**BEFORE THE JUDICIAL COMMITTEE OF THE LIBERTARIAN PARTY**

**Petitioners:** Andrew Cordio, as Chair of the Libertarian Association of Massachusetts, representing a constructively disaffiliated affiliate and thereby allowed an automatic appeal as per Libertarian Party National Bylaws Article 5.6.

**Interested Parties:** Any persons claiming to be current members of the leadership of the Libertarian Party of Massachusetts and/or the Libertarian Association of Massachusetts; the Libertarian National Committee; the Libertarian Parties of Connecticut, Maine, New Hampshire, New Jersey, New York, Rhode Island, and Vermont; the 2022 national convention Credentials Committee, as well as any other parties the Judicial Committee deems relevant.

**Relief Requested:** The Appellant requests that the Judicial Committee recognize the State Committee presently led by Andrew Cordio thus rendering null and void the constructive disaffiliation of the Massachusetts affiliate by the LNC and any other related relief that the JC feels just and proper.

**Committee Jurisdiction:** Libertarian Party National Bylaws Article 5 in its entirety and specially Article 5.6 and 8.2(a)

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# Petition for Appeal

## 1. Factual Background

For clarity's sake this Appeal will refer to the Massachusetts affiliate as "LAMA" and the two competing claimants to its legitimate leadership as the "*Graham Committee*" and the "*Cordio Committee*" which is chaired by the Appellant. At times it will be necessary to refer to the predecessors of the *Graham Committee* which case will be referred to the "*Shade Committee."* The members who filed the petition for a special convention as authorized by the LAMA Constitution will be referred to as the "*petitioning members*." The Libertarian National Committee will be abbreviated as LNC, and the national Judicial Committee will be abbreviated as JC. The February 13, 2022, JC decision in the matters of McVay and Hinds of the Delaware affiliate will be referred to as "*Delaware*." The prior JC appeal involving the ruling of the LNC Chair filed on May 3, 2022, shall be referred to as the "first appeal."

The Appellant does not wish to reinvent the wheel in this appeal covering the timeline of pertinent events leading up to these rival claims and its various good faith attempts to persuade the LNC to do the right thing through the present so has prepared an Updated Timeline which can be easily referenced here: https://lpofma.org/wp-content/uploads/2022/05/LAMA_Timeline_rev_1-2.pdf.

Additionally, JC Member Alicia Mattson's opinion in the first appeal exhaustively gives an accurate accounting of relevant parts of both the factual and procedural background. The JC opinions from the first appeal can be found here for easy reference in this matter and for future readers:
https://lpedia.org/w/images/7/7a/2022_05_08_JC_Ruling_Cordio_vs_LNC.pdf

## 2. Relevant Procedural Background

On January 23, 2022, the LNC held an electronic meeting to hear issues surrounding an impending controversy regarding the leadership of LAMA (https://www.youtube.com/watch?v=07G9vxsrH8M). Since no specific motions were noticed to be heard at this meeting, At-Large LNC member Joshua Smith called for an electronic meeting to take place on February 6, 2022, to tackle the issue of the inevitability of two (2) competing claimants to be the legitimate state committee as the *petitioning members'* Special Convention to hold a recall election of the State Committee was scheduled for later in the month.

On January 30, 2022, LNC Motion 20220130-22 was sponsored and started which attempted to have the LNC interfere in the Credentials Committee by instructing its appointees to vote to report out no delegates from LAMA. The motion failed overwhelmingly. While Appellant would have objected to the LNC inserting itself into a committee of the convention, not a subcommittee of the LNC, at least the motion would have arguably been a *partial* official LNC statement of impartiality. It cannot be entirely known why this motion failed or the motivations of those who voted in opposition. A large reason could have been the poison pill of the direct instructions to the LNC's Credentials Committee appointees. However, the result was the beginning of the LNC distinctly taking a side in a quickly blossoming contest. And ironically that motion was NOT ruled out of order though it clearly interfered in the autonomy of an affiliate by the LNC's own later logic by using its weight to tell an independent committee how to report despite RONR granting that committee independent judgment in circumstances of contested delegate submissions for their report, because as of January 30, 2022, there were not even competing leadership claims from a different state committee, only a claim of unjust expulsions (including several State Committee members) and a failure to call a special convention which the *petitioning members* via the two (2) allegedly expelled *Shade Committee* members had to schedule themselves for the next month.

During the pendency of the above motion, the required number of LNC members canceled the electronic meeting previously called by Joshua Smith and thus his motion directly addressing the impending and inevitable situation was never heard.

As noted in the Updated Timeline, on February 26, 2022, a new State Committee (the *Cordio Committee*) was elected including the Appellant as Chair. The *Cordio Committee* then promptly called LAMA's annual Regular Convention as required by its governing documents. This convention occurred on April 24, 2022, at which all LAMA members were eligible to vote and participate in business at no cost to them and elected the State Committee (which then elected the Appellant as its Chair thus

remaining the *Cordio Committee* in this appeal) for the next term and its national convention delegates. From the time that the interim State Committee was elected through all the subsequent events, the *Cordio Committee* has been the only legitimate State Committee of LAMA and has tirelessly attempted to gain the national recognition and resources given to all other affiliates including asking its Regional Representation Rich Bowen to introduce a Resolution that would accomplish this recognition on March 23, 2022, which was subsequently ruled Out of Order by the LNC Chair whose ruling was sustained on appeal from that ruling by LNC members. It also continued in multiple good faith attempts to resolve the issue with the *Shade Committee*.

As conceded by the interested parties testifying at the JC hearing on March 28, 2022,, only the narrow issue of the propriety of that sustainment of the LNC Chair's ruling was appealed to the JC on April 3, 2022, via an appeal of at least 1% of the national Party membership along with Andrew Cordio and lost via a tie vote of the JC announced on May 6, 2022. This present appeal was subsequently filed based on the underlying issue of constructive disaffiliation which was not part of the first appeal as the *Cordio Committee*, relying upon the JC's previous *Delaware* opinion which recognized that constructive disaffiliation was a *process*, felt its constructive affiliation was not effectively final while the first appeal was pending as the LNC might be required by the JC to hear the Bowen Resolution and potentially decide in the Appellant's favor, and if it did not, the constructive disaffiliation was for all intents and purposes with this LNC final. That opportunity for the LNC to make such a determination was finally foreclosed on May 6, 2022, which also created a glaring contradiction between two (2) 2022 JC decisions with the *Cordio Committee* being in a position of clear detrimental reliance and the signatory members being utterly confused as to whether it is or it is not against the bylaws for the LNC to examine and determine between credible competing leadership claims or if the Party bylaws had somehow changed in the span of the first quarter of 2022. The 2022 majority *Delaware* opinion authored by Ms. Mattson quoted below was not at all unclear or qualified:

> *The LNC is actually obligated by the bylaws to know who certain affiliate officers are, and if disputes arise, affiliate autonomy is preserved so long as the LNC accurately applies the affiliate's own rules to determine with whom the LNC will work. It would violate affiliate autonomy for the LNC to substitute its own preferences for those of the affiliate and not let the affiliate's own rules answer the question.*

### 3. Clear JC Precedent/Jurisdiction and Issue of the Standing of the Appellant

The decision of this JC in the *Delaware* matter, and the rationale put forth in the majority opinion is directly on point. Unless the JC is claiming to have constructively rescinded this prior decision in all but fact or believes it is reasonable and expected by the membership for it to simply issue absolutely contradictory rulings within the span of months (and that the Party can function in such an arguably arbitrary environment in which membership and affiliates cannot know if their rights change from day to day even within a single term, nay a single quarter of that term), the precedent for a JC

decision on this topic absent an express decision from the LNC is clear. **In fact, the absence of a decision by the LNC, for whatever reason, makes it absolutely necessary for the JC to determine if Andrew Cordio even has standing to bring this appeal at all!** To quote the 2022 majority JC opinion in *Delaware*:

> *When the bylaws give the JC jurisdiction with a phrase such as, "The affiliate party may challenge the revocation of its status..." then to apply this bylaw the JC must of necessity be able to determine whether or not the appellant is legitimately representing the affiliate…The bylaw would be pointless if the JC were precluded from discerning this reality.*

The fact that the *Delaware* appeal had two (2) sets of Appellants is a distinction without a difference. Whether or not the *Cordio Committee* is the legitimate governing body of LAMA with whom the LNC must integrate and which is entitled to all the rights, privileges, and bound by the same obligations, does not depend upon the contenders filing a competing appeal. In *Delaware,* the Hinds boards' legitimacy did not pop into existence merely because McVay, *et al* also filed an appeal. There IS in fact a second claimant here even if they have not filed any appeal – the *Graham Committee* - and both the *Graham Committee* and the *Cordio Committee* cannot be the leadership of the one Massachusetts affiliate. Standing must be determined whether there is a single Appellant or a thousand as it is foundational to anything else the JC may consider. If the Appellant has standing, the JC has subject matter jurisdiction.

This quandary may be an odd gap in our bylaws (the Appellant doesn't believe that there is any such gap as expertly addressed by Ms. Mattson in the *Delaware* matter quoted in subpoint 2 above), but here we are, and the JC cannot move a step further without determining if there is standing for an automatic appeal as it did for Mr. Hinds and Dr. Lapore in *Delaware*.

The power to recognize is the power to disaffiliate, and in cases where there are two (or more) claimants It is necessary for JC to be the final arbitrators of that issue even if the LNC believes it cannot or will not do so *expressly* but does so *implicitly* in a way that would be indistinguishable in its effects from an express disaffiliation.

The Appellant realizes that there is no bylaw requiring the JC to follow precedent; however, the parliamentary authority of the national Party, RONR (12th Ed.), notes that precedent is "persuasive," and should be followed in like cases (23:10). The Appellant also believes there is a fiduciary duty to respect decisions made within the same term with the exact same committee members comprising the committee, and this duty does not inure in the same way to decisions farther back in time with entirely different committee members. Otherwise, the members, the affiliates, and the LNC really have no guidance and find themselves floating in mid-air in the space of months. The same "court" re-litigating the same issue within the span of months and coming to absolutely contradictory findings is wrong. Many things in life are simply obviously not the correct path absent any rule. Libertarianism will never succeed if the preceding sentence is not self-evidently true and would be indifferent to the effect each person's actions have on

others when they have a reasonable and ethical expectation that justice today should not be radically different from justice two (2) months ago.

Appellant agrees with the reasoning of Ms. Mattson in the first appeal on this issue thusly (bold added):

> *The appeal does call upon the JC to apply the "precedent" of the Delaware case.* ***This case is being decided by the same JC members that decided that case****, and the Delaware majority opinion did note, "There is no bylaw which says past JC rulings on similar-fact-pattern cases constitute binding precedent, such that a mistake* ***made by a previous JC*** *would compel a later JC to live with the same mistake. That is not a rule of our organization, thus it cannot compel us."*
>
> *However, this appeal can be instead viewed as merely incorporating by reference the same logical arguments contained in that majority opinion when the appeal says, "The actions of the LNC contravene its duties under the bylaws to recognize its affiliate which require it to interface with its proper leadership as detailed in this Judicial's [sic] Committee decision in the recent Delaware appeal."*

There is a huge difference between the decision of an entirely different JC over a decade ago and a decision made by the same JC two (2) months ago. Appellant would hope that we don't need a bylaw to tell us this and firmly believes that the actual *harmed people* are left at the curb when the failing side of a prior decision uses a future decision to continue to re-litigate what should obviously be a settled issue, even if that side still disagrees. In that case, Appellant would argue that no one can be asked to vote expressly against their conscience, but that the appropriate action is to abstain for the sake of continuity and stability within one (1) term. It can be easy to forget there are real people behind these papers.

## 5. Timeliness and Point of Definite Constructive Disaffiliation

Constructive Disaffiliation has the same *effect* as express disaffiliation but cannot neatly fit into the bylaws time-limit requirements for express disaffiliation which makes it particularly insidious. The pertinent bylaw on express disaffiliation is Article 5:6 as follows:

> *The National Committee shall have the power to revoke the status of any affiliate party, for cause, by a vote of 3/4 of the entire National Committee. A motion to revoke the status of an affiliate party for cause must specify the nature of the cause for revocation. The affiliate party may challenge the revocation of its status by written appeal to the Judicial Committee within 30 days of receipt of notice of such revocation. Failure to appeal within 30 days shall confirm the revocation and bar any later challenge or appeal. The National Committee shall not revoke the status of any affiliate*

*party within six months prior to a regular convention. The Judicial Committee shall set a date for hearing the appeal within 20 to 40 days of receipt of the appeal and shall notify all interested persons, which persons shall have the right to appear and submit evidence and argument. At the hearing the burden of persuasion shall rest upon the appellant. The Judicial Committee shall either affirm the National Committee's revocation of affiliate party status or order reinstatement of the affiliate party. The Judicial Committee shall issue its ruling within 30 days of the hearing and in no case later than 90 days prior to a regular convention. Failure of the Judicial Committee to rule within 30 days shall constitute an affirmation of the National Committee's revocation of affiliate party status except when the last day of the 30 day period falls within 90 days prior to a regular convention, in which case the Judicial Committee's non-action shall result in reinstatement of affiliate party status.*

***a. The concept of notice is inapplicable in constructive disaffiliation***

The above bylaw adopts the equivalent of a statute of limitations in which the *expressly* disaffiliated group must appeal within thirty (30) *of receipt of notice of the LNC disaffiliation vote*. In constructive disaffiliation there is no express disaffiliation vote so that time frame does not apply. In support, the Appellant once again cites the majority *Delaware* opinion:

> *At what point does failure to resolve a disputed-officer problem eventually become constructive disaffiliation? Certainly, an LNC needs a reasonable time to review the situation and decide, but just sitting on their hands over time can result in constructive disaffiliation. They've had more than two months to evaluate this situation.*

The exact time frame applies here. There have been multiple attempts to resolve with the *Shade Committee* (and then the *Graham Committee*) as well as the LNC and the result has been them effectively sitting on their hands and attempting to run out the clock. With the sustainment of the ruling of the Chair, that is the clearest date that the constructive disaffiliation can be considered final and ripe, and the attempts to resolve with the LNC deemed an utter failure.

***b. With the exception of the dates of the LNC's Response to the first appeal and the JC ruling on same, all other dates are abstractions or part of a burgeoning pattern and practice that did not constitute "notice" even if, for sake of argument, the time frame of "30 days after notice" applies, which Appellant denies***

Notice was never formally given by the LNC if it was required in constructive disaffiliation, so no clock has been started. The only dates that can remotely be considered equivalent to notice would be the delivery of the LNC's Response to the first appeal (in which it outright stated that the LNC currently recognizes the *Shade*

*Committee,* including successors, as the rightful leaders of LAMA) filed on April 22, 2022, or the summary of the JC decision released on May 6, 2022, both regarding the first appeal and even those documents were not delivered to the *Cordio Committee* by the LNC nor designated as notice. A constellation of facts culminating in the last narrow JC decision would trigger the "30 days after notice," if, for sake of argument, that is deemed to be applicable, which Appellant adamantly denies.

If, however, the JC determines, despite the prior unambiguous statement in *Delaware* that constructive disaffiliation is a process that easily can span several months, that there is a time limit on an appeal for constructive disaffiliation, there is only one (1) other potential significant date in which it can be argued that the LNC had made a clear decision to publicly and officially take a side in this dispute, and if the wrong side was taken, would be the *ipso facto* definitive constructive disaffiliation of the rightful affiliate if the *Cordio Committee's* claim is the correct one, which is the claim here.

On April 23, 2022, despite objections raised on the LNC list and by membership, LNC Chair Whitney Bilyeu was a featured speaker *in her role as LNC Chair* at the alleged annual convention called by the *Shade Committee* at which the *Graham Committee* was purportedly elected. Her costs were paid for by the *Shade Committee* – a fact which was problematically not disclosed prior to her ruling that led to the first appeal as should have been required under the LNC Policy Manual and consistent with earlier LNC insistence on strict construction of duties to disclose. Ms. Bilyeu was aware that the *Cordio Committee* had called its annual Convention for the following day. She never attempted to inquire if they would like her to speak since she was already in town nor did she even visit as a guest. Her deliberate choice can be argued to be a definitive statement that the LNC officially put its backing behind the legitimacy of the *Shade/Graham Committees.*

This appeal is filed well within thirty (30) days of all of those events.

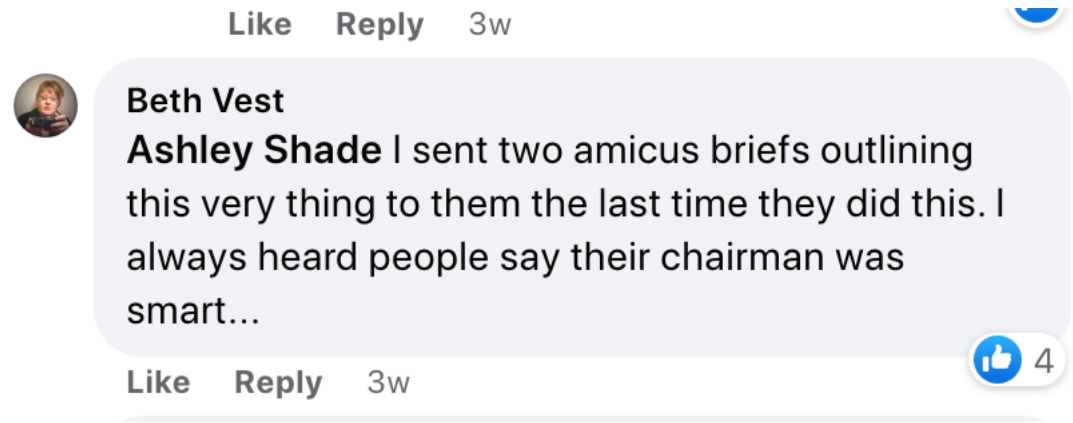
The Appellant would note that concurrent with the release of the JC summary of opinions LNC At-Large Representative Richard Longstreth immediately attempted to interfere with the Credentials Committee by insisting that they reverse their prior independent determination that that *Cordio Committee* had the rightful claim as it has the authority to do under RONR 59:21 (12th Ed.) if they had no serious doubts about the correct side in the dispute. Mr. Longstreth insisted to either seat the delegates from the *Graham Committee* or none at all which is an instruction that amounted to a clear repudiation that the *Cordio Committee* is the rightful committee as far as the LNC was concerned. Mr. Longstreth was not challenged in this request which he also made directly to the Credentials Committee using his LP.org email address. The clear implication is that he felt the ruling lent some kind of finality to the issue.

### c. *Equitable tolling applies even if, for the sake of argument, the time frame of "30 days after notice" applies, and notice is alleged to have been given more than thirty (30) days ago*

Assuming solely for the sake of argument that none of the prior arguments are found persuasive including the lack of proof of any delivery of any formal notice from the LNC, the common law principle of equitable tolling would apply which is still recognized in limited form in both Virginia (where the LNC is incorporated) and Massachusetts.

The LNC did not act in good faith after the filing of the first appeal in claiming it was not an interested party since it was not specifically named in the first appeal though the entirety of the first appeal was about a decision of the LNC **as zealously argued by the LNC's own attorney, Oliver Hall**. Libertarians would rightly scoff at such a tactic should it be done by the state or any of the legacy parties. Mr. Longstreth, who has repeatedly defamed this JC and its Chair, insisted that the LNC was specifically told it was not an interested party and thus was prejudiced by not filing a response within the initial seven (7) days.

As a side note, Mr. Longstreth is not alone in his defamation which is notable considering this LNC's prior position on social media posts, but even more egregious is this outright insult by Region 7 Alternate Beth Vest which is a further demonstration of the outright lack of good faith respect for the process and this JC due to their unhappiness with the *Delaware* decision (with the added circumstance of publicly siding with the *Shade Committee*):




Mr. Longstreth was specifically rebutted in a rare social media appearance by Alicia Mattson:

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**Alicia Mattson**

Since I am on the JC, I do not plan to engage in online arguments about this case, however this post is counter-factual, wrongly accuses Dr. Ruwart of a falsehood, and it is trying to drive an internet mob feeding frenzy.

It is not correct that, "Just yesterday, the LNC was informed that they are a respondent to a complaint for a hearing occuring this weekend." It is not correct that the JC Chair, "...specifically told the LNC Chair last week that we were not an interested party in this case regarding LAMA. Absent that falsehood, we could have had time to prepare..."

Judicial Committee Rules of Appellate Procedure in rule #1 clearly say that the JC can identify other interested parties that might not be specifically listed in the original appeal.

JC members recognized that the LNC is an interested party, thus on April 6 the JC Chair emailed the LNC Chair, "Although you and the LNC are not listed as 'interested parties' in this JC appeal, the ruling requested does involve the LNC." A copy of the appeal was attached.

Further, the JC accepts written submissions from those who are not specifically named as respondents. Even if the email that was sent was misinterpreted to be saying the opposite of what it said, surely the LNC would want to respond to the claims in the appeal which undeniably involve the LNC.


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Because of the continued insistence of Mr. Longstreth to pursue this tactic, Appellant Cordio filed an amendment to the first appeal making it crystal clear that it was *obvious* that the LNC was a party but to avoid this further drama, he would be amenable to a bifurcated or continued hearing date of the already scheduled April 16, 2022 JC hearing

to accommodate the LNC as at least some of its members *claimed* to be prejudiced by the early date in order to put a stop to this continued stalling tactic.

In an official legal action in Virginia, tolling may be permissible if a different action was filed within the statute of limitations and was disposed of in a manner that didn't preclude a new action from being filed. This is directly analogous here. In Massachusetts, it is permitted if a plaintiff is affirmatively misled in some manner causing delay (such as in this matter, the frivolous delaying tactic of the LNC that they were not an interested party and the clear prior JC ruling that items such as the Bowen Resolution are absolutely in order); excusable ignorance (in this matter there ARE no explicit rules on time limitations on filing an appeal of constructive disaffiliation and there was no notice delivered by the LNC); or filing within the proper time period but failing to file an effective pleading (which could apply in this matter if the JC feels that the constructive disaffiliation should have been rolled into the other appeal rather than done as a two-step process).

Appellant would note that even a JC member (Tom Arnold) saw political agendas and a lack of good faith as the underlying motivation of at least the LNC Chair's ruling that was the basis of the first appeal as follows:

> *LNC Chair Whitney Bilyeu then made a statement relating to the danger of turning over the LNC to the Mises Caucus. This led me to believe that her ruling was not made in good faith with the bylaws. It was motivated by a personal political agenda.*

Ms. Mattson noted that the LNC Chair further mischaracterized the nature of the prior *Delaware* ruling. Appellant would note that JC Chair Ruwart had multiple prior email exchanges with the LNC Chair correcting her continued public misrepresentations of the ruling. At some point, it is reasonable to think these "misunderstandings" are deliberate.

**6. Ultimate irrelevance of the potential for impossibility of this appeal being heard before this month's national Convention**

While it might be impossible for the JC, as currently constituted, to resolve the matter depending on whether or not it interprets the hearing time frames mandated in the bylaw on express disaffiliation as applicable here (*i.e.,* there cannot be a hearing any earlier than twenty (20) days from receipt of appeal), it is eminently possible for the JC as a continuing standing committee to deal with this issue after this convention as it does not cease to exist though some constituent members may change via the end of their terms of office. Further, as of this filing, the affiliates of Region 8 have determined that the *Cordio Committee* can enter into a regional agreement with them. Likewise, the Credentials Committee determined that the set of delegates submitted by the *Cordio Committee* should be added to the roll of delegates, and there is a very high likelihood that the convention will choose to seat these delegates in any challenge of their determination (and yes it does matter who is listed in the report despite any inevitable

challenge as those are the delegates that are the presumptive delegates who can vote in any challenge but their own which makes the LNC interference even more inappropriate as such things can impact if some of the LNC retain their seats). Neither of these groups is answerable to the LNC and both acted well within their own independent authority.

The *Graham Committee* could claim that these two (2) bodies have constructively disaffiliated it (though that claim would be tenuous, it could be made). Even now, this issue still is here, absent a JC ruling, and is not going away. The JC, under the principle of being able to determine when constructive disaffiliation exists, is able to adjudicate this matter. It can, effectively, "call balls and strikes," especially when different organs within the Libertarian Party reach different conclusions relating to affiliates. Further, there is high likelihood that a future LNC will consider and adopt the Bowen resolution cited in the first appeal recognizing the *Cordio Committee*. Even if the next LNC Chair ruled that the LNC precedent of that resolution being out of order is binding, that ruling could be overturned on appeal. No matter what happens, there will still be an actionable item before the JC until this issue is resolved and both claimants have resolved to persevere until it is.

## 7. Arguments Drawn from Background Facts and Procedural Patterns

There is no dispute merely because some random person or group claims there is: at least some credible *prima facie* proof is needed. The *Cordio Committee* has provided such proof laid out in the Updated Timeline with supporting documents attached thereto. The elephant in the room is an open disagreement in the Party over its future direction. This is typical, and to a certain extent, healthy. What is unhealthy are the attempts to win the internal conflict through Machiavellian and undemocratic means and invective. No "side" is innocent of unfortunate rhetoric, but one (1) particular segment routinely uses sweeping accusations that are despicable in any context (despicable about the subjects if true; despicable to make about anyone if not true) without proof. This whole affair is about trying to stop a particular caucus because some people do not like their goals.

As Ms. Mattson noted in her opinion on the first appeal:

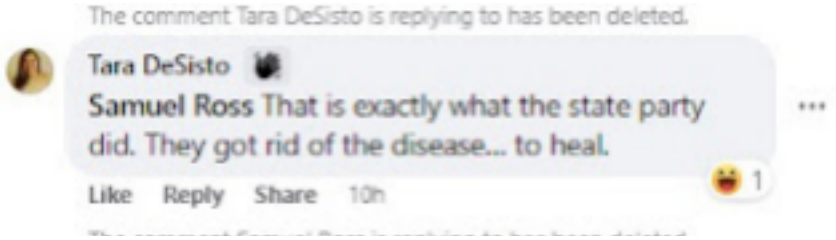
> *Various members of the Shade group have argued the cause for the expulsion was for signing the petition for a special convention, as it was an effort by a caucus within the party to earn leadership seats. Most caucuses in the party desire to elect their caucus members to a majority of seats at various levels of party leadership, and this is nothing new or inherently improper. It is how political movements work.*

### *a. The alleged legitimacy of Graham Committee is entirely dependent on the legitimacy of Shade Committee up through April 23, 2022*

The actions of the predecessor to the Graham Committee were blatantly *Ultra Vires.*

**Ultra Vires Definition:** A Latin term that describes acts outside the permissible scope of authority given by a non-profit entity's governing documents which cannot be ratified by the Board. This common law doctrine has been statutorily abolished in most jurisdictions for "for profit" entities but remains in effect for non-profit and tax-exempt entities. Groups that engage in political activities are often given as an example. Though this is outside the scope of the Judicial Committee, individual Board members can be held personally responsible for *ultra vires* acts in some circumstances. (ref: https://charitylawyerblog.com/2010/07/14/nonprofit-law-jargon-buster-ultra-vires-acts/#:~:text=First%2C%20there%20is%20a%20doctrine,be%20ratified%20by%20the%20board ; https://en.wikipedia.org/wiki/Ultra_vires; https://www.americanbar.org/content/dam/aba/administrative/business_law/corplaws/2016_mbca.authcheckdam.pdf for just some of the information on the topic though obviously the Appellant is not a lawyer in this matter nor claims to be offering legal advice or opinion.)

The *petitioning members* followed every LAMA rule to the letter until such point that the *Shade Committee* blatantly breached its own Constitution after which time they made all possible good faith attempts to follow every rule within the power they had without the needed (and Constitutionally-required) cooperation of the *Shade Committee*. In fact, the *Shade Committee* actively obstructed the organization and calling of the special state convention, engaged in defamation of the petitioners for the special convention, and expressed complete disinterest to the LNC about the grievances of the *petitionary members* with *Shade Committee* member Ms. DeSisto referring to them as a disease.




The *Shade Committee* cannot be allowed to object to any technical deficiencies that were willfully caused **by its own actions** and then use any such deficiencies it caused to justify its own legitimacy nor can the *Graham Committee* do likewise. (For example, the failure of the *Shade Committee* to send out the Constitutionally-required notice is not a failure of the *petitioning members of LAMA,* who used every means at their disposal to provide notice, including adjourning their Special Convention to a later date to give further time for notice and pleas for assistance to the LNC-which pleas fell on deaf ears.) Such logic would be giving a green light to simply ignore Constitutions and Bylaws to usurp power away from membership any time any affiliate leadership did not like the decisions that the membership made and simply say "too bad, so sad" as long as such action occurred within six (6) months of a national Libertarian Party convention so that it could rig its delegation to keep itself, and potentially an LNC that would assist

in rubber-stamping its rogue activities, in power. This turns the very idea of Libertarian justice and equity on its head and makes us no better than the corrupt legacy parties.

The Party, at all its levels, is ultimately its members. No representative leadership can simply usurp that identity by summarily expelling any members that are unhappy with leadership and uses rights granted them under an affiliate's governing documents to hold free and fair elections to replace/recall said leadership if the membership so votes. Further, to then claim that a desire to lawfully and orderly replace the leadership through a recall election was aggression against the state committee is a perversion of Libertarian principles and outrageously compounded the offense. To paraphrase our country's framers, our own national Constitution can only stand if the people utilizing it act morally as it is wholly inadequate to deal with people who will simply disregard it with impunity.

The same principle is true for any rules, including Party governing documents and parliamentary law. It presumes good faith otherwise they will simply grant *carte blanche* authority for wolves to devour the sheep by simply saying "so what" when the rights accorded therein are asserted. What the *Shade Committee* has done is create its own social club and constructively cease being an affiliate of the national Libertarian Party as a political organization that does not discriminate against peaceful persons that hold to and embody the principles contained within the Statement of Principles, in a manner eerily similar to the actions of Will McVay in the *Delaware* matter. It has committed a form of fraud against its members by offering membership on certain terms and conditions, and then denied its own obligations to those members and their rights in bad faith. The black letter of rules is wholly inadequate to deal with bad faith actors in a civil and moral world, and principles of fairness and equity must come into play. There is not enough room on the planet to hold a set of rules that can anticipate every action of bad actors.

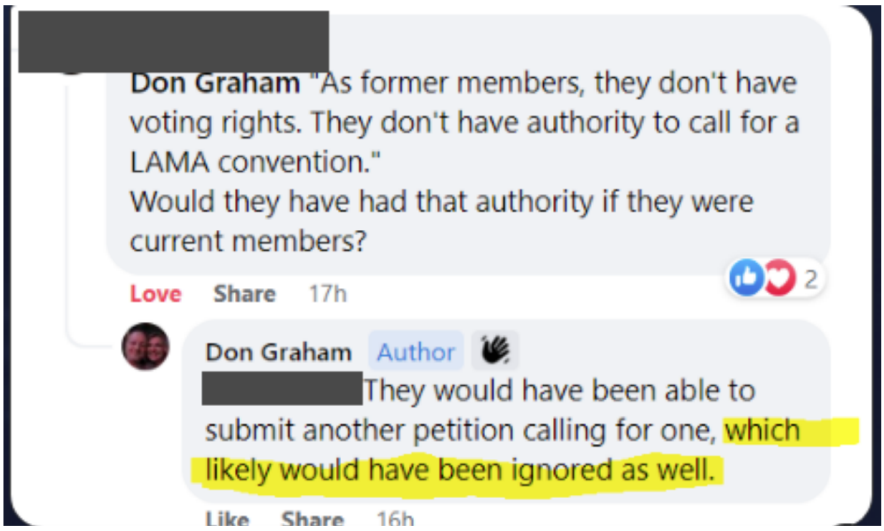
**The moment that the *Shade Committee* refused to call the special convention, it engaged in a continuing breach of its Constitution, and its membership had the right to organize to bring the organization under a leadership that would honor its governing documents and its membership, and the former leadership has forfeited any grounds to object.**

The *Shade Committee*, through its chosen representative Cris Crawford, did not dispute the basic facts asserted by the *Cordio Committee* and the *petitioning members* as having transpired as of the January 23, 2022, LNC meeting other than risible denials, without any factual support, that their actions violated member rights. Her testimony to the LNC is both enlightening and starkly chilling. The Appellant respectfully requests that the JC review that meeting which can be listened to here: https://youtu.be/07G9vxsrH8M.

The *Graham Committee* is now primarily represented by its purported Chair Don Graham. While the Appellant greatly appreciates the quandary that Mr. Graham finds himself in and notes that he was not part of the offending State Committee that

conducted the egregious acts that are underlying this whole unfortunate affair and thus is innocent of those acts, he cannot simply ignore that they happened and conduct himself as if there is now some clean slate in which he is the legitimate Chair. The LAMA Constitution provides that a certain number of members can petition for a special convention as long as an agenda is provided after which a special convention MUST (not optional) be called by the State Committee. The requisite number of members did so. The State Committee then not only refused to do its duty, it instead expelled all of the signatory members in an act that was, as aptly stated by LNC Vice-Chair Ken Moellman in his Amicus Brief filed in the first appeal, **"simply awful."**

Mr. Graham has claimed that **at that time** only the *Shade Committee* could have called a different special convention after submission of a new petition after its refusal to honor the prior proper request and its subsequent expulsion of the *petitioning members* and that such new petition would have to be made by other than the improperly expelled members. Why? So they too could be expelled? Cris Crawford already made it clear at the January 23, 2022, LNC meeting that the desire was to purge all the alleged Mises Caucus members or their "sympathizers" and actually stated something very close to "it wasn't as if they were going to give us their membership list."




The Appellant wants to be very clear to the JC that he believes that Mr. Graham was not making any statement about the present purported leadership. This context involved the *Shade Committee.*

The *Shade Committee*, knowing that members were unhappy and wanted to let membership have the opportunity to replace them (or retain them, something that is rarely mentioned), instead just ignored their own Constitution to retain their power. To be sure these same members could not just replace them with other members that the *Shade Committee* did not like at the next annual Convention, they expelled the *petitioning members* so they could have no future say unless they kissed the ring of the *Shade Committee* and begged to be let back in as long as they could prove they were

the “right kind of Libertarian” that would never dare again to commit “petition aggression.” That last statement is not an exaggeration. Tara DeSisto, a member of the *Shade Committee*, prior to the mass expulsion made this statement to one (1) of the *petitioning members:*


State Committees, like the Chair or presiding body of any assembly, cannot simply ignore a properly made motion or petition. RONR and general parliamentary law permit “putting the question from the floor” which is in principle what the two (2) allegedly expelled State Committee members did in calling the Special Convention themselves after exhausting every opportunity to work with the State Committee and asking the assistance of the LNC. If that Special Convention was valid, and the Appellant firmly believes it was, Mr. Graham is not the Chair of LAMA as the terms of the *Shade Committee* ended at the Special Convention, and they had no authority to call and/or conduct the annual Convention at which he was purportedly elected.

**b. Assuming ONLY for sake of argument that the Special Convention was invalid, the Graham Committee’s alleged legitimacy rests entirely on the legitimacy of the alleged annual Convention on April 23, 2022**

As Vice-Chair Ken Moellman has stated multiple times, an affiliate is ultimately its members. However, it is impractical to have the entirety of membership govern an affiliate so a board (no matter what name is used in the various affiliates) with officers is given custodianship of and responsibility for its direction and management between regular conventions subject to its governing documents. But the members in convention ultimately express their will that guides the course of the affiliate until the next convention, most powerful through the election of the governing body. Expulsion is the most severe penalty that can be imposed on any member as it deprives them of every right to express their will through their votes and should never be countenanced if it is a barely disguised purge in order to keep certain people in power.

A convention that is essentially rigged by a mass pre-crime purge of members known to oppose the current leadership **because they oppose the current leadership or are "suspected" to belong to a particular Libertarian caucus** (despite other ever-changing and flimsy pretexts) is a sham because the essential nature of a convention is to hear from the membership through their votes. If leadership can just choose their favored members, they have not just governed the affiliate between conventions, they are controlling the outcome at convention through illegitimate and abusive gate-keeping and disenfranchisement. It brings to mind that famous quote of Henry Ford, "Any customer can have a car painted any color that he wants, so long as it is black."

At the risk of repeating the fact pattern of the mass expulsion of 47 LAMA members *ad nauseum*, it needs to be faced for the "simply awful" power grab and abuse it was and remains:

On December 19, 2021, LAMA membership submitted a petition with an agenda for a special convention to conduct a recall election of the LAMA State Committee. This petition contained greater than the 10% of valid member signatures required for a special convention in accordance with Article 2, Section 5 of the LAMA Constitution. That same provision provides that if those conditions were satisfied, the State Committee MUST call the special convention and could not change the agenda but could append items thereto. Instead of fulfilling the requirements under its Constitution, members of the *Shade Committee* publicly defamed the *petitioning members* and ultimately, on January 10, 2022, held a secret session without notice of what business would be considered and expelled *en masse* all of the *petitioning members* in violation of basic member rights, due process, and Article 1, Section 3 of the LAMA bylaws, which allow for expulsion of "a person from membership" (not mass expulsions) via secret ballot (not a secret meeting without any notice to the targeted members) for "cause." "Cause" may be broad but one thing it cannot be in a Libertarian Party–these members exercised their rights under the Constitution to peacefully express their unhappiness with the current leadership using a democratic process and belong to a peaceful caucus the current leadership doesn't like.

Often overlooked or downplayed is the fact that two (2) of the wrongly expelled members (Janel Lynn and Charlie Larkin) were then current members of the *Shade Committee* who were given no notice of this intent to consider their expulsion and absolutely no opportunity for due process in express violation of Article 4, Section 10 of the LAMA Constitution. State Committee member Janel Lynn was able to enter the meeting and cast the sole negative vote (the final vote count was 6-1-0 out of a purported nine (9) person committee). Charlie Larkin allegedly had connectivity issues which was reason enough to adjourn to a later time or date. Tara DeSisto was absent and makes much of that fact but neglects to disclose that she voted against reinstating all of the purged members in future votes and to handle any expulsions one (1) at a time and with due process. To add insult to injury, at least one (1) of the members of the *Shade Committee* (Andrew Moore) that participated in the secret agenda-less meeting and cast a vote in favor of expulsion was unquestionably disqualified from holding that

position as he had not been a resident of Massachusetts for close to a year in violation of Article 1, Section 1and Article 4, Section 8 of the LAMA Constitution.

Further the Appellant holds that State Committee Chair Ashley Shade was also disqualified due to Massachusetts General Law - Part I, Title VIII, Section 5A which prohibits candidates for, and holders of, elective public office from serving as a principal officer of a political action committee as follows:

> *No candidate or individual holding elective public office shall establish, finance, maintain, control or serve as a principal officer of a political action committee; provided, however, that each of the following may authorize one such political committee to which this section shall not apply: a majority of the members of each political party who are members of the house of representatives, and a majority of the members of each political party who are members of the senate.* (https://malegislature.gov/Laws/GeneralLaws/PartI/TitleVIII/Chapter55/Section5A)

It is undisputed that LAMA is organized with the state of Massachusetts as a political action committee and that Shade was a candidate for City Councilor in North Adams and likely had already assumed office as well by the time of that vote. (https://www.wamc.org/news/2022-01-01/north-adams-swears-in-new-city-council) Shade resigned AFTER adjournment of that meeting that same night although she was previously informed of her disqualification of which she claimed to be unaware.

IF both Moore and Shade were disqualified from holding positions on the *Shade Board*, the *Shade Committee* only comprised seven (7) members at the time of this purported mass expulsion vote. Article 4, Section 10 of the LAMA Constitution also requires a ⅔ vote of the **entire State Committee** for removal of any State Committee member. Both Moore and Shade voted in the affirmative as part of the 6 “aye” votes (despite it being a secret vote, those present are known, there were no abstentions, and the sole no vote was Janel Lynn). If those votes are removed, and the actual size of the State Committee adjusted to seven (7), the vote becomes 4-1-0 which is NOT ⅔ of the entire State Committee. Even if Shade remained legitimately in her seat, the State Committee would be adjusted to eight (8), the vote count adjusted to 5-1-0 which is still NOT ⅔ of the entire State Committee. If the expulsions of those two (2) State Committee members was invalid, this too would be a continuing breach of the Constitution and invalidate any State Committee vote made since that day.

*Shade Committee* member DeSisto calling a recall petition aggression as a manufactured justification for removal does not make it so, any more than someone claiming that she is Queen Elizabeth II will grant her access into Buckingham Palace. While the comparison is humorous, the actual claim by Ms. DeSisto is the death of liberty which logically could denounce the First Amendment right to petition the Government for redress of grievances as a potentially treasonous aggression. There are no brakes on the car careening down the road of *“mere opinions and words I don’t*

*like are aggression."* Unfortunately, this road was paved by the LNC and many of its members who have advocated exactly that doctrine or variations thereof. The next time, it will be even worse because as long as this anti-Libertarian dogma is used to punish the "out group" of the day and given a pass, greater violations are easier as the internal Overton Window is pushed towards the fashionable oppressive woke-ism of the culture rather than Libertarianism: towards collectivist purges that redefine founding Party principles, with leadership claiming that they ARE the Party itself and can decide who everyone else can associate with and insure that the membership agrees with them by making agreement with them the precondition to be a member. No circle was ever rounder.

The voting rights of members is part of the *sine qua non* of membership. If persons were invalidly expelled (and the fact that the number of persons allegedly expelled were more than the number of people who attended the purported annual Convention of the *Shade Committee* which was also behind a $60.00 at-the-door/$30.00 early bird paywall to participate in business is also quite damning) and thus denied their voting rights, this constitutes a continuing breach of the Constitution and Bylaws under which no actions taken are valid. Thus, if the members were invalidly expelled, all actions taken at the annual Convention, including the election of delegates, changes to the governing documents, and the election of a new State Committee are null and void even IF the expelling *Shade Committee* was still in power and somehow the illegitimate expulsions of Lynn and Larkin didn't invalidate every decision made by *Shade Committee* since January 10, 2022.

**c. The Shade Committee had no authority to summarily rule the petition out of order at a State Committee meeting**

If the petition was allegedly out of order due to an issue in its agenda, as long as the rules for submitting the petition in the Constitution were followed (which they were), the special convention MUST have been called, and then the presiding officer could rule the agenda out of order immediately after opening gavel giving the affected members the right to appeal from the ruling. This is also basic parliamentary law. However, the agenda was NOT out of order, and Appellant expressly adopts the reasoning of JC Member Mattson in her opinion in the first appeal on this issue contained on pages 9-11. There have been multiple other excuses given in the past but as they seem now to be abandoned by the *Shade Committee* and the *Graham Committee*, the Appellant will not address them unless they are resurrected in this appeal.

The LAMA membership was denied any opportunity to interpret its own documents via an appeal from a ruling of the Chair.

***8.*** **Has the LNC in fact "constructively disaffiliated" the Cordio Committee or has it remained consistently and staunchly neutral?**

Every action of the LNC since it first learned of the impending controversy to the time it became obviously ripe with the election of the *Cordio Committee* has been at best a *de*

*facto* (and at worst open advocacy for) recognition of the *Shade Committee* and then the *Graham Committee* over the *Cordio Committee* with occasional nods to neutrality. Most significantly, all the duties and obligations that the LNC has towards its affiliates as detailed in Appendix A of the majority opinion in the *Delaware* matter have not been directed towards the *Cordio Board* but have been, where applicable, towards the *Shade Committee* and the *Graham Committee*.

LNC Policy Manual provision 3.02(2) adds additional obligations upon the LNC to its affiliates regarding data. While it is true that the LNC does at times provide data to other persons/groups such as candidates, the Policy Manual creates specific obligations toward *affiliates.* For example:

> *The CRM exists as a service to maintain and share data of members, donors, and leads between LPHQ and state-level affiliates.*
>
> ***
>
> *For states not participating in the CRM:*
>
> *On a monthly basis, LPHQ will provide all officially recognized state-level affiliates with an encrypted file containing membership and lead data in CSV or Excel format for the area covered by that affiliate, within the first five (5) business days of the month to the affiliate chair, or their designee(s); provided that the recipient has signed the NDA.*

The *Cordio Committee* has been offered none of these services which were provided to the *Shade Committee* and now the *Graham Committee.* Similarly, the *Cordio Committee* has not been offered the opportunity to participate in the joint membership program established in the Policy Manual, and the official listing of the state affiliates on the national Party website includes a link to the *Graham Committee-controlled* website, with no disclaimer or caution, which solicits donations under the auspices of being the official affiliate. Why would any prospective new member question this? It is on the official national website after all.

The Appellant incorporates by reference the earlier detailed request by At-Large Representative Richard Longstreth under the authority of his position and using his official Party email asking the Credentials Committee to pull the list of delegates submitted by the *Cordio Committee* ideally in favor of those submitted by the *Graham Committee* about which he explicitly stated that **the LNC continues to recognize the legacy LAMA organization and their status as the state affiliate**. (https://groups.google.com/a/lp.org/g/lnc-business/c/HP0eESgID0c/m/7EoVYW2zAQAJ). While Mr. Longstreth is neither the Chair nor anyone with any authority to speak for the entire LNC, no one on the LNC challenged that statement so it remains unrebutted. Unlike Mr. Longstreth, Ms. Bilyeu who does carry the authority to speak for the entire LNC

subject to any directives issued by the LNC, accepted an expense paid trip from the *Shade Committee* to their purported annual Convention on April 23, 2022, and did appear in her position as the Party Chair for that group. Lastly, the LNC Response to the first appeal bluntly stated that they recognize the *Shade Committee.*

The above clearly fall within the prohibition stated in the majority *Delaware* opinion **if the *Cordio Committee IS the rightful representatives of LAMA**, as stated:*

> *LP Bylaws Article 5.6 requires that disaffiliation may only happen with a specified supermajority of the LNC adopting a motion to do so. That inherently means that the LNC is not allowed to effectuate a disaffiliation in some other way, such as refusing to recognize the actual affiliate officers and instead treating others as though they were the affiliate officers.*

Any claim that neither the LNC or the JC can figure out if the LNC is engaging in bylaws-prohibited constructive disaffiliation turns the bylaws into an incoherent mess, in their entirety, as they comprise much more than the phrase “shall not abridge the autonomy of an affiliate” which keeps getting repeated (and misquoted as “shall not interfere in the autonomy of the affiliate”)like some kind of magic incantation that instantly makes all the obvious glaring contradictions disappear. It is ironic to point out that the LNC cannot know if they are abridging the autonomy of an affiliate **unless they know basic identifying facts about the human beings that are the personal contacts between the LNC and the affiliated entity.**

Appellant would note again that the *de facto* LNC recognition of the *Shade Committee* and the *Graham Committee* is in direct conflict with the **express** recognition of the *Cordio Committee* by the Libertarian Parties of Connecticut, Maine, New Hampshire, New Jersey, New York, Rhode Island, and Vermont via the execution of the 2022-2024 Region 8 agreement with the *Cordio Board*, and the LAMA subaffiliates of Pioneer Valley, South Shore, Worcester, and Middlesex. In yet another irony the oft-cited bylaw that the autonomy of an affiliate shall not be abridged by the LNC says more than just that. It also includes a prohibition on abridging the autonomy of sub-affiliate parties. Ensnared by their own Kafka trap, the LNC is now abridging the autonomy of the above subafffiliates by presuming to tell them which State Committee they must recognize as legitimate if they are consistent.

## 9. Interpretative Principles

It is clear that there is a rift on the JC on how to interpret the national bylaws. Appellant does not believe there is such a rift in the bylaws properly interpreted or in the Party at large to whom even the bylaws are answerable as written.

Once again quoting the majority in the *Delaware* ruling:

> *RONR 56:68(2) provides that when interpretation is necessary, a not-absurd interpretation option must be chosen over one which "renders absurd another bylaw provision." The Appendix A references do not have any clauses which say "unless there is a dispute over who the affiliate officers are." A decision must be made in order to faithfully comply with these bylaw provisions.*

It has been said by persons of good faith that the bylaws must be obeyed even if they lead to a conclusion that is patently unjust. That reduces the purpose and context of the bylaws to a grotesquery. These are not bylaws floating abstractly in space. They are bylaws written in a *Libertarian* context by *Libertarians* to govern a *Libertarian* organization and culture. To ignore that is like reading texts which are heavily steeped in a specific ethnic culture with its own idioms and sensibilities through a distinctly modern majority American lens which will lead to absurd interpretations. No one would want some future interpreter of our culture to think we put kennels on our head every time it rained heavily. This is the art and science of *exegesis.* If there are two (2) possible interpretations of *Libertarian* governing documents, one (1) of which leads not only to injustice, but the type of injustice that is particularly loathsome to Libertarians (like thinking the highest authorities in the national Party have to leave people who are victims of disenfranchisement, collectivist purges, and rank authoritarianism without any recourse for justice because of some magical six (6) month window where those in power can indulge in all these things with impunity analogous to *The Purge*) and the other allows justice: the one (1) that is patently unjust is monstrously and obviously incorrect as a perversion of everything we stand for, and the other is correct. There ARE obviously these two (2) possible interpretations as has been argued by highly intelligent people of good faith. The absurd and unjust interpretation is starkly wrong despite being superficially plausible.

**10. Brief additional comments following review of the opinions in the first appeal**

Most of the information that Appellant wished to reference from the JC opinions on the first appeal have been incorporated above but there are some that don't fit neatly elsewhere but still need to be addressed.

JC Member Moulton appears to blame the *petitioning members* for their own wrongful expulsion because:

> *The Mises Caucus would almost certainly have succeeded in taking over LAMA if it waited 2 months for the regularly scheduled state convention. Unfortunately, a lack of patience and basic political etiquette led them to jump the gun employing a probably legitimate but incredibly controversial special convention procedure to wrest control of the organization slightly early.*

Dr. Moulton appears to be forgetting multiple key facts. More than half of the *petitioning members* had nothing to do with the Mises Caucus and have stated their motivations which directly contradicts his statement. The *Shade Committee* had engaged in what they saw as increasingly authoritarian actions starting with the expulsion of a member for "word aggression" (they stated that social media trolling was actual aggression) and then passing a "Code of Conduct" which seemed to them to be designed to be used as a weapon to conduct more expulsions. Expelled members cannot vote. With all due respect to Dr. Moulton, Appellant finds this statement incredibly myopic and demonstrates a failure to listen to what the *petitioning members* have actually said, unless he does not believe they are truthful, but if that is the case, then say it outright.

Further, this statement was simply downright inappropriate to say of over two hundred (200) national Party members:

> *Chair Bilyeu is also correct that petitioners have not alleged any bylaw was violated to trigger an avenue for appeal under LP Bylaw 7.12. In fact, it is the reverse: petitioners are annoyed that the LNC is actually following the bylaws.*

It is understandable that frustrations and emotions run high in these matters and often it becomes necessary to come to distasteful conclusions about motives of individuals or smaller groups, but a collectivist statement about the motives of over two hundred (200) dues-paying members of this Party should never have been made. Appellant believes this was a statement made in haste as we all can do rather than presuming the worst. In a few short years, when this issue is long settled, the wounds inflicted can live on.

Additionally, Dr. Moulton claims that state affiliates are lining up to submit their internal bylaw and leadership disputes to the Libertarian National Committee and to the Judicial Committee to which the Appellant asks, who? It should be easy to produce a list if this is correct.

Finally, the opinion of D. Frank Robinson, a revered and beloved figure in this Party, seemed to be about something that was never argued by any of the interested parties thus far. No one has claimed this was an express disaffiliation. And if the LNC is not allowed to recognize legitimate changes in leadership in the six (6) months prior to the national Convention, then any affiliate which has its conventions in that time frame cannot have its elections recognized. Mr. Robinson may rebut that recognizing the results of conventions is routine. Where does it say that in the Bylaws? Is the LNC just to take the word of Xi Jinping (to use an example from Ms. Mattson) that they are the newly elected chair if they happen to notify the LNC before anyone else can? This is the equivalent of Ms. Mattson's pointed question to Will McVay whether white text giving meeting details on a white background would constitute valid notice.

If our interpretation of our bylaws leads to conclusions that there is a six-month "open season" for leadership to do as it pleases in violating express member rights, there is

something flawed about our interpretation no matter what *bona fides* we have in the Party formation and the gratefulness that so many members feel.

## 11. Requested Ruling and Relief

*The Appellant requests that the Judicial Committee recognize the State Committee presently led by Andrew Cordio thus rendering null and void the constructive disaffiliation of the Massachusetts affiliate by the LNC and any other related relief that the JC feels just and proper.*