

## Brief by At-Large LNC Member, Mary J. Ruwart, in Support of the JC Appeal Submitted by Wes Wagner et al.

### Part I: Violation(s) of Section 6.5

On July 18, 2011, the LNC Executive Committee (EC) voted to pass Motions 1 and 2 (referred to on Page 1, Item 6 of the Appeal), which are currently being challenged by Wes Wagner et al. I cast the lone dissenting vote against these two motions.

The LNC is forbidden by Section 6.5 of its bylaws from interfering with the autonomy of an affiliate. Ruling on which set of an affiliate's bylaws are in effect, or on whether or not they were properly adopted, would greatly interfere with a state's autonomy.

Thus, I believe Motion 1 to be entirely out of order and in violation of Section 6.5 of the LNC's bylaws. Motion 2, which is based on Motion 1, must then be in violation of Section 6.5 as well.

In my opinion, this interference with the autonomy of an affiliate is the most important issue in this matter, eclipsing the question of disaffiliation. If the LNC can "resolve" a conflict between two competing sets of an affiliate's officers via an *interpretation* of that affiliate's bylaws and an *interpretation* of whether or not they were followed, the LNC can rule on the outcome of any affiliate's election it cares to contest.

An affiliate that explicitly defaults to Robert's Rules of Order in its bylaws is especially at risk. When Robert's 500+ pages are applied to the 2-5 pages that constitute most affiliates' bylaws, the resulting *interpretation* by an LNC parliamentarian can be very different from what the affiliate's membership intended. To make matters worse, two parliamentarians can have opposing *interpretations*, so that "findings" such as those made by the LNC are matters of opinion, rather than fact.

Without going into detail that is tangential to the issues at hand, the Oregon situation was precipitated in November 2010 in exactly the manner described above. I mention this only to point out to the JC that such a possibility is not idle speculation on my part; it has already happened (details supplied upon request). The appeal which you now have in your hands is the direct result.

If Motions 1 and 2 are not reversed by the JC pursuant to Section 6.5 of the LNC bylaws, that Section will be, for all practical purposes, null and void. Once the LNC has license to rule on whether an affiliate has followed its bylaws properly, and which slate of officers was properly elected, affiliates will no longer have autonomy. Each affiliate will have to conform to the LNC's *interpretation* of that affiliate's bylaws, which, for the reasons cited above, can be very different from what the members of that affiliate intended.

***I respectfully request that the JC rule that both Motions 1 and 2 are in violation of Section 6.5 of the LNC's bylaws for the reasons cited above.***

## Part II. Violation(s) of Section 6.6

The appellants have alleged that Motion 2 is a *de facto* disaffiliation, while the EC believes that they have simply recognized the legitimate LPO officers. However, this recognition depends on the EC's violation of Section 6.5 of its bylaws by ruling on which slate was properly elected. The EC's interpretation, therefore, is flawed.

In addition, as of this date, the Oregon Secretary of State (SOS) recognizes Mr. Wagner as the legitimate LPO chair. Since all affiliates must follow state law, the EC's rejection of Mr. Wagner's claim effectively ends affiliation with the state-recognized entity, replacing it with a slate that the SOS has already rejected (see below).

On June 2, Summer Davis of the Oregon SOS returned the filing made by Mr. Richard Burke on behalf of Reeves et. al. Ms. Davis wrote to Mr. Wager, "Additionally at this time we have informed Carla Pealer and Richard Burke that we are unable to process any changes without written approval from the current chair of record of the Libertarian Party of Oregon that they are authorized to make these changes" (see highlights in attached E-mail #1).

Chairman Hinkle contacted Stephen Trout in an attempt to determine if the SOS would accept the LNC's decision on the matter. When Wes Wagner e-mailed Mr. Trout, the latter indicated on July 26 that "I have not made any assurances to the national party organization or anyone else on either side of this dispute. It is a party dispute and needs to be resolved by the party" (see highlights in attached E-mail #2). Clearly, Mr. Trout is not going to take sides, which means that Mr. Wagner is likely to remain the LPO Chair recognized by the State of Oregon until he informs the SOS in writing that he no longer retains that office.

Disaffiliation is defined by Merriam-Webster as "a termination of affiliation" (see <http://www.merriam-webster.com/dictionary/disaffiliate>). This is exactly what Motion 2 was intended to do: terminate the LNC's affiliation with Wagner et al. as LPO officers, and, as a consequence, the slate that the SOS considers legitimate.

Given that the state-recognized LPO officers are Wagner et al., it is difficult to interpret the recognition of a different slate of officers as anything but a disaffiliation in fact. As such, it required a vote of  $\frac{3}{4}$  of the entire LNC based. That vote was never taken.

Indeed, the circumstances of this case make clear the wisdom of the delegates in demanding such a high standard of agreement before a disaffiliation can occur. Since recognition of another officer slate other than that recognized by the SOS is likely to create additional costs for the LNC in litigation, such a decision should be made by the entire body and not a smaller subset thereof.

***I respectfully request that the JC rule that Motion 2 is a disaffiliation in fact and is in violation of Section 6.6, since it was made without a  $\frac{3}{4}$  vote of the LNC.***

E-mail #1

From: DAVIS, Summer S <[summer.s.davis@state.or.us](mailto:summer.s.davis@state.or.us)  
Date: Thu, Jun 2, 2011 at 11:07 AM  
Subject: RE: Regarding recent documents filed allegedly on behalf of  
the Libertarian Party of Oregon  
To: "BROUCEK, Candy L" <[candy.l.broucek@state.or.us](mailto:candy.l.broucek@state.or.us), Wes Wagner  
<[wes.wagner@gmail.com](mailto:wes.wagner@gmail.com)  
Cc: Mark Vetanen <[mvetanen@rocketmail.com](mailto:mvetanen@rocketmail.com), "Bruce A. Knight"  
<[b.a.knight@gmail.com](mailto:b.a.knight@gmail.com), "H. Joe Tabor" <[Harryjoe@teleport.com](mailto:Harryjoe@teleport.com)

Wes,

Attached are most of the documents that they filed. The only document  
That I am not forwarding, because it is not disclosable as a public record,  
is their bank account information.

Additionally at this time we have informed Carla Pealer and Richard  
Burke that we are unable to process any changes without written  
approval from the current chair of record of the Libertarian Party of Oregon  
that they are authorized to make these changes.

Summer

From: Wes Wagner [<mailto:wes.wagner@gmail.com>]  
Sent: Thursday, June 02, 2011 10:34 AM  
To: BROUCEK, Candy L; DAVIS, Summer S  
Cc: Mark Vetanen; Bruce A. Knight; H. Joe Tabor  
Subject: Re: Regarding recent documents filed allegedly on behalf of  
the Libertarian Party of Oregon

Summer and Candy,

I have advised the LPO State Committee of our conversations yesterday  
and we will be taking up the issue of a formal organizational response at  
our next regularly scheduled state comm meeting on June 6th. It would be  
helpful if we could receive copies of what was submitted.

It is my understanding that the national party secretary is acting  
alone and is not representing the entire organization. Further, even if she  
were, the Libertarian Party of Oregon is an independent body chartered under  
Oregon Law and is neither a branch of a foreign corporation (the  
Libertarian National Committee Inc. is a foreign corporation) nor a subsidiary.

Although the State Committee of the Libertarian Party of Oregon does work with the LNC to assist in coordinating and choosing a national presidential candidate, we are not a subordinate organization. Our understanding is that the Libertarian Party of Oregon State Committee exists and serves solely under Oregon Law for the purposes as defined under ORS 248 and for the benefit of its registered members (defined by law as: 248.002 (4) "Member" means an individual who is registered as being affiliated with the political party. [1979 c.190 §67]) and that our committee's trust and responsibility is for the running of electoral processes for nominating candidates in as fair and open manner as prescribed by law.

Further, it is my understanding that we are to be treated as a domestic non-profit corporation per ORS 248.004 except for some exceptions related to liabilities. Our structural relationship with the Libertarian National Committee Inc. is merely an affiliate contract that we exercise for the purpose of choosing delegates for coordinating with other states on national platform and candidate issues.

Any communications from the national organization should be considered in this context that they are a foreign corporation of which we are not a subsidiary and only have some contractual relationships with them.

My understanding is that a couple members of the party who recently were on the losing side of a vote on March 31st and did not like the outcome have taken it upon themselves to come up with some very creative interpretations of party rules and attended an event that had already been cancelled and rendered moot by the outcome of our March 31st State Committee Meeting and are now laying claims that their actions are legitimate.

If there are any particular questions your office would like a formal response from the LPO State Committee, please send them to me and our party secretary, Bruce Knight, so that we can address them at our next meeting.

Sincerely,  
Wes Wagner  
Chairperson, Libertarian Party of Oregon

## E-Mail #2

From: **TROUT, Steve** <[stetro@sos.state.or.us](mailto:stetro@sos.state.or.us)>  
Date: Tue, Jul 26, 2011 at 5:01 PM  
Subject: RE: Weekend developments raise further concerns  
To: Wes Wagner <[wes.wagner@gmail.com](mailto:wes.wagner@gmail.com)>

I have not made any assurances to the national party organization or anyone else on either side of this dispute. It is a party dispute and needs to be resolved by the party. I was out of the office last week and have not had any conversations with anyone on this dispute in over a week.

**From:** Wes Wagner [mailto:[wes.wagner@gmail.com](mailto:wes.wagner@gmail.com)]  
**Sent:** Monday, July 25, 2011 6:54 AM  
**To:** TROUT, Steve  
**Cc:** DAVIS, Summer S  
**Subject:** Weekend developments raise further concerns

Mr. Trout,

The Libertarian National Committee Inc.'s executive committee, whose actions are still under review by that organization's judicial committee, has made some private and public allegations regarding their ownership of assets that I deem to be outright fraud. I believe it is quite probably at this point that fraudulent assertions have been made to your office by them, and further it raises my expectations that assurances they claim your office gave them are likewise misrepresented.

I also have correspondence that was leaked to me by one of their board members that implies they attempt to steal the domain name [www.lporegon.org](http://www.lporegon.org) via theft-by-deception.

Given the statements they have been making, I would like to discuss these issues with you.

Please call me, [503.349.8331](tel:503.349.8331)

--

Wes Wagner  
Chairperson, Libertarian Party of Oregon