted election, filed by a losing candidate, has ever prospered against Smartmatic technology. Smartmatic has never been banned or disqualified from doing business in the United States or any State or county. Notwithstanding these readily verifiable facts, you published the following:

- Maria Bartiromo: “What is the CIA’s role, why do you think Gina Haspel should be fired immediately? You’re saying the CIA is behind the Dominion or Smartmatic voting software as well?” Sidney Powell: “Well, *the CIA and the FBI and other government organizations have received multiple reports of wrongdoing and failures and vulnerabilities in this company’s products.*” (Sunday Morning Futures with Maria Bartiromo, Fox News, Interview of Sidney Powell (November 15, 2020)).

#### **Category 7: False statements and implications regarding a relationship between Smartmatic and the Democratic Party and George Soros**

Smartmatic has no ties to political parties. The company is not political. It has maintained an independent, apolitical operating philosophy in every country where Smartmatic has provided technology or services.

George Soros has no affiliation with the company. He is not an investor, owner, or Board member. Lord Mark Malloch-Brown sits on the Board of SGO Corporation (Smartmatic’s parent company) and on the board of more than a dozen organizations. Lord Malloch-Brown is also on the Board of Open Society Foundation, a philanthropic organization founded by Mr. Soros, and was recently named president of the Foundation.

Peter Neffenger is a retired vice admiral of the U.S. Coast Guard. He received the Department of Homeland Security’s Distinguished Service Medal twice during his time with the Coast Guard. He also served as the Transportation Security Administration chief from 2015 until 2017. Mr. Neffenger joined President-elect Biden’s transition effort as a volunteer. Alongside about two dozen others, he will support one of the incoming review teams, assigned to the Homeland Security Department.

Notwithstanding these readily verifiable facts, you published the following statements to imply that Smartmatic had an incentive to fix the 2020 U.S. election to favor President-elect Biden:

- Sidney Powell: “Yes, well he’s listed as retired Admiral Peter Neffenger. He is President of the Board of Directors of Smartmatic and it just so happens he’s on Mr. Biden’s presidential transition team that’s going to be non-existent . . .” (Sunday Morning Futures with Maria Bartiromo, Fox News, Interview of Sidney Powell (November 15, 2020)).

- Sidney Powell: “The president of it is Mr. Neffenger, who is on Biden’s very presumptuous and immediately failing transition team.” (Lou Dobbs Tonight, Fox Business, Interview of Sidney Powell (November 16, 2020)).
- Kara McKinney: “It’s also a convenient lie given that Trump attorney Sidney Powell says *a member of Biden’s transition team is also a member of the board of directors for Smartmatic*, which is a subsidiary of Dominion.” (Tipping Point, One America News Network (November 16, 2020)).

### **Category 8: False statements and implications regarding security features of Smartmatic’s technology and software**

Smartmatic designed its technology to enable election stakeholders to audit the entire process. Smartmatic’s software has been open to audits in all countries where it operates and all audits have validated the accuracy of the results.

Moreover, since 2000, Smartmatic’s technology has been used to register and count nearly 5 billion auditable votes without any security breaches. Smartmatic does not rely on a single security application or off-the-shelf protections. Smartmatic’s systems employ multi-layered protection strategies, including security fragmentation, security layering, encryption, device identity assurance, multi-key combinations, and opposing-party auditing.

Finally, computers have been used for the last 50 years to count votes in the United States. There is no evidence that any of them have ever been hacked. None of them.

Notwithstanding these readily verifiable facts, you published the following:

- Sidney Powell: “Smartmatic has been associated with the Venezuelan government led by Hugo Chavez which is openly hostile to the United States and of course as we all know communistic and really brutalizing its own people. The system has been continued there by Mr. Maduro and ensured his election. Smartmatic’s possible connection to the Venezuelan government poses a potential national security concern in the context of its acquisition of Sequoia because *electronic voting machines are susceptible to tampering and insiders are in the best position to engage in such tampering.*” (Legal Team Press Conference (November 19, 2020)).
- Sidney Powell: “*There’s an algorithm that runs that automatically flips all the votes*, and then each operator has the ability to go in [to] override settings – *they can ignore a signature, they could ignore the top line of the ballot. They can go down ballot and select who they want to change the results for.* The gentleman who founded Smartmatic, there’s video of him on the internet, explaining that [] in at least one occasion, he admits, they changed a million votes with no problem.” (Legal Team Press Conference (November 19, 2020)).

### **Smartmatic’s Retraction Demand**

Smartmatic believes that you did not, and do not, have a good faith basis for any of the statements and implications you made regarding Smartmatic. There is no credible source – documented or otherwise – for any of these false and defamatory statements or implications.

Nonetheless, you made these false and defamatory statements time and time again. This pattern of behavior qualifies as either knowingly publishing factually inaccurate information or a reckless disregard for the truth.

The most obvious transgression is your repeated claims that Smartmatic committed, perpetrated, and/or participated in a widespread voter fraud scheme for the 2020 U.S. election and switched votes from President Trump to President-elect Biden. Discovering that this claim was factually inaccurate and impossible took nothing more than learning whether Smartmatic's technology was widely used during the 2020 U.S. election. It was not. It was used in one county. From this simple truth, it was (or would have been) readily apparent that the statements you made about Smartmatic were factually inaccurate.

The damage your disinformation campaign has done, and will do, to Smartmatic is significant. Smartmatic's reputation is one of its most valuable commodities. The government officials who elect to purchase Smartmatic's technology do so based on their belief and understanding that Smartmatic's technology will help them deliver a secure, transparent, and auditable election. They need the utmost trust in Smartmatic so that voters can have the utmost trust in the validity of their elections. Your false and defamatory statements undermine the reputation for reliability that Smartmatic has spent almost 20 years building.

Making matters worse, you used various platforms to disseminate this disinformation campaign. The Statements were published on news programs on numerous news networks. The Statements were further published by you on your Twitter and other accounts. The Statements were then further republished, as you knew they would be, by individuals and news organizations. As a result, your false and defamatory statements regarding Smartmatic have irreparably damaged the company's reputation.

Beyond the financial harm you have done to Smartmatic, your disinformation campaign has created personal risk for the men and women who work at the company. Smartmatic and its employees and management have received countless threats in the wake of your Statements. These threats have been communicated directly to Smartmatic employees and management across the globe, including threats of death and personal violence. The social media profiles of the company and its CEO have been filled with profanities and more threats. Family members, including children, of Smartmatic's executives have also received threats to their safety and well-being. That is another consequence of your actions.

Now is the time for you to start to correct the record. Smartmatic demands that you publish a full and complete retraction of all your false and defamatory statements regarding Smartmatic, including but not limited to those identified and categorized above. This retraction must be published on multiple occasions (as were the false and defamatory statements) and across the various platforms used by you to disseminate the false and defamatory statements, including news programs and the social media platforms used by you. The prominence of the retraction must match the attention and audience targeted with the original defamatory publications. We ask that you treat this retraction and the issues raised in this letter with the attention and seriousness that any reputable business deserves.

Sidney Powell  
December 15, 2020  
Page 14

Please confirm by December 22, 2020, that you will publish this retraction. Smartmatic reserves all its legal rights and remedies, including its right to pursue defamation and disparagement claims against you. Accordingly, please confirm that you will preserve all potentially relevant documents and information regarding the Statements and suspend all document destruction protocols related to these documents and information. The documents and information are relevant to and necessary for Smartmatic's potential claims.

Please direct all future communications on this matter to my attention. I look forward to your response regarding this important matter.

Very truly yours,

*/s/ J. Erik Connolly*

J. Erik Connolly