

**State of Wisconsin
Before the Wisconsin Elections Commission**

The Verified Complaint of

Richard Carlstedt
1640 Dancing Dunes Dr.
Green Bay, WI 54313

Sandra Duckett
2552 Wilder Court
Green Bay, WI 54311

James Fitzgerald
1923 Treeland
Green Bay, WI 54304

Thomas Sladek
2634 Sequoia Ln
Green Bay, WI 54313

Lark Wartenberg
2478 Sunrise Ct.
Green Bay, WI 54302

Against Complaint Respondents

Meagan Wolfe
Administrator
Wisconsin Elections Commission
212 East Washington Avenue, Third Floor
P.O. Box 7984
Madison, Wisconsin 53707-7984

Hon. Eric Gentrich
Mayor
City of Green Bay
100 N. Jefferson St.
Green Bay WI 54301

Celestine Jeffries
Former Green Bay Mayor Chief of Staff
Current City Clerk of Green Bay
100 N. Jefferson St.
Green Bay WI 54301

Kris Teske
Former City Clerk of Green Bay
Current Village Clerk of Ashwaubenon
2155 Holmgren Way
Ashwaubenon, WI 54304

This complaint is made under Wisconsin Statutes § 5.06.

We, the complainants Richard Carlstedt, Sandra Duckett, James Fitzgerald, Thomas Sladek, and Lark Wartenberg allege that:

Introduction

The Wisconsin Legislature expressly assigned to the Wisconsin Elections Commission “the responsibility for the administration of ... laws relating to elections,” Wisconsin Statutes § 5.05(1). *Trump v. Wisconsin Elections Commission*, 983 F.3d 919, 927 (7th Cir. 2020). The Commission’s Administrator, Meagan Wolfe, even as recently as March 31, 2020, before the General Assembly’s Campaigns and Elections Committee, publicly supported Wisconsin cities, including Green Bay, adopting private corporate conditions on state and federal elections without the Commission’s prior determination of the legality of imposing private corporate entity conditions upon existing state and federal election laws.¹

¹ Wisconsin Assembly Committee on Campaigns and Elections, “Informational Hearing on General Election Review.” Meagan Wolfe. Mar. 31, 2021. <https://wiseye.org/2021/03/31/assembly-committee-on-campaigns-and-elections-14/> accessed Apr. 6, 2021.

In the November 2020 general election, the City of Green Bay adopted private corporation conditions on the election process affecting state and federal elections. In this case, Green Bay involved private corporations and their employees in the City's state and federal election administration. By doing so, Green Bay failed to comply with state laws, including obtaining Commission, a determination of the legality of the private corporate conditions in the election process, and failed to comply with the U.S. Constitution's Elections and Electors Clauses which guarantee the state Legislature the exclusive role in approving Wisconsin's legal conditions relating to federal elections.

In March of 2021, Wisconsin Open Records Act (Wisconsin Statutes §19.31, et seq.) requests relating to Green Bay's election administration and Wisconsin legislative hearing testimony relating to Green Bay's election administration, revealed to the Complainants that Green Bay officials, responsible for the election process and procedures, adopted and implemented private corporate conditions, including direct corporate and corporate employee engagement in the administration of the general election.²

The State Legislature never gave municipalities the authority to adopt or accept private corporate conditions affecting existing state election laws. The Commission, as the responsible entity in the administration of election laws, never opined on the legality of private corporate conditions affecting existing election laws. The Complainants allege that the Administrator's and Green Bay's actions violate state law and the U.S. Constitution's

²App. 1-392. Subsequent page references are to the appendix unless otherwise noted. The appendix has been provided because virtually all of the complaint's allegations are based on information found in government documents produced by Green Bay and WEC. For the purposes of the complaint, the complainants have presumed the government's documents are authentic.

Elections and the Electors Clauses because they diverted constitutional authority of the State Legislature and the Commission to private corporations and the approving municipality of Green Bay. Further, the Complainants allege that Green Bay and certain Green Bay officials may have violated state and federal laws when they accepted and adopted private corporate conditions and when they approved Green Bay's engagement of private corporations and their employees into Green Bay's election administration. The Commission must act to correct and restrain the Administrator and Green Bay from the Administrator's legal position that the Commission has no role when a municipality's actions could or do directly modify the conditions of the municipality's elections.

First, the Commission should declare that the Commission indeed *has* a role in the administration of election laws whenever a municipality seeks to adopt as policy or enter into an agreement of any kind with a private corporate entity that imposes conditions in exchange for moneys involving the election process and administration.

Second, the Commission should reiterate that the Administrator may not render a decision without the approval of the Commission related to the legality of any agreement between private corporate entities and municipalities related to imposing private corporate conditions on the administration of election laws.

Third, the Commission should investigate the circumstances and factual allegations asserted in this Complaint regarding the legality of Green Bay's acts and actions juxtaposed against state and federal election laws to ascertain whether those election laws were violated.

Fourth, that the Commission consider any further prosecutorial investigation be directed to the proper local or state authorities.

Finally, if the Commission determines that election laws were violated or that the law is unclear to provide the Commission itself with the ability to determine the legalities of private corporate conditions directly or indirectly affecting the election process and administration, the Commission should make recommendations to the State Legislature for changes to state election laws to ensure the future integrity of the election process.

Complainants

1. Richard Carlstedt is a Wisconsin elector residing in Green Bay at 1640 Dancing Dunes Dr. Green Bay, Wisconsin, 54313
2. Sandra Duckett is a Wisconsin elector residing in Green Bay at 2552 Wilder Court, Green Bay, Wisconsin, 54311.
3. James Fitzgerald is a Wisconsin elector residing in Green Bay at 1923 Treeland, Green Bay, Wisconsin, 54304.
4. Thomas Sladek is a Wisconsin elector residing in Green Bay at 2634 Sequoia Ln, Green Bay, Wisconsin, 54313.
5. Lark Wartenberg is a Wisconsin elector residing in Green Bay at 2478 Sunrise Ct., Green Bay, Wisconsin, 54302.

Respondents

6. Meagan Wolfe is the Administrator of the Commission.
7. Respondent Eric Genrich is the Mayor of the City of Green Bay.
8. Respondent Celestine Jeffries is the former Green Bay Mayor Chief of Staff and is the current City Clerk of Green Bay.

9. Kris Teske is the former City Clerk of Green Bay and is the current City Clerk for the Village of Ashwaubenon, Wisconsin.

Statement of Facts

10. The Wisconsin Legislature expressly assigned to the Commission “the responsibility for the administration of ... laws relating to elections,” Wisconsin Statutes § 5.05(1). *Trump v. Wisconsin Elections Commission*, 983 F.3d 919, 927 (7th Cir. 2020).

11. Under Wisconsin Statutes § 7.15(1), the municipal clerk has “charge and supervision” of federal elections within a municipality:

(1) SUPERVISE REGISTRATION AND ELECTIONS. Each municipal clerk has charge and supervision of elections and registration in the municipality...

12. The Commission and its municipal clerks, in administering elections in Wisconsin’s municipalities, are constitutionally obligated to follow the legal conditions set by the state legislature. Wis. Stat. §§ 5.05(1), 7.15(1).

13. The Elections Clause of the U.S. Constitution states that the state legislatures and Congress set the conditions for Congressional elections:

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, except as to the Places of chusing Senators.

U.S. Const., Art. I, § 4, cl. 1.

14. The Electors Clause of the U.S. Constitution states that the state legislatures exclusively set the conditions for choosing Presidential Electors:

Each State shall appoint, in such Manner as the Legislature thereof may direct, a Number of Electors, equal to the whole Number of Senators and Representatives to which the State may be entitled in the Congress.

U.S. Const., Art. II, § 1, cl. 2.

15. The Elections Clause and the Electors Clause, provide no power to municipal governments to adopt private corporate conditions on federal elections or to introduce private corporations and their employees into federal election administration. U.S. Const., Art. I, § 4, cl. 1 and Art. II, § 1, cl. 2.

16. The City of Green Bay is incorporated under Wisconsin Statutes chapter 62.

17. Wisconsin cities are created by state statute and cannot exercise any power unless specifically provided for by statute:

The legislative power in this state is lodged in the legislature. When it exerts that power, it exerts it on behalf of and in the name of the people of the State of Wisconsin.” *Van Gilder v. City of Madison*, 222 Wis. 58, 67, 267 N.W. 25 (1936). Conversely, “cities are creatures of the state legislature [that] have no inherent right of self-government beyond the powers expressly granted to them.”

Black v. City of Milwaukee, 882 N.W.2d 333, 342–43 (Wis. 2016).

18. The Center for Tech and Civic Life (CTCL) is a private non-profit organization providing federal election grants to local governments, headquartered in Chicago, Illinois. (001-002)

19. For the 2020 federal election, CTCL was funded by private donations of more than \$300 million that were in turn used as conditional private grants to local governments.³

³“Mark Zuckerberg and Priscilla Chan are donating \$300 million to voting efforts.” Alexis Benveniste. Sept. 1, 2020. <https://www.cnn.com/2020/09/01/business/zuckerberg-300-million-voting/index.html> / accessed Apr. 6, 2021.

20. Nationally, CTCL funded local governments, cities and counties, with conditional private grants that were used for the 2020 general election. (001-002)
21. Certain urban local governments receiving CTCL grants agreed to the conditions of the grant in exchange for receiving CTCL moneys. (017-018)
22. These grants are contracts between each local government and CTCL. (017-018).
23. These conditional grants to the local government required reporting back to the private non-profit corporation, CTCL, regarding the moneys used for the 2020 general election. (018)
24. These conditional grants to the local government included claw-back provisions, requiring the local government to return the moneys to the private non-profit corporation, CTCL, if the private non-profit corporation disagreed how those moneys were spent in the conduct of the 2020 election. (018)
25. In early July 2020, CTCL issued a \$100,000 grant to the City of Racine to recruit other Wisconsin cities to join the what the other four recruited cities and Racine would refer to as the “Wisconsin Safe Voting Plan.” (344-345).
26. The four recruited cities were Green Bay, Madison, Milwaukee, and Kenosha.
27. CTCL authorized the City of Racine distribute from the \$100,000 grant, \$10,000 to each of the four recruited cities (keeping \$10,000 for itself), as an incentive for them to participate with Racine in the CTCL conditional grants. (344-345).
28. The so called “Wisconsin Safe Voting Plan” was a grant application designed for the five cities, Racine, Green Bay, Madison, Milwaukee, and Kenosha to request CTCL

grant funding to support election administration activities during the COVID-19 pandemic. (315-335).

29. The “Safe Voting Plan” was developed “in the midst of the COVID-19 Pandemic” to ensure voting could be “done in accordance with prevailing public health requirements” to “reduce the risk of exposure to coronavirus.” Further, it was intended to assist with “a scramble to procure enough PPE to keep polling locations clean and disinfected.” (315-335).

30. CTCL also provided a supplemental conditional grant in addition to the conditional grant funding for what was referred to as the “Wisconsin Safe Voting Plan.” Supplemental grant (003-013).

31. The Cities of Madison, Green Bay, Racine, Kenosha and Milwaukee entered into the conditional grant agreements with CTCL. (315- 335).

32. CTCL referred to the Cities of Madison, Green Bay, Racine, Kenosha and Milwaukee as the “WI-5” or the “Wisconsin Five” cities. (139-141).

33. However, it is the Commission that can provide “aid” to cities and counties for the administration of elections. Wis. Stat. §5.05(11).

34. Specifically, under Wisconsin Statutes §5.05(10), the Commission may render assistance to municipalities and counties via the state election administration plan that meets the requirements of the Help America Vote Act (Public Law 107–252) to enable participation by Wisconsin in federal assistance programs relating to elections.

35. As previously stated, with respect to elections, the Wisconsin State Legislature under Wisconsin Statutes § 5.05(1) is delegated general authority to the Commission for the responsibility of administration of Wisconsin elections.

36. Whether moneys are received from other sources directly or indirectly related to the administration of elections, specifically wherein those moneys are conditional affecting existing election laws, the general authority and the jurisdiction of the Commission is engaged.

37. For instance, under Section 3 of the HAVA state administration plan, the Commission is “required to conduct regular training and administer examinations to ensure that individuals who are certified are knowledgeable concerning their authority and responsibilities.”

38. In May and June, 2020, the Cities of Racine, Madison, Green Bay, Milwaukee and Kenosha entered into a conditional grant agreement with CTCL for \$6,324,527. (“CTCL Agreement”). (016-021).

39. Under the terms of the CTCL conditional grant agreement, the five cities adopting the conditions would be required to remit back to CTCL the entire \$6,324,527 if CTCL, at its sole discretion, determined these cities had not complied with CTCL’s terms. (017-018).

40. The CTCL Agreement provides that the purpose of the funds CTCL provided to the cities was to “be used exclusively for the public purpose of planning safe and secure election administration in the City of Green Bay in 2020, and coordinating such planning

with other cities in Wisconsin.” (017). The CTCL Agreement required these cities to develop a plan for their elections pursuant to the agreement by June 15, 2020. (017-018).

41. Wisconsin and federal election laws establish the manner in which elections are to be conducted. The administration of those laws is within the jurisdiction of the Commission; however, the administration must also be consistent with legislative or Congressional enactments.

42. On June 15, 2020, the Wisconsin Five cities presented their plan to CTCL. Among other things, these cities entered into agreements with CTCL to use the moneys to:

- Hire additional personnel for elections;
- Increase existing salaries for staff;
- Encourage and Increase Absentee Voting (by mail and early, in-person)
- Provide assistance to help voters comply with absentee ballot requests & certification requirements;
- Utilize secure drop-boxes to facilitate return of absentee ballots
- Deploy additional staff and/or technology improvements to expedite & improve accuracy of absentee ballot processing;
- Expand In-Person Early Voting (Including Curbside Voting); and
- Commit “to conducting the necessary voter outreach and education to promote absentee voting and encourage higher percentages of our electors to vote absentee.”

(315-335).

43. These provisions contained in the “Wisconsin Safe Voting Report,” which the Cities were required to adhere to, cannot be at or under direction of CTCL, in which case would be contrary to, or in-place of, or in addition to Wisconsin or federal election laws.

44. The “Wisconsin Safe Voting Report” specifically provided that these Cities would be “promoting” and “encouraging higher percentages of our electors to vote absentee” which violates Wisconsin Statutes 6.84 (1) in which the State Legislature states:

The legislature finds that the privilege of voting by absentee ballot must be carefully regulated to prevent the potential for fraud or abuse; to prevent *overzealous solicitation of absent electors who may prefer not to participate in an election.*⁴

(320-328) (emphasis added).

45. First, not all Wisconsin cities adopted and received conditional grant moneys to administer their respective 2020 general election.

46. Second, those cities that did adopt and receive conditional grant moneys from any source, such as the CTCL and notably, the Wisconsin Five, imposed conditions on the administration of elections from a private corporate entity which other cities had no such conditions. Hence, with the added private conditions on the election process, the Green Bay Complainants were within a jurisdictional boundary that affected them as a demographic group.

47. Similarly, by the Wisconsin Five cities contracting with CTCL and allied private corporations, the Wisconsin Five cities chose to favor the Wisconsin Five’s demographic groups of urban voters over all other voters in the State of Wisconsin. By these actions, the “Wisconsin Five” cities favored its urban demographic group over other non-

⁴ The reason for Wisconsin’s policy against voting by mail or by absentee ballot is that they are widely recognized to be occasions for voter fraud. For example, the 2005 Commission on Federal Election Reform chaired by former President Jimmy Carter and former Secretary of State James Baker III concluded: ‘Absentee ballots remain the largest source of potential voter fraud,’ and “vote by mail . . . increases the risk of fraud.”

urban Wisconsin voters in federal elections, putting the integrity of the election process in jeopardy—and violating Complainants’ rights to lawful elections.

48. Whitney May, Director of Government Services at CTCL, wrote to Celestine Jeffreys and representatives of the other Wisconsin Five cities on August 18, 2020, stating, “You are the famous WI-5...excited to see November be an even bigger success for you and your teams.” (139-141).

49. A Racine representative stated to Green Bay officials and others to work with CTCL “implement our parts of the Plan,” and conveyed to Green Bay how to “understand the resources she’s [Tiana Epps-Johnson of CTCL] bringing to each of our Cities [the “cities” of Milwaukee, Racine, Madison, Kenosha] to successfully and quickly implement the components of our Plan.” (014-015).

50. Meanwhile, as early as July, the Green Bay City Clerk Kris Teske claimed that the Mayor’s office was diverting her statutory authority to administer the election process because of the forthcoming City adoption of CTCL’s conditions. She wrote in an e-mail:

“I haven’t been in any discussions or emails as to what they are going to do with the money. I only know what has been on the news/in the media...Again, I feel I am being left out of the discussions and not listened to at the meetings.” See Brown County Clerk Letter. E-mail July 9, 2020.

(338).

51. On July 21, 2020, the Council approved the Wisconsin Safe Voting Plan and adopted the the CTCL conditional grant. (346-372).

52. The Council also approved the conditions for spending the grant funds and the conditions related to the administration of the City's election process for the 2020 general election. (346-372).

53. On or about July 10, 2020, the Mayor of Green Bay's Chief of Staff, Celestine Jefferies, began discussions with CTCL's founder, Tiana Epps-Johnson, over e-mail relating to the conditional grant. (014).

54. On July 13, 2020, Ms. Epps-Johnson sent to Ms. Jeffreys actions items and a time for a "Kick-Off Meeting" to see where CTCL could provide implementation support of the plan. (016; 0336)

55. The CTCL conditions agreed to by Green Bay included:

- "The grant funds must be used exclusively for the public purpose of planning and operationalizing safe and secure election administration in the City of Green Bay in accordance with the Wisconsin Safe Voting Plan 2020." (017)
- Each city or county receiving the funds was required to report back to CTCL by January 31, 2021 regarding the moneys used to conduct federal elections; (018)
- "The City of Green Bay shall not reduce or otherwise modify planned municipal spending on 2020 elections, including the budget of the City Clerk of Green Bay ('the Clerk') or fail to appropriate or provide previously budgeted funds to the Clerk for the term of this grant. Any amount reduced or not provided in contravention of this paragraph shall be repaid to CTCL up to the total amount of this grant." (018-019; July 24, 2020).
- The City of Green Bay "shall not use any part of this grant to give a grant to another organization unless CTCL agrees to the specific sub-recipient in advance, in writing." (018)
- "CTCL may discontinue, modify, withhold part of, or ask for the return of all or part of the grant funds if it determines, in its sole judgement, that (a) any of the above conditions have not been met or

(b) it must do so to comply with applicable laws or regulations. (018).

56. Despite the stated purpose of helping to assist with a COVID-19 safe election, CTCL's early communications with Green Bay focused on other, apparently parallel purposes referencing other "resources" to help with: "outgoing and return absentee envelopes," a "Communications Toolkit" from National Vote at Home Institute, and identifying "voters of color" and "determin[ing] voter sentiment in regards to vote by mail." ((017-018, 037)

57. To comply with the private corporate conditions of the CTCL grant, because Green Bay was obligated to report back to CTCL, and to prove that Green Bay complied with CTCL's purposes, Mayor Chief of Staff, Celestine Jeffreys, created a grant tracking form to report all spending to CTCL. (017-021).

58. CTCL imposed further conditions not explicitly stated in its grant. For instance, on an introductory zoom call on July 27, 2020, CTCL included *other entities*, including some of CTCL's "partners" such as The Elections Group, Center for Civic Design, and the Vote at Home Institute. (022-029). The implication was that Green Bay officials would be working with other CTCL partner-entities during the election process, and did so, as further explained below.

59. Even though the stated purpose of the CTCL grant was only for the "Safe Voting Plan" and "for no other purpose," the July 27 Zoom call *included agenda items*, that had nothing to do with COVID prevention, such as:

- Employing "voter navigators" to help voters "complete their ballots"; (030-031)

- The “voter navigators” would later be “trained and utilized as election inspectors”; (031)
- ”Utilize paid social media” and “print and radio advertising” to direct voters “to request and complete absentee ballots”; (030)
- “enter new voter registrations and assist with all election certification tasks”; (030)
- “reach voters and potential voters through a multi-prong strategy utilizing ‘every door direct mail,’ targeted mail, geo-fencing, billboards radio, television, and streaming-service PSAs, digital advertising, and automated calls and texts,” and direct mail to “eligible but not registered voters”; (032)
- Assist new voters to “obtain required documents” to get valid state ID needed for voting, targeting African immigrants, LatinX residents, and African Americans; (032) and
- “facilitate Election day Registrations and verification of photo ID.” (032)

60. Upon information and belief, based on the agenda, most of the action items discussed in the introductory Zoom call had nothing to do with bringing about a safe, COVID-19 free voting.

61. Demonstrating Green Bay’s willingness to become obedient to CTCL’s conditions, Celestine Jeffreys wrote on August 4, 2020: “Still waiting to hear back from CTCL on our schemes.” (033)

62. CTCL continued to introduce to Green Bay officials additional CTCL “partners” to help with various aspects of conducting the City’s election, and CTCL sought to get the City of Green Bay’s “feedback about the projects our [CTCL] technical partners should tackle first.” (042)

63. Rather than working toward a COVID-19 safe election, the “projects” that CTCL proposed were to get the urban vote out:

- a. Adding satellite locations to “streamline onboarding process for new EIPAV [early in person absentee voting] staff [to be conducted by CTCL’s partner [The (Elections Group)”];
- b. Adding drop boxes;
- c. Printing materials for mail ballots;
- d. Targeting communities with election information through National Vote at Home Institute’s “communication toolkit” to “support outreach around absentee voting” and to “share research insights about how to engage people who might not trust the vote by mail process...”; and
- e. Explaining this “targeting” of communications, Celestine Jeffreys wrote to Whitney May of CTCL on August 27, 2020 that “There are probably 5 organizations that are focused on working with disadvantaged populations and/or with voters directly.” (034, 042)

64. On July 27, 2020, Tiana Epps-Johnson of CTCL emailed the Mayor’s Chief of Staff Celestine Jeffreys stating that she looks “forward to talking with you today and introducing you to some of the Center for Tech and Civic Life’s partners who are available to help the City of Green Bay.” (035)

65. The Mayor’s office, through the Chief of Staff Celestine Jeffreys, began to allow access to private corporate partners, and Jeffreys, instead of allowing the City Clerk Kris Teske, to perform her obligations in administering the election process—as it is her duty to do so under state law— began relying on the private sector employees for election administration guidance. For example, the City Clerk wrote on July 14:

“Celestine also talked about having advisors from the organization giving the grant who will be ‘helping us’ with the election and I don’t know anything about that.” Kris Teske, July 14, 2020 (339).

66. City Clerk Teske apparently was not consulted or informed of the organizational changes, and further complained: “I don’t understand how people who don’t have the knowledge of the process can tell us how to manage the election.” Kris Teske, August 28, 2020. (339)

67. CTCL boasted that it had a “network of current and former election administrators and election experts available” to “scale up your vote by mail processes,” and “ensure forms, envelopes, and other materials are understood and completed correctly by voters.” (035).

68. In an email dated July 30, 2020 and in subsequent communications, CTCL offered to have Jefferys and Teske connect directly to the technical assistance partners to discuss details and timeline related to the election process and administration. (035).

69. CTCL’s “partners” included other private entities:

- The National Vote At Home Institute (“VoteAtHome” or “NVAHI”) who was represented as a “technical assistance partner” who could consult about among other things, “support outreach around absentee voting,” voting machines and “curing absentee ballots,” and to even take that duty (curing absentee ballots) off of the City of Green Bay’s hands. (036-049; 051-067) The NVAHI also offered advice and guidance on accepting ballots and streaming central count during election night and on the day of the count. (068-075)
- The Elections Group and Ryan Chew were represented to be able to provide “technical assistance partners to support your office” and “will be connecting with you in the coming days regarding drop boxes” and technical assistance to “support your office,” and worked on “voter outreach.” (076-078, 205, 079-081) Elections Group Guide to Ballot Boxes. (082-0121)
- Ideas42 was represented by CTCL as using “behavioral science insights” to help with communications. (392)

- Power the Polls was represented by CTCL to help recruit poll workers (122) and discuss ballot curing. (123-124)
- The Mikva Challenge was recommended to recruit high school age poll workers (125-126, 404) and then to have the poll workers to “serve as ballot couriers,” and for “ballot drop-off/voter registrations.” (125-127)
- US Digital Response was suggested to help with and then take over “absentee ballot curing,” and to “help streamline the hiring, onboarding, and management” of Green Bay’s poll workers. (128-136)
- Center for Civic Design to design absentee ballots and the absentee voting instructions, including working directly with the Commission to develop a “new envelope design” and to create “an advertising/targeting campaign.” (137-0155; 190-0201)
- Eric Ming, the Communications Director for CSME, to serve as a “communications consultant to review your [City of Green Bay] advertising plan for November.” (156-157)
- The Brennan Center which focuses on “election integrity” including “post-election audits and cybersecurity.” (158-160)
- HVS Productions to add “voter navigator” FAQs and Election Countdown Copy for the city of Green Bay. (161-166)
- Modern Selections to address Spanish language. (167-169)

70. One co-founder of CTCL, Whitney May, suggested private corporate employees to assist with Central Count on Election Day, assisting and educating the navigators, and advising on drop boxes for the City of Green Bay. (170-172).

71. Central Count is a central location other than the City Clerk’s office established to count all election ballots governed by Wisconsin election laws and regulations.

72. Despite the fact that the City Clerk is responsible for the administration of elections, the Mayor’s Chief of Staff, Celestine Jeffreys announced that the Green Bay

Common Council created an Ad Hoc Committee to assist in making decisions related to the CTCL conditional grant. (338).

73. City Clerk Teske expressed concern early on that voting laws may be broken.

She wrote:

“I just attended the Ad Hoc meeting on Elections...I also asked when these people from the grant give us advisors who is going to be determining if their advice is legal or not...I don't think it pays to talk to the Mayor because he sides with Celestine, so I know this is what he wants. I just don't know where the Clerk's Office fits in anymore.” Kris Teske, July 9, 2020. (338-339).

74. Kris Teske's concern was repeated later (October 5, 2020) when she expressed concern that Michael Spitzer-Rubenstein, the Wisconsin State Lead for the private corporate entity National Vote at Home Institute, was taking over ballot curing. (123-124).

75. Meanwhile, Celestine Jeffreys, the Green Bay Chief of Staff for the Mayor's office, expressed Green Bay's willingness to abide by CTCL's written and unwritten conditions, and to therefore cede control of the election to CTCL and its partners. She wrote to CTCL on July 13, 2020:

“I'm not exactly sure how this works, but I received the email below from Mr. Sam Munger (partner with Uprising Strategies). Is he working with you? *As far as I'm concerned I am taking all of my cues from CTCL and work with those you recommend.*” (173) (emphasis added).

76. Green Bay's obligations to abide by CTCL's conditions resulted in confusion over who was responsible for actions that were supposed to have been performed by the City Clerk's office. Kris Teske wrote on October 7, 2020: “I didn't purchase this. Celestine did and should be the one signing this. She is the one working with them. I'm not signing an affidavit for things Celestine did or purchased because she doesn't know election law.” (340).

77. With regard to Michael Spitzer-Rubenstein's employer, the National Vote at Home Institute, Clerk Teske wrote, "Really...is Celestine [Jeffreys] running it now?...If he [Michael-Spitzer-Rubenstein] wants to give us suggestions (observing) we are fine with that but he shouldn't be working in the office." (257).

78. City Clerk Teske and the Mayor's office disagreed over the location of city drop boxes. Ms. Jeffreys stated the "mentors" (CTCL and its partner organizations) thought they should be placed elsewhere. (262).

79. The Mayor office's diversion of the Clerk's election administrative duties caused morale problems: "I want you to be aware about the Clerk Staff that stated if they had the money, they would walk out the door now, another said I don't want to work here anymore, and the third is actively looking for a new job. All because the Mayors staff-even Melissa is bossing the Clerk Staff around." Kris Teske, October 22, 2020. (340) Other staff members were frustrated and crying. (340).

80. Before going on Family Medical Leave Act leave, Teske expressed concern about Michael Spitzer-Rubenstein, paid consultant from a private corporate entity, taking over "ballot curing." (123-124). Shortly thereafter, on October 23, 2020, Ms. Teske took FMLA leave. (340).

81. For some inexplicit reason, just days before the general election, Teske took FMLA leave. Upon information and believe, evidence suggests that Teske's authority as City Clerk responsible for the integrity of the election process and the election administration was being undermined by the Mayor's office or its officials and the conditions imposed through

private corporations, she could not agree with the tactics or disagreed with them as contrary to the law and saw the only way out as taking FMLA leave.

82. As a result of Teske's leave, the Mayor's office, including Celestine Jefferys, assumed responsibility for election administration. Ms. Jefferys then acted as she promised more than three months earlier to take cues from the CTCL and to work with whoever the CTCL recommended. (340)

83. Celestine Jefferys reported back to Eric Ming of Modern Elections, a private corporate entity, about the information she had collected on geofencing and radio ads related to the general elections. (167-168).

84. On or about August 26, 2020, CTCL's Director of Government Services, Whitney May, began discussing "reallocating funds for Voter outreach," including the policy decision to "increase Absentee Voting." It was proposed to take funds from "PPE/cough guards or the ballot folder lines," thereby potentially undermining the "Safe Voting" purpose of the CTCL grant, and to transfer those funds to the "Voter Outreach bucket." (174-178)

85. CTCL's private corporate "partners" assumed more and more of the administering of Green Bay's election process once Teske was gone and Chief of Staff Jefferys took her position as acting City Clerk:

- a. Vote at Home volunteered to take curing of ballots off of Green Bay's plate; (179-181);
- b. Offered to "lend a hand" to Central Count stations; (182) Elections Group offer; (183)
- c. Offered to connect the City of Green Bay to "partners like Power the Polls" to recruit poll workers; Partner with CTCL to send out e-mails to recruit poll workers; (184)
- d. Advised the City as to using DS200 voting machines; (185-188)
- e. Provided a "voter navigator" job description; (189)

- f. Advised regarding moving the “Central Count” from City Hall to the Hyatt Regency Grand Ballroom, which was wired to provide election results directly to Michael Spitzer-Rubenstein’s hotel room on the 8th floor; (270)
- g. The Center for Civic Design designed the absentee voting instructions and the absentee envelopes; (190-203)
- H. The Elections Group issued a Guide to Ballot Drop Boxes, a report on Planning Drop Boxes, Voter Outreach, and Communication; (204-238)
- I. Provided advice about procedures for challenging an elector’s ballot; (239-243) and
- J. Conservation Voices and curing. (244-247)

86. Michael Spitzer-Rubenstein, of the National Vote at Home Institute, began to assume more and more responsibility for conducting Green Bay’s election, even though there does not appear to be a CTCL approved contract between Green Bay and National Vote At Home Institute, which is another condition of the conditional grant agreement with CTCL. One of the CTCL conditions adopted by Green Bay prohibited the City from “us[ing] any part of this grant to give” to other organizations, “unless CTCL agrees to the specific sub-recipient in advance, in writing.” (018). Nevertheless, Spitzer-Rubenstein appears to be working at the direction of CTCL in the administration of Green Bay’s election administration.

87. Mr. Spitzer-Rubenstein of NAVHI performed tasks such as:

- a. Providing a document and further instructions for the Central Count workers; (248-249, 313-325)
- b. Augmenting the City of Green Bay’s “guide with the DS450” voting machine instructions; (310)
- c. Purchase order and asking about 62001 openers; (250)
- c. Corresponding with the Green Bay City Attorney and other employees to interpret Wisconsin law and even to develop absentee voting protocols potentially inconsistent with Wisconsin Law; (297-300)
- d. Offering to take “curing ballots” off of the City of Green Bay’s plate. Specifically to “help with curing absentee ballots that are missing a signature or witness signature/address”; (179-181, 124)

- e. “helping Milwaukee assign inspectors to Central Count stations,” and offering to do the same for Green Bay; (179-181, 252-256)
- f. Setting up the voting machines and patterns in the Central Count location; (302)
- g. Offering “additional resources” such as “funding available, both from ourselves, and the Center for Tech and Civic Life (thanks to Priscilla Chan and Mark Zuckerberg)”;
- h. Determining whether to accept ballots after the deadline of 8 pm (299)
- i. Allocating poll workers on election day; (182)
- j. Monitoring numbers of absentee ballots by ward; (301)
- k. Teske tells finance person does not want NVAHI person in office, but Chief of Staff running show; (257-259) and
- l. Central Count guidance # of poll workers. (260)

88. In fact, Green Bay officials began reporting to CTCL of the City’s efforts regarding:

- a. Voter outreach/education;
- b. Drop boxes;
- c. Poll books;
- d. Community groups; and
- e. Badger books

(261-264)

89. For instance, Chief of Staff/Interim City Clerk Celestine Jeffreys did not have the City Clerk’s office in control of the Central Count headquarters in the lead-up to the November 2020 General Election or on Election Day. (173).

90. E-mails between Brown County Clerk and Mr. Spitzer-Rubenstein of NVAHI regarding vote-counting machines at Green Bay’s Central Count appear to demonstrate that Mr. Spitzer-Rubenstein was effectively in control of the vote count and the election. For example, Mr. Spitzer-Rubenstein wrote:

Subject: Question about Green Bay Central Count “Hi Sandy, I’m Michael Spitzer-Rubenstein, an advisor to the City of Green Bay through the National Vote at Home Institute. I’m helping the city set up Central Count for Tuesday. I heard from Kim there was

some sort of issue with using DS200's at Central Count. I'm trying to get the full backstory to advise her and the mayor." (340).

91. Mr. Spitzer-Rubenstein advised and set up the Central Count headquarters. (340).

92. On the hotel contract where Green Bay's Central Count headquarters would be located, Mr. Rubenstein was granted primary access to the room, ballot counters, and absentee ballot openers.

- a. On the Hotel Contract renting the space for the 2020 November General election, the Interim City Clerk provided specific instructions regarding Mr. Rubenstein and his leadership of Central Count:

"Number of keys to provide: 5 (4 to group and 1 for hotel to keep-Kristine Hall will hold for hotel). Deliver keys to: Michael Spitzer-Rubenstein" "Michael Spritzer-Rubenstein will be the on-site contact for the group."

"DO NOT UNLOCK GRAND BALLROOM UNTIL MICHAEL SPITZER-RUBENSTEIN REQUESTS AND IS WITH SECURITY WHEN UNLOCKING THE GRAND BALLROOM DOOR."

(265)

- b. "Michael Spitzer-Rubenstein will be the on-site contact for the group [on Election Day]." (265-269)
- c. Mr. Spitzer-Rubenstein was one of three people providing "supervision and check-in duties" for workers on the days of the election and subsequent vote counting. (314)

93. Mr. Spitzer-Rubenstein not only had primary access to the Central Count, but apparently access to ballots, and ballot counting:

- a. Mr. Spitzer-Rubenstein negotiated directly with Trent Jameson of the Hyatt Regency and KI Convention Center so that "both networks reach my hotel room on the 8th floor" including "passwords" for /Wifi results of the election. (270-274)

- b. Mr. Spitzer-Rubenstein developed a diagram and map of the “Central Count” area of the election and developed roles for the staff to handle and count ballots, and Central Count procedures. (275-296)
- c. Mr. Spitzer-Rubenstein developed processes for election day “ballot flattening,” “ballot sorters,” and “guarding the dropbox.” (060)
- d. Mr. Spitzer-Rubenstein assigned inspectors for vote counting and polling places. (252)
- e. Mr. Spitzer-Rubenstein pushed for control of ballot curing process. (179-180)
- f. Mr. Spitzer-Rubenstein provided advice to Green Bay’s City Attorney regarding interpretation of Wisconsin statutes governing the timing and receipt of ballots. (297-300)
- g. Mr. Spitzer-Rubenstein provided advice to “pull the numbers on the absentee ballots returned and outstanding per ward” information on vote results and to determine which wards were on which voting machines. (301-303)
- h. The day before the election, Mr. Spitzer-Rubenstein wrote to Celestine Jeffreys, Mayor Genrich and others: “would you be able to pull the numbers on the absentee ballots returned and outstanding per ward? If you want to just export the Excel Files for the absentee ballot report, we can work with that team from the Vote at Home team will work to balance the loads so that each table has a similar number of ballots to prepare. In addition, have you figured out which wards will be on the DS200? If not, we can do that too.” (301)
- i. Mr. Spitzer-Rubenstein created a pollworker needs spreadsheet. (304-306)
- j. Mr. Spitzer-Rubenstein is in charge of transporting ballots to City Hall and then to Central Count on election day and then counting them. (“Here’s the log I put together for moving ballot boxes in the morning and evening” (dated November, 2, 2020)). (297, 307-309)
- k. Mr. Spitzer-Rubenstein was directing the Central Count worker: “I’m putting together instructions for the Central Count workers, ...” and “I’m helping the city [Green Bay] set up Central Count Tuesday.” (310)
- l. Corresponding with Saralynn Finn, also of Vote at Home, Mr. Spitzer-Rubenstein wrote: “here is the document I made to hand out to central count observers.” (248) The “document” created warned Election Observers to “NOT interfere in any way with the election process,” while CTCL personnel, partners, “pollworkers” and others deputized by CTCL, transported ballots, counted ballots, and “cured” defective mail in and absentee ballots, and otherwise exercised considerable control over the election process. (311)

- m. Mr. Spitzer-Rubenstein requested information on the “type of ballot opener” Green Bay purchased so that Mr. Spitzer-Rubenstein could “make some calculations about Central Count.” (249)
- n. On Election Day, Mr. Spitzer-Rubenstein had unfettered access to the Central Count floor. (341)

94. On November 1, 2020, Mr. Spitzer-Rubenstein wrote: “...are the ballots going to be in the trays/boxes within the bin?...trying to figure out whether we’ll need to move the bins throughout the day or if we can just stick them along the wall and use trays or something similar to move the ballots between stations.” “...here’s the log I put together for moving ballots...” (053; 256)

95. On Election Day Mr. Spitzer-Rubenstein had access to ballots, transporting ballots, and determining which ones would be counted or not counted.

Mr. Spitzer-Rubenstein wrote to Vanessa Chavez, Green Bay City Attorney, on November 3, 2020 (Election Day) at 9:29 pm: “Be prepared: ballots delayed.” The text stated: “I think we’[sic]re probably okay; *I don’t think anyone challenged the ballots when they came in.*” (312) (emphasis added)

96. Mr. Spitzer-Rubenstein had “his own table within the central count area and unlimited access to workers and ballots unlike all other election observers.” (341)

97. Mr. Spitzer-Rubenstein explained that someone “prevented one of the dropbox deliveries from getting to City Hall by 8 PM,” so the ballots were “delayed,” i.e. did not arrive on time as required by law. Forty-seven boxes of ballots were expected to be delivered and apparently according to Mr. Spitzer-Rubenstein’s email, some of them were late but he decided that despite their being late, they were counted anyway because no one “challenged the ballots.” (312)

98. Upon information and belief, private corporate employees, including Mr. Spitzer-Rubenstein of NVAHA, were involved in the management of Green Bay’s ballot

chain of custody—including the management of the chain of custody for Green Bay’s absentee ballots.

99. The Green Bay Common Council, since a March 10, 2021 legislative informational hearing on the claims set forth herein, has defended its diversion of election authority.⁵ In fact, the Green Bay Mayor has referred to the legislative informational hearing as a “Stalinist show trial.”⁶ The Green Bay Common Council, the Mayor and the current City Clerk seem unable or unwilling to correct the continuing usurpation.

100. WEC Administrator Meagan Wolfe, regarding Green Bay’s conduct alleged here, has supported the Wisconsin Five cities’ claimed prerogative to adopt private corporate conditions on federal elections without approval by Congress, the state legislature and the Commission.⁷ She most recently stated this legal position on March 31, 2021 before the General Assembly’s Campaigns and Elections Committee.⁸

101. The Complainants believe the legal position of WEC Administrator Meagan Wolfe and the rest of the Respondents is incorrect. Only Congress and the state legislature

⁵ Wisconsin Assembly Committee on Campaigns and Elections, “Informational Hearing on General Election Review.” Mar. 10, 2021. <https://wiseye.org/2021/03/10/assembly-committee-on-campaigns-and-elections-13/> accessed Apr. 6, 2021.

⁶ Associated Press, “Green Bay mayor calls GOP hearing on election process ‘Stalinist show trial.’” Mar. 13, 2021. https://madison.com/wsj/news/local/govt-and-politics/green-bay-mayor-calls-gop-hearing-on-election-process-stalinist-show-trial/article_d55ca5e2-df48-5c2e-be61-b28d7fdf2203.html. Accessed Apr. 6, 2021.

⁷ Wisconsin Assembly Committee on Campaigns and Elections, “Informational Hearing on General Election Review.” Meagan Wolfe. Mar. 31, 2021. <https://wiseye.org/2021/03/31/assembly-committee-on-campaigns-and-elections-14/> accessed Apr. 6, 2021.

⁸ *Id.*

have legal authority to place conditions on federal elections in Wisconsin and to approve private corporations and their employees to engage in federal election administration.

Claim

The Respondents Violated and Will Continue to Violate State Law and the Elections and Electors Clauses

102. The Wisconsin State Legislature under Wisconsin Statutes § 5.05(1) delegated general authority to the Commission for the responsibility of administration of Wisconsin elections.

103. The Wisconsin State Legislature delegates federal election authority to municipal clerks to implement Wisconsin election laws within the respective clerk's municipality. Wis. Stat. § 7.15(1).

104. In general elections held in Green Bay, the election authority of Congress, the Wisconsin state legislature, the Commission and Green Bay City Clerk was and will continue to be illegally and unconstitutionally diverted by the Respondents to entities and persons including Green Bay's Common Council, the Ad Hoc Committee, Mayor, Chief of Staff and private corporations and their employees.

105. Without Commission intervention, Green Bay's illegal and unconstitutional diversion of election authority will continue.

106. Notably, on December 24, 2020, the U.S. Court of Appeals for the Seventh Circuit, in rejecting the Trump campaign's Electors Clause arguments in a Wisconsin case, suggested that the Electors Clause may apply when Wisconsin public officials usurp federal election administrative powers contrary to state law:

The Wisconsin Legislature expressly assigned to the Commission “the responsibility for the administration of ... laws relating to elections,” WIS. STAT. § 5.05(1), just as Florida's Legislature had delegated a similar responsibility to its Secretary of State. See *Bush*, 531 U.S. at 116, 121 S.Ct. 525 (Rehnquist, C.J., concurring). Florida's legislative scheme included this “statutorily provided apportionment of responsibility,” *id.* at 114, 121 S.Ct. 525, and three Justices found a departure from that scheme when the Florida Supreme Court rejected the Secretary's interpretation of state law. See *id.* at 119, 123, 121 S.Ct. 525. And it was the Minnesota Secretary of State's lack of a similar responsibility that prompted two judges of the Eighth Circuit to conclude that he likely violated the Electors Clause by adding a week to the deadline for receipt of absentee ballots. See *Carson*, 978 F.3d at 1060.

Trump v. Wisconsin Elections Commission, 983 F.3d 919, 927 (7th Cir. 2020). To be sure, in that case, the Trump campaign's 2020 Electors Clause claims regarding “indefinitely confined” voters, endorsing the use of absentee ballot drop boxes, and best practices for correcting a witness's address on an absentee ballot certificate were dismissed by the federal courts.

107. The claims in this matter relating to the City of Green Bay are distinguishable from those facts in the *Trump* case because these legal claims relate to the Commission's and Green Bay's diversion of the election law authority of Congress, the Wisconsin State Legislature, the Commission, and the Green Bay City Clerk. In this way, the complainants' Elections Clause and Electors Clause claims are similar to the claim considered by the three Supreme Court justices finding a “departure from that scheme” in the Florida case and the claim considered by the two Eighth Circuit judges to be a “likely” violation of the Electors Clause in the Minnesota case. *Wisconsin Elections Commission*, 983 F.3d at 927.

108. The Respondents' past and continuing diversion of election authority violated and continues to violate state and federal law.

Prayer for relief

WHEREFORE, Complainants respectfully request the Commission

- To investigate the circumstances and factual allegations asserted in this Complaint regarding the legality of Green Bay’s acts and actions juxtaposed against state and federal election laws to ascertain whether election laws were violated.
- The investigation should employ all of the Commission’s authority by compelling document production, depositions, and testimony of the Respondents, Green Bay elected officials, Green Bay election officials, Green Bay employees, Tiana Epps-Johnson and her employer Center for Tech and Civic Life, Michael Spitzer-Rubenstein and his employer National Vote at Home Institute, Ryan Chew and his employer The Elections Group, Ideas42, Power the Polls, Mikva Challenge, US Digital Response, Center for Civic Design, Eric Ming and his employer CSME, Brennan Center, HVS Productions, and Modern Selections and others involved.
- The Commission should prohibit Respondent Meagan Wolf from any investigatory role because of a conflict of interest due to her being a Respondent.
- The Commission issue an order requiring the Administrator, City of Green Bay and its City Clerk to conform their conduct to Wisconsin Statutes and the Election and Electors Clauses, restrain themselves from taking any action inconsistent with Wisconsin Statutes and the Election and Electors Clauses and require them to correct their actions and decisions inconsistent with Wisconsin Statutes and the Election and Electors Clauses—including

prohibiting the placement of private corporate conditions on state and federal elections and the involvement of private corporation and their employees in election administration.

- The Commission should issue an order declaring that Green Bay's private conditions on federal elections and engagement of private corporations and their employees in election administration violated state law and federal law.
- The Commission should also grant any other relief it deems proper, necessary, or just, consistent with the law and under the circumstances of this case.

The requested relief would include, but is not limited to:

- That the Commission reiterate that the Administrator may not render a decision without the approval of the Commission related to the legality of any agreement between private corporate entities and municipalities related to imposing private corporate conditions on its elections or related to private corporations and their employees being engaged in the administration of election laws;
- That the Commission consider any further prosecutorial investigation be directed to the proper local or state authorities; and,
- Finally, if the Commission determines that election laws were violated or that the law is unclear to provide the Commission itself with the ability to determine the legalities of private corporate conditions directly or indirectly affecting the election process and administration, the Commission should

make recommendations to the State Legislature for changes to state election laws to ensure the future integrity of the election process.

Dated: April 7, 2021



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