



## **AGENDA OF THE ETHICS BOARD**

**THURSDAY, FEBRUARY 3, 2022, 5:00 PM**

**Virtual Meeting. Public may join via Zoom.**

### **A. Zoom Meeting Instructions.**

- I. This item contains Zoom information, instructions, and a link to the Virtual Comment Form.

### **B. Roll Call.**

- I. William Vande Castle, Chair; Aaron Weinschenk, Vice Chair; Alder Bill Galvin; Cheryl Renier-Wigg; Said Hassan; Janet Hathaway

### **C. Approval of the Agenda.**

- I. Approval of the Agenda for the February 3, 2022 Ethics Board meeting

### **D. Approval of Minutes.**

- I. Approval of the minutes from the December 14, 2021 Ethics Board Meeting.

### **E. Regular Business.**

- I. Discussion with possible deliberation and action on the following topics related to the Ethics Complaint filed by Kimber Rollin against Mayor Eric Genrich under the City of Green Bay Code of Conduct for Elected Officials:
  1. Recusal issues.
  2. Jurisdictional issues.
  3. Other matters and future scheduling.

The Board may convene in closed session pursuant to Section 19.85(1)(a), Wis. Stats., for purposes of deliberating concerning a case which was the subject of any judicial or quasi-judicial trial or hearing before that governmental body. The Board will thereafter reconvene in open session pursuant to Section 19.85(2), Wis. Stats., to take action on items discussed in closed session, if appropriate, and to consider the remainder of the agenda.

### **F. Adjournment.**

- 1) THIS MEETING IS RECORDED: THE VIDEO OF THIS MEETING AND MINUTES ARE AVAILABLE ONLINE AT [www.greenbaywi.gov](http://www.greenbaywi.gov)
- 2) ACCESSIBILITY: Any person wishing to attend who requires special accommodation because of a disability, should contact the City Safety Manager at 920-448-3125 at least 48 hours before the scheduled meeting time so that arrangements can be made.
- 3) QUORUM: Please take notice that a majority or quorum of the Common Council will attend this Ethics Board meeting and will constitute a meeting of the Common Council for purposes of discussion and information gathering relative to this agenda.
- 4) REPRESENTATION: The party requesting the communication, or their representative, should be present at this meeting.

# Virtual Meeting Instructions

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## Ethics Board 2-3-2022

### Zoom Meeting Information

#### Join Zoom Meeting

<https://us02web.zoom.us/j/88539089659?pwd=cERTdlI6SFhMaEJlVDlBcXJuMVlmlUT09>

**Meeting ID: 885 3908 9659**

**Passcode: 929926**

#### One tap mobile

+19292056099,,88539089659#,,,,\*929926# US (New York)

+13017158592,,88539089659#,,,,\*929926# US (Washington DC)

#### Dial by your location

+1 929 205 6099 US (New York)

+1 301 715 8592 US (Washington DC)

+1 312 626 6799 US (Chicago)

+1 669 900 6833 US (San Jose)

+1 253 215 8782 US (Tacoma)

+1 346 248 7799 US (Houston)

Meeting ID: 885 3908 9659

Passcode: 929926

Find your local number: <https://us02web.zoom.us/j/88539089659>

## Public Comments

If you wish to speak at this public meeting or leave a comment, please fill out the online [Comment Form](#) prior to the meeting.

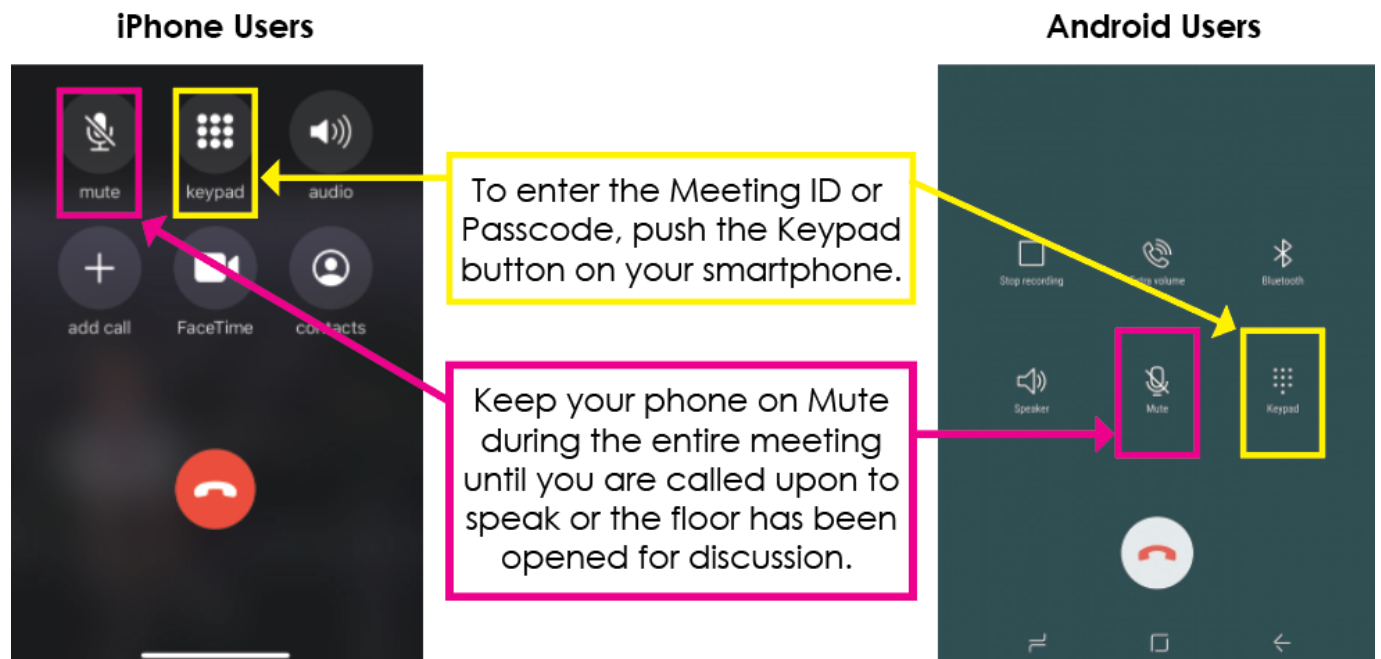
## Additional Information

1. Wisconsin Open Meetings Law still applies
  - a. Persons interested in speaking to an item must state their name and address for the minutes.
  - b. Committee/Commission/Board members will still follow *Roberts Rules of Order Newly Revised 12<sup>th</sup> edition*.
2. Please log into the Zoom meeting at least 10 minutes before the meeting begins to ensure a proper connection and that your technology is working.
  - a. If you are a Board Member, please log into [CivicClerk](#) with a computer, laptop, or tablet device.
3. Once you are in the meeting please mute yourself.
  - a. You may unmute yourself when you are called upon to speak.
4. Waiting room
  - a. When you call in or connect via web or Zoom app, you will be placed in a “waiting room.”
  - b. The meeting host will then admit you to the meeting, and mute you upon entrance (you will still be able to hear and or otherwise observe the meeting).
5. Registering
  - a. The host may ask you to register for the meeting. A registration link will be sent to you along with the invite. You'll receive another email confirming that you're registered for the meeting.
  - b. If you're using a phone, your registration will be tied to an email.
6. Raising your hand
  - a. Committee/Commission/Board members—you can either use CivicClerk and request to speak or you can also utilize the “raise your hand” tool in the Zoom platform (you'd need to use a computer or tablet) to let the host know you would like to speak. You can also un-mute yourself and start speaking.
  - b. Persons with items on the agenda or other interested parties —you can also utilize the “raise your hand” tool on the Zoom platform via computer or mobile device. You will be allowed to speak once the committee, commission, or board has moved to “open the floor for interested parties to speak.” Once discussion on your agenda item has concluded, the host will mute you, unless the committee opens the floor again.
7. What devices should I use?
  - a. Smart phone (please see more detailed instructions on page 3)
  - b. Land line
  - c. Tablet—in advance of the meeting, please download the Zoom Meeting app by using either the Apple Store or the Play Store. You will be asked to input your name, to identify you for the meeting.
  - d. Computer—you can access the meeting through a web browser by clicking on the meeting link, or through the Zoom Meeting app. If using the app, please download it in advance of the meeting. You will be asked to input your name, to identify yourself for the meeting.
  - e. For tablet and computer users--if you download the app you may be asked to verify your email.

8. Zoom etiquette
  - a. Muting yourself when you're not speaking will prevent your background noise from interfering with others' ability to listen to and participate in the meeting.
  - b. If you're using a telephone, please identify yourself with your phone number and state your name and address before you speak. Zoom meeting hosts can see only your telephone number and will ask you to identify yourself.
9. Closed session
  - a. Persons in the Zoom meeting will be put into a waiting room while the committee/commission/board meets in Closed Session. Participants will be admitted back into the Zoom meeting once the committee reconvenes in Open Session.
  - b. Persons watching a Common Council meeting live on YouTube will see a gray screen with the City logo during closed session.
10. Persons interested in attending anonymously or listening to the meeting may call in by dialing \*67 followed by the phone number in the Zoom Meeting Information box.

### Calling into the Zoom meeting using a smartphone

1. Dial the phone number listed at the beginning of this document.
2. When prompted, enter the Meeting ID number followed by #
3. Once you are in the meeting, notify the meeting host that you are in and state your name.
4. If you do not wish to speak, please make sure your phone is on **Mute**
  - a. If you're using a smartphone, look at your screen and click the Mute button





Report to the  
**Ethics Board**  
of the City of Green Bay

## MEETING DATE

February 3, 2022

## PREPARED BY

## AGENDA ITEM # E.1

Discussion with possible deliberation and action on the following topics related to the Ethics Complaint filed by Kimber Rollin against Mayor Eric Genrich under the City of Green Bay Code of Conduct for Elected Officials:

1. Recusal issues.
2. Jurisdictional issues.
3. Other matters and future scheduling.

The Board may convene in closed session pursuant to Section 19.85(1)(a), Wis. Stats., for purposes of deliberating concerning a case which was the subject of any judicial or quasi-judicial trial or hearing before that governmental body. The Board will thereafter reconvene in open session pursuant to Section 19.85(2), Wis. Stats., to take action on items discussed in closed session, if appropriate, and to consider the remainder of the agenda.

## BACKGROUND

## RECOMMENDATION

## FISCAL IMPACT

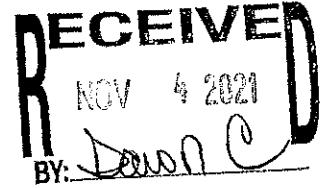
## ATTACHMENTS

1. Complaint - Rollin v Genrich
2. Lenz letter w jurisdictional arguments
3. Rollin Response to Jurisdictional and Recusal Issues
4. Genrich Reply Letter
5. Genrich Reply Exhibit

**Code of Conduct Complaint: Mayor Eric Genrich**  
**Submitted: November 4, 2021**

**Name of Complainant:**  
Kimber Rollin

**Address:**  
115 E. Walnut Street  
Apt 613  
Green Bay, WI 54301



**Subject of Complaint:**  
Mayor Eric Genrich

**Nature of the Alleged Violations:**  
Mayor Genrich has violated the City of Green Bay, Wisconsin Code of Conduct for Elected Officials.

**Request for Extension of Time:**  
Because of the numerous emails, testimony from poll workers and documents involved, I am requesting two hours to present the evidence I have gathered for this complaint, as well as additional time for rebuttal.

The City of Green Bay Code of Conduct Section 1 states the following:

“It is the policy of the City of Green Bay to uphold, promote and demand the highest standards of ethics from its elected officials. Accordingly, members of the Common Council and Mayor shall maintain the utmost standards of personal integrity, trustfulness, honesty, and fairness in carrying out their public duties, avoid any improprieties in their roles as public servants, comply with all applicable laws, and never use their City position or authority improperly or for personal gain.”

**Statement of facts and time period during which violations occurred:**

On June 15, 2020, Mayor Genrich applied for a Safe Voting Grant from the Center for Tech and Civic Life (CTCL). On July 24, 2020, CTCL awarded a grant to support the work of the City of Green Bay. According to Former City Attorney Vanessa Chavez’s April 20, 2021 Memorandum regarding the 2020 Elections, “CTCL connected the City with NVAHI (National Vote at Home Institute)” and Michael Spitzer-Rubenstein their State Lead was to “assist with election tasks the City chose to assign.”

The National Vote at Home Institute was presented as a “technical assistance partner” that could “support outreach around absentee voting,” provide and oversee voting machines, consult on methods to cure absentee ballots and even take the duty of curing absentee ballots.

On Election Day, November 3, 2020, Mayor Genrich was present at the Central Count for parts of the day. Central Count was located at the KI Convention Center, Grand Ballroom, 333 Main Street, Green Bay, WI 54301.

While at Central Count Mayor Genrich allowed Michael Spritzer Rubenstein to run the Central Count. Michael Spritzer Rubenstein's address was 681 Venderbilt Ave., #2R, New York, New York. Michael Spritzer Rubenstein was not a resident of the State of Wisconsin. The Hyatt Regency Central Count Booking #28149747 states that Michael Spritzer Rubenstein was the onsite contact person for the City of Green Bay. It is also noted that the Hyatt was to "Deliver keys to Michael Spritzer Rubenstein". Mayor Eric Genrich was present at the Central Count on November 3, 2020 and November 4, 2020. On November 3, 2020, Michael Spritzer Rubenstein was removed from the Central Count. On November 4, 2020, Mayor Genrich allowed Michael Spritzer Rubenstein to return to the Central Count and resume his position running Central Count. Michael Spritzer Rubenstein seemed to be the Central Count organizer – he called for meetings, answered poll workers questions, sat at a computer or the front desk and looked at vote totals on voting machines. Mayor Genrich was present at Central Count and was observed at numerous times talking with Mr. Spritzer Rubenstein. Mayor Genrich was also observed texting or looking things up on his phone a lot. Mr. Spritzer Rubenstein was observed ordering Acting Clerk Jaime Fuge around and interrupted Acting Clerk Fuge when she was working with poll workers.

Mayor Genrich failed to maintain the utmost standards of personal integrity, trustfulness, honesty, and fairness in carrying out his public duties for the election. He allowed a man from New York to run the Central Count in Green Bay Wisconsin. Mayor Genrich failed to comply with the election laws by allowing a non-resident to act as a poll worker, clerk and the head of Green Bay Central Count. This is in violation of the requirements of Wisconsin State Statutes Chapter 7 and Wisconsin State Statutes 5.86, 5.87, 946.12 among others. Mayor Genrich used his position and authority to allow the City Clerks position to be taken over by Michael Spritzer Rubenstein. Mayor Genrich allowed a non-resident to run the central count for the City of Green Bay. Mayor Genrich's actions have put the legitimacy of the Central Count of the City of Green Bay into question. The City of Green Bay has been ridiculed and questioned in the media regarding the handling of the election. Mayor Genrich has failed to answer questions regarding the election. Mayor Genrich has allowed our city and our election process to be questioned, debated and ridiculed. Michael Spritzer Rubenstein should never have been allowed to run Green Bay Central Count.

I am at this time reserving the right to amend this complaint and add to it. Additional documents from open records requests will be submitted.

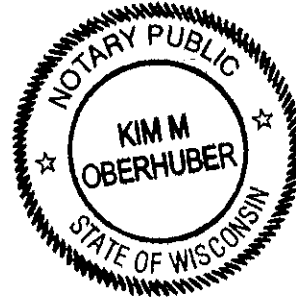
I swear that the information contained in the complaint is true and correct, or that I, Kimber Rollin, have good reason to believe and do believe that the facts alleged are true and correct and that they constitute a violation of the Code.

*Kimber Rollin*  
November 4, 2021  
Kimber Rollin

Date: *November 4, 2021*

Subscribed and sworn to before me  
This *4<sup>th</sup>* day of November 2021.

*Kim M Oberhuber*  
Notary Public, State of Wisconsin  
My Commission Expires: *Aug 24, 2025*



December 9, 2021

City of Green Bay Ethics Board  
c/o Attorney Michael May  
Boardman & Clark LLP  
1 South Pinckney Street, Suite 410  
PO Box 927  
Madison, WI 53701-0927

**Re: Rollin Code of Conduct Complaint**

To the City of Green Bay Ethics Board,

On behalf of Mayor Genrich, thank you for giving our client an opportunity to address the jurisdictional defects in Kimber Rollin's Ethics Complaint (the "Complaint"), dated November 4, 2021.

The 2020 General Election was conducted to the highest standards governing elections in Wisconsin. Mayor Genrich is proud of the city staff and election officials who worked to ensure that citizens in Green Bay were able to exercise their right to vote. Mayor Genrich, city departments, and staff have continued to be open and transparent, in accordance with Wisconsin law, about how the 2020 General Election was administered. Every court that has reviewed the matter has affirmed that Wisconsin administered the 2020 General Election in accordance with state and federal law.<sup>1</sup> Most recently, the Wisconsin Elections Commission issued its decision in *Carlstedt, et al. v. Wolfe*, in which Mayor Genrich was also named as a respondent, finding no probable cause that anyone violated any law or committed any abuse of discretion related to grant funding the City received so it could run a safe and inclusive election. Mayor Genrich absolutely denies that, at any time, he failed to live up to the "highest standard of ethics" as described in the City of Green Bay Code of Conduct (the "Code"). The Complaint is based on blatant, disproved falsehoods and an incorrect understanding of the law.

The Complaint also presents a number of jurisdictional issues which require dismissal: (1) The Complaint is untimely; (2) The Complaint fails to follow the procedures set forth in the Code; (3) The Complaint is comprised of allegations that fall outside the Code and which have already been conclusively and repeatedly litigated.

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<sup>1</sup> See, e.g., *Trump v. Wis. Elections Comm'n*, 506 F. Supp. 3d 620 (E.D. Wis.), *aff'd*, 983 F.3d 919 (7th Cir. 2020), *cert. denied*, 141 S.Ct. 1516 (U.S. 2021); *Feehan v. Wis. Elections Comm'n*, 506 F. Supp. 3d 596 (E.D. Wis. 2020), *petitions for extraordinary relief denied*, No. 20-859 (U.S. Mar. 1, 2021), *vacated on remand after appeal dismissed as moot*, No. 20-cv-1771-PP, ECF No. 95 (E.D. Wis. Mar. 16, 2021); *Wis. Voters Alliance v. Pence*, 514 F. Supp. 3d 117 (D.D.C. 2021); *Trump v. Biden*, 2020 WI 91, 394 Wis. 2d 629; *Wis. Voters Alliance v. Wis. Elections Comm'n*, No. 2020AP1930-OA (Wis. Dec. 4, 2020); *Trump v. Evers*, No. 2020AP1971-OA (Wis. Dec. 3, 2020).

First, the Complaint is not timely. The Code provides, “A complaint under the Code must be filed no later than one year from the date of discovery of the alleged violation.” City of Green Bay Code of Conduct, § 8.B. This is analogous to a statute of limitations in civil or criminal law. In Wisconsin, failure to file a complaint within the applicable statute of limitations deprives the body of jurisdiction over the matter. *Hester v. Williams*, 117 Wis. 2d 634, 641, 345 N.W.2d 426, 429 (1984) (Court loses subject matter expiration after the expiration of a civil statute of limitations); *State v. Muentner*, 138 Wis. 2d 374, 384, 406 N.W.2d 415, 420 (1987) (Court loses personal jurisdiction over a defendant after the expiration of the statute of limitations). Rollin’s November 4, 2021 Complaint contains no factual allegations regarding activity which occurred in the year prior to Rollin submitting it to the clerk. The first paragraph of the Complaint is devoted to allegations of activities that occurred in June and July of 2021. The second and third paragraphs all pertain to allegations of activities on the date of the 2020 General Election – November 3, 2020 – at Central Count in Green Bay. That was one year and one day prior to Rollin’s submitting the Complaint.

The Complaint contains two references to November 4: (1) That Mayor Genrich was present at Central Count and (2) that Mayor Genrich “allowed Michael Spitzer Rubinstein to return to Central Count and resume his position running Central Count.” (Complaint, p. 2). To be clear, this is wildly inaccurate. A member of the City Clerk’s staff was Chief Inspector at Central Count. Regardless, Central Count was completed at 4:00 am on November 4, 2020. The ballots were returned to City Hall at approximately 4:40 am. Mr. Spitzer Rubinstein actually left Central Count, where had been observing, several hours earlier, around 1:00 am. The Complaint does not contain a time stamp, but Green Bay City Hall generally does not open to the public until 8:00 am<sup>2</sup>. Even assuming that Rollin submitted the Complaint immediately at 8:00, that was more than a year after any of the alleged violations occurred.

Rollin also cannot claim that she did not discover the alleged violations until later. Again, under the analogous court decisions analyzing statutes of limitations in Wisconsin, a person can only rely on this rule if they exercised “reasonable diligence.” *Jacobs v. Nor-Lake, Inc.*, 217 Wis. 2d 625, 634, 579 N.W.2d 254 (Ct. App. 1998). The Code encourages anyone who wishes to file a complaint to do so as soon as they obtain relevant information. That did not happen here, to put it mildly. The allegations in the Complaint center on activities which occurred in public and were the subject of contemporaneous media reports<sup>3</sup>.

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<sup>2</sup> City Hall opens at 7:00 am on election days.

<sup>3</sup> Mary Spicuzza, *Wisconsin’s Five Largest Cities Awarded \$6.3 Million In Effort To Make Elections Safer Amid Coronavirus Pandemic*, Milwaukee Journal Sentinel, July 6, 2020, available [https://www.jsonline.com/story/news/politics/2020/07/06/wisconsins-five-largest-cities-awarded-6-3-million-effort-make-elections-safer-amid-coronavirus-pand/5382546002/?utm\\_campaign=snd-autopilot](https://www.jsonline.com/story/news/politics/2020/07/06/wisconsins-five-largest-cities-awarded-6-3-million-effort-make-elections-safer-amid-coronavirus-pand/5382546002/?utm_campaign=snd-autopilot) (last visited December 9, 2021); Katrina Nickell, *Green Bay Receives \$1 Million Grant For Elections*, Fox11 News, July 6, 2020, available at <https://fox11online.com/news/election/green-bay-receives-1-million-grant-for-elections?src=link> (last visited December 9, 2021).

The CTCL grants were unanimously approved at a July 21, 2020 public meeting of the City Council. They were also the subject of pre-election litigation in federal court. *Wis. Voters Alliance v. City of Racine*, No. 20-C-1487 (E.D. Wis. October 14, 2020).

As required by law, Central Count was open for public observation until it completed its work. Wis. Stat. § 7.41. There were, in fact, many observers present. The entire process was also live-streamed on Youtube<sup>4</sup>. This was perhaps the most-watched election in history.

Because the allegations are untimely, this Board lacks jurisdiction over the Complaint must dismiss the Complaint without further proceeding.

*Second*, the Complaint does not meet the basic requirements set forth in the Code. The Code requires that:

Attached to the complaint the person making the complaint shall provide all documents or other materials in the complainant's possession that are relevant to the allegation, a list of all documents or other materials relevant to the allegation that are available to the complainant but not in the complainant's possession, and a list of all other documents or other materials relevant to the allegation but unavailable to the complainant, including the location of the documents if known, and a list of witnesses, what they may know, and information to contact those witnesses.

City of Green Bay Code of Conduct, § 8.B. The Complaint does none of these things. It includes no effort to attach, describe, or identify any document beyond the City Attorney's April 21, 2021 Memorandum. That memorandum does not support but contravenes the allegations contained the Complaint. The Complaint does not contain any contact information or identifying information for potential witnesses, though Rollin requested two hours to present evidence and additional time for rebuttal. It does not identify or attach the "numerous emails, testimony from poll workers and documents" that Rollin apparently gathered. To the extent that Rollin sought to base the Complaint on information and belief, she was obliged to identify her sources. City of Green Bay Code of Conduct, § 8.B. She did not.

The Complaint is deficient on its face and does not follow the rules set forth in the Code for a complainant who wishes to proceed to an evidentiary hearing. It should be dismissed.

*Third*, the Complaint does not describe a violation of a "requirement, prohibition, or guideline" contained in the Code. City of Green Bay Code of Conduct, § 8.A. Rather, it is a clear attempt to relitigate baseless allegations that the 2020 General Election was unlawful. The Complaint references only one section of the Code – Section I – which generally describes the City's commitment to the Code and

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<sup>4</sup> Casey Nelson, *Green Bay to Live Steam Ballot Counting Process*, wncy.com, October 29, 2020, available at <https://wncy.com/2020/10/29/green-bay-to-live-stream-ballot-counting-process/> (last visited December 9, 2021).

preserving ethical behavior among elected officials. The Complaint does not describe any specific requirement, prohibition, or guideline, other than a general allegation that Mayor Genrich failed to act ethically. (Complaint, p. 2). The Code contains many actual prohibitions and provisions, such as a rule prohibiting Council members from soliciting political support from City staff. City of Green Bay Code of Conduct, § 3.D. The Complaint, on the other hand, is much more specific about other laws that Rollin believes may have been violated: Wisconsin State Statutes Chapter 7 and sections 5.86, 5.87, and 946.12, “among others.”

Chapter 5 and 7 of the statutes are, under Wisconsin law, enforced in the first instance by the Wisconsin Elections Commission. Wis. Stat. § 5.05. Section 946.12 is a criminal statute, enforceable by a district attorney or the Attorney General. None of the laws fall within the ambit of the City Code of Conduct. The Wisconsin Elections Commission, which is the proper entity to hear such a complaint, just issued its decision in *Carlstedt, et al. v. Wolfe*, Case No. EL 21-24, finding that there was no probable cause to find that anyone, including Mayor Genrich, violated the law or committed an abuse of discretion related to the CTCL grants. The Commission decision (which is enclosed for the Board’s convenience) is just the latest decision in the long run of pre- and post-election litigation over Wisconsin’s November 2020 election, including the cases cited in note 1, above. These issues have been heard and decided in other arenas. This Board is not the proper forum for rewarmed allegations already rejected by state courts, federal courts, and the Wisconsin Elections Commission.

Because the Complaint seeks to adjudicate issues outside the Code, and because its allegations related to those issues have been exhaustively litigated and repeatedly found baseless, it should be dismissed.

On behalf of Mayor Genrich, we look forward to appearing before the Board on December 14. If we can provide any additional information to the Board before that time, please contact me at [dlenz@lawforward.org](mailto:dlenz@lawforward.org) or at 608-556-9120.

Thank you

*Electronically signed by Daniel S. Lenz*  
Daniel S. Lenz  
Staff Counsel  
Law Forward, Inc.

CC: Kimber Rollin  
Stafford Rosenbaum LLP

CITY OF GREEN BAY WISCONSIN  
ETHICS BOARD

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Kimber Rollin, Complainant

Vs.  
Eric Genrich, Respondent

Case No.: 21-01

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Response to December 9, 2021 Genrich Letter

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The 2020 General Election was not conducted to the highest standards governing elections in Wisconsin. It is a policy of the City of Green Bay to uphold, promote and demand the highest standards of ethics from its elected officials. The Mayor is required to maintain the utmost standards of personal integrity, trustfulness, honesty, and fairness in carrying out his public duties, avoid any improprieties in his role as public servant, comply with all applicable laws, and never use his City position or authority improperly or for personal gain.

On January 6, 2022, the case of *Carlstedt, et al. v. Wisconsin Election Commission* was filed in Brown County Circuit Court (Brown County Case Number 2022CV000024). This is an appeal from the Wisconsin Election Commission (WEC) decision dismissing the underlying WEC Complaint case number EL 21-24. WEC Complaint EL 21-24 was brought before the WEC against the City of Green Bay, its Mayor Eric Genrich, its city official Celestine Jeffreys and former city official Kris Teske, and the WEC Administrator, Megan Wolfe. The WEC Complaint EL 21-24 was against the above named defendants for alleged violations of election laws regarding the City of Green Bay. The Plaintiffs in the appeal of *Carlstedt, et al. vs WEC* case have requested that the Brown County Court set aside the agency's decision because the WEC

erroneously interpreted the law. This matter is pending and no decision has been made. The December 9, 2021 Genrich letter refers to the decision that the WEC made in *Carlstedt, et al. v. Wolfe* WEC case number EL 21-24 (note that this is the case that is currently being appealed in Brown County Circuit Court). The WEC (a governmental agency) made the decision regarding this matter not a Circuit Court.

### **1. The Complaint is Timely**

The Code provides, “A complaint under the Code must be filed no later than one year from the date of discovery of the alleged violation.” City of Green Bay Code of Conduct, Section 8.B. The question of the date of discovery is one of fact. Numerous Freedom of Information Act (FOIA) Requests were filed with the City of Green Bay following the November 2020 election. On March 12, 2021, the City of Green Bay published on its website all of the FOIA records requested pertaining to the election. March 12, 2021 is the first time the FOIA records were released to the public and consisted of thousands of documents. (See attachment page 1). On November 13, 2020, the first article was published regarding the issues with the November absentee ballot count in Green Bay. (See Haley BeMiller, “Was Green Bay’s vote count tainted? County clerk says so, but offers little evidence to back her claim”, Green Bay Press Gazette, November 13, 2020). This article was published 10 days after the election. The first FOIA request appears to have been answered sometime in February 2021. I did not read the November 13, 2020 article until recently.

Under the law in the State of Wisconsin, the cause of action accrues when the plaintiffs discovered, or in the exercise of reasonable diligence should have discovered, “not only the fact of injury but also that the injury was probably caused by the

defendant's conduct." v. **U.S. Borello Oil Co.**, 130 Wis.2d 397,411, 388 N.W.2d 140, 146 (1986). A plaintiff can rely on the discovery rule only if he or she has exercised reasonable diligence and the issue of reasonable diligence is ordinarily one of fact. **Spitler v. Dean**, 148 Wis 2d 630, 638, 436 N.W.2d 308, 311 (1989). Reasonable diligence has been summarized as including those actions a reasonable person, under the same circumstances as the plaintiff, would have taken to discover the defendant's identity. Although plaintiffs must act on the information they have, reasonable diligence does not require a superhuman effort or the judgment of an expert. A person exercising reasonable diligence may make mistakes that prolong the search. **Jacobs v. Nor-Lake, Inc.**, 217 Wis. 2d 625, 579 N.W.2d 254 (Ct. App. 1998).

On March 12, 2021, thousands of pages of documents were published on the City of Green Bay web site regarding the November 3, 2020 election. This is the first time the documents from the election were available for the public to view. The FOIA documents published on March 12, 2021 show that Michael Spitzer-Rubenstein signed in to the Wisconsin Election Observer Log on page 3 and that his street address is 681 Vanderbilt Ave. #26R, NY and was representing NVAHI. Why did Rubenstein first sign in as an observer so late at night? Rubenstein was there all day – why did he sign in on page 3 of the Wisconsin Election Observer Log? (See attachment pages 2,3,4,5). The fact that Michael Spitzer-Rubenstein was a New York resident could not reasonably have been discovered on November 3, 2020 or November 4, 2020. This fact could not have been reasonably discovered by the public until the FOIA documents were produced in March 2021. Wisconsin State Statute 7.30 requires that each election official shall be a qualified

elector of a county in which the municipality where the official serves is located.

Michael Spitzer-Rubenstein was from New York and was not qualified.

On approximately March 12, 2021, I became aware of testimony that was given by individuals appearing in front of the Wisconsin Assembly Committee on Campaigns and Elections on March 10, 2021. The testimony has been recorded and is available on the Wisconsineye. At the March 10, 2021 meeting before the Wisconsin Assembly Committee on Campaigns and Elections, Sandy Juno testified as follows:

“Within the central count area, there was an 8ft. table against a side wall that appeared to have a special purpose. I observed Michael Spitzer-Rubenstein sitting at the table. There was a printer and laptop on the table, and he was constantly using his cell phone. He had a lanyard, however, I couldn’t see what his role was nor did he identify himself when asked. Rubenstein moved freely within the central count processing area with access to all absentee ballot processing. He spoke with and advised poll workers on absentee ballot issues. He physically handled absentee ballots and reviewed how absentee ballots were marked. I questioned Rivera about Rubenstein’s role and I was told he was an observer. I asked to review the observer log but was denied. I don’t believe Rubenstein was an observer because he was not treated like all other observers. Rubenstein had his own table with electronic equipment within the central count processing area and unlimited access to workers and ballots. No other election observers had these privileges.”

In a sworn Affidavit, Elizabeth Rankin stated:

“Throughout the morning I observed Michael Spitzer-Rubenstein performing tasks that were outside the ‘job description’ of what a poll observer ought to do. Michael would nonchalantly rush to answer questions by any of the other poll worker-at every single chance he would see a hand go up in the air.... Michael Spitzer Rubenstein was also interacting with Amaad Rivera-Wagner throughout the morning; together, they would frequently go over to the side of the room and speak privately to each other. I observed the same activity when Eric Genrich (the mayor of Green Bay) showed up at the KI Convention Center. As Mayor Genrich entered, standing along the back wall, Michael joined him in conversation. Again, I wondered why Michael Spitzer Rubenstein, who told me he was a poll observer, was talking to the mayor who had nothing to do with this election.” See attached Affidavit.

In a sworn Affidavit, Andrea Johnson (a poll worker at Central Count) stated:

“Mr. Spitzer-Rubenstein seemed to be the Central Count organizer – he called for pow-wows a few times, answered poll workers questions, and sat at a computer or the front desk a good amount of time. He was not in the room for a while, but then came back ... I noticed that the Mayor was present during the morning and evening; sometimes talking with Mr. Spitzer-Rubenstein. The mayor was texting or looking things up on his phone a lot- good, bad, or meaningless, I don’t know. ... I asked about Mr. Spitzer-Rubenstein’s roll and was informed that

he was there to make sure the flow of work was efficient. I remarked to the receptionist that I was amazed that Jaime was patient with Mr. Spitzer-Rubenstein since he seemed to have her at his beck and call even when she was trying to solve an issue or help the poll workers. At times, she looked perturbed with him.” See attached affidavit.

In a sworn Affidavit, Andrew Kloster stated:

From about 9:00am until 4:30am, the mayor of Green Bay was on hand. He was identified for me and I later looked him up online. I witnessed the mayor interacting throughout the day with two individuals I later identified as Amaad Rivera-Wagner and Michael Spitzer-Rubenstein. The mayor did not wear an official badge, and I presume he signed in as an observer, along with his six or so other staff who were in the middle of the room in Central Count and who stood close to the main counting machine. ... Mark explained to me that a poll worker was complaining about an individual who was ordering her around, and that after observation, he had identified the individual and was confident that the individual was not an election official. This was Michael Spitzer-Rubenstein. ... There, I confronted Spitzer-Rubenstein in a calm and professional manner, asking him who he was and what his job was. He grew increasingly agitated, refused to give his name and covered up his City badge. When I said “are you a government worker” a poll worker responded “yes he is” at the same time that he said “no I am not.” See attached Affidavit.

From the above testimony, attached affidavits, documents produced in FOIA responses, Mayor Genrich was present at Central Count from 9:00am on November 3, 2020 through 4:30am on November 4, 2020. Mayor Genrich allowed Michael Spitzer-Rubenstein to act as an election official and according to some testimony run Central Count. Michael Spitzer-Rubenstein did not meet the requirements under the Wisconsin State Statutes to act as an election official. Michael Spitzer-Rubenstein was not an observer and he was not a municipal city clerk employee. Rubenstein handled ballots, advised poll workers, he handled absentee ballots, he reviewed how absentee ballots were marked, he had free access to all the ballot processing area, he had his own table with electronic equipment. Rubenstein assigned inspectors for vote counting and polling places, 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 wrote Central Count procedures. Mayor Genrich allowed this to occur. Mayor Genrich failed to comply with all applicable laws of the State of Wisconsin and used his City position improperly. On

### **3. The Complaint describes a violation of a “requirement, prohibition, or guideline” contained in the Code.**

In Section 4 of the Code of Conduct Elected Officials it states that “Council members are expected to demonstrate, both publicly and privately, their honesty and integrity, and to be an example of appropriate and ethical conduct”. Mayor Genrich failed to demonstrate both publicly and privately his honesty and integrity in the November 3, 2020 election. Mayor Genrich was not an example of appropriate ethical conduct. Section 4 of the Code expands on Section 1 of the Code. Section 1 of the Code defines the policy of the City of Green Bay and stresses that the Mayor shall maintain the utmost standards of personal integrity, trustfulness, honesty and fairness in carrying out their public duties, avoid any improprieties in their roles as public servants, comply with all applicable laws, and never use their City position or authority improperly or for personal gain.

The misrepresentations of Mayor Genrich all fall within the ambit of the City Code of Conduct – he acted unethically. He failed to demonstrate his honesty and integrity in allowing Michael Spitzer-Rubenstein to act as an election official. It is a fact that Michael Spitzer-Rubenstein listed his address as New York and that he did not meet the requirements to act as an election official on November 3, 2020. Mayor Genrich failed to demonstrate his honesty and integrity in allowing many to believe Michael Spitzer-Rubenstein was running central count. (See Affidavits of Andrea Johnson and Elizabeth Rankin) Mayor Genrich’s behavior has resulted in Green Bay’s election process to be questioned, debated and ridiculed. Mayor Genrich has failed to answer questions regarding the handling of the election.

Furthermore, in the process of preparing this response I found the following:

On March 23, 2021, Fox 11 News reported that they had obtained a December 14, 2020 email that Teske wrote to Attorney Joe Faulds. It states “I was verbally abused by the Mayor in front of everyone in that meeting (and in prior meetings.) He had no right to do that, was he talked to? He had an agenda when it came to the election and I nor the Clerks Office were included even though it’s the **Clerk’s job to administer an election. He allowed staff who were not educated on election law to run the election along with people who weren’t even City of Green Bay employees.**” (Ben Krumholz, “Green Bay denies ex-clerk’s claims mayor verbally abused her”, Fox 11 News, March 23, 2021.) See attached emails from Kris Teske to Joseph Faulds pages 1-4.

This is a violation of the City of Green Bay Code of Conduct Section 3: Elected Official Conduct with City Staff . This December 14, 2020 email also supports that it’s the Clerk’s job to administer an election. He (Mayor Genrich) allowed staff who were not educated on election law to run the election along with people who weren’t even City of Green Bay employees.

Mayor Genrich’s letter states that it is a “baseless allegation” that a man from New York acted as an election official on November 3, 2020 at the Central Count in Green Bay Wisconsin. Is it a “baseless allegation that Chapter 7 of the Wisconsin State Statutes was not followed on November 3, 2020? Is it a “baseless allegation” that Mayor Genrich misrepresented Michael Spitzer-Rubenstein’s qualifications?


Mayor Genrich is refusing to answer questions regarding the election. Why? In March 2021, Mayor Genrich promised the Green Bay City Council that he would appear before the Wisconsin Assembly Committee on Campaigns and Elections and answer their questions. Why has Mayor Genrich failed to appear before the Wisconsin Assembly Committee on Campaigns and Elections as he promised?

On January 6, 2022, the case of *Carlstedt, et al. v. Wisconsin Election Commission* was filed in Brown County Circuit Court (Brown County Case Number 2022CV000024). This is an appeal from the Wisconsin Election Commission (WEC)

decision dismissing the underlying WEC Complaint case number EL 21-24. This matter is currently being litigated. (See above).

In the December 9, 2021 letter, Mayor Genrich absolutely denies that, at any time, he failed to live up to the “highest standard of ethics” as described in the City of Green Bay Code of Conduct (the “Code”). The code states that “if the person charged appears as required by the summons and denies the complaint; both the complainant and the person charged may produce witnesses, cross-examine witnesses, and be represented by counsel. I request that Mayor Genrich appear and answer questions.

Dated this 17<sup>th</sup> day of January, 2022.

By:   
Kimber Rollin

CITY OF GREEN BAY WISCONSIN  
ETHICS BOARD

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Kimber Rollin, Complainant

Vs.  
Eric Genrich, Respondent

Case No.: 21-01

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Response to Potential Conflicts Regarding Ethic Board Members

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1. That I am the Complainant in the above contested matter.
2. That the Respondent, Erich Genrich, was elected Mayor of the City of Green Bay on April 17, 2019.
3. That Cheryl A. Renier-Wigg is the Deputy Development Director for the City of Green Bay. Cheryl Renier-Wigg is a city employee and works under Mayor Genrich. On information and belief Cheryl Renier-Wigg works for (at the will of) Mayor Genrich and can be fired by Mayor Genrich.
4. That Cheryl Renier-Wigg was appointed to the Ethics Board by Mayor Genrich in November 2019 and her term ends in 2024.
5. That Cheryl Renier-Wigg is a member of the Green Bay Neighborhoods Council. The Council consists of Mayor Genrich, City staff and various community leaders. Cheryl Renier-Wigg attends many of these meetings and works with/for Mayor Genrich.
6. That Cheryl Renier-Wigg attends Redevelopment Authority Meetings, City Council Meetings, Planning Committee meetings and works for Mayor Genrich. She makes recommendations at these meetings and represents the administration (Mayor Genrich).
7. That Cheryl Renier-Wigg donated \$50 to Mayor Genrich's campaign.
8. That I believe Cheryl Renier-Wigg must be recused from this case.
9. That Cheryl Renier-Wigg has worked for the City of Green Bay from December 1987 to the present time. This is over 34 years. That she has retirement benefits and could suffer severe financial loss if she is fired or forced to resign.
10. That I believe Cheryl Renier-Wigg may be pressured into dismissing my Complaint by Mayor Genrich. The matter regarding Clerk Teske's position being taken over by Mayor Genrich, Michael Spitzer Rubenstein, Celestine Jeffreys and Mr. Rivera-Wagner has been reported and referenced in documents produced by the City of Green Bay in March 2021 and in numerous publications. For example, on March 23, 2021, Fox 11 News reported that they had obtained a December 14, 2020 email that Teske wrote to

Attorney Joe Faulds. It states "I was verbally abused by the Mayor in front of everyone in that meeting (and in prior meetings.) He had no right to do that, was he talked to? He had an agenda when it came to the election and I nor the Clerks Office were included even though it's the **Clerk's job to administer an election. He allowed staff who were not educated on election law to run the election along with people who weren't even City of Green Bay employees.**" (Ben Krumholz, "Green Bay denies ex-clerk's claims mayor verbally abused her", Fox 11 News, March 23, 2021.) See attached emails from Kris Teske to Joseph Faulds pages 1-4.

11. I believe that Mayor Genrich has influence over Cheryl Renier-Wigg and that she is unable to preside over this matter in a fair and impartial manner. Cheryl Renier-Wigg must recuse herself. She can not be fair and impartial in this matter. She will fail to appear to be fair and impartial. If she fails to recuse herself I ask that she be removed from hearing this case.

12. That I have not had enough time to investigate potential conflicts regarding other members of the City of Green Bay Ethics Board. I appreciate Cheryl Renier-Wigg's disclosure regarding her \$50 donation to the Genrich campaign for mayor. This donation shows that she supported him during his campaign. I hope that other members of the Ethics Board with potential conflicts will disclose them.

13. I request that Alderman Galvin recuse himself. On March 16, 2021 at a Green Bay City Council meeting he stated that he "sees this as a way for a particular organization to keep stirring the pot and cherry pick information to fit their agenda. There's no evidence of wrong doing". (See Green Bay City Council Meeting, March 16, 2021 at 11:38pm) If Alderman Galvin is unable to consider the fact that a man from New York (Michael Spitzer Rubenstein) was allowed to run the City of Green Bay November 3, 2020 election he should recuse himself. (See attached sign in sheet and witness affidavits). If Alderman Galvin is unable to believe Clerk Teske's emails referred to in #10 above, he should recuse himself. Alderman Galvin must recuse himself if he believes that Clerk Teske lied when she stated that Genrich "**allowed staff who were not educated on election law to run the election along with people who weren't even City of Green Bay employees.**" Alderman Galvin believes that contemporaneous emails from long tenured city staff are not factual and he must recuse himself. Alderman Galvin believes that citizens are "cherry picking information" and that there is "not evidence of wrong-doing" and he must recuse himself. On Tuesday, May 4, 2021 Galvin supported a resolution expressing confidence in Green Bay's handling of the November 2020 election. Bill Galvin stated "I think the city conducted a fair and legal election". (See Heather Graves, "Green Bay council passes election confidence resolution" Press Times May 6, 2021). Alderman Galvin appears to be unable to be fair and impartial, he is unable to consider written and verbal testimony and he must recuse himself. If he fails to recuse himself I ask that he be removed from hearing this case.

Dated this 17<sup>th</sup> day of January, 2022.

By:   
\_\_\_\_\_  
Kimber Rollin



## Joseph Faulds

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**From:** Kris Teske <[REDACTED]>  
**Sent:** Monday, December 28, 2020 4:22 PM  
**To:** Joseph Faulds  
**Cc:** Kris Teske; Diana Ellenbecker  
**Subject:** Re: Resignation Effective Dec. 31

I don't agree with you, it was a hostile work environment. You stated there was a process to appeal my sick time payout....what is that process?

Kris

Sent from my iPad

On Dec 28, 2020, at 3:32 PM, Joseph Faulds <[Joseph.Faulds@greenbaywi.gov](mailto:Joseph.Faulds@greenbaywi.gov)> wrote:

Kris,

I asked that you explain what you were referencing when you used the term "hostile work environment". That is a phrase referencing a particular type of claim. You have provided nothing in furtherance of that assertion. Separately, and what it appears you are referring to, we held numerous meetings to discuss the communication difficulties between you and the Mayor's office. I never witnessed in any of the meetings anyone being abusive towards you, certainly not the Mayor. Rather, the goal to everyone present at the time was to accomplish the election process smoothly and with greater success than the April election. As I mentioned, everyone agreed at the time, including you, that there was a plan moving forward.

There is nothing further to discuss on this matter and you have already resigned your employment with the City effective Thursday. I wish you luck in your future endeavors.

Take care,  
Joe

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**From:** Kris Teske <[Kris.Teske@greenbaywi.gov](mailto:Kris.Teske@greenbaywi.gov)>  
**Sent:** Friday, December 18, 2020 10:48 AM  
**To:** Joseph Faulds <[Joseph.Faulds@greenbaywi.gov](mailto:Joseph.Faulds@greenbaywi.gov)>  
**Cc:** Diana Ellenbecker <[Diana.Ellenbecker@greenbaywi.gov](mailto:Diana.Ellenbecker@greenbaywi.gov)>; Kris Teske <[REDACTED]>  
**Subject:** RE: Resignation Effective Dec. 31

I am still waiting for your response.

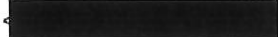
Thank you,

Kris Teske, WCMC  
Green Bay City Clerk  
100 N. Jefferson St., Rm 106  
Green Bay, WI 54301  
920-448-3014

the same page moving forward and running the election. I have asked you to clarify because, it is not clear if you are referring again in your recent communications to the same complaints you previously made and that we previously discussed at length, or if you are asserting some new basis for making a claim of hostile work environment. I assume, from the nature of your communication below, that you are referencing prior complaints and the discussions held regarding those complaints.


Thank you,  
Joe

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**From:** Kris Teske <[Kris.Teske@greenbaywi.gov](mailto:Kris.Teske@greenbaywi.gov)>  
**Sent:** Sunday, December 13, 2020 10:32 AM  
**To:** Joseph Faulds <[Joseph.Faulds@greenbaywi.gov](mailto:Joseph.Faulds@greenbaywi.gov)>  
**Cc:** Diana Ellenbecker <[Diana.Ellenbecker@greenbaywi.gov](mailto:Diana.Ellenbecker@greenbaywi.gov)>; Kris Teske <>  
**Subject:** RE: Resignation Effective Dec. 31

I asked if I could appeal the sick time payout decision to Common Council. Please reply!

Hostile work environment has been brought up 5 times to directors. I believe it was said 3 times to you and now that I resign you ask what I mean by that. Really?? After all the emails and zoom meetings you were in on (this doesn't even include the Ad Hoc Committee or emails from mayor and mayor staff) look up hostile work environment you will see what I am referring to.

 Please respond to all so I get your response in a timely manner.

Kris Teske, WCMC  
Green Bay City Clerk  
100 N. Jefferson St., Rm 106  
Green Bay, WI 54301  
920-448-3014  
<image005.png><image006.jpg>

**From:** Joseph Faulds [<mailto:Joseph.Faulds@greenbaywi.gov>]  
**Sent:** Thursday, December 10, 2020 9:42 AM  
**To:** Kris Teske <[Kris.Teske@greenbaywi.gov](mailto:Kris.Teske@greenbaywi.gov)>  
**Subject:** Resignation Effective Dec. 31

Good Morning Kris,

We received your resignation letter and based on you approved leave request through December 31 we will accept your resignation effective December 31, 2020. As Diana stated in her previous email, the separation benefits you receive (vacation payout) will be consistent with how we handle all of our other resignations.

You mentioned in your previous emails a hostile work environment? Can you please clarify what you mean by that?

Thank you,

**Joseph W. Faulds**  
City of Green Bay  
Human Resources Director  
Ph: (920) 448-3356  
Fax (920) 448-3128



idents were placed at our table around 6 pm or so (they were 15 and 16 respectively, if I remember correctly). They were unashamedly angry because they had been waiting since 2 pm for a job to do and were concerned that they wouldn't get paid. They shadowed my counting partner and I for about 45 min to an hour or so and then went towards the back of the room. One of them stated that they were going to get to count a ward. I don't know if they did. We were focused on our ward.

23. In counting Ward 10, I noticed that there seemed to be a lot of residents on Fiesta Ln. When wondering if there is an apartment complex or two on that street, one of the teens familiar with the area, said that it's just a residential street.

24. Ward 10 had several ballot envelopes where the witness address was missing. We raised our hands and a staff member stamped the address for the witness. I had asked why this was okay to do, but was never given a solid answer; something to the effect of, "if the City Clerk's initials are on it, then she okayed it at the time that it was brought in."

25. We finished Ward 10 around 10pm and were helped with the paperwork. Our opened ballots were stacked in the back of the room alongside many other stacks of ballots. I assume that the 2-8ft tables full of ballots still needed to be run through the machine, but I wasn't sure that some of them hadn't been already tabulated. The staff was busy trying to help the rest of the workers process their finished wards. I thanked Jaime for her hard work and my partner and I signed out at 10:30.

26. The next day, I went to work thinking that it was a good thing that voters were called to fix their delinquent ballots and I was pretty happy about that, but I was concerned about the validating process and called the Clerk's office on the 4<sup>th</sup> and also on the 5<sup>th</sup> (or 6<sup>th</sup> - I can't remember). I asked the receptionist to thank Jaime for all her hard work as she literally ran around the room for 16 hours in high heels and I thought she was very patient and courteous to everyone. I also asked about Mr. Spitzer-Rubenstein's roll and was informed that he was there to make sure the flow of work was efficient. I remarked to the receptionist that I was amazed that Jaime was patient with Mr. Spitzer-Rubenstein since he seemed to have her at his beck and call even when she was trying to solve an issue or help the poll workers. At times, she looked perturbed with him.

By: *Audrey Fabre*

Subscribed and sworn to before me

This 7<sup>th</sup> day of April 2021,

*Jewelyn Depray*  
Notary Public, State of Wisconsin

My Commission Expires: 12-05-24

2020 Election Records Requests

[All Archives](#)

- [Project 83094-2.20.21 Financial Record](#)
- [2020-09-09 Additional Request, CTCL\\_jpudkxiblej](#)
- [2020-07-24 Green Bay CTCL Grant Agreement Signed\\_5ozeqbxfrx2](#)
- [2020-06-15 Wisconsin Safe Voting Plan--RACINE\\_yfv5n3iwtdm](#)
- [2020-06-07 Racine Election Grant\\_zw7bbes4hzs](#)
- [WisVote Election Checklist II, 2020 General Election](#)
- [WARD TAPE TOTAL INSTRUCTIONS](#)
- [REGARDING TAPES IN THE MACHINES](#)
- [Project 83094-12.15.20 CTCL Grant Funds\\_vbwogsdlf2m](#)
- [photoid](#)
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- [multiplewards](#)
- [ELECTIONOBSEVER\(TOHANDTOOBSERVER\)](#)
- [electionobserverlog](#)
- [ELECTION OBSERVERS](#)
- [ELECTION OBESERVER](#)
- [DS200INSTRUCTIONS](#)
- [drop box seals and logs 6](#)
- [drop box seals and logs 5](#)
- [drop box seals and logs 4](#)
- [drop box seals and logs 3](#)
- [drop box seals and logs 2](#)

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- [2020-09-09 Additional Request, CTCL\\_jpudkxiblej.](#)
- [2020-07-24 Green Bay CTCL Grant Agreement Signed\\_5ozecbxfx2.](#)
- [2020-06-15 Wisconsin Safe Voting Plan--RACINE\\_yfv5n3iwtdm.](#)
- [2020-06-07 Racine Election Grant\\_zw7bbes4hzs.](#)
- [WisVote Election Checklist II, 2020 General Election.](#)
- [WARD TAPE TOTAL INSTRUCTIONS.](#)
- [REGARDING TAPES IN THE MACHINES.](#)
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- [electionobserverlog.](#)
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- [drop box seals and logs 5.](#)
- [drop box seals and logs 4.](#)
- [drop box seals and logs 3.](#)
- [drop box seals and logs 2.](#)

# Wisconsin Election Observer Log

Today's Date: 1/13 Election Date: 1/13 Municipality: COGB Page Number: 1  
 Site:  Polling place, ward #  Clerk's office  Central count location  Residential Care Facility or Retirement Home  Other (specify)

With their signatures below, the signees attest to the following statement:

"I understand Wisconsin's rules for election observers, as set out in Wisconsin Election Observers Rules-at-a-Glance, and agree to abide by these rules while observing this election or election administration event."

Printed Name	Signature	Street Address	Municipality, State	Representing	Photo ID Verified
Armenian Dierksen		3111 Valley View Dr 870 Spencer Dr	CA	WIS DEMS	<input checked="" type="checkbox"/>
Matthew Dombek		500 W Poplar Ave Appleton WI 54911	WI	"	<input checked="" type="checkbox"/>
Maile Lewis		12900 W. Van Sledright Dell Rapids SD 57011	WI	WIS GOP	<input checked="" type="checkbox"/>
Conrad Lewis		1503 4th St Chippewa WI 54926	WI	Republican Party	<input type="checkbox"/>
Elizabeth Rankin		3052 Maple Grand Suamico WI 54173	WI	Trump/Pence Campaign	<input checked="" type="checkbox"/>
Andrew Kloster		8618 Falls Rd.	Romney MD	Republican Party of WI	<input checked="" type="checkbox"/>
Robert Dean		4607 Royal Vista De Pere	WI	WI GOP	<input checked="" type="checkbox"/>
Dave Henery		212 Hudson St. GB	WI	Brown Co	<input checked="" type="checkbox"/>
Sandra June		616 Daughlin	WI	County Clerk	<input checked="" type="checkbox"/>
David		1331 S. ...	WA	N/A	<input type="checkbox"/>

# Wisconsin Election Observer Log

Today's Date: 1/13 Election Date: 1/13/20 Municipality: COGB Page Number: 3  
 Site:  Polling place, ward #  Clerk's office  Central count location  Residential Care Facility or Retirement Home  Other (specify)

With their signatures below, the signees attest to the following statement:

"I understand Wisconsin's rules for election observers, as set out in Wisconsin Election Observers Rules-at-a-Glance, and agree to abide by those rules while observing this election or election administration event."

Printed Name	Signature	Street Address	Municipality, State	Representing	Photo ID Verified
Sam Murriger		1825 Vegas Ave	Madison, WI	Wisconsin Voting Rights Coalition	<input checked="" type="checkbox"/>
Casey Knapp		301 W. Chestnut Lane	Grafton, WI	WI Election Protection	<input checked="" type="checkbox"/>
Tae Guode		3465 N. Lake Drive	Milwaukee WI	WI Elect - Public	<input type="checkbox"/>
Jan Amara		2332 Cambodge Ave	Wauwatosa WI	WI Election Protection	<input checked="" type="checkbox"/>
Chris Wey		920 Spence St.	WI	DR	<input checked="" type="checkbox"/>
Charissa Caldwell		136 Cavil Way R Per	WI	Republican Party of Wisconsin	<input checked="" type="checkbox"/>
Fax Caldwell		136 Cavil Way R Per	WI	Republican Party	<input checked="" type="checkbox"/>
Michael Spitzer-Robinson		681 Vandebilt Ave #2LR	NY	NVAHI	<input checked="" type="checkbox"/>
Billy Booser		499 E LeCotone	WI	DR	<input checked="" type="checkbox"/>
MATT ROESCH		"	"	"	<input type="checkbox"/>

# Wisconsin Election Observer Log

Day's Date: 11/3 Election Date: 11/3/20 Municipality: Wausau Page Number: 24  
 Polling place, ward #  Clerk's office  Central count location  Residential Care Facility or Retirement Home  Other (specify)

I, the undersigned, attest to the following statement:

"I understand Wisconsin's rules for election observers, as set out in Wisconsin Election Observers Rules-at-a-Glance, and agree to abide by those rules while observing this election or election administration event."

Printed Name	Signature	Street Address	Municipality, State	Representing	Photo ID Verified
G. V. Peterson	<i>[Signature]</i>	290 Oliver St	Wisc.	Republican Party	<input checked="" type="checkbox"/>
Roger Holtz	<i>[Signature]</i>	888 Autumn Ln	Kaukauna WI	Republican Party of WI	<input checked="" type="checkbox"/>
Richard Kloster	<i>[Signature]</i>	570 Mistic Hrebou Lane	Schaumburg IL	RNC	<input checked="" type="checkbox"/>
Janet S. Angus WILLIAM G. ULLMANN	<i>[Signature]</i>	2520 N. Skelle Mac	Green Bay, WI	Self	<input checked="" type="checkbox"/>
DAN BECKER	<i>[Signature]</i>	5041 PLACEMWAY NEW FRANKFURT, WI	WI, 54229	DEM. PARTY OF WI.	<input checked="" type="checkbox"/>
hor: Weuve	<i>[Signature]</i>	640 Birch Dr	Hobart	Democrat	<input checked="" type="checkbox"/>
James H. Hurd	<i>[Signature]</i>	448 Breckwood	WI	Democrat	<input checked="" type="checkbox"/>
Ryan Haber	<i>[Signature]</i>	814 B Pine	WI	Myself	<input checked="" type="checkbox"/>
James Felcho	<i>[Signature]</i>	119 Crestview Ln	WI	Myself	<input checked="" type="checkbox"/>
		6215 Carol W Coastal	WI	Self	<input checked="" type="checkbox"/>

# Wisconsin Election Observer Log

Today's Date: 1/13 Election Date: 1/13 Municipality: COBB Page Number: 1  
 Site:  Polling place, ward # \_\_\_\_\_  Clerk's office  Central count location  Residential Care Facility or Retirement Home  Other (specify) \_\_\_\_\_

With their signatures below, the signees attest to the following statement:

"I understand Wisconsin's rules for election observers, as set out in *Wisconsin Election Observers Rules-at-a-Glance*, and agree to abide by those rules while observing this election or election administration event."

Printed Name	Signature	Street Address	Municipality, State	Representing	Photo ID Verified
Alexis C. MacDonald	<i>Alexis C. MacDonald</i>	1028 S. WATER ROAD DR. APT. 652	ATLINGTON VA 22204	Democratic Party	<input checked="" type="checkbox"/>
Maria Osadjan	<i>Maria Osadjan</i>	4724 Bark Rd	WI	Democrats	<input checked="" type="checkbox"/>
MAX LOU	<i>Max Lou</i>	1636 E. KUMAR Pk	WI	SELY	<input checked="" type="checkbox"/>
Matthew Goshin	<i>Matthew Goshin</i>	1360 Lombard St	San Francisco CA	Democratic Party	<input checked="" type="checkbox"/>
Tom Mentelby	<i>Tom Mentelby</i>	645 Citrus	WI	Democratic	<input type="checkbox"/>
Larry Saucers	<i>Larry Saucers</i>	1727 Carmelville Dr	WI	VA Dem Party	<input checked="" type="checkbox"/>
RICHARDE	<i>Richard</i>	848 E Wash	WI	Dem Party	<input checked="" type="checkbox"/>
Brianne White	<i>Brianne White</i>	257 HEWY ST	NY	DEM	<input checked="" type="checkbox"/>

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Mayor's Office Press Releases

Posted on March 12, 2021

## [ARCHIVED] City of Green Bay Releases Resources on November 2020 Election to Combat Misinformation

For Immediate Release March 12th, 2021

Contact: Mayor's Office  
920-448-3210

[Amaad.Rivera@greenbaywi.gov](mailto:Amaad.Rivera@greenbaywi.gov)



### City of Green Bay Release Resources on November 2020 Election

(Green Bay) - Following the April 2020 and November 2020 election, the City of Green Bay received more than 65 records requests pertaining to the elections, the CTCL grant, and employees' activities during these time frames. The records produced consist of thousands of documents, including e-mails, contracts, spread sheets, etc.

Much misinformation remains around the election, with factually inaccurate statements being made which are not supported by the records. In the interest of transparency, the City of Green Bay is publishing on its website all of the records requested pertaining to the elections. These records can be accessed by visiting <https://greenbaywi.gov/1217/2020-Election-Records-Requests>

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AFFIDAVIT OF ELIZABETH RANKIN

STATE OF WISCONSIN            )  
  )  
COUNTY OF BROWN            )

ELIZABETH RANKIN, being first duly sworn, makes this affidavit and states the following upon my own personal knowledge:

1. I am a resident of the State of Wisconsin and reside at 3052 Maple Grove, Suamico, WI 54173.
2. I have personal knowledge of the contents of this Affidavit and if called as a witness I could and would testify competently as to their truth.
3. On November 3, 2020 I served as an election observer in Brown County, Wisconsin.
4. On November 3, 2020 I was at "Central Count" at the KI Convention Center in Green Bay, Wisconsin from 7:15 am through 3:00pm
5. As I entered the Central Count, I was greeted by Amaad Wagner-Rivera who escorted me over to a group of tables where various poll workers were opening absentee ballots manually. As I walked around the group of tables, I had noticed that many of the poll workers were not verifying that there were two signatures on the outside of each ballot. As I came closer, I asked one of the poll workers where the registered sex offender list was and advised her that sex offenders should not be given the right to vote and she was unaware that she was even supposed to check that. Subsequently, I asked the woman in charge where the list was. She said that personnel there had already checked ahead of time (even though the ballots had not been opened prior to election day).

9. Throughout the morning I observed Michael Spitzer-Rubenstein performing tasks that were outside the 'job description' of what a poll observer ought to do. Michael would nonchalantly rush to answer questions by any of the other poll workers – at every single chance he would see a hand go up in the air. On occasion, I did proceed over to where the question was being asked. Interestingly, Michael Spitzer-Rubenstein would immediately stop in mid-sentence and proceed in a different direction.

10. Michael Spitzer-Rubenstein was also interacting with Amaad Rivera-Wagner throughout the morning; together, they would frequently go over to the side of the room and speak privately to each another. I observed the same activity when Eric Genrich (the mayor of Green Bay) showed up at the KI Convention Center. As Mayor Genrich entered, standing along the back wall, Michael joined him in conversation. Again, I wondered why Michael Spitzer-Rubenstein, who told me he was a poll observer, was talking to the mayor who had nothing to do with this election. All of this was very suspicious to me because when I myself completed the poll observer training, we were instructed to observe and not interfere in any way.

11. Later, I saw Michael Spitzer-Rubenstein on his laptop/phone again; only this time it was after he went past the ballot machine. I proceeded to try to get closer by his computer, and from a distance it looked like some sort of excel spreadsheet. A few moments later, I was told by Andrew Kloster that Michael Spitzer-Rubenstein had been asked to leave. Additionally, Andrew stated that if I saw Michael enter the building again, I would need to report it and let Andrew know.

12. During my shift, I also observed nearby the reconstruction table (where damaged ballots were set aside and reconstructed new ballots were made to go through

the ballot machine). I was told twice by the head election female that I could not stand close to the reconstruction table, ultimately required to step back. I told head election female that I wanted to make sure that the correct bubbles were filled in. She then proceeded to 'roll her eyes.' In the end, I wasn't able to see if the correct bubbles were filled in, standing so far away.

13. The overall atmosphere at Central Count was tense, hostile and intimidating. I was not treated fairly, particularly after questioning some of the things that were going on; more so, once they (namely Amaad Rivera-Wagner and the 'head election' female) found out that I was there on behalf of the Republican Party, they suddenly changed their tone, becoming quite rude and disrespectful.

13. I have additional information and can provide more specific information to everything written herein.

14. I left the KI Convention Center that day with a terrible feeling. I did not like how the election was run that day and felt violated by the egregious circumstances and irregularities I witnessed. I was shocked and appalled to see that even in the small city of Green Bay, a city with a "hometown feel," built on the precedents and values of down-to-earth and faithful people, corruption could occur.

Dated this 4<sup>th</sup> day of March 2021.

By: Elizabeth Hank

Subscribed and sworn to before me  
This 4<sup>th</sup> day of March 2021

Juliyana J. J. J.  
Notary Public, State of Wisconsin  
My Commission: -12-5-24

DECLARATION OF ANDREW KLOSTER

I, Andrew Kloster, declare as follows:

1. I am served as an election observer on behalf of the Republican Party of Wisconsin on November 3 and 4. I have personal knowledge of the contents of this Declaration and if called as a witness I could and would testify competently as to their truth.
2. I am a lawyer barred in the State of New York, and I currently serve as the Deputy General Counsel for the United States Office of Personnel Management. I am originally from the Chicagoland area and I clerked on the Seventh Circuit Court of Appeals, which oversees the federal courts in Wisconsin.
3. I was approved by the Republican Party as a roving observer in Brown County, Wisconsin for the run-up to and the General Election on November 3 and I have numerous confirmation emails showing my assignment. In other words, I was "certified" as a full observer. In addition, on the date of the election, I signed into various polling locations and "Central Count" and had my ID verified by the Chief Inspector at each location. I was on hand at various polling locations and Central Count from 6:45 am on November 3 until 5:00am on November 4.
4. In my capacity as a roving observer, I was in contact with all Republican observers in Brown County, as well as various Republican officials managing the campaign. I personally interacted with Chief Inspectors (including making complaints) and other observers, moved observers around locations as problems arose, and reported irregularities up.

5. At about 8:45 am, I was alerted that our observer was ejected from the combined Ward 21 / 27 polling center at the Transit Station in Green Bay. I took my father (also an observer) and went to Ward 21/27 to sign in. The Chief Inspector refused to explain why she had ejected our observer, and when I sought to sign in myself and my father, objected that "there can be only one Republican observer." After reading her the relevant portion of the Wisconsin election code (observers can only be ejected for cause), she did not back down until she could "call City Hall." She did so and returned, grudgingly allowing our inspectors on premises.
6. I was at Central Count on and off from 10am until 8pm, and was at Central Count from 8pm until 5:00am. I did witness live and functional video feeds of Central Count, so all my interactions and my own presence can be corroborated with that evidence, and times can be narrowed down.
7. From about 9:00am until about 4:30am, the mayor of Green Bay was on hand. He was identified for me and I later looked him up online. I witnessed the mayor interacting throughout the day with two individuals I later identified as Amaad Rivera-Wagner and Michael Spitzer-Rubenstein. I also witnessed the mayor interacting with the Chief Inspector, a woman identified to me as from the City Finance department, and the deputy municipal clerk Kim Wayte. Individuals with the Mayor did bring large backpacks into the room. The mayor did not wear an official badge, and I presume he signed in as an observer, along with his six or so other staff who were in the middle of the room in Central Count and who stood close to the main counting machine.

8. At around 8:30 am while I was at the polling location at Lambeau Field, I was called by an attorney and observer at Central Count, Mark Lamb. Mark explained to me that a poll worker was complaining about an individual who was ordering her around, and that after observation, he had identified the individual and was confident that the individual was not an election official. This was Michael Spitzer-Rubenstein. I immediately left Lambeau and arrived at Central Count. There, I confronted Spitzer-Rubenstein in a calm and professional manner, asking him who he was and what his job was. He grew increasingly agitated, refused to give his name, and covered up his City badge. When I said "are you a government worker" a poll worker responded "yes he is" at the same time that he said "no I am not."
  
9. While this was going on, Amaad Rivera-Wagner noticed and came over. I asked for the Chief Inspector and was rebuffed, as Rivera-Wagner made himself out to be "in charge" and the person to whom complaints would be directed. I explained that under Wisconsin code there are two types of individuals at polling places. There are elections officials, and there is the general public. I asked which bucket Spitzer-Rubenstein fell into. After a back and forth, Rivera-Wagner concluded as follows: he pointed at a man fiddling with the main absentee counting machine and said: "We have two technicians in here. That man is one technician for the machines. Michael is a program technician. His job is to direct traffic." This was vague and I repeated back to him, incorporating information he had given me: "So Michael is an authorized election official, a contractor for the City government, correct?" "Yes." "And what type of thing does he do, specifically?" Amaad pointed to a blue box with ballots that had just come in: "Do you see that box?"

Michael's job is to direct us how to move that box, to improve our processes." With that explanation, I backed down.

10. Later in the day, Mark Lamb texted and called me noting that Michael Spitzer-Rubenstein had continued to be a problem and that he had been given an ultimatum by the Chief Inspector: cease interacting with poll workers or else sign in as an observer. He refused to sign in and left. Later in the day when I was at Central Count, I was Spitzer-Rubenstein arrive again and walk throughout Central Count without any observer badge. After some time, we objected again, and this time I personally witnessed the Chief Inspector require Spitzer-Rubenstein to sign in as an observer by escorting him back to the front of the room. I also heard him suggest to her that she was "making a mistake" by requiring him to sign in. While I objected to the Chief Inspector, Amaad Rivera-Wagner was never required to sign in and his status was never made clear to me.
11. Around 8pm, I noticed two liveried security officials enter Central Count and appear disturbed. They asked for Amaad Rivera-Wagner by name and were directed to him. There, I heard them explain that at the "Sears" (in my estimation, the polling location at the defunct Sears that held 11 wards), an observer was asking if she could follow behind the security truck to ensure chain-of-custody for a box of ballots. Rivera-Wagner replied "Absolutely not." At this point I identified myself to Rivera-Wagner for the first time, and noted that an observer under Wisconsin law could follow anybody in public, and I asked why this was an issue. Rivera-Wagner became perturbed and loudly noted to the security men that the problem was that the woman "wanted to get into the boxes," something which the security men had not noted. He then indicated he would go with the

men to the Sears. Outside Central Count, I took out my phone and recorded an interaction with Rivera-Wagner where I asked him where he was going and in what capacity he was acting. At this point I became suspicious as he refused to note that he was a City worker acting in his official capacity. After turning my phone off I noted to him that he was not the Chief Inspector, although he had been making himself out to be, and that I would be objecting again. I proceeded to my car to go to the Sears location and a few minutes later received a text from Mark Lamb noting that Rivera-Wagner had in fact returned to Central Count rather than proceeding to the Sears location.

12. I returned back as well, and Rivera-Wagner encountered me in the hall, and noted in a threatening manner that "we will be having a discussion after this." A few minutes later a number of additional police arrived, including, I was told, the Chief of Police. Others noted that Rivera-Wagner had requested this police in response to my calm questioning. As I was proceeding back up to Central Count on an escalator, I heard Rivera-Wagner behind me shouting "that's him!" He had a number of police with him and proclaimed publicly that I had "falsely accused him of not working for the City." I continued to walk up the escalator and replied that he was not the Chief Inspector, and a female police officer replied "that's true, you're not." I proceeded towards Central Count. Rivera-Wagner directed a few police officers to block me from entering Central Count. They did so. I objected that Rivera-Wagner was not the Chief Inspector or Clerk and was unauthorized under Wisconsin law to stop me from observing.

13. I continued to be arrested from entering until I physically stopped complying and entered the location. For some time I was able to observe as Rivera-Wagner sought the actual

Chief Inspector. At some point, I was surrounded by City of Green Bay police and was prevented from observing while the Chief Inspector, Rivera-Wagner, and a third woman identified as a City of Green Bay finance director discussed out of my earshot, and the Chief Inspector alone with the woman discussed out of my earshot. Ultimately, I was permitted to observe unmolested. This entire episode should be available on multiple hotel and Central Count cameras.

14. At multiple times throughout the evening, unpoliced side entrances to the Central Count were left propped open, and I alerted the Chief Inspector. At multiple times, individuals brought large backpacks and other unsecure containers into the polling location, and were not stopped by security. This should be captured on camera. Mark Lamb and myself did notice boxes of absentees delivered from City Hall throughout the evening, and were not given answers to basic chain-of-custody questions. We have photographs of boxes being placed with poor security, with additional reams of ballots placed on top, near personal bags. Security throughout was very lax.

15. At one point, I believe it was Rivera-Wagner who handed a woman a ballot envelope in a surreptitious manner. I later learned this woman was Kim Wayte, the Deputy Clerk, who was on hand the entire evening adjudicating disputes and handling reams of ballots. The manner in which this occurred was odd, as the ballot was being treated as a "hot potato." She noticed me watching, got perturbed, and spent the next 20 minutes walking around with the ballot, unable to pass it off. During this time, she spoke with Rivera-Wagner, Spitzer-Rubenstein, and others, and ceased doing her normal duties. I had another two observers keep an eye on her and the ballot. Eventually, she placed it in the "dead" zone

in the back of the room, and when we objected and asked to look at it, said that that was where it belonged, as a "rejected" ballot. Later in the evening after the news was reporting that Donald Trump would win Wisconsin, Wayte organized a group to go through all the files in the back, moving much material from the back to the front again for processing. It was explained to me by the Chief Inspector that "rejected" ballots might accidentally make it back there and that they would need to be processed.

16. At all times at Central Count, there were various unmanned optical scanners. At all times at Central Count, there were tables of ballots being moved without apparent regard to their Ward. I personally saw Wayte and the woman who was described to me as a City finance director handling reams of ballots and asking questions. Once, I heard that woman ask "Is Ward 8 still open on the optical scanner? No? Then send these to be a part of Ward 9." That suggested to me that there was disregard for which Ward ballots belonged to, although at the time I did not understand.

17. I witnessed the mayor speaking with a female aide after close, and overheard him asking for a count. That woman then went from scanner to scanner and was able to obtain a vote count. She also spoke with Rivera-Wagner and others while performing this exercise, although she was unaware she was watched. The woman then tabulated and reported back. When I asked the Chief Inspector for a count, I was told to speak with Kim Wayte. When I did, I was told that for managerial reasons I would have to wait until the machines were downloaded, but that I would get a count. I later mentioned this to the Chief Inspector. At around 3:30-4:00am, the main counting machine was downloaded and shut down, and there was a paper print out: this was all handled by Wayte. I asked

for a count, and was told again to wait until she had it all in hand. Shortly thereafter, I noticed Wayte was missing, and I asked the Chief Inspector where the thumb drives were. The Chief Inspector noted that the thumb drives belonged to her, but that Wayte had them on hand in the room. I asked where Wayte was and the Chief Inspector replied that she stepped out to the bathroom but that I was entitled to the count when she got back. Ten minutes later, I asked again and the Chief Inspector noted that Wayte had returned to City Hall, and I was not given a reason why. A short time afterward I caught Wayte entering the facility and I asked her where she had been. She noted that she had gotten printer paper. I asked where the thumb drive and printout were, and asked for a count. She mentioned that I would get a count shortly. Then she proceeded to shut down another small optical scanner. I then asked for a count again, and she read me two numbers for Wards 8 and 9. I then asked about the main counting machine. She mentioned she had accidentally left that drive in her office. I asked about the printout. That was in her office as well. I asked when I would get a count from that machine and she said I would not receive one. I mentioned this to some media who had arrived and I was told that I would of course receive a count once it was all done. Observers and the media never received any count, although the mayor had.

18. I have additional information and can provide witnesses and more specific time-stamps to everything written herein.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct to the best of my knowledge.

EXECUTED ON: November 16, 2020

By: Andrew R. Kloster



Law Forward Inc.  
P.O. Box 326  
Madison, WI 53703-0326

January 28, 2022

**Via email**

City of Green Bay Ethics Board  
c/o Attorney Michael May  
Boardman & Clark LLP  
1 South Pinckney Street, Suite 410  
PO Box 927  
Madison, WI 53701-0927

**Re: *Rollin Code of Conduct Complaint***

To the City of Green Bay Ethics Board,

On behalf of Mayor Genrich, thank you for giving our client an opportunity to provide this reply in support of the jurisdictional arguments raised in our December 9, 2021 letter. As explained below, Complainant Kimber Rollin's ("Rollin") Response to those arguments, submitted on January 18, 2022, failed to address the jurisdictional defects that doom her original Complaint. Because those fatal defects persist, the Complaint should be dismissed.

To be clear, not only is Rollin's Complaint deficient under the City of Green Bay Code of Conduct (the "Code"), it is also based on blatant falsehoods and borderline slanderous accusations. Thanks to the dedication and work of countless city employees, poll workers, and volunteers, the 2020 General Election was administered in full compliance with the law and in accordance with the ethical principles applicable to the Mayor and all city officials.

Apart from the many courts and administrative agencies which have unanimously rejected the allegations rehashed in Rollin's Complaint, on May 4, 2021, the Common Council adopted a resolution expressing full confidence in the City's administration of the August and November 2020 Elections. That resolution noted that decisions about the elections were made publicly and approved by the Common Council, and it rejected allegations of impropriety. Similarly, the City Attorney prepared an exhaustive report<sup>1</sup> for the Common Council, finding "no issues affecting the integrity of the election." Under intense scrutiny and in the midst of a pandemic, the City of Green Bay fulfilled its obligation to the people who live and vote in this community. While the jurisdictional problems with Rollin's Complaint require dismissal, the Mayor nonetheless wishes to reiterate his pride in how the City conducted the 2020 General Election.

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<sup>1</sup> Available at <https://greenbaywi.gov/DocumentCenter/View/6657>

## 1. The Complaint is Not Timely

Rollin does not attempt to argue that she filed her Complaint within a year of the alleged events. Rather, Rollin claims that some of her Complaint<sup>2</sup> should nonetheless be allowed because she did not “discover” the alleged violations until later. Rollin and Mayor Genrich agree that the Code’s timeliness rule is best analogized to Wisconsin’s “discovery rule.” (Rollin Resp., pp. 2-3) (internal citations omitted). That’s where Rollin’s argument falls apart, however, as she neither demonstrates any reasonable diligence nor responds to the arguments raised by Mayor Genrich.

As Rollin points out in her Response, a party can rely on the discovery rule only if they have exercised reasonable diligence. (Rollin Resp., p. 3). A party seeking to rely on the discovery rule bears the burden of demonstrating that, “the delay in their discovery of the claim was reasonable.” *Christ v. Exxon Mobil Corp.*, 2015 WI 58, ¶66, 362 Wis. 2d 668, 866 N.W.2d 602. Parties “may not close their eyes to means of information reasonably accessible to them and must in good faith apply their attention to those particulars which may be inferred to be within their reach.” *Spitler v. Dean*, 148 Wis. 2d 630, 638, 436 N.W.2d 308 (1989).

In the Response, Rollin asserts that she discovered the facts alleged in the Complaint on or after March 12, 2021 – the date that the City of Green Bay published its responses to election-related open records requests on its website. (Rollin Resp., pp. 3-4). That is insufficient to show that Rollin exercised any diligence, let alone the degree of diligence required by Wisconsin law. Despite this being one of the most closely-watched elections in recent history, and despite the existence of pre-election litigation and media reports, Rollin does not describe any efforts she undertook to find more information, other than to passively wait for the City of Green Bay to provide documents to her. Despite arguing that reasonable diligence is a “question of fact,” Rollin made no showing of what she did to meet that standard – for example, by requesting documents, making inquiries, or reading news reports - and therefore has not met her burden.

Even if the Board were willing to engage with Rollin’s reasonable-diligence argument, it fails on its face. Having abandoned her claims regarding pre-election activity, Rollin’s Response largely discusses allegations surrounding activity on election day, November 3, 2020. The facts Rollin cites, however, underscore that her Complaint was not timely. Rollin recites second-hand accounts of what allegedly occurred at Central Count on November 3, 2020. (Rollin Resp., pp. 3-5). It is not the case that this information was outside Rollin’s grasp until March 12, 2021. As required by law, and as confirmed by the Observer Log, Central Count was open for observation on election day. Wis. Stat. § 7.41. Even if Rollin was not willing or able to appear as an observer at Central Count, the City of Green Bay livestreamed the entire proceeding. Similarly, information regarding Michael Spitzer-Rubenstein was

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<sup>2</sup> Rollin makes no effort to argue that the portions of the Complaint alleging events that occurred in June and July of 2021 were timely.

available long before November 3, 2020. In the City Attorney's April 21, 2021 Memorandum, City Attorney Chavez pointed out that the National Vote at Home Institute began offering best-practice assistance in Wisconsin in the late spring of 2020. Mr. Spitzer-Rubenstein began offering support to the City of Green Bay in mid-August. Mr. Spitzer-Rubenstein maintains a public LinkedIn profile that identifies him as a resident of New York<sup>3</sup>.

Mayor Genrich addressed many of these facts – that Central Count was open to the public; that the activities there were livestreamed; that many of the allegations raised in Rollin's Complaint were the subject of pre-election litigation and media reports – in his December 9, 2021 letter brief. Ms. Rollin chose not to respond to those facts, which amounts to a concession. *Charolais Breeding Ranches, Ltd. v. FPC Sec. Corp.*, 90 Wis. 2d 97, 109, 279 N.W.2d 493 (Ct. App. 1979). In any event, the fact that the whole proceeding was public is fatal to Rollin's reasonable-diligence argument. Reasonable diligence is absent "when another method of investigation probably would have discovered the defendants' identity sooner." *Jacobs v. Nor-Lake, Inc.*, 217 Wis. 2d 625, 635, 579 N.W.2d 254 (Ct. App. 1998). Rollin had every opportunity to observe Central Count, which was run by an employee of the City Clerk and comported in every way with the legal and ethical requirements for election administration in Wisconsin and in the City of Green Bay. Rollin chose not to do so, and then she waited too long to file this Complaint, in violation of the procedure set forth in the City of Green Bay Code of Conduct. City of Green Bay Code of Conduct, § 8.B. It should be dismissed as untimely.

## 2. Rollin's Complaint Does Not Allege a Violation of the Code

The Code unambiguously requires that a Complaint include the following:

- (1) The complainant's name, address and contact information;
- (2) The name and position of the City official who is the subject of the complaint;
- (3) The nature of the alleged violation, *including the specific provision of the Code allegedly violated*; and
- (4) A statement of the facts constituting the alleged violation and the dates on which, or period of time during which, the alleged violation occurred.

City of Green Bay Code of Conduct, § 8.A (emphasis added). Rollin does not seem to dispute that her November 4 Complaint did not meet this requirement. Instead, her Response generally references two *different* sections of the Code – Sections 3 and 4 – which Rollin did not reference or cite in the Complaint. Apart from being even more untimely, these new, unsworn allegations provide no information to the Board about the nature of Rollin's complaint. Rollin again fails to identify the specific provision of the Code allegedly violated or what facts she believes support those assertions. Instead, she describes Sections 3 and 4 in generalities, followed by a list of factual misstatements. Both Sections 3 and 4 contain

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<sup>3</sup> <https://www.linkedin.com/in/mspitzerrubenstein/>

actual provisions regarding ethical conduct in the City of Green Bay. City of Green Bay Code of Conduct, §§ 3.A – 3.D; 4.A – 4.D (i.e., provisions requiring elected officials to refer to staff by their title followed by last name in public meetings; prohibiting elected officials from attempting to unethically influence purchasing decisions; and requiring elected officials to be fair and equitable in allocating public hearing time). Apart from being baseless, Rollin’s new allegations are also unsworn, untimely, and do not follow the procedure required by the Code.

This appears to be an attempt to fix the major problem with the Complaint – it is an effort to relitigate before this Board various theories about the 2020 General Election that have already been debunked elsewhere. Rollin again cites Chapter 7 of the Wisconsin Statutes, which is outside the Code and is instead administered by the Wisconsin Elections Commission. (Rollin Resp., p. 6).

Finally, a significant number of the new factual allegations in Rollin’s Response involve Mr. Spitzer-Rubenstein. (Rollin Resp., pp. 3-6). Mr. Spitzer-Rubenstein is not and has never been an elected official subject to the Code. City of Green Bay Code of Conduct, § 8.A.

### **3. Rollin’s Complaint Did Not Meet the Requirements of Section 8.B of the Code**

Rollin simply did not respond to the Mayor’s argument that her Complaint fails to meet the requirements of Section 8.B of the Code because it includes no information identifying documents and/or witnesses relevant to the allegations. Here, too, Rollin’s failure to respond constitutes a concession. *Charolais Breeding*, 90 Wis. 2d at 109.

Rollin’s Response attaches and references a number of publicly available documents and affidavits. If Rollin sought to rely on these documents, the Code required her to attach them to, or at minimum to identify them in, her Complaint. City of Green Bay Code of Conduct, § 8.A. Moreover, the information Rollin has now provided does nothing to support her allegations. The affidavit of Andrea Johnson does not mention Mayor Genrich at all, and it confirms that an employee of the City Clerk ran Central Count. (Johnson Aff., ¶ 26). The affidavit of Elizabeth Rankin and the declaration of Andrew Kloster similarly have little to do with Mayor Genrich’s conduct, and neither does anything to support the allegations contained in the Complaint. Even if these documents were credible (and they are not), they do nothing to cure the original deficiency or avoid the necessity for dismissal.

### **4. *Carlstedt et al. v. Wisconsin Elections Commission***

Rollin states, correctly, that on January 6, 2022, after Mayor Genrich’s December 9, 2021 letter to the Board, several individuals filed in the Circuit Court for Brown County an appeal from the decision of the Wisconsin Elections Commission decision in *Carlstedt et al. v. Wolfe et al.* That matter remains pending before the Circuit Court.



Law Forward Inc.  
P.O. Box 326  
Madison, WI 53703-0326

The Wisconsin Elections Commission decision, which is the subject of the appeal and referenced in Mayor Genrich's December 9 letter, found no probable cause to believe that any respondent, including Mayor Genrich, violated the law or committed an abuse of discretion in connection with the City's receipt or use of grants during the 2020 General Election. The decision also noted that there was a prior complaint filed against Mayor Genrich in 2020, which was also dismissed for lack of probable cause.

## 5. Requests for Recusal

As part of her Response, Rollin has requested that Board members Cheryl A. Renier-Wigg and Alder Bill Galvin be recused from this matter, and she seems to reserve the possibility of requesting further recusals.

Mayor Genrich has not requested the recusal of any member, and he defers to the decisions of the Board and its members. The Mayor denies without qualification Rollin's accusations that he has or would improperly influence the Board or its members.

On behalf of Mayor Genrich, we look forward to appearing before the Board in February. If we can provide any additional information to the Board before that time, please contact me at [dlenz@lawforward.org](mailto:dlenz@lawforward.org) or at 608-556-9120.

Thank you

*Electronically signed by Daniel S. Lenz*  
Daniel S. Lenz  
Staff Counsel  
Law Forward, Inc.

CC: Kimber Rollin  
Stafford Rosenbaum LLP

December 8, 2021

VIA EMAIL: [kaardal@mklaw.com](mailto:kaardal@mklaw.com)

Erick G. Kaardal, Esq.  
Mohrman, Kaardal & Erickson, P.A.  
150 South Fifth Street, Suite 3100  
Minneapolis, MN 55402

RE: In the Matter of *Carlstedt, et al. v. Wolfe*  
Case No. EL 21-24

Dear Mr. Kaardal:

As you know, the law firm of DeWitt LLP (“DeWitt”) is retained as special counsel for the Wisconsin Elections Commission (“Commission”) with respect to the above-referenced matter. This letter is in response to the Complaint, dated April 8, 2021, which you submitted to the Commission on behalf of your clients, Richard Carlstedt, Sandra Duckett, James Fitzgerald, Thomas Sladek, and Lark Wartenberg (collectively, the “Complainants”).

### **Procedural History**

The Complaint, brought pursuant to Wis. Stat. § 5.06, is filed against Meagan Wolfe, Administrator of the Commission; Eric Genrich, Mayor of the City of Green Bay; Celestine Jeffreys, the former Chief of Staff for the Green Bay Mayor and current Clerk for the City of Green Bay; and Kris Teske, the former Clerk for the City of Green Bay. Complainants accompanied the Complaint with an Appendix of nearly 400 pages.

By email to all parties dated May 15, 2021, DeWitt established a deadline of June 15, 2021 for Respondents to respond to the Complaint. On June 15, 2021, Respondents Genrich and Jeffreys filed a joint Answer (“Answer”) and supporting Affidavit of Vanessa R. Chavez, Respondent Teske filed a response, the City Attorney for the City of Green filed a separate Motion to Dismiss Respondent Teske, and Respondent Wolfe filed both a Response and a Motion to Dismiss All Claims Against Her, along with a supporting brief.

By email dated June 23, 2021, DeWitt established a deadline of July 28, 2021 for Complainants to reply. On July 28, 2021, Complainants filed a single Memorandum of Law and Appendix in the above-referenced matter and four others (Case Nos. EL 21-29, 21-30, 21-31, and 21-33). Respondents Genrich and Jeffreys objected to the combined Memorandum of Law and Appendix by letter dated August 9, 2021. By email dated August 12, 2021, DeWitt notified all parties that Complainants’ combined Memorandum of Law and Appendix were not accepted and were to be considered stricken from the record in this matter. DeWitt permitted Complainants to file a separate reply for this matter by August 19, 2021.

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On August 19, 2021, Complainants filed a separate Reply in the above-referenced matter, along with a lengthy Appendix of 1077 pages. Respondents Genrich and Jeffreys again objected to the Reply by letter dated August 24, 2021, arguing that the Reply incorporated new facts and issues not raised in the initial Complaint. By email dated August 30, 2021, DeWitt granted Respondents the opportunity to file a sur-reply brief no later than September 13, 2021, which deadline DeWitt later extended to September 27, 2021 by email dated September 9, 2021. Respondents Genrich and Jeffreys filed a sur-reply brief on September 27, 2021. Also on September 27, 2021, Respondent Wolfe filed a reply brief in support of her motion to dismiss.

The Commission has reviewed the above-identified Complaint; Respondents' various responses, answers, and motions; Complainants' Reply; and Respondents' various sur-reply and reply briefs. The Commission provides the following analysis and decision pursuant to Wis. Stat. § 5.06 and the Delegation of Authority adopted by the Commission in 2018 and most recently amended on February 27, 2020.

In short, the Commission finds that Complainants did not show probable cause to believe that a violation of law or abuse of discretion occurred with regard to the claims asserted in the Complaint.

### **Complainants' Allegations**

The Complaint states that Complainants are all Wisconsin electors residing in Green Bay, Wisconsin. Complaint, ¶¶ 1-5. No respondent has provided any evidence to contest Complainants' residency.

Complainants allege that, beginning in May and June 2020, "the City of Green Bay adopted private corporation conditions on the election process affecting state and federal elections." Complaint, p. 2. Specifically, Complainants object to the City of Green Bay's acceptance of private grants provided by the Center for Tech and Civic Life ("CTCL"), a private non-profit organization headquartered in Chicago, Illinois. Complaint, ¶ 18. The Complaint alleges that the CTCL grant money was issued pursuant to a grant application referred to as the "Wisconsin Safe Voting Plan" ("WSVP"). Complaint, ¶¶ 25, 28. The Complaint alleges that CTCL money was accepted by the City of Green Bay, the City of Racine, the City of Kenosha, the City of Milwaukee, and the City of Madison. Complaint, ¶¶ 25-26, 28. The Complaint refers to these five municipalities as the "WI-5" or "Wisconsin Five." Complaint, ¶ 32.

By accepting the CTCL grant money and working with CTCL representatives, Complainants allege that "Green Bay failed to comply with state laws, including obtaining from the Commission a prior determination of the legality of the private corporate conditions in the election process, and failed to comply with the U.S. Constitution's Elections and Electors Clauses which guarantee the state Legislature the exclusive role in approving Wisconsin's legal conditions relating to federal elections." Complaint, p. 3. *See also* Complaint, ¶¶ 102-108. Complainants argue that the acceptance of the private grant funds led to "the ubiquitous involvement of private corporations in the Wisconsin 5 cities' election administration prior to, during and after the election," for which the City of Green Bay, Complainants assert, had no legal authority. Reply, pp. 3-5.

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Complainants also argue that the acceptance of the CTCL grant money by the “Wisconsin Five” “affected [Complainants] as a demographic group.” Complaint, ¶ 46 (“[W]ith the added private conditions on Green Bay’s election process, the Green Bay Complainants were within a jurisdictional boundary that affected them as a demographic group.”). *See also* Complaint ¶ 47 (“[B]y the Wisconsin Five cities contracting with CTCL and allied private corporations, the Wisconsin Five cities chose to favor the Wisconsin Five’s demographic groups of urban voters over all other voters in the State of Wisconsin.”). In their reply, Complainants went further with this assertion, arguing that “[t]he Wisconsin 5 cities’ WSVP provisions violate the Equal Protection Clause because it contains contract provisions picking and choosing among groups of similarly situated voters for improved in-person and absentee voting access.” Reply, p. 4.

With respect to Respondent Wolfe, the Complaint alleges that “WEC Administrator Meagan Wolfe ... 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.” Complaint, ¶ 100. The Complaint generally cites testimony Respondent Wolfe gave on March 31, 2021 before the General Assembly’s Campaigns and Elections Committee (although Complainants do not provide any specific quotations from such testimony). In their Reply, Complainants take the position that Respondent Wolfe’s “testimony confirms an admission of issuing an unwarranted advisory opinion on a disputed claims when the Commission itself has that sole authority.” Reply, p. 87.

The Complaint seeks six essential forms of relief:

- Complainants first request that the Commission “investigate the circumstances and factual allegations asserted in this Complaint regarding the legality of Green Bay’s acts and actions juxtaposed against state and federal election laws to ascertain whether those election laws were violated.” Complaint, pp. 4, 31.
- Complainants also ask that the Commission “issue an order requiring the Administrator, City of Green Bay and its City Clerk to conform their conduct to Wisconsin Statutes and the Election and Electors Clauses, restrain themselves from taking any action inconsistent with Wisconsin Statutes and the Election and Electors Clauses and require them to correct their actions and decisions inconsistent with Wisconsin Statutes and the Election and Electors Clauses—including prohibiting the placement of private corporate conditions on state and federal elections and the involvement of private corporation and their employees in election administration.” Complaint, p. 32.
- Complainants request that the “Commission ... issue an order declaring that Green Bay’s private conditions on federal elections and engagement of private corporations and their employees in election administration violated state law and federal law.” Complaint, p. 32. *See also* Complaint, p. 4.
- Complainants argue that the Commission should “reiterate that the Administrator may not render a decision without the approval of the Commission related to the legality of any agreement between private corporate entities and municipalities related to imposing private

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corporate conditions on its elections or related to private corporations and their employees being engaged in the administration of election laws.” Complaint, pp. 32-33, 4.

- Complainants ask that the Commission consider “direct[ing] to the proper local or state authorities” “any further prosecutorial investigation.” Complaint, pp. 33, 4.
- “Finally, if the Commission determines that election laws were violated or that the law is unclear to provide the Commission itself with the ability to determine the legalities of private corporate conditions directly or indirectly affecting the election process and administration,” Complainants ask that “the Commission . . . make recommendations to the State Legislature for changes to state election laws to ensure the future integrity of the election process.” Complaint, pp. 4-5, 33.

### **Respondents’ Asserted Defenses to Complaint**

None of Respondents dispute the essential fact that the City of Green Bay accepted and received the CTCL grant money.

Respondents Genrich and Jeffreys assert several defenses to the Complaint, including the following:

- “Complainants fail to point to any law which prohibits the City’s acceptance of outside funds in order to provide a safer voting experience for its electorate, or even any law they claim was violated.” Answer, p. 2. Respondents Genrich and Jeffreys argue that “[t]he Legislature has acknowledged that current law includes no such provision [prohibiting municipalities from using private grant funds] by its ongoing attempts to enact such a law.” Answer, p. 2 (citing 2021 Wis. S.B. 207 and 2021 Wis. A.B. 173).
- “[T]he CTCL grants were issued to municipalities without regard to the partisan make-up of their electorates. In fact, the City was one of 218 municipalities in Wisconsin to receive grant funds from CTCL.” Answer, p. 3. Complainants do not contest this fact, although, in their reply, they cite reports from two non-profit organizations contending that “large cities” received the majority of CTCL funds. *See Reply*, pp. 7-9.
- “The Complaint is not timely.” Answer, p. 4. *See also Answer*, pp. 5-14.
- The Complaint “does not set forth facts establishing probable cause to believe that a violation of law has occurred.” Answer p. 4. *See also Answer*, pp. 14-16.
- “Complainants seek to have the Commission do administratively that which is the sole purview of the legislature: craft new election law.” Answer, p. 4. *See also Answer*, pp. 22-23; *Sur-Reply*, p. 10 (“Complainants[’] . . . true goal . . . is to have the Commission go beyond its legislatively-created authority to investigate election law violations, and instead create a policy that will apply to future elections. The Commission is an administrative,

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not legislative, body. The appropriate forum for Complainants' requested policy changes in therefore the legislature, not the Commission.”).

The City Attorney for the City of Green Bay further argues that Respondents Genrich, Jeffreys, and Teske are not proper parties to the Complaint. This argument is presented as follows: “[A]ll of Complainants’ legal arguments center around the acceptance of the CTCL grant funds and approval of how those funds were to be used. Neither the Mayor, his Chief of Staff, nor the City Clerk, in any of their professional capacities, had authority to accept the grant. The Common Council took that action. The named Respondents are not synonymous with the entire City government; they have specific roles within it, and those roles do not include authority to accept the CTCL grant funds.” Answer, p. 15. *See also* Motion to Dismiss Respondent Teske.

In her Response to the Complaint, Respondent Wolfe admits that she gave legislative hearing testimony before the General Assembly’s Campaigns and Elections Committee on March 31, 2021. Response, p. 51. However, Respondent Wolfe asserts several defenses to the Complaint, including the following:

- Respondent Wolfe argues that the mere act of testifying before a legislative committee cannot be unlawful. Brief in Support of Motion to Dismiss, p. 9 (citing Wis. Stat. § 13.35(1)).
- Respondent Wolfe argues that her “legislative testimony on March 31, 2021 cannot possibly have contributed to any illegality in the conduct of the 2020 Presidential election, which had already taken place more than three months earlier.” Brief in Support of Motion to Dismiss, p. 10 n.3.
- Respondent Wolfe alleges that, in her legislative hearing testimony, she declined to comment on the lawfulness of the municipalities’ actions, stating: “I cannot offer my opinion or speculation on actions of individual municipalities. ... It would be outside of my statutory or delegated authority to determine if a municipality has acted lawfully.” Brief in Support of Motion to Dismiss, p. 10 n.3. Complainants did not contest the accuracy of this quotation.
- Respondent Wolfe alleges that she “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 municipals officials and outside consultants.” Response, p. 52.
- Respondent Wolfe denies “that she has engaged in, supported, or endorsed any activities contrary to federal law, state law, or directives of the Commission.” Response, p. 56. She asserts that, despite Complainants’ allegations that she “publicly supported” the decision to accept grant funding (Complaint, p. 2 and ¶ 100), Complainants failed to back their assertions with actual facts: “[T]he Complaints do not identify any actual actions through which she purportedly provided such public support, other than legislative committee testimony that she gave almost five months after the 2020 election had taken place, and

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even longer after the municipalities had received and used the funds in question. Nor do they allege any facts concerning any non-public actions by the Administrator.” Reply Brief in Support of Motion to Dismiss, p. 3.

### **Commission Authority and Role in Resolving Complaints Under Wis. Stat. § 5.06**

The Commission’s role in resolving complaints filed under Wis. Stat. § 5.06 is to determine whether an election official acted contrary to applicable election laws or abused their discretion in administering applicable election laws. *See* Wis. Stat. § 5.06(1) (“Whenever any elector of a jurisdiction or district served by an election official believes that a decision or action of the official or the failure of the official to act ... is contrary to law, or the official has abused the discretion vested in him or her by law ..., the elector may file a written sworn complaint with the commission....”).

The Commission has the inherent, general, and specific authority to consider the submissions of the parties to a complaint and summarily decide the issues raised. *See* Wis. Stat. § 5.06(6) (“The commission may, after such investigation as it deems appropriate, summarily decide the matter before it....”).

Here, the essential fact underlying all of Complainants’ allegations – the City of Green Bay’s acceptance of CTCL grant funds – is undisputed. As described below, the Commission concludes that this essential fact fails to give rise to probable cause to find that Respondents committed a violation of law or abuse of discretion. Therefore, the Commission issues this letter, which serves as the Commission’s final decision regarding the issues raised in the Complaint.

### **Commission Findings**

#### **A. There Is No Probable Cause To Find That Respondents Committed A Violation Of Law Or An Abuse Of Discretion.**

Under Wis. Stat. § 5.06(1), a “complaint shall set forth such facts as are within the knowledge of the complainant to show probable cause to believe that a violation of law or abuse of discretion has occurred or will occur.” Probable cause is defined in Wis. Admin. Code EL § 20.02(4) to mean “the facts and reasonable inferences that together are sufficient to justify a reasonable, prudent person, acting with caution, to believe that the matter asserted is probably true.” “Information which may establish probable cause includes allegations that set forth which persons are involved; what those persons are alleged to have done; where the activity is believed to have occurred; when the activity is alleged to have occurred and who are the witnesses to the events.” Wis. Admin. Code EL § 20.03(3).

Complainants, therefore, have the obligation to set forth sufficient facts to show probable cause to believe that Respondents Genrich, Jeffreys, and Teske committed a violation of law or abuse of discretion as a result of the City of Green Bay’s acceptance of CTCL grant money, which allegedly resulted in the adoption of “private corporation conditions on the election process” and the “involvement of private corporations in ... election administration.”

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Complainants also have the obligation to set forth sufficient facts to show probable cause to believe that Respondent Wolfe committed a violation of law or abuse of discretion as a result of allegedly supporting “the Wisconsin Five cities’ claimed prerogative to adopt private corporate conditions.”

The Commission concludes that Complainants have not set forth sufficient facts to show probable cause as required under Wis. Stat. § 5.06(1), for the reasons discussed below.

*i. The Acceptance of Private Grant Money, With Or Without Conditions And Consultant Involvement, Is Not Prohibited By Any Law The Commission Administers.*

This is not the first complaint the Commission has received related to the CTCL grant money. On August 28, 2020, another complaint was filed in Case No. 20-18 asserting that several respondents (including Eric Genrich and Kris Teske, who are Respondents in this action) acted contrary to law and/or abused their discretion as a result of acceptance of the CTCL money. The Commission concluded, in part, that the complaint did not state probable cause because “the complaint does not allege any violations of election law that the Commission has authority over to enforce or investigate.”

The Commission has “the responsibility for the administration of chs. 5 to 10 and 12 and other laws relating to elections and election campaigns, other than laws relating to campaign financing.” Wis. Stat. § 5.05(1). *See also* Wis. Stat. § 5.05(2w). A complaint under Wis. Stat. § 5.06(1) must therefore assert a violation of one of these chapters of the Wisconsin Statutes, or “other laws relating to elections and election campaigns.”

The Complaint in this matter cites Wis. Stat. § 7.15(1), the Elections Clause of the United States Constitution, and the Electors Clause of the United States Constitution as the basis for Complainants’ action. In their Reply, Complainants also referenced the Equal Protection Clause.

Respondents argue that none of these statutory or constitutional provisions explicitly prohibit the acceptance of private grant monies or the use of outside consultants. Respondents are correct.

Wis. Stat. § 7.15(1) states that municipal clerks have “charge and supervision of elections and registration in [each] municipality.” The municipal clerk “shall perform” certain duties specified in subsections (a) through (k) of the statute, as well as “any others which may be necessary to properly conduct elections or registration.” Wis. Stat. § 7.15(1). There is no language in section 7.15(1) that prohibits municipal clerks from using private grant money or working with outside consultants in the performance of their duties.

The Elections Clause of the U.S. Constitution states as follows:

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 (cited at Complaint, ¶ 13).

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The Electors Clause of the U.S. Constitution provides:

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 (cited at Complaint, ¶ 14).

Complainants argue that the Elections and Electors Clauses “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.” Complaint, ¶ 15. However, Complainants do not show that either the Elections Clause or the Electors Clause of the U.S. Constitution *prohibit* the adoption of private corporate conditions or the introduction of private corporation employees into the election process.

As Respondents Genrich and Jeffreys note in their Response, two bills introduced in March 2021 demonstrate the absence, in existing law, of any prohibition on the acceptance of private grant money or the use of outside consultants. 2021 Senate Bill 207 and 2021 Assembly Bill 173 would prohibit any official from “apply[ing] for or accept[ing] any donation or grant of private resources” (including “moneys, equipment, materials, or personnel provided by any individual or nongovernmental entity”) “for purposes of election administration.” The bill would also prohibit the appointment of any poll worker who is an employee of an “issue advocacy group.” This language is not currently in any Wisconsin statute; nor was it in the lead up to the November 2020 election.

Furthermore, a number of courts around the country have remarked upon whether the U.S. Constitution or federal election law prohibits the activities to which Complainants are objecting in this action. These courts have not found such prohibitions in the U.S. Constitution or federal laws.

For example, the United States District Court for the Eastern District of Wisconsin previously concluded that a group of plaintiffs (represented by the same attorney as is currently representing Complainants in this matter) failed to show a reasonable likelihood of success on the merits of a claim based upon similar allegations. In *Wisconsin Voters Alliance v. City of Racine*, No. 20-C-1487, 2020 WL 6129510 (E.D. Wis. Oct. 14, 2020), the plaintiffs alleged that various cities (including the City of Green Bay) were prohibited from accepting and using private federal election grants by, among other things, the Elections Clause of the U.S. Constitution. The court declined to grant a temporary restraining order, stating:

Plaintiffs have presented at most a policy argument for prohibiting municipalities from accepting funds from private parties to help pay the increased costs of conducting safe and efficient elections. The risk of skewing an election by providing additional private funding for conducting the election in certain areas of the State may be real. The record before the Court, however, does not provide the support needed for the Court to make such a determination, especially in light of the fact that over 100 additional Wisconsin

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municipalities received grants as well. Plaintiffs argue that the receipt of private funds for public elections also gives an appearance of impropriety. This may be true, as well. These are all matters that may merit a legislative response but **the Court finds nothing in the statutes Plaintiffs cite, either directly or indirectly, that can be fairly construed as prohibiting the defendant Cities from accepting funds from CTCL.** Absent such a prohibition, the Court lacks the authority to enjoin them from accepting such assistance.

2020 WL 6129510, at \*2, *appeal dismissed sub nom. Wisconsin Voters All. v. City of Racine*, No. 20-3002, 2020 WL 9254456 (7th Cir. Nov. 6, 2020) (emphasis added) (internal citations omitted).

Other courts have likewise concluded that no language in the U.S. Constitution or other election-related laws prohibits municipalities from accepting private grant money. *See Election Integrity Fund v. City of Lansing*, No. 1:20-CV-950, 2020 WL 6605985, at \*1 (W.D. Mich. Oct. 2, 2020) (“Plaintiffs’ complaint and motion allege that the Cities’ receipt of grants from CTCL violates the Constitution, the Help America Vote Act, 52 U.S.C. § 20901, *et seq.*, and the National Voters Registration Act, 52 U.S.C. § 20501, *et seq.* But Plaintiffs never identify language in any of those laws that explicitly prohibits cities from accepting private grants to administer elections. On the Court’s review, no such explicit prohibition exists.”) (denying motion for temporary restraining order); *Iowa Voter All. v. Black Hawk Cty.*, No. C20-2078-LTS, 2020 WL 6151559, at \*3-4 (N.D. Iowa Oct. 20, 2020) (“Plaintiffs have not provided any authority, nor have I found any, suggesting that the Elections Clause imposes specific limits or restrictions as to how a federal election must be funded. ... There may be valid policy reasons to restrict or regulate the use of private grants to fund elections. However, it is for Congress and/or the Iowa Legislature, not the judicial branch, to make those policy judgments.”); *Georgia Voter All. v. Fulton Cty.*, 499 F. Supp. 3d 1250, 1255 (N.D. Ga. 2020) (“Fulton County’s acceptance of private funds, standing alone, does not impede Georgia’s duty to prescribe the time, place, and manner of elections, and Plaintiffs cite no authority to the contrary.”).

The Commission is persuaded by the case law cited above. Complainants have failed to identify any existing state or federal law prohibiting the acceptance of the CTCL grant money or work with outside consultants. Multiple federal courts have failed to find that existing law prohibits such activities, and the Commission likewise does not find such a prohibition to exist.

Unable to cite an explicit prohibition in existing law, Complainants attempt to save their claims with a different argument. Citing *Trump v. Wisconsin Elections Commission* (“*Trump v. WEC*”), 983 F.3d 919, 927 (7th Cir. 2020), Complainants argue that Respondents violated the Electors Clause by committing a “diversion of ... election law authority” when they accepted the CTCL grant money. *See* Complaint, ¶¶ 106-107. However, this citation works against Complainants, not for them.

The *Trump v. WEC* case concerned contested guidance issued by the Commission prior to the election. In its decision, the United States Court of Appeals for the Seventh Circuit examined the scope of the Electors Clause. “By its terms,” the court noted, “the Clause could be read as addressing only the manner of appointing electors and thus nothing about the law that governs the administration of an election (polling place operations, voting procedures, vote tallying, and the like).” 983 F.3d at 926. The court acknowledged, however, that the Electors Clause has been

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applied more broadly in some instances to “encompass[] acts necessarily antecedent and subsidiary to the method for appointing electors—in short, Wisconsin's conduct of its general election.” *Id.*

As examples of the Electors Clause being applied broadly, the court cited both *Bush v. Gore*, 531 U.S. 98 (2000) and *Carson v. Simon*, 978 F.3d 1051 (8th Cir. 2020). In those two cases, courts found violations of the Electors Clause where state actors invaded the province of the legislature *without being granted such authority by the legislature*.

In *Bush v. Gore*, for example, three Justices were critical of a departure from the legislative scheme put in place by the Florida legislature, finding that it violated “a respect for the constitutionally prescribed role of state *legislatures*.” 531 U.S. at 115 (Rehnquist, C.J., concurring) (emphasis original). In *Carson*, the Eighth Circuit concluded that the Minnesota Secretary of State likely violated the Electors Clause by adding a week to the deadline for receipt of absentee ballots. The court remarked that “only the Minnesota Legislature, and not the Secretary, has plenary authority to establish the manner of conducting the presidential election in Minnesota. ... Thus, the Secretary's attempt to re-write the laws governing the deadlines for mail-in ballots in the 2020 Minnesota presidential election is invalid.” 978 F.3d at 1060.

This line of authority does not support Complainants’ position because it is distinguishable from the circumstances now before the Commission. The Seventh Circuit explains the distinction in *Trump v. WEC*. The court remarked that – unlike in *Bush v. Gore* or *Carson* – the Commission had taken actions “under color of authority expressly granted to it by the Legislature.” 983 F.3d at 927. Accordingly, “even on a broad reading of the Electors clause,” the court could not find that the Commission acted unlawfully. *Id.* The “authority expressly granted to [The Commission] by the Legislature ... is not diminished by allegations that the Commission erred in its exercise.” *Id.*

Here, as in *Trump v. WEC*, the acceptance and use of CTCL funds was done “under color of authority expressly granted ... by the Legislature” for the charge and supervision of elections under Wis. Stat. § 7.15(1). Even if there were errors in the exercise of that authority, those errors do not diminish the authority and do not give rise to a violation of the Electors Clause.

Finally, Complainants attempt to assert a violation of the Equal Protection Clause. However, courts around the country considering similar claims have cast aspersions on the argument that acceptance of CTCL money results in a violation of equal protection law. A federal court in Minnesota, for example, rejected that argument as follows:

**The City's actions in applying for and accepting the CTCL grant and using the grant money to improve all manners of voting in Minneapolis in the 2020 election affect all Minneapolis voters equally. All individual Plaintiffs are Minneapolis voters.** Plaintiffs fail to explain how they will be uniquely affected by Minneapolis's actions. They assert that, because Minneapolis voters are statistically more likely to be progressive, Minneapolis's actions enhancing voting in general favor progressive voters and thereby suppress Plaintiffs’ votes. However, **as Minneapolis residents, Plaintiffs, themselves, are equal recipients of Minneapolis's actions to make voting safer during the pandemic.** The City's grant-funded expenditures will make it easier for the individual

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Plaintiffs to vote safely for the candidates of their choosing and to have those ballots processed promptly, no matter which method of casting a ballot they choose. Grant money will be used to assist with mail-in voting; voting by absentee ballots via a secure drop box; voting in person at early-voting sites; voting in-person on Election Day; and voter education to assist voters in choosing how to vote.

*Minnesota Voters All. v. City of Minneapolis*, No. CV 20-2049 (MJD/TNL), 2020 WL 6119937, at \*7 (D. Minn. Oct. 16, 2020) (emphasis added).

Once again, the Commission finds this case law persuasive. Although use of the CTCL grant money in Green Bay may have resulted in benefit to Green Bay voters over those outside of Green Bay, and although voters within Green Bay may have the tendency to favor a particular political party over another, that does not constitute an equal protection violation. *See Texas Voters All. v. Dallas Cty.*, 495 F. Supp. 3d 441, 469 (E.D. Tex. 2020) (“Ultimately, Plaintiffs’ complain that people with different political views will lawfully exercise their fundamental right to vote. That is not a harm. That is democracy.”). This is particularly true where other municipalities were free to seek the same grant money as did the City of Green Bay. In fact, it is undisputed that over 200 municipalities in Wisconsin received such funding.

In an attempt to bolster their equal protection argument in their Reply, Complainants point to language in the WSVP to argue that the CTCL grant money was used to disproportionately benefit certain voters from within the City of Green Bay, to the disadvantage of others. However, the WSVP was, as Complainants state, merely the grant application. Complainants provide no facts showing that the CTCL grant money was, in fact, used to disadvantage certain segments of the electorate over others. Absent such facts, Complainants fail to raise probable cause of a potential equal protection violation. As the Eastern District of Wisconsin stated when dismissing the *Wisconsin Voters Alliance* suit:

Plaintiffs have offered only a political argument for prohibiting municipalities from accepting money from private entities to assist in the funding of elections for public offices. They do not challenge any specific expenditure of the money; only its source. They make no argument that the municipalities that received the funds used them in an unlawful way to favor partisan manner. Their brief is bereft of any legal argument that would support the kind of relief they seek.

*Wisconsin Voters All. v. City of Racine*, No. 20-C-1487, 2021 WL 179166, at \*3 (E.D. Wis. Jan. 19, 2021).

In the absence of existing state or federal law prohibiting the acceptance of private grant money or the use of outside consultants, the Commission cannot find a violation of law or abuse of discretion resulting from the CTCL grant money in the City of Green Bay. To do so would be to essentially create new election law, which is the job of the legislature, not the Commission.

Complainants urge the Commission to act notwithstanding the absence of explicit legal authority, asserting that “the Commission is not impotent” and has been provided by the legislature “with an arsenal of weapons to exercise its powers and duties.” Reply, p. 48. Specifically, Complainants cite the Commission’s statutory authority to administer laws, investigate, take testimony, bring civil

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actions, and sue for injunctive relief. *Id.* This is all true, but Complainants do not and cannot argue that the Commission has the authority to *create* law. That is undeniably the province of the legislature.

For all of the above reasons, the Commission finds that there is no probable cause to believe that the acceptance of CTCL grant money was itself or resulted in any violation of law or abuse of discretion.

*ii. There Is No Probable Cause To Find A Violation Or Abuse Of Discretion By Respondent Wolfe.*

Complainants also fail to state facts sufficient to raise probable cause to believe that Respondent Wolfe committed a violation of law or abuse of discretion, for multiple reasons.

First, although Complainants assert that Respondent Wolfe supported the City of Green Bay’s decision to accept the CTCL grant funding, Complainants fail to identify any specific action or statement on the part of Respondent Wolfe in which she allegedly provided such support. The Commission does not know with whom Respondent Wolfe allegedly communicated, what Respondent Wolfe allegedly did, what Respondent Wolfe allegedly stated, or any of the context for such details. Without such information, the Commission finds that “a reasonable, prudent person, acting with caution” could not find that Respondent Wolfe violated the law or abused her discretion. *See Wis. Admin. Code EL § 20.02(4).*

Second, the Commission rejects Complainants’ argument (asserted for the first time in their Reply) that Respondent Wolfe issued an unauthorized advisory opinion. Again, Complainants fail to state any actual facts underlying that assertion. Advisory opinions are governed by clear statutory procedures set forth in Wis. Stat. § 5.05(6a)(a). Such opinions must be requested “in writing, electronically, or by telephone” – and there is no allegation that such a request was made. Such opinions must be “written or electronic” – and there is no allegation that Respondent Wolfe issued any physical or electronic writing. Advisory opinions, “[t]o have legal force and effect,” must “include a citation to each statute or other law and each case or common law authority upon which the opinion is based” – and there is no allegation that Respondent Wolfe ever provided such citations. Again, given Complainants’ allegations, the Commission finds that “a reasonable, prudent person, acting with caution” could not find that Respondent Wolfe issued any unauthorized advisory opinions.

*iii. The Commission Need Not Determine The Remaining Issues Raised By Respondents.*

In light of its conclusion that there is no probable cause to find that the acceptance of the CTCL grant money violated election law or constituted an abuse of discretion, the Commission need not address Respondents’ other defenses, including those concerning timeliness and whether the Mayor, Chief of Staff, and former City Clerk are even proper parties to an action that relates to grant money accepted by the Common Council of the City of Green Bay.

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**Commission Decision**

Based upon the above review and analysis, the Commission finds that the Complaint does not raise probable cause to believe that a violation of law or abuse of discretion has occurred. All claims are hereby dismissed. The Commission will not conduct its own investigation of the circumstances and factual allegations asserted in the Complaint and will not issue an order with the declarations Complainants have requested.

The Commission notes that Complainants also asked that the Commission direct “any further prosecutorial investigation ... to the proper local or state authorities” and “make recommendations to the State Legislature for changes to state election laws.” Complaint, p. 33. The Commission will not provide either of these forms of relief, both because Complainants failed to establish probable cause and because they are not available forms of relief under Wis. Stat. § 5.06.

A party filing a complainant under Wis. Stat. § 5.06 may only request – and the Commission may only order – that officials be required to conform their conduct to the law, be restrained from taking action inconsistent with the law, or be required to correct any action or decision inconsistent with the law or any abuse of their discretion. *See* Wis. Stat. § 5.06(1) and (6). Referring matters for prosecution and making recommendation to the legislature are not options for relief under section 5.06.

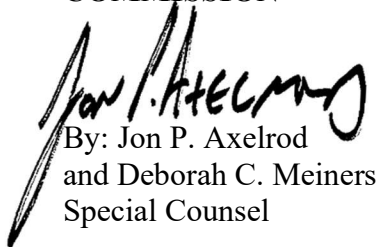
**Right to Appeal – Circuit Court**

This letter constitutes the Commission’s resolution of this complaint. Wis. Stat. § 5.06(2). Pursuant to Wis. Stat. § 5.06(8), any aggrieved party may appeal this decision to circuit court no later than 30 days after the issuance of this decision.

If any of the parties should have questions about this letter or the Commission’s decision, please feel free to contact me.

Sincerely,

**COMMISSION**

  
By: Jon P. Axelrod  
and Deborah C. Meiners  
Special Counsel

JPA:sd

cc: Commission Members  
Vanessa R. Chavez, Esq.  
Lindsay J. Mather, Esq.  
Thomas C. Bellavia, Esq.

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Steven C. Kilpatrick, Esq.  
Ms. Kris Teske