

MEMORANDUM

TO: Chairman Richard Cebra & Jason Savage, ED
BY: William P. Logan, Esq.
RE: Bryan Daugherty's March 9, 2013 letter
DATE: March 18, 2013

Bryan Daugherty's March 9, 2013 letter raises two issues: (1) an appeal of the January 17, 2013 election of officers of the Penobscot County Republican Committee and (2) his contention that the election represents a continuing breach of County's by-laws permitting him to file his appeal at the present time. I will address each issue in turn.

ELECTION OF OFFICERS

Mr. Daugherty appears to base his appeal of the election on Party Rule 23(a), which provides that:

"The Republican State Party may, upon a decision of the Executive Committee, exercise jurisdiction over controversies between and among members of any county committee or municipal committee when such controversy affects the interests of the party as a whole or the rights of any member of the party to participate in its affairs."

Mr. Daugherty cannot file his appeal under Party Rule 23(a). Party Rule 23(a) grants the State Party, through its Executive Committee, discretion to exercise jurisdiction over controversies. It does not grant an individual the right to appeal. Subsequent provisions of Party Rule 23 provide individuals with appeal rights for controversies arising at the municipal and county levels.¹ Because Party Rule 23(a) applies only to the State Party and makes no mention of individuals, and because Party Rule 23(c) specifically addresses an individual's right to appeal controversies arising at the county committee level, it is my opinion that an individual cannot file an appeal under Party Rule 23(a).

CONTINUING BREACH

Mr. Daugherty's next contention appears to be that by classifying the election as a continuing breach, he may file his appeal at the present time. In support of this contention, he cites to Robert's Rules of Order, specifically a provision relating to raising points of order. What Mr. Daugherty fails to recognize is that the Party's Rules supersede Robert's Rules of Order. Specifically, Party Rule 27 provides that: "*Robert's Rules of Order, Newly Revised, shall be the Rules of the Maine Republican Party so far as they are applicable and consistent with these rules as written.*" (emphasis added). Accordingly, the Party employs Robert's Rules unless Robert's Rules conflict with the Party's Rules. Put otherwise, the Party's Rules "trump" Robert's Rules.

¹ See Party Rule 23(b) and (c).

Party Rule 23(c), the relevant rule addressing controversies at the county committee level, clearly requires that any appeal must be filed within 21 calendar days from the date the controversy arises². The election of officers occurred on January 17, 2013. Any controversy related to the election arose either before or on that date.³ Mr. Daugherty's appeal is dated March 9, 2013 – well outside the 21-calendar day requirement under Party's Rules. Accordingly, his appeal of the election of officers is untimely and should therefore be denied.

Mr. Daugherty reliance on Robert's Rules is misplaced. As shown above, the timeframe for an individual to file an appeal a controversy at the County level is clearly set forth in the Party's Rules, specifically 21-calendar days from the date the controversy arises. This specific language in the Party's Rules supersedes the generic provision of Robert's Rules cited by Mr. Daugherty. Since Robert's Rules apply only when they are consistent with the Party's Rules, the general rule from Robert's Rules cited by Mr. Daugherty does not change the specific time frame for filing an appeal set forth in the Party's Rules.

CONCLUSION

As stated above, it is my opinion that individuals may not utilize Party Rule 23(a) of the Party's Rules as a basis for an appeal because Rule 23(a) is a grant of authority to the Maine State Republican Party (through its Executive Committee). Additionally, because Robert's Rules do not apply where they are inconsistent with Party's Rules, Robert's Rules cannot be used to ignore the 21-day timeframe to submit an appeal of a controversy arising at the county committee.

Accordingly, as set forth in more detail above, it is my opinion that Mr. Daugherty's appeal of the January 17, 2013 Penobscot County Republican Committee election of officers is untimely and therefore barred.

² "Arises" is generally defined as: "to come into being or to attention" or "to emerge, become apparent"

³ It is worth noting that Mr. Daugherty's letter and the attachments thereto makes it clear that the issues he is raising were apparent to him on January 17, 2013 and possibly earlier.