

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

THE COMMITTEE FOR
MASSACHUSETTS VOTER
IDENTIFICATION BALLOT QUESTION,

Plaintiff,

v.

HON. WILLIAM FRANCIS GALVIN, in his
official capacity as Secretary of the
Commonwealth of Massachusetts,

Defendant.

Civil Action No.: 1:24-cv-12029-NMG

PLAINTIFF’S MOTION FOR SUMMARY JUDGMENT

Pursuant to Rule 56 of the Federal Rules of Civil Procedure and D. Mass. Local Rule 56.1, Plaintiff The Committee for Massachusetts Voter Identification Ballot Question (“Committee”) hereby moves for summary judgment on its one-count Complaint against Defendant Hon. William Francis Galvin, in his official capacity as Secretary of the Commonwealth of Massachusetts. There are no issues of material fact genuinely in dispute and Plaintiff is entitled to judgment as a matter of law.

Plaintiff submits an accompanying memorandum of law in support of this Motion.

REQUEST FOR ORAL ARGUMENT

Pursuant to Local Rule 7.1(d), and as stated to the Court at the October 30, 2024 Scheduling Conference, Plaintiff requests a hearing on this Motion only to the extent that the Court believes such a hearing would be helpful or necessary.

Respectfully submitted,

Dated: November 29, 2024

/s/ Brian M. Gaff

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Voter Identification Ballot Question.*

CERTIFICATE OF SERVICE PURSUANT TO LOCAL RULE 5.2

I hereby certify that this document filed through the CM/ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non-registered participants on November 29, 2024.

/s/ Brian M. Gaff

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**MEMORANDUM IN SUPPORT OF
PLAINTIFF’S MOTION FOR SUMMARY JUDGMENT**

Plaintiff The Committee for Massachusetts Voter Identification Ballot Question (“Committee”) moves for summary judgment on its one-count Complaint under Rule 56 of the Federal Rules of Civil Procedure. Compl. ¶¶ 25-28, ECF No. 1. There are no issues of material fact genuinely in dispute and the Committee is entitled to judgment as a matter of law.

I. BACKGROUND

Plaintiff is a political committee registered with the Massachusetts Office of Campaign and Political Finance (CPF ID 95517). Its purpose is to promote the integrity of elections by supporting a Voter ID ballot question in the Commonwealth of Massachusetts (“Commonwealth”). It is comprised of grass roots activists who, among other activities, research and analyze public records to determine whether voter rolls are current, accurate, and comply with federal and state law.

Defendant is the Chief Election Official for the Commonwealth. In that capacity, Defendant maintains a statewide voter registration list using the Voter Registration Information System (“VRIS”). The VRIS is a “single, uniform, official, centralized, interactive computerized statewide voter registration list.” Memorandum from M. Tassinari to U.S. Election Comm’n (April 22, 2005) at 1 (“Tassinari Memo”) (true copy attached hereto as Exhibit 1). The VRIS “was designed to comply with the National Voter Registration Act of 1993 (also known as ‘Motor Voter’) and implementing state legislation (G.L. c. 51, section 47C) and regulations (950 C.M.R. § 58.00 *et seq.*.)” *Id.*

The National Voter Registration Act of 1993 (“NVRA”) includes a “Public Disclosure Provision” codified at 52 U.S.C. § 20507(i)(1). The Public Disclosure Provision requires that “each State ... shall make available for public inspection and, where available, photocopying at a reasonable cost, all records concerning the implementation of programs and activities conducted for the purpose of ensuring the accuracy and currency of official lists of eligible voters” 52 U.S.C. § 20507(i)(1).

On December 3, 2023 Plaintiff’s then President, Joanne Miksis, requested a copy of (1) the Massachusetts statewide voter registration list, and (2) copies of all Member Data files that the Commonwealth transmitted since January 1, 2023 to the Electronic Registration Information Center, Inc. (“ERIC”) pursuant to the Membership Agreement between the Commonwealth and ERIC dated June 16, 2022 (collectively, the “Voter Records”). Compl., Ex. A, ECF No. 1-1.

On December 18, 2023 Defendant’s office responded (1) that it would provide the requested list provided that Plaintiff first sign a “licensing agreement,” and (2) that it had no responsive records with respect to the Member Data files. *Id.*, Ex. B, ECF No. 1-2. Plaintiff

tried multiple times to obtain the licensing agreement, but Defendant did not respond. *Id.*, Ex. C, ECF No. 1-3.

In a Notice Letter from Plaintiff dated April 2, 2024 that Defendant received on April 3, 2024, Plaintiff informed Defendant that its failure to provide the Voter Records was a violation of the Public Disclosure Provision of the NVRA. *Id.*, Ex. D, ECF No. 1-4. Defendant did not respond to the Notice Letter or cure its violation of the NVRA within ninety days of receipt of the Notice Letter, as the statute requires. 52 U.S.C. § 20510(b)(2).

Congress has determined that access to election records concerning list maintenance is to be made publicly available. Any state effort to block public access is void under the Supremacy Clause and the uniform weight of jurisprudence addressing this issue. Accordingly, Defendant's failure to provide the Voter Records violates the NVRA, and any condition placed on the provision of the Voter Records, through a license or otherwise, is preempted. Plaintiff is entitled to summary judgment and injunctive and declaratory relief.

II. STATEMENT OF FACTS

The discussion above provides context to this dispute. However, pursuant to D. Mass. Local Rule 56.1, Plaintiff provides the following statement of material facts as to which Plaintiff contends there is no genuine issue to be tried. As described below, Defendant cannot prevail on these facts as a matter of law.

1. Plaintiff requested the Voter Records from Defendant on December 3, 2023. Compl., Ex. D at 3, ECF No. 1-4.

2. Defendant conditioned the production of the Voter Records upon the prior execution of a licensing agreement. *Id.* at 4. Defendant did not provide the licensing agreement notwithstanding Plaintiff's multiple requests for that document. *Id.* at 5.

3. Plaintiff sent Defendant a Notice Letter dated April 2, 2024 pursuant to 52 U.S.C. § 20510 alleging violation of the NVRA. *Id.* at 1-18.

4. Defendant received Plaintiff's Notice Letter on April 3, 2024. Compl., Ex. E, ECF No. 1-5. Defendant did not respond to the Notice Letter or, pursuant to 52 U.S.C. § 20510(b)(2), cure its violation of the NVRA within ninety days.

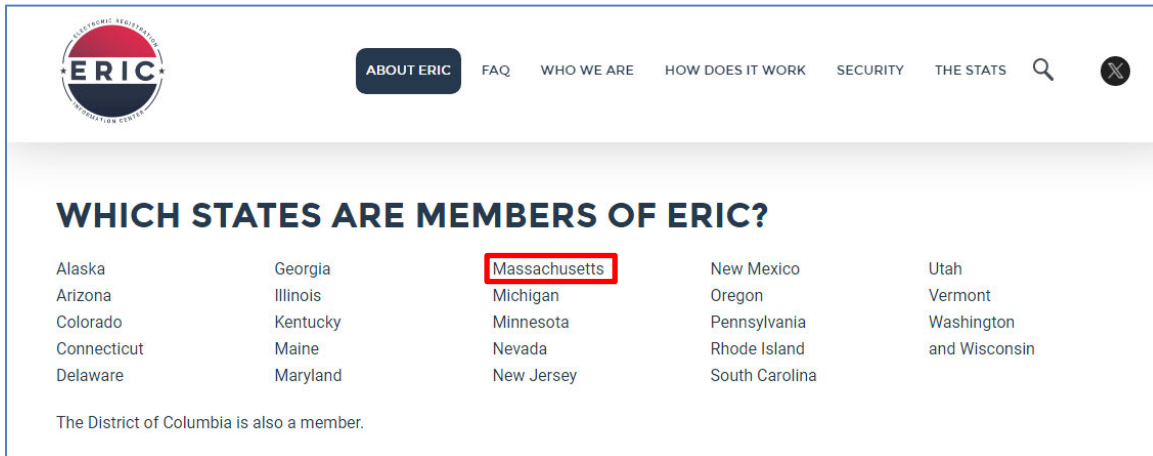
5. Pursuant to the Help America Vote Act ("HAVA"), 52 U.S.C. §§ 20901-21145, Defendant "shall implement, in a uniform and nondiscriminatory manner, a single, uniform, official, centralized, interactive computerized statewide voter registration list defined, maintained, and administered at the State level that contains the name and registration information of every legally registered voter in the State" 52 U.S.C. § 21083.

6. Pursuant to the requirements of the HAVA, Defendant maintains a single, uniform, official, centralized, interactive computerized statewide voter registration list in the VRIS. G.L. ch. 51, § 47C; 950 CMR § 58.

7. Defendant provides secure access to the VRIS to authorized users in each city and town in the Commonwealth to create, modify, and delete resident, family and voter data in the VRIS statewide database only as to their own community. VRIS Resident/Voter Module, 6 (true copy attached hereto as Exhibit 2); Tassinari Memo, 1.

8. To maintain the statewide voter registration list, Defendant is required to share voter registration data with ERIC as set forth in an agreement (contract) between Defendant and ERIC. G.L. ch. 51, § 47C. Defendant signed the contract with ERIC on June 15, 2022, which had an effective date of June 16, 2022. Compl., Ex. D at 7-18, ECF No. 1-4.

9. The Commonwealth is a member of ERIC:



<https://ericstates.org/about/> (last visited Nov. 25, 2024) (emphasis added).

10. Pursuant to Defendant's contract with ERIC, the Commonwealth must send data to ERIC at least every sixty days. The data comprise information related to the Commonwealth's voter files and motor vehicle records. That information includes all inactive and active voter files (excluding those records that are confidential or protected from disclosure by law) and all licensing or identification records contained in the Commonwealth's motor vehicles database (excluding those fields unrelated to voter eligibility). Compl., Ex. D at 7-8, ECF No. 1-4.

11. Data sent to ERIC include at least the following: all name fields; all address fields; driver's license or state identification number; last four digits of Social Security number; date of birth; activity dates as defined by the ERIC Board of Directors; current record status; affirmative documentation of citizenship; the title/type of affirmative documentation of citizenship presented; phone number; e-mail address or other electronic contact method. *Id.* at 16.

III. LEGAL STANDARD

Summary judgment is appropriate if there is no genuine dispute as to any material fact and the undisputed facts show that the moving party is entitled to judgment as a matter of law by “(A) citing to particular parts of materials in the record, including depositions, documents, electronically stored information, affidavits or declarations, stipulations (including those made for purposes of the motion only), admissions, interrogatory answers, or other materials; or (B) showing that the materials cited do not establish the absence or presence of a genuine dispute, or that an adverse party cannot produce admissible evidence to support the fact.” Fed. R. Civ. P. 56(a); *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 247 (1986). “Cross motions for summary judgment do not change the standard.” *Latin Am. Music Co. v. Archdiocese*, 499 F.3d 32, 38 (1st Cir. 2007).

“An issue is genuine if the evidence of record permits a rational factfinder to resolve it in favor of either party.” *Borges ex. rel. S.M.B.W. v. Serrano-Isern*, 605 F.3d 1, 4 (1st Cir. 2010) (internal quotation marks and citations omitted). “A fact is material if its existence or nonexistence has the potential to change the outcome of the suit.” *Id.* at 5. The moving party bears the burden of showing the district court the basis for its motion and identifying where there exists a lack of any genuine issue of material fact. *Celotex Corp. v. Catrett*, 477 U.S. 317, 323 (1986). When the summary judgment movant demonstrates the absence of a genuine dispute over any material fact, the burden shifts to the non-movant to show there is a genuine factual issue for trial. *Borges*, 605 F.3d at 5 (citing *Celotex*, 477 U.S. at 324).

“If the nonmovant fails to make this showing, then summary judgment is appropriate.” *Id.* The Court must view the facts in the light most favorable to the non-moving party, drawing

all reasonable inferences in that party's favor. *Barbour v. Dynamics Research Corp.*, 63 F.3d 32, 37 (1st Cir. 1995) (citing *Woods v. Friction Materials, Inc.*, 30 F.3d 255, 259 (1st Cir. 1994)).

IV. ARGUMENT

A. Plaintiff Is Entitled To The Voter Records Per The NVRA

There is no question that Plaintiff is entitled to the Voter Records. The Voter Records comprise a data extract, i.e., report, that the VRIS—the database through which Defendant performs voter list registration and maintenance activities—generates. As such, Defendant must provide the Voter Records pursuant to the NVRA Public Disclosure Provision. *Public Int. Legal Found., Inc. v. Bellows*, 92 F.4th 36, 47 (1st Cir. 2024).

Also included in the Voter Records are the Member Data files that Defendant is required to submit to ERIC at sixty day intervals. As Defendant's contract with ERIC states, ERIC seeks to "improv[e] the accuracy of state voter registration data" and to "assist state and local government units in making their voter registration lists and processes more accurate, more complete, and fully compliant with federal, state and local laws." Compl., Ex. D at 7, 10, ECF No. 1-4.

As the Public Disclosure Provision of the NVRA makes clear, "all records concerning the implementation of programs and activities conducted for the purpose of ensuring the accuracy and currency of official lists of eligible voters," subject to narrow exceptions, are available for public inspection. 52 U.S.C. § 20507(i)(1) (emphasis added). The Member Data files are such records.

1. Plaintiff Is Entitled To The Statewide Voter List

Bellows settled the question of whether Plaintiff is entitled to Defendant's statewide voter list. In *Bellows*, the First Circuit spelled out in its analysis that such a list "plainly relates" to

“voter list registration and maintenance activities and is thereby subject to disclosure under Section 8(i)(1).”¹ *Bellows*, 92 F.4th at 47.

All other courts that have addressed this question have reached the same conclusion. *See, e.g., Public Interest Legal Found., Inc. v. Bellows*, 588 F. Supp. 3d 124, 133 (D. Me. 2022); *Project Vote/Voting for Am., Inc. v. Long*, 682 F.3d 331, 336 (4th Cir. 2012); *Public Interest Legal Found. v. Matthews*, 589 F. Supp. 3d 932, 941 (C.D. Ill. 2022); *Judicial Watch, Inc. v. Lamone*, 399 F. Supp. 3d 425, 438-42 (D. Md. 2019); *True the Vote v. Hosemann*, 43 F. Supp. 3d 693, 723 (S.D. Miss. 2014); *Voter Reference Found., LLC v. Torrez*, No. CIV 22-0222 JB/KK, 2024 U.S. Dist. LEXIS 58803, at *439 (D.N.M. Mar. 29, 2024).

Defendant has agreed that Plaintiff is entitled to Defendant’s statewide voter list. Email from Def.’s counsel to Pl.’s counsel (Nov. 22, 2024, 13:27 EST) (true copy attached hereto as Exhibit 3). Accordingly, there is no dispute as to this issue.

2. Plaintiff Is Entitled To The ERIC Member Data Files

ERIC describes itself as “a nonprofit, nonpartisan membership organization created by and comprised of state election officials from around the United States.” <https://ericstates.org/about/> (last visited Nov. 25, 2024). ERIC claims to be “the most effective tool available to help election officials maintain more accurate voter rolls and detect possible illegal voting.” *Id.* ERIC’s goal is to “improv[e] the accuracy of state voter registration data.” Compl., Ex. D at 10, ECF No. 1-4.

Defendant was required to sign a contract with ERIC pursuant to G.L. ch. 51, § 47C. Defendant signed that contract on June 15, 2022, and the contract had an effective date of June 16, 2022. Compl., Ex. D at 7-18, ECF No. 1-4. That contract obligated the Commonwealth to send “Member Data” files to ERIC at least every sixty days. *Id.* at 7-8. “Member Data” is

¹ Section 8(i)(1) is codified at 52 U.S.C. § 20507(i)(1).

defined as “data related to [the Commonwealth’s] voter files and motor vehicle records.” *Id.* at

7. Member Data includes:

(1) all inactive and active voter files (excluding those records that are confidential or protected from disclosure by law), including those fields identified in Exhibit B, and (2) all licensing or identification records contained in the motor vehicles database (excluding those fields unrelated to voter eligibility ...), including those fields identified in Exhibit B.

Id. at 8.

Exhibit B to the contract lists the following fields: all name fields; all address fields; driver’s license or state identification number; last four digits of Social Security number; date of birth; activity dates as defined by the ERIC Board of Directors; current record status; affirmative documentation of citizenship; the title/type of affirmative documentation of citizenship presented; phone number; e-mail address or other electronic contact method. *Id.* at 16.

According to its contract, ERIC will provide the Commonwealth with regular (at least monthly) reports to assist the Commonwealth in maintaining its voter registration list. *Id.* at 7.

These reports include:

1. Cross-State Movers Report: Identifies voters who appear to have moved from one ERIC member to another using voter registration data and MVD data.
2. In-State Updates Report: Identifies voters who appear to have moved within the jurisdiction, or who recently updated their contact information, using voter registration and MVD data.
3. Duplicate Report: Identifies voters with duplicate registrations in the same state using voter registration data and MVD data.
4. Deceased Report: Identifies voters who have died using voter registration data and Social Security death data known as the Limited Access Death Master File and MVD data.

<https://ericstates.org/faq/> (last visited Nov. 25, 2024).

ERIC requires that each member state “act on these reports in a manner consistent with applicable state and federal law, including taking action to remove ineligible voters.” *Id.*

Indeed, ERIC requires that within ninety days of receiving an ERIC report identifying voters with inaccurate or outdated records, the Commonwealth must contact at least ninety-five percent of those voters to update or inactivate those voters' records. Compl., Ex. D at 11, ¶ 5(b), ECF No. 1-4.

ERIC's public pronouncements make clear that it provides a program to help its member states maintain, and improve the accuracy of, statewide voter lists. ERIC's statutorily mandated contract with the Commonwealth sets forth required recurring activities consistent with that goal. Statutorily mandated periodic maintenance of voter rolls "is—under any definition—a "program[or] activit[y] conducted for the purpose of ensuring the accuracy and currency of official lists of eligible voters." *Torrez*, 2024 U.S. Dist. LEXIS 58803, at *435 (alterations in original).

Here, those activities include the Commonwealth's obligation to send Member Data files to ERIC at regular intervals. Those Member Data files, therefore, are "records concerning the implementation of programs and activities conducted for the purpose of ensuring the accuracy and currency of official lists of eligible voters" 52 U.S.C. § 20507(i)(1). Defendant must produce those records as the NVRA Public Disclosure Provision mandates. *Id.*

Notwithstanding the Commonwealth's executed contract with ERIC and the presence of the Commonwealth on ERIC's list of member states, Defendant claims that the Commonwealth does not participate in the ERIC program. Email from Def.'s counsel to Pl.'s counsel (Nov. 22, 2024, 13:27 EST) (true copy attached hereto as Exhibit 3). Consequently, Defendant claims that it does not have the requested Member Data files. *Id.*

Plaintiff cannot verify that claim without discovery. But assuming, *arguendo*, that the claim is currently accurate, it has no bearing on the future availability of the Member Data files. Plaintiff, therefore, respectfully requests that the Court (1) conclude that the NVRA Public

Disclosure Provision mandates production of the Member Data files, and (2) order Defendant to produce the Member Data files to the extent that they exist, now or in the future.

B. Defendant Is Required To Produce The Voter Records

Defendant contends that it is not “specifically” obligated to provide the records that the NVRA Public Disclosure Provision encompasses. *Id.* Presumably, it is Defendant’s position that Plaintiff must request and obtain voter rolls from each of the 351 cities and towns in the Commonwealth and—somehow—compile these separate municipal rolls into a complete and accurate statewide voter list.

Defendant’s interpretation of the NVRA Public Disclosure Provision is unsupported by law, inherently unworkable, and inconsistent with its initial willingness to provide the records.

1. Defendant Is The Chief Election Official Who Is Responsible For Complying With The NVRA Public Disclosure Provision

The NVRA requires that “[e]ach State shall designate a State officer or employee as the chief State election official to be responsible for coordination of State responsibilities under this Act.” 52 U.S.C. § 20509. Defendant is the Commonwealth’s chief election official for the purpose of complying with the NVRA. 1993 Mass. ALS 475; 1993 Mass. Ch. 475; 1993 Mass. S.B. 1824 (“The state secretary is hereby designated as the chief state election official for the purposes of 42 USC 1973gg-9 of the National Voter Registration Act of 1993.”).² This designation of Defendant as the Commonwealth’s chief election official applies uniformly throughout the NVRA. *United States v. Nippon Paper Indus. Co.*, 109 F.3d 1, 4 (1st Cir. 1997) (“It is a fundamental interpretive principle that identical words or terms used in different parts of the same act are intended to have the same meaning.”). *See also Webster v. Board of Appeals of*

² 42 U.S.C. § 1973gg-9 was transferred to 52 U.S.C. § 20510 (“Civil enforcement and private right of action”).

Reading, 349 Mass. 17, 19, 206 N.E.2d 92, 93 (1965) (“Sound principles of statutory construction dictate that interpretation of provisions having identical language be uniform.”).

Defendant is responsible for the Commonwealth’s compliance with the HAVA as well. 52 U.S.C. § 21003(e) (“In this subtitle [52 U.S.C. § 21001 *et seq.*], the ‘chief State election official’ of a State is the individual designated by the State under section 10 of the National Voter Registration Act of 1993 (42 U.S.C. § 1973gg-8 [52 U.S.C. § 20509]) to be responsible for coordination of the State’s responsibilities under such Act.”). This includes maintaining a central computerized statewide voter registration list that is “administered at the State level.” 52 U.S.C. § 21083; G.L. ch. 51, § 47C.

As discussed *supra* § IV-A, the Public Disclosure Provision encompasses the statewide voter list and the ERIC Member Data files. The Public Disclosure Provision mandates that “[e]ach State shall ... make available for public inspection” these materials. 52 U.S.C. § 20507(i)(1) (emphasis added). In other words, the Public Disclosure Provision places responsibility for the mandated disclosure at the state level on a statewide actor. It does not place responsibility for the disclosure on an official of a political subdivision of the state.³

This interpretation is consistent with other provisions of the NVRA in which the “chief State election official”—not a lower level agent—is tasked with complying with the statute. *See, e.g.*, 52 U.S.C. § 20505(b) (development of mail voter registration application forms); 52 U.S.C. § 20507(g) (determining voting eligibility of convicted felons); 52 U.S.C. § 20508(a) (development of regulations for mail voter registration application forms).

The plain and unambiguous language of the NVRA Public Disclosure Provision is conclusive. Interpreting it consistently with the HAVA leads to the proper statutory

³ *See Bellows*, 92 F.4th at 53 (noting that the capitalized form of the word “State” refers to the state itself).

construction. *United States v. Letter from Alexander Hamilton to the Marquis de Lafayette*, 498 F. Supp. 3d 158, 165 (D. Mass. 2020).

Defendant, as the Commonwealth's chief election official, is responsible for complying with all of the NVRA, including the Public Disclosure Provision. Any other interpretation defies the canons of statutory construction.

2. Defendant's Alternative is Inconsistent, Unworkable, And Contrary To Law

Instead of accepting Plaintiff's single request to the Commonwealth's chief election official pursuant to the NVRA Public Disclosure Provision, Defendant apparently proposes that Plaintiff submit individual requests to each of the 351 cities and towns in the Commonwealth. Defendant's proposal is not credible.

As an initial matter, Defendant's refusal to provide the Voter Records under the NVRA is inconsistent with its initial willingness to provide that information to Plaintiff.

Plaintiff originally requested the Voter Records from Defendant on December 3, 2023. Compl., Ex. A, ECF No. 1-1. Defendant did not deny that request. *Id.*, Ex. B, ECF No. 1-2. In its response, Defendant did not instruct Plaintiff to submit individual requests to each city and town in the Commonwealth. *Id.* Defendant's only condition on producing the Voter Records was that Plaintiff execute a licensing agreement, which Defendant never provided to Plaintiff. *Id.*, Exs. B, C, ECF Nos. 1-2, 1-3.

Defendant, therefore, was willing to produce the requested Voter Records to Plaintiff directly. Defendant did not require Plaintiff to engage in the complicated and time consuming effort of submitting individual requests to each city and town. There is no basis for Defendant to impose that requirement now.

Defendant apparently proposes that Plaintiff make individual requests under the NVRA Public Disclosure Provision to each of the 351 cities and towns in the Commonwealth. But it is unclear whether the municipal recipients of these requests—the city and town clerks—would be obligated under the NVRA Public Disclosure Provision to respond to Plaintiff. As discussed *supra* § IV-B-1, Defendant, as the Commonwealth’s chief election official, is responsible for complying with the NVRA. That responsibility does not extend to the municipal recipients. Consequently, the individual requests for voter data would likely need to be based on another statute with which the municipal recipients must comply; for example, the Commonwealth’s Public Records Law, G.L. ch. 66, §§ 1-21.

But the Commonwealth’s Public Records Law includes statutory exemptions from disclosure. G.L. ch. 4, § 7(26). One such exemption is “[t]he names and addresses contained in said central registry [of voters] shall not be a matter of public record” G.L. ch. 51, § 47C. Notwithstanding the exceptions⁴ from the exemption, this restriction on the complete release of voter information is contrary to the “sweeping language that Congress adopted” mandating the production of “all records” pursuant to the NVRA’s Public Disclosure Provision. *Bellogs*, 92 F.4th at 48. Furthermore, as discussed *infra* § IV-C, the NVRA preempts this restriction.

The Voter Records sought include the Member Data files that Defendant is obligated to send to ERIC at regular intervals. The municipal recipients of the proposed 351 individual requests are not a party to the Commonwealth’s contract with ERIC. They are not responsible for the Member Data files. It is unlikely that they even possess Member Data files.

⁴ “[The voter names and addresses] ... shall be available to state party committees, statewide candidate committees, state ballot question committees, the jury commissioner, adjutant general and any other individual, agency or entity that the state secretary shall designate by regulation consistent with the purposes of this section” G.L. ch. 51, § 47C. It is unclear whether the state ballot question committee exception might favor Plaintiff.

Consequently, the municipal responses to the proposed individual requests would be incomplete because they would lack the Member Data files to which Plaintiff is entitled.

Defendant's proposal unnecessarily complicates the procedure of obtaining the Voter Records. As described below, it introduces middlemen—the city and town clerks—into the process.

Typically, a municipal clerk receiving a request for voter data will access the VRIS that Defendant maintains and order a data “extract” that includes the information sought. The VRIS would provide the extract to the clerk who would then send it to Plaintiff. Thus, the clerks would function only as conduits—middlemen—in the entire process; sending and receiving data to and from Defendant. Adding to this inefficiency is that this scenario would occur 351 times—once for each individual request—every time someone requests statewide voter data. This is not a workable solution.

In addition to its inefficiency, Defendant's proposal will not result in obtaining uniform and accurate voter data. As described in the Declaration of Edith Risser, Plaintiff has a long history of making individual requests for voter data to municipal clerks. E. Risser Decl. ¶¶ 5-6 (true copy attached hereto as Exhibit 4). This is a time consuming process to complete for requests sent to each of the 351 cities and towns in the Commonwealth. *Id.* ¶ 7. Plaintiff never received a response to many of those requests. *Id.* ¶ 8. When Plaintiff did receive a response, in many instances it was untimely; for example, arriving approximately three months after the request.⁵

⁵ For requests made pursuant to the Commonwealth's Public Records Law, a response is due within ten business days of the request, which may be extended by an additional fifteen business days in certain circumstances. G.L. ch. 66, § 10(b)(vi).

The responses have been inconsistent as well. For example, in their responses some municipal clerks have inexplicably redacted or encrypted public information. *Id.* ¶ 10. Still others have changed the data Defendant has provided them into unworkable formats. *Id.* These changes might raise issues concerning the authenticity and/or accuracy of the responses. *Id.*

Compiling these responses into a single, readable, and usable document is virtually impossible to accomplish within any reasonable period. *Id.* ¶ 11. Furthermore, Plaintiff typically must alter the responses when attempting to compile them, again potentially raising issues of authenticity and/or accuracy. *Id.*

Potentially the most significant problem with this individual request procedure is that the data obtained from each municipality do not all originate from the same point in time. *Id.* ¶ 12. Upon receipt of a request for voter data, each municipal clerk should enter that request into Defendant's VRIS. The date and time of that entry into the VRIS will be different for each clerk, depending on the date and time the clerk receives the request and other duties occupying the clerk. Consequently, the VRIS will be generating multiple data extracts on various dates and times for the clerks to supply to the requestor.

This prevents Plaintiff from obtaining a single snapshot in time of the statewide voter list. Because changes to voter information in the Commonwealth's Central Registry might occur in the intervals between the generation of the multiple data extracts, those extracts might contain erroneous or inconsistent information. For example, consider a voter who moves from Town A to Town B and changes his voting address accordingly. An extract generated from Town A before the move and an extract generated from Town B after the move likely will list the same voter registered in both towns. That inaccuracy, and other similar inaccuracies, will frustrate Plaintiff's complete and proper analysis of the Voter Records.

Defendant's proposal would require Plaintiff to make hundreds of requests each time it wants to examine the Voter Records. Plaintiff's analyses of the Voter Records are part of an ongoing process. It requires that Voter Records be obtained several times throughout any given year to monitor changes and trends. Consequently, those hundreds of requests would quickly balloon into thousands and significantly burden the municipal clerks.

Forcing Plaintiff to make potentially thousands of requests when Defendant can easily produce the requested Voter Records is unreasonable. As one court noted in a similar situation, "neither the NVRA, the Court, nor common sense can abide such a purposeless obstruction." *Lamone*, 399 F. Supp. 3d at 441.

C. The NVRA Preempts All State Law That Restricts Unfettered Access to The Voter Records

Courts have uniformly concluded that the NVRA preempts a state's restrictions on a recipient's use and publication of voter information obtained pursuant to the Public Disclosure Provision. For example, the First Circuit concluded that the NVRA preempted Maine's ban on the sale or transfer of the voter information. *Bellows*, 92 F.4th at 53-54. The *Bellows* court struck down Maine's prohibition on publication of the voter information as well. *Id.* at 54-56. It reasoned that the prohibition "create[d] an obstacle to the accomplishment and execution of the full purposes and objectives of Congress as stated in 52 U.S.C. § 20501(b)(1)-(4)." *Id.* at 55.

Defendant's similar restrictions on the dissemination and use of the Voter Records as set forth in G.L. ch. 51, § 47C cannot stand in view of the NVRA.

Furthermore, the restrictions set forth in Defendant's licensing agreement are preempted as well. As discussed *supra* § II ¶ 2, at Defendant's request Plaintiff sought—but never received—the licensing agreement. However, through independent means, Plaintiff has obtained a copy of what appears to be the licensing agreement for 2024 (true copy attached as Exhibit 5).

That licensing agreement restricts production of the voter information only to a party who certifies “that they represent a statewide candidate committee, state party committee or other political committee actively seeking nomination or election or a statewide ballot question committee for or against a question to appear at the next statewide election” Ex. 5 at 1. This duplicates the language in G.L. ch. 51, § 47C. The licensing agreement limits the dissemination of the voter information to the licensee and its agents and employees. Ex. 5 ¶ V. These provisions represent an impermissible restriction on the distribution of voter information in defiance of the NVRA.

The licensing agreement states that it is non-transferable. Ex. 5 ¶ II. The *Bellows* court determined that the NVRA preempted that restriction. *Bellows*, 92 F.4th at 53-54.

The licensing agreement prohibits use of the voter information in a manner that “is contrary or inconsistent with the intent of MGL Chapter 51, § 47C or any other applicable statutes pertaining to the election and voter information or registration laws of the Commonwealth of Massachusetts.” Ex. 5 ¶ II. This provision is unclear as to what Defendant means by “intent.” Also, it is impermissibly vague as to the identity of the “other applicable statutes.” The NVRA does not permit such restrictions and preempts this provision.

Defendant’s attempts to prevent access to and widespread use of the Voter Records are inconsistent with the NVRA’s objectives of protecting the integrity of the electoral process and ensuring that accurate and current voter registration rolls are maintained. 52 U.S.C. § 20501(b). Defendant’s licensing agreement is an affront to Congress’ intent in enacting the NVRA and it, and Defendant’s other restrictions, are wholly preempted.

V. **CONCLUSION**

For the reasons set forth above, Plaintiff submits that summary judgment in its favor is appropriate and warranted, and respectfully urges the Court to rule accordingly.

Respectfully submitted,

Dated: November 29, 2024

/s/ Brian M. Gaff

Brian M. Gaff (BBO No. 642297)

215 South Broadway, Suite 308

Salem, NH 03079-3374

857-719-0100

781-581-9134 (fax)

bgaff@lawbmg.com

*Attorney for The Committee for Massachusetts
Voter Identification Ballot Question.*

CERTIFICATE OF SERVICE PURSUANT TO LOCAL RULE 5.2

I hereby certify that this document filed through the CM/ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non-registered participants on November 29, 2024.

/s/ Brian M. Gaff

Brian M. Gaff (BBO No. 642297)

EXHIBIT 1



The Commonwealth of Massachusetts

**William Francis Galvin, Secretary of the Commonwealth
Elections Division**

M E M O R A N D U M

TO: U.S. Election Assistance Commission

FROM: Michelle K. Tassinari, Legal Counsel, Elections Division

DATE: April 22, 2005

RE: Comments on Proposed Voluntary Guidance on Implementation of
Statewide Voter Registration Lists

Thank you for the opportunity to provide comments on the Proposed Voluntary Guidance on Implementation of Statewide Voter Registration Lists.

Background

In Massachusetts, we have had a statewide database since 1995. The Voter Registration Information System (VRIS) is the single, uniform, official, centralized, interactive computerized statewide voter registration list that was designed to comply with the National Voter Registration Act of 1993 (also known as 'Motor Voter') and implementing state legislation (G. L. c. 51, section 47C) and regulations (950 C.M.R. § 58.00 et seq). As a result of such legislation, all cities and towns in Massachusetts are required to maintain voting and election related information using this centralized system. The VRIS is a real-time database that supports over 1000 users in each of the 351 cities and towns of the Commonwealth. The VRIS also is used for maintenance of local census information.

One of the greatest concerns when implementing the system was security. Accordingly, the system was designed and remains a closed network with all users directly connected to the database rather than using an internet based system. The VRIS prides itself on maintaining a secure network and database. A dual layer of network password security exists in that users must log on to a Windows domain controller for network logon, and a separate user ID for database/application logon. Each user in the Commonwealth has individual user logons and pass codes to access the application/database. This database logon is a unique and traceable database identifier.

One Ashburton Place, 17th floor, Boston, MA 02108

The equipment used by each municipality was provided by the state, including hardware and software. Each municipality received at least one computer with monitor, mouse, keyboard, scanning device and printer. The number of systems deployed was based upon the number of registered voters in the municipality. The state also provides technical support through the Help Desk, a division of the Office of the Secretary of the Commonwealth. Additionally, new users are provided with training in their office upon request.

Although the system was first implemented in 1995, it has evolved greatly to include additional functionality including election maintenance, such as absentee ballot tracking, election results tallying and ballot generation. In my opinion, one of the best features added was expanded e-mail capabilities. Each of the users can e-mail each other as well as using a broadcast e-mail function. This is an important tool to quickly communicate with local election officials when new law is passed or policy implemented.

Presently, the system is not HAVA compliant. The only remaining component to make the system HAVA compliant is the verification of information through the Registry of Motor Vehicles. The development of that technology is currently underway. Since the passage of HAVA, the system was modified to store driver's license numbers or last four digits of a social security number and to identify on system generated voting lists those voters who will be required to present identification. Additionally, a provisional ballot tracking system was developed for municipalities to enter and maintain provisional balloting information that could be accessed by our office which has a toll-free telephone number.

Comments

I agree that the success of any system is dependent upon a cooperative effort by state and local election officials. In Massachusetts, elections are conducted on a municipal level, at the direction of 351 local election officials. Prior to the implementation of VRIS, each municipality had a different system of maintaining voters. The VRIS system as exists today is a result of a cooperative effort of the local election officials and the state. The development of the original system and all subsequent modifications has been achieved by suggestions and requests from the users themselves.

The staff that maintains the database meets regularly with a "User Group" comprised of representatives from both the City and Town Clerks' Associations. Any user that has suggestions provides them to the User Group and then the User Group presents them to our staff. This process has led to the development of a user-friendly system with extensive functionality. This process also led to the successful transition from local systems to using the statewide system. Additionally, having representatives from both cities and towns provides each

with different perspectives of the usability of suggested modifications relative to the size of the municipality.

I also agree that it is imperative to define the obligations of all parties clearly. The VRIS has regulations that define what information must specifically be entered into the system and the timeliness in which such entries must be made. Such definitions are critical to ensuring the accurateness of the information.

The proposed guidance is helpful for the development and implementation of a system, but in my opinion it is essential to include that any system being developed must incorporate the present functionality of local systems already being used. If the system provided to a local election official does not provide the functions that they already have in their local system, they will most likely maintain both systems. In my experience from the transition from local systems to the statewide system in Massachusetts, this is a dangerous practice that results in one list being compromised.

The capabilities of such systems can expand as user demands expand. Accordingly, I think it is important to continually improve any system to make it more useful. However, it would be helpful if the guidance would include the types of information that the Election Assistance Commission concludes are necessary to successful implementation—not just the names of voters, but also any other information that the Commission may seek in the future such as that related to absentee ballots and provisional ballots.

Again, thank you for the opportunity to participate in this process and please do not hesitate to contact with any additional questions.

EXHIBIT 2

PART A – Census/Voter

RES/VOT: CENS/VOTR

The combined Census/Voter window allows the user to search and view resident and voter information throughout the Commonwealth. Users can create, modify and delete resident, family and voter information only in their own community.

SECTION A1 – Using the Search Window

VOTER REGISTRATION INFORMATION SYSTEM [SOMERVILLE/SOVHLP, D8 = Dev]

File Applications Window Help

RES/VOT CENSUS PET NOM POLLS MAINT REPORTS EXTRACTS EXIT

Combined Census/Voter Inquiry Screen

Last Name: First Name: Middle Name: Title: Show Deleted? ☒ No ☐ Yes ☐ Both

No: Sfx: Street Name: Unit: City: Res Zip:

Resident Id: Head of Hshld Id (Census Id):

| Par | Sta | Name | Address | Gen | DOB | Ward | Census | FC | Mat | Reg | Del | Occupation |
|-----|-----|----------------|-------------------|-----|------------|--------|--------|----|-----|------|-----|--------------|
| Id | tus | | | der | | Princt | Year | | to | Mode | | |
| | | ABRU, SAM | 22 PRICHARD AVE | F | 06/25/1970 | 05/2 | 2012 | 0 | Y | | | SALES |
| D | | ABRUZ, TONY | 22 PRICHARD AVE | M | 05/27/1922 | 05/2 | 2012 | 0 | N | M | | IT MANAGER |
| U | | ACOVIO, JULIE | 28 PRICHARD AVE | M | 09/02/1932 | 05/2 | 2012 | 0 | N | M | | MNGMT ASST |
| D | | AIELL, JUNE | 38 PRICHARD AVE 2 | F | 03/30/1944 | 05/2 | 2012 | 0 | Y | | | PROFESSIONAL |
| D | | AIELLO, BOB | 38 PRICHARD AVE 3 | M | 05/07/1919 | 05/2 | 2012 | 0 | Y | M | | PROFESSIONAL |
| D | | AIELLO, SUSAN | 40 PRICHARD AVE | M | 08/24/1922 | 05/2 | 2012 | 0 | Y | M | | PROFESSIONAL |
| U | | ALLEN, TOM | 50 PRICHARD AVE 3 | M | 05/01/1905 | 05/2 | 2012 | 0 | Y | M | | TEACHER |
| U | | ARSEN, SAMSON | 30 PRICHARD AVE 2 | F | 02/27/1962 | 05/2 | 2012 | 1 | N | M | | TEACHER |
| U | | AYA, JULIE | 70 PRICHARD AVE 2 | M | 05/09/1933 | 05/2 | 2012 | 0 | Y | R | | UNKNOWN |
| | | BALF, TOMMY | 11 PRICHARD AVE | M | 03/14/2000 | 05/2 | 2012 | 0 | N | | | CHILD |
| D | | BALFO, WILLIAM | 11 PRICHARD AVE | F | 09/27/1932 | 05/2 | 2012 | 0 | Y | R | | ACUPUNCTURE |
| | | BALFO, JANE | 11 PRICHARD AVE | F | 03/14/2011 | 05/2 | 2012 | 0 | N | | | CHILD |
| U | | BENO, TONY | 86 PRICHARD AVE | F | 07/14/1942 | 05/2 | 2012 | 0 | N | M | | RETAIL |

Ready

Member Search Family Voter

Add Change Del Inquire Clear Exit Add Del Chg Census Inquire Reg Chg Del Create Sign

Figure 2 Combined Census/Voter Inquiry Screen

PLEASE NOTE* To search for a resident or voter record by name or address, search criteria must be entered into at least one of the shaded gray fields. However, the more information the user includes, the faster the search will be returned.

The *Show Deleted* box setting will default to the radio button *No*. Users may select *Yes* or *Both* radio buttons to help search for past residents and voters. Change the setting back to *No* after searching for deleted records or select the CLEAR button.

Cont'd on next page

Once the search is complete, all possible matches to the criteria entered will appear in the data window. Figure 2 shows the only matches to the criteria entered.

Descriptions of the data displayed in the search results

- **Party:** Displayed only for voters. A list of the party codes can be found in the Maint: Pol Prty sub-module.
- **Status:** Displayed only for voters.
 - Blank = voter is active
 - I = voter is inactive
- **Name** (# and **bold red font** indicates resident is a PSC)
- **Address** (residential)
- **Gender**
 - M = Male
 - F = Female
 - Blank = not specified on resident record
- **Date of Birth**
- **Ward and Precinct**
- **Census Year:** last year responded
- **Family Code**
- **Mail To:** There is one head of household (HOH) per family code and the HOH's last name is to whom the mail is addressed.
 - Y = HOH
 - N = not the HOH
- **Registration Mode**
 - R= RMV
 - I= in person
 - M= mail in registration form
 - A= agency (excluding RMV)
- **Deleted:** a red D will only display when the Show Deleted radio button settings are set to *Yes* or *Both* to indicate the record was deleted.
- **Occupation**

Sorting the search results

- Clicking one the column headings in the search results table will sort the results in ascending order.
- Clicking the same header a second time will reverse the sort order.
- The results cannot be sorted according to *Ward/Precinct* or *Registration Mode* or *Deleted Status*.

PLEASE NOTE * Blank values will always remain at the top of the results.

EXHIBIT 3

Brian M. Gaff

From: Sterman, Anne (AGO) <anne.sterman@mass.gov>
Sent: Friday, November 22, 2024 13:27
To: bgaff@lawbmg.com; Fischer-Groban, Phoebe (AGO)
Subject: RE: Committee v. Galvin: SJ Issues.

Brian,

Please see the answers to your questions in red below.

--Anne

From: Brian M. Gaff <bgaff@lawbmg.com>
Sent: Friday, November 15, 2024 11:45 AM
To: Sterman, Anne (AGO) <anne.sterman@mass.gov>; Fischer-Groban, Phoebe (AGO) <Phoebe.Fischer-Groban@mass.gov>
Subject: RE: Committee v. Galvin: SJ Issues.

CAUTION: This email originated from a sender outside of the Commonwealth of Massachusetts mail system. Do not click on links or open attachments unless you recognize the sender and know the content is safe.

Anne and Phoebe –

It was nice to meet you and Michelle on Wednesday.

Do you have a response to my email below?

Brian M. Gaff
+1-857-719-0100
bgaff@lawbmg.com

Privileged and/or Confidential Attorney Communication

From: Brian M. Gaff [<mailto:bgaff@lawbmg.com>]
Sent: Thursday, October 31, 2024 13:05
To: Sterman, Anne (AGO) (anne.sterman@mass.gov); Fischer-Groban, Phoebe (AGO) (Phoebe.Fischer-Groban@mass.gov)
Subject: Committee v. Galvin: SJ Issues.

Anne and Phoebe –

Based on our prior discussions and the scheduling conference yesterday, it appears that the parties don't dispute that the NVRA (52 USC § 20501 et seq.) requires production of the statewide voter registration list to the Plaintiff Committee. Instead, the disagreement is over who is responsible for producing that information (i.e., Secretary Galvin's office or the individual cities and towns in the Commonwealth). Is that correct?

We do not dispute that the NVRA requires that the data be public, but we do dispute that the NVRA places the obligation for providing the data to the public specifically on the Secretary.

Also, we haven't discussed in depth the issue of the Commonwealth producing the ERIC Member Data files pursuant to the NVRA as described in the complaint. Does the Commonwealth contend that the NVRA doesn't mandate disclosure of the ERIC Member Data files?

The Commonwealth has no such member data files. Although the Commonwealth is a member of ERIC, due to technological and other limitations, the Commonwealth has not participated in the program. Therefore, I think this aspect of your claim is moot as there are no files to produce.

Please confirm the Commonwealth's position on these issues. That will help streamline the summary judgment briefing for all parties.

Thanks,

Brian M. Gaff
+1-857-719-0100
bgaff@lawbmg.com

Privileged and/or Confidential Attorney Communication

EXHIBIT 4

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

THE COMMITTEE FOR
MASSACHUSETTS VOTER
IDENTIFICATION BALLOT QUESTION,

Plaintiff,

v.

HON. WILLIAM FRANCIS GALVIN, in his
official capacity as Secretary of the
Commonwealth of Massachusetts,

Defendant.

Civil Action No.: 1:24-cv-12029-NMG

DECLARATION OF EDITH RISSE

1. I, Edith Risser, have personal knowledge of the facts and opinions stated herein and, unless otherwise noted, I am competent to testify to the same.

2. I reside at 70 Todd Pond Road, Lincoln, MA 01773-3808.

3. I am a member of the Committee for Massachusetts Voter Identification Ballot Question (“Committee”), Plaintiff in the above-captioned matter.

4. In my capacity as a member of the Committee, I analyze voter rolls to identify errors and inconsistencies, and to ensure that voter rolls are current, accurate, and comply with federal and state law.

5. In connection with my analyses, for at least the past year I have attempted to obtain a copy of the Massachusetts statewide registered voter list. I have been unable to get that list from Defendant.

6. I have, therefore, tried to obtain a list of registered voters in each of the 351 cities and towns in the Commonwealth from the clerks in each city and town. I have not succeeded in

this endeavor.

7. One of the first problems that I experienced with this approach is that preparing and submitting, via email, a request to each city and town for its voter list is very time consuming to complete for all cities and towns in the Commonwealth. This is especially true when a city or town does not accept email requests or when email requests are misdelivered. Resolving those issues adds significant extra time to complete all of the requests.

8. Another problem is that some of the clerks do not respond to the requests at all, respond with the incorrect information, or do not respond to the requests in a timely manner. I have been informed that the clerks must generally respond to requests such as mine in ten to twenty-five business days. Notwithstanding this, some clerks have taken approximately three months to respond.

9. I have been informed that each clerk obtains the voter list for their city or town by submitting a request to Defendant's Voter Registration Information System ("VRIS"). Furthermore, I have been informed that the VRIS responds to each clerk with an electronic data extract that contains the requested information.

10. Yet another problem occurs when the clerks modify the data extract that the VRIS provides. These modifications have included: redaction of public information, encryption of public information, and reformatting of the extract so as to make it difficult or impossible to use. There is no basis for the clerks to make these modifications. Furthermore, I am concerned that modifications by the clerks might call into question the authenticity and/or accuracy of the data extracts.

11. As a consequence of this, the responses that I have received from the clerks have been non-uniform and inconsistent; some clerks modify the extracts, others do not. It has been

virtually impossible to combine these differing extracts into a single, comprehensive statewide voter list within any reasonable time frame. Furthermore, combining the extracts requires me to modify them first; for example, to add missing information such as the name of the city or town as a data field.¹ I am concerned that my modifications might call into question the authenticity and/or accuracy of the data extracts.

12. A major concern I have about making individual requests to each clerk is that the data I receive is not from a single point in time. In other words, the clerks acting on each of my requests have likely entered each request into the VRIS on different days and/or times depending on when they receive the request and their other responsibilities that occupy their time. Consequently, Defendant's VRIS will generate extracts containing the requested data for different cities and towns on different days and/or times. Therefore, changes made to voter information after the VRIS generates one extract but before it generates another extract could lead to inconsistent or erroneous results; e.g., a person might appear as a registered voter in two towns following a move. Locating and eliminating these errors would be time consuming and likely impossible.

13. In my opinion, the only way to obtain a single, comprehensive, and accurate statewide voter list is to make a single request to Defendant who can generate that list through a simple extract from the VRIS under his control.

¹ The data extracts that I have received from individual cities and towns typically do not include the name of the municipality as a data field, likely because it is superfluous—each voter record in a given extract is from only that municipality. However, before combining extracts from multiple municipalities, I must add a new data field containing the name of that municipality to each municipality's extract. That ensures that the records remain distinguishable after being combined.

I declare under penalty of perjury under laws of the United States of America and the Commonwealth of Massachusetts that the foregoing is true and correct and that this Declaration was executed on this 29th day of November 2024.

Edith Risser

Edith Risser

EXHIBIT 5

Central Registry of Voters License Agreement

This License Agreement is made this _____ day of _____, 2024,
between LICENSOR and LICENSEE.

Whereas, LICENSOR, pursuant to Massachusetts General Laws Chapter 51, § 47C has developed and maintains a central registry of voters which contains, in part, the names and addresses of all registered voters as well as voter history for the Commonwealth of Massachusetts; and

Whereas, LICENSEE, certifies that they represent a statewide candidate committee, state party committee or other political committee actively seeking nomination or election or a statewide ballot question committee for or against a question to appear at the next statewide election;

Whereas, LICENSEE desires to acquire a license from LICENSOR regarding the names, addresses and voter history of the registered voters maintained in the central registry of voters;

Now, Therefore, LICENSOR and LICENSEE agree as follows:

I. Definitions

"LICENSOR" shall mean the Secretary of the Commonwealth of Massachusetts.

"LICENSEE" shall mean:

Candidate, Party or Ballot Question Committee Name

For candidates: office sought and district name

OCPF or FEC #

"PUBLICATION" shall mean a computer readable format of the names and addresses and/or voter history of all the registered voters in the Commonwealth of Massachusetts in the central registry of voters.

II. Grant of License

Subject to all the terms and conditions of this License Agreement, LICENSOR hereby grants to LICENSEE a personal, non-exclusive, non-transferable right and license to use the PUBLICATION in accordance with the provisions of section 47C of chapter 51 of the Massachusetts General Laws

(hereinafter referred to as "MGL"). In as much as MGL Chapter 51, § 47C states that the names and addresses contained in the central registry of voters are not a matter of public record and may only be disclosed to state party committees, candidate committees or state ballot question committees, neither this License Agreement nor the license granted herein may be assigned or otherwise transferred by LICENSEE, and the PUBLICATION to which it applies and documents and materials relating thereto may not be disclosed, duplicated, sublicensed, published, released, sold or transferred to another party by LICENSEE without the prior written consent of LICENSOR.

LICENSEE also agrees not to use the PUBLICATION in a manner which is contrary or inconsistent with the intent of MGL Chapter 51, § 47C or any other applicable statutes pertaining to the election and voter information or registration laws of the Commonwealth of Massachusetts.

LICENSEE further agrees that the PUBLICATION will only be used for purposes directly related to political activities and will not be used for commercial purposes. Specifically prohibited uses include: harassment of any voter or voter's household; advertising, solicitation, sale, or marketing of products or services to any voter or voter's household; or reproduction in print, broadcast visual or audio, or display on the Internet or any computer terminal, except for the authorized purposes described above.

No transfer of ownership is intended by this License Agreement.

III. Term of License

This License Agreement shall commence upon the receipt by LICENSEE of the PUBLICATION and shall terminate according to the provisions of Paragraph IX or upon earlier termination by LICENSEE of its use of the PUBLICATION.

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LICENSOR may charge a fee under this License Agreement, which shall be in an amount which is determined to be a fair and reasonable cost not to exceed the cost of printing or preparing computer readable formats of the PUBLICATION. All monies due shall be paid prior to the release of the PUBLICATION by LICENSOR to LICENSEE.

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LICENSEE agrees to use the PUBLICATION only as provided in this License Agreement and only during the term of the license granted by this License Agreement. LICENSEE further agrees not to provide or otherwise make available the PUBLICATION to any person other than LICENSEE'S agents or

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VIII. Use of the PUBLICATION and Rights of LICENSOR

LICENSEE agrees to inform all of its employees and agents of the confidential nature of the PUBLICATION and the terms of the License Agreement.

LICENSEE expressly agrees that any use not in accordance with the foregoing terms and conditions of this License Agreement is an unauthorized use of the PUBLICATION. LICENSEE agrees and understands that LICENSOR may seek a Temporary Restraining Order, a Preliminary Injunction, a Permanent Injunction, or any and all other legal or equitable actions or remedies, against LICENSEE due to the unauthorized use or disclosure of the PUBLICATION by LICENSEE or any of its employees and agents. Should LICENSEE or its employees or agents violate the terms of this License Agreement, LICENSOR may recover against LICENSEE the value of any and all benefits or monetary amounts received by LICENSEE as a result of the improper use of the PUBLICATION or violation of this License Agreement.

IX. Cancellation or Termination

The right and license granted hereunder may be cancelled by LICENSOR at any time upon thirty days written notice.

Upon any unauthorized use of the PUBLICATION by LICENSEE, or upon any breach of this License Agreement by LICENSEE, the License Agreement shall immediately terminate.

Upon termination of the License Agreement, LICENSEE shall deliver to LICENSOR any and all portions or copies of the PUBLICATION.

X. Limitation of Liability

In no event shall LICENSOR be liable to LICENSEE for any loss or damages sustained by LICENSEE arising out of use of the PUBLICATION, or for any claim made against LICENSEE by any other party.

XI. Indemnification

LICENSEE agrees to indemnify and hold harmless LICENSOR from any and all claims and actions brought against LICENSOR arising out of LICENSEE'S use or disclosure of the PUBLICATION or from LICENSEE's breach of this License Agreement.

In witness thereof, the parties have caused this License Agreement to be executed as of the date specified below.

Secretary of the Commonwealth
LICENSOR

LICENSEE

By: _____
(Signature)

By: _____
(Signature)

(Printed Name)

(Printed Name)

(Title)

(Title)

(Phone)

(Phone)

Date: _____

Date: _____