

FILED
06-04-2024
CIRCUIT COURT
DANE COUNTY, WI
2024CF001293

STATE OF WISCONSIN

CIRCUIT COURT
BRANCH __

DANE COUNTY

STATE OF WISCONSIN,

Plaintiff,

v.

Case No. 24 CF _____

KENNETH J. CHESEBRO
306 Condominium Vilamal, #701
San Juan, Puerto Rico, 00907
DOB: 06/05/1961
Sex/Race: M/W,

MICHAEL A. ROMAN
2305 Rhawn Street
Philadelphia, PA 19152
DOB: 12/07/1972
Sex/Race: M/W,

JAMES R. TROUPIS
4126 Timber Lane
Cross Plains, WI 53528
DOB: 09/30/1953
Sex/Race: M/W,

Defendants.

CRIMINAL COMPLAINT

I, Mary Van Schoyck, being duly sworn on oath, state upon information and belief as follows:

COUNT ONE
CONSPIRACY TO COMMIT A CRIME

Between at least as early as on or about November 17, 2020, and continuing through on or about January 6, 2021, in Dane County, State of Wisconsin, and elsewhere, the above-named defendants, together with other individuals not charged in this complaint, agreed or combined with another with the intent to commit and for the purpose of committing the crime of uttering as genuine

a forged writing or object, namely a “Certificate of the Votes of the 2020 Electors from Wisconsin”, knowing it to have been thus falsely made or altered, with one or more of the parties to the conspiracy doing an act to effect the objective of the conspiracy, in violation of Wis. Stat. §§ 939.31 and 943.38(2); a Class H felony punishable by a fine not to exceed \$10,000 or imprisonment not to exceed 6 years, or both, pursuant to § 939.50(3)(h).

STATEMENT OF PROBABLE CAUSE

I am currently employed as a sworn Special Agent for the Wisconsin Department of Justice, Division of Criminal Investigation (DCI) and have been employed in this capacity since October 2012.

I have been a law enforcement officer since 2005. I have investigated complex controlled substance investigations, property crimes, assaults, violent personal crimes, sexual assaults, homicide, misconduct by public officials, as well as other crimes. I have received specialized training in, and gained experience with, search warrants and subpoenas for documents, and I have submitted and received court approval for numerous applications for search warrants and subpoenas during my law enforcement career.

I helped prepare this complaint in collaboration with legal counsel from the Wisconsin Department of Justice, and swear to it upon information and belief, based upon my training and experience, my personal knowledge, information provided to me by fellow law enforcement personnel, information provided by citizen witnesses or their legal counsel, my review of publicly available open source information, or all of the above, as described more fully below.

4. This complaint is a summary of facts to establish probable cause the complaint does not contain all of the facts known to me relating to this investigation.

The Process for Certifying Presidential Election Results

According to the U.S. Constitution, the President and Vice President of the United States are chosen by “electors” from each state. The number of Presidential electors in Wisconsin is equal to the number of Senators and representatives in Congress at the time. U.S. Const., art. II, § 1, cl. 2; 3 U.S.C. § 3 (2020);⁵ Wis. Stat. § 8.25(1). In 2020, as now, Wisconsin had two senators and eight seats in the U.S. House of Representatives in Congress, so Wisconsin voters elect ten electors for the Presidential election.

The election of these Presidential electors occurs through the statewide popular vote for the offices of President and Vice President: “Although the names of the electors do not appear on the ballot and no reference is made to them, a vote for the president and vice president named on the ballot is a vote for the electors of the candidates for whom an elector’s vote is cast.” Wis. Stat. § 5.10. Wisconsin law further provides that “[a] vote for the president and vice president nominations of any party is a vote for the electors of the nominee.” Wis. Stat. § 8.25(1).

Under federal law, the Governor of each state must certify who the appointed presidential electors are for that state. 3 U.S.C. § 6 (2020). The Governor’s certification—sometimes referred to as the “certificate of ascertainment”—must set forth the names of the appointed electors and the number of votes cast for the appointed electors. 3 U.S.C. § 6 (2020). The Governor must sign and transmit this certificate to the United States Archivist “on or before the first Monday after the 2nd Wednesday in December[.]” 3 U.S.C. §§ 6-7 (2020). For the 2020 Presidential election, “the first Monday after the 2nd Wednesday in December” was Monday, December 14, 2020.

The citations in this complaint are to the version of Title 3 of the United States Code as it existed during the period from November 2020 through January 2021 (Ex. A). The process for casting and counting electoral votes pursuant to the statute was subsequently amended.

Wisconsin law requires the Governor to deliver the certificate to the appointed Presidential electors by no later than this same date (“the first Monday after the 2nd Wednesday in December”), because state and federal law both require the appointed electors to meet on that date. Wis. Stat. § 7.75(1) (requiring meeting to occur at noon at the State Capitol on that date); 3 U.S.C. § 7 (2020) (requiring the appointed Presidential electors to meet and “give their votes” on that date). In a statutory provision entitled “Presidential electors meeting”, Wisconsin law provides as follows:

The electors for president and vice president shall meet at the state capitol following the presidential election at 12:00 noon the first Monday after the 2nd Wednesday in December. If there is a vacancy in the office of an elector due to death, refusal to act, failure to attend or other cause, the electors present shall immediately proceed to fill by ballot, by a plurality of votes, the electoral college vacancy. When all electors are present, or the vacancies filled, they shall perform their required duties under the constitution and laws of the United States.

Wis. Stat. § 7.75(1).

10. Federal law defines the process that the appointed Presidential electors must follow.

The duties of the Presidential electors include the following:

To vote for President and Vice President. 3 U.S.C. § 8 (2020). Wisconsin law requires the electors to vote for the candidates of the party that nominated the electors. Wis. Stat. § 7.75(2).

To make and sign six (6) certificates of their votes from the meeting, each certificate containing “two distinct lists, one of the votes for President and the other of the votes for Vice President.” 3 U.S.C. § 9 (2020).

c. To seal the certificates and certify that the certificates contain the votes for President and Vice President. 3 U.S.C. §10 (2020).

d. To “dispose of the certificates” by delivering them as follows (3 U.S.C. § 11 (2020)):

i. one (1) copy to the President of the U.S. Senate;

two (2) copies to the Secretary of State for Wisconsin;

two (2) copies to the Archivist of the United States;

one (1) copy to the federal judge of the district where the electors met.

Wisconsin law defines the process for challenging the general election results.

Following a petition for recount by an aggrieved candidate, appeals can be taken to the circuit court and to ultimately the Wisconsin Supreme Court. *See* Wis. Stat. § 9.01 (defining recount procedure).

This recount and appeal process is “the exclusive judicial remedy for testing the right to hold an elective office as the result of an alleged irregularity, defect or mistake committed during the voting or canvassing process.” Wis. Stat. § 9.01(11).

Federal law provides that if there is any “controversy or contest concerning the appointment of the electors” and there is a “final determination in a State in the manner provided by law” for resolving that controversy or contest, the governor must send a certification of that final determination—sometimes referred to as the “certificate of final determination”—“as soon as practicable” to the Archivist of the United States. 3 U.S.C. §

6 (2020). Federal law sets forth a process for objecting to electoral votes at the Joint Session of Congress where the electoral votes are counted, held every fourth year on January 6. 3 U.S.C. § 15 (2020). In 2020, federal law stated that when more than one return of electoral votes from a state was presented to Congress, the votes counted were those from the electors who were appointed via 3 U.S.C. § 5 and state statute. 3 U.S.C. § 15 (2020). In addition, federal law provided that when the two houses of Congress disagreed whether to accept the votes of electors from a particular state, then the votes of the electors whose appointment was certified by the governor were the ones to be counted. 3 U.S.C. § 15 (2020).

The 2020 Presidential Election and Subsequent Legal Challenges in Wisconsin

On November 3, 2020, an election was held for President and Vice President of the United States, with Donald Trump and Michael Pence as the Republican Party candidates and Joseph Biden and Kamala Harris as the Democratic Party candidates.

On November 4, 2020, the Associated Press reported that Joseph Biden and Kamala Harris won the election in Wisconsin. Thereafter, the Trump campaign announced that it would request a recount in Wisconsin.²

On November 18, 2020, Donald Trump and Michael Pence filed a petition with the Wisconsin Elections Commission (WEC) requesting a recount in Dane County and Milwaukee County.

On November 30, 2020, the WEC Chair issued a “Statement of Canvass” certifying that the ten Presidential electors for Joseph Biden and Kamala Harris received the greatest number of votes in the election. (See Statement of Canvass for President, Vice President and Presidential Electors, Nov. 30, 2020, enclosed as Ex. B.)

On November 30, 2020, Wisconsin Governor Tony Evers executed a Certificate of Ascertainment, determining and certifying that the Biden-Harris electors received the greatest number of votes. The certificate named the ten Biden-Harris electors as the “duly appointed Presidential Electors for the State of Wisconsin”. (See Governor Tony Evers, Certificate of Ascertainment, Nov. 30, 2020, enclosed as Ex. C.)

On December 2, 2020, Donald Trump filed a lawsuit in federal court in Milwaukee challenging the election result. *Donald J. Trump v. Wis. Elections Comm’n*, 506 F.Supp.3d 620 (E.D. Wis. 2020) (the “Federal Case”).

² <https://apnews.com/article/ap-explains-wisconsin-joe-biden-636a771c35314b13a5e33cb19092f9d5> (last visited June 2, 2024).

On December 3, 2020, Donald Trump, Michael Pence, and the Trump campaign filed lawsuits in Dane County Circuit Court and Milwaukee County Circuit Court, “seeking to invalidate a sufficient number of Wisconsin ballots to change Wisconsin’s certified election results.”³ *Donald J. Trump v. Joseph R. Biden*, No. 20-CV-2514 (Wis. Cir. Ct. Dane Cnty.); *Donald J. Trump v. Joseph R. Biden*, No. 20-CV-7092 (Wis. Cir. Ct. Milwaukee Cnty.). The two cases were consolidated into one case in Milwaukee County Circuit Court (the “State Case”).

21. On December 11, 2020, in the State Case, the circuit court affirmed the WEC decision certifying the election results.

22. On December 12, 2020, in the Federal Case, the district court granted the motion to dismiss filed by WEC and dismissed the lawsuit.

23. On the morning of December 14, 2020, the Wisconsin Supreme Court affirmed the circuit court’s judgment in the State Case.⁴

The Unappointed Elector Plan

On November 17, 2020, an attorney acting as outside counsel for the Republican Party of Wisconsin (RPW), sent an email to organize a conference call with several individuals, including defendants James Troupis and Kenneth Chesebro.⁵ Defendant Troupis and Defendant Chesebro are

³ *Donald J. Trump et al. v. Joseph R. Biden*, 2020 WI 91, ¶ 1, 394 Wis. 2d 629, 951 N.W.2d 568. On December 21, 2020, Governor Evers executed a “Certificate of Final Determination Concerning Presidential Electors” (enclosed as Ex. G) (see above, paragraph 12). In the certificate, Governor

Evers

⁵ Chesebro doc. 0900 (Chesebro Ex. 1). On December 20, 2023, I participated in an interview of Kenneth Chesebro. In connection with the interview, counsel for Defendant Chesebro produced various documents, including PDFs labeled with file names with numeric designations. During the interview, some of the documents were marked as exhibits. In this complaint, I will refer to these documents as “Chesebro doc. [XXXX] (Chesebro Ex. [X])” where the “XXXX” is the numeric designation in the file name of the PDF produced by counsel for Defendant Chesebro and “X” is the exhibit number of the document marked as an exhibit for the interview. In the interview, Defendant Chesebro stated that, although he had a Twitter account, he did not send messages through it. Per a CNN KFile investigation, Defendant Chesebro appears to have sent numerous messages during the time period relevant to this complaint using a Twitter account named “BadgerPundit” (www.cnn.com/2024/02/26/politics/kenneth-chesebro-secret-twitter-accountkfile/index.htm) (last visited on June 2, 2024).

attorneys who represented the Trump campaign at the time in connection with the recount in Wisconsin.

Following the conference call, Defendant Chesebro emailed a memorandum dated November 18, 2020, to Defendant Troupis and others titled “The Real Deadline for Settling a State’s Electoral Votes”.⁶ In the memorandum (referred to in this complaint as the “November 18 Memorandum”), Defendant Chesebro argued that electors representing Donald Trump and Michael Pence should meet and cast their votes on December 14, 2020, to preserve the Trump-Pence electoral slate in the event of “a court decision (or, perhaps a state legislative determination) rendered after December 14 in favor of the Trump-Pence slate of electors.”⁷ On November 25, 2020, Defendant Troupis sent the November 18 Memorandum to an individual affiliated with the Trump campaign, noting: “Feel free to contact me or Ken Chesebro if you have any questions.”⁷

In the early morning hours of December 7, 2020, Defendant Chesebro emailed another memorandum to Defendant Troupis (dated December 6, 2020), this one titled “Important That All Trump-Pence Electors Vote on December 14”.⁸ In the memorandum (referred to in this complaint as the “December 6 Memorandum”), Defendant Chesebro reiterated that the Trump-Pence electors should meet and vote on December 14, 2020.⁹ Defendant Chesebro further explained in the memorandum that the Trump-Pence elector votes could be counted by Vice President Pence at the Joint Session of Congress on January 6, 2021, so long as a court challenge was still pending, “even if Trump has not managed by then to obtain court decisions (or state legislative resolutions) invalidating

⁶ Chesebro doc. 2320 (Chesebro Ex. 2); Chesebro Ex. 3 (although produced by counsel for Defendant Chesebro and marked as an exhibit for the interview with Defendant Chesebro, this document did not have a numeric designation in the file name of the PDF).

⁷ Chesebro doc. 1545 (Chesebro Ex. 3); Chesebro doc. 1906 (Chesebro Ex. 8); Chesebro doc. 0115 (Chesebro Ex. 7).

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enough results to push Biden below 270 [the number of electoral votes needed to win the election].”

Defendant Chesebro noted that the strategy he suggested was “bold” and “controversial”.

After receiving the December 6 Memorandum, Defendant Troupis sent an email to Defendant Chesebro, telling him that Defendant Troupis planned “to get it [the December 6 Memorandum] circulated at the White House.”¹⁰ Defendant Troupis also sent a separate message to Defendant Chesebro: “I have sent it to the White House this afternoon. They read decision makers.”¹¹

On December 7, 2020, Defendant Troupis sent the November 18 Memorandum and the December 6 Memorandum to a Trump campaign consultant (referred to in this complaint as “Individual A”).¹² In the email sending the memoranda, Defendant

Troupis stated in part: “I had prepared for me on appointing a second slate of electors in Wisconsin. There is no need for the legislators to act. The second slate just shows up at noon on Monday and votes and then transmits the results. It is up to Pence on Jan 6 to open them.”

On December 8, 2020, Defendant Chesebro sent Defendant Troupis an email with further thoughts about “how leverage might be exerted” at the Joint Session of Congress on January 6, 2021, in connection with “having the electors send in alternate slates of votes”.¹³ One of the points Defendant Chesebro made in his email was: “Court challenges pending on Jan. 6 really not necessary.” In response, Defendant Troupis emailed Defendant Chesebro, stating in part: “This is an excellent summary of the end game. Thank you.”

On December 9, 2020, Individual A emailed Defendant Troupis, asking him whether he could prepare a “sample elector ballot” for Wisconsin, Pennsylvania, Georgia, Michigan, Arizona, Nevada and New Mexico. Defendant Troupis forwarded this email to Defendant Chesebro and others,

¹⁰Chesebro doc. 1906.

¹¹Chesebro texts 0215-16. Counsel for Defendant Chesebro also produced to the Wisconsin Department of Justice copies of text messages involving Defendant Chesebro, which the Wisconsin Department of Justice subsequently Bates labeled. In this complaint, I will refer to these text messages as “Chesebro texts [XXXX]” where the “XXXX” is the Bates number of the document.

¹²Chesebro doc. 2052.

¹³Chesebro doc. 1310 (Chesebro Ex. 10).

asking Defendant Chesebro whether he would be able to do this, to which Defendant Chesebro responded: “Oh, absolutely!”¹⁴

On December 9, 2020, Defendant Chesebro emailed Defendant Troupis a memorandum (referred to in this complaint as the “December 9 Memorandum”) titled “Statutory Requirements for December 14 Electoral Votes” with instructions for the Trump-Pence elector meetings on December 14, 2020.¹⁵

On December 10, 2020, Defendant Troupis sent an email to Defendant Chesebro, attaching a draft of the “elector certificate” to be signed on December 14, 2020, by the Trump-Pence electors, stating: “Please review.”¹⁶ Later that day, Defendant Chesebro sent Defendant Troupis back a revised draft of the certificate. In response, Defendant Troupis sent an email to Defendant Chesebro, asking him about how the elector names should be listed on the certificate.¹⁷

On December 11, 2020, Individual A sent a message to Defendant Chesebro and Defendant Michael Roman, who was working for the Trump campaign. In the message, Individual A stated: “Ken—need you to call Mike Roman, copied, ASAP, and fill him in on the whole lay of the land.”¹⁸ Shortly thereafter, Defendant Chesebro sent an email to Defendant Roman, attaching documents relating to the Trump-Pence electors in Pennsylvania, as well as copies of the November 18 Memorandum and the December 9 Memorandum.¹⁹

On December 11, 2020, Defendant Chesebro emailed Defendant Troupis, copying individuals associated with the RPW, attaching the certificate to be signed on December 14, 2020, by

¹⁴Chesebro doc. 2052.

¹⁵Chesebro doc. 2240. The PDFs of the email from Defendant Chesebro to Defendant Troupis and the memorandum attached to the email both contained the numeric designation 2240, although they were produced as separate documents (Chesebro Ex. 14, Chesebro Ex. 15).

¹⁶Chesebro doc. 1329.

¹⁷Chesebro doc. 1458.

¹⁸Chesebro texts.0002.

¹⁹Chesebro doc. 1527.

the Trump-Pence electors from Wisconsin, along with other documents relating to the meeting.²⁰ Later that evening, Defendant Chesebro sent the documents to individuals affiliated with the Trump Campaign and the Republican National Committee, copying Defendant Roman.²¹ On December 11, 2020, Defendant Chesebro emailed individuals affiliated with the Trump campaign and the Republican National Committee, copying Defendant Roman, “to clarify the status of my work.” In the email, Defendant Chesebro stated in part: “Jim Troupis (lead counsel in WI) have [sic] WI well in hand; Jim was the one who floated early on the idea of the electors voting on Dec. 14.”²²

On December 11, 2020, in a petition to the Wisconsin Supreme Court in the State Case signed by Defendant Troupis, the Trump plaintiffs mentioned the December 14 meeting of Trump-Pence electors in a footnote, stating:

Following the recommended approach to situations involving court challenges in Presidential elections which are not resolved by the time the Presidential electors must cast their votes pursuant to Art. II, § 1, cl. 4, and 3 U.S.C. § 7 (this year, December 14), the Trump-Pence Campaign has requested its electors to sign and send to Washington on that date their votes, to ensure that their votes will count on January 6 if there is a later determination that they are the duly appointed electors for Wisconsin.

This practice dates back at least as far as 1960, when the Kennedy electors in Hawaii voted on the date the Electoral College met, even though on that date the Nixon electors had been ascertained by the acting Governor to have won the state; only after further litigation were the votes of the Kennedy electors approved and ultimately counted in Congress. *See, e.g., Vasan Kesavan, Is the Electoral Count Act Unconstitutional?*, 80 N. Car. L. Rev. 1654, 1691-92 (2002). *See also* Michael L. Rosin & Jason Harrow, “How to Decide a Very Close Election for Presidential Electors: Part 2,” Take Care Blog, Oct. 23, 2020 (<https://takecareblog.com/blog/how-to-decide-a-very-close-election-for-presidential-electors-part-2>) (visited Dec. 9, 2020) (concluding that if “a state wants to have its electoral votes counted, but which presidential electors were appointed by the voters on election day remains uncertain . . . there is only one possible solution: both potentially-winning slates of electors should cast electoral votes on the day required while the recount continues”).

² Chesebro doc. 2058 (Chesebro Ex. 21).

⁰ Chesebro doc. 2051.

² Chesebro doc. 1755

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On December 12, 2020, Individual A sent a message to Defendant Chesebro and Defendant Roman, asking in part: “Does VP have ultimate authority on which slate of electors should be chosen?” Defendant Chesebro responded in part: “A very good argument can be made that the President of the Senate [Vice President Pence] both opens and counts the vote.”²³ On December 12, 2020, Defendant Chesebro and Defendant Roman exchanged messages about the language in the certificates to be signed by the Trump-Pence electors, as pictured below (with messages from Defendant Chesebro on the right and responses from Defendant Roman on the left):²⁴



On December 12, 2020, Defendant Chesebro sent Defendant Roman “tweaked language” for the certificate to be signed by the Trump-Pence electors in Pennsylvania. The “tweaked language” that Defendant Chesebro proposed for the certificate was that the electors “might later [be determined]” as the “duly elected and qualified” electors. Defendant Chesebro stated in the email: “It strike [*sic*] me that if inserting these few words is a good idea for PA, it might be worth suggesting to Electors in other states.”²⁵

² Chesebro texts 0004-06

³ Chesebro texts 0351-52.

² Chesebro doc. 1916.

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In the early morning of December 13, 2020, Defendant Chesebro sent Defendant Roman documents for the Trump-Pence electors in New Mexico, with “the new qualifying language at the start of the Certificate.” Defendant Chesebro stated: “Might be good to have it added in all states.”²⁶

42. No qualifying language was ever added to the Trump-Pence elector documents for Wisconsin.

43. On December 13, 2020, Defendant Chesebro sent a message to Defendant Roman, stating:

Dec. 14 votes going in sets up the possibility of the President of the Senate (maybe not Pence; maybe he recuses and it's Grassley or next person in line who is willing to do this) on Jan. 6 taking the position, well supported by the 12th Amendment in the historical era in which it was enacted, that according to the original understanding of the Constitution, he has sole power to both open *and* count the votes—and that he won't count any State where there was never careful, deliberate hearings on the merits, with evidence, on asserted irregularities, either in a court or the legislature. Only Supreme Court could override that (cuz he'd refuse to open the envelopes of the 6 States unless Court orders him, at minimum buying time). If not overruled, he could force hearings in the States, but time would quickly run out, and the state legislatures would have to appoint electors if they wanted to be counted and avoid the election being thrown to the House (if Nancy then refused to hold a vote, Senate would reelect Pence Vice President, and he would become acting president on Jan 20). That's the possible endgame I saw early on, which is why the Dec 14 vote is so critical. I will now write up a brief memo on President of

On December 13, 2020, Defendant Chesebro sent a message to Defendant Troupis, stating in part that Defendant Chesebro was “working on a memo” about the “endgame in Congress.”²⁸

Later that same evening, on December 13, 2020, Defendant Troupis sent a message to Defendant Chesebro, asking: “Is everything under control for tomorrow electors vote?” Chesebro responded that it was and that “[o]ther states are all fine”, noting that he answered questions from

² Chesebro doc. 0028.

⁶ Chesebro texts 0354-56.

² Chesebro texts 0221-22.

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individuals in Pennsylvania, Arizona and Georgia. Defendant Troupis responded: “Good. Just want to be sure we preserve our options here without regard to what Wi S Crt rules.”²⁹

The Unappointed Elector Meeting

the 2nd Wednesday, December 16, 2020, the first Monday after the 2020 election. On December 14, 2020, the ten appointed electors met in the State Capitol at noon, as contemplated by both federal and state law. At that meeting, the appointed electors cast ten electoral votes for Joseph Biden for President and Kamala Harris for Vice President, consistent with the duties outlined in 3 U.S.C. §§ 7-11 (2020).

At approximately the same time on December 14, 2020, nine of the ten Wisconsin previously selected electors for Donald Trump and Michael Pence also met at the State Capitol. At the meeting, these nine previously selected Trump-Pence electors voted to elect a tenth individual who also was present at the meeting as a Trump-Pence elector due to an absence that created a vacancy. (See “Certificate of Filling Vacancy of the 2020 Electors from Wisconsin”, Dec. 14, 2020, enclosed as Ex. D).

For purposes of this complaint, the ten Trump-Pence electors who met at the State Capitol on December 14, 2020, will be referred to as the “Unappointed Electors” and their meeting at the State Capitol on December 14, 2020, will be referred to as the “Unappointed Elector Meeting”.

Although he was not one of the Unappointed Electors, Defendant Chesebro attended the Unappointed Elector Meeting. I have reviewed a video produced to the Wisconsin Department of Justice by Defendant Chesebro of the meeting.

²⁹ Chesebro texts 0223-24.

The Unappointed Electors then voted by ballot for President and Vice President. (See “Certificate of the Votes of the 2020 Electors from Wisconsin”, Dec. 14, 2020, enclosed as Ex. E) (referred to herein as the “Unappointed Elector Certificate”). The certification of that vote read, in part:

WE, THE UNDERSIGNED, being the duly elected and qualified Electors for President and Vice President of the United States of America from the State of Wisconsin, do hereby certify the following:

(A) That we convened and organized at the State Capitol, in the City of Madison, Wisconsin, at 12:00 noon on the 14th day of December, 2020, to perform the duties enjoined upon us;

(B) That being so assembled and duly organized, we proceeded to vote by ballot, and balloted first for President and then for Vice President, by distinct ballots; and

(C) That the following are two distinct lists, one, of all the votes for President; and the other, of all the votes for Vice President, so cast as aforesaid [10 votes for Donald Trump for President and 10 votes Michael Pence for Vice President]

The Unappointed Elector Certificate contains a signature block with a signature from each of the Unappointed Electors. The Unappointed Elector Certificate reflects that one of the Unappointed Electors, referred to in this complaint as “Individual B”, acted as the “Chairperson” for purposes of the Unappointed Elector Meeting.

52. The Unappointed Electors were never appointed by Governor Evers to serve as Presidential electors.

53. The Unappointed Elector Certificate did not contain any statement making it contingent in any way.

54. One of the documents prepared by Defendant Chesebro in connection with the meeting was a transmittal memorandum, which stated: “Pursuant to 3 U.S.C. § 11, enclosed please find duplicate originals of Wisconsin’s electoral votes for President and Vice President.” (enclosed as Ex. F). The memorandum was addressed to the President of the U.S. Senate, the U.S. Archivist,

the Wisconsin Secretary of State, and the chief federal judge in the Western District of Wisconsin. The memorandum did not contain any statement making the Unappointed Elector Certificate contingent in any way.

During ⁵⁵around the time of the Unappointed Elector Meeting, Defendant Chesebro sent separate identical messages to Defendant Troupis and Defendant Roman stating: “WI meeting of the *real* electors is a go!!!”³⁰

During ⁵⁶around the time of the Unappointed Elector Meeting, Defendant Chesebro also sent separate messages to Defendant Troupis and Defendant Roman attaching a photograph of the meeting. ³¹ Defendant Troupis responded with a “thumbs up” emoji.³² The following day, Defendant Chesebro sent separate messages to Defendant Troupis and Defendant Roman attaching a video of the Unappointed Elector Meeting.³³

Following ⁵⁷the December 14, 2020, meeting of the Unappointed Electors, Individual B issued the following statement: “While President Trump’s campaign continues to pursue legal options for Wisconsin, Republican electors met today in accordance with statutory guidelines to preserve our role in the electoral process with the final outcome still pending in the courts.”³⁴

During ⁵⁸the time of the Unappointed Elector Meeting, no court had issued any ruling that impacted the outcome of the Presidential election in Wisconsin.³⁵

³⁰Chesebro texts 0224; 0359.

³¹Chesebro texts 0225; 0358.

³²Chesebro texts 0225.

³³Chesebro texts 0227; 0358-59.

³⁴Individual B doc. 0109. Counsel for Individual B produced Bates-numbered documents to the Wisconsin Department of Justice. In this complaint, I will refer to these documents as Individual B doc. [XXXX] where “XXXX” is the Bates number of the document produced by counsel for Individual B.

³⁵Appeals to the U.S. Supreme Court remained. On December 29, 2020, plaintiffs in the State Case filed a petition for a writ of *certiorari* and a motion to expedite consideration of that petition. On January 11, 2021, the U.S. Supreme Court denied the motion to expedite consideration of the petition, and the Court denied the petition on February 22, 2021. On December 30, 2020, following a decision by the U.S. Court of Appeals for the Seventh Circuit on December 24, 2020, affirming the district court order dismissing the case, plaintiffs in the Federal Case filed a petition for a writ of *certiorari* and a motion to expedite

On December 15, 2020, Defendant Roman sent an email to individuals affiliated with the Republican National Committee and the RPW, copying Defendant Chesebro and others, asking for confirmation that the documents for the Trump electors from Wisconsin had been mailed. An individual affiliated with the RPW responded that they would be mailed

the following morning.³⁶ On December 16, 2020, in an email to various individuals associated with the Trump campaign (including Defendant Roman), the Republican National Committee, and the RPW,³⁷ copying Defendant Chesebro, an individual affiliated with the RPW confirmed that “[p]ackages have been mailed” to the same addressees that the transmittal memorandum (Exhibit F) indicated would receive the Unappointed Elector Certificate. The headquarters of the Republican Party of Wisconsin are located in Madison, Wisconsin, in Dane County.
Further Planning for Use of the Unappointed Elector Certificate on January 6

On December 16, 2020, Defendant Troupis, Defendant Chesebro and others traveled by chartered jet to Washington, D.C., for a meeting at the White House in the Oval Office involving then-President Trump. In an email two days later, Defendant Troupis reminded Defendant Chesebro that “nothing about our meeting with the President can be shared with anyone.”³⁸

On December 17, 2020, Defendant Chesebro sent a message to Defendant Roman and Individual A, stating in part:

Things might have been different if we’d won Wisconsin, and that had led other courts, and state legislatures, to take a closer look, but now the idea of the President of the Senate throwing a wrench into the Electoral Count Act process seems even less plausible than before, for both legal and political reasons.

But I think the Act can be weaponized. Jim Troupis testified powerfully about the hypocrisy of the Biden campaign claiming this was the most transparent, clean election in history, while at the same time doing everything possible to ensure the courts would not

consideration of that petition. On January 11, 2021, the U.S. Supreme Court denied the motion to expedite consideration of the petition, and the Court denied the petition on March 8, 2021.

³⁶ Chesebro doc. 1222 (Chesebro Ex. 36)

³⁷ Chesebro doc. 1223 (Chesebro Ex. 36)

³⁸ Chesebro doc. 1149 (Chesebro Ex. 37)

look at anything that happened. . . . Now Biden and the Dems, and some squishy Republicans plan to use a statute from the 1880s that prominent liberal scholars admit is clearly unconstitutional as their excuse to limit debate to 2 hours and to declare that Biden ‘wins’ the six contested states even if the Senate rejects the claim that Biden won those states.

Individual A responded by asking Defendant Chesebro: “What’s the bottom line?” Defendant

Chesebro responded:

If the Trump campaign were to weaponize the Electoral Count Act in this fashion it could put the Biden camp in a no-win situation. Either limit debate to 2 hours, over objections they are using an unconstitutional statute to cover up the rigging of the election, or allow longer debate, allowing Trump to show in more detail what happened.⁴⁰

On December 23, 2020, an attorney working with the Trump campaign emailed Defendant Chesebro a summary of the “January 6 scenario” for using the Trump-Pence elector slates during the Joint Session of Congress on January 6, 2021.⁴¹ The summary stated, in part:

At the end, [Vice President Pence] announces that because of the disputes in the 7 states, there are no electors that can be deemed validly appointed in those states. That means the total number of “electors appointed” –that language of the 12th Amendment, is 454. This reading of the 12th Amendment has also been advanced by Harvard Law Professor Lawrence Tribe. A “majority of the electors appointed” would therefore be 228. There are at this point 232 votes for Trump, 222 votes for Biden. Pence then gavels President Trump as re-elected.

The main thing here is that Pence should do this without asking for permission—either from a vote of the joint session or from the Court. . . .

Defendant Chesebro responded by sending a revised draft back to the attorney, with an email stating: “Really awesome.”⁴²

On December 24, 2020, Defendant Troupis sent an email to individuals affiliated with the Trump campaign, copying Defendant Chesebro and others, about a possible *certiorari* petition to the U.S. Supreme Court, appealing the decision by the Wisconsin Supreme Court.⁴³ Defendant Troupis stated, in part:

³ Chesebro texts 0020-21.

⁹ Chesebro texts 0022.

⁴ Chesebro doc. 1111.

⁰ Chesebro doc. 1135.

⁴ Chesebro doc. 1003.

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To be blunt, it remains unclear to me what the path is to success, and even success seems ill-defined. We all want to see this matter to a conclusion, but the obligations that result from filing a Petition for Cert are very real and are very substantial. I have tried to be realistic about what needs to be addressed now.

On December 26, 2020, Defendant Troupis sent an email to individuals affiliated with the Trump campaign, confirming that they were directing that a *certiorari* petition be filed with the U.S. Supreme Court.⁴⁴ In the email, Defendant Troupis stated, in part: “To be clear, it is unlikely/perhaps impossible, for the S. Ct. to take up these matters and rule before January 6.”

On December 26, 2020, Defendant Chesebro sent an email to Defendant Troupis and others with thoughts about the Joint Session of Congress on January 6, 2021.⁴⁵ Defendant Chesebro stated, in part, that one way to delay the proceedings would be for Vice President Pence to decline to open the envelopes containing the electoral votes from Georgia, Pennsylvania and Wisconsin. Defendant Chesebro noted, in bold: “Obviously the discussion of such tactical options is highly confidential.”

On December 27, 2020, Defendant Troupis sent an email to various individuals, including Defendant Chesebro, noting that they were expected to file a *certiorari* petition on behalf of the Trump campaign.⁴⁶ In the email, Defendant Troupis stated, in part: “My guess is the President may have some choice comments once our Petition is filed. And this certainly helps tee-up the January 6 Congressional debate.”

Later on December 27, 2020, Defendant Troupis sent an email to Defendant Chesebro alone.⁴⁷ In the email, Defendant Troupis asked Defendant Chesebro to prepare “a step by step, easy to understand, non-lawyerly, process for the Senators/Congressmen and VP to follow on the 6th.” Defendant Troupis stated that “I can help with how to word it.” Defendant Troupis further stated:

⁴⁴ Chesebro doc. 1525.

⁴ Chesebro doc.

⁵ 1857. Chesebro

⁴ doc. 1335.

⁶ Chesebro doc.

⁴ 2303.

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So, not an explanation of the law, a simple do this, then do this kind-of document. I just think they will flounder without a clear understanding and there will be too many cooks in the kitchen unless we take charge. Again, just a thought. (Your wild speculation of 6 weeks ago may well have been prescient...)

69. On December 29, 2020, the Trump campaign filed a *certiorari* petition with the U.S. Supreme Court, seeking review of the decision in the State Case.

70. On December 30, 2020, Donald Trump filed a *certiorari* petition with the U.S. Supreme Court, seeking review of the decision in the Federal Case.

On January 3, 2021, Defendant Troupis and Defendant Chesebro messaged each other about the Joint Session of Congress on January 6, 2021. Defendant Troupis sent a message to Defendant Chesebro: “If each State gets one vote in the House, then Pelosi must take Acting and allow a vote because I believe the R’s have more States. Am I right?” Defendant Chesebro responded: “Yes, Republicans have 26 states.” Following additional messages from Defendant Chesebro, including one where he forwarded an article titled “Ex-GOP Speaker Ryan denounces effort to challenge Electoral College results”, Defendant Troupis responded: “RHINO—sad”. In response to an article forwarded by Defendant Chesebro titled “Congress adopts rules governing Jan. 6 Electoral College count”, Defendant Troupis sent a message to Defendant Chesebro asking: “Does this change anything we discussed earlier?” Defendant Chesebro responded: “Can’t stop Pence from claiming the power to count the votes, unilaterally force delay (eg, by refusing to open envelopes).” He further stated: “Makes it hard force [*sic*] Pence to allow for unlimited debate in the senate. I assume the Continuing Resolution, once adopted by the Senate, modified the usual filibuster rules.”⁴⁸

⁴⁸Chesebro texts 0245-51.

Subsequent Delivery of the Unappointed Elector Certificate

Following⁷² the first mailing (on December 16, 2020) of the documents from the Unappointed Elector Meeting, concerns were raised that the documents from Wisconsin had not been received in Washington, D.C.

On January 4, 2021, an individual from the Trump campaign emailed Defendant Chesebro to confirm that the Trump-Pence elector slates “have been received by Congress for consideration”. Defendant Chesebro responded that “Mike Roman is the guy on top of this” and advised to check with him. The individual from the Trump campaign then emailed Defendant Chesebro and Defendant Roman together, asking for confirmation that the Trump-Pence elector slates “have been received by Congress for consideration”. Defendant Roman responded that all slates were “confirmed” except the one from Michigan.⁴⁸

Later that evening, however, Defendant Roman sent another email to Defendant Chesebro and the individual from the Trump campaign, stating: “They will be coming from Wisconsin.” Defendant Roman and Defendant Chesebro then sent several emails to each other to arrange the logistics for delivering the Trump-Pence elector documents from Wisconsin to Defendant Chesebro in Washington, D.C. Defendant Chesebro suggested that a “staffer” should fly to Washington, D.C., to deliver the documents.⁵⁰

On January 5, 2021, Defendant Roman sent an email to Defendant Chesebro and another individual, referred to in this complaint as “Individual C”, who was a law student working part-time for the RPW at the time. Defendant Roman stated: “Ken: [Individual C] lands at BWI at 10:15 ET. She has the WI Electors slate. Please make arrangements to meet.” Defendant Roman then directed Individual C: “Only give the documents to Ken Chesebro” and provided Defendant

⁴ Chesebro doc. 1530 (Chesebro Ex. 44).

⁹ Chesebro doc. 1530 (Chesebro Ex. 44).

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Chesebro's cellular telephone number. Later in the same email exchange, Defendant Chesebro and Individual B arranged to meet in downtown Washington, D.C.⁵¹

76. On January 5, 2021, shortly before she met Defendant Chesebro, Individual C messaged Individual B: "5 mins until I make the drop". She further stated: "I feel like a drug dealer."⁵²

77. After Defendant Chesebro received the Unappointed Elector Certificate from Individual C, Defendant Chesebro sent an email to Defendant Roman, letting him know that he had received the document.⁵³

78. On January 5, 2021, Defendant Chesebro and Defendant Roman also exchanged messages about delivery of the Unappointed Elector Certificate. Defendant Chesebro suggested that Defendant Troupis could find someone to help deliver the document, and then asked Defendant Roman to find someone. Defendant Roman sent Defendant Chesebro a message stating that a Congressional staffer would meet Defendant Chesebro to receive the document, and sent Defendant Chesebro contact information for the staffer.⁵⁴ Defendant Chesebro later sent a message to Defendant Roman to confirm that Defendant Chesebro had delivered the document.⁵⁵

On January 6, 2021, Defendant Chesebro and Defendant Troupis exchanged messages about attempting to deliver the Unappointed Elector Certificate to Vice President Pence during the Joint Session of Congress. Defendant Troupis instructed Defendant Chesebro to call Defendant Roman to "make sure he gets what he needs." Defendant Chesebro messaged in return that he was

⁵¹Chesebro doc. 1141 (Chesebro Ex. 45).

⁵²Lawsuit Individual B doc. 0265. A lawsuit was filed in Dane County Circuit Court against the Unappointed Electors, Defendant Troupis and Defendant Chesebro. In connection with the settlement of that lawsuit, documents produced in the litigation by the defendants, including Individual B, were released by counsel for the plaintiffs. This citation refers to the Bates number of one of the documents that appears to have been produced by Individual B.

⁵³Chesebro doc. 1141.

⁵⁴Chesebro texts 0369-70.

⁵⁵Chesebro texts 0376.

with Defendant Roman’s “top guy”. Defendant Troupis messaged back: “Excellent. Tomorrow let’s talk about SCOTUS strategy going forward. Enjoy the history you have made possible today.”⁵⁶

Subsequent Interviews and Testimony

On February 28, 2022, Individual B testified before the U.S. House of Representatives Select Committee to Investigate the January 6th Attack on the United States Capitol (the “January 6th Committee”). During that testimony, Individual B testified in part as follows:

On December 12, 2020, the RPW Executive Director at the time sent a message about a conference call conducted that day about the Unappointed Elector Meeting. Individual B messaged back: “These guys are up to no good, and it’s going to fail miserably.”⁵⁷

On January 4, 2020, the RPW Executive Director sent a message to Individual B as follows: “Freaking Trump idiots want someone to fly original elector papers to the Senate President. They’re gonna call one of us to tell us just what the hell is going on.”⁵⁸ Individual B testified that he thought Individual C flew to Washington, D.C., on January 5, 2020, to deliver the documents signed at the Unappointed Electors Meeting.⁵⁹

Individual B testified that he received legal advice that there was a previous case involving electors from the State of Hawaii in the 1960 Presidential election where two different slates of electors met.⁶⁰ Individual B further testified: “[I]f we didn’t meet and a court subsequently ruled that these [legal] challenges in Wisconsin were successful, the guidance I was given is it would be irrelevant because the elector meeting has not taken

⁵ Chesebro texts 0261-66.

⁶ Individual B testimony at 67.

⁵ Individual B testimony at 94.

⁷ Individual B testimony at 97.

⁵ Individual B testimony at 16-17.

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place.”⁶¹ He testified that he did not hear from anyone that the documents signed at the Unappointed Elector Meeting could be used even if the legal challenges were not successful, stating: “I would have had significant concerns about that. . . . I was told that these would only count if a court ruled in our favor. . . . [I]t would have been using our electors in ways that we weren’t told

about and we wouldn’t have supported.”⁶² I reviewed a recording of an interview of Individual B that aired on the television show “Up Front” on December 17, 2023. During the interview, Individual B said in part that he was “tricked” and was not told of any “ulterior motive or scheme” relating to the Unappointed Elector Meeting on December 14, 2020. Individual B said that he viewed the meeting as a “contingency plan” but that “other people had other ideas.”

I reviewed a recording of an interview of Individual B that aired on the television show “60 Minutes” on February 18, 2024. During the interview, Individual B said in part that he and the other Unappointed Electors met on December 14, 2020, based on legal advice that doing so was necessary as a contingency in case legal challenges to the election were successful. Individual B said that he received legal advice before the Unappointed Elector Meeting that the documents signed during the meeting were “meaningless” unless a court “gave them meaning.” Individual B said that he did not know there was an “alternate scheme” for the documents.

During the same episode of “60 Minutes” on February 18, 2024, an interview with Individual C also aired, a recording of which I also reviewed. During the interview, Individual C said in part that she received a call on January 4, 2021, from the RPW Executive Director at the time, telling her that the Trump campaign wanted documents delivered to Washington, D.C., because they “got lost in the mail.” In a voiceover during the recording, it stated that Individual C said that she

⁶ Individual B testimony at 40.

¹ Individual B testimony at 51.

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picked up the documents at the RPW headquarters in Wisconsin on January 5, 2021, and flew to Washington, D.C.

Wisconsin Elections Commission Complaint

On February 15, 2021, a complaint was filed with the WEC, alleging that the actions of the Unappointed Electors violated Wisconsin election laws. Individual B responded to the complaint, alleging that the Unappointed Electors “acted with the sole intent of preserving standing and ensuring that if any of the pending legal cases were successful, the court did not claim it was too late for the appropriate remedy to be awarded.”⁶³

On March 15, 2022, the WEC issued a decision dismissing the complaint against the Unappointed Electors, concluding that the complaint “does not raise a reasonable suspicion that the respondents violated Wisconsin election law.” The decision incorporated a memorandum from counsel for the Commission.⁶⁴ The memorandum to the WEC stated, in part: “This memorandum does not address other potential violations of law, such as election fraud under Wis. Stat. § 12.13 or matters that the Complainants have raised to other authorities or discussed in the media, such as forgery under Wis. Stat. § 943.38, false swearing under Wis. Stat. § 946.32, falsely assuming to act as a public officer under Wis. Stat. § 946.69, simulating legal process under Wis. Stat. § 946.68, misconduct in public office under Wis. Stat. § 946.12, conspiracy, aiding, or attempt to commit such acts, or any other matter outside the scope of the complaint.”⁶⁵

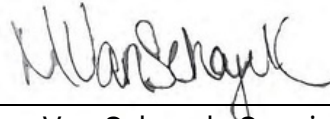
⁶³ Individual B doc. 0110-31.

⁶⁴ An Assistant Attorney General from the Wisconsin Department of Justice, who is screened from the investigation relating to this complaint, authored the memorandum.

A judge ordered WEC to rehear the complaint without the participation of a WEC member who also had served as one of the Unappointed Electors. In December 2023, WEC rejected the complaint again. (<https://apnews.com/article/wisconsin-fake-electors-trump-2020-062c7b6638b945f816185bdf1f231195>) (last visited on June 2, 2024).

86. Defendant James Troupis is a resident of Dane County. Defendant Kenneth Chesebro and Defendant Michael Roman do not reside in Wisconsin.

Electronically signed by:



Mary Van Schoyck, Special Agent
Wisconsin Department of Justice
Division of Criminal Investigation

Subscribed and sworn to before me
this 3rd day of June, 2024.

Electronically signed by:

s/Jacob D. Corr

Jacob D. Corr

Assistant Attorney General

State of Wisconsin

State Bar# 1035964