

State of Wisconsin  
Before the Elections Commission

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Complaint of

Case No. \_\_\_\_\_

Dean Romano  
1849 15<sup>th</sup> Avenue  
Kenosha WI 53140

Complainant,

against

Hon. John M. Antaramian  
Mayor  
City of Kenosha  
625 52nd Street Room 300  
Kenosha, WI 53140

Debra Gimler or her successor  
City Clerk--Interim  
625 52nd Street Room 105  
Kenosha, WI 53140

Matt Krauter  
Former City Clerk  
625 52nd Street Room 105  
Kenosha, WI 53140

Respondents.

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**COMPLAINT**

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I, as complainant, allege, upon information and belief, that probable cause exists to believe that an election bribery violation by the Respondents and their City of Kenosha occurred under Wisconsin Statutes § 12.11 and the Respondents' and City of Kenosha's

privately-funded absentee ballot drop boxes in the 2020 election were legally unauthorized under Wisconsin Statutes § 6.87(4)(b)1 and § 6.855—all of which violated federal law too.

## **Parties**

1. Dean Romano is an elector residing at 1849 15<sup>th</sup> Avenue, Kenosha, Wisconsin 53140.
2. Respondent John M. Antaramiam is Mayor of City of Kenosha.
3. Respondent City of Kenosha Clerk is Debra Gimler, who is Interim City Clerk, or her successor.
4. Respondent Matt Krauter is former Clerk of City of Kenosha. Krauter served through the November 2020 election.

**Any agreement where the City's election officials receive Center for Tech and Civic Life's or other's private money to facilitate in-person and absentee voting within the city violates Wisconsin Statutes § 12.11's prohibition on election bribery.**

5. The Respondents and their City entered into an agreement with Center for Tech and Civic Life which constituted prohibited election bribery under Wisconsin Statutes § 12.11.
6. In the agreement, the Respondents and their City agreed to take Center for Tech and Civic Life's money to facilitate in-person and absentee voting within their city.
7. The agreement documents included the Wisconsin Safe Voting Plan, the Center for Tech and Civic Life worksheets and the Center for Tech and Civic Life acceptance letters which were conditioned on the Respondents and their City spending CTCL's transferred money in accordance with the Wisconsin Safe Voting Plan. These documents are in the accompanying appendix: App. 7-27 (Wisconsin Safe Voting Plan);

App. 513-519, (CTCL worksheet blank form), 520-537 (Green Bay worksheet), 538-551 (Kenosha worksheet), 552-563 (Madison worksheet), 564-575 (Milwaukee worksheet), 576-587 (Racine worksheet); 588-601 (CTCL grant application acceptance letters for Milwaukee, Madison, Kenosha, Green Bay and Racine).

8. The attached agreement documents violate the election bribery prohibition of Wisconsin Statutes § 12.11 because in the documents the cities and public officials receive private money to facilitate in-person or absentee voting within the city.

9. Any similar agreements in the 2022, 2024 election cycle would also be prohibited election bribery.

**Wisconsin law, like other states, prohibits election bribery.**

10. Wisconsin, through Wisconsin Statutes § 12.11, prohibits “election bribery.”

11. Every other state has prohibited election bribery in their own way. *See, e.g.*, Ala. Code 11-46-68 (1999); Alaska Stat. 15.56.030 (Michie 1999); Ariz. Rev. Stat. 16-1006 (1999); Ark. Code Ann. 7-1-104 (Michie 1997); Cal. Elec. Code 18522 (West 1999); Colo. Rev. Stat. 31-10-1524 (1998); Conn. Gen. Stat. 9-333x (1997); Del. Code Ann. tit. 15 4940 (1998); Fla. Stat. Ann. 104.061 (West 1998); Ga. Code Ann. 21-2-570 (1998); Haw. Rev. Stat. 19-3 (1999); Idaho Code 18-2305 (1998); 10 Ill. Comp. Stat. 5/29-1 (West 1999); 1998 Ind. Adv. Legis. Serv. 3-14-3-19; Iowa Code 722.4 (1997); Kan. Stat. Ann. 25-2409 (1997); Ky. Rev. Stat. Ann. 119.205 (Michie 1998); 1998 La. Acts 18:1461; Me. Rev. Stat. Ann. 602 (West 1998); Md. Code Ann. 13-602 (1998); Mass. Gen. Laws Ann. ch. 56 32 (West 1999); Mich. Comp. Laws 168.931 (1998); Minn. Stat. 211B.13 (1998); Miss. Code Ann. 23-15-889 (1998); Mo. Rev. Stat. 115.635 (1999); Mont. Code Ann. 45-7-101(1)(a) (1999); Neb. Rev. Stat. 32-

1536 (1998); Nev. Rev. Stat. Ann. 293.700 (Michie 1998); N.H. Rev. Stat. Ann. 659:40 (1999); N.J. Stat. Ann. 19:34-25 (1999); N.M. Stat. Ann. 1-20-11 (Michie 1998); N.Y. Elec. Law 17-142 (Consol. 1999); N.C. Gen. Stat. 163-275 (1999); N.D. Cent. Code 12.1-14-03 (1999); Ohio Rev. Code Ann. 3599.02 (Anderson 1999); Okla. Stat. tit. 26 16-106 (1998); Or. Rev. Stat. 260.665 (1997); 25 Pa. Consol. Stat. 3539 (1998); R.I. Gen. Laws 17-23-5 (1998); S.C. Code Ann. 7-25-60 (1998); S.D. Codified Laws 12-26-15 (1999); Tenn. Code Ann. 2-19-126 (1999); Tex. Penal Code Ann. 36.03 (1999); Utah Code Ann. 20A-1-601 (1998); Vt. Stat. Ann. tit. 17 2017 (2000); Va. Code Ann. 24.2-1007 (1999); Wash. Rev. Code 29.85.060 (1999); W. Va. Code 3-9-13 (1999); Wyo. Stat. Ann. 22-26-109 (1999).

**Wisconsin Statutes § 12.11 on election bribery, in relevant part, prohibits a city from receiving money to facilitate electors to go to the polls or to facilitate electors to vote absentee.**

12. Wisconsin Statutes § 12.11, in relevant part, prohibits a city from receiving money to facilitate electors going to the polls or to facilitate electors to voting by absentee ballot:

12.11. Election bribery

(1) In this section, “anything of value” includes any amount of money, or any object which has utility independent of any political message it contains and the value of which exceeds \$1...

(1m) Any person who does any of the following violates this chapter:

(a) Offers, gives, lends or promises to give or lend, or endeavors to procure, anything of value, or any office or employment or any privilege or immunity to, or for, any elector, or *to or for any other person, in order to induce any elector to:*

1. *Go to ... the polls.*
2. *Vote....*

Wis. Stat. § 12.11 (emphasis added).

13. Although the word “person” is not defined in Wisconsin Statutes § 12.11, Wisconsin Statutes § 990.01(26) defines “person,” generally, to include “bodies politic” which includes municipalities.

14. Although the word “induce” is not defined in Wisconsin Statutes § 12.11, the word “induce” in § 12.11 should be interpreted broadly to include *facilitate* because “induce” must be read to include *facilitate* in order to save several of § 12.11’s exceptions from superfluity. *See* Wis. Stat. § 12.11(3)(c)-(d).

15. Accordingly, Wisconsin Statutes § 12.11 requires three elements for a municipality or its officials to engage in “election bribery”: (1) the definition of “anything of value” must be met; (2) the thing of value must be received by a municipality or its election officials; and (3) the municipality must receive the thing of value in order to facilitate electors going to the polls or to facilitate electors voting by absentee ballot.

16. With respect to the first element, Wisconsin Statutes § 12.11 provides a definition for “anything of value” which must be met: “Includes any amount of money, or any object which has utility independent of any political message it contains and the value of which exceeds \$1. Statute also applies to the distribution of material printed at public expense and available for free distribution if such materials are accompanied by a political message.”

17. With respect to the second element, Wisconsin Statutes § 12.11 requires that the anything of value is received by a “person” which is legally defined to include municipalities. Although the word “person” is not defined in Wisconsin Statutes § 12.11,

Wisconsin Statutes § 990.01(26) defines “person,” generally, to include “bodies politic,” which includes municipalities.

18. With respect to the third element, the city must receive the “anything of value” in order to facilitate electors to go to the polls or in order to facilitate electors to vote. As mentioned above, the word “induce” in § 12.11 should be interpreted broadly to include *facilitate* because “induce” must be read to include *facilitate* in order to save several of § 12.11’s exceptions from superfluity. *See* Wis. Stat. § 12.11(3)(c)-(d).

### **Conception of the Election Bribery Scheme**

19. Although Plaintiffs have not been entitled to traditional courtroom discovery, the record created by public document requests shows that CTCL, a private company headquartered in Chicago<sup>1</sup>, engaged in an election bribery scheme.

20. CTCL reached out to the City of Racine to allow CTCL to provide grant money to certain handpicked cities in Wisconsin to facilitate increased in-person and absentee voting in the cities. App. 402.

21. This first grant of \$100,000 was to be split among the five largest cities in Wisconsin at \$10,000 per city, plus an extra \$50,000 to Racine for organizing the five cities. App. 402.

22. This first grant required the mayors of the five largest cities in Wisconsin and their respective staffs to complete CTCL election administration forms, including goals and plans to facilitate increased in-person and absentee voting in their respective cities and

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<sup>1</sup>*See* App. 676 (CTCL 2020 Form 990, p.1).

“communities of color” and develop a joint plan for their elections—not statewide. App. 297.

23. Christie Baumel wrote on June 9, 2020 regarding CTCL and “Election Cost Grant:”

My understanding is that this is a small planning grant that Racine received from the Center for Tech & Civic Life to produce, by June 15<sup>th</sup>, a proposal for safe and secure election administration, according to the **needs identified by the five largest municipalities**. In other words, this information informs the Center for Tech & Civic Life in their consideration of where and how to support complete, safe, secure elections in Wisconsin.

App. 603 (emphasis added.)

24. As part of the election bribery scheme, CTCL was reaching out to the five largest cities in Wisconsin, and CTCL wanted information from those cities in determining how to provide money to those cities to facilitate increased in-person and absentee voting. *Id.* This program and the larger amount of grant money was not available to any cities or counties in Wisconsin other than the five largest cities, which later became known as the “Wisconsin 5.” *Id.*

25. The attempt of CTCL to target the five largest cities in Wisconsin for election support to facilitate increased in-person and absentee voting had been ongoing since earlier in 2020, as indicated in emails and invitations from Vicky Selkove, a Racine employee who opposed Trump and those that voted for him,<sup>2</sup> to Kenosha, Madison, Milwaukee, and Green Bay mayors, and a few other city officials from the Wisconsin 5 cities. App. 331-349; 392-

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<sup>2</sup> App. 612-645. *See, e.g.*, App. 616 (“My rage at all who voted for Trump (or didn’t vote at all, voted for Stein) is ‘boundless.’”).

401; 481-487. Only those four cities plus Racine were invited to “Apply for a COVID-19 Grant” from CTCL and to thus be in on the “plan” to accept CTCL’s private money to facilitate increased in-person and absentee voting in the 2020 election. App. 603-604.

26. These five cities began to identify themselves and to be identified by CTCL as the “Wisconsin 5,” including a letterhead with the five cities’ seals.<sup>3</sup> App. 7, 141-143.

Whitney May, Director of Government Services at CTCL, wrote to 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.” App. 375-376.

27. The CTCL Agreement required the Wisconsin 5 Mayors and their respective staffs to develop a joint plan for the Wisconsin 5’s elections, not statewide, pursuant to the agreement by June 15, 2020:

The City of Racine, and any cities granted funds under paragraph 4, shall produce, by June 15<sup>th</sup>, 2020, a plan for a safe and secure election administration in each such city in 2020, including election *administration* needs, budget estimates for such assessment, and an assessment of the impact of the plan on voters.

App. 2 (emphasis added).

28. The carrot for the Wisconsin 5 to provide this information for CTCL was to get part of a \$100,000 grant. Once the Wisconsin 5 expressed interest in receiving the \$10,000 grants from CTCL, then the “Wisconsin 5” Cities quickly provided information to Vicky and CTCL on CTCL’s form so they could develop a “comprehensive plan” for

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<sup>3</sup> And a proposal to create T-shirts for the “famous WI-5,” as encouraged by Whitney May, the Director of Government Services for CTCL. App. 376.



election administration for their “national funding partner, the Center for Tech & Civic Life” by June 15, 2020. App. 604 (emphasis added).

29. Following the expected “Council approval” on June 2, Vicky Selkove of Racine sought to “immediately” connect to “municipal clerks and other relevant staff” to “swiftly gather information about” the cities’ “election administration needs.” App. 604.

30. Vicky Selkove obtained the information from the Wisconsin 5 cities through the five completed CTCL forms, then either Racine or CTCL used that information to prepare the Wisconsin Safe Voting Plan (“WSVP”), as requested by CTCL. App. 513-519, (CTCL blank form), 520-537 (Green Bay), 538-551 (Kenosha), 552-563 (Madison), 564-575 (Milwaukee), 576-587 (Racine). Vicky expressed that she was the point person for communicating with the different city staffs to gather information to prepare this plan. *Id.* at 604.

#### **The First Contract between CTCL and the Wisconsin 5 cities**

31. On about May 28, 2020, the Racine Common Council approved, and signed, the CTCL conditional grant in the amount of \$100,000 to recruit and then coordinate, with the Wisconsin Five cities, to join the Wisconsin Safe Voting Plan 2020 submitted to CTCL on June 15, 2020. App. 325-349, 402-405.

32. The \$100,000 was targeted to the Wisconsin 5 cities, which are also the five largest cities in Wisconsin. App. 331-349; 392-401; 481-487. This grant and distribution to the Wisconsin 5 cities was not random, rather it was the intentional culmination of meetings or virtual meetings on May 16, 2020, June 13, 2020, and August 14, 2020. *Id.* These meetings were also secretive in that the mayors and their staff were invited to the meeting, but

Common Council members were not informed of the meetings, nor was the public informed of the meetings. *Id.* The Common Council members of Racine were later asked to vote to approve what was decided at the meetings. App. 486-487.

33. It is not believed that the Common Councils of the other four cities of the Wisconsin 5 were asked to vote on the \$100,000 grant, except perhaps long after they had already received the money and committed to accepting the larger grant and its conditions. *Id.* For example, the city of Madison received the \$10,000 even though as of the week of July 10 the Common Council had not accepted it yet. App. 605. Maribeth Witzel-Behl of Madison wrote on July 13 that “Common Council has yet to accept the \$10,000.” App. 605-606.

34. The grant approved by the Racine Common Council stated, “The grant funds must be used exclusively for the public purpose of planning safe and secure election administration in the City of Racine in 2020, and coordinating such planning.” App. 404.

35. Thus, the consideration for the Wisconsin 5 cities to receive the first, small grant, was that they provide information for CTCL to use in preparing the WSVP for the large grant. *Id.*

**The Wisconsin Safe Voting Plan (“WSVP”) and CTCL’s grant acceptance letter incorporating the WSVP is the agreement where the City agreed to take CTCL’s private money to facilitate increased in-person voting and to facilitate absentee voting.**

36. The Wisconsin Safe Voting Plan (“WSVP”) and CTCL’s grant acceptance letter incorporating the WSVP is the agreement where the City agreed to take CTCL’s private money to facilitate increased in-person voting and to facilitate absentee voting—which is prohibited election bribery under Wisconsin Statutes § 12.11.

37. The WSVP was developed ostensibly “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.” App. 7-27.

38. However, another election purpose existed as evidenced by the documents quoted and identified above; the other election purpose was to incorporate CTCL, the allied private corporations and the Wisconsin 5 cities—and \$8.8 million of private funding—into joint operations in the Wisconsin 5 cities, including facilitating increased in-person and absentee voting in their particular cities and, particularly, in their particular “communities of color.” *See, e.g.*, App. 7-27 (WSVP).

39. Essentially, from the beginning, the purpose of the WSVP contract and its private funding was for the City and the Respondents to use Center for Tech and Civic Life’s private money to facilitate greater in-person voting and greater absentee voting, particularly in targeted neighborhoods.

**Having agreed to the initial \$10,000 per city grants (plus \$50,000 extra for Racine), the Wisconsin 5 Cities entered new grant agreements for the large grants, including CTCL’s “conditions” which included performance under WSVP.**

40. On or about July 6, 2020, Vicky Selkove announced that the Wisconsin Safe Voting Plan (“WSVP”) had been fully approved for funding by the Center for Tech & Civic Life; the initial \$10,000 grant was the first step for the Wisconsin 5 cities to get an even larger grant from CTCL. *See, e.g.*, App. 1-27.

41. Also, on July 6, Tiana Epps-Johnson of CTCL emailed Vicky stating CTCL intends to fund each of the Wisconsin 5 Cities with far larger sums of money: Green Bay--\$1,093,400; Kenosha--\$862,779; Madison--\$1,271,788; Milwaukee--\$2,154,500; and Racine--\$942,100. App. 11. The total of the initial grants to the Wisconsin 5 cities was therefore \$6,324,567.00. *Id.* Each of the Wisconsin 5 cities, expressly or impliedly, accepted the large grant money. For example, sometime in July 2020 the City of Madison accepted \$1,271,788 by vote of Common Council; a Madison city employee email dated July 17, states, “I believe they adopted this under suspension of rules on 7/14.” App. 605.

42. Concurrently with CTCL’s plans to provide the Wisconsin 5 cities with \$6,324,567.00 in grant money, the Wisconsin 5 cities began to be informed of the conditions or the consideration for that grant money. App. 588-601. On July 10, Vicky Selkove started contacting each of the Wisconsin 5 cities to let them know Tiana Epps-Johnson will contact them to start introducing the Wisconsin 5 cities to CTCL’s “partners.” App. 463-464. “Tiana and her team have arranged for extensive expert technical assistance from fantastic and knowledgeable partners across the country, to help each City implement our parts of the Plan.” *Id.* Tiana will send a “draft grant agreement” for the city’s review and “approval on Monday.” *Id.* It was assumed that each City would vote to accept the money, and the terms of the agreement were not important. *Id.*

43. On July 10, 2020, Vicky Selkove sent an email to Celestine Jeffreys and copied Tiana Epps-Johnson stating that Green Bay should work with CTCL, along with several of the other largest Wisconsin cities to “implement our parts of the Plan,” and to allow the City of Green Bay to “understand the resources she’s [Tiana Epps-Johnson of CTCL] bringing to

each of our Cities [the “cities” of Milwaukee, Racine, Madison, Kenosha and hopefully Green Bay] to successfully and quickly implement the components of our Plan.” App. 261-262.

44. By approximately July 24, 2020, each of the Wisconsin 5 cities had agreed to contracts with CTCL, along with the conditions, rules and regulations CTCL attached to the grants. App. 32-33 (Green Bay), 3-5 (Racine), 371-373 (Kenosha), 392-401 (Milwaukee), 406-410 (Madison).

**The grant agreements and the WSVP between CTCL and the Wisconsin 5 cities contain conditions regarding the city facilitating increased in-person and absentee voting.**

45. In addition to being informed that the Wisconsin 5 should work with CTCL’s “partners,” the grant agreement contained express conditions that each of the Wisconsin 5 cities had to follow in order to receive and keep the grant funds. *Id.* The grant agreement incorporated the WSVP and its provisions:

The grant funds must be used exclusively for the public purpose of planning and operationalizing safe and secure election administration in the City of \_\_\_\_\_ in accordance with the Wisconsin Safe Voting Plan 2020.

*Id.* And, the consideration for the second contract was that the Wisconsin 5 cities were to use CTCL’s “partners” for election administration, and the Wisconsin 5 cities had to expressly agree to the written conditions in the Grant Agreements. *Id.*

Specifically, the conditions in the second contract included:

a. The grant funds must be used exclusively for the public purpose of planning and operationalizing safe and secure election administration

in the City of \_\_\_\_\_ in accordance with the Wisconsin Safe Voting Plan 2020.

b. Requiring each city or county receiving the funds to report back to CTCL by January 31, 2021 regarding the moneys used to conduct federal elections;

c. The City of \_\_\_\_\_ shall not reduce or otherwise modify planned municipal spending on 2020 elections, including the budget of the City Clerk of \_\_\_\_\_ (‘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.

d. The City of \_\_\_\_\_ 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.

App. 588-589 (Milwaukee), 591-592 (Madison), 595-596 (Kenosha), 598-599 (Green Bay), 3-4 (Racine).

46. CTCL provided a grant tracking form the Wisconsin 5 cities to keep track of their expenditures, which they would later have to report to CTCL. App. 609.

47. Thus, the text of the grant document provides the conditions clearly: the grant funds had to be used for “planning and operationalizing ... election administration.” App. 3-4, 588-589, 591-592, 595-596, 598-599. The Wisconsin 5 cities had to “report back to CTCL by January 31, 2021” regarding the moneys they used. Any moneys used “in contravention” of the Grant agreement would have to be “repaid to CTCL” up to the whole amount of the grant. *Id.* The Wisconsin 5 cities were not allowed to pay any part of the grant money to another organization “unless CTCL agrees ... in advance, in writing.” *Id.* These were the rules imposed by CTCL on the Wisconsin 5 cities. *Id.*

48. It has been admitted that these were “conditions” and that generally the money from CTCL was “conditional.” To underscore the conditions on the grant money, on July 24, 2020, Dennis Granadas of CTCL wrote Celestine Jeffreys of Green Bay:

Please find attached the revised grant agreement for review and signature. Please note that we made a few edits to clean up language, but this did not change the substance of the agreement, unless an update was requested. If you have any concerns please let me know. In addition, we also updated Section 7 for clarity to the following (changes highlighted in bold): **"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."** I look forward to receiving the signed agreement. Please let me know if you have any questions/concerns. Have a great weekend.

App. 611 (emphasis added)

49. These provisions requiring repayment of the grant moneys are referred to as “claw-back” provisions, and require the Wisconsin 5 to return the moneys to CTCL if CTCL disagreed with how the Wisconsin 5 spent the money and conducted their 2020 elections. App. 4, 589, 592, 596, 599.

50. After the election in November 2020, CTCL has demanded that the grant recipient cities, i.e. the Wisconsin 5, submit forms to CTCL to prove they complied with the grant conditions by January 31, 2021. App. 609.

51. These conditions, including the WSVP provisions to facilitate increased in-person and absentee voting in the city, were not merely “boilerplate” provisions; rather, CTCL intended to, and did enforce them. *Id.*

**The grant agreements and the WSVP between CTCL and the Wisconsin 5 cities contain conditions requiring the Wisconsin 5 cities to place CTCL-funded absentee ballot drop boxes in targeted neighborhoods, but absentee ballot drop boxes are legally unauthorized in Wisconsin.**

52. The Wisconsin Safe Voting Plan (“WSVP”) and CTCL’s grant acceptance letter incorporating the WSVP is the agreement where the City agreed to take CTCL’s private money to purchase and place absentee drop boxes in targeted neighborhoods. App. 10, 16-17.

53. The WSVP provided Green Bay \$50,000 for absentee ballot drop boxes. App. 16.

54. The WSVP provided Kenosha \$40,000 for absentee ballot drop boxes. App. 16.

55. The WSVP provided Madison \$50,000 for absentee ballot drop boxes. App. 16.

56. The WSVP provided Milwaukee \$58,500 for absentee ballot drop boxes. App. 16.

57. The WSVP provided Racine \$18,000 for absentee ballot drop boxes. App. 17.

58. The WSVP provided \$216,500 for absentee ballot drop boxes in the Wisconsin 5 cities. App. 17.

59. The use of absentee ballot drop boxes, outside of narrow exceptions, has been successfully challenged as being inconsistent with Wisconsin law. In a case in the Wisconsin Circuit Court for Waukesha County, the plaintiffs sued the WEC to challenge 2020 guidance memos that the WEC issued to municipal clerks. Complaint, *Teigen v. Wisconsin Elections Commission*, No. 21-CV-958 (Wis. Cir. Ct. for Waukesha Cnty. June 28, 2021) (under review



by Wisconsin Supreme Court), *available at* App. 649-660. In particular, the plaintiffs challenged a memo that purported to authorize unstaffed ballot drop boxes:

Despite this requirement in the statutes [i.e., the requirement that an absentee ballot either be returned by mail or be returned by the voter “in person, to the municipal clerk.” Wis. Stat. § 6.87(4)(b)1], WEC Commissioners sent a memo to municipal clerks dated August 19, 2020, (the “August 2020 WEC Memo”) stating that absentee ballots do not need to be mailed by the voter or delivered by the voter, in person, to the municipal clerk but instead could be dropped into a drop box and that the ballot drop boxes could be unstaffed, temporary, or permanent. (A true and correct copy of the August 2020 WEC Memo is attached hereto as Exhibit B.)

*Id.* ¶ 10, *available at* App. 651.

60. The court granted the plaintiffs summary judgment and declared the use of ballot drop boxes, outside of narrow exceptions, to be inconsistent with Wisconsin law:

For the reasons set forth by the Court on the record at the January 13, 2022 hearing, the Court hereby declares that WEC’s interpretation of state statutes in the Memos is inconsistent with state law, to the extent they conflict with the following: (1) an elector must personally mail or deliver his or her own absentee ballot, except where the law explicitly authorizes an agent to act on an elector’s behalf, (2) the only lawful methods for casting an absentee ballot pursuant to Wis. Stat. § 6.87(4)(b)1. are for the elector to place the envelope containing the ballot in the mail or for the elector to deliver the ballot in person to the municipal clerk, (3) the use of drop boxes, as described in the Memos, is not permitted under Wisconsin law unless the drop box is staffed by the clerk and located at the office of the clerk or a properly designated alternate site under Wis. Stat. § 6.855.

Order Granting Summary Judgment for Plaintiffs, *Teigen v. Wisconsin Elections Commission*, No.

21-CV-958 (Wis. Cir. Ct. for Waukesha Cnty. January 20, 2020), *available at* App. 66.

61. The Wisconsin 5 cities' privately-funded absentee ballot drop boxes in the 2020 election were legally unauthorized under Wisconsin Statutes § 6.87(4)(b)1 and § 6.855.

62. Consistently, the Wisconsin 5 cities and CTCL's agreement for CTCL-funded purchase and placement of absentee ballot drop boxes is legally unauthorized as against state law and public policy.

**CTCL pushed onto the Wisconsin 5 Cities the CTCL "partners" who, in some instances, would effectively administer the election.**

63. Furthermore, CTCL promoted to the Wisconsin 5 cities numerous entities, CTCL's "partners," that CTCL recommended that the Wisconsin 5 cities connect with and use in the administration of the election. App. 39-52, 53-69, 78-80. But, since the Wisconsin 5 were contractually bound to use only the "organizations" that CTCL approved "in advance, in writing," the "partner" referrals that CTCL made were more than mere "suggestions," they were part of the CTCL's contractual agreement with the Wisconsin 5 cities. App. 4, 589, 592, 596, 599.

64. In late July of 2020, CTCL's Director of Government Services Whitney May hosted a series of separate "kick off" for each of the Wisconsin 5 city's public officials, where she introduced and provided an overview of CTCL's allied corporations (sometimes-called "technical partners") to engage in that city's election administration. App. 454-459, 480. CTCL's "partners" introduced to the Wisconsin 5 were private corporations to aid or administer the city's election administration:

- 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's hands. App. 39-52, 53-69. The

NVAHI also offered advice and guidance on accepting ballots and streaming central count during election night and on the day of the count. App. 70-77.

- 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.” App. 78-80, 81-83, 171. Elections Group Guide to Ballot Boxes. App. 84-124.
- Ideas42 was represented by CTCL as using “behavioral science insights” to help with communications. App. 324.
- Power the Polls was represented by CTCL to help recruit poll workers, App. 124.
- The Mikva Challenge was recommended to recruit Chicago-based high school age students to be Wisconsin 5 poll workers. App. 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. App. 130-138.
- Center for Civic Design to design absentee ballots and the absentee voting instructions. App. 196.
- Eric Ming, the Communications Director for CSME, to serve as a “communications consultant to review your [City of Green Bay] advertising plan for November.” App. 43, 158-159.
- The Brennan Center which focuses on “election integrity” including “post-election audits and cybersecurity.” App. 160.
- HVS Productions to add “voter navigator” FAQs and Election Countdown Copy for the city of Green Bay. App. 163-168.
- Modern Elections to address Spanish language. App. 169-171.

65. Interestingly, none of the referenced “partners” mandated by CTCL were health or medical experts; rather, as the grant contracts required, these were “experts” in

“election administration.” *See* App. 454-462, 480. Defendant Kris Teske has admitted this usurpation by CTCL and its “partners” of election administration. She stated in her Answer in a prior WEC proceeding:

- “others in the Mayor’s office began to hold meetings and make decisions relating to the election outside of the Clerk’s office.” App. 674.
- “This caused planning for the election to become VERY dysfunctional and caused great confusion in the Clerk’s office as many of the meetings and decisions were driven by the Mayor’s chief of staff and other senior officials without the knowledge or consent of the Clerk’s office.” *Id.*
- “I wrote several emails outlining my concerns with meetings that excluded the Clerk’s office and decisions that were made without consulting the Clerk’s office.” App. 675.
- “the office’s [Clerk’s office] ability to fulfill the obligations for the election were greatly hindered and diminished by outside interference.” App. 677.

**The projects that CTCL’s partners promoted had nothing to do with Covid-19 safety.**

66. As set forth, neither CTCL nor its “partners” were medical or health professionals.

67. Instead, CTCL did boast 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.” App. 38.

68. Shortly after the grant agreements was negotiated and agreed upon, on July 31, 2020, CTCL’s Director of Government Services suggested to Maribeth Witzel-Behl of Madison the “projects” CTCL wished to focus on:

Hi Maribeth:

Reflecting on your Safe Voting Plan and the kickoff call last week. I wanted to get your feedback about the **projects** our technical partners should tackle first. What are

the most urgent areas where you'd like support from the partners? Here's what we captured in our notes as the likely top 3-4:

- **Adding satellite locations and drop boxes**—help site locations and provide tailored guidelines and implementation support (Elections Group)
- **Printing materials for mail ballots** – redesign bilingual **absentee ballot** instruction sheet and letter (Center for Civic Design, who is working with WEC on envelope design)
- **Targeting communities with election information** – NVAHA is launching a communications toolkit on August 5 to support **outreach** around **absentee voting** (National Vote at Home Institute), share research insights about how to engage people who might not trust the **vote by mail** process (Center for Civic Design)
- **Training election officials** – review quick guides and other training materials (Elections Group)

App. 479 (emphasis added).

69. 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.” App. 37, 45.

70. CTCL, when working with the Wisconsin 5 cities, had other conditions that had nothing to do with COVID prevention, including:

- Employing “voter navigators” to help voters “complete their ballots.” App. 34-35.
- The “voter navigators” would later be “trained and utilized as election inspectors.” App. 35.
- “Utilize paid social media” and “print and radio advertising” to direct voters “to request and complete absentee ballots.” App. 34.
- “enter new voter registrations and assist with all election certification

tasks.” App. 34.

- “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.” App. 36.
- Assist new voters to “obtain required documents” to get valid state ID needed for voting, targeting African immigrants, LatinX residents, and African Americans. *Id.*
- “facilitate Election day Registrations and verification of photo ID.” App. 36.

71. Thus, after the grant agreement were agreed upon, CTCL promoted election activities having nothing to do with Covid-19 safety, and which instead focused on voter outreach, absentee voting, and targeting specific geographic and demographic voters. App. 7-27. Using the grant funds to perform the voter outreach desired by CTCL was one of the conditions. App. 3, 7-27.

72. CTCL and its partners had no specific medical or health experience, and the “projects” had nothing to do with Covid-19 safety. App. 7-27.

**After the Wisconsin 5 cities agreed to the large grants, and CTCL convinced the Wisconsin 5 cities to utilize CTCL’s “partners,” CTCL sought to embed those “partners” into the Wisconsin 5 cities’ election administration.**

73. After the Wisconsin 5 cities agreed to the large grants, CTCL offered Milwaukee to provide “an experienced elections staffer [from the Elections Group] that could potentially *embed* with your staff in Milwaukee in a matter of days and fill that kind of a role.” App. 382 (emphasis added).

74. CTCL and its partners pushed to get involved with, and take over other parts of the election administration also. One of CTCL's recommended "partners" was the National Vote at Home Institute ("NVAHI"). Michael Spitzer-Rubenstein, NVAHI's employee, wrote to Claire Woodall-Vogg, the Executive Director of the City of Milwaukee Election Commission: "can you connect me to Reid Magney and anyone else who might make sense at the WEC? Would you also be able to make the connection with the Milwaukee County Clerk?" App. 381.

75. CTCL and its "partners" made many other attempts to, if not to "embed," at least to access information to which private entities were obviously not entitled. *Id.* The following communications demonstrate:

- **If you could send the procedures manual and any instructions for *ballot reconstruction*, I'd appreciate that.** On my end: • **By Monday, I'll have our edits on the absentee voter instructions.** • **We're pushing Quickbase to get their system up and running and I'll keep you updated.** • **I'll revise the planning tool to accurately reflect the process.** App. 381 (Michael Spitzer-Rubenstein emailing to Claire Woodall-Vogg of Milwaukee).
- **I'll create a flowchart for the VBM [vote by mail] processing that we will be able to share with both inspectors and also observers.** • **I'll take a look at the reconstruction process** and try to figure out ways to make sure it's followed. App. 381 (Michael Spitzer-Rubenstein emailing to Claire Woodall-Vogg of Milwaukee)
- "That sounds like a real pain. It would be helpful to just understand the system and maybe the USDR folks can figure out a way to simplify something for you. ... if it's okay with you, **they'd also like to record the screen-share to refer back to, if needed.**" **We're hoping there's an easier way to get the data out of WisVote than you having to manually export it every day or week.** To that end, we have two questions: 1. **Would you or someone else on your team be able to do a screen-share so we can see the process for an export?** 2. **Do you know if WisVote has an API or anything similar so that it can connect with other software apps?** **That would be the holy grail** (but I'm not expecting it to be that easy). App. 389 (Michael Spitzer-Rubenstein to Claire Woodall-Vogg).

- I know you won't have the final data on absentee ballots until Monday night but I imagine you'll want to set things up beforehand. **Just let me know your timeline for doing so and if you get me the absentee data a day ahead of time and I can set things up. And as a reminder, here's what I'll need: 1) Number of ballot preparation teams 2) Number of returned ballots per ward 3) Number of outstanding ballots per ward.** App. 390 (Michael Spitzer-Rubenstein to Claire Woodall-Vogg).
- In order to get the data by ward, are you able to run a summary in WisVote or do you have to download all the active voters, absentee applications, etc. and then do an Excel pivot table or something similar? We added Census data and zip codes to the map and so now we're moving to figure out how we'll update this. Also, if you can send these reports (whether in summary form or just the raw data), we can put them in: **Active voters, Absentee applications, Ballots received, Ballots rejected/returned to be cured.** App. 391, Michael Spitzer-Rubenstein to Claire Woodall-Vogg.
- "I'll try and do a better job clarifying the current need. We are not actually using anything visual right now (though will in the future). In the state of affairs now, **we are just looking for raw data. The end result of this data will be some formulas, algorithms and reports that cross reference information about ballots and the census data.** For example, we want to deliver to Milwaukee + Voteathome answers to questions like "How many of age residents are also registered to vote?" or "what percentage of ballots are unreturned in areas with predominantly minorities?". To do that, we need a clear link between address + Census Tract. We need this for all ~300k voters and the ~200k+ absentee ballots, and it needs to be able automatic as we perform more inserts. To accomplish this, we were making calls to the Census API. They allow you to pass in an address and get the Census Tract. That solution "works", but is far too slow. Their batch solution isn't working either." App. 388 (emphasis added).

76. CTCL and its partners were influencing public officials while they were doing their jobs to administer the election. *See, e.g.*, App. 381, 383-388, 390-391. Although some of these attempts of CTCL and its partners to tamper with, or take over the Wisconsin 5's election administration, may have been rebuffed, others were agreed on. *Id.* The Wisconsin 5 cities apparently agreed that some of CTCL's attempts would have left a record making the election officials look bad or were too egregious. App. 389. For example, Claire Woodall-Vogg responded:



While I completely understand and appreciate the assistance that is trying to be provided, *I am definitely not comfortable having a non-staff member involved in the functions of our voter database, much less recording it.* While it is a pain to have to remember to generate a report each night and less than ideal, it takes me less than 5 minutes. Without consulting with the state, which I know they don't have the capacity or interest in right now, I don't think I'm comfortable having USDR get involved when it comes to our voter database. I hope you can see where I am coming from – this is our secure database that is certainly already receiving hacking attempts from outside forces.

App. 389 (Claire Woodall-Vogg to Michael Spitzer-Rubenstein) (emphasis added).

77. Kris Teske confirmed that CTCL and its “partners” sought to improperly interject or “embed” themselves into the election administration. App. 674. She admitted in her Answer in a prior proceeding: “A further complicating factor arose when outside (private) organizations were engaged to participate in the planning and administration of the election.” *Id.*

78. Another example of embedding is in Milwaukee. The Elections Group employee Ryan Chew wrote at 4:07 a.m. on November 4, 2020, the day after the Presidential election, to Milwaukee election official Claire Woodall-Vogg:

Damn Claire, you have a flair for drama, delivering just the margin needed at 3:00 a.m. I bet you had those votes counted at midnight, and just wanted to keep the world waiting.

App. 610. Woodall-Vogg responded, “LOL. I just wanted to say I had been awake for a full 24 hours.” *Id.*

**Given a blank check to run the election, CTCL and its “partners” took full advantage of the opportunity to administer the election in at least one of the Wisconsin 5 Cities.**

79. The Wisconsin 5 cities used at least the following of CTCL's allied corporations to engage in election administration: Center for Civic Design, App. 451-453,

467-471, 474-475, 478; Vote at Home Institute, App. 447, 449, 465-466, 477; Voter Participation Center, App. 476; healthyvoting.org, App. 445; Elections Group, App. 444; Brennan Center, App. 440; Simon and Company, Inc., App. 448, 450. CTCL and its partners assumed numerous aspects of administration of Wisconsin 5 cities' election processes. *See, e.g.*, App. at 451-453, 467-471. For example, in Green Bay, the private corporations and their employees engaged in the following aspects of election administration.

- a. Vote at Home volunteered to take curing of ballots off of a municipality's plate; (*id.* at 172-174)
- b. Offered to "lend a hand" to Central Count stations; (*id.* at 175)
- c. Offered to connect a municipality to "partners like Power the Polls" to recruit poll workers; to partner with CTCL to send out e-mails to recruit poll workers; (*id.* at 177)
- d. Advised the City as to using DS200 voting machines; (*id.* at 178)
- e. Provided a "voter navigator" job description; (*id.* at 182)
- f. Advised a municipality regarding moving the "Central Count" from City Hall to a different location, which was wired to provide election results directly to private corporate employees; (*id.* at 262)
- g. The Center for Civic Design offered a municipality to design the absentee voting instructions and the absentee envelopes; (*id.* at 184-196)
- h. The Elections Group issued a Guide to Ballot Drop Boxes, a report on Planning Drop Boxes, Voter Outreach, and Communication; (*id.* at 197-236)
- i. Provided advice about procedures for challenging an elector's ballot; (*id.* at 232-236) and
- j. Conservation Voices and curing. (*id.* at 237-240)

80. Whitney May of CTCL advised Milwaukee's Information Coordinator Michelle Nelson on how to request from Milwaukee administration additional funding for election administration and encouraging her to consult with other Wisconsin Five clerks:

Below is some language I drafted along with 2 links that may help you frame the need for more staff. And have you asked Kris in Green Bay or Tara in Racine about their staffing levels? If they have similar numbers of registered

voters as Kenosha, but more staff than Kenosha, then I think that's also a way to make your case to Admin.

App. 377. This email raises the concern that CTCL was drafting documents regarding municipal funding for election administration for the Wisconsin Five cities. *Id.* Based on CTCL contact with the Commission, the CTCL and its partners may have drafted documents for Commission staff as well. *Id.*

81. Kris Teske has admitted in her communications much of the usurpation also. App. 318-319. As early as July, she claimed that the Mayor's office was diverting her authority as a result of the CTCL Contract. 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."

*Id.* at 318. Kris Teske also wrote, "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." *Id.* at 319. "I don't understand how people who don't have the knowledge of the process can tell us how to manage the election." *Id.* Teske expressed concern that voting laws may be being 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."

*Id.* at 318-319.

82. Some of the most aggressive and egregious usurpation of election administration was performed by Michael Spitzer-Rubenstein of NVAHI. Mr. Spitzer-Rubenstein performed tasks such as:

- a. Providing a document and further instructions for the Central Count workers (App. 241-242);
- b. Augmenting the City of Green Bay's "guide with the DS450" voting machine instructions; purchase order (*id.* at 49). Asking about 62001 openers (*id.* at 243);
- 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 (App. 73);
- d. Offering to take "curing ballots" off of the City of Green Bay's plate (*id.* at 135, 137, 138, 172-173);
- e. "helping Milwaukee assign inspectors to Central Count stations," and offering to do the same for Green Bay (*id.* at 244);
- f. Setting up the voting machines and patterns in the Central Count location (App. 175, 178, 179-195);
- 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)" (*id.* at 124);
- h. Determining whether to accept ballots after the deadline of 8 pm (*id.* at 291-292);
- i. Allocating poll workers on election day (App. 252);
- j. Teske tells finance person does not want NVAHI person in office, but Chief of Staff running show (*id.* at 249-251);
- k. Central Count guidance # of poll workers (*id.* at 252).

83. Further, it was written: "Michael Spitzer-Rubenstein will be the on-site contact for the group [on Election Day]." App. 257-261. 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. App. 306.

84. Mr. Spitzer-Rubenstein had access to the Central Count, 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 8<sup>th</sup> floor” including “passwords” for /Wifi results of the election (App. 262-266);
- 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 (App. 267-288);
  - c. assigned inspectors for vote counting and polling places (App. 244);
  - d. pushed for control of ballot curing process (App. 172-173);
  - e. provided advice to Green Bay’s City Attorney regarding interpretation of Wisconsin statutes governing the timing and receipt of ballots (App. 289-292);
  - f. 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 (App. 293-295);
  - g. Created a pollworker needs spreadsheet (App. 296-298);
  - h. He put himself in charge of transporting ballots to City Hall and then to Central Count on election day; and then counting them. (Discussion of “moving ballot boxes in the morning and evening.” November, 2, 2020 (App. 280, 299-301);
  - i. “I’m putting together instructions for the Central Count workers, ...” (App. 302);
  - j. Corresponding with Saralynn Flynn, also of Vote at Home, who wrote: “here is the document I made to hand out to central count observers.” (App. 241) 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 (App. 303);
  - k. On Election Day, Mr. Spitzer-Rubenstein had unfettered access to the Central Count floor (App. 304).

85. 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’re[sic] probably okay; **I don’t think anyone challenged the ballots when they came in.**”

App. 304 (emphasis added). 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 some of them being late, they were counted anyway because no one "challenged them." *Id.*

**The "private corporate partners" were from out of state, and not necessarily knowledgeable about Wisconsin election law, or concerned about it.**

86. Notably, CTCL's "private corporate partners" were from out of state, and not necessarily knowledgeable about Wisconsin election law, or concerned about it. Ryan Chew of the Elections Group was located outside of Wisconsin. Further, Mr. Chew was represented by Whitney May of CTCL to "have decades of election experience working with the Cook County Clerk in Illinois. They [Mr. Chew and Gail, also from the Elections Group] are available to discuss your dropbox plans (and more!)." App. 374. CTCL is from the state of Illinois. Michael Spitzer-Rubenstein appears to have been from out of Wisconsin as well.

87. Kris Teske admitted in her Answer that "Many of these [election administration] decisions were made by persons who were not authorized to do so and some were made by people not qualified to make them as, again, election laws need to be followed to ensure the integrity of the election." App. 676.

**Safe voting was a pretext—the real reason for CTCL's WSVP grants was to facilitate increased in-person and absentee voting in specific targeted regions inside the Wisconsin 5 Cities.**

88. The real reason for CTCL's WSVP grants was to facilitate increased in-person and absentee voting in specific targeted regions inside the Wisconsin 5 Cities. App. 7-27.

Safe voting was a pretext.

89. On June 10, 2020, Vicky Selkove of Racine informed the representatives of the other Wisconsin 5 cities that: “Our national funding partner, the Center for Tech & Civic Life, has one additional question area they’d like answered: “What steps can you take to update registered voters’ addresses before November? What steps can you take to register new voters? How much would each cost?” App. 604.

90. The City’s privately-funded communications to voters discriminated against Wisconsin electors outside the City and discriminated against certain electors within the City who were not targeted by the City for facilitating increased in-person and absentee voting. App. 604.

**Wisconsin’s municipal clerks are provided training on administering elections, including being provided a 250-page Election Administration Manual for Wisconsin Municipal Clerks; but, there is no evidence that CTCL and its “partners” from outside of Wisconsin received similar training in Wisconsin law.**

91. Importantly, Wisconsin’s municipal clerks are provided training on administering elections, including being provided a 250-page Election Administration Manual for Wisconsin Municipal Clerks; but there is no evidence that CTCL and its “partners” from outside of Wisconsin received similar training in Wisconsin law.

92. According to the Election Administration Manual for Wisconsin Municipal Clerks, "The municipal clerk’s election duties include, but are not limited to, supervision of elections and voter registration in the municipality, equipping polling places, purchasing and

maintaining election equipment, preparing ballots and notices, and conducting and tracking the training of other election officials.”<sup>4</sup>

93. There is no evidence that CTCL or its “partners,” who made recommendations to the Wisconsin 5 cities as to how to run their elections, were provided the Election Administration Manual for Wisconsin Municipal Clerks, or otherwise were trained in Wisconsin election law as municipal clerks would be trained.

**The Wisconsin 5 cities became beholden to CTCL as a result of the WSVP’s private funding and the WSVP’s provisions.**

94. The documents show that the Wisconsin 5 cities became beholden to CTCL as a result of the WSVP’s private funding and the WSVP’s provisions.

95. On August 1, 2020, Maggie McClain of Madison email to Maribeth Witzel-Behl stating: “is there an approval/letter giving the go-ahead for this? Or an okay from CTCL saying the *grant funds could be used for this*? I need something to attach to the requisition.” App. 607.

96. On August 31, 2020, Kenosha sought and obtained CTCL approval of purchasing 3 DS450 high speed ballot tabulators for use at Absentee Central Count locations at an amended cost of \$180,000 instead of \$172,000. App. 378-380. Madison was seeking similar approval from CTCL corporations regarding election administration financing. App. 437-439, 441-443, 446, 450, 472-473.

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<sup>4</sup> See <https://elections.wi.gov/sites/elections.wi.gov/files/2021-04/Election%20Administration%20Manual%20%282020-09%29.pdf>, p. 123 (last visited: May 24, 2021).



97. On September 22, 2020, Karalyn Kratowitz, the interim deputy mayor of Madison asks CTCL for instruction and permission on how to spend the money. App. 446.

98. On January 7, 2021, CTCL tells Madison to report by January 31, 2021 in pursuant to the agreement. App. 609.

99. The Wisconsin 5 cities were periodically required to report to CTCL on election administration. All the Wisconsin 5 cities were required to report to CTCL of their expenditures by January 31, 2021. App. 4 (Racine), 589 (Milwaukee), 592 (Madison), 596 (Kenosha), 599 (Green Bay).

**The Wisconsin 5 cities ceded at least some administrative control over the election to CTCL and its private partners so they could collectively facilitate increased in-person and absentee voting in the 2020 election.**

100. As set forth above, CTCL's stated and implied conditions led to the Wisconsin 5 cities' municipal clerks and other staff to sometimes eagerly step aside, and other times to be pushed aside, to let CTCL and its private corporate partners engage in aspects of election administration. *See, e.g.*, App. 7-27. CTCL and the private corporations, in light of the documents, had an ulterior motive in the WSVP to facilitate increased in-person and absentee voting in the Wisconsin 5 cities and in their respective communities of color. *Id.* But, such facilitation efforts to increase in-person voting and absentee voting are for the candidates and campaign, not cities, to conduct. *Id.* The Wisconsin 5 cities ceded administrative control over the election to CTCL and its private partners so they collectively facilitated increased in-person and absentee voting in the 2020 election. *Id.*

**Center for Tech and Civic Life gives 86% of its election administration grant funds to the Wisconsin 5 Cities—\$8.8 million—with about \$1.5 million to 190 other Wisconsin municipalities; and, two non-profit corporations have each published 2021 reports complaining about it.**

101. In early 2020, the “Chan Zuckerberg Initiative” donated approximately \$400 million to Center for Tech and Civic Life to fund election administration during the recent 2020 Presidential election.<sup>5</sup> In spring of 2020, Center for Tech and Civic Life (CTCL) solicited the Mayors of the Wisconsin 5 cities to enter an election administration grant agreement called the “Wisconsin Safe Voting Plan” (WSVP). App. 7-27. In July of 2020, CTCL agreed with the Wisconsin 5 cities that it would be transferred \$6.3 million to the Wisconsin 5 cities—Milwaukee, Madison, Green Bay, Kenosha and Racine. App. 493. That number would grow to about \$8.8 million for those five cities, while another \$1.5 million was allocated to more than 190 Wisconsin municipalities. *Id.* Thus, the Wisconsin 5 cities received 86% of all CTCL grant funds in Wisconsin. App. 491.

102. As a preliminary matter, it is important to note that two non-profit corporations have analyzed the Wisconsin 5 cities’ acceptance and use of the CTCL moneys and published analytical reports in 2021. App. 488-512. Both reports are consistent with the complainants’ complaints against the respondents. *Id.*

103. First, the Wisconsin Institute for Law & Liberty (WILL) in a June 9, 2021 report titled “Finger on the Scale: Examining Private Funding of Elections in Wisconsin” had the following “key takeaways”:

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<sup>5</sup> “Priscilla Chan and Mark Zuckerberg Increase Support for Safe and Reliable Voting by \$19.5 Million,” Center for Election Innovation & Research (2020). <https://electioninnovation.org/press/chan-zuckerberg-increase-2020-support/>.

- Wisconsin Municipalities Received Over \$10 million from CTCL. WILL received records from 196 communities that received a total \$10.3 million in funding from CTCL. These grants ranged from a high of \$3.4 million for the City of Milwaukee to \$2,212 for the Town of Mountain in Oconto County.
- Large Cities got the Lion's Share of Funding. The largest five cities in the state (Milwaukee, Madison, Green Bay, Kenosha, and Racine) received nearly 86% of all CTCL grant funds in Wisconsin.
- Large Cities Spent Tens of Thousands on Voter Education. While most small towns used CTCL resources for voting equipment and COVID-related equipment, Milwaukee, Green Bay, and Madison spent close to or above \$100,000 on ostensibly "non-partisan" voter education efforts.
- Spending Increased Turnout for Joe Biden. Areas of the state that received grants saw statistically significant increases in turnout for Democrats. Increases in turnout were not seen for Donald Trump.
- Wisconsin Needs Reform. This report highlights the inequitable distribution of private resources that came into the state during the 2020 election. Reforms that are designed to ensure that any grant money is distributed in a per capita manner across the state will go a long way in increasing faith that our elections are being conducted in an open and honest manner.

App. 491.

104. The WILL report also calculated the CTCL funding per 2016 voter in Wisconsin's ten largest cities showing a huge amount of CTCL funding went to the Wisconsin 5 cities per voter and in total and showing only a small amount of CTCL funding went to the Wisconsin cities which were not Wisconsin 5 cities:

<u>Municipality</u>	<u>CTCL Funding Per 2016 Voter</u>	<u>Total CTCL Grant Amount</u>
Milwaukee*	\$13.82	\$3,409,500
Madison*	\$8.30	\$1,271,788
Green Bay*	\$36.00	\$1,600,000
Kenosha*	\$20.94	\$862,799
Racine*	\$53.41	\$1,699,100
Appleton	\$0.51	\$18,330

Waukesha	\$1.18	\$42,100
Eau Claire	\$2.01	\$71,000
Oshkosh	\$0.00	\$0.00
Janesville	\$6.11	\$183,292

App. 500 (“\*” denotes Wisconsin 5 city).

105. Notably, the WILL Report concluded that the CTCL funding affected Wisconsin’s 2020 election outcomes in favor of Biden over Trump by more than 8,000 votes:

For President Biden there was a statistically significant increase in turnout in cities that received CTCL grants. In those cities, President Biden received approximately 41 more votes on average. While the coefficient was also positive for President Trump, it did not reach traditional levels of statistical significance. This means that we cannot say that turnout for Republicans in CTCL receiving areas was any different than it would have been without the grants. Given the number of municipalities in the state that received grants, this is a potential electoral impact of more than 8,000 votes in the direction of Biden.

App. 503.

106. Second, the Foundation for Government Accountability (FGA) in a June 14, 2021 report titled “How Zuckerbucks Infiltrated the Wisconsin Election” made five key findings:

- More than 200 local Wisconsin jurisdictions received “Zuckerbucks” for the 2020 election, totaling more than \$9 million.
- Nearly \$3.5 million was funneled into the City of Milwaukee via two grants.
- Green Bay spent only 0.8 percent of funds on personal protective equipment—instead purchasing two new 2020 Ford 550s and paying a public relations firm nearly \$150,000 for voter outreach.
- A representative of CTCL had behind-the-scenes access to election administration in Green Bay and Milwaukee.

- A former Governor Evers staffer worked for the grantor to coordinate grant applications in Eau Claire.

App. 508. The “bottom line” of the FGA report is “Wisconsin can—and should—prohibit local jurisdictions from accepting private money for election administration.” *Id.*

**The Wisconsin 5 cities agreed to the Wisconsin Safe Voting Plan which contains geographic and demographic classifications to increase in-person voting and absentee voting for targeted areas and groups, typically associated with campaigning.**

107. The Wisconsin Safe Voting Plan (WSVP) is part of the grant agreement between CTCL and the Wisconsin 5 cities. App. 7-27, 588-601. According to the CTCL website, CTCL is not “a grantmaking organization” in “normal years.”<sup>6</sup>

108. The WSVP contains provisions to increase in-person voting and absentee voting for targeted areas and groups. App. 7-27. Typically, candidates and campaigns, not cities, engage in get-out-to-vote efforts targeting areas and groups; CTCL provided the Wisconsin 5 cities about \$8.8 million to carry out the WSVP provisions. App. 493. The following WSVP provisions are geographic and demographic classifications to increase in-person voting for targeted areas and groups, or to increase absentee voting for targeted areas and groups, or both. App. 7-27.

**“[T]o be intentional and strategic in reaching our historically disenfranchised residents and communities”**

109. On page 1, the WSVP states the Wisconsin 5 cities to “be intentional and strategic in reaching our historically disenfranchised residents and communities; and, above

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<sup>6</sup> App. 646 (found at: <https://www.techandciviclife.org/grant-update-november/>) (last visited on August 19, 2021).

all, ensure the right to vote in our dense and diverse communities” within the Wisconsin 5 cities. App. 7. This election administration provision, promoting in-person voting and absentee voting, is privately-funded, disfavors Wisconsinites outside the Wisconsin 5 cities and favors “historically disenfranchised residents and communities” as opposed to the rest of the residents and communities within the Wisconsin 5 cities. *Id.*

**“[A]n opportunity to plan for the highest possible voter turnouts”**

110. On page 2, the WSVP states, “The time that remains now and the November election provides an opportunity to plan for the highest possible voter turnouts...” in the Wisconsin 5 cities. App. 8. This election administration provision, promoting in-person voting and absentee voting, is privately-funded and disfavors Wisconsinites outside the Wisconsin 5 cities. *Id.*

**“[E]ncourage and increase ... in-person” voting and to “dramatically expand strategic voter education & outreach efforts”—“particularly to historically disenfranchised residents”**

111. On pages 5 and 6, the WSVP states that about one-half of the grant money will be used by the Wisconsin 5 cities to “encourage and increase ... in-person” voting and “dramatically expand strategic voter education & outreach efforts”—“particularly to historically disenfranchised residents” --within the Wisconsin 5 cities. App. 11-12.

Recommendation	Green Bay	Kenosha	Madison	Milwaukee	Racine	Totals
Encourage and Increase Absentee Voting By Mail and Early, In-Person	\$277,000	\$455,239	\$548,500	\$998,500	\$293,600	\$2,572,839

Dramatically Expand Strategic Voter Education & Outreach Efforts	\$215,000	\$58,000	\$175,000	\$280,000	\$337,000	\$1,065,000
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App. 11-12. These election administration provisions, promoting in-person voting, are privately-funded, disfavor Wisconsinites outside the Wisconsin 5 cities and favor “historically disenfranchised residents” as opposed to the rest of the residents within the Wisconsin 5 cities. *Id.*

**“Dramatically Expand Voter & Community Education & Outreach, Particularly to Historically Disenfranchised Residents”**

112. On page 15, the WSVP states, “Dramatically Expand Voter & Community Education & Outreach, Particularly to Historically Disenfranchised Residents” within the Wisconsin 5 cities:

All five municipalities expressed strong and clear needs for resources to conduct voter outreach and education to their communities, with a particular emphasis on reaching voters of color, low-income voters without reliable access to internet, voters with disabilities, and voters whose primary language is not English.

App. 21. Each of the Wisconsin 5 cities had their own plans to “target” certain residents and communities for higher in-person voter turnout. *Id.*

113. In Green Bay, private grant funds “would be distributed in partnership with key community organizations including churches, educational institutions, and organizations serving African immigrants, LatinX residents, and African Americans.” App. 21-22. Green Bay’s privately-funded classification leaves out electors who don’t live in Green Bay and

leaves out electors in Green Bay who are not African immigrants, LatinX residents and African Americans. *Id.*

114. In Kenosha, grant funds would be used “for social media advertising, including on online media like Hulu, Spotify, and Pandora (\$10,000) and for targeted radio and print advertising (\$6,000) and large graphic posters (\$3,000) to display in low-income neighborhoods, on City buses, and at bus stations, and at libraries (\$5,000).” App. 22.

Kenosha’s privately-funded classification leaves out electors who don’t live in Kenosha and leaves out electors in Kenosha who don’t live in low-income neighborhoods. *Id.*

115. In Madison, private funds would support partnering “with community organizations and run ads on local Spanish-language radio, in the Spanish-language newspapers, on local hip hop radio stations, in African American-focused printed publications, and in online publications run by and for our communities of color (advertising total \$100,000).” App. 22. Madison’s privately-funded classification leaves out electors who don’t live in Madison and leaves out electors in Madison who are not Spanish-speaking, who do not listen to hip hop radio stations, who do not read African American-focused printed publications, and who do not read online publications run by and for Madison’s communities of color. *Id.*

116. In Milwaukee, the private funds would support a “communications effort would focus on appealing to a variety of communities within Milwaukee, including historically underrepresented communities such as LatinX and African Americans, and would include a specific focus on the re-enfranchisement of voters who are no longer on probation or parole for a felony.” App. 22-23. Milwaukee’s privately-funded classification



leaves out electors who don't live in Milwaukee and leaves out electors in Madison who are not members of Milwaukee's historically underrepresented communities such as LatinX and African American. *Id.*

117. In Racine, the private funds would support renting "billboards in key parts of the City (\$5,000) to place messages in Spanish to reach Spanish-speaking voters" and "targeted outreach aimed at City residents with criminal records to encourage them to see if they are not eligible to vote." App. 23. Racine's privately-funded classification leaves out electors who don't live in Racine and leaves out electors in Racine who are not Spanish-speaking. *Id.*

118. Additionally, in Racine, private funds would be used "to purchase a Mobile Voting Precinct so the City can travel around the City to community centers and strategically chosen partner locations and enable people to vote in this accessible (ADA-compliant), secure, and completely portable polling booth on wheels, an investment that the City will be able to use for years to come." *Id.* Racine's privately-funded classification leaves out electors who don't live in Racine and leaves out electors in Racine who do not live near "strategically chosen partner locations." *Id.*

119. Individually and collectively, these election administration provisions, promoting in-person voting classifications, are privately-funded, disfavor Wisconsinites outside the Wisconsin 5 cities and favor "historically disenfranchised residents and communities" as opposed to the rest of the residents and communities within the Wisconsin 5 cities. App. 21-23.

**WSVP's "Absentee Voting" provisions.**

120. On page 4, the WSVP states the following for the Wisconsin 5 cities:

Absentee Voting (By Mail and Early, In-Person)

1. Provide assistance to help voters comply with absentee ballot requests & certification requirements
2. Utilize secure drop-boxes to facilitate return of absentee ballots
3. Deploy additional staff and/or technology improvements to expedite & improve accuracy of absentee ballot processing
4. Expand In-Person Early Voting (Including Curbside Voting)

App. 10. This election administration provision, promoting absentee voting, are privately-funded and disfavor Wisconsinites outside the Wisconsin 5 cities. Only electors in the Wisconsin 5 cities benefit from the "assistance," "drop-boxes," "improvement," and increased "early voting." *Id.*

**"[E]ncourage and increase absentee voting by mail and early" and to "dramatically expand strategic voter education & outreach efforts"—"particularly to historically disenfranchised residents"**

121. On pages 5 and 6, the WSVP states that about one-half of the grant money will be used by the Wisconsin 5 cities to "encourage and increase absentee voting by mail and early" and "dramatically expand strategic voter education & outreach efforts"—"particularly to historically disenfranchised residents" --within the Wisconsin 5 cities. App. 11-12.

Recommendation	Green Bay	Kenosha	Madison	Milwaukee	Racine	Totals
Encourage and Increase Absentee Voting By Mail and Early, In-Person	\$277,000	\$455,239	\$548,500	\$998,500	\$293,600	\$2,572,839
Dramatically Expand Strategic Voter Education & Outreach Efforts	\$215,000	\$58,000	\$175,000	\$280,000	\$337,000	\$1,065,000

App. 11-12. These election administration provisions, promoting absentee voting, are privately-funded and disfavor Wisconsinites outside the Wisconsin 5 cities and favor “historically disenfranchised residents as opposed to the rest of the residents and communities within the Wisconsin 5 cities.” *Id.*

**“Provide assistance to help voters comply with absentee ballot request & certification requirements”**

122. On pages 9 and 10, the WSVP states, “Provide assistance to help voters comply with absentee ballot request & certification requirements” within the Wisconsin 5 cities. App. 15-16. None of the private funding in this regard would benefit residents outside the Wisconsin 5 cities. *Id.*

123. In Green Bay, the city would use the private money to fund bilingual LTE “voter navigators” to help Green Bay residents properly upload valid photo ID, complete their ballots and comply with certification requirements, offer witness signatures and assist voters prior to the elections. App. 15. Green Bay would also utilize the private funds to pay

for social media and local print and radio advertising to educate and direct Green Bay voters in how to upload photo ID and how to request and complete absentee ballots. *Id.*

124. In Kenosha, the city would use the private money to have Clerk's staff train Kenosha library staff on how to help Kenosha residents request and complete absentee ballots. *Id.*

125. In Madison, the city used the private money to hold curbside "Get your ID on File" events for Madison voters. *Id.* The city used private money to purchase large flags to draw attention to these curbside sites and for mobile wifi hotspots and tablets for all of these sites so Madison voters could complete their voter registration and absentee requests all at once, without having to wait for staff in the Clerk's office to follow up on paper forms. *Id.*

126. In Milwaukee, the city used private money to promote and train Milwaukee Public Library branch staff prior to each election to assist any potential Milwaukee absentee voters with applying, securing, and uploading images of their valid photo ID. *Id.*

127. These election administration provisions, promoting absentee voting, are privately-funded and disfavor Wisconsinites outside the Wisconsin 5 cities. *Id.* The only ones who benefit from these absentee balloting provisions are residents of the Wisconsin 5 cities. *Id.*

#### **"Utilize Secure Drop-Boxes to Facilitate Return of Absentee Ballots"**

128. On pages 10 and 11, the WSVP states, "Utilize Secure Drop-Boxes to Facilitate Return of Absentee Ballots" within the Wisconsin 5 cities. App. 16-17. None of the private funding in this regard would benefit residents outside the Wisconsin 5 cities. *Id.*

129. In Green Bay, the City intended to use private money to add ballot drop-boxes at a minimum of the transit center and two fire stations and possibly at Green Bay's libraries, police community buildings, and potentially several other sites including major grocery stores, gas stations, University of Wisconsin Green Bay, and Northern Wisconsin Technical College, in addition to the one already in use at City Hall. *Id.* at 16.

130. In Kenosha, the city intended to use the private money to install 4 additional internal security boxes at Kenosha libraries and the Kenosha Water Utility so that each side of town has easy access to ballot drop-boxes. *Id.* at 16.

131. In Madison, the city intended to use the private money to have one secure drop box for every 15,000 voters, or 12 drop boxes total and to provide a potential absentee ballot witness at each drop box. *Id.* at 16.

132. In Milwaukee, the city intended to use the private money to install secure 24-hour drop boxes at all 13 Milwaukee Public library branches. *Id.* at 16.

133. In Racine, the city intended to use the private money to have 3 additional drop boxes to be installed at key locations around the City. *Id.* at 17.

134. These election administration provisions, promoting absentee voting, are privately-funded and disfavor Wisconsinites outside the Wisconsin 5 cities. *Id.* at 16-17. The only ones who benefit from these absentee-ballot drop box provisions are residents of the Wisconsin 5 cities. *Id.* at 16-17.

**“Expand In-Person Early Voting (Including Curbside Voting)”**

135. On pages 12 through 14, the WSVP states, “Expand In-Person Early Voting (Including Curbside Voting)” (EIPAV) within the Wisconsin 5 cities. App. 18-20. None of

the private funding in this regard would benefit residents outside the Wisconsin 5 cities. *Id.*

136. In Green Bay, the city intended to use private money to expand and establish at least three EIPAV sites in trusted locations, ideally on the east (potentially UWGB) and west sides (potentially NWTC or an Oneida Nation facility) of the City, as well as at City Hall. *Id.* at 18. The City used the private money to print additional ballots, signage, and materials to have available at these early voting sites. *Id.*

137. In Kenosha, the city intended to use private money to offer early drive thru voting on City Hall property and for staffing for drive thru early voting. *Id.*

138. In Madison, the city intended to use private money to provide 18 in-person absentee voting locations for the two weeks leading up to the August election, and for the four weeks leading up to the November election. *Id.* The city intended to use private money to purchase and utilize tents for the curbside voting locations in order to protect the ballots, staff, and equipment from getting wet and to purchase and utilize large feather flags to identify the curbside voting sites. *Id.*

139. In Milwaukee, the city intended to use private money to set up 3 in-person early voting locations for two weeks prior to the August election and 15 in-person early voting locations and 1 drive-thru location. *Id.* at 18-19.

140. In Racine, the city intended to use private money to offer a total of 3 EIPAV satellite locations for one week prior to the August election, as well as offering in-person early voting – curbside. *Id.* at 19. For the November election, Racine intended to use private money to offer EIPAV at 4 satellite locations two weeks prior to the election and at the Clerk's office 6 weeks prior. *Id.*

141. These election administration provisions, promoting early in-person voting, are privately-funded and disfavor Wisconsinites outside the Wisconsin 5 cities. *Id.* at 18-20. The only ones who benefit from these EIPAV provisions are residents of the Wisconsin 5 cities. *Id.*

**Each of the Wisconsin 5 cities completed the CTCL's planning document which shows the Wisconsin 5 cities' intention of using the private funding to facilitate increased in-person and absentee voting in their respective city, generally, and to facilitate increased in-person and absentee voting in their respective city's "communities of color," specifically.**

142. As part of the CTCL process approving the WSVP, each of the Wisconsin 5 cities completed the CTCL's planning document. App. 513-519 (CTCL blank form), 520-537 (Green Bay), 538-551 (Kenosha), 552-563 (Madison), 564-575 (Milwaukee), 576-587 (Racine). The completed forms show the intention of the Wisconsin 5 cities was to facilitate increased in-person and absentee voting generally and among "communities of color" specifically. *Id.* at 513-587. An example for each of the Wisconsin 5 cities' answer will show the intention of facilitating increased in-person and absentee voting. *Id.*

143. For Milwaukee, in the section of the CTCL form on "equity & voter outreach, particularly to communities of color," CTCL asked the following question:

What other activities would your municipality like to engage in to ensure that historically disenfranchised communities within your municipality are able to cast ballots in the remaining elections of 2020, and what resources would you need to accomplish those efforts/activities? (including, but not limited to, printing, postage, staffing, translation, advertising, processing, training, etc.)

App. 571. Milwaukee responded by stating that it intended to engage in get-out-to-vote (GOTV) efforts based on race, criminal status and harnessing "current protests":

The City would like to work with a communications consultant to create a communications plan around GOTV efforts. The campaign would focus on appealing to a variety of communities within Milwaukee, including LatinX and African American voters. One specific target would be creating a campaign focusing on the re-enfranchisement of voters who are no longer on probation or parole for a felony. Additionally, we would like to find a marketing consultant who could create an edgy but non-partisan and tasteful campaign to harness current protests that are highlighting inequity.

*Id.*

144. For Green Bay, in the section of the CTCL form on “equity & voter outreach, particularly to communities of color,” CTCL asked the following question:

What specific outreach would your municipality like to do for the remaining 2020 elections to reach voters of color, including Spanish-speaking voters? Please describe the outreach you’d like to do to reach these voters (i.e. informational mailings, billboards, radio or print advertisements, social media advertisements, phone calls specifically about photo ID, text messages, virtual events, etc., etc.) what impact you think it might have on voter turnout and provide estimated costs.

App. 544. Green Bay responded that it had a goal to “increase voter participation in underrepresented groups by 25% for November”:

As with our plan above, we’d like to reach out to the Hmong, Somali and Spanish-communities with targeted mail, geo-fencing, posters (billboards), radio, television and streaming PSAs, digital advertising, robo calls and robo texts, as well as voter-navigators. We would also employ our voter navigators to have town halls, registration drives in trusted locations and conduct virtual events.

We believe this would establish trust and encourage voters from underrepresented groups to participate in greater numbers, especially as we look forward to the spring election in 2021. Our goal would be to increase voter participation in underrepresented groups by 25% for November.

*Id.*



145. Madison responded to the same question about “voters of color” by indicating its plans to run ads targeting “voters of color” to increase their voter turnout:

We would like to run ads on Spanish language radio and in our municipality’s Spanish language newspapers. We would also like to run ads on our local hip hop radio station, in our local African-American print publications, and in our online publications run by and for communities of color.

App. 559.

146. Kenosha responded to the same question stating that “Care-a-vans” would be utilized to transport “people of color”—instead of all people—to the polls:

Care-a-vans, team up with a local van service, would provide much more affordable and practical transportation for the elderly, people of color and disabled voters who prefer to vote in person. The vans could also be used to transport the voters before election day to the municipal building to early vote, or to a library to request a ballot.

App. 544.

147. Racine responded to the same question about “voters of color” by indicating its plans would “greatly increase our number of early voters”:

Billboards, voter ambassadors, and social media outreach. I believe this will greatly increase our number of early voters, especially new registered voters.

App. 582.

### Count I

**The WSVP is contractually void as against law and public policy because Wisconsin Statutes § 12.11 on election bribery, in relevant part, prohibits a city from receiving private money to facilitate increased in-person or absentee voting and to purchase and place absentee ballot drop boxes as legally unauthorized under Wisconsin Statutes 6.87(4)(b)1 and § 6.855.**

148. Under Wisconsin law, a contract is void if it is against law and public policy.

149. The WSVP is against law and public policy because Wisconsin Statutes § 12.11 on election bribery, in relevant part, prohibits a city from receiving private money to facilitate increased in-person or absentee voting and to purchase and place absentee ballot drop boxes.

150. Wisconsin Statutes § 12.11 on election bribery, in relevant part, prohibits a city from receiving money to facilitate increased in-person or absentee voting.

151. Wisconsin Statutes § 12.11 on election bribery states in relevant part:

12.11. Election bribery

(1) In this section, “anything of value” includes any amount of money, or any object which has utility independent of any political message it contains and the value of which exceeds \$1...

(1m) Any person who does any of the following violates this chapter:

- (a) Offers, gives, lends or promises to give or lend, or endeavors to procure, anything of value, or any office or employment or any privilege or immunity to, or for, any elector, or to or for any other person, in order to induce any elector to:
1. Go to ... the polls.
  2. Vote...

152. Although the word “person” is not defined in Wisconsin Statutes § 12.11, Wisconsin Statutes § 990.01(26) defines “person,” generally, to include “bodies politic” which includes municipalities.

153. Although the word “induce” is not defined in Wisconsin Statutes § 12.11, the word “induce” in § 12.11 should be interpreted broadly to include *facilitate* (1) because of § 12.11’s contrasts with other states’ election-bribery laws, and (2) because “induce” must be read to include *facilitate* in order to save several of § 12.11’s exceptions from superfluity. *See* Wis. Stat. § 12.11(3)(c)-(d).

154. First, contrasting Wisconsin’s state law with other states’ laws suggest that the Wisconsin legislature, in enacting Wisconsin Statutes § 12.11, chose to enact a prohibition on

election-bribery that is much broader than what other state legislatures have enacted, and this choice by the Wisconsin legislature supports a broad interpretation of § 12.11.

155. For example, Alabama's, Arizona's and California's laws are narrower than Wisconsin's election bribery law in that Wisconsin's law prohibits private money being received to induce people to "go to the polls." First, Alabama law prevents bribery to influence how an elector votes, but not whether an elector goes to a poll:

(e) Any person who buys or offers to buy any vote of any qualified elector at any municipal election by the payment of money or the promise to pay the same at any future time or by the gift of intoxicating liquors or other valuable thing shall be guilty of a misdemeanor and, on conviction thereof, shall be fined not less than \$50.00 nor more than \$100.00.

(f) Any person who by bribery or offering to bribe or by any other corrupt means attempts to influence any elector in giving his vote in a municipal election or to deter him from giving the same or to disturb or to hinder him in the full exercise of the right of suffrage at any municipal election must, on conviction, be fined not less than \$50.00 nor more than \$500.00.

(g) Any person who, by the offer of money or the gift of money or by the gift of intoxicating liquor or other valuable thing to any qualified elector at any municipal election or by the loan of money to such elector with the intent that the same shall not be repaid, attempts to influence the vote of such elector at such election, shall be guilty of a misdemeanor and, on conviction, shall be fined not less than \$50.00 nor more than \$500.00.

Ala. Code § 11-46-68(e)-(g). Second, although Arizona law prohibits "directly or indirectly" influencing how an elector votes, Arizona's election-bribery law doesn't mention polling places, let alone influencing whether an elector goes to a polling place:

A. It is unlawful for a person knowingly by force, threats, menaces, bribery or any corrupt means, either directly or indirectly:

1. To attempt to influence an elector in casting his vote or to deter him from casting his vote.

2. To attempt to awe, restrain, hinder or disturb an elector in the free exercise of the right of suffrage.

3. To defraud an elector by deceiving and causing him to vote for a different person for an office or for a different measure than he intended or desired to vote for.

B. A person who violates any provision of this section is guilty of a class 5 felony.

Ariz. Rev. Stat. Ann. § 16-1006. Third, California law prohibits bribes “to ... [i]nduce any voter to ... [r]emain away from the polls at an election,” but not to *attend* the polls:

Neither a person nor a controlled committee shall directly or through any other person or controlled committee pay, lend, or contribute, or offer or promise to pay, lend, or contribute, any money or other valuable consideration to or for any voter or to or for any other person to:

(a) *Induce any voter to:*

(1) Refrain from voting at any election.

(2) Vote or refrain from voting at an election for any particular person or measure.

(3) *Remain away from the polls at an election.*

(b) *Reward any voter for having:*

(1) Refrained from voting.

(2) Voted for any particular person or measure.

(3) Refrained from voting for any particular person or measure.

(4) *Remained away from the polls at an election.*

Any person or candidate violating this section is punishable by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code for 16 months or two or three years.

Cal. Elec. Code § 18522 (emphasis added).

156. Therefore, Wisconsin’s election-bribery law is broader than Alabama, Arizona and California laws because Wisconsin Statutes § 12.11, unlike these other states’ laws, prohibits bribes to induce electors “to ... [g]o to ... the polls.”

157. In conclusion, in light of this comparison with other state laws, although the word “induce” is not defined in Wisconsin Statutes § 12.11, the word “induce” in § 12.11 should be interpreted broadly to include *facilitate*.

158. Second, the surplusage canon is a traditional common-law rule of statutory interpretation according to which a court should try to give meaning to every provision of a law, and, indeed, to every word of a law. Antonin Scalia & Bryan A. Garner, *Reading Law: The Interpretation of Legal Texts* § 26, at 174-76 (2012).

159. Wisconsin courts apply this rule, *e.g.*, *Tetra Tech EC, Inc. v. Wisconsin Dep’t of Revenue*, 2018 WI 75, ¶ 100, 914 N.W.2d 21, 60, and the rule disfavors interpreting one provision of a law so as to render another provision superfluous: “More frequently, however, this canon prevents not the total disregard of a provision, but instead an interpretation that renders it pointless,” Scalia & Garner, *supra*, § 26, at 176.

160. Section 12.11 contains several exceptions, Wis. Stat. § 12.11(3), and at least two of these exceptions would be superfluous unless “induce” in § 12.11(1m)(a) is read to include *facilitate*:

(c) This section does not apply where an employer agrees that all or part of election day be given to its employees as a paid holiday, provided that such policy is made uniformly applicable to all similarly situated employees.

(d) This section does not prohibit any person from using his or her own vehicle to transport electors to or from the polls without charge.

Wis. Stat. § 12.11(3)(c)-(d).

161. An interpretation of § 12.11(1m)(a) that doesn’t generally prohibit giving a person something of value to make voting or attending the polls easier, more convenient, or

less burdensome “renders [these exceptions] pointless.” Scalia & Garner, *supra*, § 26, at 176. Unless § 12.11(1m)(a) prohibits giving a person something of value to make voting or attending the polls easier, more convenient, or less burdensome, there is no point to excepting from § 12.11’s scope the gift of paid time off or a trip in a car so that a person can vote at the polls.

162. And if, absent these exceptions, paid time off or a trip in a car would violate § 12.11(1m)(a)’s prohibition on giving a person something to induce a voter to go to a polling place, then CTCL’s gifts to facilitate voters going to polling places violated § 12.11(1m)(a). The purpose of CTCL’s gifts was to facilitate voters voting at the polls and thus to “induce” voters to “[g]o to ... the polls” within the meaning of § 12.11(1m)(a).

163. Furthermore, any exception for what CTCL did is conspicuously absent from § 12.11. So the negative-implication canon (*expressio unius est exclusio alterius*), according to which exceptions are read to be exclusive, applies here. *See* Scalia & Garner, *supra*, § 10, at 107-111.

164. Like other rules of interpretation, the surplusage canon is not absolute because some laws do, in fact, include redundant terms or provisions, Scalia & Garner, *supra*, § 26, at 176-77, and the Wisconsin Supreme Court has recognized this, *e.g.*, *Town of Rib Mountain v. Marathon Cty.*, 2019 WI 50, ¶ 15, 926 N.W.2d 731, 737-38 (citing several cases and Scalia & Garner, *supra*, § 26, at 176). Indeed, redundancy is actually common in legal writing because of the frequent use of synonym strings. Scalia & Garner, *supra*, § 26, at 177.

165. But failing to read “induce” in § 12.11(1m)(a) to include *facilitate* renders superfluous at least two entire separately lettered and carefully written exceptions, Wis. Stat.

§ 12.11(3)(c)-(d), not merely a term or a few terms in a list. So, the surplusage canon applies here with such force that it is determinative.

166. In conclusion, failure to apply the surplusage canon amount would amount to a judicial rewrite of § 12.11 through an interpretation that effectively strikes multiple provisions of the section even though a plausible alternative interpretation would preserve those provisions by giving them a purpose. *See* Scalia & Garner, *supra*, § 26, at 174 (“The surplusage canon holds that it is no more the court’s function to revise by subtraction than by addition.”).

167. Accordingly, in relevant part, Wisconsin Statutes § 12.11 requires three elements for a municipality and its officials to engage in “election bribery”: (1) the definition of “anything of value” must be met; (2) the “anything of value” is received by a municipality or its election officials; and (3) the municipality must receive the “anything of value” in order to facilitate electors to go to the polls or to facilitate electors to vote absentee.

168. With respect to the first element, Wisconsin Statutes § 12.11 provides a definition for “anything of value” which must be met: “Includes any amount of money, or any object which has utility independent of any political message it contains and the value of which exceeds \$1. Statute also applies to the distribution of material printed at public expense and available for free distribution if such materials are accompanied by a political message.”

169. The first element is satisfied because the Respondents and their City accepted money—“anything of value”—from Center for Tech and Civic Life.

170. With respect to the second element, Wisconsin Statutes § 12.11 requires that the anything of value is received by a “person” which is legally defined to include municipalities. Although the word “person” is not defined in Wisconsin Statutes § 12.11, Wisconsin Statutes § 990.01(26) defines “person”, generally, to include “bodies politic” which includes municipalities.

171. The second element is satisfied because the Respondents and their City received the money—as a “person”—from Center for Tech and Civic Life.

172. With respect to the third element, the city must receive the “anything of value” in order to facilitate increased in-person or absentee voting.

173. The third element is satisfied because the Respondent and their City received CTCL’s private money to facilitate increased in-person and absentee voting.

174. The WSVP also included CTCL funding the Wisconsin 5 cities purchase and placement of legally unauthorized absentee drop boxes.

175. Additionally, the Respondents as individuals were the city’s employees-agents who aided and abetted in the Respondents’ and city’s election bribery violations.

176. Therefore, the Respondents and their City engaged in prohibited election bribery under Wisconsin Statutes § 12.11.

177. Accordingly, the WSVP is contractually void as against law and public policy because Wisconsin Statutes § 12.11 on election bribery, in relevant part, prohibits a city from receiving private money to facilitate increased in-person or absentee voting and to purchase and place legally unauthorized absentee ballot drop boxes.



178. Additionally, the Respondents and their City must be corrected, instructed, prevented, and enjoined from engaging in prohibited election bribery under Wisconsin Statutes § 12.11 in the 2022 election and future elections.

### **Count II**

**Kenosha's absentee drop boxes are legally unauthorized under Wisconsin Statutes 6.87(4)(b)1 and § 6.855.**

179. The previous paragraphs in their entirety are incorporated herein as if fully stated.

180. Absentee ballot drop boxes in the 2020 election and future elections are legally unauthorized under Wisconsin Statutes § 6.87(4)(b)1 and § 6.855.

181. Respondents and their city placed absentee ballot drop boxes in 2020 election.

182. Respondents and their city intend to place absentee ballot drop boxes in future elections.

183. Respondents and their city have a policy of placing legally unauthorized absentee ballot drop boxes under Wisconsin Statutes § 6.87(4)(b)1 and § 6.855.

184. The Respondents and their City must be corrected, instructed, prevented, and enjoined from engaging in placing legally unauthorized absentee ballot drop boxes under Wisconsin Statutes § 6.87(4)(b)1 and § 6.855.

### **Count III**

**The WSVP is contractually void as against law and public policy because the Respondents' election bribery violation of Wisconsin Statutes § 12.11 and legally unauthorized absentee drop boxes under Wisconsin Statutes 6.87(4)(b)1 and § 6.855 are violations of the federal Electors and Elections Clauses because they are substantial departures from the Wisconsin's election laws.**

185. The previous paragraphs in their entirety are incorporated herein as if fully

stated.

186. Under Wisconsin and federal law, a contract is void if it is against law and public policy.

187. The WSVP is against federal law and public policy under the U.S. Constitution's Elections and Electors Clauses because the WSVP is a substantial departure from Wisconsin Statutes § 12.11 on election bribery in that the WSVP violated state law prohibitions on a city from receiving private money to facilitate increased in-person or absentee voting and state law prohibitions to purchase and place absentee ballot drop boxes.

188. The U.S. Constitution's Elections Clause in Article I and Electors Clause in Article II authorize the Wisconsin state legislature to enact laws regulating municipalities and municipal election officials' conduct in federal elections.

189. It is a violation of the Elections Clause and Electors Clause for municipalities and municipal officials to engage in substantial departures from the state election law regarding federal elections.

190. The Wisconsin legislature enacted Wisconsin Statutes § 12.11 to prohibit municipalities and municipal election officials from engaging in election bribery as defined in Wisconsin Statutes § 12.11.

191. In the 2020 election, Respondents and their city engaged in prohibited election bribery as defined in Wisconsin Statutes § 12.11.

192. The Wisconsin 5 cities' privately-funded absentee ballot drop boxes in the 2020 election were legally unauthorized under Wisconsin Statutes § 6.87(4)(b)1 and § 6.855.

193. The Respondents' and their city's illegal activities violating Wisconsin statutes are a substantial departure from Wisconsin's state legislative scheme.

194. Because they are a substantial departure from Wisconsin's state legislative scheme for federal elections, they are a violation of the Elections Clause and Electors Clause.

195. The Respondents and their City violated the Elections Clause and Electors Clause.

196. Accordingly, the WSVP is contractually void as against federal law and public policy as a substantial departure from Wisconsin's state election laws because Wisconsin Statutes § 12.11 on election bribery, in relevant part, prohibits a city from receiving private money to facilitate increased in-person or absentee voting and to receive private money to purchase and place legally unauthorized absentee ballot drop boxes under Wisconsin Statutes § 6.87(4)(b)1 and § 6.855.

197. Additionally, the Respondents and their City must be corrected, instructed, prevented, and enjoined from engaging in prohibited election bribery under Wisconsin Statutes § 12.11 and legally-prohibited absentee ballot drop boxes in the 2022 election and future elections.

### **Prayer for Relief**

WHEREFORE, Complainants respectfully request the Commission to investigate this matter, including compelling document production, depositions and testimony of the Respondents, City of Kenosha's elected officials, election officials, municipal 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, to conduct an evidentiary hearing and to summarily decide the claims before it.

The Complainants request the Commission to issue an order requiring the Respondents and their City to conform their conduct to Wisconsin Statutes § 12.11 and the Elections and Electors Clauses, restrain themselves from further election bribery under Wisconsin Statutes § 12.11 and to require them to correct their actions and decisions inconsistent with the prohibition of Wisconsin Statutes § 12.11 on election bribery and inconsistent with the Elections Clause and Electors Clause.

The Complainants request the Commission to issue an order that the City of Kenosha's and Respondents' privately-funded absentee ballot drop boxes in the 2020 election were legally unauthorized under Wisconsin Statutes § 6.87(4)(b)1 and § 6.855, restrain them from further such legal violations and to require them to correct their actions and decisions inconsistent with the prohibitions of Wisconsin Statutes § 6.87(4)(b)1 and § 6.855 and inconsistent with the Elections Clause and Electors Clause.

The Complainants request that the Commission issue an order that the WSVP provisions contradicting state law and federal law to be void as against state law and federal law and against public policy.

The Complainants request that the Commission issue an order granting any other relief it deems proper, necessary, or just, consistent with the law and under the circumstances of this case.

Dated: February 23, 2022.



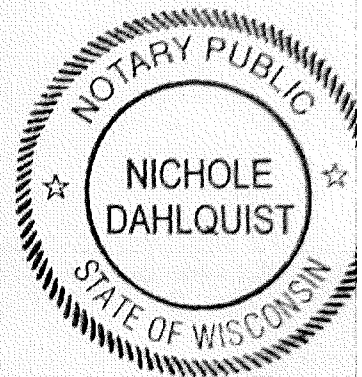
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Attorneys for the Complainants

I, Dean Romina, being first duly sworn on oath state that I personally read the above complaint, and that the above allegations are true based on my personal knowledge and, as to those stated on information and belief, I believe them to be true.

Dean Romina  
Dean Romina  
(complainant's signature)

STATE OF WISCONSIN )  
County of Kenosha ) ss.  
(county of notarization)



Sworn to before me this 23<sup>rd</sup> day of February, 2022.

Nichole Dahlquist

(Signature of person authorized to administer oaths)

My commission expires July 20<sup>th</sup>, 2025, or is permanent

Notary Public or \_\_\_\_\_ (official title if not notary)