

BEFORE THE
STATE OF WISCONSIN
ELECTIONS COMMISSION

YIPING LIU et al.,

Complainants,

v.

Case No. EL 21-33

MEAGAN WOLFE et al.,

Respondents.

**ADMINISTRATOR MEAGAN WOLFE'S RESPONSE TO COMPLAINT
AND MOTION TO DISMISS ALL CLAIMS AGAINST HER**

Respondent Meagan Wolfe, in her official capacity as Administrator of the Wisconsin Elections Commission, answers the Complaint filed by Complainants Yiping Liu, Kathleen Johnson, Susan N. Timmerman, Mary Baldwin, and Bonnie Held, and hereby ADMITS, DENIES, and ALLEGES as follows:

INTRODUCTION

Administrator Wolfe responds as follows to the allegations in the Introduction section of the Complaint:

In response to the last sentence of the first paragraph of the Introduction section, Administrator Wolfe ADMITS that she gave legislative hearing testimony before the General Assembly's Campaigns and Elections Committee

on March 31, 2021. DENIES all other factual allegations in the sentence. Further ALLEGES that any documents or recorded statements referred to in that sentence and its footnote speak for themselves, and DENIES any characterization of them contrary to their express terms. Additionally ALLEGES that, in her March 31, 2021, hearing testimony to the Assembly Committee on Campaigns and Elections, the Administrator stated that she could not offer her opinion or speculate on actions of individual municipalities and that it would be outside her statutory or delegated authority to determine if a municipality has acted lawfully. DENIES that the Administrator has supported or endorsed any activities contrary to federal law, state law, or directives of the Commission.

In response to the first full paragraph on page 4, ADMITS that “[t]he Commission . . . never opined on the legality of private corporate conditions affecting existing election laws,” and that the Commission did not “authorize the five largest cities to obtain private funds” or to engage in the other activities enumerated in that paragraph. ALLEGES that a complaint was filed with the Commission in 2020 questioning whether some jurisdictions could accept and use private grant funds. The Commission dismissed that complaint in part because the grant funding issues it raised were not covered by any of the election statutes in Wis. Stat. chs. 5–10 and 12 that are administered by the Commission.

DENIES the allegation on page 5 that the Administrator “ma[de] a policy decision, without the approval of the WEC, to circumvent state and federal election laws by allowing the Wisconsin Five to accept private corporate conditions directly related to and affecting the election administrative process.” ALLEGES that the Administrator did not make any determinations as to (1) the legality of actions or communications by municipal officials related to municipal acceptance or use of private grant funds; or (2) any relations between municipal officials and outside consultants.

In response to the allegation on page 5 that “the Administrator may not provide guidance without the approval of the Commission related to the legality of any agreement between private corporate entities and municipalities related to imposing private corporate conditions on the administration of election laws,” ALLEGES that the Administrator has taken the position that it would be outside her statutory or delegated authority to determine if a municipality has acted lawfully, and that she stated that position in her March 31, 2021, hearing testimony to the Assembly Committee on Campaigns and Elections. To the extent further response is required, DENIES the allegation.

LACKS knowledge or information sufficient to form a belief as to the truth of any other factual allegations in the introductory section, and thus DENIES.

ALLEGES that all statutes, constitutional provisions, court opinions, and any other sources of law referenced in the introductory section speak for themselves, and DENIES any characterization of them contrary to their express terms.

Otherwise, ALLEGES that the introductory section contains only legal conclusions to which no responsive pleading is required.

Complainants

1. Yiping Liu is a Wisconsin elector residing at 450 Augusta Drive, Madison, Wisconsin.

LACKS knowledge or information sufficient to form a belief as to the truth of the factual allegations in this paragraph, and thus DENIES.

2. Kathleen Johnson is a Wisconsin elector residing at 1318 Dale Avenue, Madison, Wisconsin.

LACKS knowledge or information sufficient to form a belief as to the truth of the factual allegations in this paragraph, and thus DENIES.

3. Susan N. Timmerman is a Wisconsin elector residing at 1801 Cameron Drive, Madison, Wisconsin.

LACKS knowledge or information sufficient to form a belief as to the truth of the factual allegations in this paragraph, and thus DENIES.

4. Mary Baldwin is a Wisconsin elector residing at 17 S. Whitney Way, Madison, Wisconsin.

LACKS knowledge or information sufficient to form a belief as to the truth of the factual allegations in this paragraph, and thus DENIES.

5. Bonnie Held is a Wisconsin elector residing at 5115 Autumn Leaf Lane, Apt. 179, Madison, Wisconsin.

LACKS knowledge or information sufficient to form a belief as to the truth of the factual allegations in this paragraph, and thus DENIES.

6. Meagan Wolfe is the Administrator of the Commission.

ADMITS.

7. Respondent Satya Rhodes-Conway is the Mayor of the City of Madison.

ADMITS.

8. Respondent Maribeth Witzel-Behl is the Madison City Clerk.

ADMITS.

Statement of Facts

9. Many of the allegations in this Complaint are based “upon information and belief,” because as one of the “Wisconsin Five,” Madison acted with the cities of Milwaukee, Green Bay, Kenosha, and Racine as a committee, to involve CTCL and the allied corporations into election administration, and shared considerable emails, meetings, Zoom calls and phone calls-the content of which have not all been shared with the public yet.

LACKS knowledge or information sufficient to form a belief as to the truth of the factual allegations in this paragraph, and thus DENIES.

10. But, the Wisconsin Legislature expressly assigned to the Commission, not the Wisconsin Five, nor CTCL, nor the private corporations, “the responsibility for the administration of ... laws relating to elections,” Wisconsin Statutes § 5.05(1). *Trump v. Wisconsin Elections Commission*, 983 F.3d 919, 927 (7th Cir. 2020).

ALLEGES that the statute and court opinion referred to in this paragraph speak for themselves, and DENIES any characterization of them contrary to their express terms. Otherwise, ALLEGES that this paragraph contains only legal conclusions to which no responsive pleading is required.

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

(1) SUPERVISE REGISTRATION AND ELECTIONS.

Each municipal clerk has charge and supervision of elections and registration in the municipality ...

ALLEGES that the statute referred to in this paragraph speaks for itself, and DENIES any characterization of it contrary to its express terms. Otherwise, ALLEGES that this paragraph contains only legal conclusions to which no responsive pleading is required.

12. In fact, in Wisconsin, the municipal clerks are provided a 250-page Wisconsin Election Administration Manual for Wisconsin Municipal Clerks providing great detail of the rules, regulations and laws (including Wis. Stat. § 7.15) pertaining to the city clerk’s responsibilities for planning and conducting elections. According to the Wisconsin Election Administration manual, “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.” 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).

ADMITS that the Wisconsin Election Administration Manual is available for use by municipal clerks. ALLEGES that the manual speaks for itself and DENIES any characterization of it contrary to its express terms. As to any legal conclusions, ALLEGES that no responsive pleading is required.

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

ALLEGES that the statutes and constitutional provisions referred to in this paragraph speak for themselves, and DENIES any characterization of them contrary to their express terms. Otherwise, ALLEGES that this paragraph contains only legal conclusions to which no responsive pleading is required.

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

The Times, Places and Manner of holding Elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by Law make or alter such Regulations, except as to the Places of chusing Senators.

U.S. Const., Art. I, § 4, cl. 1.

ALLEGES that the constitutional provision referred to in this paragraph speaks for itself, and DENIES any characterization of it contrary to its express

terms. Otherwise, ALLEGES that this paragraph contains only legal conclusions to which no responsive pleading is required.

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

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

U.S. Const., Art. II, § 1, cl. 2.

ALLEGES that the constitutional provision referred to in this paragraph speaks for itself, and DENIES any characterization of it contrary to its express terms. Otherwise, ALLEGES that this paragraph contains only legal conclusions to which no responsive pleading is required.

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

ALLEGES that the constitutional provisions referred to in this paragraph speak for themselves, and DENIES any characterization of them contrary to their express terms. Otherwise, ALLEGES that this paragraph contains only legal conclusions to which no responsive pleading is required.

17. The City of Madison is incorporated under Wisconsin Statutes chapter 62.

ADMITS.

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

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

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

ALLEGES that the court opinion referred to in this paragraph speaks for itself, and DENIES any characterization of it contrary to its express terms. Otherwise, ALLEGES that this paragraph contains only legal conclusions to which no responsive pleading is required.

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

ADMITS that the Center for Tech and Civic Life (CTCL) is a private non-profit organization headquartered in Chicago, Illinois. ALLEGES that any documents referred to in this paragraph speak for themselves, and DENIES any characterization of them contrary to their express terms. Otherwise, LACKS knowledge or information sufficient to form a belief as to the truth of any factual allegations in the paragraph, and thus DENIES.

20. Nationally, CTCL funded local governments, cities and counties, with conditional private grants that were used for the 2020 general election. (001–002)

ALLEGES that any documents referred to in this paragraph speak for themselves, and DENIES any characterization of them contrary to their express terms. Otherwise, LACKS knowledge or information sufficient to form a belief as to the truth of any factual allegations in the paragraph, and thus DENIES.

21. Certain Wisconsin urban local governments receiving CTCL grants agreed to the conditions of the grant in exchange for receiving CTCL moneys. (017–018 (Green Bay); 393–394 (Racine); 419–420 (Racine); 551–552 (Kenosha); 689–698 (Milwaukee); 703–707 (Madison))

ALLEGES that any documents referred to in this paragraph speak for themselves, and DENIES any characterization of them contrary to their express terms. Otherwise, LACKS knowledge or information sufficient to form a belief as to the truth of any factual allegations in the paragraph, and thus DENIES.

22. These grants are contracts between each local government and CTCL which impose obligations on the cities to follow CTCL rules, regulations, and conditions, or to be liable for breach of contract and disgorgement of grant proceeds. (017–018; 393–394; 419–420; 551–553; 689–698; 711–714)

ALLEGES that any documents referred to in this paragraph speak for themselves, and DENIES any characterization of them contrary to their express terms. Otherwise, LACKS knowledge or information sufficient to form

a belief as to the truth of any factual allegations in the paragraph, and thus DENIES. As to any legal conclusions, ALLEGES that no responsive pleading is required.

23. These conditional grants to the local government required reporting back to the private non-profit corporation, CTCL, regarding the moneys used for the 2020 general election. (018; 393; 419; 552; 689–698; 711–714)

ALLEGES that any documents referred to in this paragraph speak for themselves, and DENIES any characterization of them contrary to their express terms. Otherwise, LACKS knowledge or information sufficient to form a belief as to the truth of any factual allegations in the paragraph, and thus DENIES.

24. These conditional grants to the local government included claw-back provisions, requiring the local government to return the moneys to the private non-profit corporation, CTCL, if the private non-profit corporation disagreed as to how those moneys were spent in the conduct of the 2020 election. (018; 393; 419; 552; 689–698; 711–714) Having contracted with CTCL, and agreed to “conditions” which allow CTCL to “claw back” funds, the City of Madison submitted itself to potential breach of contract actions from CTCL, where Madison would have to defend its election administration to its superiors at CTCL, thereby ceding control of elections from local, city and state in favor of outside groups.

ALLEGES that any documents referred to in this paragraph speak for themselves, and DENIES any characterization of them contrary to their express terms. Otherwise, LACKS knowledge or information sufficient to form a belief as to the truth of any factual allegations in the paragraph, and thus

DENIES. As to any legal conclusions, ALLEGES that no responsive pleading is required.

25. Upon information and belief, Madison Mayor Satya Rhodes-Conway communicated with CTCL about Madison and the other Wisconsin Five cities accepting private corporate conditions on state and federal elections. (393–394; 464–482; 689–698; 708–709)

ALLEGES that any documents referred to in this paragraph speak for themselves, and DENIES any characterization of them contrary to their express terms. Otherwise, LACKS knowledge or information sufficient to form a belief as to the truth of any factual allegations in the paragraph, and thus DENIES.

26. Upon information and belief, Madison Mayor Satya Rhodes-Conway coordinated on accepting private corporate conditions on state and federal elections with the Mayors of the Wisconsin 5, to wit, Green Bay Mayor Eric Genrich, Racine Mayor Cory Mason, Milwaukee Mayor Tom Barrett, Kenosha Mayor John Antaramian, and by having virtual meetings on the following days: May 16, 2020; June 13, 2020; and August 14, 2020. (464-482; 689–698; 863–869). Mayors are not election officials. Mayors have no direct election authority or duties under Wisconsin law. Moreover, they cannot unilaterally bind cities into agreements without the approval of their City or Common Councils.

ALLEGES that any documents referred to in this paragraph speak for themselves, and DENIES any characterization of them contrary to their express terms. Otherwise, LACKS knowledge or information sufficient to form a belief as to the truth of any factual allegations in the paragraph, and thus

DENIES. As to all legal conclusions, ALLEGES that no responsive pleading is required.

27. Upon information and belief, no public notice of the May 16, 2020 meeting was provided.

LACKS knowledge or information sufficient to form a belief as to the truth of any factual allegations in the paragraph, and thus DENIES.

28. Upon information and belief, there was no public notice of the June 13, 2020 meeting of the Wisconsin Five Mayors, but the subject of the meeting was the Wisconsin Safe Voting Plan 2020. (868-869)

ALLEGES that any documents referred to in this paragraph speak for themselves, and DENIES any characterization of them contrary to their express terms. Otherwise, LACKS knowledge or information sufficient to form a belief as to the truth of any factual allegations in the paragraph, and thus DENIES.

29. Upon information and belief, there was no public notice of the August 14, 2020 meeting of the Wisconsin Five Mayors. (868-869)

ALLEGES that any documents referred to in this paragraph speak for themselves, and DENIES any characterization of them contrary to their express terms. Otherwise, LACKS knowledge or information sufficient to form a belief as to the truth of any factual allegations in the paragraph, and thus DENIES.

30. Upon information and belief, the Wisconsin Elections Commission was not notified of these meetings. (868–869) As a result of this lack of notice, the Wisconsin Five cities began operating as a committee under the Wisconsin Open Meeting Law. The Committee was authorized through a municipal resolution by the City of Racine to obtain CTCL grants and received moneys for creating a CTCL program – Safe Voting Plans. These meetings ultimately lead to each city subjecting itself and accepting CTCL conditions for the administration of state and federal elections outside of public scrutiny, side-stepping Wisconsin election law and administration, and ceding local, city and state control of elections to CTCL.

ADMITS that the Wisconsin Elections Commission was not notified of the referenced meetings. LACKS knowledge or information sufficient to form a belief as to the truth of any other factual allegations in the paragraph, and thus DENIES. As to all legal conclusions, ALLEGES that no responsive pleading is required.

31. Upon information and belief, the Wisconsin Five mayors began meeting in May 2020, without statutory authority. (868-869)

ALLEGES that any documents referred to in this paragraph speak for themselves, and DENIES any characterization of them contrary to their express terms. Otherwise, LACKS knowledge or information sufficient to form a belief as to the truth of any factual allegations in the paragraph, and thus DENIES.

32. Upon information and belief, 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, including Madison, to join the Wisconsin Safe Voting Plan 2020 submitted to Center for Tech and Civic Life on June 15, 2020. (393–394)

ALLEGES that any documents referred to in this paragraph speak for themselves, and DENIES any characterization of them contrary to their express terms. Otherwise, LACKS knowledge or information sufficient to form a belief as to the truth of any factual allegations in the paragraph, and thus DENIES.

33. 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 with other cities in Wisconsin.” (701)

ALLEGES that any documents referred to in this paragraph speak for themselves, and DENIES any characterization of them contrary to their express terms. Otherwise, LACKS knowledge or information sufficient to form a belief as to the truth of any factual allegations in the paragraph, and thus DENIES.

34. The Wisconsin Five mayors had already met twice and were planning the election grants before CTCL sent the \$100,000 grant to further plan the election. (393–394; 464–482; 699–702)

ALLEGES that any documents referred to in this paragraph speak for themselves, and DENIES any characterization of them contrary to

their express terms. Otherwise, LACKS knowledge or information sufficient to form a belief as to the truth of any factual allegations in the paragraph, and thus DENIES.

35. Upon information and belief, on June 2, 2020, the Common Council for the City of Racine passed a resolution, No. 0318-20 (699–702), in which the Council granted the Racine Mayor the authority to create a body for “planning safe and secure election administration in the City of Racine in 2020, and coordinating such planning with other cities in Wisconsin” identified as the cities of Green Bay, Kenosha, Madison, and Milwaukee. (699) Resolution No. 0318-20 identifies moneys received from a private non-profit corporation (CTCL) of \$100,000, and the distribution of \$40,000 evenly between the identified four cities while Racine retained \$60,000 apparently for the master planning. (699)

ALLEGES that any documents referred to in this paragraph speak for themselves, and DENIES any characterization of them contrary to their express terms. Otherwise, LACKS knowledge or information sufficient to form a belief as to the truth of any factual allegations in the paragraph, and thus DENIES.

36. Upon information and belief, the Mayors and other city officials from each of the respective five cities did meet at least two more times, on June 13, 2020 and August 14, 2020 to discuss planning and implementation of the election grants and to coordinate efforts authorized by and funded by Racine Resolution No. 0318-20, relating to the administrative planning of the Wisconsin Five cities’ 2020 elections. (393–394; 464–482; 699–702)

ALLEGES that any documents referred to in this paragraph speak for themselves, and DENIES any characterization of them contrary to their express terms. Otherwise, LACKS knowledge or information sufficient to form

a belief as to the truth of any factual allegations in the paragraph, and thus DENIES.

37. Upon information and belief, Madison Mayor Satya Rhodes-Conway communicated with Mayors of the other Wisconsin Five cities about the \$100,000 grant, the \$60,000 share for Racine and the \$10,000 shares for Madison and the other Wisconsin Five, and accepting private corporate conditions on state and federal elections. (393–394; 464–482).

ALLEGES that any documents referred to in this paragraph speak for themselves, and DENIES any characterization of them contrary to their express terms. Otherwise, LACKS knowledge or information sufficient to form a belief as to the truth of any factual allegations in the paragraph, and thus DENIES.

38. While the mayors were acting without statutory authority in planning the upcoming election administration for the 2020 election, WEC and the city clerks of each respective city who had that authority, were relegated to election administration bystanders.

LACKS knowledge or information sufficient to form a belief as to the truth of any factual allegations in the paragraph, and thus DENIES. As to all legal conclusions, ALLEGES that no responsive pleading is necessary.

39. Upon information and belief, the Wisconsin Five mayors knew they were operating in violation of Wisconsin election law and wrote emails to make it appear that the clerks had been involved or were involved in planning for the CTCL grants and administering the upcoming 2020 elections.

LACKS knowledge or information sufficient to form a belief as to the truth of any factual allegations in the paragraph, and thus DENIES. As to all legal conclusions, ALLEGES that no responsive pleading is necessary.

40. CTCL authorized the City of Racine to distribute from the \$100,000 grant, \$10,000 to each of the four recruited cities, including Madison, as an incentive for the Wisconsin Five Cities to join in the CTCL conditional grants. (393–394; 703–704).

ALLEGES that any documents referred to in this paragraph speak for themselves, and DENIES any characterization of them contrary to their express terms. Otherwise, LACKS knowledge or information sufficient to form a belief as to the truth of any factual allegations in the paragraph, and thus DENIES.

41. CTCL, through the City of Racine, its Mayor and the \$100,000 grants successfully recruited Green Bay, Madison, Milwaukee, and Kenosha to apply for the conditional grants. (393–394; 395–415; 703–704; 849–850)

ALLEGES that any documents referred to in this paragraph speak for themselves, and DENIES any characterization of them contrary to their express terms. Otherwise, LACKS knowledge or information sufficient to form a belief as to the truth of any factual allegations in the paragraph, and thus DENIES.

42. The so-called “Wisconsin Safe Voting Plan 2020,” which only applied to the Wisconsin Five cities, was a grant application designed for the recruited Wisconsin Five cities, Green Bay, Kenosha, Madison, Milwaukee, and Kenosha to request millions of dollars of CTCL grant funding to support election administration activities during the COVID-19 pandemic. (487–507; 711–735)

ALLEGES that any documents referred to in this paragraph speak for themselves, and DENIES any characterization of them contrary to their express terms. Otherwise, LACKS knowledge or information sufficient to form a belief as to the truth of any factual allegations in the paragraph, and thus DENIES.

43. The “Wisconsin Safe Voting Plan 2020” 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.” (487–507; 711–735)

ALLEGES that any documents referred to in this paragraph speak for themselves, and DENIES any characterization of them contrary to their express terms. Otherwise, LACKS knowledge or information sufficient to form a belief as to the truth of any factual allegations in the paragraph, and thus DENIES.

44. The Cities of Madison, Green Bay, Racine, Kenosha and Milwaukee entered into the conditional grant agreements with CTCL. (395–415; 705–707; 711–735).

ALLEGES that any documents referred to in this paragraph speak for themselves, and DENIES any characterization of them contrary to their express terms. Otherwise, LACKS knowledge or information sufficient to form a belief as to the truth of any factual allegations in the paragraph, and thus DENIES.

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

ALLEGES that any documents referred to in this paragraph speak for themselves, and DENIES any characterization of them contrary to their express terms. Otherwise, LACKS knowledge or information sufficient to form a belief as to the truth of any factual allegations in the paragraph, and thus DENIES.

46. However, it is only the Commission that can provide “aid” to cities and counties for the administration of elections, not private-corporate entities - whether profit or nonprofit. Wis. Stat. §5.05(11).

ALLEGES that the statute and any other documents referred to in this paragraph and its footnote speak for themselves, and DENIES any characterization of them contrary to their express terms. Otherwise, LACKS knowledge or information sufficient to form a belief as to the truth of any

factual allegations in the paragraph, and thus DENIES. As to all legal conclusions, ALLEGES that no responsive pleading is required.

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

ALLEGES that the statutes referred to in this paragraph speak for themselves, and DENIES any characterization of them contrary to their express terms. Otherwise, ALLEGES that this paragraph contains only legal conclusions to which no responsive pleading is required.

48. As previously stated, with respect to elections, the Wisconsin State Legislature under Wisconsin Statutes § 5.05(1) delegated general authority to the Commission for the responsibility of administration of Wisconsin elections. Notably, CTCL and its “partners” also sought direct contact lines of communication with WEC. For example, Michael Spitzer-Rubenstein of National Vote at Home Alliance 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?” (600)

ALLEGES that the statute and any other documents referred to in this paragraph speak for themselves, and DENIES any characterization of them contrary to their express terms. Otherwise, LACKS knowledge or information sufficient to form a belief as to the truth of any factual allegations in the

paragraph, and thus DENIES. As to all legal conclusions, ALLEGES that no responsive pleading is required.

49. Whether moneys are received from other sources directly or indirectly related to the administration of elections, specifically wherein those moneys are conditional affecting existing election laws, the general authority and the jurisdiction of the Commission is engaged. Wis. Stat. § 5.05(1).

ALLEGES that the statute and any other election laws referenced in this paragraph speak for themselves, and DENIES any characterization of them contrary to their express terms. Further ALLEGES that the grant funding issues raised in this complaint are not covered by any of the election statutes in Wis. Stat. chs. 5–10 and 12 that are administered by the Commission. Otherwise, this paragraph contains only legal conclusions to which no responsive pleading is required.

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

ALLEGES that any documents referred to in this paragraph speak for themselves, and DENIES any characterization of them contrary to their express terms. Otherwise, LACKS knowledge or information sufficient to form a belief as to the truth of any factual allegations in the paragraph, and thus DENIES. As to any legal conclusions, ALLEGES that no responsive pleading is required.

51. Upon information and belief, in July, 2020, the Cities of Racine, Madison, Green Bay, Milwaukee and Kenosha entered into a conditional grant agreement with CTCL for \$6,324,527. (017–018; 393–394; 419–420; 487–507; 551–553; 689–698; 711–735)

ALLEGES that any documents referred to in this paragraph speak for themselves, and DENIES any characterization of them contrary to their express terms. Otherwise, LACKS knowledge or information sufficient to form a belief as to the truth of any factual allegations in the paragraph, and thus DENIES.

52. Under the terms of the CTCL conditional grant agreement, the five cities adopting the conditions would be required to remit back to CTCL the entire \$6,324,527 if CTCL, at its sole discretion, determined these cities had not complied with CTCL’s terms. (017–018; 393–394; 419–420; 551–553; 689–698; 711–713)

ALLEGES that any documents referred to in this paragraph speak for themselves, and DENIES any characterization of them contrary to their express terms. Otherwise, LACKS knowledge or information sufficient to form a belief as to the truth of any factual allegations in the paragraph, and thus DENIES.

53. The CTCL Agreement dated May 28, 2020, provides that the purpose of the \$100,000 of funds CTCL provided to Racine and the other Wisconsin Five cities through Racine was to “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 with other cities in Wisconsin.” (393). The CTCL Agreement required these cities to develop a joint plan for their elections pursuant to the agreement by June 15, 2020:

The City of Racine, and any cities granted funds under paragraph 4, shall produce, by June 15th, 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.

(394)

ALLEGES that any documents referred to in this paragraph speak for themselves, and DENIES any characterization of them contrary to their express terms. Otherwise, LACKS knowledge or information sufficient to form a belief as to the truth of any factual allegations in the paragraph, and thus DENIES.

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

ALLEGES that the laws referred to in this paragraph speak for themselves, and DENIES any characterization of them contrary to their express terms. Otherwise, ALLEGES that this paragraph contains only legal conclusions to which no responsive pleading is required.

55. On June 15, 2020, the Racine Mayor under Racine Resolution No. 0318-20 (699-702) presented the Wisconsin Five Mayors' and staffs' joint election administration plan to CTCL for approval. Among other things, these cities entered into agreements with CTCL as to election administration which required the cities to:

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

(487–507; 715–735).

ALLEGES that any documents referred to in this paragraph speak for themselves, and DENIES any characterization of them contrary to their express terms. Otherwise, LACKS knowledge or information sufficient to form a belief as to the truth of any factual allegations in the paragraph, and thus DENIES.

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

ALLEGES that the documents and laws referred to in this paragraph speak for themselves, and DENIES any characterization of them contrary to their express terms. Otherwise, ALLEGES that this paragraph contains only legal conclusions to which no responsive pleading is required.

57. The “Wisconsin Safe Voting Report” (492–500) specifically provided that these Cities would promote and “encourage higher percentages of our electors to vote absentee” (493) which violates Wisconsin Statutes 6.84 (1) in which the State Legislature states:

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

(320-328) (emphasis added).

ALLEGES that the documents and statutes referred to in this paragraph and its footnote speak for themselves, and DENIES any characterization of them contrary to their express terms. Otherwise, LACKS knowledge or information sufficient to form a belief as to the truth of any factual allegations in the paragraph or the footnote, and thus DENIES. As to any legal conclusions in the paragraph or the footnote, ALLEGES that no responsive pleading is required.

58. Upon information and belief, here the Wisconsin Five cities, instead of preventing an “overzealous solicitation of absent electors who may prefer not to participate in an election,” as Wisconsin Statutes 6.84 (1) requires, agreed with CTCL, to engage in “overzealous solicitation of absent electors who may prefer not to participate in an election” as Wisconsin Statutes 6.84 (1) prohibits.

ALLEGES that the statute referred to in this paragraph speaks for itself, and DENIES any characterization of it contrary to its express terms. Otherwise, ALLEGES that this paragraph contains only legal conclusions to which no responsive pleading is required.

59. First, not all Wisconsin cities adopted and received conditional grant moneys to administer their respective 2020 general election, rather the grant money was provided to select large cities, and even to special, “targeted communities” within the Wisconsin Five cities in Wisconsin. (34,42)

ALLEGES that any documents referred to in this paragraph speak for themselves, and DENIES any characterization of them contrary to their express terms. Otherwise, LACKS knowledge or information sufficient to form a belief as to the truth of any factual allegations in the paragraph, and thus DENIES.

60. Second, those cities that did adopt and receive conditional grant moneys from CTCL, that is the Wisconsin Five, imposed conditions on the administration of elections from a private corporate entity when other cities had no such conditions. Hence, with the added private conditions on Madison’s election process, the Madison Complainants were within a jurisdictional boundary that affected them as a demographic group.

LACKS knowledge or information sufficient to form a belief as to the truth of any factual allegations in this paragraph and thus DENIES. As to any legal conclusions, ALLEGES that no responsive pleading is required.

61. 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.” (566–567).

ALLEGES that any documents referred to in this paragraph speak for themselves, and DENIES any characterization of them contrary to their express terms. Otherwise, LACKS knowledge or information sufficient to form a belief as to the truth of any factual allegations in the paragraph, and thus DENIES.

62. Upon information and belief, it appears that the Madison Common Council, as well as the other Wisconsin Five's Common Councils, never approved the Wisconsin Safe Voting Plan-or if they did not all of the Common Council members knew about it. (395–415; 703–707)

ALLEGES that any documents referred to in this paragraph speak for themselves, and DENIES any characterization of them contrary to their express terms. Otherwise, LACKS knowledge or information sufficient to form a belief as to the truth of any factual allegations in the paragraph, and thus DENIES.

63. Upon information and belief, on about July 14, 2020, the Madison Common Council adopted the CTCL conditional grant in the amount of \$1,271,788. (706–707) The other Wisconsin Five cities also accepted CTCL conditional grants, thus securing for themselves conditional grants not available to the rest of the state by obligating themselves to CTCL’s conditions. (551–552)

ALLEGES that any documents referred to in this paragraph and its footnote speak for themselves, and DENIES any characterization of them contrary to their express terms. Otherwise, LACKS knowledge or information sufficient to form a belief as to the truth of any factual allegations in the paragraph or the footnote, and thus DENIES.

64. Upon information, the Common Councils of the Wisconsin Five cities approved similar CTCL grant and conditions.

LACKS knowledge or information sufficient to form a belief as to the truth of any factual allegations in the paragraph or the footnote, and thus DENIES.

65. Upon information and belief, the CTCL conditions in the July 24, 2020 CTCL grant agreed to by Madison would included the same CTCL conditions as approved in other Wisconsin Five cities:

- The grant funds must be used exclusively for the public purpose of planning and operationalizing safe and secure election administration in the City of Racine in accordance with the Wisconsin Safe Voting Plan 2020. (711)
- Each city or county receiving the funds was required to report back to CTCL by January 31, 2021 regarding the moneys used to conduct federal elections; (712)

- The City of Madison shall not reduce or otherwise modify planned municipal spending on 2020 elections, including the budget of the City Clerk of Madison (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.” (712).
- The City of Madison 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. (712)
- CTCL may discontinue, modify, withhold part of, or ask for the return of all or part of the grant funds if it determines, in its sole judgement, that (a) any of the above conditions have not been met or (b) it must do so to comply with applicable laws or regulations.” (712).

ALLEGES that any documents referred to in this paragraph speak for themselves, and DENIES any characterization of them contrary to their express terms. Otherwise, LACKS knowledge or information sufficient to form a belief as to the truth of any factual allegations in the paragraph, and thus DENIES.

66. Upon information and belief, despite the stated purpose of helping to assist with a COVID-19 safe election, CTCL’s early communications with the Madison and the Wisconsin Five cities focused on other, apparently parallel purposes referencing other private corporations to engage in the election administration process. (853–854; 855–858)

ALLEGES that any documents referred to in this paragraph speak for themselves, and DENIES any characterization of them contrary to their

express terms. Otherwise, LACKS knowledge or information sufficient to form a belief as to the truth of any factual allegations in the paragraph, and thus DENIES.

67. Upon information and belief, even though the stated purpose of the CTCL grant was only for the “Safe Voting Plan” and “for no other purpose,” CTCL, when working with the Wisconsin Five, had other conditions that had nothing to do with COVID prevention, such as:

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

ALLEGES that any documents referred to in this paragraph speak for themselves, and DENIES any characterization of them contrary to their express terms. Otherwise, LACKS knowledge or information sufficient to form a belief as to the truth of any factual allegations in the paragraph, and thus DENIES.

68. Upon information and belief, on July 24, 2020, CTCL's Director of Government Services Whitney May hosted a "Kick off" call for Madison election officials, which she introduced and provided an overview of CTCL's allied corporations (so-called "technical partners") to engage in Madison's election administration. (812–820; 852)

ALLEGES that any documents referred to in this paragraph speak for themselves, and DENIES any characterization of them contrary to their express terms. Otherwise, LACKS knowledge or information sufficient to form a belief as to the truth of any factual allegations in the paragraph, and thus DENIES.

69. Upon information and belief, on July 31, 2020, CTCL's Director of Government Services instructed Madison's Maribeth Witzel-Behl to engage its allied corporations into Madison's election administration:

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) (848)

ALLEGES that any documents referred to in this paragraph speak for themselves, and DENIES any characterization of them contrary to their express terms. Otherwise, LACKS knowledge or information sufficient to form a belief as to the truth of any factual allegations in the paragraph, and thus DENIES.

70. Upon information and belief, here, CTCL, under its CTCL's Wisconsin Five conditional grant, was instructing Madison to use the same allied corporations that CTCL had Milwaukee, Green Bay, Racine and Kenosha use in election administration.

LACKS knowledge or information sufficient to form a belief as to the truth of any factual allegations in the paragraph, and thus DENIES.

71. Upon information and belief, the conditions CTCL imposed after the Wisconsin Five conditional grants were approved by the Wisconsin Five, were unrelated to bringing about safe, COVID-19 free voting. (30–32)

ALLEGES that any documents referred to in this paragraph speak for themselves, and DENIES any characterization of them contrary to their express terms. Otherwise, LACKS knowledge or information sufficient to form a belief as to the truth of any factual allegations in the paragraph, and thus DENIES.

72. Upon information and belief, rather than working toward a COVID-19 safe election, the “projects” that CTCL proposed to the Wisconsin Five were to get the urban vote out. For example, in Green Bay:

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

ALLEGES that any documents referred to in this paragraph speak for themselves, and DENIES any characterization of them contrary to their express terms. Otherwise, LACKS knowledge or information sufficient to form a belief as to the truth of any factual allegations in the paragraph, and thus DENIES.

73. Upon information and belief, Kenosha, as one of the Wisconsin Five cities, was offered by the CTCL the same projects to engage in and did as the other Wisconsin Five cities.

ALLEGES that any documents referred to in this paragraph speak for themselves, and DENIES any characterization of them contrary to their express terms. Otherwise, LACKS knowledge or information sufficient to form a belief as to the truth of any factual allegations in the paragraph, and thus DENIES.

74. Upon information and belief, Madison used the following of CTCL's allied corporations to engage in similar projects in election administration: Center for Civic Design (809–811; 827–831; 839; 842; 846), Vote at Home Institute (804, 807, 825–826; 845); Voter Participation Center (843); healthyvoting.org (802); Elections Group (801); Brennan Center (793); Simon and Company, Inc. (806, 808)

ALLEGES that any documents referred to in this paragraph speak for themselves, and DENIES any characterization of them contrary to their express terms. Otherwise, LACKS knowledge or information sufficient to form

a belief as to the truth of any factual allegations in the paragraph, and thus DENIES.

75. Moreover, Vicky Selkove of the City of Racine informed the representatives of the other Wisconsin Five, including Madison, 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?**” (7029, email from Vicky Selkove to Wisconsin Five representatives, June 10, 2020 (emphasis added)).

ALLEGES that any documents referred to in this paragraph speak for themselves, and DENIES any characterization of them contrary to their express terms. Otherwise, LACKS knowledge or information sufficient to form a belief as to the truth of any factual allegations in the paragraph, and thus DENIES.

76. Once CTCL secured agreements with the Wisconsin Five cities, and bound those cities to CTCL's conditions, CTCL began introducing the Wisconsin Five cities to CTCL's “partners,” most of whom like CTCL were from other states, and not necessarily knowledgeable about Wisconsin election law, or concerned about following it. While the CTCL “partners” believed themselves to be specialists in certain election activities, and they also sought to ensure Madison and the other Wisconsin Five Cities agreed with CTCL's conditions regarding how to conduct their election.

ALLEGES that any documents referred to in this paragraph or its footnote speak for themselves, and DENIES any characterization of them contrary to their express terms. Otherwise, LACKS knowledge or information

sufficient to form a belief as to the truth of any factual allegations in the paragraph or the footnote, and thus DENIES.

77. Upon information and belief, CTCL’s “partners” introduced to the Wisconsin Five included other private entities. For example, in Green Bay, the following CTCL partners were introduced:

- The National Vote At Home Institute (“VoteAtHome” or “NVAHI”) who was represented as a “technical assistance partner” who could consult about among other things, “support outreach around absentee voting,” voting machines and “curing absentee ballots,” and to even take that duty (curing absentee ballots) off of the City of Racine’s hands. (036–049; 051–067) The NVAHI also offered advice and guidance on accepting ballots and streaming central count during election night and on the day of the count. (068–075)
- The Elections Group and Ryan Chew were represented to be able to provide “technical assistance partners to support your office” and “will be connecting with you in the coming days regarding drop boxes” and technical assistance to “support your office,” and worked on “voter outreach.” (076–078, 205, 079–081) Elections Group Guide to Ballot Boxes. (082–0121)
- Ideas42 was represented by CTCL as using “behavioral science insights” to help with communications. (392)
- Power the Polls was represented by CTCL to help recruit poll workers (122) and discuss ballot curing. (123–124)
- The Mikva Challenge was recommended to recruit high school age poll workers (125–126, 404) and then to have the poll workers to “serve as ballot couriers,” and for “ballot drop-off/voter registrations.” (125–127)
- US Digital Response was suggested to help with and then take over “absentee ballot curing,” and to “help streamline

the hiring, onboarding, and management” of Green Bay’s poll workers. (128–136)

- Center for Civic Design to design absentee ballots and the absentee voting instructions, including working directly with the Commission to develop a “new envelope design” and to create “an advertising/targeting campaign.” (137–0155; 190-0201)
- Eric Ming, the Communications Director for CSME, to serve as a “communications consultant to review your [City of Green Bay] advertising plan for November.” (156–157)
- The Brennan Center which focuses on “election integrity” including “post-election audits and cybersecurity.” (158–160)
- HVS Productions to add “voter navigator” FAQs and Election Countdown Copy for the city of Green Bay. (161–166)
- Modern Selections to address Spanish language. (167–169)

ALLEGES that any documents referred to in this paragraph speak for themselves, and DENIES any characterization of them contrary to their express terms.

In response to the seventh bullet point, ALLEGES that WEC staff proposed a new envelope design to the Commission. In that design process, WEC hired CCD to provide training to assist WEC in conducting its own usability studies with voters as WEC staff redesigned the envelope. The Commission ultimately decided not to adopt the proposed new envelope design

and to pause the redesign project until after the 2020 election. The envelope redesign project was unrelated to any interactions between CCD or CTCL and any of the municipal respondents in this matter.

Otherwise, LACKS knowledge or information sufficient to form a belief as to the truth of any factual allegations in the paragraph, and thus DENIES.

78. Upon information and belief, CTCL and its associated private corporations asserted a legal authority to engage in the Wisconsin Five cities' election administration based on the Wisconsin Safe Voting Plan 2020 (487–507) although it appears the Wisconsin Five's respective Common Councils never specifically approved the Wisconsin Safe Voting Plan 2020. (689–698)

ALLEGES that any documents referred to in this paragraph speak for themselves, and DENIES any characterization of them contrary to their express terms. Otherwise, LACKS knowledge or information sufficient to form a belief as to the truth of any factual allegations in the paragraph, and thus DENIES. As to any legal conclusions, ALLEGES that no responsive pleading is required.

79. To be sure, the Wisconsin Five Mayors, including the Madison Mayor, under Racine Resolution No. 318-20 did approve the Wisconsin Safe Voting Plan 2020; however, upon information and belief, the Wisconsin Five cities' Common Councils, including the Madison Common Council, were only presented with the grant information, perhaps with CTCL's grant application acceptance letter, but not with the Wisconsin Safe Voting Plan 22 for approval. (689–698)

ALLEGES that any documents referred to in this paragraph speak for themselves, and DENIES any characterization of them contrary to their express terms. Otherwise, LACKS knowledge or information sufficient to form a belief as to the truth of any factual allegations in the paragraph, and thus DENIES.

80. Similar to those efforts to bring people into Green Bay to help with the election, 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.” (626) (emphasis added) [sic].

ALLEGES that any documents referred to in this paragraph speak for themselves, and DENIES any characterization of them contrary to their express terms. Otherwise, LACKS knowledge or information sufficient to form a belief as to the truth of any factual allegations in the paragraph, and thus DENIES.

81. CTCL and its "partners" took advantage of the conditions Milwaukee and the other Wisconsin Five agreed to as set forth in the following communications:

- a. 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. (600, Michael Spitzer-Rubenstein emailing to Claire Woodall-Vogg of Milwaukee)
- b. • I'll create a flowchart for the VBM 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. (600, Michael Spitzer-Rubenstein emailing to Claire Woodall-Vogg of Milwaukee)

- c. “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 Wis Vote 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 Wis Vote 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). (659, Michael Spitzer-Rubenstein to Claire Woodall-Vogg)
- d. 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. (673, Michael Spitzer-Rubenstein to Claire Woodall-Vogg).
- e. 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. (677, Michael SpitzerRubenstein to Claire Woodall-Vogg).

- f. “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.” (653–658)

ALLEGES that any documents referred to in this paragraph speak for themselves, and DENIES any characterization of them contrary to their express terms. Otherwise, LACKS knowledge or information sufficient to form a belief as to the truth of any factual allegations in the paragraph, and thus DENIES.

82. Upon information and belief, although some of these attempts of CTCL and its partners to take over the Wisconsin Five’s election administration may have been rebuffed, others were agreed on. The Wisconsin Five cities’ apparently agreed that some of CTCL’s attempts would have left a record making the election officials look bad or were too egregious. 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.” (659, Claire Woodall-Vogg to Michael Spitzer-Rubenstein).

ALLEGES that any documents referred to in this paragraph speak for themselves, and DENIES any characterization of them contrary to their express terms. Otherwise, LACKS knowledge or information sufficient to form a belief as to the truth of any factual allegations in the paragraph, and thus DENIES.

83. Upon information and belief, , all five Wisconsin Five cities, including Madison, were offered by CTCL the same private corporations to engage in election administration:

- “Center for Tech and Civic Design, who is working with WEC on envelope design.” (554)
- “NVAHI [National Vote at Home Institute] is launching a communications toolkit for election officials on August 6 to support outreach around absentee voting. (National Vote at Home Institute)” (554)
- “Communications-review the design, language, and translation of election materials produced by communications firm (Center for Civic Design)” (554, 575, 578)
- “Adding drop boxes-provide tailored guidelines and implementation support (Elections Group)” (554)
- Website help (556-451)

- “Ryan Chew, the Elections Group state lead for Wisconsin. Election Group is one of the technical assistance partners available to support your office.” (562)
- “I’m connecting you with two people from the Elections Group, Gail and Ryan (cc’d). They both have decades of election experience working with the Cook County Clerk in Illinois. They are available to discuss drop box plans (and more!). (563)
- “Here are the absentee instructions designed by CCD.” (564)
- “Here are the absentee envelopes designed by CCD.” (564)
- “Check out the attached Voter Pocket Guide that the Center for Civic Design helped design, based on our Voting in the City of Madison brochure.” (569)
- Translation services (570, 572, 574)
- “These two buckets (voter reg and absentee voting) seem like the two topic areas to focus on for voter education.” (571)
- “We have another idea for advertising.” (571)
- “I’m going to share this with the National Vote at Home contacts I have.” (571)

ALLEGES that any documents referred to in this paragraph speak for themselves, and DENIES any characterization of them contrary to their express terms.

In response to the first bullet point in the paragraph, ALLEGES that WEC staff worked with Center for Civic Design (CCD) on form design, and

that WEC has hired CCD in the past to provide training to assist WEC in conducting its own usability studies with voters as WEC staff redesign forms, technology, etc. Further ALLEGES that any such communications between WEC staff and CCD were unrelated to any interactions between CCD and any of the municipal respondents in this matter.

Otherwise, LACKS knowledge or information sufficient to form a belief as to the truth of any factual allegations in the paragraph, and thus DENIES.

84. Upon information and belief, Madison received the same offer of private corporate engagement-and accepted and engaged it-as designed and agreed to by the Wisconsin Five Mayors in their non-public meetings under Racine Resolution No. 0318-20 leading to the Wisconsin Five Mayors approving the Wisconsin Safe Voting Plan 2020.

ALLEGES that any documents referred to in this paragraph speak for themselves, and DENIES any characterization of them contrary to their express terms. Otherwise, LACKS knowledge or information sufficient to form a belief as to the truth of any factual allegations in the paragraph, and thus DENIES.

85. Upon information and belief, Madison used the following of CTCL's allied corporations to engage in election administration: Center for Civic Design (809–811; 827–831; 839; 842; 846), Vote at Home Institute (804, 807, 825–826; 845); Voter Participation Center (843); healthyvoting.org (802); Elections Group (801); Brennan Center (793); Simon and Company, Inc. (806, 808)

ALLEGES that any documents referred to in this paragraph speak for themselves, and DENIES any characterization of them contrary to their

express terms. Otherwise, LACKS knowledge or information sufficient to form a belief as to the truth of any factual allegations in the paragraph, and thus DENIES.

86. Upon information and belief, CTCL's private corporate "partners" assumed aspects of administration of Wisconsin Five's election processes. 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 a municipality's plate; (179–181);
- b. Offered to "lend a hand" to Central Count stations; (182) Elections Group offer; (183)
- 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; (184)
- d. Advised the City as to using DS200 voting machines; (185–188)
- e. Provided a "voter navigator" job description; (189)
- 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; (270)
- g. The Center for Civic Design offered a municipality to design the absentee voting instructions and the absentee envelopes; (190–203)
- h. The Elections Group issued a Guide to Ballot Drop Boxes, a report on Planning Drop Boxes, Voter Outreach, and Communication; (204–238)

- i. Provided advice about procedures for challenging an elector's ballot; (239–243) and
- j. Conservation Voices and curing. (244-247)

ALLEGES that any documents referred to in this paragraph speak for themselves, and DENIES any characterization of them contrary to their express terms. Otherwise, LACKS knowledge or information sufficient to form a belief as to the truth of any factual allegations in the paragraph, and thus DENIES.

87. Upon information and belief, Madison was offered by the CTCL the same private corporations engaging in the same election administration areas and accepted the offer and conditions. (554–555; 556–561; 562; 563, 564; 569, 570, 571, 572, 574, 578, 689–698)

ALLEGES that any documents referred to in this paragraph speak for themselves, and DENIES any characterization of them contrary to their express terms. Otherwise, LACKS knowledge or information sufficient to form a belief as to the truth of any factual allegations in the paragraph, and thus DENIES.

88. Upon information and belief, Madison used the following of CTCL's allied corporations to engage in election administration accepting their offer and conditions: Center for Civid Design (809–811; 827–831; 839; 842; 846), Vote at Home Institute (804, 807, 825–826; 845); Voter Participation Center (843); healthyvoting.org (802); Elections Group (801); Brennan Center (793); Simon and Company, Inc. (806, 808)

ALLEGES that any documents referred to in this paragraph speak for themselves, and DENIES any characterization of them contrary to their

express terms. Otherwise, LACKS knowledge or information sufficient to form a belief as to the truth of any factual allegations in the paragraph, and thus DENIES.

89. Upon information and belief, on or about August 18, 2020, CTCL apparently stopped implementing its plans for the Wisconsin Five cities to use the CCD-designed absentee voter instruction and absentee voter envelopes because of the Commission's intervention. Whitney May for Center for Tech and Civic Life wrote:

Hello everyone

Thank you for taking time to review the CCD materials and ask questions today. CTCL is putting the brakes on operation envelope with the WI-5 because:

- WEC wants everyone in the state using the same formats.
- WEC wants complete new envelop design work next year.
- WEC shared uniform instructions today.

(566). It is unclear from the existing record whether later the WEC, prior to the 2020 election, changed its policy or policies and allowed the Wisconsin Five cities to have different absentee voter instructions and envelopes than the rest of Wisconsin's cities and counties. (566). It appears the CTCL was acting as an intermediary between the Wisconsin Five cities and the WEC in order to favorably construe any WEC instructions to assist cities in fulfilling their private sector corporate grant conditions.

ALLEGES that any documents referred to in this paragraph speak for themselves, and DENIES any characterization of them contrary to their express terms.

In response to the first two quoted bullet points, ALLEGES that WEC staff proposed a new envelope design to the Commission. In that design

process, WEC staff obtained training from CCD on conducting usability studies. The Commission ultimately decided not to adopt the proposed new envelope design and to pause the redesign project until after the 2020 election. The redesign project and the pause in that project were unrelated to any interactions between CCD or CTCL and any of the municipal respondents in this matter.

In response to the third quoted bullet point and the final two sentences of the paragraph, ALLEGES that the Commission generally issues uniform voter instructions, but municipalities are permitted to modify or supplement those instructions. In 2020, WEC staff developed uniform instructions which were reviewed, edited, and approved by the Commission.

LACKS knowledge or information sufficient to form a belief as to the truth of any allegation that CTCL assisted cities in construing WEC instructions, but DENIES any allegation that WEC communicated with the Wisconsin Five cities through CTCL or otherwise sought to use CTCL as an intermediary. Otherwise, LACKS knowledge or information sufficient to form a belief as to the truth of any factual allegations in the paragraph, and thus DENIES.

90. Upon information and belief, Whitney May of Center for Tech and Civic Life 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.

(576). This email raises the concern that CTCL was drafting documents regarding municipal funding for election administration for the Wisconsin Five cities. Based on CTCL contact with the WEC, the CTCL and its partners may have drafted documents for WEC staff as well.

ALLEGES that any documents referred to in this paragraph speak for themselves, and DENIES any characterization of them contrary to their express terms. DENIES the allegation that CTCL may have drafted documents for WEC staff, and OBJECTS to that allegation as vague, speculative, and baseless. Otherwise, LACKS knowledge or information sufficient to form a belief as to the truth of any factual allegations in the paragraph, and thus DENIES.

91. Upon information and belief, the Wisconsin Five cities sought approval from CTCL for election administration spending. For example, Kenosha on August 31, 2020, 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. (584–586)

ALLEGES that any documents referred to in this paragraph speak for themselves, and DENIES any characterization of them contrary to their express terms. Otherwise, LACKS knowledge or information sufficient to form a belief as to the truth of any factual allegations in the paragraph, and thus DENIES.

92. Upon information and belief, Madison was seeking similar approval from CTCL corporations regarding election administration financing. (790–792, 797–799, 803, 808, 837–838)

ALLEGES that any documents referred to in this paragraph speak for themselves, and DENIES any characterization of them contrary to their express terms. Otherwise, LACKS knowledge or information sufficient to form a belief as to the truth of any factual allegations in the paragraph, and thus DENIES.

93. Upon information and belief, the Wisconsin Five cities were required to report to CTCL on election administration. For example, Green Bay officials began reporting to CTCL of the City's efforts regarding:

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

(261–264 (Green Bay))

ALLEGES that any documents referred to in this paragraph speak for themselves, and DENIES any characterization of them contrary to their express terms. Otherwise, LACKS knowledge or information sufficient to form a belief as to the truth of any factual allegations in the paragraph, and thus DENIES.

94. Upon information and belief, Madison engaged in the same type of reporting to CTCL, to comply with CTCL's conditions. (712, 737)

ALLEGES that any documents referred to in this paragraph speak for themselves, and DENIES any characterization of them contrary to their express terms. Otherwise, LACKS knowledge or information sufficient to form a belief as to the truth of any factual allegations in the paragraph, and thus DENIES.

95. WEC Administrator Meagan Wolfe, regarding the Wisconsin Five's conduct alleged here, has supported the Wisconsin Five cities' claimed prerogative to adopt private corporate conditions on federal elections without approval by Congress, the state legislature and the Commission. She most recently stated this legal position on March 31, 2021 before the General Assembly's Campaigns and Elections Committee. During this testimony Ms. Wolfe did agree that the communications to and from CTCL, and between CTCL and its partners including Michael Spitzer-Rubenstein should be public information in a spirit of transparency and "best practices," and thus should be produced under Wisconsin's Data Practices Act. Complainants agree with the need for transparency, production of the referenced communications, and discovery and investigation involving CTCL and its partners and their communications with the Wisconsin Five.

Administrator Wolfe ADMITS that she gave legislative hearing testimony before the General Assembly's Campaigns and Elections Committee on March 31, 2021. DENIES all other factual allegations in the first two sentences of the paragraph. ALLEGES that any documents or recorded statements referred to in this paragraph and its footnotes speak for themselves, and DENIES any characterization of them contrary to their express terms. Additionally ALLEGES that, in her March 31, 2021, hearing testimony to the Assembly Committee on Campaigns and Elections, the Administrator stated that she could not offer her opinion or speculate on actions of individual municipalities and that it would be outside her statutory or delegated authority to determine if a municipality has acted lawfully. ADMITS the factual allegations in the third sentence, and ALLEGES that the fourth sentence contains no factual allegations to which a responsive pleading is required. DENIES that she has supported or endorsed any activities contrary to federal law, state law, or directives of the Commission. As to any other legal conclusions in the paragraph, ALLEGES that no responsive pleading is required.

96. The Complainants believe the legal position of WEC Administrator Meagan Wolfe and the rest of the Madison Respondents is incorrect. Only Congress and the state legislature have legal authority to place conditions on federal elections in Wisconsin and to approve private corporations and their employees to engage in federal election administration.

In response to the first sentence of the paragraph, DENIES that the Complainants have fully or accurately characterized any legal position the Administrator has taken. ALLEGES that the Administrator did not make any determinations as to (1) the legality of actions or communications by municipal officials related to municipal acceptance or use of private grant funds; or (2) any relations between municipal officials and outside consultants. Further ALLEGES that, in her March 31, 2021, hearing testimony to the Assembly Committee on Campaigns and Elections, the Administrator stated that she could not offer her opinion or speculate on actions of individual municipalities and that it would be outside her statutory or delegated authority to determine if a municipality has acted lawfully. DENIES that the Administrator has supported or endorsed any activities contrary to federal law, state law, or directives of the Commission.

ALLEGES that the second sentence in the paragraph contains only legal conclusions for which no responsive pleading is required.

Claim

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

ALLEGES that the statute referred to in this paragraph speaks for itself, and DENIES any characterization of it contrary to its express terms.

Otherwise, ALLEGES that this paragraph contains only legal conclusions to which no responsive pleading is required.

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

ALLEGES that the statute referred to in this paragraph speaks for itself, and DENIES any characterization of it contrary to its express terms. Otherwise, ALLEGES that this paragraph contains only legal conclusions to which no responsive pleading is required.

99. In general elections held in Madison, the election authority of Congress, the Wisconsin state legislature, the Commission and Madison City Clerk was and will continue to be illegally and unconstitutionally diverted by the Respondents to entities and persons including Madison's Common Council, its Mayor, private corporations and their employees.

Administrator Wolfe DENIES that she has engaged in, supported, or endorsed any activities contrary to federal law, state law, or directives of the Commission. Otherwise, ALLEGES that the paragraph contains only legal conclusions for which no responsive pleading is required.

100. Without Commission intervention, the Respondents' illegal and unconstitutional diversion of election authority will continue. Upon information and belief, CTCL has continued to be in contact with Madison and the Wisconsin Five cities as recently as February and March 2021 for the purpose of brainstorming about what went well in the 2020 election, and to repeat and expand on those efforts in the 2022 and subsequent federal elections, even though the only stated reason for CTCL's 2020 grants was to ensure a safe election during the COVID pandemic.

LACKS knowledge or information sufficient to form a belief as to the truth of any factual allegations in the paragraph, and thus DENIES. As to all legal conclusions, ALLEGES that no responsive pleading is required.

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

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

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

ALLEGES that all court opinions, statutes, and constitutional provisions referred to in this paragraph speak for themselves, and DENY any

characterization of them contrary to their express terms. Otherwise, ALLEGES that this paragraph contains only legal conclusions to which no responsive pleading is required.

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

Administrator Wolfe DENIES that she has engaged in, supported, or endorsed any activities contrary to federal law, state law, or directives of the Commission. ALLEGES that all court opinions and constitutional provisions referred to in this paragraph speak for themselves, and DENIES any characterization of them contrary to their express terms. Otherwise, ALLEGES that this paragraph contains only legal conclusions to which no responsive pleading is required.

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

Administrator Wolfe DENIES that she has engaged in, supported, or endorsed any activities contrary to federal law, state law, or directives of the

Commission. Otherwise, ALLEGES that this paragraph contains only legal conclusions to which no responsive pleading is required.

MOTION TO DISMISS

Administrator Wolfe hereby MOVES for an order dismissing all claims against her in this matter on the grounds that the Complaint fails to state a claim against her on which relief can be granted. The basis for this motion is set out in Administrator Meagan Wolfe’s Brief in Support of Motion to Dismiss All Claims Against Her in the Five Complaints, which is being simultaneously filed.

WHEREFORE, Administrator Wolfe respectfully asks the Commission to enter an order in her favor and against the Complainants, denying all the relief sought against her and dismissing all claims against her in their entirety.

Dated at Madison, Wisconsin this 15th day of June 2021.

SIGNING AS TO ALL LEGAL ARGUMENT:

JOSHUA L. KAUL
Attorney General of Wisconsin



THOMAS C. BELLAVIA
Assistant Attorney General
State Bar #1030182

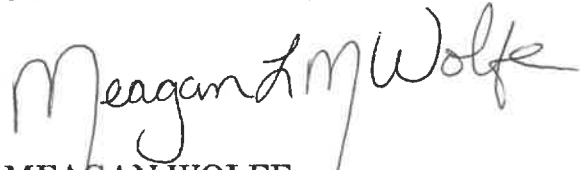
STEVEN C. KILPATRICK
Assistant Attorney General
State Bar #1025452

Attorneys for Respondent,
Meagan Wolfe, Administrator
Wisconsin Elections Commission

Wisconsin Department of Justice
Post Office Box 7857
Madison, Wisconsin 53707-7857
(608) 266-8690 (TCB)
(608) 266-1792 (SCK)
(608) 267-2223 (fax)
bellaviatc@doj.state.wi.us
kilpatricksc@doj.state.wi.us

SIGNING AND CERTIFYING AS TO ALL FACTUAL STATEMENTS:


"I, Meagan Wolfe, being first duly sworn upon oath, state that I personally read the above answer and that the above factual statements in response to the complaint are true and correct based on my personal knowledge."



MEAGAN WOLFE
Administrator, Wisconsin Elections
Commission

Respondent

Subscribed and sworn to before me
this 15th day of ~~January~~ June 2021.


Notary Public, State of Wisconsin
My Commission expires: 03/02/2024

