

Filing cover & attestation

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

FILED BY

Roger Roots is a lifetime member of the Party.

ATTESTATION

This amicus brief was filed by Roger Roots 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 ROGER ROOTS
IN SUPPORT OF PETITIONER**

Filed August 6, 2026

I. Identity and Interest of Amicus

Amicus is an attorney in the State of Rhode Island, and many other jurisdictions (e.g., U.S. 1st, 4th, 7th, 8th, 9th, 10th, and D.C. Circuits). I've written numerous law review articles which have been cited by courts throughout the United States. I am also an LP Life Member, delegate to 11 national conventions, and featured speaker at the 2008, 2016, and 2020 conventions. I'm a former LP Platform member and Bylaws alternate. I've run for office as an LP candidate in Montana many times.

I file this brief under Rule 7.1 of this Committee's Rules of Appellate Procedure. I hold no office in the Libertarian Party of New Hampshire and have no stake in its internal affairs. I write because the disaffiliation motion regarding LPNH was particularly egregious of due process principles. It violated one of the most fundamental rules regarding charging instruments and disciplinary proceedings. Additionally, several briefs before this Committee invoke the law of the outside world — regarding party autonomy, deference to associations, and the adequacy of after-the-fact hearings. However, such outside law, properly read, says the opposite of what those briefs claim.

II. Summary of Argument

Four points of law. *First*, the motion to disaffiliate LPNH was duplicitous: it improperly contained two allegations (on of which was infinitely broad and undefined) in a single count. *Second*, the Bylaws' command that a revocation motion "specify the nature of the cause" borrows the vocabulary of the Sixth Amendment, and that phrase comes with a settled meaning: particularity

sufficient to let the accused know what it must defend against. The May 25, 2026 motion does not approach that standard. *Third*, the party-autonomy cases on which the Respondent's supporters rely protect a party's right to be governed by its own rules; they are no authority for a party's leadership violating them. The common law of voluntary associations — the body of law a civil court would actually apply — enforces exactly the guarantee at issue here in many circumstances. *Fourth*, a defective charge cannot be repaired at the hearing. The burden-of-persuasion clause of Article 5, Section 6 allocates the burden on the facts of a properly specified cause; it is not a license to reconstruct the charge after the vote.

III. Argument

A. The Committee's Motion to Disaffiliate LPNH Violated the Ancient Rule Against Duplicity.

The disaffiliation of LPNH is invalid because it violated the rule against duplicity (two offences within the same count). The core problem with a duplicitous motion is that it conceals the possibility of a failing vote tally. The motion to disaffiliate LPNH was adopted by a tally of 15–2–1. But suppose that 8 of the 15 'aye' votes were based only on Prong 1 ("LPNH endorsed Trump") while 7 'aye' votes were based solely on Prong 2 ("LPNH espoused numerous anti-Libertarian positions"). This would mean the motion failed to reach the $\frac{3}{4}$ threshold. "[t]he overall vice of duplicity is that the jury cannot in a general verdict render its finding on each offense, making it difficult to determine whether a conviction rests on only one of the offenses or both." *United States v. Duncan*, 850 F.2d 1104, 1108 n.4 (6th Cir. 1988)).

Undoubtedly thousands of published cases from many jurisdictions invalidate the use of duplicitous charging instruments. And Roberts Rules of Order also forbids the practice. For example, RONR's "Table of Rules Relating to Motions" and "Order of Precedence of Motions" require that each motion be specific and not combine unrelated matters. If a motion is found to be duplicitous, it may be laid on the table, postponed, or otherwise handled according to RONR's rules for handling improper or unclear motions.

Duplicity produces many collateral harms. It muddies the notice the defendant is entitled to, because a single count that blends offenses does not tell the accused precisely what to defend. It also clouds the double-jeopardy record, making it harder to know later what the jury or committee actually decided.

The May 25, 2026 motion was clearly duplicitous. It alleged that LPNH "*openly and publicly endorsed President Trump during the election*" —and also that LPNH "*clearly and repeatedly undermined or espoused numerous anti-Libertarian positions.*" This motion plainly violated fundamental principles of law and RONR.

This defect infects the whole. The Committee voted once, on both recitals together — "because of these reasons." It is impossible to know from the record whether three-fourths of the National Committee found cause in the specified act, in the unspecified residue, or in some private combination of the two. Where a single general verdict rests on multiple grounds and one of them is invalid, the verdict cannot stand, because no one can say the invalid ground did not carry it. *Cf. Stromberg v. California*, 283 U.S. 359 (1931) (where the jury convicted a defendant generally under any or all of the three reasons, and one of those reasons is constitutionally invalid, the conviction cannot stand).

B. "Specify the nature of the cause" has a settled meaning — and the LP Bylaws' drafters chose words that carry it.

Article 5, Section 6 provides that a motion to revoke "must specify the nature of the cause for revocation." The phrase is a near echo of the Sixth Amendment's guarantee that an accused be "informed of the nature and cause of the accusation." That vocabulary comes bearing centuries of meaning: a charging instrument must describe particulars — it must state the specific conduct charged, not a category of wrongdoing — so that the accused knows what it must be prepared to meet and the tribunal has a definite charge to try. *See, e.g., Russell v. United States*, 369 U.S. 749 (1962). *See also United States v. Carll*, 105 U.S. 611 (1882) (the facts necessary to bring the case within the statutory definition must be alleged).

Similarly, RONR emphasizes that the accused has the right to be informed of the charges against them and to have the opportunity to prepare a defense (RONR, p. 656, ll. 5–10).

An instrument that fails this test is not cured by the accuser's confidence, by the notoriety of the alleged conduct, or by proof offered later; it is defective at the threshold. The May 25, 2026 motion recites one identified act — that LPNH "*openly and publicly endorsed President Trump during the election*" — and then a boundless residue: that LPNH "*clearly and repeatedly undermined or espoused numerous anti-Libertarian positions.*" Petition ¶20. No act, actor, date, statement, or provision is identified for the second recital.

Significantly, a member of the Committee, opposing an amendment that would have established the facts first, conceded on the record: "I may not have a list of particulars." Petition ¶¶22–23. Under any tradition our law recognizes, the second recital charges nothing.

The Committee's motion gave little notice of the precise allegations against LPNH.

C. Party autonomy cuts for the Petitioner, not against it.

It seems to be black-letter law of voluntary associations that where parties to an association demonstrate intent to be bound, the internal rules of the association are a binding contract. Thus the founding documents, Statement of Principles, constitution and bylaws of the LP constitute a contract between the organization and its affiliates. Expulsion, therefore, is lawful only when accomplished in conformity with them. *See, e.g., Polin v. Kaplan*, 257 N.Y. 277 (1931) (reversing exclusion of union members who supposedly circulated libelous articles about leadership); *Berrien v. Pollitzer*, 165 F.2d 21 (D.C. Cir. 1947) (membership interests in a political organization are judicially protectible).

A civil court reviewing this record would not ask whether disaffiliation was wise; it would ask whether the National Committee did what Article 5, Section 6 requires. This Committee should ask the same question, because it is the body the Bylaws designate to ask it. Deference doctrine has no application to the tribunal whose very charge is enforcement of the rules.

D. The burden-of-persuasion clause presupposes a valid charge.

The Respondent's supporters lean on Article 5, Section 6's provision that "[a]t the hearing the burden of persuasion shall rest upon the appellant," as though it relieved the National Committee of its specification duty. It does the opposite. A burden of persuasion operates on issues framed by a valid charge; it tells the tribunal who must prove the facts of the cause the motion specified. It is not an invitation to specify the cause for the first time at the hearing, and it is not a mechanism by which exhibits and theories assembled weeks after the vote can be retrofitted to a motion that named none of them.

The sequence the Bylaws command is specification first, vote second, review third. A contrary reading would let any motion reciting the word "cause" survive, and would read the specification sentence out of the Bylaws entirely.

IV. Conclusion

The LNC's motion to disaffiliate the Libertarian Party of New Hampshire violated some of the most basic rules of due process. The outside law the Respondent's supporters invoke does not save this revocation; it condemns it. Accordingly, the Judicial Committee should invalidate, overturn, and reverse the disaffiliation of the Libertarian Party of New Hampshire.

Respectfully submitted,

/s/ Roger Roots

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