

**Libertarian National Judicial Committee**

**Petitioner: Caryn Ann Harlos and signatories**

**VS**

**Respondent: Libertarian National Committee (LNC)**

**Re: Motion Authorizing the LNC to Enter Into a  
Joint Fund-Raising Agreement with the Robert F.  
Kennedy, Jr. 2024 Campaign**

**Libertarian National Committee  
Respondent Brief**

## **Background**

On or about July 13, 2024, Petitioner Ms. Harlos solicited names for an appeal via an online “jotform” and “docuSign”, which stated the following:

### **FIRST APPEAL - JOINT FUNDRAISING WITH RFK, JR CAMPAIGN**

I join in the appeal which I consent to have prepared by Caryn Ann Harlos of the Executive Committee decision 20240711-01 “Move to authorize the LNC to enter into a joint fund-raising agreement with the RFK, Jr. 2024 campaign” for violating the Party Bylaws, to include but not limited to Articles 2.1, 2.4, 7.1, 14 (all, but 14.04 with specificity). These violations can be considered in totality, in several, or both.

I consent to join in the First Appeal described above.

### **SECOND APPEAL - SEND SOS FORMS TO STATES**

In the event that Motion 20240710-02 “Move to direct staff to send the Certificate of Nominations to each Secretary of State/Bureau of Elections for each state in which we have not already done so and to note those for which we already have written confirmation that the State Chair has already done so or they have already received and acknowledged in order to put the Oliver/ter Maat ticket on the ballot. This should be fully accomplished within the next seven days.” Fails, I join in and consent to have Caryn Ann Harlos author a petition for appeal on the grounds that it violates the Party Bylaws, to include but not limited to Articles 2 (all), 7.1, 14 (all). These violations can be considered in totality, in several, or both.

I consent to join in the Second Appeal described above.

To appeal you need to be only ONE or the OTHER or both. You don't have to be both a delegate and a national members. The delegate threshold is lower so we are really trying to get delegates, but we can meet a higher threshold with national members. Please sign even if you are just one or the other.

I am a National Libertarian Party Sustaining or Life Member.

I was a delegate at the 2024 Libertarian National Convention (or alternate elevated to delegate even if for short period)

Signature of Authorized Representative/Individual  
Powered by Jotform Sign

Clear  
Date Signed  
MM-DD-YYYY  
Pick a Date  
Date

On or about Wednesday, July 17, 2024, Ms. Harlos submitted a different written appeal, as an individual, with the following caption/heading:

Appellant: Caryn Ann Harlos (Harlos)  
Appellee: Libertarian National Committee (LNC)  
Date: July 14, 2024  
Jurisdiction: Bylaws Articles 7.12 and 8.2(d)  
Bylaws Alleged to be Violated: Bylaws Articles 2, 3.1, 14.1, 14.3, 14.4  
Other Relevant Bylaws: Bylaws Articles 6.3, 7.1  
Interested Parties: Appellant, Appellee, Libertarian Party of Colorado (LPCO), Chase Oliver, Mike ter Maat, Steve Dasbach (Campaign Manager for Oliver/ter Maat "Official Ticket"), Robert F. Kennedy, Jr.

Ms. Harlos' appeal is procedurally defective and her argument is incorrect, as explained below:

### **Ms. Harlos' Procedural Defects**

Ms. Harlos cannot submit an appeal on her own. The Bylaws Article 7, Section 12 state, "Upon appeal by ten percent of the delegates credentialed at the most recent regular convention or one percent of the Party sustaining members the Judicial Committee shall consider the question of whether or not a decision of the National Committee contravenes specified sections of the bylaws."

The JC's Rules state, in pertinent part, "All petitions and responses shall be in text-searchable in Word, ODF, txt, rtf, or PDF format only. Such petition(s) shall identify: 1.3.1. the basis for the subject matter jurisdiction of the Committee; 1.3.2. the ruling requested; 1.3.3. the verifiable identity of each member, affiliate, or Party committee petitioning for the requested ruling ("petitioner(s))." (JC Rules 1.2 - 1.3.4)

Ms. Harlos specified herself as the only appellee. She circulated a form for individuals to sign prior to writing her appeal. The actual appeal is the Jotform, not her written appeal, because that is what was agreed to by the signatories. It is dishonest to submit a form on behalf of over 100 individuals when those do not know what they are signing. Her appellants were led to believe they were signing onto an appeal of a decision of the LNC, not an appeal to make a judgment

about the Chair's social media comments, disclose confidential complaints, or turn the authority of the Chair over to the Vice Chair.

Furthermore, Ms. Harlos attempted to hide the signatories from the LNC by filing them "under seal". The signatures are PART of the appeal. There is no grounds in the Bylaws for submitting a partial appeal, or for submitting an appeal "under seal". The LNC is entitled to see the names of the signatories and verify that the appeal meets its signature threshold.

Ms. Harlos' Petition is fatally defective.

### **Ms. Harlos Arguments Are Full of Speculation And Irrelevant Assertions**

Ms. Harlos' appeal is full of improper arguments, personal attacks, and irrelevant details and requests.

Ms. Harlos cites an Executive Committee meeting transcript as evidence that the LNC is endorsing Kennedy or failing to give full support to our presidential ticket, Chase Oliver and Mike Ter Maat. She later cites the Reconciliation Committee as evidence that the LNC did not intend to genuinely support the Oliver Ter Maat ticket.

Nowhere in the transcript does anyone endorse Kennedy. Many times elsewhere, Chair McArdle and other LNC members have pledged to donate 40% of the funds they raise to the Chase ticket, estimating up to \$40,000 per month in support of the Libertarian Party's nominated candidate over the course of the next 3 months - a clear act of support.

A recent amendment to an email motion also made the JFC conditional upon support of the Oliver Ter Maat ticket - a clear act of support.

Contrary to Ms. Harlos' assertion, the Reconciliation Committee was formed to keep the Oliver Ter Maat ticket on the ballot in a difficult year. Although it was not successful in Colorado, the committee succeeded in negotiating with the Libertarian Party of Pennsylvania on behalf of the Oliver Ter Maat ticket. Regardless, the actions of the Reconciliation Committee have nothing to do with the JFC.

Ms. Harlos also asserts that Chair McArdle's tongue in cheek social media comments about Donald Trump are constructive actions of the LNC. This is completely unrelated to anything regarding the JFC and it is surprising that Ms. Harlos would address anyone else's social media habits considering the incredibly coarse nature of her own social media.

### **Argument**

#### **Articles 2 & 3.1 (Statement of Principles)**

Ms. Harlos has grossly mischaracterized the nature of the Joint Fundraising Committee (JFC). The JFC is an independent entity that has to be filed with the FEC separately from the Party. While both the RFK Jr. campaign and the LNC are participants in the JFC, it is important to clarify the nature of the participation. The FEC contribution limit on individual donors to a candidate committee is \$3,300, while the contribution limit to a national party committee is \$41,300. The JFC in no way circumvents those contribution limits.

Furthermore, The LNC is not doing fundraising work on behalf of RFK Jr. The JFC is collecting contributions to the RFK Jr. campaign from RFK Jr. supporters. Simply by existing, the LNC will be collecting a percentage of RFK Jr.'s campaign funds.

### **Articles 2, 3, & 5 (Statement of Principles)**

Ms. Harlos cited RONR as evidence of a prohibition, but she did not include the full citation of RONR (RONR 12th ed. 56:68(6)), which states, "A prohibition or limitation prohibits everything greater than what is prohibited, or that goes beyond the limitation; but it permits what is less than the limitation, and also permits things of the same class that are not mentioned in the prohibition or limitation and that are not evidently improper."

The JFC is less than nominating a candidate. It is permitted.

Ms. Harlos has repeatedly and incorrectly asserted that the JFC involves using the LP/LNC as a public fundraiser for the RFK Jr. campaign. To reiterate, the JFC is collecting contributions to the RFK Jr. campaign, and by virtue of existing, the LNC will be collecting 10% of the funds collected by the JFC. To be clear, individual donors can't exceed the \$3,300 contribution limit to the RFK Jr. campaign, whether directly or through the JFC.

Ms. Harlos wrongly asserts multiple times that the LNC is endorsing RFK. The establishment of the JFC or the non-intervention by the LNC regarding LPCO's decision to put RFK on their ballot does not reflect an endorsement of RFK by the LNC. As mentioned above the JFC is an opportunity to fundraise for the LNC.

### **Article 2 (Separate and Distinct)**

As previously mentioned, the JFC is an independent entity that has to be filed and operated separately. It is separate and distinct from both the RFK Jr. campaign, and the LNC. It is created for fundraising - not a fusion ticket or merging of platforms. The fact that both the RFK Jr. campaign and the LNC will directly benefit from the JFC does not imply that the two organizations are joined at the hip. Moreover, it does not constitute an endorsement of RFK Jr. whether explicit, implicit, by construction, or otherwise.

Ms. Harlos is correct in stating "one way that [LP] affiliates grow is through having ballot access in their state." In many states, such as New Mexico, purely volunteer efforts are insufficient to obtain ballot access. In these situations the LNC and state affiliates must solicit independent contractors that specialize in ballot access fundraising and petitioning in order to

achieve ballot access. Generally, these independent contractors are paid professionals that provide these services to other third parties and third party candidates. The same contractors that fundraise and petition for the LNC and LP affiliates also fundraise and petition for RFK Jr., often in the exact same locations at the exact same times with the money funding those efforts being co-mingled.

In comparison, there are few functional distinctions between the services provided by the JFC and independent contractors for fundraising and petitioning. In fact, one of the main distinctions is that the independent contractors have to be paid, whereas the JFC will be paying the LNC. A ruling in favor of Ms. Harlos that the JFC violates Article 2 of the bylaws for not being sufficiently separate and distinct could have grave ballot access implications. At the very least it could restrict how the LNC and LP affiliates do business with independent contractors for ballot access, and at worst it could prohibit those activities entirely.

#### **Article 14 (Full Support)**

As for Article 14.4 of the bylaws, The LNC is duty and Bylaws-bound to give its full support to the Oliver Ter Maat Ticket. However, even Ms. Harlos admits that the meaning of “full support” has limits. To reiterate, the LNC participation in the JFC is entirely passive. The LNC will not be promoting it or funding it.

Given the actual nature of the LNC participation in the JFC, a ruling in favor of Ms. Harlos has the potential to create major problems immediately for both the Official Ticket and the LNC. The most obvious example is the RFK Jr. ballot access lawsuit in New York. The LPNY decided to join that lawsuit because a favorable ruling would likely result in the Official Ticket obtaining ballot access in the state of New York. However, in joining that lawsuit, the LPNY is also directly assisting the ballot access efforts of the RFK Jr. campaign, which is in direct competition with the Official Ticket. If the JFC is in violation of the bylaws, almost necessarily the cooperation on the RFK Jr. ballot access lawsuit in New York is too.

The Party treasurer, who also runs Ballot Access News, recently assisted in gathering signatures for RFK Jr. while he was in New Mexico gathering signatures for LPNM. No one has yet speculated that his actions in New Mexico were an act of endorsement or disloyalty, or that his position at Ballot Access News makes him disloyal to the Party. We recognize the important service Ballot Access News provides to the Party.

For many years, the Party has joined forces with the Green Party and Constitution Party on ballot access lawsuits. The LPCA has also signed onto at least one lawsuit with the GOP. At no point in time have these actions ever been taken as undermining the Party’s candidates or Statement of Principles or a violation of the bylaws.

Even more concerning are the potential long term consequences of a ruling in favor of Ms. Harlos on future coalition efforts. To this end, it is important to note that Ms. Harlos has not argued that some level of incidental fundraising support for rival campaigns is acceptable,

whether it be direct or in-kind. To the contrary, Ms. Harlos has argued that any and all such support is in violation of the bylaws. In effect, it would severely jeopardize any single-issue coalitions with other parties. Rage Against the War Machine was a joint effort with the People's Party to protest military intervention in foreign conflicts. This rally series could also be seen as a violation of the bylaws, if Mr. Harlos' interpretation is applied.

Finally, the JFC has already been executed. Any ruling that terminates LNC participation in the JFC will cause reputational damage to the LP. The JFC is already public news, and any termination of LNC participation would also be public news. In addition, the perception that the LP is a capricious organization that can't be trusted to fulfill its contractual obligations will also be public news. This will be detrimental to the LNC, and make it more difficult to negotiate with banks, event venues, and other political organizations in the future.

### **Urgency**

The Executive Committee has the authority to make decisions that require urgency. The LNC's financial situation required urgency, and so did the opportunity. The LNC was not the only national political party that RFK Jr. was interested in entering into a JFC with. The LNC acted quickly before the opportunity was gone. The decision required urgency. Ms. Harlos stated that she would not enter into executive session so that she would not be privy to the details of urgency. That is gamesmanship, but the LNC agreed to make most details of that executive session public after the execution of a signed agreement.

### **What Is And Is Not Relevant**

Ms. Harlos has also claimed that RFK Jr. is not a Libertarian despite conceding that he is in fact a dues-paying sustaining member that has signed the membership pledge. This is followed by the assertion that "[o]nly genuine belief makes you a Libertarian and no pledge or money can do that." While this may be true, no bylaws citation or standard is offered by Ms. Harlos as to how to properly determine what one's genuine beliefs are. On the one hand, the published positions of the RFK Jr. campaign tend to not be Libertarian. On the other hand, the LPCO Presidential Candidate Pledge, which RFK Jr. has signed, is quintessentially Libertarian. It is easy to cynically dismiss conflicting policy positions as a politician talking out of both sides of his mouth in order to get elected, but it does nothing to reveal what one's genuine beliefs are. It is reminiscent of the inside joke among Libertarians that no one is a "Real Libertarian." The difference here being that while it is jocular inside of the party, the attitude of Ms. Harlos appears to indicate unironic adoption of that position.

Regardless, this is irrelevant because the LNC is emphatically NOT endorsing RFK Jr. The actions of the LPCO, the opinions of the Kennedy family, and confidential, internal complaints are also completely irrelevant.

Ms. Harlos argues that the LNC's decision to fundraise with RFK Jr. is tied to the LPCO's decision to place RFK Jr. on the ballot instead of the Oliver Ter Maat ticket. The two issues are

not related, but regardless, the decision to not disaffiliate LPCO was based on our experience disaffiliating the former New Mexico affiliate where we lost our namesake in ballot access and spent over \$50,000 to reclaim ballot access under a different name. This is a process the LNC cannot afford to experience again.

What is relevant is the LNC's intention with this JFC. The LNC intends to give full support to the Oliver Ter Maat ticket by utilizing funds from this JFC. The LNC is and will remain a "separate and distinct" political party.

### **Conclusion**

The LNC respectfully requests that Ms. Harlos' appeal be denied. We request specifically that her appeal be denied fully, that no interim ruling be given on any "confidential complaints", advice of counsel, social media comments, or any other topics that are not strictly within the scope of the JFC.

The LNC requests that Ms. Harlos' second appeal be denied unless and until she circulates a complete copy of it for signature, and that all bait and switch appeals be automatically disqualified.

Respectfully Submitted,

Angela McArdle, Chair  
Libertarian National Committee