

LP PA Judicial Committee

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Johannes Ernharth, Chair

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March 3, 2022

Members of the Libertarian Party of Pennsylvania:

On February 2, 2022, the PA LP Judicial Committee (JC) received an appeal via petition by member in good standing, Steve Scheetz, to interpret a handful of questions. The JC internally concluded that questions within the Petition met the JC's designated fiduciary duty to members to hold a hearing, citing the following authority:

1) LPPA CONSTITUTION

ARTICLE IV. ORGANIZATION: Section 4 – Judicial Committee:

*“...The Judicial Committee **shall be the final body of appeal in all matters regarding interpretations of the Constitution, Bylaws, and Rules or Resolutions of the Party.**”*

ARTICLE VII. THE JUDICIAL COMMITTEE: Section1–Organization:

*“The Judicial Committee shall elect a chair **who shall receive all appeals and petitions and schedule hearings** so as to obtain a quorum of the Judicial Committee...”*

2) POLICY MANUAL

VI. JUDICIAL COMMITTEE

*2. The Judicial Committee **shall review any question of non-compliance** with LPPA Constitution, Bylaws, **put forward in writing to the Committee by any LPPA member in good standing to determine the need for committee action.***

The Judicial Committee held a hearing on February 27, 2022, providing the Petitioner and the LPPA membership an opportunity to offer relevant testimony on the matter with the goal of clarifying the petition and providing interpretations and ruling where appropriate.

Based on this hearing and our own internal deliberations, the Judicial Committee, under its duty and authority as the “*the Final Body of Appeal in all matters regarding interpretations of the Constitution, Bylaws, and Rules or Resolutions of the Party*”, provides its interpretations to the petitioned questions as follows.

Below, the JC presents The Petition as submitted, adjusted in green text with questions numbered and in bold, with JC comments preceding in blue, and the JC interpretations/rulings following each question indented and in blue text.

---Start of MAJORITY Ruling---

The Judicial Committee that was elected in May 2021 assumed a hearing format of opening each hearing with a brief statement of instruction, that the Petitioner will have an opportunity to read aloud to the attendees the questions petitioned, and that the Petitioner will then be provided an opportunity to speak to the questions. Furthermore, it instructs that the JC and Petitioner will have an opportunity for open conversation on the matter, and that others providing relevant testimony may contribute to help interpret the questions through the lens of the governing documents.

Mr. Scheetz was provided with this framework, and when offered the opportunity to read his petition, he declined and instead provided a verbal statement. That statement is transposed below from a recording of the proceedings, in **Orange** with, clarifications in parentheses, and includes several objections from JC members:

Mr. Scheetz: So, you want me to just read the questions?

JC Chair: If you would please.

Mr. Scheetz: So, I'm going to read a short statement and then I'm pretty much done with this.

The question, "Does the JC recognize stare Decisis?", actions given this past year say "no". We had (JC Members) Richard (Schwartz) and Ken (Krawchuk) demanding that I suspend the Bylaws last year to forbid out of state delegate participation. Last week...

Mr. Krawchuk: I object to that. That is not a true statement.

Mr. Scheetz: Excuse me, Ken. This is my statement.

Mr. Krawchuk: I object to that. That's not true.

Mr. Scheetz: Congratulations.

Mr. Krawchuk: Continue.

Mr. Scheetz: The judicial committee unanimously stated that they cannot give legal advice. This was kind of last week, or the week before, for Ed Reagan. Richard and Ken were giving unsolicited legal advice today and, um, the day before on their, in the Thunderdome, or whatever they call it. You know, because they say they want to ensure out-of-state delegate participation, um, even though the subject of noncompliance with PA Election Code was brought to all of our attention.

So, you know, it says "what role of the Judicial Committee per the Bylaws, Constitution, and Policy Manual"... to me, it seems rewriting the bylaws to curry political favor to certain JC members' friends. Given that the JC has demonstrated through its actions that it doesn't recognize stare decisis from years, sometimes week to week, JC has repeatedly abused this

authority in attempt to attack members and has used its publicly available hearings to make accusations of criminal activities. The work of our Party...

Mr. Krawchuk: Woah. I object to that, too.

Mr. Scheetz: Congratulations, Ken.

Mr. Krawchuk: Thank you.

Mr. Scheetz: What do they call you? The "Onceler"?

Anyway... Umm...

Mr. Krawchuk: The "Threetimesler", so far.

Mr. Scheetz: So, the work of the party has been severely hampered by the rulings which have served to sabotage our efforts to elect libertarians and the work to grow the party. Given these facts, I have no confidence that the majority within this group will be able to honestly answer the questions posed and, frankly, umm, I have... I don't believe that you are the authority for anything. So, with that, I'm going to bid you all, "Goodnight!" and "Have a great time." [Mr. Scheetz then disconnected immediately.]

Statement from the Chair of the Judicial Committee

Members:

Intentionally, or not, Mr. Scheetz, the Immediate Past Chair of the LPPA, has thrown the gauntlet at the feet of the Board of Directors (BOD).

Either:

1. The BOD has tolerated corrupted individual members who have hijacked the Judicial Committee for their own rogue, nefarious reasons, as described in lurid allegation above.

OR

2. The BOD has permitted, continues to tolerate, and by its silence, encourages their Immediate Past Chair to recklessly misuses his positional authority to:
 - Personally attack and slander the members of the JC; and
 - Deliberately undermine the authority delegated by LPPA Members to the JC, arguably to curry political favor given these accusations are not new and frequently repeated in public settings; and
 - Blatantly sabotage LPPA official business using reckless and unsubstantiated allegations that the JC abuses its power.

Mr. Scheetz has leveled positively serious allegations. They state in so many words, the JC is derelict in its duty, it blatantly abuses its authority, and it maliciously misuses its power to advance personal political agendas and vendettas. I concede, if this were in fact occurring, it would be a hideous violation of duty and betrayal of the membership's trust. If such behavior is occurring, it simply cannot be permitted to stand.

Consequently, the JC takes these allegations (which, to be clear, are only allegations that Mr. Scheetz regularly, incorrectly characterizes as "facts") with the utmost seriousness. As The Immediate Past

Chair, Mr. Scheetz is a prominent official within the LPPA, who in the past and presently continues to speak on behalf of the Party. He is a trusted officer presumed by many members to be an honest broker, members who will presume this statement to be factual regardless of merit. Likewise, these accusations will duly influence the convention just days away.

This is, therefore, VERY serious business that must be addressed now.

Mr. Scheetz's words are exactly what they say, unmistakably that outrageous behavior has occurred. The JC is positive that our members and the BOD would not only like to 1) see the actual evidence supporting these charges, but also, 2) they absolutely deserve to know exactly the details of what has (or has not) been transpiring in their midst, and that 3) they must have this information to resolve this mess one way or the other, promptly.

Yet, Mr. Scheetz has previously leveled comparable allegations. He then disappears to let their poison cloud the LPPA atmosphere without resolution, which sabotages the work of countless volunteers, including this JC and the reputations of this JC's members, never permitting the air to clear. That is exactly what has occurred in this hearing.

Let us be clear: To level such libelous accusations of clear villainy, ample evidence-standards should be met, and clearly, such evidence must be available for all to see and easy for Mr. Scheetz to provide to the BOD and our Membership. Moreover, it should be conveniently handy since each JC ruling and formal action has been distributed to the membership and the BOD. The dots are plainly accessible and transparent for Mr. Scheetz (or anyone, for that matter) to connect, if indeed there is any actual evidence to implicate the JC in what he alleges.

This unaccountability of either Mr. Scheetz (or the JC if he's correct), cannot be permitted to continue unresolved. Mr. Scheetz' accusations force a series of critical and unavoidable questions that the Membership and BOD MUST ask and act upon. By ignoring them, the BOD clearly breaches its own fiduciary duty in one of the two ways already noted above.

The BOD must demand of Mr. Scheetz in some form or another:

- Please cite in the governing documents where the JC exceeds its authority as accused, versus the JC's interpretations provided, backed by citations of Constitution, Bylaws, and Policy Manual.
- Please cite the specific JC rulings that are "rewriting the bylaws to curry political favor to certain JC members' friends" and provide documented evidence of how this is occurring.
- Please cite the specific JC rulings / where the JC has "repeatedly abused its authority to attack members" and provide documented evidence of how this is occurring.
- Please cite the specific JC rulings/ where the JC uses its authority to "accuse members of criminal activities" and provide documented evidence of how this is occurring.
- Please cite the specific JC rulings/ where the JC uses its authority to "sabotage (LPPA) efforts to elect libertarians and the work to grow the party" and provide documented evidence of how this is occurring.

Lastly, I will also state that it is my experience that Mr. Scheetz has demonstrated repeated aplomb at slight-of-hand that permits him to conflate baseless accusations, personal disagreement, opinions, and strategic narrative with "facts". He's very reliable at providing objectionable recounting of others' actions and words, larded with damaging innuendo, which continues to pollute community understanding of what's actually transpiring. Narratives seem twisted towards advancing his own theories of conspiracy and corruption in what appears intended to advance a selfish political agenda,

regardless of the expense to the integrity and reputation of the LPPA, its BOD, its volunteers, the JC, and the JC's members. Oddly enough, it's almost as if his accusations against the JC could apply to himself.

Regardless of motive, either Mr. Scheetz can answer the questions above with clear citations that meet sober, non-libelous evidentiary standards. Or he cannot. Resolve it Now!

Depending on that outcome, the BOD must then act immediately to reconcile which of the two, very rotten scenarios has then been proven to exist. A clear path will then open for reconciliation: Either Mr. Scheetz's accusations will have been definitively substantiated by all the evidence proving the JC malfeasance he has asserted, laying clear justification for appropriate discipline. Or conversely, it will be abundantly proven that the BOD/Members' Immediate Past Chair has been reckless with his allegations, arguably libeling members of the JC/the Party, arguably demonstrating a clear lack of integrity and concern on behalf of the full membership and LPPA rules, beyond how they might be manipulated to achieve his own, personal political agenda. Such a conclusion would seem to merit its own BOD actions.

The JC Chair is confident of the outcome of such investigation and calls on the BOD to proceed immediately and do its duty on behalf of our members!

Johannes Erharth

Chair, Judicial Committee
Libertarian Party of PA

End of Statement from the Chair of the Judicial Committee

The JC continues with the actual questions presented via Petition by Mr. Scheetz. A dissenting opinion follows the Majority's efforts.

Feb 2, 2022

Dear Judicial Committee,

As a member in good standing of the Libertarian Party of Pennsylvania, I hereby formally petition the Judicial Committee to hold a hearing on the following questions:

1. What is the role of the judicial committee per the LPPA Bylaws, Constitution and Policy manual.

1) LPPA CONSTITUTION

ARTICLE IV. ORGANIZATION: Section 4 – Judicial Committee:

“...The Judicial Committee shall be the final body of appeal in all matters regarding interpretations of the Constitution, Bylaws, and Rules or Resolutions of the Party.”

ARTICLE VII. THE JUDICIAL COMMITTEE: Section 1—Organization:

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2) POLICY MANUAL

VI. JUDICIAL COMMITTEE

2. The Judicial Committee shall review any question of non-compliance with LPPA Constitution, Bylaws, put forward in writing to the Committee by any LPPA member in good standing to determine the need for committee action.

JC: The Constitution explicitly grants the JC authority as the *“final body of appeal in all matters regarding interpretations of the Constitution, Bylaws, and Rules or Resolutions of the Party”* .

“All matters regarding interpretation” clarifies the intent of the word “appeal”, which by itself is defined as:

- An earnest or urgent request, entreaty, or supplication;
- A resort to a higher authority or greater power, as for sanction, corroboration, or decisions;
- To review the correctness of decisions by a lower authority.

[thefreedictionary.com]

Therefore, an appeal *“...in all matters regarding interpretation”* would clearly include appeals covering *“all matters”*, including:

- Appeals to a higher authority on the correctness of rulings by the BOD, disciplinary or otherwise, subject to interpretation via the governing documents;
- Appeals to a higher authority to review petitions containing question seeking direct guidance on the appropriate interpretation of the governing documents.

Furthermore, had the authors intended to limit authority via a narrower definition of “appeal” to only petitions that were previously at controversy due to BOD actions, as is often asserted, the membership could have approved different language, using limiting qualifiers to indicate such constraints. Instead, the authors deliberately chose “all matters” which was approved and should be respected and not dialed back by the JC to mean less that is stated.

At the risk of redundancy, but given the highly contentious comments expressed on this matter from this petitioner and prior appeals and hearings: “All matters regarding interpretation” explicitly means “All matters”. Not just appeals of disciplinary rulings or other BOD business rulings. If the membership wishes to reduce this authority, it may amend accordingly.

As well, regarding the meaning of the phrase “final body of appeal”, we assert that the word “final” merely indicates the definitive, unalterable interpretation of the governing documents. This permits any ongoing confusion or debate among members to cease and/or for members to move forward in the future with clarity and confidence they are doing so correctly. Nothing in the documents imply the need for prior controversy to seek clarification. Rather, as cited above, the intent is for “all matters” related to receive JC consideration.

ALSO: In previously rulings related to this question (Cohen), we noted the governing documents specifically delineate distinct silos of authority for the JC vs. the BOD and other committees.

Specifically, the JC is a creature of the Membership elected directly by the membership only at Convention, and as the JC, remains under the authority of the membership exclusively. The membership also provides itself ongoing authority over the JC, permitting itself:

1. The authority to overrule at convention any JC ruling it disagrees with, by three-quarters delegate vote;
2. The authority to rewrite the governing documents to more accurately represent their intent, to provide that intent more clearly to the JC for its ruling;
3. The authority at each convention to remove by fresh election any JC member it deems unsatisfactory;

Citing the Cohen Ruling's language:

- *This is a closed circuit of authority: From a JC elected by LPPA members to serve as "final authority" of interpretation of the LPPA members' governing documents, to the JC being subject to overrule and even replacement by the LPPA membership, refreshed at each convention.*
- *This authority is separate and autonomous of the BOD: There is no mechanism in any governing document providing the BOD (Or Executive Committee) with competing or superior authority over interpretation of the Governing Documents, nor for handling appeals of BOD discipline. Nor is there a citable authority or mechanism for the BOD (or the Executive Committee) to reject rulings, or to validate/certify or reject/overrule those rulings.*

2. What is the board's role in enforcing the bylaws?

The BOD serves at the pleasure of the membership, as permitted and mandated via the bylaws, to operate by them and, as implied of fiduciaries serving on a BOD, to enforce the bylaws.

3. What is the board's role in enforcing the policies?

The BOD serves at the pleasure of the membership, as permitted and mandated via the policies, to operate by them and, as implied of fiduciaries serving on a BOD, to enforce the policies.

4. What is the differentiation between the policy manual and the bylaws?

BYLAWS: ARTICLE XIX. POLICIES AND PROCEDURES

All the policies and procedures adopted by the Board of Directors shall be incorporated into the Policy Manual of the Libertarian Party of Pennsylvania.

The BOD may create policies and procedures during ordinary business, entering them into the manual as substantiated by Official Meeting Minutes serving as official record of LPPA business (per Bylaws Article IV: Section-4, Roberts Rules of Order, Policy Manual V.6.).

The BOD is subservient to the membership as prescribed by the authority of Constitution, and then the Bylaws, and thus, the Policy Manual is subservient to the Bylaws. (E.g, the BOD may not override the Bylaws via the Policy Manual.)

5. Can the Judicial Committee provide concrete proof of cases in non-controversy and/or hypotheticals being heard prior to 2020?

Yes. As far back as 2001. Mr. Krawchuk received such a ruling via email from Art Farnsworth, March 27, 2001. This evidence has been provided to Mr. Scheetz and is available to the BOD and membership upon request.

6. Does the JC recognize stare decisis?

LPPA Governing documents are silent on Stare Decisis re Judicial Committee operations.

NOTE: There is no recollection among long-term JC members of it being recognized historically. Practically, prior JC ruling records do not exist to support it. No testimony or evidence was otherwise provided to claim it has ever been recognized.

The policy of the JC assessing each case on its own merits would seem to be traditional in the party and not previously considered an issue of controversy.

Sincerely,

Steve Scheetz

---End MAJORITY Ruling---

---Start DISSENTING Opinion---

I am of the opinion that we have been acting outside our intended scope for quite some time now. On Scheetz question one, he asks what the role of the Judicial Committee (hereinafter referred to as JC) is.

My interpretation of the language regarding our roles differs from the majority, and thus I offer my dissenting opinion on that question.

The role of the JC is to be the final body of appeals. It is the interpretation of that which I am challenging. Firstly, the word final. It implies that something came before it. If it said we are the sole or primary body, I would agree with the majority interpretation of this line. My second thought is that the word appeal has been used in too broad of a sense for our role. As a "court" style role, implied by the word Judicial, an appeal would be to appeal the decision of a lower court to a higher court. In this case, I view us akin to a "Supreme court" in that cases should go to a lower court (in this case the board of directors) before being heard by us.

In conclusion, my opinion is that the JC is to be a final arbiter when a member feels that the board has violated our governing documents or to appeal discipline.

Aaron Reinsmith

---End DISSENTING Opinion---

--- COMMENTS from KEN KRAWCHUK---

I continue to take STRONG exception to the mischaracterizations in Steve's "testimony" about myself and our Committee. Specifically:

1. Steve's comment that I demanded he "suspend the Bylaws last year to forbid out of state delegate participation" is not correct. For the record, I made a motion to divide the motion about the 180-day rule to separately consider in-state versus out-of-state delegates. This is vanilla Robert's, and is exactly what was successfully passed at our 2018 Shippensburg convention, which Steve attended.
2. Steve's comment that I was "giving unsolicited legal advice... in the Thunderdome" is also not correct. I do not know what his "Thunderdome" is. Regardless, I often give unsolicited advice, and I retain my right of free speech to speak on any topic to anyone at any time, subject only to their willingness to listen. So not only is his statement incorrect, it is irrelevant.
3. Steve's statement about my "rewriting the bylaws to curry political favor to certain JC members' friends" is also incorrect. First, no bylaws have been rewritten, and I have no need to curry anyone's favor, nor could Steve possibly know of my intent to curry, had one existed.
4. Steve's statement that the "JC has repeatedly abused this authority in attempt to attack members and has used its publicly available hearings to make accusations of criminal activities" is also incorrect. The JC has never attacked any member or accused them of criminal activities.
5. Steve is also incorrect when he says that "the party has been severely hampered by the rulings which have served to sabotage our efforts to elect libertarians and the work to grow the party." Which rulings? How? Perhaps he meant we've been hampered because of the NEED for our rulings?
6. Steve's statement that "I don't believe that you are the authority for anything" directly contradicts the bylaws. However, the JC has recently ruled he is entitled to his opinion, even though it is entirely unsupported by the party rules and contrary to past JC decisions.

There are other items I could raise, but these are the most egregious. In light of the horrendous slander Steve spouted at his hearing against me and other members of the JC personally, and against the members of the JC collectively, I hereby demand that the Board of Directors immediately take disciplinary action to throw his sorry butt out of the party; or else by inaction, openly imply that his slander is appropriate for a Pennsylvania corporation and Pennsylvania's third largest political party.

Further, Steve is not the only culprit when it comes to such nasty mischaracterizations. As only a few examples, in his official response to a Judicial Committee request I made, our Executive Director Kevin Gaughen poured invectives and insults upon me, and doubled down rather than apologize. John Waldenberger publicly slimed a fellow party member in the party newsletter, literally calling him dishonest. And on social media Ed Reagan has even attacked a member's WIFE, for God's sake! The list goes on and on, the Board of Directors is aware that it goes on and on, and some members of the Board even participate in it. Therefore, I further demand that the Board of Directors take disciplinary action against all of these three specifically and other obvious perpetrators of official hate, and make this party a place where we can once again bring our husbands, wives, and kids.

--- END COMMENTS from Mr. KEN KRAWCHUK---

--- COMMENTS from Mr. RICHARD SCHWARZ---

I missed the Scheetz hearing but just watched the recording and wish to correct several points made by the appellant.

Mr. Scheetz wrongly stated that I (along with Ken) "demanded" that Mr. Scheetz in his role as chair at last year's convention "suspend the bylaws last year to forbid out-of-state delegate participation." This is

absolutely not true. I had no comment or even opinion regarding out-of-state delegates. My contention last year was regarding the decision to not permit credentialing of a few delegates who were unable to register Libertarian because they were at the time prohibited by law from doing so. Article IX Section 2 of the bylaws states: "Delegates must be registered Libertarian in Pennsylvania unless prohibited by law." And using previous state conventions as precedent, the party had always chosen to credential those delegates because they were able to change their registration on the spot. It was the law that prevented them this time due to the convention's proximity to the major party primaries. Had our state convention been held just one week later, all of these people with registration issues would have been able to register with no problem and would have been credentialed.

Mr. Scheetz pointed out that the JC can not give legal advice and then used that claim to erroneously state that I was giving legal advice in the LP chat room known as the Thunderdome. This is ridiculous on a couple of fronts. 1. There is a huge difference between an official document such as a JC ruling, and people gathering together in an informal chat forum spouting off opinions. 2. Steve claimed my comments in the Thunderdome were "unsolicited." What?? This is a chat that is open to all. Who is the solicitor? 3. And this part is priceless, my "unsolicited" legal advice (as Mr. Scheetz calls it) was to actually go to a competent and experienced election law attorney to get an informed opinion. 4. I never said in one way or another my opinion on out-of-state participation. My concern was and is, using what might be a completely wrong interpretation of election law to change a bylaw via a means that can only be used in extremely rare instances where it is assured that we are in noncompliance with a law. In other words, get the facts before rushing to judgment.

Mr. Scheetz then went on to make completely ridiculous, erroneous, and defaming comments that members of the JC are making decisions solely to benefit their non-JC friends.

Mr. Scheetz stated the JC has repeatedly abused its authority in attempts to attack members. This is a disgraceful statement and is a complete lie.

The JC has not attacked a single member during this term.

Mr. Scheetz stated that we in the JC have used our publicly available hearings to make accusations of criminal activity. This too is a lie. We make rulings based on the bylaws. If a crime has occurred, that is out of our bounds and we have made no such accusations.

Mr. Scheetz then claims our rulings have worked to sabotage efforts to elect Libertarians and to grow the party. We have made no such rulings and there is zero evidence of the JC engaging in sabotage.

After stating all these lies (which he called facts), Mr. Scheetz informed us that he has no confidence in our ability to honestly answer the questions posed and that he doesn't "believe" that we are the "authority for anything." Of course, he can believe anything he wants no matter how wrong, stupid, or silly, but the LPPA constitution states: "The Judicial Committee shall be the final body of appeal in all matters regarding interpretations of the Constitution, Bylaws, and Rules or Resolutions of the Party "

The entire rant from Mr. Scheetz was dishonest and disrespectful.

Richard Schwarz

--- END COMMENTS from RICHARD SCHWARZ---

The JC would like to thank Mr. Scheetz for his petition and statement, and those members who attended to contribute and watch the proceeding.

Relief

The JC reminds everyone that the LP PA Body (membership/leadership) always has means to rectify any Judicial Committee rulings or interpretations deemed unsatisfactory, as follows:

- 1) Per our governing documents, any JC decision “can be overturned by three quarters members present at a convention”. *[CONSTITUTION: ARTICLE IV. ORGANIZATION – Section 4]*
- 2) The Bylaws may be updated at Convention to reflect the will of the membership more accurately and clearly, or differently. *[BYLAWS, ARTICLE XII. AMENDMENTS]*
- 3) The “Policy and Standing Rules” manual may be formally updated during ordinary LPPA business to reflect the will of the membership more accurately and clearly. *[BYLAWS ARTICLE XIX. POLICIES AND PROCEDURES]*
- 4) The JC may be replaced by election at the next convention with members more inclined to rule with the memberships’ preference. *[CONSTITUTION: ARTICLE IV. ORGANIZATION – Section 4]*

Respectfully submitted,

Judicial Committee

Libertarian Party of Pennsylvania