

**JUDICIAL COMMITTEE APPEAL
TO VOID THE ADOPTION OF THE SPECIAL INVESTIGATORY
COMMITTEE REPORT
AND ALL ACTIONS TAKEN THEREUPON BY THE LIBERTARIAN
NATIONAL COMMITTEE
AT ITS JUNE 9, 2025 SPECIAL MEETING**

Filed by:

Hector Roos, sustaining member

On behalf of Petitioners

Date: September 30, 2025

Reply to John Ponty Amicus Brief

In re: Roos et al. v. LNC (2025 JC Appeal)

Petitioner respectfully replies as follows:

Mr. Ponty presents his amicus brief as a series of accusations about the intent of the appellant labeling the contents with a broad brush of “falsehoods, misrepresentations, and factual issues” [Ponty Amicus, Page 1]. His goal is clear, attack the “trust” for the petitioner and ask the JC members to reject the appeal on this basis instead of reviewing the appeal for themselves [Ponty Amicus, Page 6]. This reply will attempt to correct Mr. Ponty’s screed in numerical order.

1. There are several issues with the Kixie audit data:
 - a. The most glaring omission is the lack of details of wait time that callers experienced between connected calls. This possibly discounted the amount of effort made by Freedom Calls callers by up to 90% or more [Roos Appeal, Page 10];
 - b. The Kixie audit is unclear whether Mr. Malagon used all phone calls attempted using the software or those flagged as “connected”. Kixie settings allow for calls to be flagged for what is considered a “connected call”.¹ For the sake of argument, if it is assumed Mr. Malagon truly used the data for all calls made, there would not have been a need for Mr. Malagon to export data and create a separate report when Kixie provides a robust reporting feature.² The lack of demonstrating any report of the Kixie software to confirm the conclusions is a sign of spoilation of the data; and
 - c. Mr. Ponty quotes from a section of the appeal that is quoting Ms. McArdle: “The call software does not log calls made that were under 30 seconds in length, so a large portion of calls made were not verifiable. This was a known factor, and a common issue on all calling software” [Roos Appeal, Page 14; Exhibit 12-Angela PR Fact Sheet, Page 3]. The Respondent, as in the LNC, made no attempt to refute this observation.

¹ <https://support.kixie.com/hc/en-us/articles/360004461473-Setting-Connection-Duration-for-Calls>

² <https://support.kixie.com/hc/en-us/articles/115004810148-Dashboard-Reporting-Overview>

2. Ms. Hays said very clearly that information she obtained was not included in the SIC report or used to verify Mr. Porter's Certificate of Formation. She literally answered "I don't know" to the question as to why [Roos Appeal, Page 11]. Mr. Malagon's method of verifying Mr. Porter's Certificate of Formation was to cross check the "registration date" of this document with the results of a public records search with the Delaware Division of Corporations (which does not show the incorporator's name) [LNC Response, Page 22 (bottom)].
3. The consultant who performed the operational review was hired on February 28, 2025 by the LNC [Exhibit 13-LNC Operational Review, Page 1]. This was after Ms. McArdle's resignation. The consultant's report was pointed to demonstrate that the long-term trend of the "inability and refusal of the LNC to make fundraising calls - a critical part of their job" [Roos Appeal, Page 13; Exhibit 12-Angela PR Fact Sheet, Page 2]. The consultant's report concluded: "Only one person has produced any results and those alone are not substantive enough to help the financial situation greatly" [Exhibit 13-LNC Operational Review, Page 5].
4. See Paragraph 1.
5. Mr. Malagon was asked by Mr. Nekhaila to perform a "full audit of the Kixie data for the SIC" to assess the "value" of Freedom Calls to the LNC [Exhibit 4-Special Investigatory Committee Report, Page 41]. This audit was incorporated into an effort by Roman Garcia "to generously attribute donation amounts made in the same month as calls to specific phone numbers that match between the two databases (manually)" referring to Kixie and Zoho [Exhibit 4-Special Investigatory Committee Report, Page 55]. To the extent that Mr. Malagon was involved in this final part of the valuation of Freedom Calls is unclear. However, Mr. Ponty overreaches to say that the Kixie audit did nothing to show "where the money went" [Ponty Amicus, Page 1].
6. The contention that Ms. McArdle did not raise as much money for the Libertarian Party is a red herring. The point of saying this was to express that someone who raised no less than \$800,000 for the LNC would not have an intent to defraud the organization of \$50,000. As to the difference in conclusions regarding how much was raised effectively for the LNC through the KVF, there are questions remaining as to what will be the final disbursement given that the LNC is currently holding almost \$500,000 of KVF funds that may be released to the LNC as additional commissions or paid against LNC expenses.³
7. Mr. Ponty is welcome to attack the work of the professional accountants and the work of the Audit committee (which was made up entirely of members of the SIC) [Ponty Amicus, Page 2]. The Audit report is an example of what an independent report looks like. The accountants, using the same information available to the SIC, made a different conclusion [Roos Appeal, Pages 8-9]. The Respondent does not discuss this matter.
8. The discussion of an anonymous attorney being presented as the source of official documents has been a question of mine since Mr. Porter published his report [Exhibit 9-The LNC's SIC Report - Deregulation Corner, Page 2]. The problem was: Why had no other attorney, even the LNC attorney, independently obtained these documents? As stated in Paragraph 2, the SIC at the very least did not verify these documents.
9. Mr. Ponty makes a broad statement against reviews of SIC report by the petitioner and Mr. Chadderdon [Ponty Amicus, Page 2]. These "rebuttals" serve as a reminder that there

³ <https://groups.google.com/g/lnc-public/c/gJiQjU4nhr8/m/gne1TbgZAwAJ>

were timely critiques published about the SIC report and public interest in a better SIC performance.

10. The Respondent admitted that the “petitioner presents an alternate explanation that appears to be plausible, if unverifiable” [LNC Response, Page 9]. There is no reason for Mr. Ponty to reject plausible alternatives to the SIC report conclusions [Ponty Amicus, Page 3].
11. While Mr. Ponty is correct that the SIC report does have a discussion on the power dialer and other factors affecting the call center performance [Ponty Amicus, Page 3], the settings of those factors was not disclosed which would have helped identify alternative explanations [Roos Appeal, Page 11].
12. Mr. Ponty continues to say that Ms. Hays as an attorney provided the SIC with the Delaware incorporation documents and independently verified them [Ponty Amicus, Page 3]. As mentioned in Paragraph 2, the SIC report did not use Ms. Hays to independently “verify” these documents.
13. Mr. Ponty excuses the Respondent for not releasing Kixie data for member review [Ponty Amicus, Page 3], despite the conversation with Ms. Hays including the idea that personally identifiable information such as names and phone numbers could have been removed.
14. Mr. Ponty excuses the Kixie audit produced by Mr. Malagon for the sole reason that criticism is “based on misunderstandings and false claims” [Ponty Amicus, Page 3]. However, the Respondent admits that there is “no evidence” available that the call center did or did not “perform at industry standards” [LNC Response, Page 9].
15. Mr. Ponty accurately observes that the appeal makes a “wild” claim that “the SIC report attempts to fit the evidence to meet a forgone conclusion” [Ponty Amicus, Page 3]. It is true that the SIC report conclusions *wildly* overreach their factual support.
16. Mr. Ponty is confused as to the “independent” standard defined in the SIC report by appealing to “parliamentary procedure regarding committees” (whatever those are since he does not cite them) [Ponty Amicus, Page 4]. An LNC member who was on the LNC during the duration of the Freedom Calls agreement and approved a budget for it in the 2025 year is in a conflicted position having either failed to perform their oversight duties or otherwise approved the arrangement [Roos Appeal, Pages 16-17].
17. Mr. Ponty claims that “Appellants provide no evidence that Malagon would have any “actual or potential benefit or detriment” due to the adoption of the SIC report” [Ponty Amicus, Page 4]. Mr. Malagon claimed he was “one of five factionless Board members” trying to save the Party by ensuring conclusions would paint the problems of the LNC to Ms. McArdle’s leadership [Roos Appeal, Page 12]. As mentioned in Paragraph 16, Mr. Malagon was pivotal in the McArdle administration to approve the 2025 budget which continued to fund Freedom Calls.
18. In disputing the quality of the SIC report, Mr. Ponty expresses that there is no evidence to support that the SIC adopted the Porter report “on its face” [Ponty Amicus, Page 4]. The Respondent admitted that the SIC accepted Porter’s information without independent verification [LNC Response, Page 8]. This fact is also supported in Paragraph 2.
19. Mr. Ponty again says Ms. McArdle did not raise the amount of funds discussed in the appeal [Ponty Amicus, Page 4]. This critique has been responded to in Paragraph 6.
20. Mr. Ponty again repeats that the reliance of the anonymous attorney precluded a need to independently verify the documents provided either by Mr. Porter, Mr. Ponty or any one

on the SIC [Ponty Amicus, Pages 4-5]. He is asking us to trust him. The standard here should be: *Trust but verify*.

21. Mr. Ponty rightfully considers the need for the LNC to have revenue positive outcomes from such programs like Freedom Calls or Project Archimedes [Ponty Amicus, Page 5]. The problem with this characterization is that the SIC report assumed based on the Kixie audit that actual revenue was not due to the call center. Instead, it merely says there was only direct evidence of a **meager amount** while ignoring the sources of revenue being reported overall. According to the monthly LNC financial statements, the Freedom Calls was generating revenue to the Fundraising Membership Program which tracked results well above the **meager amount** claimed in the SIC report. Revenue clearly dropped after the Freedom Calls contract was terminated. The average monthly revenue for the Fundraising Membership Program was reportedly about \$80,000. [Exhibit 9-The LNC's SIC Report - Deregulation Corner, Table 1, Page 10]. As explained by Ms. McArdle, during this same time period when the call center was making calls, “No other LNC members made high volumes of calls to donors, or consistent donor calls except for me” [Exhibit 12-Angela PR Fact Sheet, Page 3]. Freedom Calls was the only program in place generating revenue. However, the SIC report made no attempt to explain the other sources of revenue to justify its conclusion that it was not coming from Freedom Calls.
22. Mr. Ponty exclaims that matching mailing addresses tied to Swing Vote Strategist and other organizations alludes to a conspiracy [Ponty Amicus, Page 5]. At a time when doxing is popular, reporting a shared mailing address is not unusual. Swing Vote Strategist did not involve any work directly related to the LNC and was not subject to disclosure [Roos Appeal, Pages 28-29].
23. Mr. Ponty makes his strongest argument when he states “McArdle herself confessed, in the exhibit provided by Appellants, that her domestic partner Padgett was running Freedom Calls” [Ponty Amicus, Page 5]. Mr. Ponty does not cite to which “exhibit” he is referring. The closest phrase that Mr. Ponty could be referring to is the statement:

“Mr. Padgett decided to run a revenue neutral operation so it would not become a financial conflict. Mr. Padgett almost certainly lost money, falling short of cost-neutrality, but he kept it going anyway because it was good for the party” [Exhibit 12-Angela PR Fact Sheet, Page 2].

This is not new information. The SIC report already understood that Mr. Padgett was a “volunteer liaison” [Exhibit 4-Special Investigatory Committee Report, Pages 3, 9, 35] and the Executive Director Hannah Kennedy discussed Freedom Calls with “McArdle or Padgett act[ing] as intermediaries” [Exhibit 4-Special Investigatory Committee Report, Page 15].

24. Mr. Ponty took it upon himself to submit a question to The Official RONR Q & A Forums asking a rather self-serving question about whether a committee is prohibited from making recommendations [Ponty Amicus, Page 5]. Of course, a committee is not prohibited from making recommendations. However, two things are certain: a committee

does not need a motion to adopt to make recommendations; but when those recommendations require action, then a motion to adopt the recommendations is needed. Such actions that departed from the instructions to “investigate issues of conflict of interest and business practices of the Libertarian National Committee” in the main motion [Roos Appeal, Page 3] include:

- Send a Cease-and-Desist Letter to Ms. McArdle demanding she cease using the LNC Chair title;
- Take Legal Action against Ms. McArdle; and
- Adopt Resolutions against Ms. McArdle “finding [her] unfit to serve as an officer of the Libertarian Party in the future” and “declaring that no LNC board or staff member shall have any contact or contract with Angela McArdle, Austin Padgett or any corporation or entity closely held or controlled by either one” [Exhibit 4-Special Investigatory Committee Report, Pages 90-94].

Accordingly, the SIC departed sufficiently from the instructions given to it in its authorizing main motion that the Motion to Adopt the SIC report is an original main motion. RONR 12ed. 10:52. Also, the LNC has recognized the motion to adopt the report as an original main motion subject to previous notice. [Roos Appeal, Page 22].