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### Parliamentary Opinion

#### RE: Validity of the "reversion" to the previous LPID officers

On April 2, 2022, the LPID held its state convention and elected officers, including Robert Imhoff as Party Chair. He replaced Jennifer Imhoff-Dousharm<sup>1</sup>, in this position, as she was the prior Chair.

On May 31 Ms. Imhoff-Dousharm sent out, in part, the following message in the *Liberty Monitor*, an e-mail newsletter:

On April 2nd, 2022, the Libertarian Party of Idaho held an annual convention. A new Executive Board was formed during this meeting. During a Regular Meeting of that board, the meeting minutes were reviewed for accuracy. It was noted that Idaho Law 34-707 was not correctly followed by the calling of the April 2nd meeting, as State Central Committee members did not get proper notice and organize in line with Idaho Law 34-502.

To rectify this issue, the Libertarian Party of Idaho will revert to the prior Executive Board holding elected office. This action was taken under Idaho State law, and not Party bylaws or governing parliamentary procedures. This board will hold office until such time as the State Central Committee can call the appropriate convention for the party, in compliance with Idaho Law.

The dispute has arisen as to which group is the legitimate; is it the Executive Committee and officers in place prior to the April 2, 2022 Convention or those elected at that Convention.

On August 4, 2022 the Executive Committee of the Libertarian Party of Idaho (LPID) adopted a motion to request an opinion from the parliamentarian on the following questions.<sup>2</sup> The first was "whether Robert Imhoff had the authority to revert the executive board of the LPID to what it was before the April 2, 2022 convention." The second question was, "Did Jennifer Imhoff-Dousharm, the prior Chair of the LPID, have the authority to take that action?"

#### Works Cited

The LPID Bylaws will be cited as "Bylaw" with the article and section number as appropriate.

The *Liberty Monitor* email of 5/31/22 shall be cited as Monitor. A letter, dated 5/30/22, sent to the Idaho Secretary of State's Office by Ms. Imhoff-Dousharm and received on 5/31/22 will be cited as Secretary of State letter. A "Convention Memo," a legal opinion from Donald A. Sonnefeld, Esq., MS, CSP, dated June 17, 2022, will be cited as Memo.

Finally, the bylaws authorize the current edition of *Robert's Rules of Order Newly Revised* as the parliamentary authority; the current edition is the 12<sup>th</sup> edition. This will be cited as RONR with appropriate citation.<sup>3</sup>

Any other sources will be cited in end notes.



## Commentary

There are many aspects of the current LPID situation, as documented in the material submitted to the Libertarian National Committee (LNC). There probably should be more documentation showing all the various stages of this<sup>4</sup>. However, the core issue, and the one on which all the additional controversy is built is the claim that the Chair can declare the actions of an assembly null and void, and can do so outside of a meeting of that, or of a superior, assembly.

Under the Bylaws, the Convention is the superior body. The Convention elects the officers (Bylaws, Article IV, Section 1) and may amend the Bylaws (Article XI). Subunits of the convention, Regional Caucuses, elect Regional Chairs, which are members of the Executive Board (Article VI, Section 1).<sup>5</sup> Except as otherwise provided in the bylaws, no board or committee can "alter or conflict" any action of the Convention (RONR, 49:7). The Judicial Committee (Article XIII, Section 5, b.), however, may, upon referral of either the State Central Committee or the Executive Board, may adjudicate, "ambiguities or conflicts within or between the Bylaws or other governing documents, procedures, or practices."

The officers, especially the Chair, lack the authority to determine if an act of the convention is valid outside of the meeting. RONR provides that the chair may rule a question out of order (47:7 4)), but such action is usually subject to appeal (24:1).<sup>6</sup> The Chair has the duty to enforce the rules relating to debate, order and decorum "within the assembly (47:7 6))." This authority does not extend outside of a meeting of the body.

Ms. Imhoff-Dousharm was the chair of the April 2, 2022 meeting. The draft minutes of the meeting show that there were points of order or rulings by the chair that the meeting did not conform to state law. In her video interview with the Judicial Committee, she indicated that she permitted the meeting to be held "out of my own ignorance."<sup>7</sup> In her letter to the Secretary of State's Office, Ms. Imhoff-Dousharm made no statutory reference.

Mr. Imhoff was elected Chair at the April 2, 2022. As Chair, he may call a meeting of the Executive Board, or of the State Central Committee. Either or both of these bodies may refer the matter to the Judicial Committee. Further, both the Monitor statement and the Memo agree that the State Central Committee may call conventions.

The parliamentarian will not take a position of what is or is not permitted or required by Idaho statute. He will note, however, that the Memo is from an attorney, Mr. Sonnefeld, licensed in Idaho and that Mr. Sonnefeld has expressed a legal opinion that the meeting was properly called.

Ms. Imhoff-Dousharm had the ability, on her own initiative, to determine and rule that the meeting was improperly constituted. Her decision would have been subject to an appeal, with one member making the motion to Appeal and another member seconding (RONR, 24:3). Further, any member in attendance had a right to raise a point of order that the meeting was not properly constituted (23:3). Ms. Imhoff-Dousharm could have submitted the point to the assembly or ruled on it, subject to appeal. This ability ended when the meeting adjourned. So did her tenure as LPID Chair.

Ms. Imhoff-Dousharm has no authority to claim to be the Party Chair, unless the April 2, 2022 meeting is found to be improper by a future convention, the Judicial Committee, or as a result of a court order. To date, none of these things have occurred.

Assume that, solely for the sake of argument, the claim put forward by Ms. Imhoff-Dousharm is correct and she has communicated this to Mr. Imhoff. This would assume that the Memo is incorrect. Mr. Imhoff could call the Executive Board into a meeting and ask them to submit the question to the Judicial Committee; he could do the same with the State Central Committee. He could also call the State Central Committee together and request that they, under state law, call a convention, if that interpretation of statute is accurate.





To date, Mr. Imhoff has done none of these things. What he has done is to violate the action of the Convention, and the rules in RONR, and those of Bylaws. The supposed "rollback" or "revision" is null and void. By not calling these meetings, he has denied the members even the ability to appeal his decision. While this may have been done in good faith, it is still a severe violation of his duty to the LPID. In any event, Mr. Imhoff did not attempt to use the internal methods for resolving this issue.

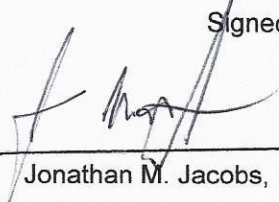
### OPINION

1. Unless there is some determination by either a Convention, the Judicial Committee, or as a result of judicial action by a court, Ms. Imhoff-Dousharm is not the Chair. She is incapable of making any ruling.

2. If Mr. Imhoff believed that the April 2, 2022 Convention was improper, there were methods to resolve the issue within the LPID Bylaws. He has not, to date, attempted to use any of those methods.

3. Mr. Imhoff's actions violated the action of the Convention by attempting to "revert" the LPID back to its position prior the April 2, 2022 Convention. They are null and void.

Signed,



Jonathan M. Jacobs, PRP-R, CPP, AP

Date:

8/7/22

This is based on general principles of parliamentary procedure, the bylaws of this organization, and the cited parliamentary authorities; nothing in this opinion should be construed as an interpretation of statutory or case law.

### End Notes

<sup>1</sup> Robert Imhoff is the spouse of Jennifer Imhoff-Dousharm. Their surnames, individually, appear in some places as "Imhoff" and as "Imhoff-Dousharm." The differing surnames are only used here to differentiate the two individuals. The parliamentarian will note that they were interviewed jointly by the Judicial Committee.

<sup>2</sup> The parliamentarian was permitted to attend this meeting via Zoom and enter into debate under suspension of the rules. He had had previous discussions with some members of the LPID.

<sup>3</sup> Robert, Henry M., *Robert's Rules of Order Newly Revised*, 12th Edition. Eds. Sarah Corbin Robert, et al., New York: Public Affairs, 2020

<sup>4</sup> There are numerous additional issues, some of which the parliamentarian has not looked at in detail. He has not been asked to opine and has not looked at all the documentation. He did however look at the issue of the election of Bannock County Chair.

<sup>5</sup> Though not relevant to the specific question, there is a question of if various officers and regional chairs are voting members of the State Central Committee (SCC). Very clearly, the county chairs, legislative district chairs, and state committee members are on the SCC. They also serve as delegates at the state convention (Bylaws, Article VII, Section 2).

While the parliamentarian was not requested to opine on this particular issue at this point in time, he has **no doubt** that Mr. Todd Corsetti was properly elected as chair of the Bannock County Libertarian Committee and as such, is a member of the SCC. He further has **no doubt** that Ms. Amber Corsetti was properly elected as the state committee woman from that county.

It is very clear that, as of May 30, 2022, Mr. Imhoff did have an SCC, with voting members, that both he, and the author of the Memo, claim is empowered to call a state convention. Further this SCC could forward the question of if the April 2 Convention was legitimate to the state Judicial Committee.

<sup>6</sup> This is an incredibly important function, as an appeal prevents a chair from unilaterally making decisions. The chair can refuse to put the appeal to a vote, but even there is the remedy of the member putting the question from his place on the floor. See "Putting the Motion From the Floor," *National Parliamentarian*, Second Quarter, 2012, pp. 7-10.

<sup>7</sup> JC Investigative Subcommittee Imhoff Interview at 31:15.

