IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

FILED
TIME:
SEP - 5 2006
JAMES BONINI, Clerk
COLUMBUS, OHIO

UNITED STATES OF AMERICA and GLEN GREENWOOD, Plaintiffs, vs. STATE OF OHIO, *et al.*, Defendants.	Case No. 2:05-CV-799 Judge Gregory L. Frost Magistrate Judge King

UNITED STATES EQUAL EMPLOYMENT OPPORTUNITY COMMISSION and GLEN GREENWOOD, Plaintiffs, vs. OHIO CIVIL SERVICE EMPLOYEES ASSOCIATION, AFSCME, LOCAL 11, AFL-CIO, *et al.*, Defendants.	Case No. 2:05-CV-881 Judge Gregory L. Frost Magistrate Judge King

CONSENT DECREE

The United States of America ("United States"), by the Department of Justice, brought Case No. 2:05-cv-799 against the State of Ohio ("Ohio"), the Ohio Environmental Protection Agency ("EPA"), and the Ohio Department of Administrative Services ("DAS") (collectively, "State Defendants") to enforce the provisions of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e, et seq. ("Title VII"). The Ohio State Employment Relations Board ("SERB") and the Ohio Civil Service Employees Association, AFSCME, Local 11, AFL-CIO ("OCSEA") were named as defendant parties pursuant to Rule 19(a) of the Federal Rules of Civil Procedure. The United States Equal Employment Opportunity Commission ("EEOC") brought Case No. 2:05-cv-881 against OCSEA. Ohio, EPA, DAS, and SERB were named as defendant parties in the latter case pursuant to Rule 19(a) of the Federal Rules of Civil Procedure. This Court has jurisdiction over these consolidated cases under 42 U.S.C. § 2000e-5(f)(1),(3); 42 U.S.C. § 2000e-6; 28 U.S.C. § 1331; 28 U.S.C. § 1343; and 28 U.S.C. § 1345.

In its complaint, the United States alleges that the State Defendants have engaged in a pattern or practice of employment discrimination based on religion, in violation of Title VII, by disparately treating on the basis of religion and failing to reasonably accommodate the religious observances, practices, and beliefs of certain State employees, and that Glen Greenwood ("Greenwood"), an EPA employee, has been subjected to the State Defendants' unlawful discrimination. Specifically, the United States alleges that the State Defendants, by themselves and through SERB, have allowed State employees who are members and adherents of religions that historically have held conscientious objections to joining or financially supporting employee organizations such as OCSEA to redirect their representation service fees (hereinafter, "fair share

fees" or "fees") from their respective employee organizations to nonreligious charities, but that the State Defendants, by themselves and through SERB, have not allowed the same accommodation to State employees, including Greenwood, who are not members and adherents of such religions, but who nonetheless hold sincere religious objections to associating with and financially supporting employee organizations such as OCSEA.

In its complaint, the EEOC alleges that OCSEA has engaged in a pattern or practice of employment discrimination based on religion, in violation of Title VII, by disparately treating on the basis of religion and failing to reasonably accommodate the religious observances, practices, and beliefs of certain State employees who are subject to its collective bargaining agreement(s) with Ohio, and that Greenwood has been subjected to OCSEA's unlawful discrimination. Specifically, the EEOC alleges that OCSEA, by itself and in concert with the State Defendants and SERB, has allowed State employees who are subject to its collective bargaining agreement(s) with Ohio and are members and adherents of religions that historically have held conscientious objections to joining or financially supporting employee organizations such as OCSEA to redirect their fair share fees from OCSEA to nonreligious charities, but that OCSEA, by itself and in concert with the State Defendants and SERB, has not allowed the same accommodation to State employees, including Greenwood, who are not members and adherents of such religions, but who nonetheless hold sincere religious objections to associating with and financially supporting employee organizations such as OCSEA.

Greenwood has filed complaints in intervention in both Case No. 2:05-cv-799 and Case No. 2:05-cv-881.

The parties, desiring that this action be settled by an appropriate Consent Decree ("Decree"), and without the burden of protracted litigation, agree to the jurisdiction of this Court over the parties and the subject matter of this action. Subject to the Court's approval of this Decree, the parties waive a hearing and findings of fact and conclusions of law on all issues, and further agree to the entry of this Decree as final and binding among and between themselves as to the issues raised in the United States' complaint filed in Case No. 2:05-cv-799, the EEOC's complaint filed in Case No. 2:05-cv-881, Greenwood's complaints in intervention filed in Case No. 2:05-cv-799 and Case No. 2:05-cv-881, and the matters resolved in this Decree.

This Decree, being entered with the consent of the parties, shall in no way constitute an adjudication or finding on the merits of Case No. 2:05-cv-799 and Case No. 2:05-cv-881, nor be construed as an admission by any of the defendants or as a finding by the Court of any wrongdoing or violation of any applicable federal or state law or regulation.

In resolution of this action, the parties hereby AGREE to, and the Court expressly APPROVES, ENTERS and ORDERS, the following:

I. PARTIES AND DEFINITIONS

1. The parties to this Decree are the United States; the United States Equal Employment Opportunity Commission; Glen Greenwood; the State of Ohio; the Ohio Environmental Protection Agency; the Ohio Department of Administrative Services; the Ohio State Employment Relations Board; and the Ohio Civil Service Employees Association, AFSCME, Local 11, AFL-CIO.

2. "United States" refers to the United States of America, by the United States Department of Justice.

3. "EEOC" refers to the United States Equal Employment Opportunity Commission.

4. The "State" refers to all executive branch agencies, departments, boards, and commissions of the State of Ohio in its capacity as an employer that are represented by the Office of Collective Bargaining pursuant to OHIO REV. CODE § 4117.10(D), including the Ohio Environmental Protection Agency and the Ohio Department of Administrative Services.

5. "Ohio EPA" or "EPA" refers to the Ohio Environmental Protection Agency.

6. "Ohio DAS" or "DAS" refers to the Ohio Department of Administrative Services.

7. "SERB" refers to the Ohio State Employment Relations Board.

8. "OCSEA" refers to the Ohio Civil Service Employees Association, AFSCME, Local 11, AFL-CIO.

9. "Office of Collective Bargaining" or "OCB" refers to Ohio DAS' Office of Collective Bargaining.

10. "Greenwood" refers to Glen Greenwood, the plaintiff-intervenor in Case No. 2:05-cv-799 and Case No. 2:05-cv-881, who filed EEOC Charge No. 221-A3-00203 against OCSEA and EEOC Charge No. 221-2004-01913 against Ohio EPA and Ohio DAS.

11. Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e, et seq., is hereinafter referred to as "Title VII."

12. "Employee organization" refers to any labor or bona fide organization that represents State employees and that collectively bargains with the State, including OCSEA.

13. "State employee" refers to an employee of the State of Ohio who is subject to a collective bargaining agreement between the State and an employee organization such as OCSEA.

14. "Union dues" or "dues" refers to the regular payments that State employees who are members of an employee organization must pay to that employee organization.

15. "Fair share fees" or "fees" refers to the representation service fees that State employees who choose *not* to become members of an employee organization such as OCSEA, but who nonetheless are subject to a collective bargaining agreement between the State and OCSEA or another employee organization, are required to pay OCSEA or another employee organization as a condition of their employment with the State.

16. "Religious objector" or "objector" refers to a State employee who has a sincerely held religious objection to associating with and/or financially supporting an employee organization such as OCSEA.

17. "Substituted charity accommodation" refers to a religious accommodation that allows a State employee to redirect all of his or her union dues or fair share fees from an employee organization such as OCSEA to a charity mutually agreeable to the State employee and the employee organization.

18. "Religion," for purposes of this Decree, refers to the term as defined in Section 2000e(j) of Title VII, 42 U.S.C. § 2000e(j).

19. "Day" or "days," as used herein, refers to calendar, not business days.

20. "Date of entry" of the Decree refers to the date on which the Court orders entry of the Decree.

II. PURPOSES OF THIS DECREE

21. The purposes of this Decree are to ensure that:

a. Greenwood is granted a substituted charity accommodation, and the fair share fees Greenwood has paid OCSEA, since it was notified by him, on or about June 17, 2002, of his religious objections to associating with it and paying it his fair share fees, are retroactively redirected to a charity mutually agreeable to Greenwood and OCSEA;

b. State employees who hold sincere religious objections to associating with and/or financially supporting an employee organization such as OCSEA, but who are not members and adherents of religions that historically have held conscientious objections to joining or financially supporting employee organizations, are provided a procedure by which they may obtain substituted charity accommodations; and

c. State employees, including Greenwood, who hold sincere religious objections to associating with and/or financially supporting an employee organization such as OCSEA, but who are not members and adherents of religions that historically have held conscientious objections to joining or financially supporting employee organizations, are not subjected to disparate treatment on the basis of religion.

III. GENERAL INJUNCTIVE RELIEF

22. The State and OCSEA, as well as their employees, supervisors, agents and all individuals in active concert or participation with them, are enjoined from:

a. establishing, maintaining, and/or implementing any policy or procedure (or otherwise engaging in any act or practice) that denies substituted charity accommodations to State employees, including Greenwood, who hold sincere

religious objections to associating with and/or financially supporting an employee organization such as OCSEA, whether or not they are members and adherents of religions that historically have held conscientious objections to joining or financially supporting employee organizations, pursuant to Title VII;

b. failing or refusing to afford relief to Greenwood as set forth in Paragraphs 21(a), 29, and 30 of this Decree and pursuant to Title VII; and

c. retaliating against, or in any way adversely affecting the terms and conditions of employment of any person because that person has requested a religious accommodation concerning the payment of his or her union dues or fair share fees, or has engaged in other conduct protected by 42 U.S.C. § 2000e-3(a).

IV. RELIGIOUS ACCOMMODATION POLICY AND PROCEDURE

23. The State and OCSEA shall continue to abide by and implement the following religious accommodation policy and procedure ("Accommodation Procedure"), which they have incorporated into their 2006-2009 collective bargaining agreement:

An employee may file notice with the Union, at its Central Office, challenging the deduction of dues or fair share fees on the basis of bona fide, sincerely held religious beliefs under Title VII. The notice must contain a current mailing address and the social security number of the employee. Upon receipt of said notice, the Union shall notify the Office of Collective Bargaining (OCB), in writing, that the dues or fair share fees of the employee are to be withheld, but not remitted to the Union, until further notice. The Union shall forward an "Application for Religious Exemption" to the employee for completion.

The application shall be reviewed for approval within sixty (60) days of receipt. Should the parties be unable, within this time period, to resolve the matter by either a written agreement or a withdrawal of the application, the matter shall be set for arbitration. Similarly situated applications may be scheduled for arbitration collectively. The employee(s) and the Union shall mutually agree upon an Arbitrator, and except as may otherwise be agreed upon, in writing, between the employee and the Union, the arbitration shall be conducted in accordance with this agreement. If the parties cannot agree to an Arbitrator, then they shall

secure a list of seven (7) Arbitrators from FMCS and use the alternate strike method to determine the Arbitrator. The expense of the arbitration shall be borne by the Union.

The Arbitrator shall analyze the claim in accordance with the standards of Title VII and all applicable case law. If the Arbitrator determines that the employee is entitled to relief under Title VII, the Arbitrator shall direct that the appropriate portion of the dues or fair share fee attributable to the employee be directed to a charitable organization mutually agreed upon between the employee and the Union. If the Arbitrator determines that the employee is not entitled to relief under Title VII, then the application shall be dismissed. Any accommodation shall comply with Title VII. The Union shall forward a copy of the arbitration decision to OCB in order to direct the payment of funds that have been withheld but not remitted to the Union, and any future dues or fair share fees of the affected employee in compliance with the decision and this section.

24. The arbitration process described in the Accommodation Procedure set forth in Paragraph 23, above, shall not be construed as, and shall not operate as, a waiver of a religious objector's right to pursue his or her statutory rights under Title VII by filing a charge of religious discrimination with the EEOC and filing suit in a court of competent jurisdiction. Furthermore, a religious objector may file a charge of religious discrimination with the EEOC without submitting to the Accommodation Procedure's arbitration process. Finally, if a religious objector decides not to pursue arbitration under the Accommodation Procedure, then the State shall continue to withhold the objector's dues or fair share fees from the relevant employee organization until the State determines that the objector's religious accommodation request has been resolved (such as by a resolution reached before the EEOC or a court of competent jurisdiction), at which point the State shall disburse the objector's dues or fees pursuant to that resolution. However, notwithstanding the State's determination, the objector shall retain the right to pursue all available remedies under Title VII, if he or she has not already done so.

25. The State shall exercise its best efforts to incorporate the Accommodation Procedure set forth in Paragraph 23, above, and as additionally described in Paragraph 24, above, into all of its prospective collective bargaining agreements with employee organizations, including its 2006-2009 collective bargaining agreements.

26. Beginning on the date of entry of this Decree, if a State employee notifies OCB in writing that he or she holds a bona fide, sincerely held religious objection to paying dues or fair share fees to an employee organization that is a party to a collective bargaining agreement with the State that applies to the employee, and provides his or her current mailing address and social security number, and if the State has not yet entered into a collective bargaining agreement with that employee organization that incorporates the Accommodation Procedure set forth in Paragraph 23, above, and as additionally described in Paragraph 24, above, then the State shall continue to deduct the religious objector's dues or fees but shall cease to remit those dues or fees to that employee organization, beginning the pay period immediately following OCB's receipt of the objector's notification letter, and shall forward to the employee organization a copy of the objector's notification letter. The State shall continue to withhold the religious objector's dues or fees from that employee organization until the employee organization enters into a collective bargaining agreement with the State that incorporates the Accommodation Procedure set forth in Paragraph 23, above, and as additionally described in Paragraph 24, above, at which point the objector's dues or fees shall be administered pursuant to the Accommodation Procedure. If, however, after exercising its best efforts, the State is unable to enter into a collective bargaining agreement with the employee organization

that incorporates the Accommodation Procedure set forth in Paragraph 23, above, and as additionally described in Paragraph 24, above, then the State nonetheless shall continue to withhold the religious objector's dues or fees from the employee organization until it determines that the matter has been resolved (such as by an agreement reached between the objector and the employee organization, or by a resolution reached before the EEOC or a court of competent jurisdiction), at which point the State shall disburse the objector's dues or fees pursuant to that resolution. However, notwithstanding the State's determination, the objector shall retain the right to pursue all available remedies under Title VII, if he or she has not already done so.

27. Within twenty-one (21) days after the date of entry of this Decree, the State shall provide notice of the Accommodation Procedure set forth in Paragraph 23, above, and as additionally described in Paragraph 24, above, and of the terms set forth in Paragraphs 25 and 26, above, by:

a. Posting the Notice of Settlement and of New Religious Accommodation Procedure Concerning Payment of Union Dues or Fair Share Fees ("Notice of Settlement"), attached hereto at Appendix A, on Ohio DAS' Internet subsite devoted to equal employment opportunity information, and on Ohio DAS' Internet subsite devoted to information regarding collective bargaining agreements administered by OCB. In addition, the State shall post the Notice of Settlement in the annotations to the online versions of those provisions in each of the collective bargaining agreements administered by OCB that relate to dues deductions or substituted charity accommodations. The Notice of Settlement shall remain

posted on Ohio DAS' Internet subsites, as set forth in this Paragraph 27(a), throughout the term of this Decree; and

b. Posting the Notice of Settlement, for a period of sixty (60) days, on any bulletin boards used by the State's constituent agencies for posting equal employment opportunity information.

The State also shall provide a copy of the Notice of Settlement to any State employee who notifies OCB that he or she has a religious objection to paying union dues or fair share fees to an employee organization that is a party to a collective bargaining agreement with the State that applies to the employee.

28. Within twenty-one (21) days after the date of entry of this Decree, OCSEA shall post the Notice of Settlement in a section of its Internet website that provides labor-related news and is available to the public, such as its home page or the section of its website entitled "News Center." The Notice of Settlement shall remain posted on OCSEA's website throughout the term of this Decree.

V. REMEDIAL RELIEF FOR GLEN GREENWOOD

29. Within fifteen (15) days from the date of entry of this Decree, the State and OCSEA shall grant Greenwood a religious accommodation that redirects his dues or fair share fees to a charitable organization he designates, excluding any organization in which he has a financial interest or is an officer, agent or employee, and excluding any organization that does not or will not accept an electronic transfer of funds from the State. Going forward, the State shall effectuate this accommodation by forwarding the dues or fair share fees taken from Greenwood's pay directly to the charitable organization he designates.

30. Within fifteen (15) days from the date of entry of this Decree, OCSEA shall ensure that the dues or fair share fees Greenwood has paid OCSEA since June 17, 2002 are retroactively redirected to a mutually agreed upon charitable organization, excluding any organization in which he has a financial interest or is an officer, agent, or employee. The amount of dues or fair share fees retroactively redirected, however, shall not exceed three thousand five hundred dollars ($3,500.00).

VI. DISPUTE RESOLUTION

31. The parties shall attempt to resolve informally any dispute that may arise under this Decree. If the parties are unable to resolve the dispute expeditiously, any party may move the Court for a resolution of the disputed issue.

VII. REPORTING, RECORD RETENTION, AND COMPLIANCE MONITORING

32. For purposes of this Decree, a reporting period shall run from January 1 through June 30, and from July 1 through December 31, for each year. Within thirty (30) days from the close of each reporting period, the State shall provide the United States and the EEOC with a semi-annual report that contains a summary of each religious accommodation request made by a State employee pursuant to the Accommodation Procedure set forth in Paragraph 23, above, and as additionally described in Paragraph 24, above, or pursuant to the alternative procedure described in Paragraph 26, above, including: (1) the date on which OCB was notified of the State employee's religious objection to paying his or her union dues or fair share fees to an employee organization that is a party to a collective bargaining agreement with the State that applies to the employee, and, if the employee organization at issue is OCSEA, the date on which OCSEA was notified of the State

employee's religious objection; (2) a brief description of the State employee's religious objection; (3) a statement as to whether the State, after being notified of the State employee's religious objection, ceased to remit the State employee's union dues or fair share fees to that employee organization and, if not, a statement of the reason(s) therefor; (4) a statement as to whether a resolution has been reached with respect to the State employee's accommodation request; and (5) if the State has determined that a resolution has been reached regarding the State employee's accommodation request, the date on which the matter was resolved and a brief description of the accommodation the State employee received and a statement of the reason(s) therefor (or, if the State employee ultimately was required to continue paying union dues or fair share fees to the employee organization, a statement of the reason(s) therefor). To the extent that the semi-annual report involves a State employee who is subject to the State's collective bargaining agreement with OCSEA, OCSEA shall assist the State, as needed, in preparing the report. Each semi-annual report also shall contain the contact information of the person or persons responsible for preparing the report.

33. The semi-annual reports the State produces pursuant to Paragraph 32, above, will not include the names, home addresses, or telephone numbers of any religious objectors referred to in those reports. If the United States or the EEOC separately requests the name, home address, and telephone number of a specific religious objector referred to in any of the semi-annual reports, however, then the State shall provide the United States or the EEOC with the requested information pursuant to this Paragraph 33.

34. The State shall provide the information described in Paragraphs 32 and 33, above, for thirty (30) months following the date of entry of this Decree.

35. One (1) year from the date of entry of this Decree, the State shall provide the United States with a brief report that identifies each employee organization with which it has a collective bargaining agreement that does not incorporate the Accommodation Procedure set forth in Paragraph 23, above, and as additionally described in Paragraph 24, above, if any. The report shall summarize the State's efforts to incorporate the Accommodation Procedure into its collective bargaining agreement with each employee organization the report identifies, and the reasons the State was prevented from obtaining the incorporation of the Accommodation Procedure into its collective bargaining agreement with each such employee organization.

36. During the term of this Decree, the State and OCSEA shall maintain and retain all documents and information in their possession that are relevant to any religious accommodation request made pursuant to the Accommodation Procedure set forth in Paragraph 23, above, and as additionally described in Paragraph 24, above. In addition, the State shall maintain and retain all documents and information in its possession that are relevant to its efforts to comply with the requirements of Paragraph 25, above, or relevant to any religious accommodation request made to the State under the alternative procedure described in Paragraph 26, above.

37. The United States and the EEOC may review compliance with this Decree at any time, and shall have the right to inspect and copy any documents that are relevant and necessary to monitor the State's and OCSEA's compliance with this Decree, upon thirty (30) days

written notice to the party whose compliance is being reviewed, without further order of this Court.

VIII. JURISDICTION OF THE COURT

38. The Court shall retain jurisdiction over this Decree for the purpose of resolving any disputes or entering any orders that may be necessary to implement the Decree.

39. The parties to this Decree expect that the remedial relief called for under this Decree will be fully effectuated within thirty (30) months from the date of entry of this Decree. Accordingly, this Decree shall dissolve and this action shall be dismissed without further order of the Court at the end of thirty (30) months from the date of entry of this Decree, unless both of the following elements are present: (a) the remedial relief called for by this Decree has not been fully effectuated; and (b) the United States or the EEOC move, and the Court grants the motion, to extend the life of this Decree and this action for the sole purpose of effectuating the remedial relief called for by this Decree.

IX. EFFECT

40. To the extent that any of the provisions of this Decree, or any actions taken pursuant to such provisions, may be inconsistent with any state or local statute, law, or regulation, or with any provision of a collective bargaining agreement between the State and an employee organization such as OCSEA, the provisions of this Decree shall prevail in accordance with the constitutional supremacy of federal law.

X. GENERAL PROVISIONS

41. Greenwood shall be eligible to recover from the State and OCSEA reasonable costs and attorney's fees, upon submission of proper supporting documentation, except that the

reasonable costs and attorney's fees Greenwood may recover from the State shall not exceed eighty-three thousand three hundred seventeen dollars and fifteen cents ($83,317.15), and the reasonable costs and attorney's fees Greenwood may recover from OCSEA shall not exceed eighty-three thousand three hundred seventeen dollars and fifteen cents ($83,317.15), excluding any additional costs and attorney's fees Greenwood may incur if required to file a fee petition with the Court. All other parties to these cases shall bear their own costs in this action, including attorney's fees. All parties, however, shall retain the right to seek costs for any matter which, in the future, may arise under this Decree and require resolution by the Court.

42. Paragraph 41, above, shall not operate as, nor be construed as, a waiver of any right of indemnification from OCSEA the State may have.

43. All documents required to be delivered to the United States and the EEOC under this Decree shall be sent to the attention of:

David J. Palmer, Chief
Employment Litigation Section
Civil Rights Division
U.S. Department of Justice
950 Pennsylvania Ave., NW
Patrick Henry Building, Room 4040
Washington, D.C. 20530

Equal Employment Opportunity Commission
Cleveland Field Office
The Anthony J. Celebrezze Federal Office Building
1240 East 9th Street, Room 3001
Cleveland, Ohio 44199
Attn: C. Larry Watson, Associate Regional Attorney

APPROVED and **ORDERED** this 5th day of September, 2006.

UNITED STATES DISTRICT JUDGE

Agreed and consented to on behalf of plaintiff United States of America:

WAN J. KIM
Assistant Attorney General
Civil Rights Division

By:

DAVID J. PALMER [D.C. Bar Number: 417834]
Chief, Employment Litigation Section

WILLIAM B. FENTON [D.C. Bar Number: 414990]
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Agreed and consented to on behalf of plaintiff Equal Employment Opportunity Commission:

JACQUELINE H. MCNAIR
Regional Attorney

C. LARRY WATSON [Ohio Bar Number: 0031443]
Associate Regional Attorney

LAWRENCE MAYS [Ohio Bar Number: 0038288]
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Facsimile: (216) 522-7430
E-mail: Jeffrey.Stern@eeoc.gov

Agreed and consented to on behalf of plaintiff Glen Greenwood:

BRUCE N. CAMERON [D.C. Bar Number: 380850]
c/o National Right to Work Legal Defense Foundation
8001 Braddock Road
Springfield, VA 22160
Telephone: (703) 321-8510
Facsimile: (703) 321-9319
E-mail: bnc@nrtw.org

Agreed and consented to on behalf of defendants State of Ohio and Ohio Department of Administrative Services:

CAROL NOLAN DRAKE
Director
Ohio Department of Administrative Services
Rhodes State Office Tower
30 East Broad Street, 40th Floor
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JACK W. DECKER [Ohio Bar Number: 0021285]
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Facsimile: (614) 644-7253
E-mail: jdecker@ag.state.oh.us

Agreed and consented to on behalf of defendants State of Ohio and Ohio Department of Administrative Services' Office of Collective Bargaining:

STEVEN J. LOEFFLER
Deputy Director
Ohio Department of Administrative Services, Office of Collective Bargaining
100 East Broad Street, 18th Floor
Columbus, OH 43215
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Agreed and consented to on behalf of defendant Ohio Environmental Protection Agency:

JOSEPH P. KONCELIK
Director
Ohio Environmental Protection Agency
Lazarus Government Center
122 South Front Street
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Agreed and consented to on behalf of defendant Ohio State Employment Relations Board:

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MICHAEL D. ALLEN [Ohio Bar Number: 0020693]
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Agreed and consented to on behalf of defendant Ohio Civil Service Employees Association, AFSCME, Local 11, AFL-CIO:

SANDRA F. BELL [Ohio Bar Number: 0033740]
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Appendix A

NOTICE OF SETTLEMENT AND OF NEW RELIGIOUS ACCOMMODATION PROCEDURE CONCERNING PAYMENT OF UNION DUES OR FAIR SHARE FEES

TO ALL STATE OF OHIO EMPLOYEES WHO HAVE A SINCERE RELIGIOUS OBJECTION TO ASSOCIATING WITH AND/OR FINANCIALLY SUPPORTING A UNION THAT IS A PARTY TO A COLLECTIVE BARGAINING AGREEMENT WITH THE STATE OF OHIO THAT APPLIES TO THEM:

PLEASE READ THIS NOTICE CAREFULLY.

On August 26, 2005, the United States filed a lawsuit claiming that the State of Ohio ("State") violated Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e, et seq., as amended ("Title VII") by engaging in religious discrimination against State employees who hold sincere religious objections to associating with and financially supporting a union to which they are required to pay fair share fees pursuant to a collective bargaining agreement between the union and the State, but who are not members and adherents of religions that historically have held conscientious objections to joining or financially supporting unions.

On September 23, 2005, the Equal Employment Opportunity Commission ("EEOC") filed a similar lawsuit against the Ohio Civil Service Employees Association, AFSCME, Local 11, AFL-CIO ("OCSEA"), which subsequently was consolidated with the United States' lawsuit. The EEOC claimed that OCSEA also violated Title VII by engaging in religious discrimination against State employees who are required to pay it fair share fees, pursuant to a collective bargaining agreement between OCSEA and the State, and who hold sincere religious objections to associating with and financially supporting OCSEA, but who are not members and adherents of religions that historically have held conscientious objections to joining or financially supporting unions.

The State and OCSEA have denied the allegations made against them. In the interest of avoiding contested litigation, the United States, the EEOC, the State, and OCSEA have reached a settlement, which has been memorialized in a Consent Decree. The Consent Decree was approved and entered by the United States District Court for the Southern District of Ohio (Eastern Division), on **[decree date]**. The cases are called United States of America v. State of Ohio, *et al.*, Case No. 2:05-cv-799 (S.D. Ohio) and Equal Employment Opportunity Commission v. Ohio Civil Service Employees Association, AFSCME, Local 11, AFL-CIO, *et al.*, Case No. 2:05-cv-881 (S.D. Ohio). This notice is being provided under the terms of the Consent Decree.

Under the terms of the Consent Decree, the State and OCSEA are to abide by and implement the following religious accommodation procedure ("Accommodation Procedure") which has been incorporated into their 2006-2009 collective bargaining agreement, and the State must exercise its best efforts to incorporate the Accommodation Procedure into all of its other

prospective collective bargaining agreements, including its 2006-2009 collective bargaining agreements:

> An employee may file notice with the Union, at its Central Office, challenging the deduction of dues or fair share fees on the basis of bona fide, sincerely held religious beliefs under Title VII. The notice must contain a current mailing address and the social security number of the employee. Upon receipt of said notice, the Union shall notify the Office of Collective Bargaining (OCB), in writing, that the dues or fair share fees of the employee are to be withheld, but not remitted to the Union, until further notice. The Union shall forward an "Application for Religious Exemption" to the employee for completion.
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> The application shall be reviewed for approval within sixty (60) days of receipt. Should the parties be unable, within this time period, to resolve the matter by either a written agreement or a withdrawal of the application, the matter shall be set for arbitration. Similarly situated applications may be scheduled for arbitration collectively. The employee(s) and the Union shall mutually agree upon an Arbitrator, and except as may otherwise be agreed upon, in writing, between the employee and the Union, the arbitration shall be conducted in accordance with this agreement. If the parties cannot agree to an Arbitrator, then they shall secure a list of seven (7) Arbitrators from FMCS and use the alternate strike method to determine the Arbitrator. The expense of the arbitration shall be borne by the Union.
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> The Arbitrator shall analyze the claim in accordance with the standards of Title VII and all applicable case law. If the Arbitrator determines that the employee is entitled to relief under Title VII, the Arbitrator shall direct that the appropriate portion of the dues or fair share fee attributable to the employee be directed to a charitable organization mutually agreed upon between the employee and the Union. If the Arbitrator determines that the employee is not entitled to relief under Title VII, then the application shall be dismissed. Any accommodation shall comply with Title VII. The Union shall forward a copy of the arbitration decision to OCB in order to direct the payment of funds that have been withheld but not remitted to the Union, and any future dues or fair share fees of the affected employee in compliance with the decision and this section.

As explained in the Consent Decree, the arbitration process set forth in the above Accommodation Procedure does not prevent a State employee from pursuing his or her statutory rights under Title VII by filing a charge of religious discrimination with the EEOC and filing suit in court. Furthermore, a State employee may file a charge of religious discrimination with the EEOC without submitting to the above Accommodation Procedure's arbitration process. If a State employee chooses not to submit to the above Accommodation Procedure's arbitration process, then the State will continue to withhold the employee's dues or fair share fees from the relevant union until it determines that the employee's request for a religious accommodation has been resolved (such as by a resolution reached before the EEOC or a court), at which point the State will disburse the employee's dues or fees pursuant to that resolution. However, notwithstanding the State's determination, the employee still will have the right to pursue all available remedies under Title VII, if he or she has not already done so.

Also, please note that a State employee need not be a member of a specific church or religious body in order to be entitled to the religious accommodation described in the above Accommodation Procedure. Rather, if a State employee holds to sincere, personal religious observances, practices, or beliefs that prohibit the State employee from paying dues or fair share fees to the union to which he or she is required to pay such dues or fees, the State employee may be entitled to the religious accommodation described in the above Accommodation Procedure.

If you pay dues or fair share fees to a union other than OCSEA and would like to find out whether the above Accommodation Procedure has been incorporated into the State's collective bargaining agreement with the union to which you pay dues or fair share fees, please contact the union or your State employer's Equal Employment Opportunity Office, or visit the following Internet website: http://www.das.ohio.gov/ocb/OCBcontracts.html.

If the State has not incorporated the above Accommodation Procedure into its collective bargaining agreement with the union to which you pay dues or fair share fees, and if you have a sincere religious objection to associating with and/or financially supporting that union, you still may request a religious accommodation redirecting all of your dues or fees to a charity mutually agreeable to you and the union. To make such a request to the State, you must notify the Ohio Department of Administrative Services' Office of Collective Bargaining ("OCB"), in writing, that you have a sincere religious objection to associating with and/or financially supporting the union and therefore object to paying dues or fair share fees to the union. Your notification letter also must provide your current mailing address and your social security number, and must be mailed to the following address:

Office of Collective Bargaining
100 E. Broad Street, 18th Floor
Columbus, Ohio 43215
Attn: David Simpson

After OCB receives your notification letter, the State will continue to deduct your dues or fees, but will forward to the union a copy of your letter and will withhold your dues or fees from the union until the above Accommodation Procedure is incorporated into the State's collective bargaining agreement with the union, at which point your dues or fees will be administered pursuant to the above Accommodation Procedure. If, however, the State is unable to incorporate the above Accommodation Procedure into its collective bargaining agreement with the union, the State will continue to withhold your dues or fees from the union until it determines that your request for a religious accommodation has been resolved (such as by an agreement reached between you and the union, or by a resolution reached before the EEOC or a court), at which point the State will disburse your dues or fees pursuant to that resolution. However, notwithstanding the State's determination, if you disagree with how your accommodation request has been resolved, you still will have the right to pursue any and all remedies available to you under Title VII, if you have not already done so.

Should you have any questions about this notice, please contact your State employer's Equal Employment Opportunity Office, or contact OCB at (614) 466-0570.