

My responses are included in line in italics.

Questions by Dr. Chuck Moulton for the McVay group

I have already asked most of the questions I am concerned with, but would appreciate it if you could briefly re-answer them in writing.

1. Is it correct that your appeal was submitted on December 9, 2021 and the LNC alternate election took place on October 11, 2021, which is more than 30 days apart?

This is correct. Our position is that the LNC alternate election and its exclusion of our vote was evidence of constructive disaffiliation but being far more limited in scope and effect than the LNC's motion on December 5th, it does not necessarily demonstrate constructive disaffiliation on its own. Also, while the regional election took place on October 11th, it wasn't until the November 21st meeting that Mr. Dassing took part in an LNC meeting without objections from the other members as to the circumstances of his election. The December 5th motion on its own and especially taken in tandem with the circumstances of the alternate election clearly demonstrate constructive disaffiliation and rise to a level the State Board of the LPD voted unanimously to approve our appeal.

2. In appendix E you attached "The Articles of Association and Bylaws of the Libertarian Party of Delaware, as they stood prior to Mr. Hinds' removal as Chair". Is it true that there were some differences between this document and the bylaws in force at the end of the state convention, in that one or more amendments were passed by the state board between these two times? Can you provide a copy of the "The Articles of Association and Bylaws of the Libertarian Party of Delaware, as they stood immediately after the 2021 state convention" and highlight any differences between these two documents?

A coherent document including the AoA and Bylaws as they existed on June 5th does not exist. Given the frequency with which the State Board amends the governing documents, copies of the outdated document are not usually preserved except when circumstances (such as these ones) make it necessary. However, a review of the minutes prepared by the Secretary prior to his resignation provided by Mr. Hinds in his Exhibit A show that there were two amendments adopted by the LPD State Board in the period between the June 5th convention and September 30th. We agree with this telling of events but reference them from Mr. Hinds' own presentation to stipulate them as agreed upon even as Mr. Hinds claims such amendments are not permitted given their substantive nature.

These changes were to add item 11 to Article VI, allowing the State Board to create temporary standing committees and editing the amendment process in Article XI, § 1 such that 2/3rds of the entire State Board would need to vote in favor of an AoA amendment instead of the previous 2/3rds of members present and voting. Note that in the contemporary context of these amendments, the AoA were distinct from the Bylaws and the Bylaws still only required a majority of those present and voting. Only the language for the AoA was updated.

Dr. LePore provided the initial notice for the committee amendment and Mr. Hill, who also spoke on behalf of Mr. Hinds Sunday (the "mailbox" analogy), posted the notification for the amendment process change.

3. Is it true that the provision allowing a simple majority of the state committee to amend the bylaws had been in place for years (not recently amended)?

Yes, it is. This provision predates my involvement in the LPD, beginning in 2010. To clarify, the requirement was a majority of those present and voting, not of the entire state committee, and only for the Bylaws section. This language has since been amended to ensure that amending the entirety of the LPD's governing documents require a 2/3rds vote of the entire state committee, but those more burdensome requirements were not in place until the conclusion of our Q4 meeting on November 20th.

4. (NEW QUESTION) The Hinds group claims (contrary to the clear language of the bylaws) amendments to the bylaws by the state committee can only make scrivener's changes (spelling, grammar, make wording clearer) rather than substantive changes, whereas amendments to the bylaws by the state convention can make substantive changes. Is that correct? Was that the tradition? Can you provide counter-examples from the Libertarian Party of Delaware's history?

This is not correct. If that limitation had been intended at any point over the last 12 years, it would have been very easy to communicate that intent with a simple amendment to the Board's amendment authority. Even if the exact limits on "scrivener's changes" might be open to interpretation and be complicated to enforce, it would have indicated that such a limitation was intended and could also have required such limited corrections to be ratified by the convention or some other similar mechanism to constrain the effect of the State Board making changes outside the convention. This is not the case and instead the language for amending the governing documents only specifies two different mechanisms for making amendments, in convention or by the board, rather than describing two different levels of authority or the board's authority being in any way limited.

Referring back to Question 2, the two changes adopted by the State Board with the support of ¾ of the removed Board members supporting them and they or their allies proposing them (with Mr. Hinds abstaining as chair and the remaining majority who were not removed also in support) did not meet these imagined limitations. It is no mere scrivener's change to grant the State Board authority to create temporary standing committees, which intentionally may have the authority to conduct activities otherwise reserved to the State Board itself. The formation of such committees is prohibited by RONR except where permitted by an organization's bylaws, and our bylaws did not previously permit it. It is no mere scrivener's change to alter the amendment requirements. Beyond these changes taking place just in the short time Mr. Hinds was chair, prior to the June convention under the previous board (chaired by Mr. Goward who likewise claimed substantive amendments weren't permitted on Sunday) amendments were often implemented that were beyond the scope of scrivener's changes. Evidence of this can be seen through an [AoA Committee Report](#) initially published in March of 2021. Items 5-15 on this report, designated "State Board – Ad Hoc" as well as items 1-4 designated "State Board" were adopted by the State Board with the "Ad Hoc" items adopted via Discord votes between April 16-20 in a process nearly identical to the vote that took place on October 1st to amend the Bylaws related to disciplinary action. Minutes of these votes are on our Discord Server but were not posted to the email list as they predated that requirement and capability of the Discord Bot. Other than those items, 1-4 were adopted at the Q2 state board meeting in 2021 prior to the June convention in a process entirely identical to the process on November 20th where the board actions since October 1st were ratified. Several of the Ad Hoc items from last year's report were lumped together and adopted in a single motion because they were indeed scrivener's changes, but the others were more substantive and were taken one by one. The current process for convening ad hoc meetings was established (with the quorum call requirement intending satisfying the need for advanced "notice" of the ad hoc/special meeting in tandem with the requirement

that votes remain open for 48 hours), quorum requirements for the state board were increased, email notice as a “sufficient” delivery method for providing notice of proposed amendments to the governing documents were removed (we have a wider audience through Facebook than we do through an email list, sending a notice to a smaller audience via email would otherwise have been sufficient in lieu of broadcasting to a larger audience as was required following this change), changed the process for filling executive committee vacancies to require board confirmation, required board votes to be published to a public email list, and allowed for candidate nominations to be conducted during odd year conventions where they were previously restricted to even years. These are just amendments from last year and they are far more impactful than scrivener’s changes to move commas, fix spelling, change formatting, or adjust capitalization. Without hunting through minutes and notification posts it would be difficult to pinpoint other amendments that have been made by the State Board in the past (we’re starting the use of a “Change Log” section to keep better track of these) other than several amendments that are more easily located and were ultimately adopted following a [committee report](#) posted in 2018. This report likewise contains substantive changes that affect membership criteria, notice requirements, disciplinary procedures, convention credentialing, and other substantive issues. They were passed at a Board meeting immediately following the 2018 convention, even when that convention had just adopted a full rewrite of the AoA and Bylaws.

The claim that the State Board’s amendment authority is for scrivener’s changes only or that State Board amendments cannot modify language adopted in convention not only contradicts the plain language of the relevant sections of the governing documents, but flies in the face of the established and universally accepted past practices of the LPD State Board, including by members who are now fabricating this limitation purely to rationalize their own assertions of authority over the LPD despite having been removed for their many failures and in accordance with our governing documents.

IPR comment by Bill Hall (JC member) on August 27, 2011 at 10:13 am: "For me, some of the most important indicia of who the LP's current affiliate is in Oregon, pending future negotiation or litigation among LPO members, are:

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

5. (VERY IMPORTANT, PLEASE DETAIL) Please discuss each of the matters above in detail to clarify which group controls these things. Where two of these exist, which was in continuity with the Libertarian Party of Delaware before this controversy (e.g., same website URL)?

All of the relevant assets listed below are referring to the assets in existence prior to October 1st unless otherwise indicated.

5.a) ballot access – *still subject to a likely lawsuit that will play out over the next few months but having done ballot access cases in Delaware courts before, I’m confident the LPD retains control of its ballot access as the regularly organized and constituted statewide governing authority of the ballot qualified Libertarian political party. We will begin submitting candidates at the county level in the next few weeks, but statewide candidates implicating the LPD directly rather than its county affiliates won’t begin until our convention in March. A lawsuit would be focused on removing candidates nominated by Mr.*

Hinds and/or accepting candidates nominated by the LPD if the Commissioner of Elections is confused. The provision of certain voter registration data by the Commissioner of Elections, which can by law only be granted to ballot qualified political parties, indicates that office's continued recognition of the LPD's ballot access over that of Mr. Hinds.

5.b.1) bank accounts (checking, saving, etc.) – *The LPD treasurer retains control of all financial accounts.*

5.b.2) credit cards – *We don't have a credit card, but the LPD treasurer retains control and physical possession of the LPD's debit card.*

5.b.3) paypal – *The LPD treasurer retains control of the PayPal account.*

5.b.4) website – *The LPD's IT director retains control over both the hosting of the website and the domain name, both of which have been in use for over 4 years since moving off of an lp.org subdomain. Prior to that the website was still under the control of the IT Director and has been since about 2013.*

5.b.5) facebook – *The LPD's IT director retains control over the state Facebook page and discussion group, as well as 2/3 of the original county pages and the new county page following the disaffiliation of the New Castle County organization. The original state assets have been in use for over 10 years. There are now (at least) three New Castle pages following the refusal to surrender administrative access of now two formerly authorized page managers. We are making improvements to this process to prevent losing control of county pages in the future, but the existing state page was created in 2011.*

5.b.6) twitter – *The LPD's IT director retains control over the Twitter account, though it has been suspended by Twitter claiming impersonation despite its continuous existence for 4 years. This suspension is in the process of being appealed. A new Twitter account was created by the Hinds group, which was also suspended for impersonation though violent and bigoted content may have also contributed to their violations. It was their suspension prompted a post from one of Mr. Hinds' allies to mass report our legitimate account and cause our suspension.*

5.b.7) Instagram – *The LPD's IT director retains control over the Instagram account, which is tied to the Facebook account, though we don't really use Instagram.*

5.b.8) slack – *The LPD's IT director retains control over the Slack workspace.*

5.b.9) discord – *The LPD's IT director retains control over the discord server and the bot used to assist in common tasks around the server.*

5.b.10) other social media – *The LPD's IT director retains control over the Google account holding the LPD's YouTube account, as well as the customized Delaware legislative tracking application which includes some social media features. I'm not thinking of any other social media assets besides these off the top of my head and no others are in frequent use, but any others I'm forgetting here remain in control of the LPD's IT director.*

5.b.11) google groups – *The LPD's Google Groups are tied to the same Google account as the YouTube channel and remain in control of the LPD's IT director.*

5.b.12) other electronic mailing lists – *No other electronic mailing lists are in common use by the LPD, but the LPD's IT director has access to and control over the several mailing lists utilized by the county affiliates both before and after the removal of the New Castle County affiliate on October 31 as well as a curated snail mail list of registered Libertarians and LP national contacts in Delaware.*

5.b.13) other assets not covered – *There really aren't any other assets except perhaps a vinyl banner or two and some various flyers and literature that are used for outreach events. These items are in the possession of the LPD Chair and Vice Chair in their capacities as county chair of Kent and Sussex counties respectively. Several such assets were turned over to the LPD Chair by the LPD's original founder, Bill Morris, prior to his death several years ago but most of that stuff was historical memorabilia rather than anything in current use by the LPD.*

5.c.1) FEC filings – *The LPD is not an FEC qualified entity though our Treasurer is looking into that.*

5.c.2) Delaware campaign finance filings – *The LPD treasurer retains control over the Delaware Campaign Finance Reporting system account and political committee established with the Delaware Commissioner of Elections and filed the year end 2021 report earlier this week.*

5.c.3) secretary of state recognition – *Delaware does not have a “Secretary of State” that performs this function. Political parties interface with the State through the Commissioner of Elections. The Commissioner of Elections is reluctant to make definitive statements about who is recognized unless forced to, however they have accepted the amended campaign finance statement of organization indicating the removal of Mr. Hinds and acknowledge us for the purposes of providing voter info.*

5.c.4) voter registration database from the state – *This is an example of when the Commissioner of Elections is forced to. Delaware law provides for various individuals and groups to have access to the voter registration database but provides a distinct data set at no cost to “minor political parties” with ballot access upon request while providing a more limited data set for a fee to the public. Requests made by the LPD chair have been honored on multiple occasions since October 1st despite claims by the Hinds faction that they are “working with” the Commissioner of Elections to reclaim the party. The LPD Chair and Treasurer are well known to Commissioner of Elections staff and if any such complaints were being taken seriously, they would have been mentioned.*

5.c.5) corporate charter – *The LPD does not have a corporate charter. We are considered an unincorporated association under state law.*

5.c.6) any other general recognition – *The LPD has formed coalitions to varying degrees with several organizations related to cannabis legalization and opposition to gun control, as well as good government, criminal justice reform, refugee resettlement, and other groups related to areas of Libertarian interest. These coalition partners acknowledge the LPD’s change in leadership and welcome it due to an expressed lack of faith in Mr. Hinds and his allies.*

It should be noted that all these assets were under the control of the IT Director and the Treasurer in accordance with existing and longstanding policy established under the LPD’s Bylaws outlining the duty of the State Board to secure the assets of the party. Consistently since 2011 when the Treasurer was elected and many of the IT assets were created up until the present day, the State Board has maintained the policy of having those assets under their control. The State Board prior to October 1st didn’t change those policies under Mr. Hinds’ leadership, and they have not changed them since then either.

6. (NEW QUESTION) Does your group believe the LNC has the authority to recognize both the McVay and Hinds groups and send both entities data dumps?

Recognize? As in as affiliates? No. As for the data I don’t know what the applicable laws are on this, but at the end of the day it’s the LP’s data so I imagine the LNC has the authority to share it with pretty much whoever they wish, though if state affiliates are prohibited from endorsing candidates in other political parties it doesn’t really seem fair for the national party to be handing out data to other political parties/entities that aren’t affiliated with the national LP and are in fact in conflict with their existing affiliates. I also believe there might be concerns about coordination and data sharing between an established political party and what is effectively, in the case of Mr. Hinds’ group, a PAC, but this is not my area of expertise. It is worth nothing that the LNC policies for these services refer only to affiliates and do not authorize providing them to non-affiliate organizations, so in that regard the matter is not the same as the examples of non-affiliate data sharing cited in the LNC brief (i.e., the Frontier Project).

7. (NEW QUESTION) Does your group believe the LNC has the authority to demand that both the McVay and Hinds groups attempt to hold a mass meeting to elect new officers?

Absolutely not. The bylaws are crystal clear regarding the autonomy of state affiliates except with very limited exceptions as described in the bylaws. Demanding a mass meeting, which under RONR is

reserved for unorganized groups attempting to become organized groups (as Ms. Harlos concedes in her brief), violates the LPD's bylaws as well. It is far outside the authority the LNC is granted by the bylaws and is not authority that the LPD will acknowledge if its usurpation by the LNC is upheld by the JC. We do not wish to be disaffiliated, constructively or otherwise from the national party, but we prefer that to being compelled by the national party to associate with people we consider to be detrimental to our mission and to carrying out actions in violation of our bylaws. We are holding our usual convention on March 12th, but it isn't clear from the language in the LNC's motion whether or not they will accept this as complying with their demands.

8. (NEW QUESTION) Does your group believe the LNC has the authority to cease recognizing whatever the legitimate group is by a majority vote rather than a 3/4 disaffiliation vote?

No. If they did, the entire bylaws section on disaffiliation requiring a ¾ vote would be defunct.

Questions by Dr. Chuck Moulton for the Hinds group

I understand these questions are for the Hinds group, but where I feel it is necessary, I am going to respond to them as well anyway.

I have already asked most of the questions I am concerned with, but would appreciate it if you could briefly re-answer them in writing.

IPR comment by Bill Hall (JC member) on August 27, 2011 at 10:13 am: "For me, some of the most important indicia of who the LP's current affiliate is in Oregon, pending future negotiation or litigation among LPO members, are:

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1. (VERY IMPORTANT, PLEASE DETAIL) Please discuss each of the matters above in detail to clarify which group controls these things. Where two of these exist, which was in continuity with the Libertarian Party of Delaware before this controversy (e.g., same website URL)?

- 1.a) ballot access
 - 1.b.1) bank accounts (checking, saving, etc.)
 - 1.b.2) credit cards
 - 1.b.3) paypal
 - 1.b.4) website
 - 1.b.5) facebook
 - 1.b.6) twitter
 - 1.b.7) instagram
 - 1.b.8) slack
 - 1.b.9) discord
 - 1.b.10) other social media

- 1.b.11) google groups
- 1.b.12) other electronic mailing lists
- 1.b.13) other assets not covered
- 1.c.1) FEC filings
- 1.c.2) Delaware campaign finance filings
- 1.c.3) secretary of state recognition
- 1.c.4) voter registration database from the state
- 1.c.5) corporate charter
- 1.c.6) any other general recognition

2. At the hearing you seemed to avoid directly answering the above question. However, you tried to provide some context of the reason many of these things were not controlled by your group. Specifically you claimed: a) Will McVay controlled internet assets prior to the split and continued to control them, b) Will McVay's mother was the party treasurer and controlled financial assets such as bank accounts and campaign finance filings prior to the split and continued to control them. Please confirm and elaborate on this and note above which assets specifically were controlled by Will McVay or his mother prior to and after the split.

All of the assets in question, in accordance with established State Board policies, were under the control of either the Treasurer or the IT Director prior to October 1st and remain under their control now, excepting the few outreach related items in the possession of the Kent or Sussex Chairs. The other exception is the ballot access which under Delaware State Law belongs to the "regularly organized and constituted statewide governing authority of a political party" and until nominations are filed, we will not have a definitive indication of how the State understands the situation but several of their actions suggest their recognition of the LPD over Mr. Hinds' group and we are prepared to correct the Commissioner of Elections in court if necessary.

The relationship of the LPD Treasurer with any other party member is irrelevant to the fact that she has been overwhelmingly elected and reelected, up until 2021 uncontested, as Treasurer of the LPD and carries an unimpeachable record of custodianship of LPD financial assets and compliance with relevant campaign finance laws. The suggestion implied that her relationship to the Chair would prompt her to do something she did not believe was the correct course of action shows they don't know her very well.

3. You claimed (contrary to the clear language of the bylaws) amendments to the bylaws by the state committee can only make scrivener's changes (spelling, grammar, make wording clearer) rather than substantive changes, whereas amendments to the bylaws by the state convention can make substantive changes. Is that correct? Was that the tradition? Can you provide examples from the Libertarian Party of Delaware's history?

I have provided numerous documented examples of more elaborate amendments that were adopted. The only way for Mr. Hinds to prove his position would be to dispute that those amendments were ever adopted despite appearing in the stipulated version of our bylaws from before October 1st and the stipulated meeting minutes provided in Mr. Hinds' exhibits, or to show a consistent pattern of amendments proposed by the State Board being ruled out of order for being too substantive for the Board to adopt on its own. Neither of these things are possible in the current timeline.

4. If the state committee were allowed to make substantive changes to the bylaws by a majority vote and if such bylaws changes were properly noticed, what would prevent the McVay group with 5/9 of the

state committee from passing bylaws changes over the objection of 4/9 of the state committee (and subsequently using such bylaws changes to remove state committee members) in the future?

Nothing except the fact that we have since changed the governing documents to make it entirely one document labeled "bylaws" requiring a 2/3 vote of all board members to amend in all cases. If Mr. Hinds' claims are true, of course, then that change never took place.

5. (NEW QUESTION) Does your group believe the LNC has the authority to recognize both the Hinds and McVay groups and send both entities data dumps?

6. (NEW QUESTION) Does your group believe the LNC has the authority to demand that both the Hinds and McVay groups attempt to hold a mass meeting to elect new officers?

7. (NEW QUESTION) Does your group believe the LNC has the authority to cease recognizing whatever the legitimate group is by a majority vote rather than a 3/4 disaffiliation vote?

Question from Dr. Mary Ruwart for the McVay group:

One of your first acts when you claimed chairmanship of the Delaware LP was to expel over 2,000 members. One of the goals of the LP is to grow, so eliminating roughly 99% of the membership makes your group's ascendency appear to fit the definition of a hostile takeover. Since re-entry into the Delaware LP under your leadership will require individuals to meet "new criteria," your process appears to be one of 'guilty until proven innocent,' contradicting our ethical norms. Please explain why the extensive expulsion of Delaware's LP membership shouldn't classify your group's ascendency to be a hostile takeover, especially given your potential conflict of interest in starting another political party.

Please be aware that claiming that neither the LNC or the JC has jurisdiction in state matters does not, in my opinion, apply when dealing with a hostile takeover. Indeed, in the case of a hostile takeover, it is my opinion that both bodies would have an obligation to help secure LP assets including ballot access, bank accounts, social media accounts, etc. Please focus your answer on why disenfranchising roughly 99% of the Delaware LP's membership without cause should not result in your group's actions to be classified as a hostile takeover.

The first thing I feel the need to address is the claim that any of the things you mentioned are LP assets. State parties under the bylaws are autonomous affiliates of the national party. Our assets are our own. If the national party determines that there has been a hostile takeover and wanted to support a taken over affiliate's efforts to reclaim its assets, that is a separate question implicated in these appeals, but I strenuously object to your implication that the assets belong to the LP rather than to the affiliate and we are prepared to hold our ground against anyone in that regard. I will note though that with the various questions about how to identify the recognized affiliate, leaders and officers come and go, members come and go, the assets remain and can be tracked, and the LP's relationship with the LPD can be investigated through its relationship to those assets. The ballot access. The funding. The websites. These are the assets the LPD owns and since its affiliation uses to promote the national LP. Name calling about hostile takeovers and illegitimate claims of ownership against those assets aside, there's only one way for the LP to secure the LPD's assets on behalf of the LP.

I'm not aware of a section conferring additional authority on the LNC or the JC in the event of what it deems to be a "hostile takeover" or where such an event is defined to trigger this state of emergency conferring that additional authority. If such language does not exist, I would hope you aren't suggesting you will supplant the bylaws of the Libertarian Party with your opinions.

After having been involved with the LPD for nearly 12 years, making my tenure among the longest of any active LPD volunteer, and after having created much of the infrastructure the LPD relies on to conduct its operations, I find it odd to claim that by taking actions to reject an attempted hostile takeover, as determined by a duly empowered majority of the elected State Board of the LPD and as carried out by individuals who largely seemed to have had no idea the LPD existed until about a year ago, we are the hostile takeover. The individuals involved and their supporters have publicly announced their intention to "take over" the LP state by state and it is not a hostile takeover to stop them.

Regarding the satirical parties, I have started about 10 other "political parties" since 2011. They have been started with varying degrees of seriousness and involved various degrees of effort, but they have all been rooted as educational efforts in Delaware as an onramp to political and hopefully Libertarian political activity. A key point of this has been to highlight the absurdity of Delaware's campaign finance regulations given that the contribution limits for individuals and the contribution limits for "political

parties” are wildly disparate and a single individual can create multiple political parties to render the limits effectively meaningless. This is an appeal of the LNC’s constructive disaffiliation of a state party though, not a lesson in Delaware campaign finance laws, so I deeply apologize if you aren’t getting the joke, but if there is a conflict of interest resulting from my shenanigans with paper political parties, it is for the LPD to evaluate in determining my role in the LPD, not yours, not the JC’s, and not the LNC’s unless they choose to disaffiliate the Delaware party for it in accordance with the prescribed process established in the bylaws.

As for the “expulsion” of over 2,000 members, I refer to the answers to Dr. Moulton’s questions above. In particular refer to substantive changes that have been made by the State Board in the past, with one such change in 2018 that imposed an additional membership requirement to “agree to abide by the articles of association” or language to a similar effect. If it is your contention that 2,000 people who have never been to an LPD event and by all appearances don’t realize the LPD exists other than marking the “Libertarian” box at the DMV when they renewed their driver’s license had agreed to abide by a document they almost certainly have never even seen, never mind read, then I suppose you could say that the alteration to the membership requirements on October 31st resulted in the disqualification of 2,000 members. I don’t agree though, and I would certainly not consider that anyone was expelled vs the membership requirements changing and some people who used to meet the requirements no longer doing so. Since you reference starting a new political party and that was entirely me with no involvement of others in the LPD, I will interpret your use of the word “your” to refer to me individually rather than the majority of the elected Board of the LPD throughout your question and offer the correction that it was not one of MY first acts to tighten up the membership requirements, but after an entire month (during which the LNC did nothing, as they should have continued to do) of attempting to find a way to reconcile with members upset by the removal of Mr. Hinds who were then in clear violation of the requirement to abide by the bylaws already, we all agreed to pass an amendment that tightened up membership requirements such that going to the DMV and waiting two months was no longer sufficient to invade and conquer our party. There’s no “guilty until proven innocent” to this, there is a requirement that prospective members demonstrate a value and a commitment to the organization before they are handed the keys to it.

We also note the hypocrisy of this objection. Simply becoming a registered Libertarian voter does not make somebody a member of the national Party, a policy which there has been no attempt to change. Likewise, many other state parties do not make registered voters into automatic voting members of the party. If the LNC regards it as unacceptable for LPD to adopt the same sorts of membership rules, their option was to properly disaffiliate us prior to the six-month deadline, after which they could affiliate a new organization in Delaware with rules more to their liking. But the vast majority of people they’re telling us must be accepted as members of the state party are not even accepted by the LNC as members of the national Party and are unaware they had voting rights to lose.

We are taking unprecedented steps, in the 12 years I have been involved with this party, to reach out to those 2,000 registered voters and encourage them to explicitly agree to abide by the bylaws, come out to meetings, donate to the LPD, and get involved beyond a party registration and (hopefully) a vote. I’ve been involved for 12 years and on the State Board for about 9 of them and I’ve never seen this extensive of a marketing effort, enabled by fresh fundraising that has taken place entirely since October 1st with full knowledge that we are rebuilding a Libertarian Party of Delaware without Bill Hinds and his toxic takeover allies, and in many cases BECAUSE of his removal. Whether you call the majority of the elected State Board a hostile takeover for an act of defensive dissociation makes very little difference to us, even if we are ultimately disaffiliated. We have still sent multiple mail pieces to the 2,000 registered

Libertarians and 1,000 national contacts and we will be following up with text messages and phone calls to bring them into the party over the next several weeks, and we will not be readmitting the maybe 20 people whose toxic and counterproductive behavior brought us to this point without a demonstration that they've corrected their attitude. We will still be nominating Libertarian candidates who respect all non-aggressive people instead of tarnishing the name with messaging deliberately intended to provoke and alienate most voters and misrepresent the spirit of the Libertarian philosophy.

It is one of the goals of the LP and the LPD to grow, but we care what we grow into. We will not accept growth at the expense of our souls. If that's not what you want from us, you should wait until it is again permissible under the bylaws and disaffiliate us or let us know and we'll disaffiliate ourselves.

Questions from Alicia Mattson:

1. (Primarily to the LNC) The LNC has not yet recognized either set of LPDE officer claimants, however in the December 5 motion it has established some conditions for who it "shall" recognize later. Only one of these groups can be the rightful officers, but either group could theoretically win the LNC's "contest." This motion inherently allows for the possibility of the LNC recognizing a group of officers which are not the rightful officers under the LPDE bylaws. Autonomy is about the right of self-rule, including its members having the benefit (or detriment) of their own chosen rules and leaders. Would it violate the affiliate's autonomy if the LNC ended up recognizing as LPDE officers those who according to LPDE rules were not actually the rightful officers, rather than the LNC analyzing who are the rightful officers under LPDE rules and recognizing them?

Yes, though even the LNC's "analysis" could be wrong and therefore also violate affiliate autonomy. The LNC should err on the side of doing nothing absent definitive evidence that reality does not align with what it's being told. Whining by duly removed board members and their extremely online allies is not definitive evidence, and even without the November 20th ratification neither the LNC nor the JC should be nit-picking irrelevant procedural details.

2. (Primarily to the LNC) The LNC has asserted a belief that the LNC is not allowed to "pick a side" in Delaware due to a 2011 Judicial Committee ruling regarding a leadership dispute within the Oregon affiliate. That ruling asserted that government officials get to decide who the LP affiliates are. That ruling stated, "We find that the Libertarian Party of a particular state, in this case the state of Oregon, is the entity that is recognized by the secretary of state, in this case the Secretary of State of Oregon." This broad statement was not even phrased as being limited to circumstances in which there is a leadership dispute. The LP has numerous affiliates which have no official status with the secretary of state.

- a) Does the LNC believe that a bylaw prohibits them from "picking a side" in Delaware by recognizing the rightful officers? If so, which one(s)?

Article 5.5. There are very few areas where who the "rightful officers" are makes any difference as compared to who the organization as a whole, in accordance with its own internal governing documents, designates as points of contact and interaction with the national party. The LNC itself concedes that its affiliate relations are not with any slates of leadership but with the organization as a whole. Recognizing "rightful officers" in the event of a credible dispute is both unnecessary and disruptive of state autonomy, and to even humor frivolous claims like those of

Mr. Hinds is maliciously so. Binding processes exist to determine the continuity of the organization with which the LP has an established relationship and who has rightful claim to manage the assets and utilize the ballot access. The LNC's pronouncements aren't among them. By picking a side the LNC not only violates its own bylaws but potentially alienates and/or constructively disaffiliates the organization that proves itself to be in rightful possession of those assets in favor of an imposter.

- b) Does the LNC believe that a bylaw establishes the above-quoted role for a secretary of state to impose upon the LP an association with an affiliate, even theoretically one which has never established an affiliate relationship under the national LP bylaws? If so, which one(s)?
No, but binding mechanisms for determining the continuity of an organization which has already affiliated should be respected if for no other reason than as a practical matter, secretaries of state, commissioners of elections, and courts of law affect conditions on the ground that the national party cannot get far by ignoring. This is not a question of the State recognizing one entity over another and the LP following their lead with a potential stranger. The question put forth by the Hinds appeal and avoided by the LNC motion is who the representatives of the LPD are. Is it the majority of the Board as it was duly elected in June acting in conformity with the LPD's bylaws? Or is it an incompetent minority that once elected created nothing but division and strife before being duly removed now making up excuses? The LNC and the JC cannot answer that question except to say who they believe leads their affiliate organization and they can easily be wrong, thereby effectively disaffiliating their state party. Affiliate status is one of the smallest and most irrelevant aspects of a state party's daily operation. Every other aspect of their operations is not only outside the national party's consensually granted authority, but wholly beyond their power to influence. The national party should respect its existing affiliate relationship with whichever individuals are determined to be the proper representatives of that affiliate organization. Neither the JC or the LNC have the power to enforce their beliefs and like them or not the government entities can enforce custody of an affiliate's assets and affect relationships to other entities and control state ballot access. We are a political party and not a social club, so who the state recognizes as being rightfully in possession of financial contributions and ballot access speaks to our purpose while academic discussions disconnected from those considerations are ultimately irrelevant without them.
- c) Which bylaw does the LNC believe gives past Judicial Committee rulings the status of binding precedents for future application beyond that instant case, effectively allowing them to create party rules which have not been adopted by convention delegates? (Interestingly, I note that even one of the majority-side signers of the 2011 Judicial Committee ruling did not apparently believe the 2011 decision should apply to disputes in the state of Delaware. When Nicholas Sarwark later became LNC chair, in early 2018 he authorized the then-Executive Director to send the attached letter to the Delaware Secretary of State, asserting which of two groups the LNC recognized and asking the Secretary of State to respect the LNC's position. Just for clarity, the letter purports to speak for the LNC as though the LNC had considered the question, though they had not, and as an officer at the time I was unaware of the situation until well after this letter had been sent. That letter did pick a side and did not assert that the LNC was waiting for the Delaware Secretary of State to tell the LNC who the affiliate was.)
Stare decisis is not a thing with the LP Judicial Committee, near as I can tell, but I would like to address the 2018 letter. The "Angry Beaver Caucus" attempting to usurp the LPD's ballot access in 2018 had an even weaker claim to representing the regularly organized LPD and Delaware LP affiliate than Mr. Hinds. None of them had been elected to any party role in recent history. The Angry Beavers never purported to be the Delaware affiliate of the LP, but instead claimed to be the governing organization of the Delaware Libertarian party as it exists under Delaware state

law independent of any national affiliations. It should be noted that under the LNC's current operating theory upon which their December 5th motion was based, there is very little to separate the arbitrary claims of Mr. Hinds from the those of the Angry Beavers if they had tried to claim affiliate status or those of even more disconnected individuals. While Mr. Hinds may have been more recently elected prior to his removal, this is not suggested as a determining factor in recognizing the potential merit of his claims to represent the affiliated LPD vs the Angry Beavers or someone like Donald Trump claiming to be a Libertarian and then deciding he's going to be the State Chair of an affiliate as long as any of them can claim to have more people in one place on one day for a Libertarian meeting. There is no basis for the LNC (or the JC) to take any of them seriously. Doing so infringes upon our autonomy and creating a process in violation of our bylaws that could recognize a new Delaware affiliate is that and potentially a constructive disaffiliation of the LPD as well.

- d) The 2011 Judicial Committee ruling was in 2015 rescinded by the Judicial Committee in a different ruling (attached). Since the LNC believes the Judicial Committee can create binding precedents, why does it believe the 2011 Judicial Committee ruling to still be in effect, rather than the 2015 one which supported the LNC recognizing officers in accordance with the affiliate's bylaws?

It isn't clear why the LNC brief brings up the 2011 ruling except to claim that it isn't violating an affiliate's autonomy or constructively disaffiliating the LPD because it didn't pick a side in advance. Of course, their motion establishes a process by which side they will pick later other than the process outlined in the bylaws of the LPD.

To be clear, the LPD is not asking the LNC to recognize its officers. The LNC voted against recognizing Mr. Hinds and against disaffiliation on November 21st, accordingly we expect the LNC to maintain its recognition of its Delaware affiliate under the officers and Board it claims for itself. Under the reasoning of the 2015 ruling, explicitly recognizing Mr. Reeves did not give Mr. Wagner standing to appeal the disaffiliation of the LPO, so it is unfathomable that ultimately doing nothing would give Mr. Hinds standing to do so. On this basis Mr. Hinds appeal should be dismissed. However, the 2015 ruling was also an argument in favor of following bylaws, and the motion passed by the LNC on December 5th does not conform to the bylaws of the LPD, or the bylaws and policy manual for recognizing affiliates in the LP. On this basis the LNC's motion which could have the effect of disaffiliating the LPD should be overturned. We do not claim that prior JC decisions are binding authority, but for persuasive authority, the 2015 ruling should apply in favor of our appeal and against that of Mr. Hinds.

- e) The LNC asserts a belief that it cannot pick a side (I prefer to say acknowledge rightful officers in accordance with LPDE rules), but on December 5 it passed a motion establishing a set of conditions they will use to later make the decision for them. Since the LNC set the conditions which will determine the outcome, is the LNC still effectively picking a side? Since the LNC believes the 2011 Judicial Committee ruling is binding here, are all the possible outcomes of the December 5 motion consistent with the 2011 Judicial Committee ruling that the Secretary of State determines who the affiliate is?

Yes, the LNC is still going to pick a side under its motion and possibly disaffiliate its Delaware party, they're just passing the buck by demanding that we violate our own bylaws first since the mechanism they propose for deciding which side to pick is not permitted under the bylaws of the LPD. Furthermore, it is entirely possible that the LNC's prescribed process could result in the recognized affiliate of the LP in Delaware being a different organization that was not previously affiliated with the national party, and therefore under the 2011 ruling criteria might not be

recognized by the Secretary of State (Commissioner of Elections). Both the 2011 and 2015 rulings, if they were binding, would apply in favor of the LPD over Mr. Hinds and the LNC.

3. (for McVay group) Your filings provided us a link to video of your Q4 board meeting, but I don't believe we have the minutes of that meeting. Please provide a copy of the minutes and let us know what their status is (draft? approved?).
Our website contains a link to the [draft minutes](#). They will be approved at the 2022 Q1 meeting likely to take place in mid-February.

*For my own part, separate from the submitted questions, I would like to reiterate my firm belief, shared by every member of the current LPD State Board and a majority of the LPD State Board as it was elected in June that the national party **DOES NOT HAVE THE AUTHORITY** to make a determination as to who will represent its established affiliate. That authority is reserved exclusively to that organization itself in accordance with its own internal governing documents and subject to interpretation and enforcement under applicable laws. Our more anarchist Libertarians can rightfully balk at the fact that the Libertarian Party is ultimately bound by laws, but from a minarchist perspective as well as a realistic one, the national party does not have the authority or the expertise to conduct a fact finding investigation and make a binding determination by themselves. Whether it's secretaries of state, commissioners of elections, or the courts they both answer to, these legal actors have the authority under local laws and for better or worse some ability both to investigate the facts surrounding a contested claim to holding an office of trust in an organization based on the freely accepted "contract" represented by the bylaws of the organization and to bind the individuals involved to a proper dispensation of property based on their determinations. If minarchy includes adjudication and enforcement of contracts, then enforcement of the LPD's bylaws absent consent to the LNC's or the JC's arbitration is up to the State and its courts. We did not and do not consent to the LNC or the JC arbitrating this matter and Mr. Moellman was completely and entirely wrong to suggest we came to the LNC for help. It was Mr. Hinds and his allies who came screaming to the centralized authority of the national party to whine that their actions had consequences. Our consistent position since the beginning has been that this matter is none of the national party's business and that we do not welcome and absolutely reject their interference.*

The national party's role once an organization is affiliated is to maintain its relationship with that affiliate in accordance with the LP's bylaws and established policies. Maintenance of this relationship includes things like the provision of national LP membership data, links to the affiliate's website and convention from the national LP website, and credentialing of delegates to the national convention.

Since credentialing of delegates will be left to the convention itself, we are not ripe for that discussion at this time. The LNC acknowledged it had no authority over credentialing by amending related provisions out of the motion it passed.

What we are talking about is the data and website links, and all we have asked for since the beginning was the maintenance of the status quo, retaining the existing relationship established prior to October 1st in accordance with established LPD policy, and which was not changed until December 5th. The LNC itself says in its brief that a party is not its leadership, but its membership. I would go beyond that to say it is its membership and its relationships and its assets. The organization taken in its totality. The LP's relationship with the LPD, other than the credentialing of our delegates at national conventions, has been the provision of data through the CRM system to our IT Director and a link to the lpdelaware.org

website that represents our affiliate. These things are not new, and we do not ask for them to be changed.

It is Mr. Hinds, having been duly removed from his position in the LPD, coming to the LNC and now the JC demanding changes to the LP's relationship with the LPD. Change the website. Grant new access to CRM. Declare him the Chair. Tell the "truth", as Dr. LePore tells it. The LNC, recognizing that such actions would be an even more obvious constructive disaffiliation of their Delaware partners, refused to change anything up until December 5th.

*The LNC had every opportunity to leave well enough alone and did so for 9 weeks between the initial removal of Mr. Hinds and the passage of the December 5th motion. It was not for lack of awareness. As the events of the LNC alternate election show, LNC members and other affiliate chairs knew of Mr. Hinds' removal. Mr. Hinds and his allies have been complaining constantly on social media and in their appeal about their grievous mistreatment at the hands of a duly elected majority of the LPD State Board empowered to hold them accountable. The LNC made a deliberate choice not to disaffiliate the LPD in favor of Mr. Hinds up until December 5th. Mr. Hinds claims in his appeal that the LNC's choice to do nothing at the November 21 meeting marks his constructive disaffiliation, but the LNC had been doing nothing since October 1st, and this JC (although not bound by precedent) has itself previously determined in *Phillies et al v. the LNC* that not taking action is not an action justiciable by the Judicial Committee. The only change in circumstances between the LNC doing nothing since October 1st and Mr. Hinds' appeal is the December 5th motion that offers him the opportunity to access national data as if he were the chair of the Delaware affiliate and to possibly transfer affiliate status to his organization. If Mr. Hinds' was constructively disaffiliated rather than rightfully removed from the legitimate affiliate, it happened well in excess of 30 days prior to his appeal and his appeal only came after the LNC effectively granted him provisional affiliate status and offered him a path to full recognition.*

Mr. Hinds did not appeal when he would have been constructively disaffiliated or within the required timeframe after. Instead, he waited until the LPD challenged his avenue to be recognized as the Delaware affiliate, a motion he had previously supported, now claiming that the JC must undo the last 3 ½ months by compelling the LNC to grant him affiliate status. Even if his claims held merit this is well outside of the permitted procedures in the LP's bylaws and is plainly an attempt to distract from the invalidity of the LNC motion and circumvent it being overturned despite offering him his only legitimate path to being restored as Chair of an LP affiliate. It will not and cannot restore him as chair of the LPD or grant him access to assets that even as Chair he did not control, and with the recruiting efforts underway combined with the disillusionment of his conquistadors it is unlikely he will come out ahead even under the LNC's illegitimate process, but we do not submit to being judged.

What this all amounts to is that both the LNC and Mr. Hinds, as well as those who are filing briefs in support of Mr. Hinds' position, fail to understand the authority granted to the national party over its affiliates, and even more gravely fail to understand the limits of the national party's power. If these appeals had not been combined into a joint hearing, we would not have participated in Mr. Hinds' appeal due to the absolute lack of any jurisdiction for any element of the national party to adjudicate his complaints.

According to Mr. Hall's test, which even if it is not binding precedent is a good practical guide toward determining which individuals represent an organization and which ones don't unless and until a court case changes the outcome, the LPD has a clear and uninterrupted chain of custody of its assets from its formation in 1975 by Bill Morris, through Mr. Goward's term from 2017-2021, through Mr. Hinds'

election in June of 2021, and then to his removal and the succession of myself. No mechanism at the disposal of the national party will allow them to alter the results of Mr. Hall's test. The best they can do is transfer affiliation status from the organization that passes the test to the organization that fails it. Doing so would violate the bylaws of the national LP, but if the LNC and the JC are both committed to violating the bylaws then there is still a hard limit to what they can achieve.

Should the JC act outside its authority and transfer affiliation status to Mr. Hinds, or should the JC uphold the LNC's nebulous motion to potentially do the same, the LPD will continue to operate as the regularly organized and constituted statewide governing authority of the ballot qualified Libertarian party in Delaware, we will retain control over our assets, and we will continue to advance an inclusive and liberating vision of the Libertarian philosophy. We will remain open to rejoining the national LP in the future, but in the meantime will gladly join with any other state affiliates who share our vision outside the interference of the national LP.