



Angela McArdle, Chair
Libertarian National Committee
1444 Duke St.
Alexandria, VA 22314

August 9, 2022

Re: Recent Decision of the LNC Re: Libertarian Party of New Mexico's Constitutional Convention

To Mr. Luchini and the Executive Committee of the Libertarian Party of New Mexico:

We are in receipt of your letter stating that you do not recognize our recent vote or actions and that you will assert legal rights in executing your operations. We'd like to address some of these assertions and the underlying reasons for our actions.

We do not share your interpretation of bylaw 5.5 which contains the oft-neglected phrase "except as provided by these bylaws." The rest of the bylaws require that the LNC be able to properly identify the affiliate which necessarily includes its essential defining characteristics such as its leadership and its governing documents (as outlined very cogently in the Mattson opinion in the *Delaware* matter before the national Judicial Committee earlier this year). While your letter states that the LPNM is asserting its "associational rights" -- such rights are defined by the Constitution and Bylaws in place at the time which were violated by the invalid July 12, 2022, convention, thus it is the LPNM that has violated the associational rights it set for itself and its members. A full exposition of these violations can be found here:

https://drive.google.com/file/d/1JLy_WtfEROJb0NEADF_57BXnvJHCjyyT/view?usp=sharing.

Additionally, attached to this letter is a brief rebuttal to your alleged "point by point" response which we note did not address the disputed points in any substance.

The list of complaints we received is lengthy, and it did not come from a single caucus or ideological faction within your state affiliate. Who else is supposed to intervene when the members of a state affiliate complain to the national party that their rights have been violated repeatedly? No one desires to get involved in state affiliate matters, but your state affiliate members are demanding someone get involved because their rights have been violated, and they have no other recourse outside of a legal challenge.

We have seen leadership conflict play out multiple times over the past two years, in multiple states, but the most notorious incident was the Oregon split and the fight between Reeves and Wagner, which ended up in Court.

There are two very important takeaways in the *Reeves v. Wagner* case, and in *Cousins v. Wigoda* – a Supreme Court case that was cited in *Reeves*: The Courts do not feel it is their place to interpret or enforce our bylaws. Neither does the Secretary of State. This prevailing attitude dragged the Oregon case out unnecessarily and we do not want to see such a split happen again.

When push came to shove, the Oregon appellate court recognized that the Secretary of State was not prevented from determining who should be listed as the officers of a political party for the purpose of nominating candidates. Unfortunately, the entire litigation process took many years and spanned two court cases and an appeal.

What can we learn from the Oregon dispute?

Court intervention is not the best way to resolve our disputes. It is a time sink. It kills morale. It does not further our goals. The Courts would prefer to stay out of our bylaws disputes.

These sort of time sinks kill a party's ability to function, grow, fundraise, and get candidates elected. For over a year, aggrieved LPNM members have complained about their member rights being violated. Two of your candidates have reached out to national, looking for help because they've received no support from their state party.

Why did we get involved? We've got many other things to be concerned with: candidate support, affiliate support, development, communications and outreach, and overall strategy. But we need functional affiliates to reach peak performance at the national level. You are an affiliate and we are tied together, for better or for worse, in name and branding, in the struggle for ballot access, and in delegate selection to the national convention.

The members of LPNM need to be able to count on both the state and national party to be functional, to pursue the goal of liberty, and to advocate for our candidates.

To this extent, we are reaching out to the Secretary of State with the results of our vote on the rightful operative documents of LPNM. We hope that you will work towards a resolution with us so that we can both provide support to candidates running in the current election cycle, set up a framework to support the 2024 presidential race, and to respect the voting and membership rights of your members.

Please reach out if you have additional questions, or if you need assistance mediating with your members. You may also avail yourself of the national judicial committee if you believe the LNC reached its decision in error.

Very truly yours,

Angela McArdle, Chair

BRIEF REBUTTAL TO POINT BY POINT RESPONSE OF THE LPNM

Defective Notice: It was not disputed that a notice was published in a newspaper or that information regarding the date and time were both published on the website and emailed to some LPNM dues-paying members at least thirty (30) days prior to the convention. It is unclear why the LPNM would simply reassert facts that were never in dispute. The issues, in fact, were that the purported website notice and email **did not contain all the information required** by the LPNM Constitution and Bylaws; and that the **entire dues-paying membership** was not notified, only a specific subgroup, which is also in violation of the LPNM Constitution and Bylaws. Further, the website notice did not contain any information about the specific proposals to be heard as required by the special meeting rules under RONR.

Denial of Member Voting Rights: It was also not disputed that only members who had fully paid their dues at least thirty (30) days prior the convention were entitled to vote. Once again, it is unclear why the LPNM would simply reassert facts that were never in dispute. The issue was not the terminus point by which dues must be paid, but the beginning time period, which is the close of the last valid convention. The LPNM asserts this was its March 5, 2022 convention. That is not the case as that convention was also invalid due to fatally defective notice as not only did the purported notice fail to contain all the information required by the LPNM Constitution and Bylaws, it was not posted to the website at least thirty (30) days prior to the convention as both video evidence and the Wayback Machine demonstrate. Thus, the beginning point during which dues must have been paid was not March 5, 2022, but June 11, 2021–twelve (12) months prior to the thirty (30) day period prior to the convention since the last valid convention of the LPNM was on March 27, 2021. This resulted in a denial of voting rights of enough LPNM members in a sufficient number to effect the results.

Electronic Meetings: The LPNM Constitution and Bylaws do not permit electronic conventions and NM law for non-profit organizations does not permit electronic member meetings unless authorized in the organization's governing documents. The burden of proof is therefore on the LPNM leadership to prove there was an executive order or other regulation in place *at the time of the convention on July 12, 2022* that authorized same. You provided a public health order dated August 12, 2022, a full month after the convention, which was not in place at the time of your convention. Further, this public health order only extended orders that were already in place. The prior orders that were previously in effect had expired earlier this year. Thus, it does not appear that there was emergency authorization at the time of the convention to hold it electronically.

Please note, however, that the defects noted in the convention are entirely severable and any one of them, on their own, *are sufficient to render the convention invalid.*