8/9/24

Decision and Order of the Libertarian Judicial Committee

Opinion by Blay Tarnoff, with which Stephan Kinsella, Rob Latham, Rob Stratton and Ken Krawchuck join.

Respondent Libertarian National Committee (LNC) has acted to authorize an agreement between the Libertarian Party and the Robert F. Kennedy, Jr. presidential campaign whereby the Kennedy campaign would gain the ability to collect more money from its donors than campaign finance law would otherwise allow, while the Libertarian Party would be entitled to a portion of the funds collected. The agreement provides for the establishment of a Joint Fundraising Committee, an entity legally separate from the Libertarian Party through which all such financial interaction would occur. The Kennedy campaign has publicly announced its cooperation with the Libertarian Party in this agreement, indicating that the LNC has partnered with it in "democratizing fundraising to make this independent run viable." Appellants Caryn Ann Harlos et al. seek to reverse that decision.

Prefatory Statement in Explanation of Judicial Purpose

For days leading up to the hearing, the Judicial Committee has received a flurry of messages from very passionate Party members importuning us to void or uphold the agreement in question because it is a bad/good idea, will end up harming/benefitting the Party, is un-libertarian/very libertarian, etc., etc., etc., any or all of which may have merit and may or may not be true. We hear you. We members of the Libertarian Judicial Committee understand that there are sincere and passionate beliefs at stake, some of which some of us may share. However, as passionate as our feelings about the wisdom or value or threat to the Party the decision in question may be, and irrespective of the number of dedicated members who adamantly favor one outcome or another, it would be improper for anyone acting in a judicial capacity to consider such feelings in deciding a case. Judicial bodies are properly instituted not to make policy or rules or decisions based on a particular desired outcome or the weight of support on one side or the other, but merely to consider, dispassionately and to the best of their abilities, how the rules created by those who *are* properly empowered to do so apply to the facts of each case. Truth, it might be said, cannot be determined by a vote.

The best decision as to whether the Party should or should not engage in the agreement in question is the exclusive purview of the LNC, which is elected by the membership to make such determinations. The role of the Judicial Committee is not to supplant the judgment of the LNC with its own, no matter how strongly we may feel, but merely to decide whether the decision to

enter into the agreement in question is in violation of the Bylaws.[1] Any usurpation on our part of the policy role of the LNC would justify ire and complaint on the part of the membership for having usurped their authority to influence policy through their elected representatives. We therefore confine our holdings to the following procedural matters and allegations.

Validity of Appeal

The petition is in adequate form and bears the requisite number of appellants. No allegations of error, fraud or insufficiency have been put forward, thus the petition meets all necessary qualification and the appeal is properly brought.

Validity of LNC Decision

In a duly called meeting held on July 11, 2024, the LNC passed a motion to ratify the Executive Committee's decision to enter into the agreement in question with the Kennedy campaign. The ratification of that decision supplants all question of whether that meeting of the Executive Committee was authorized or properly called, effectively rendering the decision to enter into the agreement in question as having been duly passed by the LNC.[2]

With regard to whether the terms or operation of the agreement are illegal, the Judicial Committee does not sit as attorneys or experts on the law, merely as experts on the Party Bylaws. As such, it is equally dependent as the LNC on the advice of counsel in those areas, and absent malicious intent on the part of the LNC, cannot assume a superior competence to judge the legality or legal risk of any particular course of action. In addition, the LNC is privy to all manner of intricate, detailed, and privileged information over a long period of time with which the Judicial Committee has no history or familiarity. As such, the LNC is in a far superior position to judge the benefits and merits of any particular course of action. To supplant our judgment for theirs, especially given their far superior position to weigh the issues, would be a monumentally anti-democratic exercise in untrammeled hubris.

Moreover, even absolutely determinative evidence the agreement does violate the law would not, without more, provide a basis to overturn it. Robert's Rules of Order, which are adopted by the Bylaws in Article 16, do not preclude or prohibit a decision-making body from passing an illegal motion or engaging in illegal activity, nor do the Bylaws explicitly. While intentionally engaging in unlawful activity might well call into question the sincerity and intent to promote the interests of the Party, the mere fact of illegality without more would not be sufficient.

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[1] Libertarian Party Bylaws Article 7.12 states, in pertinent part, "the Judicial Committee shall consider the question of whether or not a decision of the National Committee contravenes specified sections of the bylaws."

[2] See RONR (12th ed.) 10:54 on the motion to ratify.

"Separate and Distinct" Clause

Appellants allege that the agreement in question contravenes Bylaws Article 2.1 which mandates that the Party implement its principles by, among other things, "functioning as a libertarian political entity separate and distinct from all other political parties or movements".[3] The Kennedy campaign is unquestionably another political party or movement within the meaning of that provision, which unquestionably espouses a number of positions with which libertarians cannot be associated. Whether the agreement in question violates the Bylaws then turns on the meanings of "separate" and "distinct", i.e. whether the agreement itself, or its operative effect, serves either (1) to merge, in whole or part, the Libertarian Party with the Kennedy campaign, or (2) blur the libertarian message with that of Mr. Kennedy.

Evidence has been presented that the Joint Fundraising Committee formed under the agreement is legally separate from the Libertarian Party, neither entity having legal authority to direct or influence operation of the other. As such, the agreement does not merge, in whole or part, the Libertarian Party with the Kennedy campaign or movement and the Libertarian Party thereby remains "separate" within the meaning of Bylaws Article 2.1.

Some evidence has been presented that some members of the LNC may believe it best for the Party to partner with rival political campaigns, including the Kennedy campaign, in such a way as possibly to create a synergy or otherwise somehow bring credibility to the Libertarian Party in the minds of the public. Such effect could possibly constitute a blurring of the distinction between the Libertarian message and that of rival entities sufficiently so as to render the Libertarian Party no longer completely "distinct" from that campaign within the meaning of Article 2.1. The public announcement by the Kennedy campaign indicating that the LNC has partnered with it in "democratizing fundraising to make this independent run viable" does also add weight to the argument that such blurring may in fact occur.

Nevertheless, the evidence put forward is insufficient to determine with reasonable certainty that the agreement in question will actually produce that synergistic effect, even if such effect may be desired or intended by some members of the LNC, or that such blurring will actually occur. Mere cooperation in financial or legal matters, absent more, does not blur the libertarian message sufficiently to render the Party not "distinct" within the meaning of 2.1, even with a philosophically intolerable organization, and the statement in question, while possibly confusing or

[3] Appellants have declined to allege that, by moving public policy in a contra-libertarian direction, the agreement in question also contravenes Bylaws Article 2.2, which similarly mandates that the Party implement its principles by "electing Libertarians to public office to move public policy in a libertarian direction". While it might be argued that any decision that would have the effect to move public policy opposite to a libertarian direction would logically contradict and undermine the mandate to elect candidates to move public policy toward a libertarian direction, Appellant has honorably remained true to her strongly held principle of plain meaning in bylaw interpretation, taking the position that the clause's prepositional phrase merely explains the purpose for the mandate to elect Libertarians to public office, rendering it inoperative with respect to the Party, itself.

misleading to some, is arguably accurate and innocuous. As evidence sufficient to demonstrate that the agreement in question renders the Libertarian Party not fully "distinct" from the Kennedy campaign has not been presented, the decision to enter into that agreement therefore cannot be reversed on that basis.

"Full Support" Clause

The heart of the matter arguably turns on whether engaging in the agreement in question constitutes failure to "provide full support" for the Party's Presidential and Vice Presidential nominees within the meaning of Article 14.4 of the Bylaws.[4] While Appellant and Respondent have both argued that the agreement in question "clearly" does or does not violate the requirement of the LNC to "provide full support" of the nominees, neither has provided this Committee sufficient guidance as to what a general test to make this determination would entail.

Any reasonable definition of "full" support is synonymous neither with "exclusive" nor "unlimited" support, as it would be reasonable neither for the Party to refrain from any activity that could possibly benefit another campaign, such as cooperate as co-plaintiffs in a lawsuit to improve ballot access, nor engage in any activity that might inure to its detriment, such as spending the Party's entire treasury. At minimum, the requirement to "provide full support" requires the LNC to consider the impact on the Party's nominees, whether direct or indirect, of every decision, and to refrain from engaging in any action reasonably expected to result in net harm over benefit. Conversely, so long as the LNC confines itself to decisions that result in a net benefit or have no impact on its nominees, it cannot fairly be judged to have failed to "provide full support" lest a charge be warranted of judicial overreach into the heart and prerogative of the LNC.

Pursuant to this test, the question in this case is whether the harm to the Oliver-ter Maat campaign of engaging in the agreement in question will exceed the benefit. Presumably, the harm to Oliver-ter Maat is the increase in power the additional funding this agreement will bring its rival Kennedy campaign to compete for people's hearts, minds and votes. Among the benefits to the Oliver-ter Maat campaign are that the Party will be better able to support it as a result of the

[4] Article 14.4 reads, "The National Committee shall respect the vote of the delegates at nominating conventions and provide full support for the Party's nominee for President and nominee for Vice-President as long as their campaigns are conducted in accordance with the platform of the Party."

The question has arisen whether the provision in Article 5.4 of the Bylaws that "No affiliate party shall endorse any candidate who is a member of another party for public office in any partisan election." also prohibits the National Party from doing so. We do not reach that question today because the mandate to "provide full support for the Party's nominee[s]" precludes on its face endorsing anyone other than Oliver and ter Maat, in this case. Furthermore, any allegation that the agreement in question constitutes "endorsement" of Mr. Kennedy or his campaign is subsumed by the more restrictive standard mandated by the requirement in Article 2.1 that the Party remain "separate and distinct", considered and dismissed in the previous section.

increase to the Party treasury this agreement is expected to bring and that potential Kennedy supporters may come to look more favorably upon the Libertarian Party.[5]

Weighing the harm versus benefit to the Oliver-ter Maat campaign, can it be said with reasonable certainty that the agreement is intended or can reasonably be expected to be of more harm than benefit to it? The Judicial Committee might imaginatively opine on the number of voters who may be swayed away from versus toward voting for the Oliver-ter Maat campaign in a rather subjective tempest of harm versus benefit analysis and facts that are assumed instead of found in the evidence presented, but somber reflection demands that, in the absence of clear and convincing evidence, it cannot reasonably be concluded that this decision by LNC brings net harm to the Oliver-ter Maat campaign. As such, the agreement in question cannot be determined to constitute a violation of the mandate to "provide full support" within the meaning of Article 14.4.

There being insufficient evidence of a violation of the Bylaws, the decision by the LNC to enter into the agreement in question is upheld.

[5] A reasonable libertarian might even believe that enabling anyone, even a rival campaign, to experience reduced harm at the hand of a law that violates libertarian principle may fairly be considered to be in the interest of any libertarian campaign. Such individual may even reasonably conclude that, as libertarians, it is our duty to help anyone in that position to whatever extent we are able, and to accept more than the actual cost of doing so would be unethical.

Dissent of Michael Seebeck, Joined by Marc Montoni

(Note: Paragraphs are numbered for reference.)

0. In the case of Harlos v. LNC, I dissent.

Standing

1. Petitioners have provided 188 unconfirmed signatures of credentialed delegates. 188 of them are confirmed as credentialed delegates. 10% of 997 credentialed delegates is 100. Signature threshold has been met in accordance with Article 7, Section 12 of the national Bylaws. Standing has been established. This group is collectively known as the "Petitioners."

2. Respondent's claims that the appeal is procedurally defective are incorrect.

3. First, each signer, by signing, joined the appeal and thus became an appellant alongside Petitioner Harlos. The fact that only Petitioner Harlos is listed as appellant does not make the appeal defective. Had Petitioner Harlos been the sole signer, then the signature threshold would not have been met and the appeal would have been rejected.

Second, the claim "the appeal is the JotForm" is assuming that Petitioner Harlos did not inform the signers of what the appeals were about, claiming that the appeal was to make a judgment about items other than the appealed LNC Executive Committee decision. That is simply absurd for multiple reasons. First, the "other items" mentioned in Petitioners' appeal are provided as background information, under the section "Additional Necessary Background." Second, the appealed decision is clearly stated by Petitioners in the just-prior section, "Decision Appealed." Third, the signatures were dumped from JotForm to a PDF file by Petitioners and submitted, fulfilling the form requirement. There has not been an appeal about these "other items" at all, and the claim has no credence.

4. Third, the LNC is NOT entitled to see the signatures. The determination of their validity and their disclosure is up to the Judicial Committee, and they have determined their validity. They were submitted "under seal" to protect Personally Identifiable Information (PII) from public scrutiny—in this case, contact information of each signer. The signatures are for the Judicial Committee to determine standing, not the LNC.

5. The signatures are not part of the appeal itself, either. Establishing standing to appeal is not the same as the actual appeal itself, and the signatures are to establish that standing. It is a multiple-step process: first, proper form must be established by the Petitioners. Then standing must be established by the Petitioners. Once those are established, the question of jurisdiction must be answered, and only if there is jurisdiction does the Judicial Committee examine the actual appeal.

It should be noted that in a different case before the Judicial Committee, the appeal was not in proper form to begin with and was sent back twice to those Petitioners. On the third time, the form was proper, standing was established, and jurisdiction was established, and the Judicial Committee then accepted the appeal.

6. The Judicial Committee reviewed the signatures and found them not only to be valid, but far beyond the minimum threshold for standing. The Bylaws are silent on both verification of signatures and challenges to them. The Judicial Committee reviewed them as part of its due diligence to determine if there was standing to appeal. There are only two conceivable reasons for the LNC to demand to see the signatures: to challenge them, or for later retaliation by parties unknown. *To be clear, the Judicial Committee makes no accusations against anyone of retaliation*. While there is no indication of retaliation by anyone against signers, and none should be taken, prudence dictates that the Judicial Committee protect the PII of the signers and prevent any potential retaliation before it starts. It is not the desire nor the inclination or obligation of the Judicial Committee to be drawn into that situation if and however it should occur.

7. With standing thus established, it is necessary to determine what jurisdiction the Judicial Committee has, if any, regarding the appeal and the parts of requested relief.

<u>Jurisdiction</u>

8. Petitioners have requested the following reliefs (here placed in a list for clarity):

A. An Order to Petitioner Harlos to produce the "Internal Complaint" under seal upon signing a NDA by the members of the Judicial Committee, with the Complaint redacting any non-LNC members contained within it.
B. The motion of the LNC Executive Committee to enter into the joint fundraising agreement (referred herein as "JFA") be declared null and void.
C. Any other such relief as the Judicial Committee determines "just and proper."

It is necessary to examine if the Judicial Committee has subject matter jurisdiction to rule on each of these requests.

9. Article 8, Section 2 explicitly lists and limits the jurisdiction of the Judicial Committee to certain matters. The relevant part, subsection d, is "voiding of National Committee decisions," referencing Article 7, Section 12, which is the member or delegate appeal thresholds.

10. The first requested relief is an order to Petitioner Harlos to produce a sealed internal complaint filed by Petitioner Harlos with the LNC regarding alleged actions of the LNC Chair and/or the LNC regarding the Kennedy and Trump campaigns. Petitioner believes this internal complaint is additional evidence that the Judicial Committee should consider.

11. However, the Judicial Committee lacks authority under the Bylaws or its own rules to order such a compulsion. Petitioners understandably desire to maintain the confidentiality of the

complaint and the request for NDAs from the Judicial Committee is aligned with that desire while still praying the contents of the complaints are not disclosed improperly by anyone, including the Petitioner. But as will be explained below, such disclosure isn't necessary. The request for this order should be denied.

12. The second requested relief is to declare null and void the decision of the LNC Executive Committee to enter into the JFA with the Kennedy campaign. This clearly falls within the bounds of Article 8, Section 2, subsection d. This will be addressed further below.

13. The third requested relief is for any other relief that the Judicial Committee determines to be "just and proper." This request is vague, open-ended, and goes beyond the authority of the Judicial Committee to grant. Such requested relief could be anything the Judicial Committee desires, including actions that could normally fall under the national Bylaws to the role of the National Committee or the Delegates. The Judicial Committee is a check on the certain actions of the LNC and the Delegates, but it is not a replacement for them and does not act in their stead. The request for this kind of relief should be denied.

14. In summary, the Judicial Committee is limited in subject matter jurisdiction to the relief request to void the LNC Executive Committee decision to enter into the JFA, and the other requested reliefs are outside the subject matter jurisdiction of the Judicial Committee and therefore should be denied.

15. So on to that lone question: should the vote of the LNC Executive Committee be overturned?

<u>Opinion</u>

16. The JFA with the Robert F. Kennedy Jr 2024 Presidential Campaign, as entered into by the Executive Committee acting for the LNC per LNC Policy (LNC Policy Manual Section 1.01-3), facially violates the national Bylaws of the Libertarian Party and should be considered null and void. Whether or not the motion to enter into the JFA was improper for the Executive Committee or not is immaterial; the violation is the same whether the motion was passed by the Executive Committee or the full LNC, and the specific body that passed it does not cure it of its Bylaws violation.

17. Article 2, Section 1 states:

> *"ARTICLE 2: PURPOSES*
>
> *The Party is organized to implement and give voice to the principles embodied in the Statement of Principles by:*
> 1. *functioning as a libertarian political entity separate and distinct from all other political parties or movements;…"*

18. The campaign for President of Robert F. Kennedy Jr. is clearly a political movement. (See https://www.historicalindex.org/what-is-a-political-movement.htm)

19. Mr. Kennedy has been nominated for President by multiple political parties across the country, including the We the People Party that Mr. Kennedy has founded. To list only some of those parties and their states (not all-inclusive):

- We the People Party: North Carolina, Utah, Hawaii, Iowa, Mississippi, Oregon, Indiana
- Reform Party: Florida
- Alliance Party: South Carolina
- Independent Party: Delaware
- American Independent Party: California
- Natural Law Party: Michigan
- Unaffiliated/Independent/No Party: Alabama, Colorado, Nevada, New Mexico, Louisiana, Oklahoma
- Texas Independent Party: Texas

20. As of August 2, Kennedy has submitted signatures to be on the ballot in 34 states. But *none* of those nominations are by the Libertarian Party; nor should or will they be.

21. It is rather clear that the Kennedy campaign is an "other political party or movement." While he is *de minimis* a dues-paying Libertarian, he is not the Libertarian nominee for President (he was eliminated from contention in the first round of voting with a mere 19 votes, which was less than the minimum 30 delegate signatures required to place him on the ballot in the first place!). That Libertarian nominee is Chase Oliver, as decided by the Party Delegates at the National Convention. Neither the LNC nor any state affiliate may override the Delegates regarding that nomination, with the exception of the conditions listed in Article 14, Section 5—which do not apply to this case.

22. In this current modern partisan political environment, since at least 2002 per historical Bylaws records, the Libertarian Party is organized by functioning as a political entity separate and distinct from other political parties or movements. It is not part of any other political party, nor is it part of any other political campaign. Its political movement is libertarianism, and its nominated candidates are Libertarian nominated candidates, none other, period.

23. The JFA in question is neither separate nor distinct; it fuses the Libertarian Party minimally in name and in public appearances, to other political parties and movements. It in reality funds one of the Party's political opponents. That is not supporting Party candidates; in fact, it's the opposite. It doesn't matter who may be fundraising for whom or how the records are shared. What matters is there is no separation and distinction.

24. As such, it violates Article 2 Section 1 of the Bylaws.

25. Article 7, Section 1 states:

> *"ARTICLE 7: NATIONAL COMMITTEE*
> 1. *The National Committee shall have control and management of all the affairs, properties and funds of the Party consistent with these bylaws. The Libertarian National Committee shall establish and oversee an organizational structure to implement the purposes of the Party as stated in Article 2. The National Committee shall adopt rules of procedure for the conduct of its meetings and the carrying out of its duties and responsibilities. The National Committee may delegate its authority in any manner it deems necessary."*

Establishing this JFA is not managing the affairs, properties, and funds of the Party consistent with the Bylaws; it violates them as just explained.

26. The LNC or its delegated Executive Committee has no authority to violate the Bylaws with this JFA. They do not have any authority to violate the Bylaws, period. The ends—raising money—does not justify the means—violating the Bylaws. If the ends did justify the means, then the LNC might as well go full-speed ahead to violate the NAP and SOP and go rob a bank.

27. Had this JFA been with the Libertarian nominee, Chase Oliver, it would be valid. Why? Because Mr. Oliver, like him or not, agree with him or not, is the candidate the Libertarian Party Delegates at Convention nominated, not the candidate rejected in the first round. Put simply: Mr. Oliver is on the Party's team, and Mr. Kennedy is not. See also Article 2, Section 4 ("supporting Party and affiliate party candidates for political office").

28. It follows that for the JFA to become valid, Mr. Kennedy would have to become the Libertarian nominee. The only path to that now is through the steps outlined in Article 14, Section 5, and adjunctly Section 3, which is an 8-step process that involves multiple votes of the LNC, 2 appeals to this Judicial Committee, and subsequent rulings, all before the LNC could vote to fill a vacancy. That process, assuming there is the political will to have each step succeed with the appropriate 3/4th LNC votes and majority Judicial Committee votes, would take up most of the remaining time of the election season, effectively wasting campaign time and sapping resources and energy (and votes!) from campaigns and members throughout the Party. And the repercussions afterwards from the Members would be enormous, emotional, and have long-term negative impacts to Party growth and political influence. And all of that doesn't even address potential state-level ballot impacts, which would be disastrous. From a practical internal political perspective, it simply isn't worth it to go down that path.

29. Respondent claims that the JFA is an "independent entity" that is both separate and distinct from both the Kennedy Campaign and the LNC. Yet the Respondent provides no evidence to

support that claim, such as the actual agreement. "Trust us," paraphrased by the Chair, doesn't cut it, and it is rather baffling as to why the Executive Committee would derelict their duty of due diligence and violate their fiduciary duty by voting to blindly accept an agreement that they were unable to review even a draft of it beforehand. At a minimum, that is dereliction of duty; but if more than that, it's a fraud committed against the membership, and that's a Statement of Principles violation, and that violates Article 2, Section 1 as well. The LNC still has not seen it three weeks later, after it was declared by both the Chair and the Kennedy campaign "to be in effect." In the absence of that agreement itself to present evidence to the contrary, coupled with the evidence presented by the Petitioner in their response to the Respondent, the association between the LNC and the Kennedy campaign remains, and that association is a Bylaws violation as explained above.

30. Respondent also claims that a ruling of a Bylaws violation "*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.*" That argument is unpersuasive because it fails to distinguish the vast difference between those independent contractors and the JFA. An independent contractor working to gather signatures for ballot access is under a contractual business arrangement that directly and *exclusively* benefits the Party or its affiliates, because those signatures are for the party and nobody else, whereas the JFA does not have that exclusive benefit because it primarily benefits the Kennedy campaign and secondarily the Party. That exclusivity of benefit is a key difference. Further, such exclusivity does not preclude those contractors from doing the same thing for the exclusive benefit of another client at the same time. It's rather commonplace in states that have petitions and referendums and candidate signature requirements to have a single contractor gathering signatures for multiple issues and for multiple candidates. Independent contractors doing ballot signature drives are not part of a separate and distinct political campaign any more than the billboard company renting their space for a campaign billboard or the vendor making campaign swag. But the JFA certainly is part of a separate and distinct political campaign by the very nature of the parties that have entered into it.

31. Respondent also claims that a ruling of a Bylaws violation has "*the potential to create major problems immediately for both the Official Ticket and the LNC*" and cites the LPNY ballot access lawsuit which they joined with RFK Jr. Again, the argument is unpersuasive for several reasons. First, such a lawsuit is nonpartisan in nature, even if multiple political parties or organizations join it, because it seeks equal ballot access for all, not just the few signed onto the suit. Who benefits matters. In contrast, the JFA is bipartisan in nature and does not confer similar benefits to those outside the JFA in the way that a ballot access lawsuit decided favorably would. Second, retaining legal counsel for such lawsuit efforts is contractually similar to engaging independent contractors for ballot access signatures in that the counsel is not prevented from doing the same thing for another client. Third, a negation of the JFA, assuming any proceeds to the LNC from it even go to ballot access, only means that the LNC and the Oliver campaign have to fund the ballot access

drives by other, valid, and non-suspect means. But that's part of the gig of running for President in a minor party, at least until pure equality in ballot access is won nationwide.

32. Respondent also claims that a ruling of Bylaws violation "*would severely jeopardize any single-issue coalitions with other parties,*" citing the recent Rage Against the War Machine rally as an example. Again, this argument is unpersuasive for two reasons. First, issue coalitions are nonpartisan by definition. Legalization or decriminalization of vices, for example, transcends far beyond the Party, as does the Party's commitment to the right to keep and bear arms. The Bylaws violation here deals with **partisan** political activities, not nonpartisan political activities. Second, the Party and its affiliates, both state and local, have for decades engaged in outreach events throughout the country, from street fairs to gun shows, from Pridefests to protests, from voter registration drives to candidate debates, from PorcFest to FreedomFest, even CPAC once, in events that have also included other political parties. Those events are also issue-oriented and nonpartisan, and are perfectly valid under Article 2, Section 5. To suggest that those legitimate activities would be prohibited because the JFA violates the Bylaws is absurd, because conflating nonpartisan issue events and coalitions with partisan issue events and coalitions is nonsensical as they are obviously not the same thing.

33. Respondent also claims reputational damage to the Party if they are ruled against. However, what is more damaging to the reputation of the Party: actions that flout and ignore the Bylaws and Rules, entered into without due consideration of ALL of their effects, or having one of those actions stopped because of adherence to those Bylaws and Rules? It is far better to have the Party be known for following the rules and doing things right rather than not. Integrity matters, and there is no loss of integrity in having an agreement voided because it was out of line. Throwing the Bylaws out the window, however, does far more than just pursue money: it violates trust of the membership and creates a reputation of dishonor and distrust, and that is not good for the Party and takes a very long time to recover from.

34. There is no need to address any of the other issues raised by the Petitioners, nor is there any need to begin to address the conflicting opinions as to whether the JFA is legal under FEC rules, as this Bylaws violation by itself is enough to nullify the decision.

35. Therefore, the decision of the LNC Executive Committee should be overturned and the JFA should be void.

36. No comment is offered regarding the majority opinion of the other Judicial Committee members.

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37. But it is important to understand this:

38. An organization that has no defined and impartial consistent processes, structures, or rules, or steady adherence to the same, is destined to fail.

39. And those that complain about having those, or complain about working within those, simply don't understand that fundamental concept, or simply refuse to accept it because they don't like it.

40. Tough cookies. It's how human tribes work, be they families, businesses, governments, or organizations—including the Libertarian Party.

41. It's how systems are designed, engineered, built, and operated—including systems that are organizations.

42. It's rational, logical, functional, and successful.

43. Ask any successful company, regardless of its size or its focus.

44. Ask any successful individual, regardless of their career or their vocation.

45. Why? Because that's reality. Tribes of humans do that to bring their order to a perceived chaos, regardless of what that order is or why. Those tribes include families, religions, companies, and yes, political parties.

46. Libertarians may not like rules very much, especially when they're imposed by others, but in the meantime, to compete and win in the political arena so those rules can be changed or eliminated, those rules have to be followed, not broken, and that includes internal Bylaws and Rules. And that includes this case.

47. If there is a problem with the Bylaws or Rules, then engage in the process, within those same Bylaws and Rules, to change them in such a manner that both solves the problem and still respects the Membership and their rights. But such a problem is no justification or excuse to violate those Bylaws and Rules, or to ignore the Membership or their rights. Do it right or don't do it at all.

48. The Libertarian Party is the Party of PRINCIPLE, not the Party of Principal. It would be good for some members of the LNC and members of the Party to remember that. If we in this Party ignore our own rules, then we are as ethically bankrupt as the Democrats and Republicans that we seek to unseat and replace, and we've already lost the battle and the war. If we break the rules, then we defraud the members and we defraud ourselves. We're supposed to be better than that, and if we're not, then what in the Hell are we doing here anyway?

49. So quit screwing around with caucus fights and other infighting, build the party infrastructure, fight for ballot access, support and work with the actual party candidates, raise the money the right ways with the right people, move people's hearts and minds toward freedom, increase the membership and above all, remember the mission: Liberty in our Lifetimes.

50. And also, above it all, do it the right way, which is honorable and ethical, UNIFIED, free of deception, corruption, infighting, opacity, or any appearance of those. To quote Ron Paul: the enemy is OUT THERE, not here.