

RESPONSE OF LIBERTARIAN NATIONAL COMMITTEE TO APPEAL OF THE LIBERTARIAN PARTY OF WISCONSIN AND THE LIBERTARIAN PARTY OF WISCONSIN EXECUTIVE COMMITTEE

Appellant: Libertarian Party of Wisconsin and Libertarian Party of Wisconsin Executive Committee (collectively “LPWI”) and its signatories

Appellee: Presumed to be Region 1 Representatives Adam Haman and Roman Garcia; Region 1 Alternates Andrew Chadderdon and Nick Shawhan; and the Libertarian National Committee

Date: July 23, 2024

INTRODUCTORY NOTE

The Libertarian National Committee would note that this Appeal is defective at the outset as there is no Appellee/Respondent clearly identified, only “affected parties.” This normally would be sufficient, but the Appellee cannot be the Region 1 Representatives or Alternates as their actions are not appealable to the National Judicial Committee. It appears that the true Appellee is the Libertarian National Committee (LNC) as decisions of the LNC are the only ones indisputably appealable and one particular motion of the 2022-2024 LNC to ratify the acceptance of the Region 1 Agreement by the 2022-2024 LNC Secretary (“Ratification Motion”) is particularly mentioned by LPWI. It is also possible that the underlying acceptance of the Regional Agreement by the LNC Secretary Caryn Ann Harlos (“LNC Secretary”) is being appealed but that is not specifically mentioned (a vague reference to “and any other action that gives the agreement validity” does not suffice), nor is it clear that the actions of the LNC Secretary alone are appealable. They have given no such argument that they are. In fact, this is the reason the LNC Secretary gave in arguing for the Ratification Motion to begin with: to give any aggrieved Party at least a clear *procedural* path to appeal even if the *substantive* underlying National Bylaws offer no path, which will be argued herein. The 2022-2024 LNC Secretary is also the Secretary for the present term and consents to be joined in this response of the LNC in the event that the malformed appeal is intended to appeal her acceptance of the Region 1 Agreement in addition to the Ratification Motion by the LNC.

APPLICABLE BYLAWS AND ANALYSIS

The Petitioner unfortunately truncates the Bylaws upon which they rely. Here they are in full:

ARTICLE 7: NATIONAL COMMITTEE

[...]

2. The National Committee shall be composed of the following members:

[...]

c. any additional members as specified below:

Any affiliate party with 10% or more of the total national party sustaining membership within affiliate parties (as determined for delegate allocation) shall be entitled to one National Committee representative and one alternate for each 10% of national sustaining membership. Affiliate parties may, by mutual consent, band together to form "representative regions," and each such "region" with an aggregate national party sustaining membership of 10% or more shall be entitled to one National Committee representative and one alternate for each 10% of national party sustaining membership. "Representative regions" may be formed or dissolved once every two years during a period beginning 90 days before the beginning of and ending on the second day of the national convention and notice of new formations or dissolutions must be given in writing to the national Secretary prior to the close of the convention at which they take place.

This is the source of all the LPWI's problems. This Bylaw has several key elements:

- Regions are comprised of a state or state(s) which by consent mutually band together to have at least 10% of the national sustaining membership and are entitled to one regional representative and one regional alternate per 10% of the national sustaining membership.
- Regions may be formed or dissolved every two years beginning 90 days before the beginning of and ending the second day of the national convention.
- Notice of new formations or dissolutions must be given in writing to the national Secretary prior to the close of the convention at which they take place.

This is pretty much the extent of the Bylaws instructions on this matter. Note what is missing:

- A. Any procedure or obligation upon or by which the Secretary confirms mutual consent. She is only instructed receive the agreements in writing which would entail taking the word of the signatory Chair in the absence of any explicit reason not to.
- B. There is no statement as to when the agreements go into effect, only deadlines during which regions can be formed or dissolved. The formation can happen before the final deadline. They just can't happen after the deadline.

As to Point A, there is another Bylaw which provide instruction as well as a basic understanding of how state parties are organized and how they communicate with the LNC.

ARTICLE 7: NATIONAL COMMITTEE

[...]

8. A National Committee Regional Representative or Alternate may be removed and replaced only by the act of the affiliate parties that constitute the subject region. The voting procedure for the removal and replacement of regional representatives or alternates shall be determined by the regions. **In the absence of any such procedures, a majority vote of the state chairs comprising the region shall prevail.**

The default procedure in regional governance is to defer to the state chairs. In fact, the boilerplate form used by the LNC for at least a decade by the LNC for regional formation only requires the signatures of the Delegation Chairs (which are the state chairs pursuant to the National Convention Rules unless the Secretary is notified otherwise-Rule 3.1) , and anyone who has been a delegate multiple times likely remembers mad scrambles at convention to get signatures of state chairs who leave old regions and join new ones on the spot – without any vote of their Board. Absent any explicit *prior* instruction to the Secretary, that is the default. If the State Chairs sign an agreement, it is presumed valid and any issues with a state chair violating a state bylaw is an internal matter. Once it is accepted, there is no procedure to un-accept it. If a state chair is believed by their party to not have the authority to enter into regional agreements on their own (and to be clear here, the Secretary believes from her own personal investigation that Mr. Ecker in fact DID have the authority, though that is completely irrelevant here), that is an internal matter. It cannot invalidate a regional agreement accepted by the Secretary signed by the state chair.

Boards and Executive Committees are aware that regions are formed every two years. This is no surprise. If they wish to ensure that the LNC is aware that they have some other process – either through their Bylaws (and contrary to assertion here, there is absolutely no clear statement that the LPWI Chair did not have that authority) or through a motion of the Board, **it is incumbent upon them to inform the LNC or the Secretary prior to any agreement being signed.** That can safely be done just prior to the opening of the 90-day window. They cannot void an agreement after the fact that has been relied upon by the rest of the region and accepted by the secretary particularly when the agreement itself clearly states that it is IN EFFECT upon signing and gives conditions upon which a state can be released, to wit:

A blank copy Region 1 Agreement as well as the long-standing boilerplate agreements (which states can reject and use their own as Region 1) are attached to this response. Mr. Ecker signed the agreement on May 11, 2024 which put the region over 20%. The last state

to sign was Minnesota on May 20, 2024. However, the LNC would draw the National Judicial Committee's attention to the provision about effective date as it directly contradicts LPWI's assertion.

This agreement shall become effective upon filing with the Secretary of the national Libertarian Party a number of copies of this agreement signed by Regional Chairs with enough national party sustaining members to form a representative Region. After this agreement has come into effect and subject to any deadlines imposed by the national Party Bylaws for final formation of a representative region for a term, a state affiliate can only join or withdraw with a majority consent of all of the other state signatory affiliates through their State Chairs. No state affiliate can withdraw if their withdrawal will cause the Region to total less than 10% of the national sustaining membership, or if the next 10% threshold is reached, below the highest 10% increment.

The agreement came into effect prior to Wisconsin joining, and thus Wisconsin joined an existing region within the time frames under the national Bylaws, but it was already in effect. At that point, Wisconsin could only withdraw with a majority vote of the other signatories as of May 11, 2024. No such request was made. Once the region hit 20% on May 20, 2024, no state could withdraw **at all** if their withdrawal would put the region under 20%, which the withdrawal of Wisconsin would have caused.

So, there are only two potential "decisions" that can possibly be the subject of this appeal:

The Ratification Motion: (see <https://docs.google.com/spreadsheets/d/1yPeQmj1CzHh4gvSZV7ZoDfXOU3kcdgy2/edit?gid=1669763102#gid=1669763102>)

Ballot: 20240523-02

Motion: To ratify and adopt the Secretary's acceptance of the Region 1 agreement with the states identified in her email announcement and their election of Mr. Adam Haman, Mr. Roman Garcia as Representatives and of Mr. Andrew Chadderdon as first-ranked alternate and of Mr. Nick Shawhan as second-ranked alternate.

Or the Secretary's Acceptance:

On Sat, May 11, 2024 at 9:02 PM LP Secretary <secretary@lp.org> wrote:

Thank you I confirm receipt and the addition of Wisconsin to region 1 for the 2024-2026 term.

In Liberty, Caryn Ann Harlos

LNC Secretary and LP Historical Preservation Committee Chair ~ [561.523.2250](tel:561.523.2250)

Assuming that the LNC's ratification (which is not required by the Bylaws) is invalid for sake of argument, where does that leave the situation? Because if it is valid, the argument is over. Did the Secretary properly accept the agreement under the terms of the agreement. She undoubtedly did. It was signed by the LPWI Chair (signature page attached) and went into effect on that date, and there was no prior notification by LPWI that the Chair did not have the authority to sign despite this being a regular event that happens every two years.

Making another assumption, which the LNC denies, that the LPWI could reject it after the fact, such a rejection would have to take place at a validly called meeting. LPWI doesn't just get to declare that only it can interpret its Bylaws as that begs the question whether there was a valid meeting in order to do so. There was not. The LPWI Bylaws clearly require three weeks' notice for a meeting.

ARTICLE III – Executive Committee

- 1.1. The Executive Committee shall meet at least quarterly and the chair shall determine the times and places of their quarterly meetings and announce them three weeks prior to the meeting.

See <https://www.lpwi.org/bylaws>

This meeting was called on one days' notice. Notice requirements protect absentees and cannot be waived even by unanimous consent of all present unless there are no absentees (RONR 23:6(e), 25:10). There was at least one absentee at that meeting – Thomas Leary (<https://petition.lpwi.org/2024-05-20%20attendance.pdf>)¹ LPWI cannot claim they “suspended RONR” since rules of order can only be suspended via a vote, which requires a valid meeting, and since there was an absentee, this was not a valid meeting. In this case, LPWI must clearly have had a chicken before it laid an egg, and it did not. It does not matter that the Chair agreed with the invalid meeting. He did not have that authority for the reasons noted above. And the fact that he refused later to follow the dictates at the invalid meeting shows in fact he did not agree it was valid.

¹ The rest of the absences were alternates and do not count.

It is also noted, that despite the longstanding practice of LPWI to have electronic meetings, those must be authorized in the Bylaws, and there is no such authorization in the LPWI Bylaws (RONR 9:30). The Board cannot say they met electronically and waived that requirement because there was no valid meeting until RONR was suspended that can only be done at a valid meeting! Further, once adopting a parliamentary authority, any special rule of order (which would include a suspension of the rules in the parliamentary authority) cannot supersede a rule that the parliamentary authority says can be altered only by a provision in the Bylaws (RONR 56:49).

The comments about prior regional decisions being made by the Board are of no relevance as they are mere custom unless put into the Bylaws or passed via a motion of the Board prior to any agreement being signed. Even if the LPWI is claiming an authority to rescind after signature, that question does not need to be reached here since there was no valid rescission prior to any deadline mentioned in the appeal.

The issue raised regarding potential compensation has been answered by the Regional Representatives and doesn't invalidate the above even if not answered. That would be an internal LPWI matter.

CONCLUSION

The National Judicial Committee can only rule on the LNC's own Bylaws and refer to state bylaws where allowed by the same. The only possible place that could come into play here was if the Secretary ignored an explicit prior instruction by LPWI or if the LPWI validly rejected it prior to the agreement becoming effective. It clearly became effective prior to the alleged meeting ordering the Chair to rescind. However, even if it did not, there was no valid meeting prior to the date the LPWI asserts is the deadline, that being the close of the convention.

Angela McArdle, Chair
Libertarian National Committee (2022-2024 and 2024-2026 terms)

Caryn Ann Harlos, Secretary
Libertarian National Committee (2022-2024 and 2024-2026 terms)

2024-2026 REGIONAL AGREEMENT FOR REGION _____

The state affiliates of the Libertarian Parties listed below, through their State Chairs, hereby form a representative Region for the purpose of electing Regional Representative(s) and Regional Alternate(s) ("Regional Representatives") to the Libertarian National Committee ("LNC"). To facilitate the gathering of signatures, signatures may appear on separate versions of this agreement and date up until the calling to order of the Regional Caucus at the 2024 Libertarian National Convention. All versions together shall constitute the entire final agreement. In the event that the national sustaining membership percentage of regional states in this agreement comprise 20% or more, entitling the Region to more Representatives, any Regional Alternate can substitute for any Regional Representative when substitution permitted by the national Libertarian Party. All Representatives, regardless of number, shall represent the entire Region and not any particular sub-set of states.

ELECTION OF REPRESENTATIVES AND ALTERNATES

The Signatory Regional Chairs at the time that 10% is reached shall elect the Regional Representative(s) upon submission of this agreement to the national Libertarian Secretary. If an additional 10% is reached, all the Signatory Regional Chairs at that time shall elect the additional Regional Representative(s).

REMOVAL

Once the Representatives have taken office, any person elected as a Regional Representative or Regional Alternate may be removed from office by:

1. A majority vote of the Regional Chairs.
2. Additionally, the Regional Chairs consent to the procedures outlined in the national Party Bylaws and Policy Manual for a removal vote by the LNC for an At-Large Representative with the exception that such a removal would not be appealable to the national Judicial Committee. If the Regional Chairs disagree with the removal of any of its Representatives by the LNC, the vacancy provision is held in abeyance for ten days to allow the Regional Chairs to re-appoint the removed Representative. The Regional Chairs further consent to a vote by the LNC to suspend LNC membership rights during the investigation period prior to a removal vote if necessary to protect the LNC from breaches of fiduciary duty.

VOTING

To be valid, any vote by the Regional Chairs, must be done electronically and include:

1. All of the Regional Chairs unless they have previously opted out of active participation in the Region as provided below; and
2. Have a voting period of at least three days.

2024-2026 REGIONAL AGREEMENT FOR REGION

The person initiating the email, or their designee, must make every effort to alert each State Chair to the existence of the ballot by phone or text.

VACANCIES

Vacancies are to be filled in the following manner:

1. If the position of Regional Representative becomes vacant, the Regional Alternate shall automatically assume the position of Regional Representative unless declined. If there are multiple Regional Alternates due to the percentage of national sustaining members in the Region, the senior Regional Alternate shall automatically ascend. If there is more than one Regional Alternate with equal seniority, one may defer to the other otherwise the choice will be made by lot.
2. Any remaining vacancies will be filled by a majority vote of the Regional Chairs.

RESPONSIBILITIES OF THE REGIONAL CHAIRS

1. Remain engaged with the Regional Representatives and cast a vote on all items requested by the Regional Representatives.
2. Timely provide information or other support needed for the good of the Region as agreed upon by the Regional Chairs.
3. Clearly communicate expectations and issues with the Regional Representatives.

Any state may opt out of active Regional participation by putting such a request in writing to the Regional Representative(s), with a copy to the rest of the Regional Chairs, and may opt back in using the same manner. If any state has opted out they will not be required to participate in any of the duties or activities described in this Agreement and will not be included in any Regional voting ballots.

Any State Chair may further designate a representative to make decisions and be the point of contact for the purposes of this agreement unless express disallowed by their state bylaws.

RESPONSIBILITIES OF THE REGIONAL REPRESENTATIVES

1. Diligently represent and advocate for the interests of the Regional States in their votes, debate, and participation in the business of the Libertarian National Committee as well as keeping to all of the fiduciary duties required by the Libertarian National Committee. The representative shall pass along to the LNC any joint resolution or request for action passed by the majority of Regional Chairs.
 - a. Consult with the Regional Chairs on **critical votes** and vote the will of the majority of the Regional Chairs. Any State Chair may call for a vote to deem an LNC vote critical to the Region and to make the Region's position clear. Note: the Regional Representative(s) may defer to their/an Alternate(s) or expressly abstain if they cannot in good conscience cast their vote in concurrence with the wishes of the represented states. The purpose of this section is to allow the

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representatives the most freedom to vote their conscience on the ordinary business of the LNC and use their judgment when it is prudent to involve their Regional Chairs.

2. Prepare a timely and thorough Regional Report for each LNC meeting and make a good faith effort to confer with each of the Regional Chairs prior to the production of same, such effort to comprise more than a cursory email asking for an update.
3. Attend each meeting of the Libertarian National Committee as possible. Failure to attend two regular meetings as defined by the national Libertarian Party's Policy Manual shall be deemed an automatic resignation as per the national Libertarian Party bylaws. This applies to both the Regional Representative and the Regional Alternate. The Regional Representative(s) and the Regional Alternate(s) may alternate meeting attendance to conserve costs.
4. Timely resign if at any time any Regional Representative(s) feels they cannot fulfill any of these responsibilities.

TRAVEL COMPENSATION

It is anticipated that the LNC will meet in-person at least two times a year which poses a financial obligation on the representative(s) in order to attend. The Regional Chairs agree that upon election of any Regional Representative, they will enter into a separate agreement, *if requested by the Regional Representative*, for either the Regional Representative or the Regional Alternate to attend each meeting at a maximum amount of \$1,000 per meeting spread amongst the Regional States for a maximum of two meetings per year, whether or not the LNC meets more frequently. This separate agreement may allocate the cost-sharing equally or proportional upon the percentage of national sustaining membership in the Regional States.

EFFECTIVE DATE OF AGREEMENT

This agreement shall become effective upon filing with the Secretary of the national Libertarian Party a number of copies of this agreement signed by Regional Chairs with enough national party sustaining members to form a representative Region. After this agreement has come into effect and subject to any deadlines imposed by the national Party Bylaws for final formation of a representative region for a term, a state affiliate can only join or withdraw with a majority consent of all of the other state signatory affiliates through their State Chairs. No state affiliate can withdraw if their withdrawal will cause the Region to total less than 10% of the national sustaining membership, or if the next 10% threshold is reached, below the highest 10% increment.

I attest that I am authorized to enter into this agreement and contractually bind my state party thereby:

Name: _____ Office: _____

Signature: _____ Date: _____

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ATTESTATION OF REGIONAL REPRESENTATIVES

I attest that I will fulfill the duties and obligations outlined in this agreement.

Name: _____, Regional Representative

Signature: _____ Date: _____

Name: _____, Regional Alternate

Signature: _____ Date: _____

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representatives the most freedom to vote their conscience on the ordinary business of the LNC and use their judgment when it is prudent to involve their Regional Chairs.

2. Prepare a timely and thorough Regional Report for each LNC meeting and make a good faith effort to confer with each of the Regional Chairs prior to the production of same, such effort to comprise more than a cursory email asking for an update.
3. Attend each meeting of the Libertarian National Committee as possible. Failure to attend two regular meetings as defined by the national Libertarian Party's Policy Manual shall be deemed an automatic resignation as per the national Libertarian Party bylaws. This applies to both the Regional Representative and the Regional Alternate. The Regional Representative(s) and the Regional Alternate(s) may alternate meeting attendance to conserve costs.
4. Timely resign if at any time any Regional Representative(s) feels they cannot fulfill any of these responsibilities.

TRAVEL COMPENSATION

It is anticipated that the LNC will meet in-person at least two times a year which poses a financial obligation on the representative(s) in order to attend. The Regional Chairs agree that upon election of any Regional Representative, they will enter into a separate agreement, *if requested by the Regional Representative*, for either the Regional Representative or the Regional Alternate to attend each meeting at a maximum amount of \$1,000 per meeting spread amongst the Regional States for a maximum of two meetings per year, whether or not the LNC meets more frequently. This separate agreement may allocate the cost-sharing equally or proportional upon the percentage of national sustaining membership in the Regional States.

EFFECTIVE DATE OF AGREEMENT

This agreement shall become effective upon filing with the Secretary of the national Libertarian Party a number of copies of this agreement signed by Regional Chairs with enough national party sustaining members to form a representative Region. After this agreement has come into effect and subject to any deadlines imposed by the national Party Bylaws for final formation of a representative region for a term, a state affiliate can only join or withdraw with a majority consent of all of the other state signatory affiliates through their State Chairs. No state affiliate can withdraw if their withdrawal will cause the Region to total less than 10% of the national sustaining membership, or if the next 10% threshold is reached, below the highest 10% increment.

I attest that I am authorized to enter into this agreement and contractually bind my state party thereby:

Name: Stephen A. Ecker Office: Libertarian Party of Wisconsin Chair

Signature: *Stephen A. Ecker* Date: May 11, 2024

Libertarian Party Region Formation Agreement

The state affiliates of the Libertarian Party listed below hereby form a representative region for the purpose of electing the number of members and alternates of the Libertarian National Committee that are allocated by the Libertarian Party bylaws to the region based on the number of national party sustaining members associated with the region.

To facilitate the gathering of signatures, signatures may appear on separate versions of this agreement. All versions together shall constitute the agreement.

A regional caucus shall be held at each regular national convention. Each registered National Convention delegate of states party to this agreement who are present at the caucus shall have one vote. If there is more than one nominee for any office, voting shall be by ballot.

This agreement shall become effective upon filing with the Secretary of the national Libertarian Party a number of versions of this agreement signed by states with enough national party sustaining members to form a representative region. After this agreement has come into effect and before nominations have been opened at the regional caucus, a state affiliate may join or withdraw from this agreement with the written consent of a majority of the other state affiliates party to this agreement if the bylaws of the national Libertarian party so permit. Once nominations have opened, a state affiliate may join or withdraw from this agreement with the written consent of all other state affiliates party to this agreement if the bylaws of the national Libertarian party so permit.

The term of office for a regional representative or alternate shall commence at the close of the convention at which a representative region may be formed and shall end at the close of the next convention at which a representative region may be formed.

Once the elections have been completed, a person elected as a regional representative member or alternate of the LNC may be removed from office by:

- 1) a vote of the region's registered national convention delegates at a regional caucus, or
- 2) the signature of state chairs who are both a) a majority of the state chairs in the region and b) chair states which had a majority of the national party sustaining members in the region as determined for the formation of this region.

A vacancy may be filled by:

- 1) a vote of the region's registered national convention delegates at a regional caucus, or
- 2) a majority of the state chairs in the region without regard to the number of sustaining members in each state.

The Libertarian Party of the state of _____ agrees, in accordance with the terms above to enter into a representative region with the Libertarian Parties of the states of _____,
 _____,
 _____,
 _____,
 _____, and _____.

I attest that I am authorized by my state party bylaws to enter into this agreement and contractually bind my state party thereby.

Name: _____ Office: _____
 Signature: _____ Date: _____



**LIBERTARIAN PARTY
NATIONAL CONVENTION
WASHINGTON, DC - 2024**

For Office Use Only

Region Formation

IN ACCORDANCE WITH THE LIBERTARIAN PARTY NATIONAL BYLAWS, THE DELEGATION CHAIRS OF THE FOLLOWING AFFILIATES CONVEY TO THE SECRETARY THEIR INTENTION TO FORM A REPRESENTATIVE REGION.

Signatures below:

Printed Name and State:

_____	_____
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In addition, the delegates from this region select the following as their Regional Representative(s) and Alternate(s):

_____	_____
_____	_____
_____	_____

Regions must be formed by the second day of the convention (May 25, 2024). This notice of a new formation is due to the LNC Secretary by the close of the convention.