



APPEAL TO THE JUDICIAL COMMITTEE

SUBJECT MATTER JURISDICTION AND INTERESTED PARTIES

We, the undersigned, being the duly chosen and elected members of the State Board of the Libertarian Party of Delaware, acting by and through Will McVay, the Chair of the Libertarian Party of Delaware (LPD), appeal to the Libertarian Party Judicial Committee decisions of the Libertarian National Committee (LNC) and the Region 5 body as constituted by the Region 5 Agreement to effectively disaffiliate the Libertarian Party of Delaware, namely the passage of a motion on December 5th, 2021 (“the resolution,” Appendix A) and the election and seating of Otto Dassing after refusing to accept an outcome-altering vote on behalf of the Libertarian Party of Delaware. This appeal is brought under the Judicial Committee’s subject-matter jurisdiction as provided in the Bylaws of the Libertarian Party in Article 8, Paragraph 2, Section a, and in line with previous Judicial Committee rulings that this jurisdiction applies to cases of constructive disaffiliation.

REQUESTED RULINGS

The LNC resolution repeatedly violates Party Bylaws and should be voided in its entirety. Separately, we challenge the claimed election of Otto Dassing as the Region 5 Alternate on the LNC, conducted under the disenfranchisement of LPD in violation of the regional agreement and the Party Bylaws, and as part of the LNC’s de facto disaffiliation of LPD. This election should be voided or the LPD should be permitted to withdraw from Region 5 for breach of the Regional Agreement.

FACTUAL BACKGROUND

In recent weeks, the duly elected and constituted Board of the LPD, consisting of the persons elected to seats constituting a majority of the Board (Appendix K), acted under the LPD's Bylaws and Articles of Association ("LPD Bylaws") to adopt various amendments to LPD's internal rules, as they are empowered to do. The Board then removed the now-former Chair of LPD, Mr. Bill Hinds, as well as two other members, for reasons similar in many respects to the LNC in their own recent removal of an LNC officer, including disruptive conduct interfering with the business of the State Board and attempts to overreach the authority of any one Board member in order to dictate the policies and practices of the LPD. Subsequently, the Board has also adopted various other changes, including combining the Bylaws and Articles of Association into a single document with a more stringent amendment process, and strengthening the "seasoning" requirements for party members similar to those in place as anti-takeover measures in several other states.

Mr. Hinds, together with the other removed Board members, has argued that he is still the Chair and that he can disregard the elected Board's decisions, in effect creating his own new organization impersonating the Libertarian Party of Delaware ("Hinds Organization"). The Hinds Organization sought to have the LNC intervene and overturn the outcome of LPD's internal processes and rules because they did not like the outcome, an outcome which came from having been a minority on the LPD Board as it was elected by the LPD's members. To reiterate the point: starting from the Board members Mr. Hinds himself recognized and accepted when he was Chair, there is no way to reach any other conclusion except that he is no longer the Chair, and there is no way the Hinds Organization can constitute a quorum of the LPD's Board under any version of the LPD Bylaws.

On November 21st, the LNC met to consider recognizing the Hinds Organization in place of the Libertarian Party of Delaware. That motion failed. It was then proposed to disaffiliate the Libertarian Party of Delaware, with several members acknowledging that was their only other option under the Party Bylaws. That motion also failed. Subsequently, at the LNC meeting in Boston on December 5, the LNC adopted the resolution which is at issue in this appeal, effectively disaffiliating the Libertarian Party of Delaware and violating its autonomy, and in the process trampling nearly every limit which the Party Bylaws impose on the LNC with regard to the rights of state parties.

This resolution purports to recognize two different organizations as the Libertarian Party of Delaware. It gives affiliate status to the Hinds Organization, which is incapable of acting as a quorate LPD Board even under their own claimed version of the LPD Bylaws. It imposes on the Libertarian Party of Delaware a procedure with no basis in the LPD's Bylaws, either as currently amended or as they stood previously. It purports to impose on the LPD the LNC's preferred definition of LPD membership, demands that a meeting of these LNC-designated members be called, and states that the LPD's status as an affiliate is dependent on the outcome of this procedure, which is entirely of the LNC's own making. In fact, this procedure was not authorized by and is not being conducted on the authority of a single person who even lives in Delaware.

The LPD finds itself in the position of violating its own bylaws or violating the invalid orders of the LNC and thereby losing its affiliate status.

We also wish to address the improper election and seating of Otto Dassing as a Regional Alternate on the LNC. At the behest of the Region 5 Representative, Ms. Susan Hogarth, the LPD was denied the ability to vote in the election of a new R5 Alternate to fill a vacancy created by the resignation of Mr. David Valente. Had the LPD been allowed to vote, as is required by the regional agreement (Appendix B), Mr. Dassing would have failed to receive the requisite majority. A regional affiliation agreement may only be changed by the unanimous consent of the state parties who voluntarily form a region, and only within certain time limits set by the Party Bylaws. No such change was made or was permissible at the time in question, and the regional agreement does not provide any such mechanism for the disenfranchisement of a state for any reason.

We understand that the actions taken by the LPD are controversial. We are not happy about the situation, either. We entirely understand any desire to keep the national party out of it, which has been our stated position all along. The actions we have taken as the LPD's elected leadership are a consequence of the most contentious internal political issue in the party today, the proclaimed effort to mount a "takeover" of the Libertarian Party by the political action committee known as the Mises Caucus. Having seen the consequences of such takeovers in other states, the legal and reputational risks to the party, the behavior of the ex-chair Mr. Hinds and other removed Board members, the ways in which they had made misleading statements regarding their intentions and associations at the time of their respective elections, and cognizant of LPD's obligation to uphold the Libertarian Party's Statement of Principles, the LPD Board decided to exercise its authority and discretion to remove them. The Board, duly elected by LPD's members under the LPD Bylaws, took other actions as we saw fit to preclude further attempts at a hostile takeover by this PAC or any other hostile organization, which operates outside of and, we believe, in opposition to the principles of the Libertarian Party. You might not agree with these decisions, but they are the LPD's to make and the LPD's alone.

That the LNC does not like what LPD has done is irrelevant to the issues at stake in this appeal. The same issues could be, and very recently were in New Hampshire, raised with the factional affiliation of the sides reversed. In New Hampshire, a claim by an (ex-)Chair of the state party to be able to unilaterally purge and remove the duly elected board or to claim that they had "constructively resigned" was widely rejected. There is no way to endorse the claims of the Hinds Organization without taking the exact opposite position in this case. And more importantly, aside from that hypocrisy, the LNC's actions are wildly and indefensibly in violation of the Party Bylaws. This is not a matter of ambiguity or interpretation. The LNC's actions violate the black-letter commands of the Bylaws no differently than if the LNC attempted to rewrite the Statement of Principles, amend the Platform, or to say the LNC and not the national convention would choose the nominee for President. These are simply powers the LNC does not have.

Other than a mere censure resolution, the Bylaws permit one and only one method for the LNC to express its disapproval of a state affiliate: disaffiliation, which was attempted and which the LNC rejected. Some might argue it would be desirable to give the LNC a range of other authorities short of disaffiliation, but that is not what the Bylaws currently provide. The LNC is not empowered to depose state party boards and officers at its whim. The LNC is not empowered to rewrite state party bylaws and membership criteria to fit the LNC's own preferences. The LNC is not allowed to disaffiliate state parties except by following a specific procedure under specific time limits as provided in the Bylaws. The LNC is not empowered to adjudicate internal state party disputes over bylaws and election outcomes.

Our state parties are not, as one LNC member has erroneously asserted, mere “franchisees”, subordinate in all matters to the LNC. State parties, as is made clear in the Bylaws, are pre-existing organizations which apply for and are granted affiliate status. The existence of state parties, as both corporate entities and under state election laws governing political parties, does not depend on the endorsement or favor of the LNC. That is why the LNC resolution is entirely without effect on LPD, other than the Bylaws-violating actions it has directed to be taken within the national Party.

That the LPD is the same entity today as it has always been, that this entity and its assets are under the control of LPD’s elected Board in accordance with the established policies of that Board, and that the state-law political party status, ballot access, and campaign finance filings attach solely to the LPD, will not be affected by either the LNC’s actions nor the Judicial Committee’s decision. The only matter at stake is whether the LPD’s rights within the national Party will be respected pursuant to the national Party Bylaws or if the LPD will be constructively disaffiliated in favor of another organization, relying on ignoring the will of a majority of its putative Board members as elected at the 2021 LPD Convention for its claim to even exist.

As was recently stated, “Bylaws > Drama” (*In re Suspension of Caryn Ann Harlos, 2021*, LP Jud. Com., Vermin Supreme concurring). That is precisely right. Opinions about the actions the LPD has taken do not create any authority for the LNC to overturn the LPD’s decisions or to set itself up as the arbiter of the LPD’s Bylaws. The national Party Bylaws expressly forbid it. And as the Judicial Committee has previously recognized, a de facto disaffiliation by another name is not a backdoor which lets the LNC bypass the procedures and limits on disaffiliation in the Bylaws.

STATEMENT OF FACTS: Count 1, LNC Resolution

We submit the following point by point explanation of the LNC's violations of the Party Bylaws with its action against the Libertarian Party of Delaware, each of which stands on its own as a reason for the Judicial Committee to annul the entire resolution. Since the LNC seemingly adopted this resolution as a coherent scheme, and has given no indication it would have adopted only parts of it, we regard the resolution's Bylaws violations as non-severable.

1. Party Bylaws, 5.3, provide in part "There shall be no more than one state-level affiliate party in any one state." The resolution, point 1, offers affiliate support to "...both of the claimed chairs of the Libertarian Party of Delaware...", even though the two chairs lead two different organizations with different memberships and bylaws. The LNC is therefore acting as though it has two affiliates in the same state, in violation of the Party Bylaws and the rights of the existing Libertarian Party of Delaware.
2. Party Bylaws, 5.5 provide in part "The autonomy of the affiliate and sub-affiliate parties shall not be abridged by the National Committee..." The resolution repeatedly violates this part of our Bylaws:
 - a. The resolution, Point 2, abridges the autonomy of the Delaware Party by instructing it ("encourages" is an affectation; the rest of the resolution makes clear coercive penalties are being imposed in the event of LPD's non-compliance) to use a general membership meeting (as opposed, for example, to a mail ballot or state convention) to determine its leadership. Furthermore, the Resolution, Point 2, abridges the autonomy of the Delaware Party by telling it to hold a "general membership meeting," a process nowhere allowed for in the LPD Bylaws, either as they currently exist or in any previous version. Even if LPD Bylaws did encompass such a procedure, it would not be up to the LNC to invoke it.
 - b. The resolution, Point 2, abridges the autonomy of the Delaware Party by instructing it to use a particular definition of membership, "...the definition of "membership" as defined in the Articles of Association and Bylaws of the Libertarian Party of Delaware as of the 2021 annual convention of the Libertarian Party of Delaware;...", thus denying LPD the autonomous right to choose its own membership qualifications. Furthermore, the Resolution denies the established process at an LPD state convention to credential their own attendees.
 - c. The resolution is also vague and unclear in its violative orders. It does not specify if members who have joined LPD since the previous convention, under whatever set of membership criteria, are permitted to participate in this LNC ordered meeting. It is also vague as to the timeframe and verification procedures that will be used to evaluate compliance with the LNC's unauthorized orders. Among the reasons for the requirement not to abridge the autonomy of affiliate parties is that doing so with unclear instructions causes even more problems.
 - d. The resolution, Point 2, claims that the LNC can require LPD to use its Bylaws in place as of a certain date, even when those Bylaws have since been amended. The resolution therefore abridges the autonomy of the Delaware Party, by claiming that the LPD can be denied the right to amend its own Bylaws by a process provided for in those Bylaws.
 - e. The resolution, Point 3, claims that a "general membership meeting" shall have the power to choose who LPD's leadership is, thus potentially removing party leaders by LNC fiat. However, LPD Party Bylaws assign the power to remove members of the State Board to a vote of the State Board or a 2/3 vote at a convention.

- f. Even by this removal process, the LPD Bylaws do not allow for a “general membership meeting” or any other event outside of the Annual Conventions taking place in odd years to choose leadership. By contravening LPD Party Bylaws, Resolution Point 3 abridges the autonomy of the Delaware Party.
 - g. The resolution, Point 4, proposes that if there are two general membership meetings then the one with larger attendance shall take precedence. There is no basis for this process in the LPD Bylaws, so by claiming to impose it on the LPD the LNC is abridging the autonomy of the LPD. There is also no mechanism of evaluating compliance with the membership requirements prescribed by the LNC, verifying attendance reports, or establishing a fixed timeline that respects the already scheduled Annual Convention of the LPD on March 12th, 2022.
3. The resolution, point 3, proposes that a majority vote of the Libertarian National Committee can determine which group is the national Party Affiliate. However, removing the current affiliate to install a new one requires a 3/4 vote of the entire National Committee, following a procedure and requirements laid out in the Bylaws which have not been followed.
4. The resolution de facto disaffiliates the Libertarian Party of Delaware in that the rights of the LPD as an affiliate have been abrogated, in violation of Party Bylaws 5.6 “The National Committee shall not revoke the status of any affiliate party within six months prior to a Regular Convention.” This deadline expired on November 27, 2021, prior to the LNC’s adoption of the resolution on December 5, 2021.
5. The resolution de facto disaffiliates the Libertarian Party of Delaware, in that the LPD is treated as a servant to be given orders rather than an independent affiliate which selects its own leadership under its own rules. However, Party Bylaws 5.6 provide “A motion to revoke the status of an affiliate party for cause must specify the nature of the cause for revocation.” The resolution does not specify any cause for abrogating LPD’s status and rights as an affiliate and language which would have specified a cause was explicitly removed by amendment prior to adoption of the final resolution.

6. The resolution falsely claims that there is a legitimate dispute as to who is the Delaware Party State Chair. However, an examination of the record clearly and unambiguously shows that the processes in the LPD Bylaws have led to Will McVay being the one and only legitimate LPD state chair, with the support of the undisputed elected majority of the Board as it stood while Mr. Hinds was chair, and with the support of the Board as it is now constituted with several new members elected by county affiliates to replace those who have been removed or succeeded to other positions. By lending resources and support to a false competitor, the Resolution undermines the existence of our legitimate party affiliates. This record (Appendix D), as provided by LPD as a courtesy to the LNC prior to its meeting on November 21st at which recognition of the Hinds Organization and disaffiliation of LPD were both rejected, shows:
 1. The Bylaws of the LPD allow the State Board to amend them following 30 days notice by a motion receiving a majority vote (Appendix E).
 2. Such notice was posted in accordance with the requirements enumerated in the governing documents and a motion was adopted with the support of a majority of the State Board to amend the existing disciplinary procedures. The only basis of the claimed dispute is that this notice, which satisfied the letter of the LPD Bylaws, was deficient in spirit. This point is moot even if it was true, as the process was repeated and the same actions ratified again at an LPD Board meeting under which there can be no dispute about sufficient notice.
 3. In accordance with those amended procedures, three members of the State Board, including the former Chair, were removed from the State Board.
 4. Following their removal, under the LPD Bylaws concerning succession, Will McVay became the State Chair of the LPD.
 5. Over the course of the next several weeks, additional amendments to LPD's governing documents were made in accordance with the required procedures and with the required support to ultimately lead to the State Board as it is constituted now with the Bylaws it now follows (Appendix C).

7. If there were a legitimate dispute as to who is the Delaware state chair, the LNC has no authority or power under the Party Bylaws to insert itself into the dispute and mandate its preferred outcome. Nor does the LNC have any role in credentialing delegates to a national convention, as that decision is left to the convention in its adoption or amendment of its credential report, as was proven at the most recent national convention and at previous ones.

STATEMENT OF FACTS: Count 2, Region 5 Alternate

In addition to the illegitimate actions of the LNC under its December 5th motion, by seating Otto Dassing as the Alternate Representative for Region 5, the LNC has likewise engaged in the de facto disaffiliation of the Libertarian Party of Delaware, even prior to adopting the December 5 resolution. Thus, at the time the December 5 resolution was adopted, the LPD was not even able to exercise its full rights of representation on the LNC. This was done at the behest of the Region 5 Representative Susan Hogarth, by refusing to count Delaware's vote in that election based on the false claim of a legitimate dispute over leadership addressed in Count 1 at item 6. If the LPD's vote had been properly tallied, it would have affected the outcome as Mr. Dassing only "won" the election by a vote of 4-3, where Delaware's vote should have gone to his chief opponent, Steve Scheetz, and created a tie which might have been resolved without Mr. Dassing being elected.

These actions do not fall within the bounds of the Region 5 Agreement (Appendix B) nor the Bylaws of the National Party concerning the formation and activities of Regions or the election of their Representatives and Alternates. This election should likewise be voided, as part of the same improper constructive disaffiliation of Delaware which the LNC subsequently furthered and reinforced on December 5.

Alternatively and preferably, given the other Region 5 Chairs' assent to this disenfranchisement (excepting Jenn Moore of the LPPA), this should be construed as an expulsion or withdrawal of Libertarian Party of Delaware from Region 5 as if it had been carried out properly under the Regional Agreement. If the Judicial Committee chooses this latter option, it establishes an important precedent that disenfranchised states cannot count towards the 10% of national party sustaining membership required to form a region. In this case, Delaware does not make the difference to Region 5 hitting that threshold, but under the precedent Ms. Hogarth has created, nothing would stop a majority of the states in a region from disenfranchising one of their own and yet still claiming and locking in that state's membership towards the threshold, even in cases where that state's members are necessary to maintain the region..

SUMMARY

The Libertarian Party of Delaware has no desire to end its affiliation with the Libertarian National Committee and the national Libertarian Party. However, we are faced with the reality that we have been effectively disaffiliated by the LNC, in violation of our rights and the procedures provided under the Party Bylaws, forced to either violate our own bylaws or to ignore illegitimate orders from the LNC. If these actions are not undone, it will not affect the continuing operations of LPD as the only political party by that name in the state of Delaware. It will not replace the LPD with the Hinds Organization under the laws of the state of Delaware, nor with regards to control of any of LPD's assets including ballot access, bank accounts, campaign finance filings, social media accounts, voter and contact lists, and our website (Appendix F-J). We will continue to nominate principled Libertarian candidates and to carry out our important work to advance liberty on a range of issues, including cannabis legalization and self-defense rights.

Other than Delaware's allotted four delegates to the national convention, and the termination of any cooperation and mutual support between LPD and the LNC, the only substantive effect will be that the LPD will no longer be bound to the national Libertarian Party's selection of nominees for President and Vice President. In that event, we will decide in a manner of our own choosing which candidates, if any, will appear as the Libertarian nominees on the ballot in Delaware in 2024 and subsequent elections. We bring this appeal in the hopes of avoiding that outcome, and ask that the Judicial Committee uphold the Bylaws of the Libertarian Party by affirming LPD's status as the Delaware affiliate of the Libertarian Party.

Respectfully submitted by the Board of the Libertarian Party of Delaware (Appendix K),
([signatures](#))

APPENDIX A

LNC Resolution of December 5, 2021

WHEREAS, Article 5 Paragraph 3 of the Bylaws of the Libertarian Party require that the Libertarian National Committee only recognize one state-level affiliate party in any one state;

WHEREAS, Article 5 Paragraph 5 of the Bylaws of the Libertarian Party prevents the abridgement of the autonomy of the affiliate parties;

IT IS HEREBY RESOLVED, the National Committee of the Libertarian Party takes the following actions:

1. The National Committee will continue all support activities, data sharing, and other services for and with both of the claimed chairs of the Libertarian Party of Delaware, subject to the limitations of the law and campaign finance regulations regarding such information, and the requirements of the Non-Disclosure Agreement for access to such information;
2. The National Committee encourages a general membership meeting to be held to determine which leadership is the rightful leadership of the Libertarian Party of Delaware, with participation both open to and limited to all those who meet the criteria to be a member, under the definition of "membership" as defined in the Articles of Association and Bylaws of the Libertarian Party of Delaware as of the 2021 annual convention of the Libertarian Party of Delaware;
3. Upon the completion of the general meeting of the membership, the National Committee shall recognize that leadership which is recognized by the body of that general meeting and, upon majority vote of the National Committee, shall consider the matter resolved and return to normal relations with the Libertarian Party of Delaware;
4. If there are competing general meetings or conventions, the National Committee shall recognize the convention or general meeting of the membership with the greatest number of those who qualify as members, using the definition of "membership" as defined in the Articles of Association and Bylaws of the Libertarian Party of Delaware as of the 2021 annual convention of the Libertarian Party of Delaware;
5. Upon resolution, the National Committee shall enforce the provisions of the Bylaws of the Libertarian Party, Article 5 Paragraph 1.

APPENDIX B

[Region 5 Agreement](#)

APPENDIX C

[The Bylaws of the Libertarian Party of Delaware](#)

APPENDIX D

Record of actions taken in compliance with the Articles of Association and Bylaws of the Libertarian Party of Delaware as they stood prior to Mr. Hinds' removal

- [First Notice of Bylaw Change](#)
- [State Board Actions to Adopt Change and Effect Succession of Will McVay](#)
- [Notice of Q4 Meeting](#)
- [Second Notice of Bylaw Change](#)
- [Q4 Meeting with Adoption of Second Bylaw Change and Ratification of all Actions](#)

APPENDIX E

[The Articles of Association and Bylaws of the Libertarian Party of Delaware, as they stood prior to Mr. Hinds' removal as Chair](#)

APPENDIX F

The [most recent campaign finance report](#) and [Statement of Organization](#) filed by LPD Treasurer Mary Pat McVay

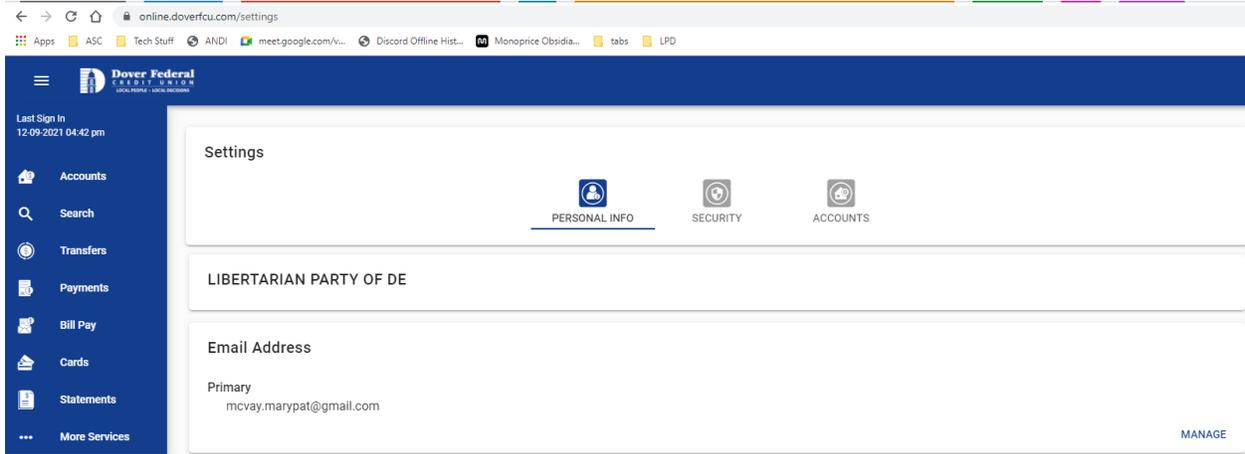
APPENDIX G

Debit Card showing the authorized persons on the LPD's bank account



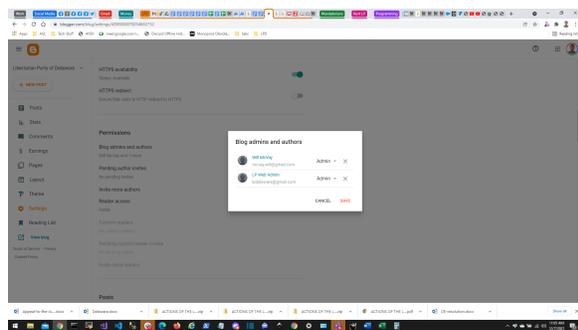
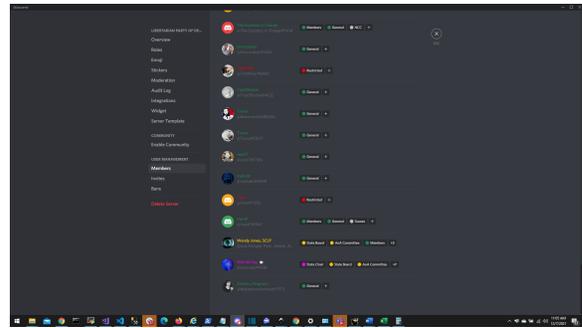
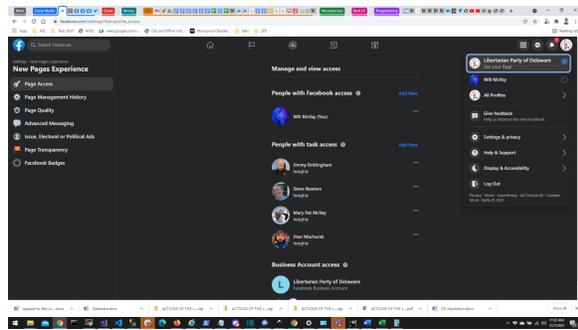
APPENDIX H

Screenshot of the Dover FCU website showing the LPD Treasurer Mary Pat McVay's access to the Libertarian Party of Delaware's bank account.



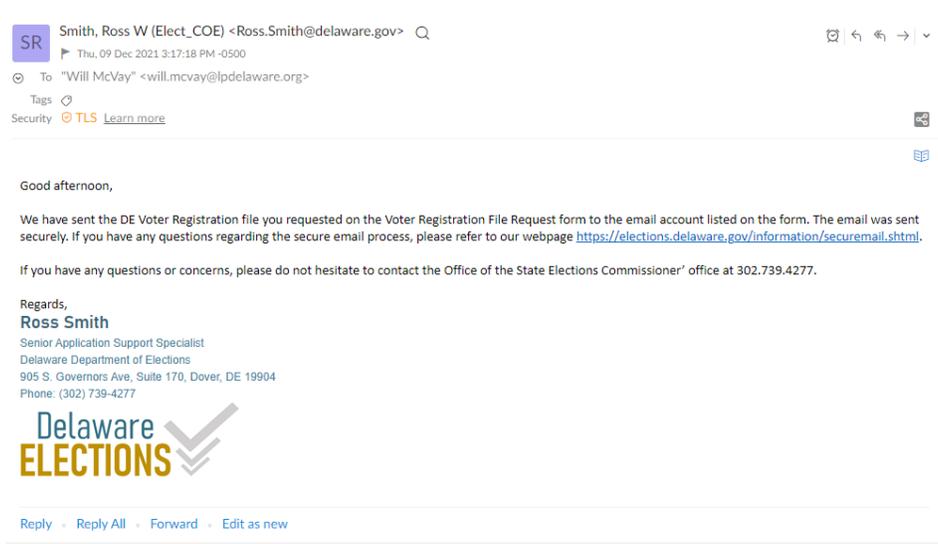
APPENDIX I

Screenshots showing administrative access by the LPD State Chair/IT Director to the LPD's social media assets



APPENDIX J

Accepted request to the Delaware Commissioner of Elections for the voter file [provided to ballot qualified “minor” political parties](#) from LPD State Chair Will McVay



APPENDIX K

The list of members of the LPD Board as it stood at the time of Mr. Hinds' removal, and the list of members of the LPD Board as it now stands

- | | |
|--|--|
| <ul style="list-style-type: none">● Bill Hinds - Former Chair● Amy LePore - Former Vice Chair● Dave Casey - Former New Castle Rep● Dylan Griffith - Former New Castle Rep● Mary Pat McVay - Treasurer● Will McVay - Former Kent Rep● Brandi Kerchevall - Kent Rep● Jimmy Brittingham - Former Sussex Rep● Joe DiPasquale - Sussex Rep | <ul style="list-style-type: none">● Will McVay - Chair● Jimmy Brittingham - Vice Chair● Mary Pat McVay - Treasurer● Brandi Kerchevall - Kent Rep● Joe DiPasquale - Sussex Rep● John Machurek - New Castle Rep● Nicole Shaw - New Castle Rep● Aarika Nelson - Kent Rep● Wendy Jones - Sussex Rep |
|--|--|