

STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION

In the Matter of a Referral by
Elections Officer

File Nos. 2009-071NF,
2009-149NF, 2010-019NF

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 penalty for any violation of section 9-603, 9-604 or 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.

4. On July 20, 2009 a Commission Elections Officer mailed a notice to Respondent via certified mail, return receipt requested, advising her that she failed to file the July 10, 2009 *Itemized Campaign Finance Disclosure Statement* (SEEC 20), for the Committee. Respondent did not respond to that notice. Thus, on August 17, 2009, pursuant to General Statutes § 9-623, the Commission Elections Officer referred the Respondent to the Legal Enforcement Unit for failure to file the July 10, 2009 statement. That referral resulted in enforcement proceeding File No. 2009-071NF, which is disposed of as part of this agreement.
5. On October 23, 2009 a Commission Elections Officer mailed notice to Respondent via certified mail, return receipt requested, advising her that she failed to file the October 13, 2009 *Itemized Campaign Finance Disclosure Statement* (SEEC 20) for the Committee. Respondent failed to respond to that notice. Thus, on November 17, 2009, pursuant to General Statutes § 9-623, the Commission Elections Officer referred the Respondent to the Legal Enforcement Unit for failure to file the October 23, 2009 statement. This referral resulted in enforcement proceeding File No. 2009-149NF, which is disposed of as of this agreement.
6. Finally, on January 21, 2010 a Commission Elections Officer mailed notice to Respondent via certified mail, return receipt requested, advising her that she failed to file the January 11, 2010 *Itemized Campaign Finance Disclosure Statement* (SEEC 20) for the Committee. On February 18, 2010, pursuant to General Statutes § 9-623, the Commission Elections Officer referred Respondent to the Legal Enforcement Unit for failure to file that statement. This referral resulted in enforcement proceeding File No. 2010-019NF, which is also disposed of as part of this agreement.
7. A Notice of Hearing and Order to Show Cause was issued to the Respondent scheduling a Commission hearing on March 9, 2010 for File Nos. 2009-071, 2009-149NF and 2010-019NF. The Respondent finally provided the Commission with the untimely July and October 2009 and January 2010 filings on the day of that hearing, March 9, 2010.
8. It is therefore concluded that the Respondent failed to timely file three Itemized Statements of Receipts and Expenditures on behalf of the Committee which were due on July 10, 2009, October 13, 2009 and January 10, 2010, in violation of § 9-608. Each instance constitutes a separate violation of General Statutes § 9-608 by the Respondent.
9. On March 9, 2010, a Motion for Continuance of the hearing was made by the State, in agreement with the Respondent, and granted by Hearing Officer Stephen F. Cashman, so that the parties could negotiate a settlement in resolution File No. 2009-071NF, 2009-149NF, and 2010-019NF, which is the subject and purpose of this agreement.
10. The Respondent has been the subject of seven prior enforcement proceedings in File Nos. 2007-208NF, 2007-284NF, 2007-391NF, 2008-034NF, 2008-050NF, 2008-100NF and 2008-191NF, 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 two thousand and nine hundred dollars (\$2,900.00) in penalties to the Commission.

11. Furthermore, with regard to 2008-050NF, 2008-100NF and 2008-191NF, the Respondent had entered into a Consent Agreement with the Commission in which, she agreed in paragraph 17 that:

The Respondent has resisted being [as] 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.

12. It is also noteworthy that with respect to a total of ten enforcement proceedings against the Respondent for failure to file financial statements in a timely manner, the Respondent was repeatedly assisted by Commission staff assigned to investigate those matters, and provided with ample opportunities to effect compliance with the assistance of Commission staff. However, despite the efforts of Commission staff to assist and ensure that Respondent understood her filing responsibilities pursuant to General Statutes § 9-608, Respondent has continued to miss filing dates and has remained largely unresponsive to the Commission demands and offers of assistance. This has resulted in a near complete lack of contemporaneous reporting of the Committee's activities during Respondent's tenure as treasurer.

13. Furthermore, prior to the March 9, 2010, Commission staff repeatedly reminded the Respondent via telephone, e-mail and regular mails of her duties as to treasurer of the Committee to meet filing requirements. The Respondent with regard to such advice pertaining to File No. 2009-071NF, 2009-149NF, and 2010-019NF remained non-responsive until Friday March 5, 2010, just four days prior to the March 9, 2010 hearing.

14. 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 July 10, 2009, October 13, 2009 and January 10, 2010 filing requirements in violation of General Statutes § 9-608, and the Commission finds that such violations were knowing and willful.

15. 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.”

16. In addition, Connecticut General Statutes § 9-7b(a)(3) provides that the Commission's powers include the following:

(B) To issue an order when the commission finds that an intentional violation of any provision of chapter 155 or 157 has been committed, after an opportunity to be heard at a hearing conducted in accordance with sections 4-176e to 4-184, inclusive, which order may contain one or more of the following sanctions: *(i) Removal of a campaign treasurer, deputy campaign treasurer or solicitor; (ii) prohibition on serving as a campaign treasurer, deputy campaign treasurer or solicitor, for a period not to exceed four years; and (iii) in the case of a party committee or a political committee, suspension of all political activities, including, but not limited to, the receipt of contributions and the making of expenditures, provided the commission may not order such a suspension unless the commission has previously ordered the removal of the campaign treasurer and notifies the officers of the committee that the commission is considering such suspension;*
[Emphasis added.]

17. At the request of the Commission, the AFSCME Local 478 PAC Chairperson removed Respondent as treasurer, effective March 4, 2010.

18. The Respondent has also agreed in writing, at the Commission's insistence, not to serve as a treasurer of any ongoing political committee for a period of four calendar years. Furthermore, the Respondent has indicated in writing that the Committee is being closed and a termination report is being filed.

19. The Commission finds, pursuant to the Regulations of Connecticut State Agencies § 9-7b-48, that Respondent has consistently deprived the public of information, which is a serious offense; has an extensive prior history of failing to timely file with the Commission; has not shown good faith efforts to comply with the law; and that a significant penalty and her removal and disqualification as treasurer are necessary to effectuate immediate and continued compliance.

20. Furthermore, the Commission finds that Respondent is a scofflaw, who has exhibited in no uncertain terms absolutely no concern or consideration for the laws that she has accepted as her responsibility to comply with, and little or no regard for this Commission and its historic attempts to both assist and counsel her with compliance of these laws, or to collect penalties and late reports as statutorily required when she so consistently violated these laws.

21. Nevertheless, despite the severity and numerousness of Respondent's violations and the Commission's past intention of seeking maximum penalties against Respondent, the Commission has agreed to accept from the Respondent a civil penalty of three thousand dollars (\$3,000), half of the maximum, in consideration of securing her removal as treasurer, a ban on her serving as a treasurer for a period of four years, the voluntary termination of the Committee, and the filing of all relevant and missing reports, in interest of public disclosure and bringing finality to this matter.

22. 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.

23. 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.

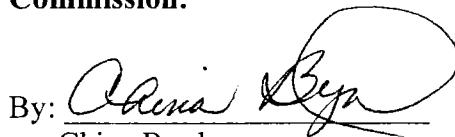
24. Upon the Respondent's compliance with the Order hereinafter stated, the Commission shall not initiate any further proceedings against her pertaining to this matter.

ORDER

IT IS HEREBY ORDERED that the Respondent shall pay a civil penalty to the State of Connecticut in the sum of three thousand dollars (\$3,000.00) on or before 4/26/10.

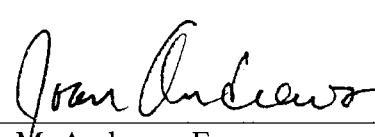
IT IS FURTHER ORDERED that the Respondent is severely reprimanded and is barred from serving as treasurer of any committee within the meaning of § 9-601, General Statutes for a period of four years from the adoption of this agreement.

For the Respondent:
Commission:

By: 
China Byrd
1 Brewery Square
New Haven, Connecticut

Dated: 4/21/10

For the State Elections Enforcement

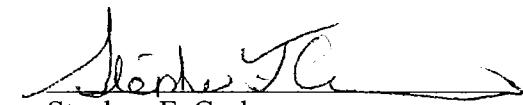
By: 
Joan M. Andrews, Esq.
Director of Legal Affairs and
Enforcement and Authorized
Representative of the
State of Connecticut,
State Elections Enforcement
Commission
20 Trinity Street, Suite 101
Hartford, Connecticut

Dated: 4/21/10

Recommended by hearing officer


Stephen F. Cashman 4/21/2010
Dated

Adopted this 26th day of May of 2010 at Hartford, Connecticut.


Stephen F. Cashman
Chairman
By Order of the Commission