

BEFORE THE JUDICIAL COMMITTEE OF THE LIBERTARIAN PARTY

Date: 9/10/2021

Petitioner: Caryn Ann Harlos

Subject: Appeal of the LNC motion of 9/5/2021 to suspend and remove Petitioner as LNC Secretary, as per Article 6, Section 7 of the Bylaws.

Interested Parties: Members of the LNC, Joe Bishop-Henchman, as he is alluded to in the in the initial complaint against the Petitioner.

Relief requested: Voiding of suspension motion and reinstatement as LNC Secretary.

Committee Jurisdiction: Article 8, Section 2, subsection b, regarding suspension of officers, and Article 8, Section 2, subsection d, regarding voiding of National Committee decisions.

Appearing on Behalf of Petitioner: DL Cummings

Grounds for Appeal

1. Failure to provide adequate due process to Petitioner.

The LNP Bylaws clearly grant the LNC the ability “for cause, suspend any officer by a vote of 2/3 of the entire National Committee, excepting the officer that is the subject of the vote who may not participate in that vote.” (*Article 6, Section 7, see Exhibit A*) This clause establishes the LNC as the body that will make the initial decision on removing an officer, and the vote required to do so. However, it does not proscribe any method or process for suspending an officer. The parliamentary authority established in the Bylaws (*Article 16*) is the current edition of Robert’s Rules of Order Newly Revised (RONR).

RONR (62:16) provides that “Except as the bylaws may provide otherwise, any regularly elected officer of a permanent society can be removed from office by the society’s assembly as follows,” and then lists two incongruous methods of doing so. One method applies to cases where a fixed term exists, which is the case with the LNC (*Article 6, Section 1, and Article 7, Section 3*). That method is a trial (*RONR 62:16, p. 619, second bullet*).

The Bylaws do provide only one variance with the voting threshold. They do not provide any other variance from the RONR standard disciplinary procedure. The Chair, in making her ruling,ⁱ claimed that there was an additional variance from RONR, “removing us [the LNC] from the umbrella,” created by RONR and that the LNC is “exempt” in this regard; however, no such rule or variance exists in the Bylaws. The Bylaws provide that the vote total needed is two thirds of the entire board, minus the officer subject to the suspension and removal. No other variation from RONR is expressed or implied in the Bylaws. Despite the Chair’s allusion to a rule or variance there is no such rule or variance that removes the process of suspension and

removal from office from the requirements of RONR (see *Jacobs opinion dated June 2021 attached and curriculum vitae attached as composite Exhibit B*).

The Chair cited an opinion from two noted parliamentarians, Henry M. Robert, III and Thomas J. Balch, which was submitted in 2008 to the National Committee (see *Exhibit C*). There are several shortcomingsⁱⁱ to using this opinion, with the main one being that it does **not** refer to removal from an **officer** position. The 2008 Robert/Balch opinion refers to the position of “member-at-large,” which was not (and *is* not) an **officer** position. This distinction is made in the 2008 Bylaws in Article 7, Section 1 and Article 8, Section 2, 2, A, and B (see *Exhibit D*). Even when written, **this opinion did not deal with removing officers**; the term “officer” does not even appear within its text. This opinion is both out of date and inapplicable as the Petitioner is an officer, a position for which RONR has very specific rules for removal.

Based on these facts, the LNC violated the due process rights of the Petitioner in taking action to suspend and remove her from office without a trial.

The specific violations of the Petitioner’s right to due process are:

- A. The notice of the Petitioner did not adequately inform her of the charges and generally are bereft of charges and specifications. A sufficient charge would list the type of action the Petitioner is accused of doing and the specific act as a specification. This was not done, making it next to impossible to offer any kind of defense. As an example of this, motion removing the Petitioner cited two videos, each over an hour long. There is no specification of what is objectionable or a time stamp.
- B. The Petitioner had no ability to adequately prepare a defense.ⁱⁱⁱ The “Bill of Particulars,” was posted of August 27, 2021. RONR mandates thirty (30) days’ notice.
- C. The Petitioner had no ability to call witnesses for her defense or to cross examine witnesses for the prosecution. There was no way for the Petitioner to determine the veracity of any claims made or provide contextual evidence to refute them.

These serious violations of a basic right of an individual member are all sufficient, on their own, to render any removal null and void.

Aside from the clear procedural errors and Bylaws violations, it is a question of fundamental fairness to an accused individual to be told specifically what he or she has allegedly done and to permit the accused to test the veracity of the claims by questioning the accusers. These are principles of fairness and justice (and common sense) in American life that extends well beyond any set of rules.^{iv}

Requested ruling and relief: *The LNC violated the Petitioner’s rights to due process in suspending her without a trial. On that ground, the Petitioner requests that the suspension motion be voided, and she be reinstated as Secretary.*

2. Failure to provide evidence of action that rises to the level of a removable offense.

A. The evidence presented was attached and referenced in the motion to suspend the Petitioner included the following:

- i. Evidence was presented of the Petitioner expressing that she was facing a great deal of stress.
- ii. Evidence was presented of the Petitioner expressing complaints about others bullying her, inclusive of responding to an LNC member, Susan Hogarth, not to involve herself in the Petitioner's personal matters.
- iii. Evidence was presented of the Petitioner using profane comments, outside of meetings, including references to Petitioner members of the LNC.
- iv. Evidence was presented of the Petitioner having a non-official YouTube channel (*disclosed since moment of creation – see Exhibit E for Conflict of Interest Disclosure from beginning of Petitioner's Term as Secretary – Petitioner does not have access to her predecessor's records*).
- v. Evidence was presented of the Petitioner clearly distinguishing her personal social media channels from any official communications both in official communications and through her social media channels.
- vi. Evidence was presented of the Petitioner asking about caucus presence at states she was planning to visit for campaign reelection activities.
- vii. Evidence was presented of the Petitioner expressing strong disagreement with the perceived silence of the LNC on issues surrounding COVID.
- viii. Evidence was presented of the Petitioner expressing her position that she was being targeted by certain LNC members for her whistleblowing activities and for her investigation and opinions about the New Hampshire matter.
- ix. Evidence was presented of religious posts by the Petitioner and requests for persons to pray for her.
- x. Evidence was presented of the Petitioner seeking an attorney to advise her on her rights.
- xi. Evidence was presented of the Petitioner asking for member support and for them to politely write the LNC.
- xii. Evidence was presented of the Petitioner drawing the LNC's attention to an assault incident involving her at the 2016 National Convention.
- xiii. Evidence was presented that the Petitioner was complaining about a double standard being applied to her by other LNC members.

xiv. Evidence was presented that the Petitioner had requested a general question to be asked of Chair candidates.

B. There was a failure to connect provided body of evidence to claimed results or show claimed results were beyond ordinary for controversial figures such as:

i. Any evidence of all the following: actual party members, staff, LNC members, and donors leaving or otherwise withdrawing or limiting support on the basis of the Petitioner's actions.

ii. Any evidence that (i) above was above any common loss from other notable figures.

iii. Any evidence that emails sent to the LNC by the Petitioner's public request to members were substantially more threatening or derogatory than those involving any other highly charged events.

None of these things are sufficient to remove an officer, who was elected by the delegates at a convention, from office. There is a dearth of evidence relating to the Petitioner's conduct within meetings, or her conduct as Secretary and none that her conduct differs from the conduct expected by the delegates who elected her on an explicit platform of taking concerns directly to the members and exposing potential corruption.^v

C. The Petitioner made the claim that this evidence was merely a perfunctory excuse to remove her as multiple members of the LNC had been trying to find a way to do this since her election and presented written evidence of this claim (see *Exhibit F*).^{vi}

D. There was a failure to provide adequate time for Petitioner to provide exculpatory evidence to Ms. Ebke's claims. For instance, a claim was made that "her actions have resulted in the loss of established LP members, LNC officers, LP members, and long-time donors." There has been only one officer, Joe Bishop-Henchman, to depart from the Party. Evidence has been reported to the LNP of actions that implicated Mr. Bishop-Henchman in unethical activities, and Petitioner's involvement in exposing these activities which led to his resignation were well within her fiduciary responsibilities as an officer of the LNC. The inclusion of this charge is **blatant and express** whistle-blower retaliation. Another claim was made that Petitioner's actions resulted in diminished functionality of the Committee.

i. There is counter evidence that at least one donor has expressed that some combativeness is necessary within the Party to prepare itself to challenge external forces.^{vii}

ii. Delegates were aware of, and held expectations of Petitioner to be assertive in order to maintain the highest level of transparency and accountability.^{viii}

- E. The evidence that has been presented for removal is so amorphous and unspecified that there cannot be a meaningful evaluation by the Judicial Committee.

Requested ruling and relief: *The LNC failed to provide sufficient evidence to warrant the suspension and removal of the Petitioner. On that ground, Petitioner requests that the suspension motion be voided, and she be reinstated as Secretary.*

3. Failure to substantiate allegation that Petitioner violated the Non-Aggression Pledge

The Bill of Particulars featured an assertion that the Petitioner violated the Party's membership pledge/the Non-Aggression Principle (NAP). No evidence was given of any activities that involved physical force or fraud or inciting violent rebellion against the government (see *Exhibits G and H*). Rather, claims were made that opinions that upset people are violations of the pledge.^{ix} This position was further affirmed by several LNC members after the meeting (see *Composite Exhibit I*).

Requested ruling and relief: *The LNC failed to provide sufficient evidence to warrant the suspension and removal of the Petitioner based on the charge of violating the membership pledge and instead put forth a completely inaccurate and inappropriate interpretation of the pledge and the NAP that is contrary to the most fundamental Libertarian principles. On that ground, Petitioner requests that the suspension motion be voided, and she be reinstated as Secretary.*

4. Failure to substantiate allegations that the Petitioner violated the social media policy or the conflict of interest policies in the Policy Manual in effect at the time of the suspension

The Bill of Particulars filed against the Petitioner allege violations of both the social media policy and the conflict of interest policy in the Policy Manual effective June 5, 2021. Both of these allegations fail for the following reasons (emphasis added).

- A. The social media policy refers to "staff and qualified volunteers" not LNC members. In the very section referenced in the Bill, LNC members are distinguished from "staff and qualified volunteers" in this manner (emphasis added): "This commitment starts from the time **the LNC or the chair in-trusts** [sic] the **employee or qualified volunteer** with the capability of conducting social media presence for the representation of the Libertarian party, and they must conduct themselves accordingly throughout their employment or service as a volunteer in this capacity."
- B. Assuming, *arguendo*, that LNC members could also be "qualified volunteers" it is further clear in the section quoted above and in the index to this section that these policies apply to volunteers who are "conducting social media presence for the representation of the Libertarian Party," i.e., the Party's Instagram, Facebook, and Twitter volunteers. The Petitioner is none of those.

- C. Without a specific application of the social media policy to the Petitioner, the case against her falls to the ground. There has never been a policy of this sort that applies to LNC members and a knowledge of the history of the Party would reveal that these types of public sparrings are the norm, including amongst LNC members who voted in the affirmative (*for example, see Exhibits J and K*).
- D. Likewise, there is no violation of the conflict of interest section of the Policy Manual which does not require there be no conflicts of interests, including things such as having a monetized YouTube channel, but merely that any such conflicts be disclosed. Not only did the Petitioner disclose her YouTube channel, one of the members voting in the affirmative was her first monetary sponsor (*see Exhibit L*).

Requested ruling and relief: *The LNC failed to provide sufficient evidence to warrant the suspension and removal of the Petitioner based on the charges of violating the social media and conflict of interest sections in the Policy Manual in effect at the time. On those grounds, Petitioner requests that the suspension motion be voided, and she be reinstated as Secretary.*

TABLE OF EXHIBITS

| DESIGNATION | DESCRIPTION |
|--------------------|--|
| A | Libertarian Party 2020 Bylaws, Convention Rules, and Rules of Appellate Procedure |
| B | Parliamentary Opinion of Jonathan M. Jacobs, PRP, CPP, dated June 19, 2021, and Curriculum Vitae of Jonathan M. Jacobs, PRP, CPP |
| C | Parliamentary Opinion of Henry M. Robert III, PRP dated November 30, 2008 |
| D | Libertarian Party 2008 Bylaws, Convention Rules, and Rules of Appellate Procedure |
| E | Cumulative Potential Conflicts of Interest dated March 10, 2018 |
| F | Email from LNC At-Large member Richard Longstreth dated June 14, 2021 (highlights added) |
| G | Libertarian Party Statement of Principles, last amended 1974 |
| H | Correspondence between Party Founder David F. Nolan and Libertarian Party of Colorado Chair David Aitken postmarked January 20, 1993 |
| I | Facebook posts of Region 5 Representative Susan Jane Hogarth and Region 4 Alternate TJ Ferreira dated September 6, 2020 |
| J | Email of LNC Secretary Caryn Ann Harlos dated August 13, 2021, and Facebook post of Region 5 Representative Susan Jane Hogarth dated August 14, 2021 |
| K | Facebook post of At-Large Representative Richard Longstreth dated September 7, 2021, with response from former LNC member and current LP member from New Hampshire Justin O'Donnell of same date |
| L | Patreon record of Susan Jane Hogarth's financial support of Petitioner's YouTube channel from November 15, 2017, to December 3, 2020 |

PETITIONER'S EVIDENCE LIST

- Exhibits A-L to the Petition
- *Robert's Rules of Order Newly Revised*, current edition.
- Motion and Bill of Particulars submitted by Laura Ebke dated on or about August 27, 2021, with attachments
- Video of LNC meeting of 9/5/21
- Libertarian Party 2020 Platform
- New Hampshire Investigatory Committee Report dated September 6, 2021
- Video of Petitioner's 2020 nomination speeches
- Facebook post of At-Large Representative Laura Ebke dated June 23, 2021
- Policy Manual Effective June 6, 2021
- LP Article dated December 14, 2018, entitled "Libertarians Honor Bill of Rights"
- LP Article dated April 11, 2019, entitled "Libertarian chair: Assange prosecution should be dismissed"
- Sample list of monetized Libertarian/libertarian YouTube Channels

Endnotes

ⁱ LNC Meeting of 9/5/21 at 2:45:40 <https://youtu.be/HApE36cvexk?t=9940>

ⁱⁱ Additional shortcomings are that the opinion was based upon the 10th edition of RONR, and the current edition is the 12th edition and that the Bylaws have been amended since 2008.

ⁱⁱⁱ 146 screenshots and PDFs plus 12 videos totaling ~16hrs. Assuming 1 minute to read and consider each of the 146 images/documents, a single individual would need 2+ hours to review. Added to the 16 hours of video results in 18 hours for one person just to review provided evidence. This multiplies by each LNC member and party members or delegates (who have a vested interest in the outcome). This type of evidence dump is known within debate circles as “elephant hurling” which is “referring to a large body of evidence which supposedly supports the debater’s arguments, but without demonstrating that all the evidence does indeed support the argument.” (<http://web.archive.org/web/20180403214438/>; http://www.astorehouseofknowledge.info/w/Elephant_hurling) The purpose is to overwhelm with quantity and not quality.

^{iv} This is true of membership as a whole. The Libertarian Party prides itself on advocating for a standard superior to the current US government on net balance. How do we as an organization advocate for superior governance if we do not provide it within our own jurisdiction? This applies whether or not anyone finds the accused likeable or not. As a former Chair stated with regards to Julian Assange, “The Libertarian Party stand up for the principles our country was founded on... principles that should apply to everyone no matter how much of a jerk they are....” (<https://www.lp.org/libertarian-chair-assange-prosecution-should-be-dismissed/>)

^v Petitioner’s nomination speeches at the 2020 National Convention:
https://www.youtube.com/watch?v=b5n_8_kyC6I

^{vi} John Phillips acknowledges board members intentionally pushing Petitioner’s buttons (3:52:30):
<https://youtu.be/HApE36cvexk?t=13949>

^{vii} Nick Sarwark, Day 3 of 2020 National Convention indicating a major donor wanted the party to be “united in fighting in here” (1:48:02): <https://youtu.be/wS1lhVuvoiw?t=6482>

^{viii} Petitioner’s nomination speeches at the 2020 National Convention:
https://www.youtube.com/watch?v=b5n_8_kyC6I

^{ix} John Phillips labels Petitioner’s actions fraud—violating the NAP (3:49:22): <https://youtu.be/HApE36cvexk?t=13762>; Erin Adams labels Petitioner’s actions as abuse, which she believes is aggression—violating the NAP (3:53:57): <https://youtu.be/HApE36cvexk?t=14037>, Erin Adams reiterates “abuse is aggression” (3:57:51): <https://youtu.be/HApE36cvexk?t=14271>