

LIBERTARIAN PARTY JUDICIAL COMMITTEE

APPEAL OF CARYN ANN HARLOS

RESPONSE TO PARLIAMENTARY INQUIRY

RE: CAUSE FOR REMOVAL

SUBMITTED BY RICHARD BROWN, J.D., RP

REGISTERED PARLIAMENTARIAN

December 6, 2024

Mr. Rob Latham
Libertarian Party Judicial Committee

Re: Appeal of Caryn Ann Harlos

Dear Mr. Latham and members of the Judicial Committee:

This memorandum is in response to a parliamentary inquiry via telephone to me from Mr. Rob Latham of the Committee in which he asked me my opinion on the 2022 amendment to the Libertarian Party Policy Manual which added a special rule of order that “No party officer or at-large member shall be subject to removal from office except for failure to perform the duties of office or gross malfeasance”. That rule was adopted on July 31, 2022 shortly after the 2022 national convention and is now Section 1.01 (4) of the Policy Manual and is titled “Removal from Office”. Mr. Latham asked specifically whether I believe that provision is valid and binding. My response was that I do believe it is valid and binding but that I would research it further and get back with him. That is what I

am doing with this memorandum. For those members of the Committee who might not know me, I have served as the Convention Parliamentarian for each Libertarian National Convention since 2016.

After doing more research, it is still my firm opinion that the referenced policy manual provision is valid and binding upon the LNC and that it limits removal from office of Officers and At-Large LNC members to “Failure to perform the duties of office or gross malfeasance”. That policy manual amendment, which is a Special Rule of Order, limits the removal for cause provision in Article 6, Section 7 of the bylaws to those two causes. It does not enlarge or broaden cause, which would be prohibited, but refines, defines and limits it. Adopting that policy manual amendment was appropriate and is within the authority of the LNC, in its sole discretion, to determine what “cause” will suffice for removal from office. The LNC is the sole body with the authority to remove officers. It has imposed this limitation on itself, not on any other body.

By adopting the policy manual amendment in the nature of a special rule of order, which required a two-thirds vote threshold rather than a simple majority, the LNC has simply interpreted the bylaws and made the decision that only failure to perform the duties of the office or gross malfeasance in office will constitute cause for removal. This is a proper exercise of their authority and is proper for a special rule of order.

Further, as to the validity of the policy manual provision, I will note that the parliamentary opinion by Henry M. Robert and Burke Balch (two long time and respected members of the RONR authorship team) dated November 30, 2008 and addressed to former LP Chair William Redpath, states unequivocally near the top of page 3 of their opinion that “the National Committee (the LNC) may only remove officers and at-large members for “cause” but “cause” is left undefined, meaning that it is a matter for the sound judgment of the requisite number of members of the National committee (LNC), subject to review by the Judicial Committee”. That statement also makes it plain that the definition of “cause” for a removal from office action contained in RONR is **NOT** applicable to removal from office actions in the Libertarian Party. Since the Libertarian Party has

adopted provisions dealing with removal from office, the removal from office provisions in RONR are not applicable. The removal procedures in the LP bylaws and policy manual are controlling. The removal procedures in RONR are default or “fall back” provisions which are applicable ONLY when the organization in question has no disciplinary or removal provisions of its own. The Libertarian party DOES have its own removal from office procedures so the procedures in RONR are not applicable except for the policy manual requirement that the trial procedures in RONR shall apply to the extent that they do not conflict with the bylaws.

This memorandum is further prompted by two references by Parliamentarian Jonathan Jacobs in his first and third amicus briefs in this matter in which he refers to an opinion I wrote for the Judicial Committee on October 21, 2021 regarding the first time the LNC removed Ms. Harlos from office. As I interpret his two amicus briefs, he is quoting me as saying that removal from office is justified if the accused engages in conduct “tending to injure the good name of the organization, disturb its well-being, or hamper it in its work”. That quote is directly from RONR (12th ed.). It goes on to say that “In any society, behavior of this nature is a serious offense properly subject to disciplinary action, whether the bylaws make mention of it or not”.

That might have been cause for removal from office then, **BUT IT IS NOT CAUSE FOR REMOVAL NOW.** The rules changed with the adoption of the Policy Manual amendment in 2022. Cause for removal from office is now explicitly defined in the special rules of order in the Policy Manual and is limited to “failure to perform the duties of office or gross malfeasance”. Other forms of misconduct can still be cause for other forms discipline, such as censure, but are no longer cause for removal from office. In fact, it is my understanding that the language used in that policy manual amendment was chosen – with Mr. Jacobs as the parliamentary consultant -- specifically to prohibit removal for anything other than the two stated reasons but to permit other forms of discipline for lesser causes.

There is another reason that “cause” as it existed in 2021 is no longer applicable today: The policy manual amendment specifically excludes any other “cause” or

offense as grounds for removal except for the two specifically mentioned. As I stated above, the parliamentary opinion to former Libertarian Party Chair William Redpath by Parliamentarians Henry M. Robert III and Thomas J (Burke) Balch stated that since “cause” is left undefined in the LP rules, “it is a matter of sound judgment of the requisite number of members of the National Committee (LNC), subject to review by the Judicial Committee”. The Party has now defined what constitutes “cause for removal” by the adoption of policy manual provision 1.01 (4). Therefore, the provisions in RONR as to what “cause” might warrant removal from office or from membership are simply inapplicable to the Libertarian Party. Cause for removal is now defined in the party’s own rules. Those rules supersede any contrary provisions in RONR.

In other words, two of the lead authors of RONR are stating explicitly that “cause” as defined in RONR was not applicable in 2008 and certainly is not applicable now. They made it clear that it is up to the LNC to determine the meaning of the word “cause” as used in the party’s bylaws and rules. The LNC has done just that when it comes to cause for removal from office: it is “Failure to perform the duties of office or gross malfeasance”. The LNC is the only body with power to remove officers and it has determined, with the adoption of the policy manual amendment in 2022, that cause for removal from office can only be gross malfeasance or failure to perform the duties of office.

Sincerely yours,

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