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**Robert and Jennifer Imhoff-Dousarm vs.
The Libertarian Party of California
Response to Imhoff “Response to Respondents Filed Documents”
Introduction**

The issue in this appeal is to “OVERRIDE PASSED MOTION BY THE EXECUTIVE COMMITTEE.” The motion in question was made in Executive Session of the August 10, 2019 Executive Committee 3rd Quarter meeting held at the Avatar Hotel in Santa Clara, California, and was to Suspend the State Central Committee Memberships of Jennifer and Robert Imhoff for “cause.”

Robert and Jennifer Imhoff-Dousarm, henceforth referred to as the “appellants” (referred to as “plaintiffs” in the Notice of Appeal submitted August 23, 2019) request that the Libertarian Party of California (LPC) Judicial Committee (JC) declare the Motion of Suspension, approved by a super majority of the LPC Executive Committee (EC), Out of Order “after the fact,” and therefore declare the action null and void.

Mimi Robson, LPC Chair, will be responding on behalf of the LPC, henceforth referred to as the “respondents” (Honor “Mimi” Robson, Chair – Libertarian Party of California was referred to as the “defendant” in the Notice of Appeal which is inaccurate).

Appellants “Investigation”

The respondents have received a document “Response to Respondents [sic] Filed Documents” on September 5, 2019. This response focuses on the respondents points in that response and will give answers to each item addressed.

“The Plaintiffs believe no formal investigation prior to attending the Executive Meeting on August 10th, 2019, nor while in Executive Session, . . .”

As noted in the Respondent’s Final Response, dated September 5, 2019, it was clearly stated that there was in fact no formal investigation prior to the August 10, 2019 meeting. Prior to the meeting of the EC only the appellants and the members of the Operations Committee knew what the agendized “Committee Investigation” was to include. This was done due to the severity of the allegations and was in an effort to insure that defamatory statements against the appellants could not be made publically prior to the full investigation.

The investigation and preferral of charges took place in the one hour and 44 minutes that the EC was in Executive Session as outlined in the respondent’s previous response.

*“1. An email was received from Joshua Smith (EC At-Large) on August 7th, 2019 to asking [sic] that Plaintiffs attend meeting to “review” a complaint by an **anonymous person**. That email clearly stated we were not required to actually attend the meeting.*

The email in question (which has been provided to the JC) specifically stated what the exact nature of the complaint was, as well as that it was received by party donors. In the appellants original complaint they pointed to RONR regarding investigation (the underlined portion below are the lines the appellants pointed to).

Under RONR p. 656, 34 through p. 657, 1 (emphasis added): CONFIDENTIAL INVESTIGATION BY COMMITTEE. A committee whose members are selected for known integrity and good judgment conducts a confidential investigation (including a reasonable attempt to interview the accused) to determine whether to recommend that further action, including the preferring of charges if necessary, is warranted.

During the investigation there is **no requirement** to interview the accused, but rather that a reasonable attempt is made to do so. Mr. Smith’s email was giving the appellants an opportunity to be involved in the investigation but was not based on an absolute requirement in either the LPC Bylaws or RONR.

“2. Mrs. Imhoff responded to email asking Mr. Smith call plaintiffs to provide further details of complaint, so we may be better prepared. Mr. Smith never called or emailed back.”

Although the respondents can’t speak to what Mr. Smith personally received, the respondents do not have any evidence that any such email was sent to or received by Mr. Smith or any other member of the Operations Committee. The email sent to the appellants by Mr. Smith was copied to all members of the Operations Committee (opscom@ca.lp.org) and the only response received by Mrs. Imhoff seemed to be clear she was aware of what the issue was and would bring documents to the meeting regarding the issue (this email response has been provided to the JC).

“3. Mr. Imhoff called Mr. Smith around 9:30 PM on August 7th, 2019 to get more details. Mr. Smith did not answer, and a voicemail was left asking for a call back. Mr. Smith never called back.”

“4. Mr. Imhoff called K. Brent Olsen (EC Vice Chair) around 9:30 PM on August 7th, 2019 to get more details. Mr. Olsen did not answer, and a voicemail was left asking for a call back. Mr. Olsen never called back.”

“5. Mr. Imhoff called Brandon Nelson around 9:30 PM on August 7th, 2019 to get more details. Mr. Nelson did not answer, and a voicemail was left asking for a call back. Mr. Nelson never called back.”

The respondents can’t speak to calls that were initiated by Mr. Imhoff to various members of the committee, or why those members did not return the calls.

However, at no time was a call initiated to the LPC Chair, who it seems would have been the appropriate person to call. The Chair can assure she would have either answered the call or returned the call if a message was left. The Chair has never, in the history of her associations with the appellants, refused to take their calls.

“6. Mr. Imhoff called Steve Haug (EC Treasurer) on August 7th, 2019. Mr. Haug had no knowledge of complaint at that time. Mr. Imhoff asked that, if he does gain knowledge of complaint, that he please call Mr. Imhoff back. Mr. Haug never called back.”

As stated above, and in the respondent’s final response, the only individuals that had knowledge of what the “Committee Investigation” was in regards to were the appellants and the members of the Operations Committee. Mr. Haug is not a member of the Operations Committee; Mr. Haug had no knowledge of the complaint until the EC entered Executive Session on the morning of August 10, 2019 which therefore that is the likely reason he never initiated a additional call to Mr. Imhoff after the initial conversation.

“7. The Plaintiffs only discovered who the complaint came from, after calling someone who most likely was the complainant, Emily Tilford on the same night, August 7th, 2019. Mrs. Tilford never answered the phone, however, shortly after a call was attempted, an email from Mrs. Tilford was received by all Officers of the Libertarian Party of Santa Clara County, explaining that she had submitted a complaint to the Libertarian Party of California, against the Plaintiffs. This email from Mrs. Tilford was the first indication of any concerns she had with the Plaintiffs.”

The respondents can’t speak specifically to any correspondence the appellants had with Ms. Tilford, however prior to the investigation on August 10, 2019 the respondents were given email correspondence between those parties following the email that was sent to the appellants regarding the upcoming investigation. The Chair was made aware that Ms. Tilford would be sending an email to the four officers of the SCCLP (the Chair, Vice-Chair, Secretary and Treasurer) regarding the issues in this complaint; this was stated in a phone call from Ms. Tilford that occurred at 3:33 p.m.

“8. At no point between August 7th, and August 10th, 2019, did anyone from the Executive Committee attempt to follow-up with the Plaintiffs, or provide context to be prepared for anything more than a discussion about the complaint.”

As clearly explained in the Respondent’s September 5, 2019 response, the investigation regarding the allegations made against the appellants did not occur until the EC entered Executive Session on August 10, 2019. As such, there would have been no one on the EC that would have had reason to contact the appellants prior to that time.

“9. On August 10th, 2019, both Plaintiffs were asked to be present at an Executive Session of the Executive Committee.”

In the email from Mr. Smith sent to the appellants on August 7, 2019 on behalf of the Operations Committee, the appellants were told *“You’re not required to be there, but it would be better for all involved if you were.”* As stated above, there was **no requirement** that they had to be at the meeting, but the invitation was made so they would be given an opportunity to be involved in the investigation.

“10. The Plaintiffs attended Executive Session for no more than 10 minutes.”

The appellants were invited into the Executive Session of the EC meeting at approximately 10:50 a.m. and were there for approximately 20 minutes. They were given every opportunity to answer questions and make statements, and before leaving were asked specifically if they had anything else to say and answered no.

“11. The Plaintiffs were informed after Executive Session that they had been suspended for cause.

This is correct; they were notified in person of their membership suspensions when the EC rose from Executive Session after the public portion of the meeting was called back to order.

“12. The Plaintiffs were never provided with charges or evidence to support the cause.”

The appellants were made fully aware of the charges that were being investigated and therefore are aware of what the *cause* was for suspension. After the preferral of charges the appellants have made it known that they are aware that they have the opportunity for a full **hearing** (*trial*) by appealing the suspension to the JC. If/when the appellants appeal their suspension they will be given access to all of the information used during the investigation for their purposes in presenting their defense.

“13. The Plaintiffs were never brought back into Executive Session to be informed of the exact cause which resulted in suspension.

This is correct; as previously noted they were notified in person of their membership suspensions.

Appellants Bylaw 5 Section 5

“In response to the question of procedure required to suspend. Plaintiffs would refer the Judicial Committee to the following two RONR passages:”

*“1. Article IX **Amendment of Bylaws Some Principles of Interpretation** Section 5 A provision granting certain privileges, carries with it a right to a part of the privileges, but prohibits a greater privilege. (RONR pp 590:9)*

Appellants have given the above citation with no context. This citation is included in Chapter XVIII: Bylaws, and is given in the portion **Sample Bylaws**. The full citation is as follows:

ARTICLE IX

Amendment of Bylaws

These bylaws may be amended at any regular meeting of the Society by a two-thirds vote, provided that the amendment has been submitted in writing at the previous regular meeting.

Some Principles of Interpretation

In preparing bylaws and interpreting them, the following principles of interpretation—which have equal application to other rules and documents adopted by an organization—may be of assistance. (p. 588, 10-24)

5) A provision granting certain privileges carries with it a right to a part of the privileges, but prohibits a greater privilege. The Sample Bylaws, in Article VI, Section 2 (p. 586) provide that the executive board may “fix the hour and place of meetings” of the society. The board may, therefore, change the time or the place, or both, of a society’s meeting. But it may not change the day for which the meeting is scheduled. (p. 590, 9-16)

Appellants point to this reference stating that it clarifies EC only has partial power to suspend memberships; however it doesn’t say anything of the sort. In the above it is clear that this citation is regarding the initial drafting of Bylaws and would have nothing to do with LPC Bylaw 5, Section 5; furthermore it would have nothing to do with the LPC Bylaws as they have already been drafted and approved by the LPC Central Committee Members. Bylaw 5, Sections 5 and 6 are clear in the powers that it affords to both the EC and the JC, as well as the safeguards for the suspended members in that they shall have the right to a full **hearing** (*trial*).

2. Chapter XX Steps in a Fair Disciplinary Process

Most ordinary societies should never have to hold a formal trial, and their bylaws need not be encumbered with clauses on discipline. For the protection both of the society and of its members and officers, however, the basic steps which, in any organization, make up the elements of fair disciplinary process should be understood. Any special procedures established should be built essentially around them, and the steps should be followed in the absence of such provisions. (RONR pp 656:18)”

Appellants state that RONR says an organization “typically” does not have disciplinary procedures written into their Bylaws, however no where in the citation does it state that it should instead be included in some other document or rule. The respondents have shown the LPC does in fact have disciplinary procedures written into the Bylaws. As shown in the respondent’s previous responses the LPC Bylaws

have a two-step process which mirrors the elements suggested in Chapter XX however even if they didn't, the Bylaws would still supersede the provisions of Chapter XX.

They also point to the documents that Gail Lightfoot provided as evidence that a supplemental procedure does exist. This document was not provided to the Secretary in 2017 when the Operating Procedures Manual was being updated; Ms. Lightfoot provided the "most recent" document to the Secretary that was dated March 2000 (attached). In that document the provisions in the documents she provided on September 3, 2019 were not included. As there are no minutes available for EC meetings prior to 1994 available for review, and the minutes from Ms. Lightfoot's tenure as LPC Chair (1995-1997) which would include the year that this provision was said to have been reaffirmed, do not show anything in regards to this issue (the minutes from that time period are simply "summary" documents with no substance), there is no evidence of when or how these provisions were adopted or if/when they were rescinded.

From the three cases of suspensions included in respondent's Final Response, it is clear that this provision wasn't following during the period of 2001 through 2009. It should be noted that the instances of membership suspension in 2001 were only 5 years after these provisions were "reaffirmed" and were not followed, which would lead one to believe it was in fact rescinded in that time period. Finally, we do not believe that any reasonable person can hold the current EC to procedures that they did not know existed, even if they were not rescinded. Ms. Lightfoot did not submit these documents, found in her own home storage, until two days ago.

Conclusion

The appellants ask that the Judicial Committee, during this appeal process "weigh" the actions or inactions of the EC. The respondents ask the same thing; we ask that the JC look to the rules in the LPC's governing documents as they are directed to in Bylaws 12, Section 3: *The Judicial Committee review of a Party action or inaction shall be limited to the consistency of that action or inaction in accordance with the governing documents of the Party, including these Bylaws and documents to which they refer.*

Respectfully Submitted,

Mimi Robson, Chair
Libertarian Party of California