

Subject: From Hanover GOP: Rebuttal to letter from Chris Peace's campaign lawyer



Dear Members of the Executive Committee:

I represent Scott Wyatt, I am writing to you to respond to certain of the assertions, allegations and threats made by Chris Peace, through his counsel Cortland C. Putbrase. It is my hope that I can set your minds at ease on a number of points.

I. You have met the requirements of the Party Plan in seeking to remove Dale Taylor.

The requirements for removing the chairman of an official committee are set out in Article VII, Section C of the *Plan of Organization of the Republican Party of Virginia*, which reads, in relevant part:

Any Chairman . . . may be removed from office by the vote of two-thirds (2/3) of the other members of the Committee, after being furnished with notice that such removal will be sought, with the charges, in writing, signed by not less than one-third (1/3) of the members of the Committee; and allowing him thirty (30) days within which to appear and defend himself.

There are two requirements for the removal of a chairman to proceed. The first requirement is thirty days written notice to the chairman of the charges against her, in order to allow her sufficient time to appear and defend herself. The second requirement is that the charges be signed by at least one-third of the members of the committee.

However, there is nothing in the party plan that specifies exactly how such notice must be provided or the signatures must be made. In the absence of a specific provision on that point, it is entirely reasonable to consider email as a writing (as it is considered for virtually all purposes) that can satisfy both the notice and signature requirements.¹ Accordingly, the two requirements were fully complied with by the April 28, 2019, email to the chairman (along with the other members of the committee), which included the charges, the date of the hearing, and the signatures of over one-third of the members of the committee.²

Finally, a word on the assertion that the charges are too 'vague' to warrant

removal. First of all, it is factually incorrect. The charges are quite specific. Secondly, it is irrelevant. There is nothing in the *Plan* that sets out what constitutes an offense warranting removal of a chairman, much less how specific the charges must be. Those matters are not defined in the *Plan*; they are left to the discretion of the committee members, who alone decide whether the charges (however vaguely or specifically stated) constitute removable offenses.

The bottom line is this: removal of a chairman is a political question, which the *Plan* gives the committee members broad latitude to answer. The *Plan* does require that the attempt to remove receive the support of one-third of the members, and that the chairman be given thirty days notice of the charges and the date of the hearing. Having satisfied the letter and spirit of those requirements, you can and should proceed with the hearing.

II. The Question of Defamation.

Mr. Peace turns from his specious arguments on the *Plan* to threats of a defamation action. It is worth noting two things about his threats.

First, his position on defamation is entirely at odds with his position on removal. On removal, Mr. Peace argues that the charges are too 'vague' to be supported. However, such alleged vagueness would be fatal to a defamation claim, which has to be based on specific statements of a factual nature which are untrue and defamatory. In short, Mr. Peace's arguments on removal are at odds with his arguments on defamation. The only common denominator, of course, is that no official committee can or should act in any way inimical to Mr. Peace's interest.

Second, claims of defamation give way to fundamental First Amendment rights. The rights implication in this case include your rights, as individuals, to freedom of speech, and your rights, as members of an official committee, to govern yourselves without government intrusion or coercion. Either of these rights provides sufficient space for you to communicate about, deliberate over, and decide this matter.

Specifically, the First Amendment requires that a defamation claim by the chairman relating to her service as a public figure and a matter of public import can only be sustained if she establishes that you acted with 'actual malice.' Thus, the chairman would have to show that you made false and defamatory statements about her knowingly or with a reckless disregard for the truth to prevail in a defamation claim. That is a burden she cannot meet.

CONCLUSION

Mr. Peace attempted to hijack the nomination process for the 97th LDC. When anyone has tried to oppose or expose him, he attacks, not just that person, but the integrity of the *Plan* and the processes in it that can be invoked to call him to account. His latest is more of the same, and I would encourage you to ignore it, and proceed with your duties under the *Plan* tonight.

Very Truly Yours.

/s Jeffrey R. Adams

Jeffrey R. Adams

¹ Being in possession of the email signatures of those who have joined the effort to remove her afforded the chairman an ample and fair opportunity to determine whether those individuals have joined the effort to remove her, and to make her case why on the merits they should retain her as chairman. The use of email signatures in no way compromises the chairman's legitimate interest in asserting the best possible defense under the circumstances.

² While the signatures were delivered to the chairman as part of the April 28, 2019 email, and Mr. Peace's argument on that front can be addressed by setting the factual record straight, it is worth noting his argument's legal deficiencies as well. He argues that the original signatures must be delivered to the chairman as part of the notice. However, what the Plan requires is that notice be given to the chairman, not the original signed charges. Notice of a thing is not the thing itself; thus, what the committee is required to do is to provide the requisite notice but, if original physical signatures are being used, the committee is not required to provide those original physical signatures to the chairman. Indeed, not only is there no explicit requirement that the signatures be tendered to the chairman as part of the notice, doing so would be contrary to the nature of the proceeding and the roles of the chairman and secretary in it. In a removal, the chairman is the defendant. She is not a neutral party and therefore not someone who is properly to be entrusted with unique original documents related to an effort to remove her. The secretary, on the other hand, is not an interested party, and is the officer who is charged with holding the important documents of the committee, such as any original signatures. Thus, the delivery of signatures in paper form is not made to the chairman, and is not subject to the thirty day requirement. Rather, the delivery of such signatures in paper form is made to the secretary.