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Mr. William Redpath, Chair
Libertarian Party
2600 Virginia Avenue, N.W. Suite 200
Washington, D.C. 20037

Dear Mr. Redpath:

This letter constitutes our professional opinion as parliamentarians concerning the following questions with regard to the Libertarian Party:

1. "Does any provision of the Libertarian Party bylaws, of its rules, or of its parliamentary authority, *Robert's Rules of Order Newly Revised*, prohibit charging delegates a convention registration fee?" In our opinion, the answer is no.
2. "Does the National Committee have the authority to set a convention registration fee?" In our opinion, the answer is yes.
3. "If the National Committee has the authority to set a convention registration fee, and it does so, can that decision be overruled or rescinded by vote of the delegates at a convention?" In our opinion, the answer is no, unless the delegates do so by adopting a bylaws amendment.
4. "Is there any basis for the Judicial Committee to override the LNC's decision to establish a convention registration fee?" In our opinion, the Judicial Committee would have jurisdiction to review such a decision, but, on the basis of our analysis in response to the first two questions, ought not to override it.

This opinion is based on the Libertarian Party Bylaws and Convention Rules, as adopted in convention May 2008, and on the current edition of

Robert's Rules of Order Newly Revised (RONR),¹ which is the Party's adopted parliamentary authority (Bylaws Article 13).

Our qualifications for providing this opinion are that we are both members of the authorship team for the current edition of RONR, have been accorded the status of Professional Registered Parliamentarians (PRP) by the National Association of Parliamentarians, and have each served as Parliamentarian for the National Association of Parliamentarians.

1. Does any provision of the Libertarian Party bylaws, of its rules, or of its parliamentary authority, *Robert's Rules of Order Newly Revised*, prohibit charging delegates a convention registration fee?

No provision in the Libertarian Party bylaws or rules specifically addresses charging delegates a convention registration fee. In Article 11, Section 3(a), the Bylaws state (in relevant part), "At all Regular Conventions delegates shall be those so accredited who have registered at the Convention. At all Non-Regular Conventions, any person who wishes to attend may do so." In the chapter on conventions, RONR notes that "Registration . . . normally includes these steps: . . . c) Recording of the member as officially registered, upon his paying the registration fee . . ." RONR (10th ed.), p. 593, l. 13, 18-19. The common and ordinary understanding, recognized by the parliamentary authority as legitimate by the reference just cited, is that those who attend a convention will help cover the costs of it through payment of a registration fee.

On page 555, lines 2-4, RONR states, "Members cannot be assessed any additional payment aside from their dues unless it is provided for in the bylaws." RONR (10th ed.), *Webster's Third New International Dictionary* defines "assessment," as here relevant, as "a levy made on members of an organization (as a club or union) for a special purpose not covered by dues."

Article 5 of the Libertarian Party Bylaws, entitled "Membership," defines a "sustaining member" to be "any Party member who has given at least \$25 to the Party in the prior twelve months, or who is a life member" (Section 3), provides that "Only sustaining members shall be counted for delegate

¹ Henry M. Robert III, William J. Evans, Daniel H. Honemann, & Thomas J. Balch, *Robert's Rules of Order Newly Revised*, 10th ed. (Cambridge, Ma.: Perseus, 2000).

apportionment and National Committee representation”(Section 4), and states that “The National Committee may create other levels of membership and shall determine the contribution or dues levels for such memberships.”

The meaning of the cited RONR sentence on page 555 is that members cannot be assessed any additional payment AS MEMBERS unless the bylaws so provide. For example, an organization could not decide by majority vote that, as the clubhouse needs a new roof, a special assessment of \$ X, over and above dues, would be imposed on all members. However, this does not preclude charging special fees for particular events which members may, but are not compelled to, attend. For example, if a special dinner dance were held, open only to members, the prohibition on page 555 would not preclude requiring those who wished to attend to buy tickets. By the same analysis, charging a convention registration fee designed to recoup the costs of holding the convention to members attending it would not, in our opinion, violate the prohibition on page 555.

If the sentence were instead interpreted to mean that the organization could never charge members any fee over and above their dues, that interpretation would produce an absurd result. It would mean, for example, that if the organization produced publications or other items for sale, members could obtain them—presumably in unlimited quantity—for free, and only non-members could be charged.

2. Does the National Committee have the authority to set a convention registration fee?

Article 8(1) provides, “The National Committee shall have control and management of all the affairs, properties and funds of the Party consistent with these Bylaws.” Article 7 (4) refers to the “National Committee's plenary control and management of Party affairs, properties and funds.”

RONR (10th ed.), p. 588, l. 22-25, states, “The work of organizing and preparing for a convention . . . involves many committees, under the general direction of the officers and board of the association.” The clear implication is that it is the board of an organization – which, for the Libertarian Party, is its National Committee – that has ultimate authority in “organizing and preparing

for a convention.” This necessarily entails entering into contracts or other arrangements for the meeting space for the convention and engaging for the services and materials needed to conduct it, which involves adopting the convention budget (either separately or as a part of the general organization’s budget). In the absence of superseding provisions in the articles or bylaws, this general authority logically encompasses the setting of fees, for example for exhibit booths, meals, or entertainment events associated with the convention, and equally logically entails setting the convention registration fee. Cf. RONR (10th ed.), p. 593, l. 13, 18-19 (referencing convention registration fees), as cited above.

3. If the National Committee has the authority to set a convention registration fee, and it does so, can that decision be overruled or rescinded by vote of the delegates at a convention?

In many organizations, the convention of delegates is the highest authority in the entity, and the board generally has authority only in between its meetings, subject to the convention’s instructions and the convention’s ability to rescind or amend any action taken by the board – perhaps with the exception of certain specified authorities reserved by the bylaws to the board.

Under the Libertarian Party bylaws, however, this is not the case. On the contrary, it is the National Committee which is given “control and management of all the affairs, properties and funds of the Party consistent with these Bylaws” (Article 8, Section 1), indeed “plenary control and management” of them (Article 7, Section 4). By contrast, the bylaws give a convention no such general authority, but only specific enumerated authorities, such as to elect Party officers (Article 7, Section 1), at-large members of the National Committee (Article 8, Section 2b) and members of the Judicial Committee (Article 9, Section 1), to nominate candidates for President and Vice-President of the United States (Article 12, Section 1), to adopt the party platform (a power not stated in so many words, but implicit in the provision for a convention Platform Committee, Article 11, Section 7b; cf. Convention Special Rules of Order Rule 7 & RONR [10th ed.], p. 617-18), and to amend the Convention Special Rules of Order (Article 11, Section 9).

The convention indeed has a particularly important enumerated power,

and that is to adopt bylaws amendments by a two-thirds vote (without a requirement for previous notice of any proposed amendment). It follows that:

a) lacking any general supervisory power over the National Committee, the convention has no authority to countermand a convention registration fee set by the National Committee, but

b) through adoption of a bylaws amendment by a two-thirds vote, the convention could preclude or regulate convention registration fees and could even require the refund of fees previously collected.

4. Is there any basis for the Judicial Committee to override a decision by the National Committee to set a convention registration fee?

This question has two elements – whether the Judicial Committee would have the authority to review a decision by the National Committee to set a registration fee, and, if it has such authority, whether it would have substantive grounds to overrule such a decision.

Article 8, Section 11 states, “Upon appeal by ten percent of the delegates credentialed at the most recent Regular Convention or one percent of the Party sustaining members the Judicial Committee shall consider the question of whether or not a decision of the National Committee contravenes specified sections of the Bylaws. If the decision is vetoed by the Judicial Committee, it shall be declared null and void.” See also Article 9(2)(d). This language is unequivocal; provided that the jurisdictional requirements are met (that 10 % of the previous convention’s delegates or 1% of sustaining members appeal, and that they cite specified sections of the bylaws), the Judicial Committee is given full authority under the bylaws to rule on the validity of National Committee decisions, with the ability to declare them null and void. It follows that in a proper case the Judicial Committee could entertain a challenge to convention registration fees set by the National Committee.

Whether the Judicial Committee, if such a case comes before it, would have a substantive basis to override a decision of the National Committee to set a convention registration fee depends upon the proper interpretation to be given to the Libertarian Party’s bylaws and, based on its adoption in the bylaws, the Party’s parliamentary authority as modified by any superseding special rules of order. Our answers to the first two questions give our professional opinion on

what that interpretation should be: namely, that the National Committee has the authority to set a convention registration fee.

We hope this opinion is responsive to your inquiry. Please do not hesitate to contact us to clarify it or with any questions or other matters concerning which we might be of service.

Very truly yours,

Henry M. Robert III, P.R.P.

Thomas J. Balch, P.R.P.