

convention. These expulsions were effective immediately, and properly minuted as an official act of LAMA by the Shade Committee, who were the undisputed leaders of LAMA at the time.¹

5. The actions of Petitioners to organize and conduct a purported “special convention” on February 12 and February 26 have no legal effect and do not bind LAMA. In this connection:
 - a. The Petitioners violated the LAMA constitution, Article II Section 2.² At their purported “special convention”, they failed to verify whether those participating were, in fact, LAMA members using the official LAMA membership list. On information and belief, they relied only on the proffers of membership by those present and attending. On information and belief, they did not allow anyone in attendance the opportunity to join or renew their LAMA membership in order to participate, as required by the LAMA constitution.
 - b. The Petitioners violated the first paragraph of the LAMA constitution, Article II Section 5.³ Its language is clear that organizing a special convention must be an action taken by “the state committee”, i.e. the full committee--not a subset thereof, and certainly not a duly expelled subset thereof. As is well known, actions taken by committee occur after a vote, and no vote to hold the convention was taken by the LAMA state committee.

¹ Whether or not the LNC or the Judicial Committee views the expulsions as improper or illegitimate has no bearing on whether the subsequent actions taken by those expelled are proper or legitimate. Such subsequent actions must be judged on their own merits.

² Persons, who are Members of this Organization whose dues are current, and who joined the Organization at least 30 days prior to the date of the State Convention, are eligible to vote and participate in the business meeting at the State Convention. Persons who were dues-paying Members of the Organization, or Sustaining Members of the National Libertarian Party, within the past three years, including a period at least 90 days before the day of the State Convention, but whose Organization dues are not current, may join or rejoin this Organization at the State Convention by paying their yearly dues. They may then vote and participate in the business meeting at the State Convention.

³ If 10% or 500 (whichever is less) of the current dues paying membership signs a petition requesting a special state convention, and mails or presents the petition papers to the state committee, the state committee must organize a state convention to be held between 30 and 60 days of the date of delivery of the petition to the state committee. In a single calendar year a state party member may not sign more than one petition requesting a special state convention.

- c. The Petitioners violated the second paragraph of the LAMA constitution, Article II Section 5.⁴ Notice of the petition to hold a special convention must be placed in the LAMA newsletter and prominently on party electronic media. Petitioners failed to do this.
 - d. The Petitioners violated the LAMA bylaws, Article II Section 2.⁵ The Petitioners did not notify all LAMA members whose dues were current, of the date, location, and time of the purported “special convention”, thereby depriving the general membership of the right to participate. In particular, no printed notification was mailed to the members.⁶
6. The actions taken at the purported “special convention” have no effect and do not bind LAMA. In this connection:
- a. The Petitioners violated the second paragraph of the LAMA constitution, Article II Section 5.⁷ Neither the February 12 nor February 26 meetings had a quorum of “current dues paying membership of the party.”
 - i. On January 10, 2022, LAMA had 214 dues-paying members. Following the Shade Committee’s vote to expel 45 members,⁸ those (now former) members were refunded dues on January 10 and 11, 2022, dropping the total LAMA membership to 169. Regardless of whether the LNC or the Judicial Committee views the expulsions as legitimate, following the refunds these former members were no longer “current dues paying” and could not count toward a convention quorum.

⁴ In relevant part: State party members must be informed about the petition by placing the information on the first page of the party newsletter, and prominently on any electronic media controlled by the state committee.

⁵ At least thirty days before a State Convention is held, the State Committee will notify all Organization Members whose dues are current, of the date, location, and time of the State Convention and the next National Convention. This notification may be sent by whatever forms of communication are likely to reach all members, which shall include printed notification to each member.

⁶ “Printed notification” has always been interpreted by the LAMA state committee to include physical print, whether in a physical newsletter or by separate postal mailing.

⁷ In relevant part: The quorum for a special state convention shall be 10% or 500 (whichever is less) of the current dues paying membership of the party.

⁸ Two additional signers of the special convention petition were not current dues paying members when they signed, bringing the total number to 47 signers.

- ii. Three then-current dues paying members attended the February 12, 2022 meeting: Don Graham, Christopher Thrasher, and George Phillies. As the total number of current dues paying members on that date was greater than 30, there was no quorum for that meeting, and any actions taken thereat on behalf of LAMA are null and void.
 - iii. Four then-current dues paying members attended the February 26, 2022 continuation: Don Graham, Sherry Graham, Christopher Thrasher, and Ann Reed. As the total number of current dues paying members on that date was greater than 40, there was no quorum for the continuation, and any actions taken thereat on behalf of LAMA are null and void.
 - b. For similar reasons, the Petitioners violated the LAMA constitution, Article IV Section 8.⁹ Those purportedly “elected” as the state committee on February 26, 2022 were not LAMA members (having been duly expelled on January 10, 2022), nor were their dues current at that time (having been refunded no later than January 11, 2022).
7. The actions of Petitioners to organize and conduct a purported “regular convention” on April 24, 2022 have no legal effect and do not bind LAMA. In this connection:
- a. The Petitioners violated the LAMA constitution, Article II Section 2.¹⁰ At their purported “regular convention”, they again failed to verify against the official LAMA membership list whether those participating were, in fact, LAMA members. On information and belief, they relied only on the proffers of membership by those present and attending. On information and belief, they did not allow anyone in attendance the opportunity to join or renew their LAMA membership in order to participate, as required by the LAMA constitution.
 - b. The Petitioners violated the LAMA bylaws, Article II Section 2.¹¹ The Petitioners did not notify all LAMA members whose dues were current, of the date, location, and time of the purported “regular convention”, thereby depriving the general membership of the right to participate. In particular, no printed notification was

⁹ To be elected or serve as a member or officer of the State Committee, a person must be a Member of the Organization whose dues are current.

¹⁰ Supra, note 1.

¹¹ Supra note 4.

mailed to the members, as required. By contrast, the Shade Committee mailed physical envelopes to all of the then-current LAMA members, announcing the regular convention held on April 23, 2022, in accordance with regular, historical practice and at substantial cost.

- c. The Petitioners violated the second paragraph of the LAMA bylaws, Article II Section 4.¹² On information and belief, the Petitioners did not receive amendments to the constitution and bylaws at least 14 days prior to the day of the purported “regular convention” for consideration by the state committee, nor were they posted electronically at least seven days in advance thereof for consideration by the members prior to the event.
 - d. The Petitioners violated the LAMA bylaws, Article IV Section 7a.¹³ On information and belief, the Petitioners failed to call a meeting to authorize the expenditure of funds on the purported “regular convention”, including paying speaker fees and/or venue fees which must be reported as political expenditures to the relevant government agencies.
8. The actions taken by the Petitioners subsequent to the purported “special convention” were and are in violation of the LAMA constitution and bylaws, as well as state and federal laws. In this connection:
- a. The Petitioners violated the LAMA constitution, Article IV Section 9¹⁴ by not making their contact information available in the LAMA newsletter or on the LAMA website (www.lpmass.org). Even assuming that the correct LAMA website is the one established by Petitioners at (lpofma.org), the Petitioners continue to

¹² The State Convention agenda shall include at least fifteen minutes for presentation of Amendments to the Constitution and Bylaws. All amendments must be presented to the Corresponding Secretary, by paper or electronic mail, at least 14 days prior to the day of the State Convention, must be posted by the Secretary in a publicly-accessible LPMA-controlled electronic forum at least seven days before the day of the state convention, and must be seconded from the convention floor, before they may be considered. Amendments to amendments made from the convention floor must be germane.

¹³ State Committee funds may only be spent after authorization by the State Committee. Authorizations are by majority vote of the Committee. Consistent with FEC and OCPF reporting standards, the State Committee shall maintain all financial records and reports on a cash basis.

¹⁴ Every member of the State Committee must make available their name, their office in the Organization if any, and a working way to contact them, in the Organization’s newsletter and on the Organization’s web site. This may be a physical mailing address, e-mail address, telephone number, or some combination of these.

violate this constitutional provision: as of the evening of May 16, only Andrew Cordio's contact information (by email) is listed.

- b. The Petitioners, acting under the color of the LAMA state committee, have violated, and continue to violate, the LAMA bylaws, Article VII Section 3c(iii),¹⁵ federal campaign finance laws,¹⁶ and Massachusetts campaign finance laws.¹⁷ On information and belief, Petitioners have not reported to either the FEC or the Massachusetts Office of Campaign and Political Finance any contributions made to LAMA and accepted by them on its behalf since February 26, including contributions and expenditures in connection with holding the event on April 24 (for which at least speaker fees were solicited, accepted, and presumably paid).
- c. The Petitioners violated the LAMA bylaws, Article VI Section 3.¹⁸ No LAMA state committee has called a properly noticed meeting to approve the text of a regional agreement. In particular, LAMA members were denied an opportunity to provide their input at that meeting, as to whether such an agreement is in the best interests of LAMA. On information and belief, no National Convention Delegation vote has been held on the purported "Region 8 agreement" being circulated by the Petitioners.

¹⁵ The Treasurer... files Federal, State and other financial reports as required by Federal or State law or regulation.

¹⁶ See 52 U.S.C. 30104 (ongoing requirement to report receipts and disbursements by treasurers of political committees).

¹⁷ See Mass. Gen. Laws ch. 55 s. 18 (ongoing requirement to report contributions and expenditures).

¹⁸ No Region formation agreement involving Massachusetts may be approved by any person unless the exact agreement has already been approved by the State Committee or the National Convention Delegation; however the National Convention Delegation shall not form a region if a region including Massachusetts has already been formed.

State Committee approval or disapproval is by majority vote at a properly called State Committee meeting held in Massachusetts. National Convention Delegation approval requires an affirmative majority vote by an absolute majority of all persons appointed by the State Convention to serve as Massachusetts delegates, as described elsewhere in these Bylaws, and who are in attendance at the National Convention.

The Libertarian Association of Massachusetts henceforth deems any agreement purporting to bind Massachusetts but signed without voted approval to be invalid, as a violation of the party statement of principles, namely as a use of fraud for political purposes.

Resolution of the Issues

9. Before turning to the merits of the matter, the Respondents note that all of the issues raised in this appeal could have been raised in the prior appeal, and therefore that this appeal is essentially a waste of Judicial Committee time and resources.
10. The Respondents respectfully submit that the Judicial Committee has no jurisdiction to hear this appeal. As noted above, the procedural posture of this appeal differs from that of the prior appeal. It is hard to understand what the Petitioners are appealing.
 - a. In contrast to the situation in the *Delaware* case,¹⁹ the LNC has taken no vote on the question of leadership of LAMA whose conformity with the LP bylaws can be reviewed. Thus, there exists no vote of the LNC for this Committee to review, much less reverse.
 - b. In contrast to the first appeal by Petitioners, there is no motion by the LNC that was ruled out of order and whose subsequent consideration might or might not occur as a result of Judicial Committee action.
 - c. Rather, it appears the Petitioners are appealing the inaction of the LNC to recognize the Cordio Committee as the leaders of LAMA. Inaction by the LNC is not subject matter within the scope of the LP bylaws, Article 8 giving this Committee jurisdiction to hear an appeal. Rather, this Committee should allow the LNC to determine and follow its own processes to determine the leadership of affiliates, as required by the *Delaware* majority's reasoning. The Respondents suggest this could be accomplished by a vote of the LNC that is in order with respect to the LP bylaws.
 - d. The LNC is fully capable of resolving leadership disputes on its own. In the event that the LNC cannot or will not do so, it would be improper for this Committee to arrogate that responsibility under an invented theory of "constructive disaffiliation." Alternate modes for determining leadership of an organization are more suited to this task, including negotiation between the parties, and resort to state courts.
 - e. Finally, it would be absurd for this Committee to encourage any group of disgruntled (former) members of a state affiliate to form a notional alternate

¹⁹ *McVay v. LNC; Hinds v. LNC* (February 13, 2022) (called *Delaware* hereafter, following Petitioner's label).

leadership of that affiliate for the purpose of tying up LNC resources or this Committee's resources. Party resources are better spent elsewhere.

11. The Respondents submit that, should the Judicial Committee nevertheless assume jurisdiction, the Wagner Rule²⁰ should be followed in this case. As the Petitioners argue, RONR notes that precedent is "persuasive," and the Wagner Rule is (extremely recent!) precedent of this Committee. The Wagner Rule provides repeatable, easily-applied metrics against which any group's claim to affiliate leadership may be judged. Under that Rule, the Judicial Committee should rule that the Graham Committee is the proper leadership of LAMA.
 - a. The Graham Committee is the leadership currently recognized by the State. The Secretary of State's elections website²¹ currently lists the website controlled by the Graham Committee (www.lpmass.org) as the official website for the "Libertarian" ballot line, lists the email address chair@lpmass.org as the official contact email, and lists Don Graham as the state chair.
 - b. Aside from a few, scattered social media pages and groups, the Graham Committee controls all substantial assets of LAMA, including but not limited to: party funds in three, segregated accounts; the official website (www.lpmass.org); the post office box of record; the party CRM system (NationBuilder) in which is stored member data including donation amounts, renewal dates, and email and postal addresses for the members; about a dozen Facebook pages and groups with several thousand followers and members; and other resources too numerous to list here.

²⁰ *Delaware* (Moulton, dissenting at page 2, quoting former LNC counsel Bill Hall): "For me, some of the most important indicia of who the LP's current affiliate is..., are:

- (a) Which group is recognized by the State as having ballot access.
- (b) Which group has possession of the property of the [affiliate] (funds, websites, state mailing list).
- (c) Which group in a more general sense (campaign finance filings, contracts, etc.) is the [affiliate] under State law."

²¹ <https://www.sec.state.ma.us/ele/elepar/paridx.htm>.

- c. The Graham Committee is currently in compliance with campaign finance laws, including filing reports for a state PAC,²² a state party account,²³ and a federal account,²⁴ all of which use the party's post office box as a mailing address.
- d. Of note, the Graham Committee files FEC reports under the name "Libertarian Association of Massachusetts", the exact name of the affiliate at issue. It is a violation of federal election law²⁵ for any person to "fraudulently misrepresent the person as speaking, writing, or otherwise acting for or on behalf of any candidate or political party or employee or agent thereof for the purpose of soliciting contributions or donations; or willfully and knowingly participate in or conspire to participate in any plan, scheme, or design to" do so. As the Petitioners do not file with the FEC under the LAMA name, their solicitation of speaker fees for their April 24 event under the LAMA name against the wishes of the filing treasurer and her committee (i.e. the Graham Committee) arguably meets these criteria to constitute a violation.

12. The Respondents submit that, even if the Judicial Committee assumes jurisdiction where none is present, and even if the Judicial Committee decides that some other, fresh test is more appropriate to apply than the Wagner Rule, nevertheless the Committee should rule that the Graham Committee is the proper leadership of LAMA.

- a. No parties question that the Shade Committee was the rightful leadership of LAMA until at least January 10, 2022.
- b. Subsequent to the vote taken by the Shade Committee to expel members on January 10, 2022, a motion was presented to the LNC requesting that it recognize the Cordio Committee as the LAMA leadership. According to facts well known to this Committee, the LNC Chair ruled the motion out of order, her ruling was appealed and upheld by the LNC, and this Committee failed to reverse the appeal. The original motion was therefore out of order, and was not subsequently debated or voted upon.

²² "Liberty Tree: The Small Government, Low-Tax PAC", OCPF #80622, Cristina M. Crawford treasurer. Ms. Crawford is currently treasurer of the Graham Committee.

²³ "MA Libertarian State Committee", OCPF #12941, Robert M. Clark treasurer. (Mr. Clark was treasurer of the recognized "major party" committee the last time the affiliate had that status.)

²⁴ "Libertarian Association of Massachusetts", FEC #C00332221, Cristina Crawford treasurer.

²⁵ 52 U.S.C. 30124(b).

- c. As a result of these facts, the LNC has never officially ruled on (or even properly debated) the leadership of LAMA. As a result, the LNC implicitly recognized the Shade Committee as the leadership of LAMA until, on April 23 pursuant to the LAMA constitution and bylaws, the Graham Committee was elected as its legitimate successor.

- d. In that connection, while the Petitioners have spilled a great deal of ink over how carefully they followed the LAMA constitution and bylaws in electing the Cordio Committee (which they clearly did not, as demonstrated above at length), they have not discussed in any detail the handover of leadership from the Shade Committee to the Graham Committee. This handover included, among many things, transfer of affiliate assets including digital passwords and physical tokens, lengthy conversations with the outgoing Shade Committee regarding the current state of affairs to ensure an orderly transition, and other actions taken in the normal course of a handover of power in any organization. On information and belief, the Cordio Committee took none of these actions and possesses no control over critical LAMA assets. It would therefore be reckless to acknowledge the Cordio Committee as the leadership of LAMA.