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Petition #1 — (a) Suspension of an affiliate party

FILED BY

Nickolas Ciesielski is a lifetime member of the Party.

ATTESTATION

This amicus brief was filed by Nickolas Ciesielski on their own behalf, who is a lifetime member of the Party, and who adopts, incorporates, endorses, and accepts ownership of the material contained within as their own, has signed this document accordingly, and attests that it is accurate and not filed to harass, delay, or for any improper purpose.

**BEFORE THE JUDICIAL COMMITTEE
OF THE LIBERTARIAN PARTY**

*In re: Revocation of Affiliate Status of the
Libertarian Party of New Hampshire*

BRIEF OF AMICUS CURIAE NICKOLAS CIESIELSKI

IN SUPPORT OF REINSTATEMENT OF THE
LIBERTARIAN PARTY OF NEW HAMPSHIRE

Nickolas Ciesielski

Lifetime Member, Libertarian Party

Amicus Curiae

Interest of Amicus Curiae

Amicus Nickolas Ciesielski is a sustaining member of the Libertarian Party by virtue of life membership, and files this brief as an individual sustaining member pursuant to Rule 7.1 of these Rules of Appellate Procedure. Amicus additionally holds a life membership in the Libertarian Party of Pennsylvania. Amicus files this in his individual capacity, not in any official capacity of any role he holds within the Libertarian Party or its affiliates.

Amicus presently serves as Vice Chair of the Libertarian Party of Pennsylvania and has previously served as Vice Chair of the Libertarian Party of Georgia, along with a variety of other roles within state and local Party organizations. Amicus was the Libertarian Party of Pennsylvania's 2024 nominee for Pennsylvania State Treasurer. Amicus's involvement with the Party spans campaign, communications, and governance work at both the state and county levels, and includes direct practical experience with the compliance, procedural, and organizational obligations state affiliates owe to the national Party and to their own members.

Amicus's interest in this appeal is not particular to LPNH. It is the interest of a state-affiliate officer, in every state where the Libertarian Party maintains an affiliate, in ensuring that the power to disaffiliate a state party, the single most severe sanction available under the Bylaws, one that strips an affiliate of its name, its recognition, and its standing to send delegates to future conventions, cannot be exercised merely because a three-fourths majority of a given LNC has come to dislike an affiliate or its leadership. Article 5.6 conditions that power on "cause," specified with enough particularity that the affected affiliate can identify and answer it, and surrounds its exercise with procedural protections that distinguish it from an ordinary policy reversal. Amicus has a direct and continuing interest, as an officer of an affiliate party himself, in ensuring that the National Committee's exercise of that power in this case and every future case meets and preferably exceeds the minimum the Bylaws actually require, regardless of which affiliate happens to be before this Committee or which faction happens to hold a majority of the National Committee at any given time.

Introduction

This brief presents seven arguments in support of reversing the Libertarian National Committee's (LNC) disaffiliation of the Libertarian Party of New Hampshire. Argument 1 will show that Article 5.6's requirement of "cause" and

specification of that cause is inconsistent with the LNC's characterization of disaffiliation as ordinary rescission, and that the Bylaws instead demand a real process before an affiliate may be disaffiliated. Argument 2 shows that the disaffiliation motion failed to specify its cause as Article 5.6 requires, and expressly reserved undisclosed further grounds never disclosed to LPNH or this Committee. Argument 3 shows no attempt was made to engage LPNH or pursue resolution at any point before the vote, in contrast to the LNC's own prior practice. Argument 4 shows that the underlying 2024 endorsement was tied to an already-concluded election and was no longer a live violation by the time the LNC acted eighteen months later. Argument 5 shows that the LNC's own submitted evidence targets LPNH's current Chair personally, in tension with the entity-based theory the LNC's brief otherwise advances. Argument 6 shows that affirming disaffiliation on this record would leave Article 5.6's "for cause" requirement meaningless for every affiliate party going forward. Argument 7 shows that this Committee's own composition is in doubt, and that any resulting defect should be resolved in favor of the affiliate whose right to appeal is guaranteed in the Bylaws, not in favor of the LNC whose own convention process caused the defect.

Argument 1

Disaffiliation Due Process

The LNC Response Brief characterizes its disaffiliation of LPNH as a "*de facto* motion to rescind," governed by the ordinary rescission thresholds of RONR (12th ed.) 35:2(7), and concludes that because the vote of 15-2-1 exceeds even the highest of those thresholds, no further inquiry into the process is warranted. This characterization is improper and directly conflicts with Article 5.6 of the Bylaws and should be rejected on two independent grounds. First, Article 5.6 states, "A motion to revoke the status of an affiliate party for cause must specify the nature of the cause for revocation." This article clearly creates requirements that are inconsistent with an ordinary motion for rescission and instead points to the disciplinary process outlined in RONR for "for cause" action generally. Second, even if this Committee declines to import RONR's disciplinary framework onto an affiliate party, the specification requirement in Article 5.6 is self-executing, and the motion adopted on May 25, 2026, does not satisfy it on its own terms.

An ordinary motion to rescind, under RONR (12th ed.) 35:2(7), requires no justification. A body may rescind a decision simply because it no longer wishes that decision to stand. Nothing about rescission requires the body to identify any wrongdoing, any violation, or any "cause." Article 5.6 does not

read that “the National Committee may revoke the status of any affiliate party by a vote of $\frac{3}{4}$ of the entire National Committee.” It includes the key words “for cause” and requires further that “a motion to revoke the status of an affiliate party for cause must specify the nature of the cause for revocation.” The LNC’s position ignores these two clauses and tries to simplify disaffiliation into a slightly higher threshold for rescission.

Additionally, Article 5.6 places the “burden of persuasion” on the appealing affiliate, guarantees “the right to appear and submit evidence and argument,” requires a hearing, and establishes a defined appeal window and decision deadlines. None of these requirements have anything to do with an ordinary motion to rescind a policy decision. This is the language of a disciplinary proceeding, and it should be interpreted as such.

We can reach this conclusion through multiple paths. RONR (12th ed.) 63:7 sets out five basic elements that make up “the elements of fair disciplinary process”: confidential investigation by a committee, a committee report and preferral of charges if warranted, formal notification of the accused, a trial, and review of any trial committee’s findings. RONR instructs that “the steps must be followed in the absence of” specific alternative provisions displacing them. Article 5.6 supplies no alternative disciplinary procedure of its own for affiliate disaffiliation, and Article 16 directs that RONR governs “in all cases to which they are applicable and in which they are not inconsistent with these bylaws.” These provisions supply the missing procedural content for a “for cause” disciplinary disaffiliation in the same way RONR’s default rules fill any other silence in the Bylaws.

The LNC has argued that RONR 63 speaks only to the discipline of individual members and officers and never once mentions the disaffiliation of an affiliate party as an entity. That is accurate in the literal reading of it. It does not, however, follow that RONR’s silence as to entities defaults to treating a “for cause” disaffiliation as an ordinary rescission. It defaults instead to the general principles of fair process that RONR 63:7 articulates, principles that RONR’s own interpretive instruction at 56:68 (1) directs this Committee to apply in construing an undefined, ambiguous bylaws term such as “for cause,” consistent with the harmony-of-provisions approach the LNC’s own brief invokes for a different purpose. It is this analogy, not any freestanding requirement in the text of Article 5.6 itself, that supplies the basis for concluding that a “properly constituted” investigatory process, of the kind RONR 63:7 describes as its first element, was the minimum this proceeding required.

Even if this Committee is not persuaded that RONR 63's framework should be extended by analogy to affiliate-level discipline, the outcome should be the same. The specification requirement in Article 5.6 is self-executing and does not depend on resolving that broader question. A motion cannot "specify the nature of the cause" while, in the same breath, declaring that the LNC acts "because of these reasons and more." This is an explicit reservation of undisclosed additional grounds. Whatever procedural framework this Committee ultimately concludes governs a "for cause" disaffiliation, a motion that fails the Bylaws' own specification requirement on its face cannot stand, independent of any question about RONR 63's scope.

Whether this Committee accepts the broader analogy to RONR's disciplinary framework or rests on the narrower, self-executing textual argument alone, the conclusion is the same: the National Committee's characterization of this proceeding as mere rescission cannot be reconciled with the text it purports to apply, and the process actually used here: a floor motion, adopted without investigation, without notice of specific charges, and without any opportunity for LPNH to respond before the vote, fell short of what "for cause" disaffiliation requires under either framework.

Argument 2

Required Specification of Charges

Independent of whether this Committee accepts either track of the argument above, the disaffiliation motion adopted on May 25, 2026, fails on its own terms to satisfy Article 5.6's requirement that a motion to revoke affiliate status "must specify the nature of the cause for revocation." That failure is independently sufficient to require a reversal.

The ordinary meaning of "specify" requires identification of particular, identifiable conduct, not a general impression, and not a characterization untethered to specific acts, dates, or instances. RONR's own treatment of disciplinary charges reflects the same principle: a charge must set forth "a particular kind of act or conduct," and a specification must state "what the accused is alleged to have done which, if true, constitutes an instance of the offense indicated in the charge." RONR (12th ed.) 63:24. Whatever this Committee concludes about the applicability of RONR 63 to affiliate-level action in the argument above, its definition of what specification requires is instructive as to the ordinary meaning of "specify" as that word is used in Article 5.6.

The motion adopted on May 25, 2026, fails to meet this standard. The official Post-Convention Minutes record the motion in full:

“The bylaws are clear that affiliate Parties shall not endorse the candidate of another Party. Despite this, the Libertarian Party of New Hampshire openly and publicly endorsed Donald Trump during the election. Furthermore, they have crudely and repeatedly undermined our own candidates, and have espoused numerous anti-libertarian positions on a National level. Be it Resolved that because of these reasons and more, the Libertarian National Committee moves to disaffiliate the Libertarian Party of New Hampshire...” Only the first sentence identifies a specific, dateable act, the November 2024 endorsement, which amicus will address in a later argument. The second sentence, “crudely and repeatedly undermined our own candidates, and have espoused numerous anti-libertarian positions on a National level,” identifies no dates, no instances, no candidates that were purportedly undermined, and no positions that were espoused. And the operative resolving clause does not even confine itself to the two stated grounds: it disaffiliates LPNH “because of these reasons and more,” an explicit, on-the-record acknowledgment that undisclosed additional grounds were understood to support the action. A motion that reserves unspecified further cause on its face cannot be said to have specified the nature of the cause for revocation.

The inadequacy of this specification is further highlighted by the LNC’s own prior invocation of this identical bylaws provision. When the LNC disaffiliated the Libertarian Party of New Mexico in 2022, the operative motion specified disaffiliation “for the cause of violating procedure and member rights (e.g., holding multiple illegal conventions with deficient notice and exclusion of members from attendance, and attempting to disaffiliate without the authority of its members assembled in convention).” Regardless of the underlying merits of that action, the motion itself did what Article 5.6 requires by naming the category of misconduct and giving concrete examples of the specific conduct constituting it. The motion here does neither with this catch-all charge.

The LNC’s Response Brief asserts that the “current LNC followed the same procedure as the last LNC that voted to disaffiliate” and points to the LPNM action as its model. That assertion is accurate only in part. It is true that neither disaffiliation involved a formal investigatory committee, and both exceeded the applicable threshold. But on the dimension that actually matters to this appeal, whether the cause was specified as required by Article 5.6, the two motions are not comparable. The LPNM motion specified actions and did not reserve further grounds it never disclosed.

None of this prevents the LNC from acting again. A determination that this motion failed to specify cause is not an adjudication that no cause exists and does not insulate LPNH from a future motion that identifies particular conduct

with the specificity Article 5.6 requires. The remedy for this failure to specify conduct is to overturn this deficient motion and require the LNC to do here what Article 5.6 requires and what the LNC did in 2022: identify what LPNH is alleged to have done with enough specificity that LPNH can respond to the allegations.

Argument 3: Inconsistency with LNC's Own Practice

This argument is not a claim that the LNC violated any formal notice requirement. The LNC's Response Brief is correct that disaffiliation was properly placed on the agenda as new business, that new business without previous notice is permitted at a regular session, and that the Policy Manual Section 1.02.1 was accordingly satisfied. The point here is narrower and different: whatever the formal notice rules permitted, the record reflects no attempt before the vote, and at any point in the eighteen months between the November 2024 endorsement and the May 25, 2026, meeting to raise the endorsement with LPNH, to warn LPNH that disaffiliation was under consideration, or to pursue any resolution short of the most severe sanction available under Article 5. That absence of engagement is itself relevant to whether the process used reflected a genuine "for cause" determination, and it stands in contrast to the LNC's own practice in the one prior instance of affiliate disaffiliation.

At the 2022 disaffiliation of the Libertarian Party of New Mexico, the precedent the LNC brief cites as establishing that "the current LNC followed the same procedure," the record shows a motion to end debate on the disaffiliation motion initially failed by a vote of 3-8-5, meaning the floor remained open and debate continued. Only later, after further discussion, did a motion to end debate pass without objection. Regardless of opinion on that proceeding, it shows a body that allowed the matter to be aired before voting. No comparable debate was extended here. As discussed in Argument 1, a proposal to form an investigatory committee was rejected twice in the same session, once at the agenda adoption stage, before any discussion of the merits had occurred, and again as a floor amendment to the disaffiliation motion itself. This, and the absence of any pre-meeting engagement with LPNH, show a proceeding that moved directly to the most severe available sanction without the kind of deliberative opportunity the LNC's own prior practice actually provided.

None of this asks the Committee to hold that advance notice was required, or that the procedure used here was improper, but rather asks the Committee to

weigh, as part of its assessment of whether “cause” was genuinely established, the absence of any effort, formal or informal, to engage LPNH before the most severe sanction was imposed. Keeping in mind that the one comparable case cited has a record showing a much more deliberative handling of that proceeding.

Argument 4

No Live Violation Existed

Even accepting for purposes of argument that the November 4, 2024, endorsement violated Article 5.4 when it occurred, the violation was not live when the LNC acted on May 25, 2026. This eighteen-month gap between the two events, unexplained by any intervening conduct, is itself difficult to reconcile with a genuine “for cause” determination.

Article 5.4 prohibits an affiliate from endorsing “any candidate who is a member of another party for public office in any partisan election.” The election in question, the 2024 presidential election, concluded in November 2024. By the time the LNC acted, there was no pending election, no candidate currently endorsed, and no ongoing violation of any kind in effect. There was only a historical act, tied to a specific and already concluded election. Whatever cause the November 2024 endorsement may have supplied, it was tied to that election, not a continuing violation that the LNC was obligated to remedy at the time it chose to act.

The gap in time itself is significant. If the LNC regarded the 2024 endorsement as cause for the most severe sanction against an affiliate, the natural and appropriate moment to have pursued that process was at or directly adjacent to the endorsement, while the conduct was current, the officers who cast the vote still held office, and any investigation could have proceeded on a contemporaneous record. Instead, the LNC allowed eighteen months, two LPNH conventions, and a complete turnover in LPNH leadership to pass before acting, without identifying any new conduct occurring in the interim to explain why disaffiliation became necessary in May 2026 when it had not been pursued at any point before. Cause that is left unpursued for this length of time indicates a predetermined position and fishing for a justification, rather than genuine cause used to protect the party. This bias is further addressed in the following section.

This conclusion is reinforced, though it does not depend upon LPNH's own formal response once this dispute reached a head. Before this appeal was even filed, the current Executive Committee of LPNH adopted a resolution declaring that “the November 4, 2024 act was void ab initio as a violation of Article 5, Section 4 of the Libertarian Party Bylaws... and therefore never had

legal or institutional effect as an act of LPNH,” further stating that “no member of the present Executive Committee supported endorsing Donald Trump, called for LPNH to endorse Donald Trump, or had any role in the November 4, 2024 action,” and reaffirming LPNH’s “institutional commitment” to Article 5, Section 4 going forward. The Committee does not need to adopt LPNH’s characterization of the endorsement as “void ab initio” to credit what the resolution demonstrates: LPNH’s current leadership took a formal, documented action disowning the endorsement before this appeal was filed. The LNC’s brief does not grapple with either point. Its position is that “LPNH as an Organization is Separate and Distinct from its Board as Individuals,” and analogizes affiliate liability to a corporate debt obligation that survives a change in management. If a prior board incurred a debt, the new board’s election does not extinguish it, and the same should be true of a bylaw violation. This analogy does have a major flaw: there is a way that if a debt occurs in violation of the organization’s bylaws, the individuals who incurred the debt could be pursued for their malfeasance. In the case of a past bylaw violation, the new board has no remedy for the actions of the previous board, meaning any previous bylaw infraction could be pursued for discipline at any point in the future by any LNC. This precedent will be discussed in a following section.

The composition of LPNH’s leadership before and after the endorsement reinforces both points. The three officers who voted to endorse Donald Trump: Zephah Wood, Reinita Susman, and Matthew Fletcher, have not held any LPNH office since that vote. The one officer who voted against the endorsement, Nick Hubbard, was reelected. Jeremy Kauffman, the current Chair, had no vote on the endorsement. LPNH’s dues-paying membership has, across two subsequent conventions, consistently elected leadership uninvolved in and opposed to the endorsement the LNC now cites as its principal cause, and the June 2026 resolution is the documented culmination of a repudiation LPNH’s membership had already expressed through two rounds of ordinary elections.

Taken together, the record does not show a body that identified a continuing violation of the bylaws and moved to correct it. It shows a violation that concluded with a specific election a year and a half before the LNC took any action; an affiliate whose membership had twice repudiated the underlying conduct at convention; and an LNC that allowed eighteen months to pass without any kind of action, before resorting to the harshest sanction available with no live violation and no intervening conduct cited to justify why May 2026, rather than any point previously, was the moment to act.

Argument 5:
Bias Against Kauffman Contradicts Entity Theory

The LNC's brief rests its central defense of disaffiliation on the proposition that an affiliate's status depends on the affiliate as an institution, not on the individuals who happen to lead it at any given moment: "LPNH as an Organization is Separate and Distinct from its Board as Individuals." This theory, whatever its merits as applied to the November 2024 endorsement itself, sits uneasily with the evidentiary record the LNC chose to submit in its response to the LPNH appeal. Included in this record were personal social media posts by Jeremy Kauffman, made in his individual capacity before he held any voting role in LPNH.

The LNC Exhibits C and D consist of two tweets posted by Kauffman on his personal account, dated October 26 and November 4, 2024. Neither post was made in any official LPNH capacity, nor was either published through any LPNH channel, and neither is alleged to have been an act of LPNH as an institution in any sense the LNC's own brief elsewhere insists must govern this dispute.

This is difficult to square with the entity-based theory the LNC otherwise advances. If disaffiliation genuinely depends on the affiliate's institutional conduct, independent of which individuals currently hold office, then the personal views of one individual, expressed before he held a voting position, on his own account, in his own name are not institutional conduct of LPNH at all, and have no bearing on whether cause exists to disaffiliate the affiliate as an entity. Their prominence in the LNC's own submission is worth the Committee's attention for that reason.

Amicus does not ask this Committee to find that any individual member of the National Committee acted in subjective bad faith, and nothing in this argument should be read as such an allegation. The point here is narrower: the record the LNC itself chose to submit is in tension with the theory the LNC's own brief asks this Committee to adopt, and this Committee is entitled to draw its own conclusions from that tension in weighing whether the disaffiliation reflects a genuine, institution-focused "for cause" determination or something closer to a personal one directed at a single officer who, on the record, did not vote for the conduct being invoked against the organization he now leads.

This tension bears on the specification addressed in Argument 2. The disaffiliation motion's second, undeveloped clause, that LPNH "crudely and repeatedly undermined our own candidates, and have espoused numerous anti-libertarian positions on a National level," identifies no dates, no instances,

and no individuals. Instead, exhibits directed at Kauffman's personal, pre-office statements, submitted in a proceeding nominally directed at the institution, rather than any individual. This must raise the possibility that this catch-all clause functioned, in practice, as an unstated vehicle for concerns about Kauffman specifically, concerns the LNC's motion never actually charged, and conduct that is not a violation of the bylaws.

Argument 6

Dangerous Precedent for Future Disaffiliations

The stakes of this appeal extend well beyond just this LPNH situation. If this Committee affirms on the record presented by the LNC, an unspecified, catch-all charge, expressly reserving undisclosed further grounds, invoked eighteen months after the only concrete conduct identified, against an affiliate that had repudiated the conduct through two rounds of ordinary election, it will have basically held that Article 5.6's "for cause" requirement imposes no meaningful constraint on the National Committee's power to disaffiliate any state party at all. That holding would not stay confined to this case. It would give license to the current LNC and all future LNCs to follow this exact same formula.

The LNC's own theory, taken on its own terms, illustrates the risk concretely. The disaffiliation motion's central, unspecified clause, that LPNH "crudely and repeatedly undermined our own candidates, and have espoused numerous anti-libertarian positions on a National level," identifies no dates, no instances, no persons, and the motion's own resolving clause confirms that even this vague description does not exhaust the LNC's stated grounds: it acts "because of these reasons and more." See Argument 2 above. If a clause this thin, combined with an open-ended reservation of undisclosed additional cause, is sufficient to satisfy Article 5.6, then no affiliate is more than a floor vote away from disaffiliation whenever a sitting LNC is inclined to disfavor it. A charge that requires no particulars can be leveled at any affiliate that has ever criticized the national party, supported a controversial candidate, or found itself on the losing side of an internal factional dispute, which is to say, at any affiliate at all.

This is not a hypothetical risk. The record already contains one directly comparable, undisputed violation of the very provision at issue here that the LNC has never acted on. In July 2024, the Libertarian Party of Colorado voted to place Robert F. Kennedy Jr., at the time the nominee of a different independent political party, as its candidate on the ballot for the general election, in apparent violation of the same Article 5.4 prohibition on endorsing

“any candidate who is a member of another party.” No party disputes that this occurred. The LNC has never censured, disaffiliated, or otherwise disciplined the Libertarian Party of Colorado for it, and its Response Brief in the proceeding does not mention the comparator at all, despite LPNH raising it directly. Whatever explains that difference in treatment, the LNC’s own brief offers none, and a “for cause” power that can be invoked against one affiliate for conduct that goes entirely unaddressed when committed by another is not a power meaningfully constrained by “cause” at all.

The timeliness problem identified in Argument 4 compounds this risk rather than standing apart from it. If “for cause” carries no specification requirement with teeth, and if the National Committee may also invoke conduct at whatever distance in time it later finds convenient, eighteen months in this case, then no affiliate’s history is ever truly closed. Any past conduct, however thoroughly repudiated, however distant, however already addressed through lesser correction, remains available as leverage for a future National Committee to revisit whenever it assembles the votes to act. A “for cause” power with no specification floor and no temporal limit is, in practical effect, indistinguishable from an at-will power exercisable whenever a three-fourths majority can be found, precisely the power Article 5.6’s text, by requiring cause, was written to withhold.

The arguments developed in Arguments 1 and 2, that “for cause” and its specification requirement must mean something, and that ambiguity in the scope of that requirement should be read narrowly against the body wielding the power to disaffiliate rather than as an invitation to discretion, serve exactly this interest. They are not technical objections particular to this record. They are the constraints that keep Article 5.6 a “for cause” power at all, for every affiliate, in every future term, rather than a rebranded at-will power available to whichever majority happens to hold it.

Argument 7

Judicial Committee is not properly constituted

Before reaching the merits of this dispute, this Committee should confront a threshold question bearing on its own authority to decide it: whether the Committee, as presently composed, was validly constituted at all. Only two of the Committee’s seven seats were filled by the method the Bylaws prescribe: election by the delegates at a regular convention. The remaining five were filled by appointments of those same two members, without the quorum the Bylaws themselves require for the Committee to act as a body. This is not raised as a procedural technicality collateral to the merits. It goes to whether

this proceeding, and every other matter this Committee may take up during its term, rests on a valid exercise of the appellate authority the Bylaws grant, and the Committee has an independent interest, apart from the outcome of this particular appeal, in resolving that question on the record rather than leaving it to surface later in a more damaging posture.

The relevant text is precise. Article 8, Section 1 provides that “the Judicial Committee shall be composed of seven Party members elected at each regular non-presidential convention and any five members shall constitute a quorum,” and separately provides that “the remaining members of the Judicial Committee shall appoint new members if vacancies occur.” Just two seats, those of Avens O’Brien and Ken Moellman, were filled by convention election in May 2026. The other five, Patrick Dixon, Mary Gingell, Sam Goldstein, Chuck Moulton, and Geoffrey Neale, were subsequently appointed by those two members alone, purportedly pursuant to the vacancy-filling clause.

The difficulty is structural, not merely arithmetical. Article 8, Section 1 sets five members as the quorum required for the Judicial Committee to transact business as a body. The vacancy-filling clause empowers “the remaining members of the Judicial Committee” to fill seats that come open. Two members do not constitute the quorum the same provision requires for the Committee to act. A body that cannot meet the quorum its own governing text demands to transact ordinary business is impossible to characterize as capable of exercising that same vacancy-filling authority to reconstitute five-sevenths of its own membership.

The most natural response to this argument is that the vacancy-filling clause exists precisely to solve this kind of bootstrapping problem, that whatever number of members remain, however few, must be able to act to fill vacancies, or else the Committee could never recover from multiple simultaneous departures at all. That reading has some force where a small number of seats fall vacant and a functioning quorum is briefly interrupted. It is considerably harder to sustain where, as here, five of seven seats were never filled by the convention in the first place, and two members are not repairing an interruption in an otherwise functioning body but appointing a supermajority of the entire Committee’s membership from scratch. Article 8, Section 1 itself suggests the Bylaws do not treat all degrees of vacancy alike: in the most extreme case, “should all Judicial Committee positions be vacant, an Intervening convention may fill such vacancies,” reserving reconstitution to convention-level action, rather than self-appointment, once vacancy reaches its outer limit. The Bylaws draw no comparable line for the intermediate case presented here, where five of seven seats, a number approaching, though not reaching, total vacancy, were filled by appointment of a two-member

remainder. That gap should not be resolved by assuming the broadest possible reading of “remaining members,” particularly where, as elsewhere in this brief, ambiguity in a structural provision is better construed in favor of institutional legitimacy than against it.

The structural requirement is partly, but not entirely, of long standing, and the distinction matters. The 2002 Bylaws’ Judicial Committee provision, then Article 11, Section 1, states: “The Judicial Committee shall be composed of seven Party members elected at each Regular Convention, and any five members shall constitute a quorum.” That core composition-and-quorum requirement is essentially unchanged today. What the 2002 Bylaws do not contain, however, is any vacancy-filling mechanism: no “remaining members” appointment clause, and no total-vacancy/intervening-convention provision. Both were added at some later point between 2002 and the current Bylaws. That history cuts in favor of caution here, not against it: the seven-member, five-quorum structure is a long-settled feature of the Party’s governance that the current appointment mechanism was layered onto more recently, without the benefit of decades of practice to clarify how it should operate at the outer edge of its intended use, a scenario, like this one, where five of seven seats were never filled by convention election at all. This Committee is not being asked to disturb a well-worn practice; it is being asked to resolve a genuinely open question about a comparatively new mechanism, for the first time, at the extreme end of what the mechanism plausibly covers.

It would be an error to conclude that a defectively constituted Judicial Committee simply cannot act, and that the disaffiliation therefore stands unreviewed by default. Article 5.6 provides that a disaffiliated affiliate “may challenge the revocation of its status by written appeal to the Judicial Committee,” and surrounds that right with a hearing requirement, and an evidentiary process, and defined deadlines. That is a guaranteed right, not a contingent one. A Judicial Committee that was never validly constituted cannot supply the forum guaranteed under the Bylaws, and the result of that failure cannot be that the right itself simply evaporates, leaving the LNC’s action in place by default. The failure to seat a valid Committee is not LPNH’s failure. It belongs entirely to the Party’s own convention process, which only elected two of seven members in an incomplete election in which the delegates were incorrectly informed that the election concluded after electing only those two members. LPNH did not cause that defect and has no means of curing it. An interpretation of the Bylaws that would let the Party’s own structural failure operate to finalize a disaffiliation that its own rules may be appealed gets the incentives backward and should be rejected for that reason alone.

The Bylaws point toward the opposite default. Article 5.6 already anticipates that the Judicial Committee will sometimes fail to act, and resolves that failure in the affiliate's favor under defined circumstances: "Failure of the Judicial Committee to rule within 30 days shall constitute an affirmation of the National Committee's revocation of affiliate party status except when the last day of the 30 day period falls within 90 days prior to a regular convention, in which case the Judicial Committee's non-action shall result in reinstatement of affiliate party status." The Bylaws already recognize that Committee inaction should not automatically favor the LNC in every circumstance. In the circumstance of a full committee failing to have been elected, the only move that makes sense is for the Judicial Committee to find in favor of the appellant, as any other outcome violates the appellant's right to an appeal to a validly constituted Judicial Committee.

There is also a practical dimension to this that the Committee should weigh independent of how it resolves the question. Courts asked to review internal governance of a voluntary association typically require that internal remedies be exhausted before they intervene. That requirement assumes an internal remedy that actually exists. A Committee whose own composition is in doubt may not satisfy that precondition, and LPNH, or any appellant, may have an argument that it is entitled to bypass this Committee's process entirely and seek relief directly in court, because the internal remedy the Bylaws promise cannot be said to validly exist. Resolving this Committee's own composition now and resolving it in a way that does not reward the underlying defect, is the more prudent course for the Committee's own sake as much as for LPNH's.

Amicus is aware that LPNH's own appeal declines to challenge the validity of the five appointed members and reserves rather than presses this issue. Amicus is not a party to this appeal and is not bound by that choice. Amicus has an independent interest, shared by every affiliate party and member subject to this Committee's jurisdiction, in the integrity of the body that decides such appeals, and raises the issue on that basis, transparently, rather than allowing it to remain unaddressed. The Committee being invalidly constituted and ruling against appellants opens the LNC up to lawsuits over any appealed decision for the next four years. In a party that has recently shown a heavy appetite for litigation, this is almost a guarantee, rather than an unlikely fear. This could cause endless gridlock for the party and prevent almost any action the LNC chooses to take over the next four years. For these reasons, Amicus asks this Committee to treat its own composition as a threshold matter requiring resolution, and to resolve any doubt about that composition in favor of the affiliate whose right to appeal is at stake, whether

by proceeding to decide this appeal on the merits while separately and promptly addressing its own reconstitution, or, if the Committee concludes it cannot presently act with legitimate authority, treating that incapacity as requiring reversal of the disaffiliation rather than its affirmation.

Conclusion

The above arguments demonstrate multiple defects in the disaffiliation of LPNH. Argument 3 shows that no attempt was made to engage LPNH or pursue resolution, prior to the vote, and that attempts for a formal investigation were voted down in favor of a rushed vote. The Committee should weigh this absence as evidence the process fell short of a genuine “for cause” determination. Argument 5 shows that the LNC’s own exhibits target Kauffman personally rather than LPNH institutionally, in contradiction with the LNC’s stated theory. The Committee should weigh that tension as evidence against the LNC’s theory that institutions are distinctly separate from the individuals constituting the leadership. By acknowledging this contradiction, it becomes clear that the LNC’s own brief cannot separate the institution from the individual, and the entire argument should have no weight in the Committee’s final decision. Instead, the turnover of leadership at the following convention should serve as evidence of the affiliate rebuking its leadership’s action. Argument 2 demonstrates that the disaffiliation motion never specified its cause and expressly reserved undisclosed further ground (“for these reasons and more”); the Committee should reverse the action. It is clear that the bylaws require the cause to be explicitly stated, and the above quotation is very clearly a refusal to state the cause for disaffiliation. Argument 4 shows that the underlying 2024 endorsement was tied to an already-concluded election and was not live eighteen months later. This large gap in time raises doubts that this action was genuine “cause” and points toward a political decision to disaffiliate. Argument 1 shows that Article 5.6’s cause, specification, and hearing requirements are inconsistent with treating disaffiliation as a vote to rescind, as the LNC’s brief argues. The Committee should hold that “for cause” disaffiliation requires real due process, not just a quick vote. Argument 6 shows that affirming this would leave “for cause” meaningless for every affiliate going forward, as the unaddressed Libertarian Party of Colorado situation already demonstrates. The Committee should use this appeal as an opportunity to lay out a specification and consistency standard for all future disaffiliation cases; otherwise, any affiliate may be disaffiliated for any past action that somebody can dig up, as long as there are the votes on the LNC in support. Finally, and independent of the merits, Argument 7 shows that this Committee’s own composition is in doubt, and

that any resulting defect should be resolved in favor of reversal and reinstatement, not affirmance. These arguments stand on their own but together demonstrate a cascade of deficiencies in this disaffiliation attempt. Some of these deficiencies can be cured through following proper processes. The LNC did not have to go through the complex disciplinary process in RONR, but it could not even follow the minimal requirements in the Bylaws. Regardless, in this current matter, the only fair decision is to overturn the disaffiliation vote and fully reinstate LPNH.

Respectfully Submitted,
Nickolas Ciesielski
Life Member, Libertarian Party
Amicus Curiae

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