STATE OF CONNECTICUT

STATE ELECTIONS ENFORCEMENT COMMISSION

In the Matter of Government Action Fund (GAF PAC)

File No. 2008-003

AGREEMENT CONTAINING CONSENT ORDER AND PAYMENT OF A CIVIL PENALTY AND FORFEITURE FOR VIOLATIONS OF CONNECTICUT GENERAL STATUTES §§ 9-606, 9-607, and 9-608 (formerly §§ 9-333h, 9-333i, and 9-333j).

This Agreement, by and between Dennis Ceneviva of the Town of Guilford, County of New Haven, State of Connecticut (hereinafter referred to as the Respondent) and the authorized representative of the State Elections Enforcement Commission is entered into in accordance with Section 9-7b-54 of the Regulations of Connecticut State Agencies and Section 4-177(c) of the General Statutes of Connecticut. In accordance herewith, the parties agree that:

1. The Respondent is the treasurer of the Government Action Fund political committee (hereinafter "GAF PAC"), and has been from its inception in 1999 until the present time. Senator Thomas Gaffey was, at all times, Chairperson of the GAF PAC. During the same time period, the Respondent was treasurer of several candidate committees for Senator Thomas Gaffey in connection with his re-election campaigns in the November 2000, 2002, 2004 and 2006 state elections.

2. A preliminary audit of the GAF PAC conducted by Commission staff indicated that certain filings were incomplete and lacking in required disclosures. Accordingly, at its regular meeting held on January 16, 2008, the Commission initiated an investigation into the GAF PAC's expenditures, receipts and campaign finance disclosure reporting, and the relationship to and transfers between candidate committees for Senator Gaffey in 2004 and 2006. The Respondent cooperated throughout the investigation, as did the Chairperson and related staff.

3. Senator Gaffey's 2008 candidate committee has a different treasurer and is not part of the investigation in this matter. Issues arising out of the investigation with respect to Senator Gaffey are addressed in a separate document.

4. It is understood and agreed that for relevant time periods provided herein, the applicable statutes prior to December 31, 2006 were Conn. Gen. Stat. §§ 9-333h, 9-333i, and 9-333j. Thereafter, the relevant statutes are Conn. Gen. Stat. §§ 9-606, 9-607, and 9-608, based upon the recodification of the campaign finance laws. The substance of each statute remained the same during the period under review, from 2004 to 2007.

5. Conn. Gen. Stat. § 9-606 (formerly Conn. Gen. Stat. § 9-333h) provides, in pertinent part:

   (a) The campaign treasurer of each committee shall be responsible for (1) depositing, receiving and reporting all contributions and other funds in the manner specified in section 9-608, (2) making and reporting expenditures, (3) reporting expenses incurred but not yet paid, (4) filing the statements required under section 9-608, and (5) keeping internal records of each entry made on such statements.

6. Conn. Gen. Stat. § 9-608 (formerly Conn. Gen. Stat. § 9-333j) requires committee treasurers to file periodic statements of receipts and expenditures with the Commission (the Secretary of the State was the filing repository prior to December 31, 2006) under penalty of false statement, requires an itemized accounting of each contribution and expenditure on such statements, and requires the treasurer to provide a copy of campaign finance filings to the committee chairperson.

7. Conn. Gen. Stat. § 9-607 provides, in relevant part:

   (a) ***No financial obligation shall be incurred by a committee unless authorized by the campaign treasurer***, except that certain expenditures of a candidate's personal funds may be reimbursed as provided in subsection (k) of this section.

   (b) ***No*** candidate, campaign treasurer, or ***committee shall be liable for any debt*** incurred in aid of or in opposition to any political party, referendum question or the candidacy of any person or persons for said offices or positions ***unless such debt was incurred pursuant to an authorization issued under subsection (a) of this section***. . . .

   (d) Except as provided in subsections (j) and (k) of this section, ***no payment in satisfaction of any financial obligation incurred by a committee shall be made by or accepted from any person other than the campaign treasurer and then only according to the tenor of an authorization issued pursuant to subsection (a) of this section***. . . .

   (f) ***The campaign treasurer shall preserve all internal records of transactions required to be entered in reports filed pursuant to section 9-608 for four years from the date of the report in which the transactions were entered. <u>Internal records required to be maintained in order for any permissible expenditure to be paid from committee funds include, but are not limited to, contemporaneous invoices, receipts, bills, statements, itineraries, or other written or documentary evidence showing the campaign or other lawful purpose of the expenditure</u>. If a committee incurs expenses by credit card, the***

campaign treasurer shall preserve all credit card statements and receipts for four years from the date of the report in which the transaction was required to be entered. If any checks are issued pursuant to subsection (e) of this section, the campaign treasurer who issues them shall preserve all cancelled checks and bank statements for four years from the date on which they are issued. If debit card payments are made pursuant to subsection (e) of this section, the campaign treasurer who makes said payments shall preserve all debit card slips and bank statements for four years from the date on which the payments are made. In the case of a ***candidate committee***, the campaign treasurer ***or the candidate, if the candidate so requests***, shall preserve all internal records, cancelled checks, debit cards slips and bank statements for four years from the date of the last report required to be filed under subsection (a) of section 9-608. . . .

(j) A candidate or his ***committee worker shall be reimbursed by the campaign treasurer for any permissible expenditure which the candidate or committee worker has paid from his own personal funds if (1) the campaign treasurer authorized the expenditure, (2) the candidate or worker provides the campaign treasurer with a written receipt or other documentary evidence from the vendor proving his payment of the expenditure, and (3) in the case of a reimbursement to the candidate, a detailed accounting of the expenditure is included in the report of the campaign treasurer. Internal records required to be maintained in order for any candidate or committee worker to be reimbursed from committee funds include, but are not limited to, contemporaneous invoices, receipts, bills, statements, itineraries, or other written or documentary evidence showing the campaign or lawful purpose of the expenditure.*** The campaign treasurer shall preserve all such internal records for the same period of time as required in the case of cancelled checks, except that the campaign treasurer of a candidate committee may, upon request of the candidate, give such internal records to the candidate to keep for such period. [Emphasis added.]

8. The Respondent maintained the bank records and check register for GAF PAC, but had almost no contemporaneous documentation to support the lawful purpose of many of the expenditures made by GAF PAC over a four year period, and failed to require and maintain internal records to support each reported transaction and expenditure entered on the committee's campaign finance reports, in violation of Conn. Gen. Stat. §§ 9-606(a) and 9-607(f) (formerly Conn. Gen. Stat. §§ 9-333h(a) and 9-333i(f)). Documentation supporting such expenditures was maintained by the Chairperson but not provided to the treasurer prior to his request for payment.

9. In fact, the process utilized to pay committee expenditures was that Senator Gaffey would telephone the Respondent's secretary, who had no formal role with the committee, but served as a long time bookkeeper to the PAC, and request that the

treasurer pay a dollar amount directly to his personal credit card accounts, typically AAA Financial. The secondary payee names and specific amounts identified during these calls were usually noted on the GAF PAC check register.. The Respondent's secretary would then prepare a committee check directly to the Senator's personal credit card account for the Respondent's signature. All checks were signed by the Respondent. The filed reports usually, but not always, included the total credit card payment and the secondary payees included in such payment, but seldom broke down that total payment into the individual secondary payee amounts as required. Also, when a secondary payee was identified, the particular code for that secondary payee was usually omitted. The Respondent acknowledges that few invoices were received contemporaneously to support the committee expenditures. Some records were, however, gathered in response to the investigation.

10. Senator Gaffey had GAF PAC pay many claimed committee expenditures directly to his personal credit card, without providing supporting documentation to establish that the expenditure was for the lawful purpose of the committee. By approving direct payments from GAF PAC to Senator Gaffey's personal credit card account, without requiring the necessary documentation to support the lawful purpose of the expenditure, the Respondent repeatedly violated Conn. Gen. Stat. § 9-607 (formerly Conn. Gen. Stat. § 9-333i) during the four year period under review.

11. In addition, the Respondent did not directly reimburse Senator Gaffey, or require him to establish that he had paid expenditures from personal funds, as provided in Conn. Gen. Stat. § 9-607(j), but rather extended him an advance in the form of payment made from the GAF PAC directly to his personal credit card account, in violation of Conn. Gen. Stat. § 9-607(j). The Respondent's position is that the payments are not an "advance," and that incurring the charge on a personal credit card meets the payment prerequisite for reimbursement under 9-607(j).

12. Notably, a candidate can request to maintain documents of a candidate committee, pursuant to Conn. Gen. Stat. § 9-607(f) and (j), but not a political committee chairperson. With respect to GAF PAC, Senator Gaffey is a chairperson and not a candidate within the meaning of Conn. Gen. Stat. § 9-601 and 9-607. Accordingly, internal records of the committee are required to be maintained by the Respondent as committee treasurer, and by failing to do so with respect to the expenditure records, the Respondent violated Conn. Gen. Stat. § 9-607(f) and (j) (formerly Conn. Gen. Stat. § 9-333i(f) and 9-333i(j)). The Respondent maintains that a similar process was followed with respect to the Chairperson's candidate committees, and he did not appreciate the distinction. By delegating storage responsibilities to the PAC Chair, Respondent was following the same procedure he had followed for many years when acting as the senator's campaign treasurer. Under the explicit statutory language dealing with campaign committees, such delegation is allowed. A candidate can request to maintain documents of a candidate committee, pursuant to Conn. Gen. Stat. § 9-607(f) and (j). However, the Respondent was not aware that the rules governing maintenance of records were different for campaign committees than for PAC's.

13. Conn. Gen. Stat. § 9-607 (formerly Conn. Gen. Stat. § 9-333) further provides:

> (g) (1) As used in this subsection, (A) ***"the lawful purposes of his committee" means:*** (i) For a candidate committee or exploratory committee, the promoting of the nomination or election of the candidate who established the committee, except that after a political party nominates candidates for election to the offices of Governor and Lieutenant Governor, whose names shall be so placed on the ballot in the election that an elector will cast a single vote for both candidates, as prescribed in section 9-181, a candidate committee established by either such candidate may also promote the election of the other such candidate; ***(ii) for a political committee, the promoting of the success or defeat of candidates for nomination and election to public office or position subject to the requirements of this chapter,*** or the success or defeat of referendum questions, provided a political committee formed for a single referendum question shall not promote the success or defeat of any candidate, ***and provided further a <u>legislative caucus committee</u> may expend funds to defray costs of its members for conducting legislative or constituency-related business <u>which are not reimbursed or paid by the state</u>;*** and (iii) for a party committee, the promoting of the party, the candidates of the party and continuing operating costs of the party, and (B) "immediate family" means a spouse or dependent child of a candidate who resides in the candidate's household.

14. The GAF PAC expended several thousand dollars for Senator Gaffey to attend conferences such as the National Conference of State Legislators (NCSL) and Council of State Government (CSG) over the four year period under review. However, GAF PAC is not a legislative caucus committee, and paying for legislative conferences is not a lawful purpose of a committee of two or more individuals such as GAF PAC. Consequently, such expenditures violated Conn. Gen. Stat. § 9-607(g) (formerly Conn. Gen. Stat. § 9-333i(g)). The Commission does not have prior cases on this specific issue, but has a prior Opinion of Counsel analyzing this issue. Respondent maintains that he was unaware that legislative conferences were not a permissible expenditure of a political committee of two or more individuals, as distinguished from conferences on candidate development or political issues. Respondent believed that such conferences were legitimate committee expenditures.

15. Conn. Gen. Stat. § 9-607 provides, in relevant part:

> (g) . . . (4) As used in this subdivision, ***expenditures for "personal use" include expenditures to defray normal living expenses*** for the candidate, the immediate family of the candidate ***or any other individual and expenditures for the personal benefit of the candidate or any other individual having no direct connection with, or effect***

upon, the campaign of the candidate or ***the lawful purposes of the committee,*** as defined in subdivision (2) of this section. ***No goods, services, funds and contributions received by any committee under this chapter shall be used or be made available for the personal use of any candidate or any other individual. No candidate, committee, or any other individual shall use such goods, services, funds or contributions for any purpose other than campaign purposes permitted by this chapter.*** . . .

(h) ***No campaign treasurer of a political committee may*** provide an honorarium to, compensate or ***make a gift to, any elected public official*** who is subject to the provisions of this chapter, for any speaking engagement or other services rendered on behalf of such committee, except that the provisions of this subsection shall not apply to: (1) Reimbursement for actual travel expenses or food and beverage for the personal consumption of such public official or members of his immediate family, in connection with the rendering of any such services by the public official; or (2) any contribution made to such public official in connection with his campaign for nomination or election to an office or position included in this chapter, which is reported in accordance with the provisions of this chapter. ***Except as provided in this subsection, no such elected public official may receive any gift, honorarium or compensation from a political committee.*** [Emphasis added.]

16. The Respondent's failure to require appropriate documentation, in the view of the Commission, contributed to a situation where GAF PAC paid for conference expenditures that had already been or were also paid for by the State of Connecticut, and paid the same expenditure to a restaurant twice, in the total amount of $2,953.69, and resulted in a gift or compensation from GAF PAC to a public official, in violation of Conn. Gen. Stat. § 9-607(h). The Respondent maintains that he was unaware that the Senator was reimbursed from any other source for expenditures GAF PAC paid for, and the Commission has uncovered no evidence to the contrary. The Respondent further maintains that had he been aware, he would not have approved such expenditures.

17. The Respondent approved expenditures to Sprint for Senator Gaffey's personal cell phone totaling $5,084.46, which were not supported by adequate documentation, in violation of Conn. Gen. Stat. § 9-607(f) and (j). In some instances, GAF PAC paid Sprint amounts that exceeded bills for the relevant period, in part because no invoice was required prior to payment. In other instances, Senator Gaffey made reimbursements to the GAF PAC, but the lack of any invoices or documents and incomplete reporting makes it difficult, if not impossible, to reconstruct what certain payment amounts represent.

18. The Respondent acknowledges that he was unaware that certain cell phone charges paid by GAF PAC related to the use of the phone by a third party. The Respondent's failure to require invoices or contemporaneous documentation prevented him from questioning the lawful purpose of any such expenditure, or even establishing accurate amounts.

19. Conn. Gen. Stat. § 9-608(c) (formerly Conn. Gen. Stat. § 9-333j(c)) provides:

> (c) (1) ***Each*** [campaign finance disclosure] ***statement . . . shall include, but not be limited to***: (A) An itemized accounting of each contribution, if any, including the full name and complete address of each contributor and the amount of the contribution; . . . (C) ***an itemized accounting of each expenditure, if any, including the full name and complete address of each payee, including secondary payees whenever the primary or principal payee is known to include charges which the primary payee has already paid or will pay directly to another person, vendor or entity, the amount and the purpose of the expenditure***, the candidate supported or opposed by the expenditure, whether the expenditure is made independently of the candidate supported or is an in-kind contribution to the candidate, ***and a statement of the balance on hand or deficit, as the case may be***; (D) ***an itemized accounting of each expense incurred but not paid, provided if the expense is incurred by use of a credit card, the accounting shall include secondary payees, and the amount owed to each such payee***; . . . [Emphasis added.]

20. The Respondent failed to report fourteen expenditures totaling $5,201.43, in violation of Conn. Gen. Stat. § 9-608(c) (formerly Conn. Gen. Stat. § 9-333j(c)). The Respondent failed to report approximately thirty bank service fees automatically deducted from the bank account totaling $456 over the four year period and reflected in the bank records maintained by the Respondent; $664 of assorted other expenditures; and $4,080 in GAF PAC expenditures made during March 2006, which were wholly omitted from the relevant campaign finance report covering that period. The Respondent maintains that the March 2006 reporting omission occurred by accidentally selecting the wrong starting date for a quarterly report.

21. Credit card purchases totaling $9,149.26 were reported as paid by GAF PAC. The filed reports usually included the total credit card payment and the secondary payees included in such payment, but seldom broke down that total payment into the individual secondary payee amounts as required, and the purpose for the secondary payment was not coded. The failure to contain full itemization of the expenditures violated Conn. Gen. Stat. § 9-608(c). In some instances, amendments were made but still failed to indicate amount and purpose.

22. The Respondent also failed to report appropriately a total of $11,437.07 in receipts on disclosure statements covering the relevant period, in violation of Conn. Gen. Stat. §

9-608(c). Receipts not timely reported included a $3,694.49 surplus distribution from Senator Gaffey's 2004 candidate committee, which was not reported for six months, but even then only on the summary page with no itemized description of the source or type of funds received on the internal pages of the report, still in violation of Conn. Gen. Stat. § 9-608(c); and $1,392 in reimbursements to GAF PAC from Senator Gaffey, which were reported without explanatory detail. Some receipts were not reported at all, including deposits of $3,750 and $2,100 made on November 3 and 6, 2006, respectively; and $500 in program booklet advertising purchases from a 2006 fundraiser.

23. In the case of the surplus distribution described above, the amount eventually disclosed as received by GAF PAC, $3,694.49, did not match the $5,259.27 distribution reported by Senator Gaffey's terminating candidate committee, of which the Respondent was also the treasurer. The Respondent violated Conn. Gen. Stat. § 9-608(c) as treasurer of the candidate committee by failing to accurately report the amount distributed from Senator Gaffey's 2004 candidate committee to GAF PAC on the 2004 candidate committee report. The Respondent does not have an explanation for the differing amounts, which suggests that the amount in the candidate committee bank account differed from the amount reported on campaign finance reports (by $1,564.78) and different numbers were required to zero out both.

24. Such reporting is careless, at best, and grossly inaccurate on its face. Each such instance constitutes a violation of Conn. Gen. Stat. § 9-333j(c)(1)(C), and each such report was signed and submitted by the Respondent under penalty of false statement.

25. The Respondent has previously been audited by Commission staff as treasurer of Senator Gaffey's 2000 and 2002 Senate campaigns in connection with the General Assembly Audit Program. Such audits encompassed findings similar to violations found herein, with respect to expenditure reporting. The Respondent had been advised in connection with both audits to itemize payments to secondary payees on his campaign finance reports. The 2000 audit, completed August 2001, found that Respondent had failed to itemize and include secondary payees for expenditures. The 2002 audit, completed April 28, 2004, found mathematical errors, insufficient description of purpose to establish the lawful purpose of expenditures, and again, that expenditure reporting was incomplete and failure to list the secondary payee for credit card expenditures.

26. In addition, a 2003 article in the *Meriden Record Journal* questioned $9,000 in credit card bills for GAF PAC that went unreported for over a year, and raised issues regarding other operation issues of the political committee. The Respondent is quoted in the article, submitted amendments to his reports, and was advised by the Commission's Executive Director that his amendments still did not contain required information, such as the secondary payee and the expenditure code defining the purpose of the expense incurred. The Commission concludes that based upon these three prior communications, the Respondent knew or should have known to be more attentive to the expenditures and reporting requirements of the GAF PAC. The

Respondent maintains that, as a result on the audits, subsequent candidate committees were restructured and a professional accountant retained, but no such improved process was implemented with respect to the GAF PAC. The Respondent maintains that he did not retain an accountant for GAF PAC due to the lesser amount of checks and expenditures, and now regrets such decision. The Respondent wishes to emphasize that he is a volunteer and not paid for his services to the GAF PAC. The Respondent asserts that he received no benefit from the errors in reporting. The Commission found no evidence otherwise.

27. 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 a 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.

28. It is found that the repeated failure to properly report campaign receipts and expenditures is a serious problem, depriving the public of accurate information about political financing; that the failure to require and maintain internal documentation to substantiate the lawful purpose of committee expenditures resulted in inappropriate committee expenditures of both type and amount; that Respondent has been the subject of prior audit reports citing many of the violations repeated in this campaign; that by failing to follow the advice provided by the audit staff of the Commission the Respondent has not shown good faith in attempting to comply with the applicable provisions of the General Statutes; that a significant penalty is warranted to ensure the Respondent's compliance; and that the amount necessary to insure immediate and continued compliance is the forfeiture of the remaining balance in the GAF PAC account.

    Respondent admits that these bookkeeping errors indicate that as Treasurer he relied too heavily on his office staff to complete the reports, and that he needed to supervise more closely the preparation of the reports.

29. The Respondent admits all jurisdictional facts and agrees that this Agreement and Order shall have the same force and effect as a final decision and Order entered after a full hearing and shall become final when adopted by the Commission. The Respondent shall receive a copy hereof as provided in Section 9-7b-56 of the Regulations of Connecticut State Agencies.

30. 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.

31. 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 Order entered into pursuant to this Agreement.

32. This Agreement and Order, and Respondent's compliance therewith, shall constitute a full and final settlement of all matters within the Commission's jurisdiction relating to the Respondent's involvement in GAF PAC from 2004-2007.

ORDER

IT IS HEREBY ORDERED THAT The Respondent shall remit a civil penalty to the Commission of three thousand dollars ($3,000) within thirty days of the adoption of the agreement; and

IT IS FURTHER ORDERED THAT The Respondent shall forfeit the remaining balance of funds in the GAF PAC account, after expenses, to the State Elections Enforcement Commission for deposit in the General Fund, within thirty days of the adoption of this agreement, and thereafter forthwith file a termination report for the Government Action Fund political committee (GAF PAC).

In addition, IT IS FURTHER ORDERED THAT the Respondent shall Henceforth strictly comply with Conn. Gen. Stat. §§ 9-606, 9-607 and 9-608, and additionally, that he shall attend an educational program on campaign finance provided by the Commission prior to serving as treasurer of another candidate, party or political committee.

The Respondent:

Dennis Ceneviva
8 Cobblefield Lane
Guilford, Connecticut

Dated: 5-6-09

For the State of Connecticut

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

Dated: 5/6/09

Adopted this 10th day of May 2009, at Hartford, Connecticut.

Stephen F. Cashman, Chairman
By Order of the Commission