

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 here 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

