

JUDICIAL COMMITTEE APPEAL TO VOID CERTAIN RESOLUTIONS ADOPTED AT THE JUNE 9, 2025 SPECIAL MEETING OF THE LIBERTARIAN NATIONAL COMMITTEE

Jonathan M. Jacobs, a bylaw sustaining member, on behalf of Appellants, appeals to the Judicial Committee to void two original main motions adopted by the Libertarian National Committee made during its Special Meeting of June 9, 2025 for various Bylaw and Policy Manual violations.

JURISDICTION

The Judicial Committee has subject matter jurisdiction over “voiding of National Committee decisions.” Bylaws, Article 8, Section 2, subsection (d). “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.” Bylaws, Article 7, Section 12.

PETITIONERS

At least 100 delegates credentialed at the most recent convention and at least 150 sustaining members of the Party have signed this petition. This constitutes more than either threshold required by Article 8.2 (d) of the bylaws to bring an appeal. See Exhibit 1 for a list.

AFFECTED PARTIES

The parties affected by these decisions include:

- (a) Members of the Libertarian National Committee (LNC);
- (b) All future delegates to National Conventions whose rights are being impinged by the adoption of one of these motions;
- (c) Over 150 sustaining members of the party who also support bringing this appeal;
- (d) All members of the Party who have an expectation that the Bylaws be followed;
- (e) The 51 Affiliate Parties, whose autonomy is being violated by one of these motions.

FACTUAL BACKGROUND

On June 9, 2025, the Libertarian National Committee held a special meeting. Notice of this meeting was submitted on June 2, 2025 by the chair and published by the secretary on that date. It stated:

“The Special Investigatory Committee appointed by the Libertarian National Committee has completed its work and is prepared to present its final report.

Accordingly, I am calling a special meeting of the LNC for Monday, June 9th at 8:00 PM ET to consider the adoption of the report. Please note that executive session due to the nature of the material. However, it is the intention that the report will be made publicly available following its adoption.¹

This was issued in the name of the Chair of the Libertarian Party, Steven Nekhaila.

An agenda was posted on June 4, 2025 that included the following items of business:

- “1. Consideration of Special Investigatory Committee Report (to be held in Executive Session)
2. Adoption of Special Investigatory Committee Report SIC
3. Adoption of Motions Appurtenant to Special Investigatory Committee Report²”

At the special meeting two original main motions were made by Vice Chair Paul Darr; they were:

“Whereas the Special Investigatory Committee finds that former Chair Angela McArdle violated her fiduciary duty to the Libertarian Party by concealing conflicts of interest and misusing donor funds, be it hereby resolved that the Libertarian National Committee deems Angela McArdle unfit to serve on the Libertarian National Committee, as an affiliate leader or as a candidate representing the Libertarian Party.

Be it further resolved that the Libertarian National Committee encourages the Bylaws Committee to review and propose bylaws changes that would codify the handling of members found to have engaged in financial malfeasance and/or other egregious actions.³”

and:

“Whereas the Special Investigatory Committee finds that former Chair Angela McArdle financially benefitted from her deception of the Libertarian National Committee,

And whereas the Libertarian National Committee is unlikely to recover the full amount of misappropriated funds without incurring costs above that which was misappropriated, Be it resolved that the Libertarian National Committee shall explore fundraising and/or pro bono legal counsel to pursue the recovery of funds, under any legal procedures available, as outlined in this report and any supplemental report(s) produced by the Special Investigatory Committee.⁴”

These will be designated Resolution 1 and Resolution 2, respectively.

A point of order was raised by Region 1 Representative Andrew Chadderdon, in regard to the first motion that no notice had been given and “that the wording of this motion was substantively different from the investigation report and thus not in order at this time.⁵” The Chair, Steven Nekhaila, ruled the point not well taken. The chair claimed that the motion was cited in the report and germane. The decision was properly appealed. In debate on the appeal the then Secretary, Caryn Ann Harlos claimed that the custom of LNC was to permit these types of motions in regard to investigatory committees. The decision of the Chair was sustained. Resolution 1 was then adopted.

A point of order raised in regard to the second motion by Mr. Chadderdon on the same ground, lack of notice. The Chair again ruled that the motion was “germane to the report.⁶” In

debate on the appeal, the then Secretary, Caryn Ann Harlos claimed that the motions were incidental main motions and that the rule applied only to original main motions. She also claimed that it was the custom of the LNC was to permit them. The decision of the Chair was sustained. Resolution 2 was then adopted.

There was one voting member absent for the roll call on both of these main motions, Member-at-Large Robert Vinson^{7, 8}.

ARGUMENT

There are effectively two separate appeals included. First, is the appeal for improper notice that applies to both of these original main motions. Second, is the appeal is that Resolution 1, as worded, violates the bylaws, affiliate autonomy, and the rights of future convention delegates. In the interests of judicial economy, these are combined. The Judicial Committee may, however, choose to split the matter and hold separate hearing. There would be no objection from the petitioners if the Judicial Committee should make that choice.

PART 1: THE NOTICE ISSUE

Article 12 of the Bylaws grants to the LNC the ability to conduct meetings by “teleconference or videoconference,” and provides that the LNC may adopt special rules to govern the conduct of these meetings. Special rules deal with the transaction of business and generally supersede rules in the parliamentary authority.

Such a special rule is found in the Section 1.02 of the Policy Manual that requires:

“An LNC Member may satisfy the requirement of giving previous notice of their intention to introduce an original main motion at the next session by:

1. Announcing this intention at the previous session in the presence of a quorum, providing an accurate and complete statement of purport, with such notice to be taken note of in the minutes; or
2. Sending the complete language of the motion to the entire LNC by e-mail at least five (5) days prior to the session.”

None of these rules mention some additional main motion as being “germane.” It also does not include the motion being incorporated into a report that was sent to all LNC less than 48 hours before the meeting. However, those were standards that Chairman Nekhaila stated in his reply to the point of order.

At this special meeting, Chairman Nekhaila ignored these rules, even when pointed out to him. He applied self-created rules that bear no resemblance to the requirements in the Policy Manual. In short, Mr. Chadderdon’s points of order that these motions were not properly noticed were absolutely correct.

These self-created rules of Mr. Nekhaila bear no resemblance to the requirement in RONR⁹, which is expressed at 9:15¹⁰. Under that rule, “The only business that can be transacted at a special meeting is that which has been specified in the call of the meeting.” These motions were not specified. “Germane” and “germaneness” are only used in two contexts in RONR. These are if an amendment is sufficiently related to the pending motion and of if debate is related to the pending motion. It plays no rule in determining if a main motion may be introduced at a special (or even at a regular) meeting.

Ms. Harlos's first claim, that these were incidental main motions was incorrect. RONR 10:4, defines what an incidental main motion is noting that:

"Such a motion is distinguished by the following characteristics:

- 1) It proposes an action specifically defined under parliamentary law and described by a particular parliamentary term. ..."
- 2) It does not mark the beginning of a particular involvement of the assembly in a substantive matter, as an original main motion does... "

Note the plural; for a main motion to be an incidental main motion, it possesses both of these characteristics. There is no action specifically defined under parliamentary law to "find" or "deem" someone "unfit to serve" nor to "explore fundraising and/or pro bono legal counsel." While Section 1.02 does apply only to original main motions, these are original main motions.

In part, because of an unclear example in RONR, confusion with a similarly named class of motions ("Incidental Motions"), and because of the rarity of the need to distinguish between original and incidental main motions in general, this point is often confused, even among seasoned parliamentarians. This prompted a question on the "Official RONR Q & A Forum," posted by "J. J." on June 6, 2024, which used this example¹¹:

"For example, would a motion 'to commend the Fundraising Committee [a special committee appointed by the assembly] for the work it has been doing over the last three months,' be an IMM. The assembly has been involved with the Fundraising Committee before, but a motion 'to commend' is not specifically defined under parliamentary law and are not parliamentary terms."

One of the authorship team of RONR, Daniel H. Honemann, responded to this example, saying:

"A motion to commend, like a motion to censure, is not an incidental main motion. These words are not parliamentary terms, and these actions, 'commend' and 'censure', are not actions specifically defined under parliamentary law. On the other hand, a motion to ratify is, of course, an incidental main motion. 'Ratify' is a parliamentary term, and ratification is an action specifically defined under parliamentary law."

His answer was posted on June 9, 2024, one year before the special meeting. This should remove any doubt that these two motions do not meet the criteria of incidental main motions and that the required notice under Section 1.02 was not given.

RONR notes notice protects absentees (25:10) and that actions taken in violation of a rule protecting absentees is null and void (23:6 e)); Mr. Vinson was absent. The members of the LNC did not have the notice needed to properly consider these two motions and their right to demand that this rule be followed was also violated. These two motions are null and void.

Ms. Harlos also claimed that it was the "custom" for the LNC to consider these motions without notice, citing her charges adopted at the October 2024 meeting. However, if a custom conflicts with an adopted rule, that custom "falls to the ground" and the adopted rule must be followed (RONR, 2:25). Further, her statement is inaccurate. The motion creating the investigatory committee, adopted at a regular LNC meeting on August 25, 2024, included the notice for the committee "to report resolutions covering its recommendations."¹² This met the notice requirement under Section 1.02 and under RONR (9:15, see also 63:10).

Section 1.02 does provide for notice of the motions to be given at the previous session; this notice is just the “purport” of the motion. When the Special Investigatory Committee was created on February 2, 2025, it did not include any reference to adopting any main motions¹³.

It should be noted that, even without the rule, RONR requires that the motions be mentioned in the call would have to something beyond being related to the committee report, especially since the report was not adopted at the time the notice was given. For example, strictly under RONR, notice of a motion, “related to the recovery of funds” would have been sufficient notice for Resolution 2; it would not be under the higher standard set by Section 1.02. In other words, notice was insufficient even under the lesser standard of RONR.

Ms. Harlos stated in debate that if the motion was not considered during the meeting, “...immediately tonight someone is going to make a motion to just make it an email ballot and it's going and the result is going to be the same because making an email ballot satisfies previous notice... .” While she is correct that these two motions may be made by e-mail, unless Ms. Harlos is claiming precognitive abilities, she could not know the outcome of those votes.

In this case, Libertarian Party members had not read the report, as it had not been released beyond the LNC. They could find it with sufficient deficiencies of logic to call for the rejection by the LNC and to lobby LNC members to vote against adoption of these motions. Similarly, while their adoption of the report with limited advance notice of the text was not out of order, prolonged consideration of it may have led to a different result by LNC members. Likewise, as seen in Part 2, problematic language in one of these motions, may have been rejected as a potential bylaw violation by LNC members.

PART 2, WORDING OF THE FIRST RESOLUTION

Resolution 1 is worded in such a way that it violates the Bylaws. Article 6.1 states, “No person shall serve as an officer who is not a sustaining member of the Party.” Article 7.4, has similar language for National Committee members, both at-large and regional. Membership on some national committees is limited to sustaining Party members (8.1, 11.); with the exception of the Judicial Committee, that is the sole requirement.

This resolution, which states in part, “... be it hereby resolved that the Libertarian National Committee deems Angela McArdle unfit to serve on the Libertarian National Committee, as an affiliate leader or as a candidate representing the Libertarian Party,” attempts to create a new criteria for these posts, that only those people that a majority of the LNC approves of can serve. These decisions are left to the convention or the region: they do not pass through a filter of the LNC. The attempt to “deem” a status for Ms. McArdle is a bylaw violation. A resolution of the LNC cannot remove her status as a member, or imply that it is removed.

Likewise, the supposed disqualification of Ms. McArdle as affiliate leader, is also a violation of Article 5.5 of the Bylaws. If an affiliate wishes to elect her affiliate leadership, they may do so, without LNC interference.

The problem is with this deeming. It has a meaning that implies a judgement, one that the LNC cannot make. According to the online Merriam-Webster Dictionary, “deem” means “to come to think or judge.”¹⁴ Wikipedia, noting that the term is a “legal” one, states, “Deem in law means to consider, judge, or condemn. It is also used to treat something as if it were something else or has qualities that it does not have.”¹⁵ It is a judgement on the part of the LNC, a

judgement which could be interpreted as binding, not merely on the LNC, but on the delegates at a future convention and on affiliates. There is another source that may be stronger than these for what “deem” does mean in the Libertarian Party. That source is the Libertarian Party Judicial Committee.

This issue, what “deem” means, as used in the bylaws was addressed by a prior LNC in Wright vs. LNC¹⁶. The Judicial Committee of the day stated, “This ‘shall be deemed’ language can be read to mean that the LNC Secretary is required to recognize the vacancy of the National Committee member who missed the two consecutive meetings.” It further referred to this clause as “specific mandatory language.”

In short, the Judicial Committee read the word “deemed” as establishing a mandatory requirement in the Wright Case. If “deem” in Resolution 1 is read the same way, then the resolution purports to establish ineligibility for Ms. McArdle. It is there in implication, at the very least. While this interpretation of the word “deem” may or may not be binding on this Judicial Committee, it is persuasive.

This may also be the intent, as the report referred to a version of this motion as, effectively, a substitute for attempting to use legal action to bar Ms. McArdle from LNC membership. It states, “The SIC therefore concludes that continued litigation seeking a court order barring McArdle from serving on the LNC in any capacity is not in the LNC’s best interest – particularly in light of the SIC’s recommendation in paragraph (6) below.¹⁸” That paragraph included a version of Resolution 1.

The adoption of a motion to “deem” someone unfit strikes at the rights of the delegates to vote for the eligible candidate of their choice at a future convention, in violation of Articles 6.1 and 7.4 of the Bylaws. Because of the affiliate language, the adoption of the motion also violates Article 5.5.

This resolution appears to be an attempt, by the LNC, to create a standard of eligibility for office. That decision should be left to the delegates at convention, or, where applicable, to the state chairs, in forming a region; the qualifications for holding office in an affiliate are established by that affiliate, speaking through its bylaws. While the current members of the LNC may question the wisdom of a presumptive future decision of these groups, their right to make that decision cannot be.

The LNC may adopt a motion expressing a very negative opinion Ms. McArdle’s conduct, even beyond the point of that motion being libelous¹⁷. However, it cannot create new eligibility requirements or disqualifications, nor give a reasonable impression that it does.

RULING REQUESTED

The Petitioners respectfully request the following rulings:

First, that the two resolutions described as Resolution 1 and Resolution 2 be declared null and void as they violated the notice requirements of Article 12 of the Bylaws and Section 1.02 of the Policy Manual.

Second, that Resolution 1 be declared null and void as it can reasonably appear to establish new requirements to elect eligible candidates to national Party office in violation of Articles 6.1 and 7.4.

Third, that Resolution 1 be declared null and void as it can reasonably appear to prohibit the election of eligible candidate to affiliate office, in violation of Article 5.5.

End notes

¹ Notice of meeting, Exhibit 2

² Posted agenda of meeting, Exhibit 3

³ Minutes, p. 7, Exhibit 4

⁴ Minutes, pp. 10-11, Exhibit 4

⁵ Minutes. pp. 7-9. Exhibit 4, Video Timestamp 16:45 – 39:45. Exhibit 5 [Transcript and closed captioning shows Mr. Chadderdon's point of order was "Motion is out of order for the fact it was not noticed.]

⁶ Minutes, pp. 11-13. Exhibit 4, Video Timestamp 53:05 – 1:09:35. Exhibit 5

⁷ Minutes, p. 9. Exhibit 4

⁸ Minutes, p. 13, Exhibit 4

⁹ That is *Robert's Rules of Order Newly Revised*, 12th edition (2020), as established in Article 16 of the Bylaws.

¹⁰ The wording in part states: "The only business that can be transacted at a special meeting is that which has been specified in the call of the meeting. This rule, however, does not preclude the consideration of privileged motions, or of any subsidiary, incidental, or other motions that may arise in connection with the transaction of such business or the conduct of the meeting." The only mention of germaneness in this section is that a properly noticed motion can be amended, if the amendment is germane, 9:16.

¹¹ Official RONR Q & A Form (Advanced) 6/7/24. Exhibit 7

¹² Minutes, August, 24-25 & 28 LNC Meeting, p. 12. Exhibit 8

¹³ Minutes, 2/2/25 LNC meeting, pp. 15-16. Exhibit 6

¹⁴ <https://www.merriam-webster.com/dictionary/deem>

¹⁵ [https://en.wikipedia.org/wiki/Deem_\(law\)](https://en.wikipedia.org/wiki/Deem_(law))

¹⁶ Majority Opinion in the Matter of the Appeal of R. Lee Wrights, 2009. Exhibit 9

¹⁷ A main motion may not be ruled out of order on the ground that it creates legal liability for the organization. Should the LNC adopt a motion that is libelous, they would still face liability for that; that fact that the rules permit it does not immunize the LNC. For the very specific grounds that a main motion may be ruled out of order, see RONR 10:26