

Kleros case 532: Will Joe Biden Win the 2020 US Presidential election?

The market title is “Will Joe Biden win the 2020 United States presidential election?”, with a resolution date of 20 December, 2020. **This market should resolve according to the winner of the general election or the Electoral College vote, and [Joe Biden is known to be the winner of both](#). Therefore it is appropriate to report “yes”.**

The US presidential election is a long process with many stages, including:

1. The general election on November 3 2020
2. The Electoral College vote on December 14 2020
3. The joint congress choosing the next president on January 6 2021

Usually, when people talk about “the election”, [they mean the general election](#). Most bookmakers resolve according to the results of the general election ([BetOnline](#), [BetFair](#), [MyBookie](#), [SportsBetting](#)), where the winner of the general election is the candidate who wins enough states to be due a majority of Presidential Electors. The [US constitution](#) contains no definition of “the presidential election” or “the election”.

Given the context of a 20 December resolution, this market could only ever resolve according to the general election or the [Electoral College vote](#). This was always obvious to traders on the market. Resolving according to the general election matches the usual meaning of the market’s title, the usual practice of presidential election markets and is not in tension with any definition to be found in US law. [Either resolution results in a valid Joe Biden win](#).

These resolutions are reasonable and have sound basis in ordinary usage, precedent and law. The invalid argument holds that, in fact, this “election” should be understood to be the joint congress on January 6, 2021, an event that happens long after the market closes and does not involve the casting of any ballots. Neither the market creator, nor the market validators, nor any reasonable traders can have believed that they were betting on an event that took place nearly a month after the market closed. **There is no way that this is the “most obvious” interpretation given the context, and so according to Omen rules it should be disregarded.**

Response to the “Invalid” Argument

We are pleased to agree that the key question is whether this market refers to the November 3 general election, the December 14 Electoral College vote or the January 6 congressional certification. This ruling should be made in line with Omen rules and “the spirit of the dispute”, according to Kleros guidance.

Omen rules say that the most obvious choice is the correct one. The market creator, the verifiers and the vast majority of traders all agreed it was not a market about the January 6 congressional certification, so this cannot be the most obvious choice. **Either of the other choices result in a Biden win, and so the appropriate ruling is “yes”.**

The invalid side contests that Jan 6th is the only viable interpretation of “the US presidential election”, because, according to them, this is the best interpretation of the definition of “election” as given in the *Merriam Webster Dictionary*. This is clearly refuted by the fact that “the presidential election” also [refers to the general election](#). **Furthermore, the invalid side has made no attempt to argue why their minority interpretation of this market should be accepted over the majority interpretation just because it is their favourite interpretation of a particular dictionary definition. Omen rules stress that the most obvious choice is correct, which clearly favour the interpretation that the majority finds most obvious.**

Their argument about dictionary definitions also fails on its own merits. The casting of votes in the general election is *an act of electing*. The casting of votes in the Electoral College is also *an act of electing*. The joint congress choosing a president is not an act of *electing*, because electing involves the *casting of ballots for a candidate*. It might be part of a *process of electing* - that is, a “process of selecting a president for office on the basis of ballots cast” - but *only if this selection is actually made on the basis of ballots cast*. This would *not* be a process of electing if the selection of a president were made by [selectively counting the ballots or by other means that ignore the will of those who voted](#).

Omen rules provide guidance about how to resolve a potentially irregular “election”: the market should be resolved according to the most obvious interpretation, given the context. In the context of this market, which resolves on December 20 and which was *universally* understood to refer to events settled at the time of closure, it is clearly appropriate to resolve on the cast votes rather than the choice of president.

The invalid side object to us calling these events "entities". An “entity” is a thing that exists, and the Omen rule clearly applies to all kinds of things that might be referred to by question titles, including events.

The invalid side continues to claim that seven states have contested the Electoral College vote, and [has not responded to our evidence that GA, PA and MI definitely did not contest it](#). Because these states did not contest it, the outcome is definitive as Biden has at least 280 uncontested Electoral College votes. **In fact, the invalid side has provided no evidence that any of their “seven states” have contested the Electoral College vote in the form of bills passed by state legislature or certificates of challenge displayed in public archives.**

What is the ‘2020 US Presidential Election’?

The US presidential election begins with the general election, handled by individual states according to their laws. In the general election, US citizens over 18 are allowed to vote for the

Presidential candidate of their choice. In each state, the Presidential candidate receiving the most votes has their party's Presidential Electors chosen to vote in the Electoral College.

After the general election, the choice of the next US president takes place. This is described in the [US constitution](#) and [Title 3 of the United States Code](#). The presidential electors meet and cast their votes in December, usually for the Presidential candidate whose party they represent. In January of the following year, the Senate and House meet in a joint congress to count the electoral votes and choose the next President.

Usually, there is a lot of uncertainty over who will win the general election, but the winner of the general election almost always goes on to become the next President. In theory, this doesn't have to be the case: Presidential Electors are not obliged to vote for their party's Presidential candidate, and their votes can be challenged at the joint congress.

This market refers to events before December 20

There is no formal definition of which part of this process is "the election", and who its "winner" is¹. These are informal terms that people use to discuss the whole process, and they don't usually need clarification because the "winner" of the general election is also the "winner" of the electoral college vote and the congressional count.

For this Omen market we need a reasonable understanding of what it means for Joe Biden to win the Presidential Election in order to decide how to resolve it. There are three [Omen rules](#) relevant to this:

1. The outcome of the market must be known by its Resolution Date.
2. Entities are assumed to reference the most obvious entity with that name, taking the context into account.
3. If a market can have different interpretations, but all those interpretations lead to the same outcome, this outcome should be reported.

By Omen rules, the market is about the most obvious "presidential election", taking the context of the December 20 resolution into account. **It cannot be any aspect of the "presidential election" that takes place after December 20, so the obvious choices are the general election on November 3, and the Electoral College vote on December 14.** Biden was the

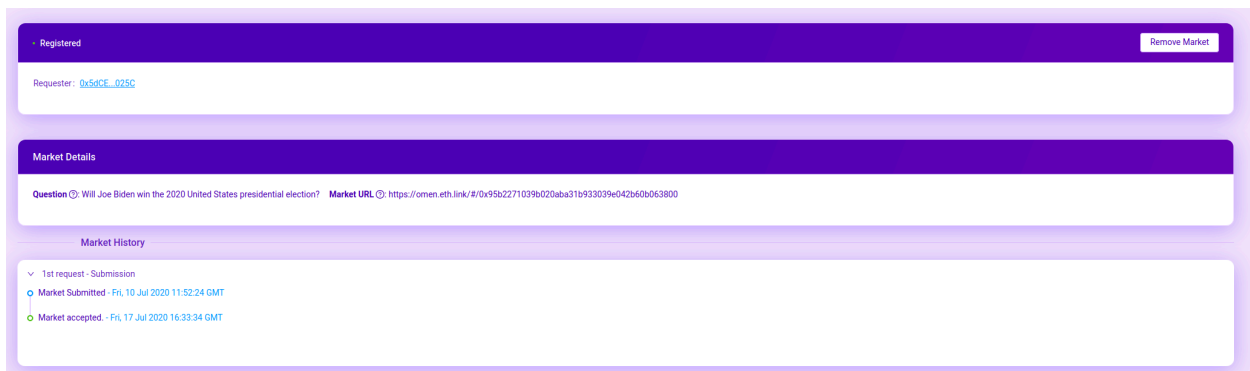
¹ Pennsylvania state law says "The word "election" shall mean any retention, primary, special, municipal or general election at which candidates appear on the ballot for nomination or election or at which questions are to be voted on by the electors of this Commonwealth."

winner of both, [as recorded by the official US government archives](#), and so by rule 3 the outcome “yes” should be reported.

One possible objection is that future events may change our understanding of who won the general election. It is always possible that future events change our understanding of a market’s resolution. In [case 302](#), it was entirely possible that the proposed data sources would revise their figures after the conclusion of the market. Nevertheless, Kleros jurors were nearly unanimous in agreeing that this was a valid market. Ruling out any possible future challenge to a resolution source is an impossible standard for any prediction market to meet, and **with his win confirmed by the certified results of all 50 states it is as clear as it could be that Biden won the general election as of December 20.**

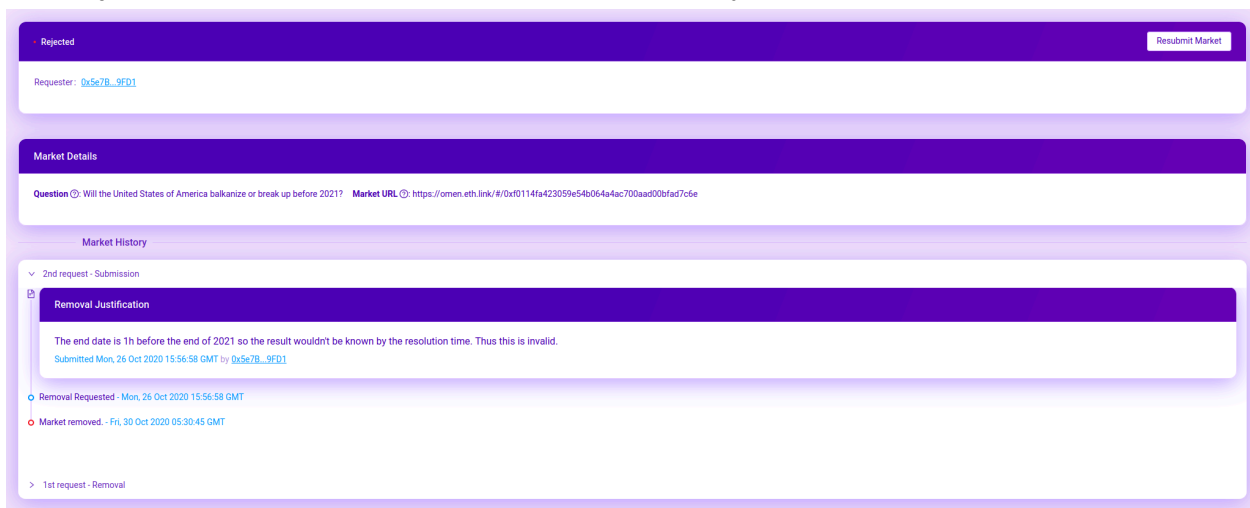
Kleros verified this market, agreeing that the market's resolution criteria is clear and valid

This market was verified by Kleros. To become verified, it was proposed with a 0.33 ETH bounty for anyone who successfully challenged its verification. No-one claimed this bounty:



The screenshot shows a market interface with a purple header labeled "Registered" and a "Remove Market" button. The requester is identified as `0x56CE_025C`. The market details section contains the question "Will Joe Biden win the 2020 United States presidential election?" and the market URL `https://omen.eth.link/#/0x95b2271039b020aba31b933039e0426b0b663800`. The market history section shows a "1st request - Submission" with the following events: "Market Submitted - Fri, 10 Jul 2020 11:52:24 GMT" and "Market accepted - Fri, 17 Jul 2020 16:33:34 GMT".

Incorrect resolution dates are a known problem with markets on Omen, and other markets have been rejected because their resolution date was too early:



The screenshot shows a market interface with a purple header labeled "Rejected" and a "Resubmit Market" button. The requester is identified as `0x5e7B_9FD1`. The market details section contains the question "Will the United States of America balkanize or break up before 2021?" and the market URL `https://omen.eth.link/#/0x0114fa423059e54b064a4ac700aad00fad7c6e`. The market history section shows a "2nd request - Submission" with a "Removal Justification" box containing the text: "The end date is 1h before the end of 2021 so the result wouldn't be known by the resolution time. Thus this is invalid. Submitted Mon, 26 Oct 2020 15:56:58 GMT by `0x5e7B_9FD1`". Below this, the history shows "Removal Requested - Mon, 26 Oct 2020 15:56:58 GMT" and "Market removed - Fri, 30 Oct 2020 05:30:45 GMT". A "1st request - Removal" section is also visible at the bottom.

If validators thought that this market was about the January 6 joint congress, they could have easily challenged its inclusion. They did not challenge its inclusion because they did not think that this is what the market was about. Were this the “most obvious” interpretation, as the invalid team is arguing, then surely it would have been apparent to validators.

The “most obvious” interpretation is also clearly evidenced by the market history

The [Omen Market Resolution Rules](#) provide some leeway for the definition of markets so as to not overburden the market creator. Some assumptions are laid out “in order to avoid insufficiently precise markets to resolve as invalid.” Before detailing these assumptions and how they relate to this case in particular, it is worth emphasizing the wording of this portion of the Rules:

Market creators are encouraged to make their markets as clear as possible. However in order to avoid insufficiently precise markets to resolve as invalid, the following assumptions shall be made[.]

Creators are *encouraged*, rather than *required*, to lay out the terms of their markets as precisely as is feasible. It is understood by the authors of the Rules that market conditions may be difficult to articulate, and that difficulty may at times outweigh the benefits of such precision, in its impact to market interest/liquidity. Furthermore, **the Rules explicitly make it a goal “to avoid insufficiently precise markets... resolv[ing] as invalid.”** The “spirit of the law,” as it were, should thus be taken to protect imperfect markets if their terms are understood widely enough to attract genuine interest.

As for the assumptions made on behalf of the market creator, one of these is the following:

Entities are assumed to reference the most obvious entity with that name, taking the context into account. *Ex: “Will Michael Jordan receive the 2021 Turing award?” refers to the computer scientist Michael I. Jordan whereas “How many points will Michael Jordan score in the FIBA Americas Championship?” refers to Michael J. Jordan, the basketball player*

So one question the jury must consider is, what is the most obvious entity termed *the 2020 United States presidential election*? To reiterate a point made previously in these arguments, there are two common interpretations: the general election, which occurred on November 3, 2020; and the convening of the Electoral College, which occurred on December 14, 2020. Most online betting and prediction markets consider one of these two to be the final settlement of the election results. **The market participants of Omen generally agree that the December 14 vote committed by the Electoral College is indeed the intended interpretation**, as we will illustrate using the trading history of the Omen market itself.

If this is obviously an invalid market, then most traders will easily understand its invalidity. This is what "obvious" means. Thus its implied probability should never have deviated far from 50%. Deviations from this reflect the fact that almost all the traders in the market were confident that this is not an invalid market.



As depicted [here](#), the market held close to 50-50 up until about the beginning of August. After this, it first swung to Trump, and subsequently swung back towards Biden at about 60-40, in line with other election markets at the time. We will walk through the major turning points in trading, and as we do so, consider how the market reaction aligns with certain interpretations of the market conditions.



- **November 3, 2020**
 - On this date, the 2020 US General Election was held, with the general public casting votes at the polls or by other means, and their votes beginning to be counted.
 - The Omen market sits at **62-38 in favor of Yes**
 - At this point, traders could only be going off of pre-election polling results, which [tended to favor Biden](#), or potentially small samples of real election results (in the form of exit polls or if the trader is indeed a member of the ballot counting staff). Thus it is reasonable that the market would lean towards **Yes** but only somewhat.
- **November 6, 2020**
 - Biden is [projected as the leader in Georgia and Pennsylvania](#), a lead which, if held, would provide him the majority of electors.
 - The Omen market sits at **89-11 in favor of Yes**
 - **Clearly, the general election has some bearing on the interpretation of this market's conditions.** Traders reacted with conviction to the publication of general election results.
 - The 11% remaining for **No** (which jumped to a maximum of 21% on November 8) should be addressed. It is likely that a portion of the traders understood the market as regarding the Electoral College results; while general election results are used to appoint electors in each state, there are always possibilities of faithless electors voting against the will of the public. In addition, [the recounts](#)

[requested for certain states](#) opened the door to possibly overturning the initial results.

- December 9, 2020
 - Electoral results are certified by all 50 states, cementing Biden's general election victory
- *December 14, 2020*
 - The Electoral College meets in their respective states to cast their votes.
 - The Omen market sits at **94-6 in favor of Yes**
 - After briefly jumping up in the midst of recounts and attempted lawsuits, the **No** shares slid back down to sub-10% levels. **This demonstrates a clear understanding by Omen traders that they believe the result to be all but set in stone in the lead-up to the Electoral College vote.** If there is any path to this market resolving to **No**, beyond a significant number of faithless electors casting votes for Trump despite being pledged to Biden, it is hard to argue that such a possibility is captured in a 6% chance.
- *December 19, 2020*
 - One day prior to market close.
 - The Omen market sits at **96-4 in favor of Yes**
 - With the Electoral College votes [cast and certified](#), the market has plateaued indisputably in favor of **Yes** as the outcome. This aligns with the outcome of the Electoral College vote, and so **it is clear that the overwhelming majority of Omen market participants agree that this event is the final determination of the election.**
- *December 20, 2020*
 - At lower levels of liquidity, a small portion of traders bet the market back up to **87-13 in favor of Yes**
 - **No substantial new information has come to light today**
 - Only now, with the market deadline approaching and almost all the liquidity removed do some participants decide that this market could be unresolved. The price does not reflect confidence - an invalid resolution would still yield around 250% profit at this price. After 6 months of everyone trading as if this is a valid market, on the closing day a small minority suddenly decided that *maybe* this was actually an invalid market all along. This interpretation, based on a technical argument about the meaning of "the election", flies in the face of Omen rules and is against the clear judgement of almost all of the participants for most of the market's life

Given the evolution of this market, **can the jury honestly believe that the market participants were betting on anything but the outcome of the Electoral College**, which itself is directed by the result of the polls? And if the bettors believed they were doing so, the oracle (i.e., Reality, as arbitrated by Kleros) should give them the outcome of that event and only that event. Furthermore, the verification of the Omen market by Kleros certified that the underlying question was well understood.

To rule that any other question was to be answered, or that it was not well understood, is at best a distraction, and at worst a claim that the market was intended to deceive the bettors. This would tarnish the trust in every component of the market and its oracle system, from Omen to Reality to Kleros (Kleros doubly so, given the verification of the market). As a holder with necessarily some stake in Kleros, undermining that trust is obviously not in the jury's best interests.

Joe Biden unequivocally received the majority of electoral college votes on December 14

Official sources show that Biden has received 306 electoral college votes to Donald Trump's 232 <https://www.archives.gov/electoral-college/2020>. It is also possible to watch the votes being cast [on video](#). This headline result - it is not under dispute.

The *invalid team* raises an objection to this: that while the Presidential Electors appointed in accordance with state law did indeed vote for Biden, there were also contesting electors voting for Trump to call this result into question. **This is irrelevant because in Georgia, Pennsylvania and Michigan the Republican parties have clarified that their Elector nominees were not casting valid Electoral College votes on December 14. Without these states, there are at most 260 actual or contesting votes cast for Trump, which is not enough to challenge Joe Biden's majority.**

The following statements are from the Republican parties of Michigan, Georgia and Pennsylvania regarding the conditional votes cast by their Presidential Elector nominees:

- David Shafer, chairman of the Georgia Republican party announced that "[the Republican nominees for Presidential Elector](#)" placed votes for Donald Trump. Both parties put forward nominees for presidential electors prior to the November 3 general election, so "Presidential Elector nominee" is not a special status. Votes for Joe Biden in Georgia, in contrast, were cast by certified Presidential Electors. Also note that the [Georgia republican party website](#) does not mention their voting ceremony at all.
- Michigan Republicans who voted for Trump did so with no endorsement from the state legislature: "[Attorney Ian Northon](#), special counsel for The Amistad Project of the conservative Thomas More Society, was with a group of Republican state lawmakers that failed to escort 16 GOP electors into the Michigan Capitol building Monday. Electors of president and vice-president are required by state law to convene in the Senate chamber at 2 p.m. on the first Monday after the second Wednesday in December following their election.

Northon said Republican electors sent alternative documents to Congress in

case the state Legislature decides to replace Democratic electors. House Speaker Lee Chatfield, R-Levering, and Senate Majority Leader Mike Shirkey, R-Clarklake, said they have no interest in replacing electors after facing pressure from Trump supporters during the last month.”

Michigan electors are seeking a court ruling that might grant them certification, which confirms that they had no certification on December 14

<https://twitter.com/kystenabecker/status/1339623009657757698?s=19>

Also note that the Michigan Republican electors are not mentioned at all on [their party's official website](#).

- The Pennsylvania GOP described the vote cast by their nominated electors as a “conditional vote”, and explained that as of December 14 these electors were **not recognised as** being duly elected and qualified, and their votes would be certified only if future court rulings change this fact:

“[At the request of the Trump campaign](#), the Republican presidential electors met today in Harrisburg to cast a conditional vote for Donald Trump and Mike Pence for President and Vice President respectively.

[...]

The conditional resolution states that electors certify their vote for the President and Vice President “on the understanding that if, as a result of a final non-appealable Court Order or other proceeding prescribed by law, [they] are ultimately recognized as being the duly elected and qualified Electors for President and Vice President of the United States of America from the State of Pennsylvania...”

The claims of the remaining state Republican parties to have nominated legitimate Presidential Electors appears to run counter to sections of [Title 3 of the United States code, Chapter 1](#). If the Presidential Electors are chosen according to state law by December 8, then the choice of electors is conclusive. Adjudicating a matter of US law requires expertise that Kleros is not well positioned to provide, and fortunately it is not necessary in this case.