STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION

In the Matter of a Referral by Elections Officer

File Nos. 2008-050NF, 2008-100NF, 2008-191NF

AGREEMENT CONTAINING CONSENT ORDER AND A PAYMENT OF A CIVIL PENALTY FOR VIOLATIONS OF CONNECTICUT GENERAL STATUTES § 9-608 & § 9-623

This Agreement, by and between China Byrd, hereinafter referred to as the Respondent, of the City of New Haven, County of New Haven, State of Connecticut and the authorized representative of the State Elections Enforcement Commission, is entered into in accordance with Connecticut General Statutes § 4-177 (c) and section 9-7b-54 of the Regulations of Connecticut State Agencies and.

In accordance herewith, the parties agree that:

1. The Respondent is the treasurer for "AFSCME Local 478 PAC," an ongoing political committee (the "Committee") established by AFSCME Local 478, a labor organization. Respondent was designated treasurer of that committee on June 11, 2007 and remained treasurer of that Committee during all times relevant to these matters.

2. General Statutes § 9-608, provides in pertinent part:

   (1) ***Each campaign treasurer of a committee, other than a state central committee, shall file a statement, sworn under penalty of false statement with the proper authority in accordance with the provisions of section 9-603, (A) on the tenth calendar day in the months of January, April, July and October***, provided, if such tenth calendar day is a Saturday, Sunday or legal holiday, the statement shall be filed on the next business day, ***(B) on the seventh day preceding each regular state election . . . .*** [Emphasis added.]

3. General Statutes § 9-623 provides in pertinent part as follows:

   (b) (1) If any campaign treasurer . . . fails to file the statements required by section 9-608 or subsection (g) of section 9-610. . . within the time required, the campaign treasurer . . . , shall pay a late filing fee of one hundred dollars.

   (2) In the case of any such statement or certification that is required to be filed with the State Elections Enforcement Commission, the commission shall, not later than ten days after the filing deadline is, or should be, known to have passed, notify by certified mail, return receipt requested, the person required to file that, if such statement or certification is not filed not later than twenty-one days after such notice, the person is in violation of . . . 9-608 . . . .

4. The Respondent had been the subject of four prior enforcement proceedings in File Nos. 2007-208NF, 2007-284NF, 2007-391NF, and 2008-034 in addition to the matters that are the subject of this Agreement, due to her failure to timely file disclosure statements

as required by General Statutes § 9-608. In connection with those matters she has paid a total of $900.00 in penalties to the Commission.

5. With respect to the present matters, on April 21, 2008, an Elections Officer mailed a notice to Respondent via certified mail, return receipt requested, that she failed to file the April 10, 2008 *Itemized Campaign Finance Disclosure Statement* (SEEC 20), for the Committee. Respondent did not respond to that notice. Thus, on May 12, 2008, pursuant to General Statutes § 9-623, Respondent was referred to the Legal Enforcement Unit for failure to file the April 10, 2008 statement. That referral resulted in enforcement proceeding File No. 2008-050NF, which is disposed of as part of this Agreement.

6. On June 16, 2008 a demand letter was issued to the Respondent concerning File No. 2008-050NF. In that letter, the Commission requested the April 10, 2008 filing and sought a penalty of $700.00. The Respondent did not, however, provide the Commission with the untimely filing until October 8, 2008.

7. In addition, on July 21, 2008, an Elections Officer mailed notice to Respondent via certified mail, return receipt requested, that she failed to file the July 10, 2008 *Itemized Campaign Finance Disclosure Statement* (SEEC 20), for the Committee. Respondent failed to respond to that notice. Thus, on August 12, 2008, pursuant to General Statutes § 9-623, Respondent was referred to the Legal Enforcement Unit for failure to file the July 10, 2008 Statement. This referral resulted in enforcement proceeding File No. 2008-100NF, which is disposed of as of this agreement.

8. On August 29, 2008 a demand letter was issued to the Respondent concerning File No. 2008-100NF requesting the July 10, 2008 filing and seeking a civil penalty of $800.00. The Respondent did not, however, provide the Commission with the untimely filing until October 8, 2008.

9. Finally, on November 7, 2008, an Elections Officer mailed notice to Respondent via certified mail, return receipt requested that she failed to file the October 28, 2008 *Itemized Campaign Finance Disclosure Statement* (SEEC 20), for the Committee. On December 16, 2008, pursuant to General Statutes § 9-623, Respondent was referred to the Legal Enforcement Unit for failure to file that Statement. This referral resulted in enforcement proceeding File No. 2008-191NF, which is disposed of as part of this agreement.

10. On December 30, 2008 a demand letter was issued to the Respondent concerning File No. 2008-100NF requesting the October 28, 2008 filing and seeking a civil penalty of $900.00. The Respondent did not, however, provide the Commission with the untimely filing until January 27, 2009.

11. It is therefore concluded that the Respondent failed to timely file three Itemized Statements of Receipts and Expenditures on behalf of the Committee, each instance constituting a violation of General Statutes § 9-608.

12. The Commission notes that Respondent could have settled each of the above matters by paying a civil penalty of $100 and filing the requisite disclosure statements within 21 days of the original notice to Respondent pursuant to General Statutes § 9-623.

13. It is also noteworthy that with respect to File Nos. 2008-050NF and 2008-100NF, the Respondent was repeatedly assisted by Commission staff assigned to investigate those matters. Specifically, Commission staff mailed the Respondent a 2008 filing calendar as well as the requisite forms and their instructions. Commission staff also followed up with the Respondent to ensure that she understood her filing responsibilities pursuant to General Statutes § 9-608.

14. Furthermore, prior to the Respondent's October 28, 2008 filing deadline, Commission staff repeatedly reminded the Respondent during a telephone conversation that the she needed to meet that filing requirement. Again, Commission staff mailed the Respondent the requisite forms along with their instructions. The Respondent acknowledged that she understood the filing requirement and planned to comply with it.

15. As such, the Commission also concludes that the Respondent was fully aware of the filing requirements prescribed in General Statutes § 9-608 relating to her filing responsibilities as treasurer of the Committee. Nevertheless, the Respondent failed to meet her October 28, 2008 filing requirement in violation of General Statutes § 9-608.

16. Finally, General Statutes § 9-623 provides that "[t]he penalty for any violation of section . . . 9-608 . . . shall be a fine of not less than two hundred dollars or more than two thousand dollars or imprisonment for not more than one year, or both." As of this date, the Respondent has only paid $1,000.00 toward the $2400.00 in civil penalties offered as settlements in File Nos. 2008-050NF, 2008-100NF, and 2008-191NF. It should be noted that Respondent's exposure is up to $6,000 in fines, and if this matter proceeded to a hearing, that the enforcement staff would likely be seeking her removal as treasurer.

17. The Respondent has resisted being removed treasurer, and agrees to resolve this matter understanding that should she miss another filing date, the Commission will seek her removal as treasurer, seek maximum fines, and may refer her to the Chief State's Attorney's office for criminal prosecution.

18. Connecticut General Statutes § 9-7b(a)(2) provides that the Commission may assess a civil penalty of two thousand dollars or twice the amount of the improper contribution or expenditure for each violation of Chapter 155 of the General Statutes. Pursuant to Regulations of Connecticut State Agencies §9-7b-48, in determining the amount of a civil penalty, the Commission shall consider, among other mitigating and aggravating factors:

    (1) the gravity of the act or omission;
    (2) the amount necessary to insure immediate and continued compliance;
    (3) the previous history of similar acts or omissions; and
    (4) whether the person has shown good faith in attempting to comply with the applicable provisions of the General Statutes.

19. The Commission finds that Respondent has deprived the public of information which is a serious offense; and has, despite a prior history of failing to file with the Commission, not shown good faith efforts to comply with the matters addressed by this agreement.

20. It is understood and agreed that this Agreement will be submitted to the Commission at its next meeting and, if it is not accepted by the Commission, it is withdrawn by the Respondent and may not be used as an admission in any subsequent hearing, if the same becomes necessary.

21. The Respondent waives:

    a. Any further procedural steps;
    b. The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law, separately stated; and
    c. All rights to seek judicial review or otherwise to challenge or contest the validity of the agreement or Order entered into pursuant to this Agreement.

22. Upon the Respondent's compliance with the Order hereinafter stated, the Commission shall not initiate any further proceedings against her pertaining to this matter.

**ORDER**

IT IS HEREBY ORDERED that the Respondent shall pay a civil penalty to the State of Connecticut in the sum of two thousand four hundred dollars ($2,400.00), $1,000 due upon adoption of this agreement. The Respondent shall make payment of the remaining fourteen hundred dollars ($1,400) of the civil penalty being paid as follows: $250 by February, 28, 2009; $250 by March 31, 2009; $250 by April 30, 2009; $250 by May 29, 2009; $250 by June 30, 2009; and the remaining $150 by July 31, 2009.

IT IS FURTHER ORDERED that the Respondent shall henceforth comply with Connecticut. General Statutes §§ 9-608 and 9-623.

This matter will remain open until such time as payment is made in full. **The Respondent understands and agrees that his failure to meet the terms of this Agreement shall result in legal action by the Commission to enforce it and that the prevailing party shall be entitled to court costs, attorney's fees, and interest calculated from the date of the delinquency. Further, the Respondent understands that her failure to meet the terms of this agreement will result in the Commission's initiation of removal proceedings against her pursuant to General Statutes § 9- 7b(a)(3)(b).**

**For the Respondent:**
**Commission:**

By: _____
China Byrd
1 Brewery Square
New Haven, Connecticut

Dated: _____

**For the State Elections Enforcement**

By: _____
Joan M. Andrews, Esq.
Director of Legal Affairs and
Enforcement and Authorized
Representative of the
State of Connecticut,
State Elections Enforc ement
Commission
20 Trinity Street, Suite 101
Hartford, Connecticut

Dated: _____

Adopted this 7th day of Aug of 2009 at Hartford, Connecticut.

_____
Stephen F. Cashman
Chairman
By Order of the Commission