

Hall, William

From: Wes Wagner [wes.wagner@gmail.com]
Sent: Tuesday, July 19, 2011 11:53 AM
To: Hall, William
Cc: Mary J. Ruwart
Subject: Challenge of LNC ex-comms disaffiliation of the Libertarian Party of Oregon

Mr Hall,

At a recent meeting of the LNC executive committee some decisions were made regarding the Libertarian Party of Oregon. (see below)

Since we are the current lawful officers of the legal entity known as the Libertarian Party of Oregon, this declaratory judgment arguably amounts to disaffiliation. Such disaffiliation is invalid because it fails to meet the requirements of the Libertarian National Committee Inc.'s bylaws which require such decisions to be made for cause and by 3/4ths of the entire LNC (not just the ex-comm sub-group).

Further since Article VI item 5 states: "The autonomy of the affiliate and sub-affiliate parties shall not be abridged by the National Committee or any other committee of the Party, except as provided by these Bylaws." The LNC would have no authority to act to make declaratory judgment to the inner workings of the Libertarian Party of Oregon. This further substantiates that this is an attempt at administrative disaffiliation without following the foundational requirements to perfect such disaffiliation.

The notice we received was regarding our status as an affiliate, which further substantiates that this is an action taken against our status as an affiliate.

We are challenging our revocation of status on the grounds that:

- 1) no cause was cited
- 2) the decision was not made by 3/4ths of the entire LNC

The text of our notice we received is below. Our decision to utilize the process of the Libertarian National Committee Inc with regards to the administration of who it chooses as its affiliates should in no way be construed to imply that we are a subordinate organization nor that the Libertarian National Committee Inc has any authority to determine who the presiding officers of our organization are or under what rules we operate.

Mr. Reeves and Mr. Wagner,

First let me extend to each of you thanks for joining the LNC Executive Committee's meeting yesterday regarding the status of the Oregon affiliate of the Libertarian Party. The meeting was adjourned yesterday before concluding our discussion of that topic, and we took up the subject again in a meeting earlier this evening.

I am writing to convey to you the text of three motions that we adopted:

-----Motion 1-----

Based upon the available evidence, the Executive Committee of the Libertarian National Committee finds that the Bylaws of the Libertarian Party of Oregon (as amended March 14-15, 2009) are the Bylaws of the Libertarian Party of Oregon, and that these bylaws have been in effect since March 15, 2009.

(This motion was adopted by a vote of 6-1.)

-----Motion 2-----

Based upon the available evidence, the Executive Committee of the Libertarian National Committee recognizes as the officers of the Libertarian Party of Oregon those people elected by the State Committee during its meeting on May 21, 2011. They are:

- Chair: Tim Reeves
- Vice chair: Eric B. Saub
- Secretary: Carla J. Pealer
- Treasurer: Gregory Burnett

(This motion was adopted by a vote of 6-1.)

-----Motion 3-----

The Executive Committee of the Libertarian National Committee urges the members of the Libertarian Party of Oregon to work together to resolve their disagreements.

(This motion was adopted by a vote of 7-0.)

Alicia Mattson
Secretary, Libertarian Party

--
Wes Wagner
Chairperson, Libertarian Party of Oregon

Information and Foundational Arguments for the Appeal of the Libertarian Party of Oregon's disaffiliation by the LNC Executive Committee

The following facts and arguments are alleged:

- 1) As a matter of law within the State of Oregon, the officers of the legal entity The Libertarian Party of Oregon (a domestic non-profit corporation chartered under Oregon law, henceforth referred to as LPO), as established by the official registration of the Oregon Secretary of State which can be found at <http://www.sos.state.or.us/elections/doc/polparty.pdf> are as follows:
 - a. Wes Wagner – Chairperson
 - b. Harry Joe Tabor – Vice-Chairperson
 - c. Mark Vetanen – Treasurer
 - d. Bruce A. Knight – Secretary
- 2) The current bylaws of the LPO, as adopted on March 31st, 2011, received and processed by the Elections Division of the Oregon Secretary of State's office on April 8th, 2011, and can be located under a link here http://www.sos.state.or.us/elections/pages/cand/cand_parties.html, have not been successfully challenged in any proper venue of authority within the State of Oregon.
- 3) The Libertarian National Committee, Inc. is not an Oregon corporation. The LPO, established prior to the formation of the Libertarian National Committee, Inc., is an independent entity and has no formal corporate relationship with the Libertarian National Committee, Inc.; the LPO is neither a parent, nor subsidiary of the Libertarian National Committee, Inc.
- 4) There exists an affiliation agreement between the LPO and the Libertarian National Committee, Inc. This amounts to a gentleman's agreement and has been longstanding between the LPO and the Libertarian National Committee, Inc.
- 5) The LPO has sent a delegation to the National Convention hosted by the Libertarian National Committee, Inc. at each event that has occurred and reasonably believes that as a founding member of the national movement, the LPO has had representation at every convention.
- 6) On July 18th, the LNC Secretary, Alicia Mattson sent the following notice:

Mr. Reeves and Mr. Wagner,

First let me extend to each of you thanks for joining the LNC Executive Committee's meeting yesterday regarding the status of the Oregon affiliate of the Libertarian Party. The meeting was adjourned yesterday before concluding our discussion of that topic, and we took up the subject again in a meeting earlier this evening.

I am writing to convey to you the text of three motions that we adopted:

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Chair: Tim Reeves
Vice chair: Eric B. Saub
Secretary: Carla J. Pealer
Treasurer: Gregory Burnett

(This motion was adopted by a vote of 6-1.)

-----Motion 3-----

The Executive Committee of the Libertarian National Committee urges the members of the Libertarian Party of Oregon to work together to resolve their disagreements.

(This motion was adopted by a vote of 7-0.)

Alicia Mattson
Secretary, Libertarian Party

- 7) The LPO, and specifically Mr. Wagner who is the chairperson of record in the State of Oregon, received this notice of revocation.
- 8) The LPO stipulates to being served proper notice of revocation of our affiliate status.
- 9) The LPO, therefore is asserting our rights under Articles 6.6 and 9.2.a to appeal this revocation.
- 10) With regards to motion 1, The LNC Executive Committee does not have the authority to arbitrate the lawful disposition of the bylaws in force within a political party chartered by the State of Oregon.
- 11) With regards to motion 1, The LPO disagrees with the LNC Executive Committee's opinion on the matter.
- 12) With regards to motion 1, there are proper venues within the State of Oregon for such disagreements to be lawfully resolved.
- 13) With regards to motion 1, we stipulate that the opinions held by the Libertarian National Committee Executive Committee may be valid for the standards and norms of conduct they wish to abide and if they wish to revoke the affiliate status of the LPO over such matters, they have the right to ask the entire LNC to do so, for cause, pursuant to party bylaws (6.6). The affiliate association between our two entities is voluntary and the Libertarian National Committee Inc has set standards for how they will conduct themselves. Such opinions held by the LNC

Executive Committee have no legal bearing within the State of Oregon but may be cause for the LNC to terminate the relationship if they feel inclined to do so.

- 14) With regards to motion 1, the bylaws of the Libertarian National Committee, Inc. Article 6.5 reads, "The autonomy of the affiliate and sub-affiliate parties shall not be abridged by the National Committee or any other committee of the Party, except as provided by these Bylaws."
- 15) The LNC Executive Committee, being a committee of the Party, is thus constrained.
- 16) The LNC Executive Committee is in violation of the bylaws of the Libertarian National Committee Inc. by making declaratory judgments about the disposition of the bylaws of a legal organization with which they have an affiliation agreement.
- 17) The individuals mentioned in Item 6, Motion 2 do not have lawful possession of any formal legal organization within the State of Oregon of which we are aware, nor do they have lawful possession of the offices the LNC Executive Committee declares.
- 18) For the same reasons and facts in 10-16, the declaration in Motion 2 is likewise a violation of the bylaws of the Libertarian National Committee, Inc.
- 19) Due to these declarations, the LNC Executive Committee has performed an effective and administrative revocation of the LPO, and thus severed the relationship (a gentleman's agreement) between this lawful body and the Libertarian National Committee, Inc.
- 20) The Libertarian National Committee, Inc.'s bylaws require a process for such revocation and cancellation of such an agreement. It is required that it be for cause and be conducted by 3/4ths of the entire National Committee (Article 6.6).
- 21) The LNC Executive Committee did not satisfy the requirements of the LNC bylaws, to wit, the LNC Executive Committee is not the full committee. On this issue, the LNC Executive Committee cannot act on behalf of the full LNC because the bylaws preclude this explicitly (6.5 and 6.6), therefore the LNC motions 1 and 2 being substantively a revocation of affiliate status should be ordered as reversed.
- 22) We propose that the persons affected by such a ruling to be: The LNC Executive Committee, The LNC committee as a whole, Timothy Reeves, Eric Saub, Carla Peeler, and Greg Burnett.

Secretary of State
Elections Division
May 4, 2011

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Libertarian Party of Oregon
Constitution and Bylaws

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LIBERTARIAN
SECRETARY OF THE STATE

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Article 1 – Name

The name of this organization shall be the Libertarian Party of Oregon (LPO).

Article 2 – Purpose

The purpose of the LPO is to perform the activities necessary to place as many partisan Libertarian candidates on the ballot for elections in the State of Oregon as possible and to promote the system of governance espoused by the Libertarian Party Statement of Principles.

Article 3 – Members

All registered Libertarian voters in the state of Oregon are voting members of the LPO. No dues are required to be a voting member of the LPO. Only voting members have the right to participate in LPO conventions and vote in LPO mail ballots. Only voting members are eligible to hold office in the LPO, except for offices that explicitly permit non-voting members to hold that office.

The LPO will have no authority to restrict or limit its members in any way not expressly allowed in this document.

Article 4 – Officers

Sec 1: Defined

The officers of the LPO shall be the Chairperson, Vice Chairperson, Secretary, and Treasurer. No officer is entitled to vote at board meetings unless he or she is also an elected or appointed director. The board of directors may appoint, remove, or replace an officer by majority vote. Removal from a position as an officer does not affect a person's status as a director.

Sec 2: Chairperson

The board of directors must elect a chairperson from amongst themselves. The chairperson shall preside at all board meetings and conventions. The chairperson will be the Chief Executive Officer of the LPO. If the chairperson office becomes vacant, the vice chairperson becomes the chairperson, vacating the vice chairperson office.

Sec 3: Vice Chairperson

The board of directors must elect a vice chairperson from amongst themselves. The vice chairperson shall act as assistant to the chairperson, and shall perform the duties of the chairperson in the chairperson's absence. If the vice chairperson office becomes vacant, the board of directors must elect a new vice chairperson from amongst themselves.

Sec 4: Secretary

The board of directors must appoint or hire a secretary. The secretary need not be a voting member of the LPO. The secretary is the recording and corresponding officer of the LPO.

Sec 5: Treasurer

The board of directors must appoint or hire a treasurer. The treasurer need not be a voting member of the LPO. The treasurer is the individual who is listed as the treasurer for the LPO with the Oregon Secretary of State, and has all of the responsibilities required of a party treasurer by Oregon law in addition to those prescribed by LPO governing documents and policies.

Article 5 – Board of Directors

Sec 1: Composition

The Board of Directors, otherwise known by Oregon State Law as the State Central Committee, shall have 9 members who serve until their successors are elected. The term of office for directors starts and ends during a special board meeting called for the purpose of transitioning from one set of directors to another. To stand for election or remain a member of the board, one must be a voting member of the LPO.

Sec 2: Authority

The board of directors has full power and authority over the affairs of the LPO between conventions with the following exceptions: modifying actions taken in convention, defining Libertarian policy, defining Libertarian platform, or taking a position on any public or electoral issue, modifying the constitution and bylaws of the organization.

Sec 3: Duties

The board shall be limited to the following duties:

- Transact all business of the LPO between conventions.
- Elect a chairperson and vice chairperson from among the board of directors.
- Appoint or hire a secretary and treasurer.
- Appoint delegates to the National Libertarian Party conventions.
- Define policy for the operation of the LPO.
- Perform other such duties defined in the LPO Constitution and Bylaws or as directed at convention.

Sec 4: Voting Rights

Only the 9 regular directors shall have voting rights in matters within the board's purview.

Sec 5: Vacancies

Any office or directorship left vacant for any reason may be filled by appointment of a qualified person by majority vote of the remaining directors.

Sec 6: Non-Voting Directors

The board of directors, by a two-thirds vote, may create or remove additional non-voting director positions to perform administrative duties, and by a majority vote may appoint, remove or replace the director holding such a position.

No director position thus created may possess any authority that is not already possessed by the board of directors as a whole.

Sec 7: Transitional Board Meeting

The outgoing board of directors must schedule a transitional board meeting to occur within 30 days after the new directors are elected. At this board meeting, the term of office for the outgoing directors ends and the term of office for the incoming directors begins. The incoming directors must elect a chairperson and vice chairperson from among the board of directors at this meeting.

Sec 8: Regular Board Meetings

The board of directors must adopt a policy establishing regular board meetings. In the absence of such a policy, the board of directors meets at the call of the chairperson.

Article 6 – Committees

The Board of Directors may create special or standing committees by a two-thirds vote and set the policy by which the committee members and leadership are seated.

Article 7 – Conventions

Sec 1: Regular Biennial Convention

The LPO shall hold its regular biennial business convention in the state of Oregon in the spring of each odd-numbered year, at a time and place chosen by the board of directors.

Sec 2: Special Conventions

The board of directors, or a group of voting members of no less than 1% of the voting members, may call a special convention to revise the Constitution and Bylaws and perform other business as needed. The purpose for a special convention must be included in the notice for the convention and the program for the convention cannot deviate from this purpose.

Amendments to the Constitution and Bylaws adopted in a special convention solely to comply with requirements of Oregon law take effect immediately, but are subject to ratification by a two-thirds vote in a mail ballot issued to ratify such amendments.

Sec 3: Convention Delegates

Any voting member who registers as a delegate in accordance with convention rules may attend and participate in that convention as a voting delegate. The quorum requirement for any convention shall be the lesser of one hundred (100) or one quarter of one percent (0.25%) of the membership.

Sec 4: Convention Notice

Electronic notice of all conventions must be given to all voting members. A prominent posting on the front page of the LPO web site and posting the notice to an electronic mailing list designated for such notices is sufficient for this purpose. It is the responsibility of voting members to ensure that they receive the notice. 45 days notice must be given. The notice must include the time, place, and proposed program

of the convention. If a special convention is called by the members directly, they must provide 45 days written notice by mail.

Article 8 – Elections

Sec 1: Methods of calling election

A. Regular Primary Election

An election is called automatically in conjunction with the State of Oregon Primary election season. The election process used shall be mail/electronic ballot, unless the board of directors lacks the funds to run an election by mail, and votes by a two thirds margin instead to nominate by convention.

The board of directors shall set the schedule of deadlines so that they are compatible with Oregon Law and to accommodate the schedule of the national party convention if possible.

The LPO may allow voting members to opt-in to a method of electronic voting in lieu of receiving a paper ballot. Additionally a voting member may opt out of receiving a ballot if they choose.

If a voting member fails to return a ballot in the election, the board may elect to not send that voting member a ballot in the next election unless the voting member contacts the LPO to request a ballot.

The regular primary election shall serve to ratify bylaws previously referred, and nominate candidates for partisan office, or decide any other matters referred for ratification.

B. Director Elections

In odd numbered years elections for directors shall be held on a schedule that permits the results to be announced at the regular convention. Mail ballots shall be sent only to persons who returned a ballot during the most recent regular primary election. Members who did not return a ballot during the previous primary election or who joined after the previous election are not eligible to vote on matters of party leadership or run for party office.

C. Special Elections

The board may call special elections for the purpose of filling vacancies for partisan offices when special elections are called by the State of Oregon.

Such elections shall be run on a schedule that permits the process to be completed before the deadlines required for the special election that has been called by the State of Oregon. The board shall determine whether nominations shall be by mail ballot or by convention. In the event that it is not possible to hold an election due to the schedule provided by the Oregon Elections Division, the board may nominate registered libertarian electors as candidates for special elections.

Sec 2: Rules for Elections

A. General rules that apply to all elections

- Ballots must be secret.

- The rules as provided by our parliamentary authority (if any) for the handling of ballots and elections shall be observed at a minimum. Higher standards may be adopted by policy.
- The board of directors (or appointed committee), must adopt rules governing the execution of the election, including notification procedures, registering to have a candidate's name placed on the ballot, and other special rules as necessary. These rules shall be published electronically for the public.
- No fee may be assessed, or petitioning requirements made, for the placement of a candidate's name on the ballot if they are a member of the party.
- Balloting may be conducted by physical mail or electronically, or by a combination of both, at the discretion of the board of directors.
- Ballot packets shall include a section inviting members to volunteer to serve as directors, candidates, committee chairs or committee members, or in other capacities, and soliciting suggestions for party functions and activities. This section, containing the voting member's name and contact information, shall be separate from submitted ballots and archived for use by the board of directors and committees to find volunteers for particular functions and activities.
- Elections for a single position shall be tabulated by instant runoff voting, and elections for multiple positions shall be tabulated using the Wright system of single transferable vote as defined by the proportional representation society of Australia.

B. Rules for Primary Elections

- A space must be made available to write in any eligible candidate for every office, even offices with no candidates running.
- Provided that no votes are cast for any libertarian elector who is both willing and eligible to accept the nomination, votes and nominations for candidates registered with other parties shall be entertained.

Article 9 – Finances

Sec 1: Voting Requirements for Expenditures

All approvals of expenditures or new liabilities must be made by roll call vote of the board of directors, and their votes must be entered into the minutes.

Every expenditure in excess of \$500, adjusted annually for inflation from the time of adoption, must be approved by a two-thirds vote.

Sec 2: Designated Donations

Any individual may donate funds for a specific purpose. Such donations must be used as directed, provided it is consistent with the LPO purpose and principles. All such designated donations and their dispositions must be included in the regular treasurer's report. If the board of directors decides the purpose for a donation is inappropriate, the person making the donation must be given the opportunity to re-designate the donation or have it refunded.

Article 10 – Candidates

Sec 1: Eligibility

To be listed on any Libertarian Party of Oregon primary ballot as a qualified Libertarian elector a person must be a voting member of the LPO for the thirty days prior to the election, meet all qualifications which are required under Oregon law, and further maintain his or her voting membership through the general election.

Sec 2: Exceptions to Eligibility

Candidates for President of the United States and Vice President of the United States are exempt from the requirement of being voting members of the LPO, but must be members of any national Libertarian Party affiliation. Additionally any candidates from another party are exempt provided that requirements of Article 8 Sec 2 are met.

Article 11 – Affiliate Parties and Organizations

The board of directors may grant charters to groups of LPO voting members wishing to establish an affiliate party or organization. The board of directors must establish a policy for how such charters are granted and maintained. Affiliate organizations do not have any authority to nominate candidates or indenture the LPO in any manner.

Article 12 – Parliamentary Authority

Each body of the LPO may adopt or change the parliamentary authority they use to operate by two-thirds vote of that body.

Article 13 – Amendment

Sec 1: Amendment

A. Amendment in convention

This constitution and bylaws are amendable in convention by a two-thirds vote provided that the convention is attended by no less than 1% of all voting members. If the 1% requirement is not met, any amendments that are passed at convention must first be sent via mail ballot for ratification before they are adopted.

B. Amendment by Mail Ballot

Amendments passed during a convention attended by less than 1% of all voting members must be referred to a mail ballot. The board of directors must vote whether to send out a special ballot for this purpose, or wait until the regular electoral process for nominating candidates. Amendments referred to a mail ballot must be adopted by a margin of two-thirds of all votes returned. Secure electronic ballots may also be used for special elections.

Article 14 – Other Authority

These bylaws are governed by all valid provisions of state and federal laws.

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VALE ELDON
SECRETARY OF THE STATE