

## Congress of the United States

Washington, DC 20510

December 6, 2019

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Founder and Co-Chief Executive Officer  
H.I.G. Capital, LLC  
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Tony Tamer  
Founder and Co-Chief Executive Officer  
H.I.G. Capital, LLC  
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Dear Messrs. Mnaymneh and Tamer:

We are writing to request information regarding H.I.G. Capital's (H.I.G.) investment in Hart InterCivic Inc. (Hart InterCivic) one of three election technology vendors responsible for developing, manufacturing and maintaining the vast majority of voting machines and software in the United States, and to request information about your firm's structure and finances as it relates to this company.

Some private equity funds operate under a model where they purchase controlling interests in companies and implement drastic cost-cutting measures at the expense of consumers, workers, communities, and taxpayers. Recent examples include Toys "R" Us and Shopko.<sup>1</sup> For that reason, we have concerns about the spread and effect of private equity investment in many sectors of the economy, including the election technology industry—an integral part of our nation's democratic process. We are particularly concerned that secretive and "trouble-plagued companies,"<sup>2</sup> owned by private equity firms and responsible for manufacturing and maintaining voting machines and other election administration equipment, "have long skimmed on security in favor of convenience," leaving voting systems across the country "prone to security problems."<sup>3</sup> In light of these concerns, we request that you provide information about your firm, the portfolio

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<sup>1</sup> Atlantic, "The Demise of Toys 'R' Us Is a Warning," Bryce Covert, July/August 2018 issue, <https://www.theatlantic.com/magazine/archive/2018/07/toys-r-us-bankruptcy-private-equity/561758/>; Axios, "How workers suffered from Shopko's bankruptcy while Sun Capital made money," Dan Primack, "How workers suffered from Shopko's bankruptcy while Sun Capital made money," June 11, 2019, <https://www.axios.com/shopko-bankruptcy-sun-capital-547b97ba-901c-4201-92cc-6d3168357fa3.html>.

<sup>2</sup> ProPublica, "The Market for Voting Machines Is Broken. This Company Has Thrived in It.," Jessica Huseman, October 28, 2019, <https://www.propublica.org/article/the-market-for-voting-machines-is-broken-this-company-has-thrived-in-it>.

<sup>3</sup> Associated Press News, "US Election Integrity Depends on Security-Challenged Firms," Frank Bajak, October 28, 2019, <https://apnews.com/f6876669cb6b4e4c9850844f8e015b4c>.

companies in which it has invested, the performance of those investments, and the ownership and financial structure of your funds.

Over the last two decades, the election technology industry has become highly concentrated, with a handful of consolidated vendors controlling the vast majority of the market. In the early 2000s, almost twenty vendors competed in the election technology market.<sup>4</sup> Today, three large vendors—Election Systems & Software, Dominion Voting Systems, and Hart InterCivic—collectively provide voting machines and software that facilitate voting for over 90% of all eligible voters in the United States.<sup>5</sup> Private equity firms reportedly own or control each of these vendors, with very limited “information available in the public domain about their operations and financial performance.”<sup>6</sup> While experts estimate that the total revenue for election technology vendors is about \$300 million, there is no publicly available information on how much those vendors dedicate to research and development, maintenance of voting systems, or profits and executive compensation.<sup>7</sup>

Concentration in the election technology market and the fact that vendors are often “more seasoned in voting machine and technical services contract negotiations” than local election officials, give these companies incredible power in their negotiations with local and state governments. As a result, jurisdictions are often caught in expensive agreements in which the same vendor both sells or leases, and repairs and maintains voting systems—leaving local officials dependent on the vendor, and the vendor with little incentive to substantially overhaul and improve its products.<sup>8</sup> In fact, the Election Assistance Commission (EAC), the primary federal body responsible for developing voluntary guidance on voting technology standards, advises state and local officials to consider “the cost to purchase or lease, operate, and maintain a voting system over its life span ... [and to] know how the vendor(s) plan to be profitable” when signing contracts, because vendors typically make their profits by ensuring “that they will be around to maintain it after the sale.” The EAC has warned election officials that “[i]f you do not manage the vendors, they will manage you.”<sup>9</sup>

Election security experts have noted for years that our nation’s election systems and infrastructure are under serious threat. In January 2017, the U.S. Department of Homeland Security designated the United States’ election infrastructure as “critical infrastructure” in order to prioritize the protection of our elections and to more effectively assist state and local election

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<sup>4</sup> Bloomberg, “Private Equity Controls the Gatekeepers of American Democracy,” Anders Melin and Reade Pickert, November 3, 2018, <https://www.bloomberg.com/news/articles/2018-11-03/private-equity-controls-the-gatekeepers-of-american-democracy>.

<sup>5</sup> Penn Wharton Public Policy Initiative, “The Business of Voting,” July 2018, <https://publicpolicy.wharton.upenn.edu/live/files/270-the-business-of-voting>.

<sup>6</sup> Id.

<sup>7</sup> Id.

<sup>8</sup> Brennan Center for Justice, “America’s Voting Machines at Risk,” Lawrence Norden and Christopher Famighetti, 2015, [https://www.brennancenter.org/sites/default/files/publications/Americas\\_Voting\\_Machines\\_At\\_Risk.pdf](https://www.brennancenter.org/sites/default/files/publications/Americas_Voting_Machines_At_Risk.pdf); Penn Wharton Public Policy Initiative, “The Business of Voting,” July 2018, <https://publicpolicy.wharton.upenn.edu/live/files/270-the-business-of-voting>.

<sup>9</sup> U.S. Election Assistance Commission, “Ten Things to Know About Selecting a Voting System,” October 14, 2017, <https://www.eac.gov/documents/2017/10/14/ten-things-to-know-about-selecting-a-voting-system-cybersecurity-voting-systems-voting-technology/>.

officials in addressing these risks.<sup>10</sup> However, voting machines are reportedly falling apart across the country, as vendors neglect to innovate and improve important voting systems, putting our elections at avoidable and increased risk.<sup>11</sup> In 2015, election officials in at least 31 states, representing approximately 40 million registered voters, reported that their voting machines needed to be updated, with almost every state “using some machines that are no longer manufactured.”<sup>12</sup> Moreover, even when state and local officials work on replacing antiquated machines, many continue to “run on old software that will soon be outdated and more vulnerable to hackers.”<sup>13</sup>

In 2018 alone “voters in South Carolina [were] reporting machines that switched their votes after they’d inputted them, scanners [were] rejecting paper ballots in Missouri, and busted machines [were] causing long lines in Indiana.”<sup>14</sup> In addition, researchers recently uncovered previously undisclosed vulnerabilities in “nearly three dozen backend election systems in 10 states.”<sup>15</sup> And, just this year, after the Democratic candidate’s electronic tally showed he received an improbable 164 votes out of 55,000 cast in a Pennsylvania state judicial election in 2019, the county’s Republican Chairwoman said, “[n]othing went right on Election Day. Everything went wrong. That’s a problem.”<sup>16</sup> These problems threaten the integrity of our elections and demonstrate the importance of election systems that are strong, durable, and not vulnerable to attack.

H.I.G. reportedly owns or has had investments in Hart InterCivic, a major election technology vendor. In order to help us understand your firm’s role in this sector, we ask that you provide answers to the following questions no later than December 20, 2019.

1. Please provide the disclosure documents and information enumerated in Sections 501 and 503 of the *Stop Wall Street Looting Act*.<sup>17</sup>
2. Which election technology companies, including all affiliates or related entities, does H.I.G. have a stake in or own? Please provide the name of and a brief description of the services each company provides.

<sup>10</sup> Department of Homeland Security, “Statement by Secretary Jeh Johnson on the Designation of Election Infrastructure as a Critical Infrastructure Subsector,” January 6, 2017,

<https://www.dhs.gov/news/2017/01/06/statement-secretary-johnson-designation-election-infrastructure-critical>.

<sup>11</sup> AP News, “US election integrity depends on security-challenged firms,” Frank Bajak, October 29, 2018, <https://apnews.com/f6876669cb6b4e4c9850844f8e015b4c>; Penn Wharton Public Policy Initiative, “The Business of Voting,” July 2018, <https://publicpolicy.wharton.upenn.edu/live/files/270-the-business-of-voting>.

<sup>12</sup> Brennan Center for Justice, “America’s Voting Machines at Risk,” Lawrence Norden and Christopher Famighetti, 2015, [https://www.brennancenter.org/sites/default/files/publications/Americas\\_Voting\\_Machines\\_At\\_Risk.pdf](https://www.brennancenter.org/sites/default/files/publications/Americas_Voting_Machines_At_Risk.pdf).

<sup>13</sup> Associated Press, “AP Exclusive: New election systems use vulnerable software,” Tami Abdollah, July 13, 2019, <https://apnews.com/e5e070c31f3c497fa9e6875f426ccde1>.

<sup>14</sup> Vice, “Here’s Why All the Voting Machines Are Broken and the Lines Are Extremely Long,” Jason Koebler and Matthew Gault, November 6, 2018, [https://www.vice.com/en\\_us/article/59vzgn/heres-why-all-the-voting-machines-are-broken-and-the-lines-are-extremely-long](https://www.vice.com/en_us/article/59vzgn/heres-why-all-the-voting-machines-are-broken-and-the-lines-are-extremely-long).

<sup>15</sup> Vice, “Exclusive: Critical U.S. Election Systems Have Been Left Exposed Online Despite Official Denials,” Kim Zetter, August 8, 2019, [https://www.vice.com/en\\_us/article/3kxzk9/exclusive-critical-us-election-systems-have-been-left-exposed-online-despite-official-denials](https://www.vice.com/en_us/article/3kxzk9/exclusive-critical-us-election-systems-have-been-left-exposed-online-despite-official-denials).

<sup>16</sup> New York Times, “A Pennsylvania Country’s Election Day Nightmare Underscores Voting Machine Concerns,” Nick Corasaniti, November 30, 2019, <https://www.nytimes.com/2019/11/30/us/politics/pennsylvania-voting-machines.html>.

<sup>17</sup> Stop Wall Street Looting Act, S.2155, <https://www.congress.gov/bill/116th-congress/senate-bill/2155>.

- a. Which election technology companies, including all affiliates or related entities, has H.I.G. had a stake in or owned in the past twenty years? Please provide the name of and a brief description of the services each company provides or provided.
  - b. For each election technology company H.I.G. had a stake in or owned in the past twenty years, including all affiliates or related entities, please provide the following information for each year that the firm has had a stake in or owned this company and the five years preceding the firm's investment.
    - i. The name of the company
    - ii. Ownership stake
    - iii. Total revenue
    - iv. Net income
    - v. Percentage of revenue dedicated to research and development
    - vi. Total number of employees
    - vii. A list of all state and local jurisdictions with which the company has a contract to provide election related products or services
    - viii. Other private-equity firms that own a stake in the company
3. Has any election technology company, including all affiliates or related entities, in which H.I.G. has an ownership stake or has had an ownership stake in the last twenty years, been found to have been in noncompliance with the EAC's Voluntary Voting System Guidelines? If so, please provide a copy of each EAC noncompliance notice received by the company and a description of what steps the company took to resolve each issue.
  4. Has any election technology company, including all affiliates or related entities, in which H.I.G. has an ownership stake or has had an ownership stake in the last twenty years, been found to have been in noncompliance with any state or local voting system guidelines or practices? If so, please provide a list of all such instances and a description of what steps the company took to resolve each issue.
  5. Has any election technology company, including all affiliates or related entities, in which H.I.G. has an ownership stake or has had an ownership stake in the last twenty years, been found to have violated any federal or state laws or regulations? If so, please provide a complete list, including the date and description, of all such violations.
  6. Has any election technology company, including all affiliates or related entities, in which H.I.G. has an ownership stake or has had an ownership stake in the last twenty years, reached a settlement with any federal or state law enforcement entity related to a potential violation of any federal or state laws or regulations? If so, please provide a complete list, including the date and description, of all such settlements.

7. Has any election technology company, including all affiliates or related entities, in which H.I.G. has an ownership stake or has had an ownership stake in the past twenty years, reached a settlement with any state or local jurisdiction related to a potential violation of or breach of contract? If so, please provide a complete list, including the date and description, of all such settlements.


Thank you for your attention to this matter.

Sincerely,



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Elizabeth Warren  
United States Senator



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Amy Klobuchar  
United States Senator



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Ron Wyden  
United States Senator



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Mark Pocan  
Member of Congress