

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

KELVIN J. COCHRAN,

Plaintiff,

v.

**CITY OF ATLANTA, GEORGIA;
and MAYOR KASIM REED, IN HIS
INDIVIDUAL CAPACITY,**

Defendants.

Case No. 1:15-cv-00477-LMM

**DEFENDANTS' REPLY IN SUPPORT OF THEIR
MOTION FOR SUMMARY JUDGMENT**

Plaintiff's Response does not dispute the following material facts: (1) Plaintiff failed to obtain approval from the City's Board of Ethics prior to publishing and selling his book, *Who Told You That You Were Naked?*, in violation of the City's Ethics Code; (2) Plaintiff's book explicitly condemns broad swathes of the diverse workforce he led and the diverse community the Atlanta Fire and Rescue Department ("AFRD") serves; (3) Plaintiff provided copies of his book to his subordinates in the workplace, triggering potential Title VII liability for the City; (4) while Plaintiff was suspended, he made public comments related to his suspension, including statements perpetuating the false narrative that the City suspended him for his religious beliefs; (5) Plaintiff supported a

massive public relations campaign against Mayor Reed personally, and took no steps to mitigate the resulting angry backlash, either before or after it began; and (6) shortly thereafter, the City's Law Department informed Mayor Reed that individuals within AFRD had lost faith in Plaintiff's continued ability to lead them.

These undisputed material facts demonstrate that the City suspended and then terminated Plaintiff for reasons wholly unrelated to his religious beliefs. While Plaintiff seeks to overcome summary judgment by continuing the false narrative he began while suspended, his attempt fails in light of the evidence in the record. Summary judgment is therefore warranted on his claims.

I. Plaintiff's Retaliation Claim Fails as a Matter of Law.

To survive summary judgment on his First Amendment retaliation claim, Plaintiff must show both that his "speech played a substantial or motivating role in the adverse employment action" and that "his interests as a citizen outweighed the interests of the State as an employer" under the *Pickering* balancing test. *Leslie v. Hancock Cnty. Bd. of Educ.*, 720 F. 3d 1338, 1346 (11th Cir. 2013). Plaintiff makes neither showing.

A. The Content of Plaintiff's Book Had No Bearing on the City's Decisions.

The content of Plaintiff's book played no role in the City's decision to suspend or fire him. Rather, Mayor Reed suspended Plaintiff due to Plaintiff's violation of the

City's Ethics Code. (Deposition Transcript of Kasim Reed ("KRT"), portions attached as **Ex. A**, at 102:19-103:1; 104:12-13; 119:2-120:1, 121:10-14; Deposition Transcript of Yvonne Yancy ("YYT"), portions attached as **Ex. B**, at 47:9-16, 48:17-50:10). The City then terminated Plaintiff's employment because Plaintiff violated the terms of his suspension by publicly asserting that he was suspended for his religious beliefs, which led to a coordinated public outcry against Mayor Reed and the City, and because Plaintiff's publication and distribution of his book had eroded his subordinates' trust in his ability to lead AFRD. (KRT,136:17-137:24;151:18-22;169:8-20).

1. Plaintiff Cannot Overcome the Legitimate Reasons for His Suspension and Termination.

Plaintiff seeks to excuse his ethics violation by arguing that the City's Ethics Officer, Nina Hickson, never informed him that he needed to obtain Ethics Board approval prior to publishing his book, even though he asked her for advice on the subject. This excuse fails. First, Hickson testified that she informed Plaintiff that publication of a book *would* necessitate approval from the Board. (Deposition Transcript of Nina Hickson ("NHT"), portions attached as **Ex. C**, at 45:14-18). Regardless, as the Code of Ethics required Plaintiff to obtain written approval from the Board notwithstanding Hickson's oral advice on the matter. (Deposition Transcript of Kelvin Cochran ("KCT"), portions attached as **Ex. D**, at 110:9-18, Ex. 10 at §2-820(d)).

Plaintiff also seeks to downplay his conduct during his suspension, characterizing it as nothing more than the "occasional reportage ... to his concerned co-religionists [] on the mere fact of his suspension." (Plaintiff's Response, 17). Plaintiff's characterization fails, as one can hardly posit a more combative response to his suspension than Plaintiff's, which saw him endorse a public relations "battle plan" and "offensive fire attack" premised on an inflammatory narrative that the Mayor was engaging in "spiritual warfare" designed to undermine Christians' religious freedoms. (KCT, 251:21-252:18; 257:16-18; 261:22-262:14; 264:16-24, Exs. 49, 50 at PL 001902; 268:10-18, 269:12-270:15, Ex. 51).

While Plaintiff argues that he did not actually organize these initiatives, he admits that he made no attempt to temper or prevent them, even when told he could do so by the organizers. (KCT, 264: 16:24; KCT, 271:11-13). Further, Plaintiff's contention that this conduct could not have been grounds for his termination because Mayor Reed was unaware of the exact nature of his involvement is belied by the Mayor's testimony that he strongly suspected Plaintiff was playing a part in spurring the public outcry.¹ (KRT, 137:19-138:13). Finally, whether or not Plaintiff actually caused the outcry is irrelevant;

¹ Mayor Reed testified that during Plaintiff's suspension, he "had a strong suspicion that Chief Cochran was coordinating with members from certain communities that didn't agree with the judgment that I made to communicate their displeasure to that." (KRT, 137:20-24).

the only relevant inquiry is whether the Mayor believed he did so. *See Hampton v. City of S. Miami*, No. 03-22323-CIV, 2005 WL 5993476, at *15, 18 (S.D. Fla. Jul. 29, 2005) (plaintiff's First Amendment retaliation claim failed despite plaintiff's argument that employer's reasons for terminating him were false; "the proper inquiry is not whether the employer's reason for an adverse employment action is correct, but rather, whether the employer reasonably believed the employee committed the infraction which led to the adverse employment action").

Plaintiff also attacks Defendants' contention that the Mayor fired Plaintiff in part due to the Law Department's finding that "[t]here ... is general agreement the contents of the book have eroded trust and have compromised the ability of the chief to provide leadership in the future." Plaintiff alleges that Defendants presented no evidence that the Law Department's conclusion was, in fact, accurate. However, Plaintiff does not, and cannot, dispute that the Mayor relied upon the Law Department to conduct an investigation, that this conclusion was presented to the Mayor prior to making his decision, and that he reasonably believed it was true. (KRT, 163:2-8, 164:17-21). *See Hampton*, 2005 WL 5993476 at *15-16 (collecting cases supporting principle that whether misconduct actually occurred is irrelevant in evaluating employer's reasons for taking an adverse action; only employer's reasonable belief that misconduct occurred is relevant). As Plaintiff cannot establish that the content of his book played a substantial

or motivating role in the Mayor's suspension and termination decisions, summary judgment is warranted on his retaliation claim.

2. Plaintiff Cannot Distract the Court from the Legitimate, Non-Retaliatory Reasons for the City's Decisions.

Plaintiff argues that Defendants suspended and then terminated him for his beliefs by contending that his book's content pervaded Defendants' handling of the disciplinary process. Plaintiff also points to Defendants' public expressions of disagreement with the book's content as further proof of their alleged motivations.

The evidence is contrary to Plaintiff's arguments. While the Mayor and his team certainly considered the book's content, their consideration focused on the Title VII concerns that content -- *combined with Plaintiff's misconduct* -- implicated. (YYT, 87:9-13, 94:7-19, 97:15-20; Deposition Transcript of Robin Shahar ("RST"), portions attached as **Ex. E**, at 44:13-45:6). Given Plaintiff's decision to tie the beliefs expressed in his book directly to his position with AFRD and to distribute the book at work (prompting at least one subordinate to report concerns about it), Defendants were required to consider the legal risks and impact of Plaintiff's actions. (RST, 56:9-16). While Plaintiff contends this proves that Defendants took adverse action against him because of the book's contents, this is not so. It merely reflects the motivations behind Defendants' decision to launch a Title VII investigation while Plaintiff was suspended.

Defendants' public expressions of disagreement with Plaintiff's views are also insufficient to undermine the Mayor's stated reasons for suspending and then terminating Plaintiff. It is unsurprising that Mayor Reed and the City sought to distance themselves from -- and even reject outright -- the message of condemnation and judgment Plaintiff conveys in his book given the City's and Mayor Reed's shared history of advocacy and support for equality. (*See, e.g.*, City Code, § 94-111 *et seq.*, § 94-91 *et seq.*, § 94-68 *et seq.*; KRT, 143:17-145:8; RST, 21:19-25, 120:6-16).

B. The Book's Content Authorized the Mayor's Suspension and Termination Decisions Under *Pickering*.

In any event, the City's interests as an employer vastly outweigh Plaintiff's First Amendments rights as AFRD Chief given the damaging nature of his speech.

Plaintiff relies heavily on the Law Department's finding that he did not engage in any proven acts of discrimination to argue that his book did not cause any actual disruption to AFRD's operations. In so doing, Plaintiff ignores the clear signs of disruption that did occur. For instance, the City became aware of the book only after Plaintiff distributed it to his subordinates and one of them complained about it. (Deposition Transcript of Stephen Borders ("SBT"), portions attached as **Ex. F**, at 54:5-11, 55:5-7, 17-20, 62:2-9; 63:21-64:2; KCT, 142:2-4; 217:6-15). Accordingly, the City's HR Commissioner and Mayor Reed determined that Plaintiff's distribution of the

book in the workplace raised Title VII liability concerns for the City, triggering an investigation into Plaintiff's management of AFRD. That investigation revealed that, within AFRD, the contents of the book had "eroded trust and [] compromised the ability of the chief to provide leadership in the future."² These are the exact types of adverse effects courts point to in finding the *Pickering* balancing test weighs in favor of the employer. See *Leslie*, 720 F.3d at 1346 (relevant *Pickering* considerations include "whether the statement impairs discipline by superiors or harmony among co-workers, has a detrimental impact on close working relationships for which personal loyalty and confidence are necessary, or impedes the performance of the speaker's duties or interferes with the regular operation of the enterprise").

Further, "[t]he government's legitimate interest in avoiding disruption does not require proof of actual disruption. Reasonable possibility of adverse harm is all that is required." *Moss v. City of Pembroke Pines*, 782 F.3d 613, 622 (11th Cir. 2015) (internal citations omitted). Defendants present substantial evidence of a reasonable possibility -- even likelihood -- of harm here. Given the importance of the public's perception of

² While Plaintiff challenges the admissibility of the Law Department's findings as hearsay, he cannot dispute that the findings were presented to and reasonably relied upon by the Mayor. As such, its content need not be relied on to prove the truth of the matter asserted therein, thus negating Plaintiff's hearsay objection. Fed. R. Evid. 801 (defining hearsay as a statement submitted to prove the truth of the matter asserted therein).

AFRD, and Plaintiff's role as its most visible spokesperson, it was reasonably foreseeable that his condemnation of large swathes of the community AFRD serves would harm AFRD's reputation and its ability to serve that community. Indeed, Defendants present evidence of the actual harm caused by a rank-and-file firefighter's public use of the word "fags" on Facebook, which resulted in a serious complaint lodged by a member of the LGBT community questioning whether AFRD could or would serve him. (*See* Ex. K to DMSJ). Likewise, Plaintiff's book refers to homosexuals as "unclean" and "the opposite of purity," and it groups them with those who practice bestiality, pederasty, and "all other forms of sexual perversion." (KCT, at Ex. 36, p. 82). Plaintiff uses similarly harmful language to describe anyone who falls under his definition of "naked" (including those who have sex outside of marriage and all non-Christians) as "wicked," "un-Godly," "deceitful," "loathsome," and "evildoer[s]." (KCT, 176:24-177:5; 178:18-23). Given the harm that a low-level firefighter caused with such language on a social media post, the risk of harm posed by the AFRD Chief's use of similar derogatory language in a published book is far greater. Plaintiff's retaliation claim fails as a matter of law.

II. Plaintiff's Remaining First Amendment Claims Also Fail.

A. Defendants Took No Adverse Action Based on Plaintiff's Viewpoint, Exercise of Religion, or Associative Activity.

Plaintiff's remaining First Amendment claims fail because the Mayor's decisions to suspend and later fire Plaintiff were based on a host of factors unassociated with Plaintiff's religious viewpoint, the exercise of his religion, and/or his religious association with others. (*See DMSJ*, 17-20). Plaintiff's counterarguments are unavailing.

With respect to his viewpoint discrimination claim, Plaintiff's failure to identify a similarly situated comparator with opposing views who Defendants did not terminate for similar misconduct dooms his claim. While Plaintiff argues that he does not need to present a comparator to succeed on his claim, the cases to which he cites involve situations in which no question existed that the defendant's actions were motivated by the plaintiff's viewpoint. *See Lamb's Chapel v. Ctr. Moriches Union Free Sch. Dist.*, 508 U.S. 384, 393-94 (1993) (upholding viewpoint discrimination claim related to school's denial of application to show religious film series even without comparator where there was no record evidence that the denial was motivated by anything other than the film's religious viewpoint, nor that non-religious films on same subject matter would have been similarly prohibited); *Rosenberger v. Rector and Visitors of Univ. of Va.*, 515 U.S.

819, 825 (1995) (upholding viewpoint discrimination claim where university justified its denial of participation in forum to group on the religious nature of its message).

Here, by contrast, Defendants deny taking any action against Plaintiff because of his viewpoint; and Plaintiff presents no evidence that the City would not have disciplined others like him with differing views for engaging in similar misconduct such that Defendants' denial might be undermined. His claim fails.

With respect to his freedom of association claim, Plaintiff cannot show that the publication and sale of his book constitutes collective associative activity under the First Amendment. To further the protection of an individual's right to speak and to worship, the First Amendment also protects an individual's right to associate with others in pursuit of those goals -- the "freedom to engage in *group* effort toward those ends." *Roberts v. U.S. Jaycees*, 468 U.S. 609, 622 (1984) (emphasis added). Accordingly, the freedom of association is intended to protect *group* activity, not an individual's self-publication of a book espousing his own personal religious views. *See id.* (the First Amendment protects an individual's "right to associate *with others* in pursuit of a wide variety of political, social, economic, educational, religious, and cultural ends") (emphasis added). Plaintiff reasons that his book represents associative activity because he wrote it and made it available to the broader community "as a member of his

church." (Plaintiff's Response, 35). However, the record reflects, and Plaintiff cannot deny, that he completed his book entirely of his own volition, without any direction, financing, or other material support from his church or any other religious group. (KCT, 305:21-306:8). As such, his right to associate is not implicated here.

B. Plaintiff's Prior Restraint and Religious Test Challenges of the Pre-Approval Requirements Similarly Fail As a Matter of Law.

The ordinances Plaintiff challenges (the "Pre-Approval Requirements") require that all employees obtain prior approval from their department heads before engaging in paid outside employment, and that high-level City officials obtain written approval from the Ethics Board prior to doing so. Atl. City Code, §§ 114-436-37, 2-820(d). The Pre-Approval Requirements neither target nor burden employee speech, and are reasonably tailored to the City's legitimate interest in "avoiding impropriety or the appearance thereof among its employees," as well as "maintaining the public's confidence in the integrity of public service, which in turn contributes to the government's effectiveness." *Wolfe v. Barnhart*, 446 F.3d 1096 (10th Cir. 2006). *See also* DMSJ, 24-25.

Plaintiff does not dispute the importance of these interests. Instead, he contends that application of the Pre-Approval Requirements to his book does not further the

City's interests. Plaintiff cannot dispute that he earned money from the sale of his book.³ Regardless of the book's content, the fact that Plaintiff collected income triggered application of the Pre-Approval Requirements. The City has a well-recognized right to enforce conflict of interest rules on its public employees. *See* DMSJ, 25 (collecting cases upholding conflict of interest rules). Plaintiff presents no articulable explanation for why his outside business activity should not be subject to these rules.

Plaintiff next argues that the Pre-Approval Requirements unconstitutionally grant the City "unbridled discretion" to apply them. In so doing, he ignores the existence of the guidelines provided both in the text of §§ 114-436-37 and the placement of § 2-820(d) within the City's broader Ethics Code. (DMSJ, 27-28). Instead, Plaintiff contends these guidelines merely operate to show that "discernible and workable guideposts are entirely absent," but he fails to provide any substantive support for this claim. (Plaintiff's Response, 25). He also speculates that the City would have approved of his book only if he had "toed the City line." (*Id.*). This is pure conjecture, as Plaintiff never sought approval pursuant to these protocols. Plaintiff cannot base his constitutional challenge on unsubstantiated opinions and hypotheticals.

³ Plaintiff argues that he did not "intend" for his book to make a profit. Plaintiff's intent is irrelevant, as he admits that: (1) he made his book available for sale on Amazon, Barnes & Noble, and at speaking events; (2) he priced his book to provide for a profit margin; and that (3) he earned a profit as a result. (KCT, 79:8-12; 80:19-81:2; 149:8-25).

Plaintiff's religious test challenge fails as well, as the Pre-Approval Requirements do not target religious beliefs and are generally applicable to all City employees who engage in paid outside employment, regardless of whether that employment has a religious aspect or the employee holds a particular religious belief. (DMSJ, 30-31). By contrast, the unconstitutional statutes discussed in the case on which Plaintiff primarily relies are wholly distinguishable, and merely serve as a stark contrast. *See Church of the Lukumi Babalu Aye, Inc. v. City of Hialeah*, 508 U.S. 520, 535-36 (1993) (striking down ordinances prohibiting animal sacrifice as impermissibly targeting practitioners of the Santeria religion; express text of ordinances revealed intent was to target religious sacrifice, and "almost the only conduct subject to [them was] the religious exercise of Santeria church members"). As no such targeting exists here, Plaintiff's religious test challenge fails along with his prior restraint one.

III. Plaintiff Had No Due Process Rights In His Employment, and Thus Can Bring No Due Process Claim.

As provided by the City's Charter, Employee Handbook, and AFRD's written policies, Plaintiff was an unclassified, at-will employee who could be fired for almost any reason. Accordingly, he had no property interest in his employment and has no standing to bring a due process claim. (KCT, 17:9-17; 37:2-7; 39:25-40:11; 60:22-61:14; 61:10-24, 83:16-84:1; Ex. 11, at §§ 9.1-9.2; Ex. 15, at p. 2).

Plaintiff argues that the due process provisions of the City's Ethics Code bestowed him with a property interest contrary to the City Charter. They cannot do so. The City Charter expressly provides that Plaintiff's position is at-will. (City of Atl. Charter, §§ 3-305(a) and 3-301(c)). In the event of a discrepancy between the City Code and the City Charter, the Charter controls. *See* O.C.G.A. § 36-35-3(a) (granting municipalities the power to adopt ordinances "for which no provision has been made by general law and which are not inconsistent with the Constitution or any charter provision applicable thereto"). *See also City of Buchanan v. Pope*, 222 Ga. App. 716, 719 (1996) (police department manual could not create property interest in employment in conflict with city charter; "a city's charter must control where inconsistent with personnel regulations"). Plaintiff argues that the City should not "benefit" from such a discrepancy, yet provides no legal authority to justify this opinion. Once again, Plaintiff cannot survive summary judgment.

IV. Conclusion.

Defendants respectfully request that the Court grant their motion, enter summary judgment on each and all of Plaintiff's claims, and dismiss them with prejudice.

Respectfully submitted this 20th day of July, 2017.

s/Kathryn J. Hinton _____

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CERTIFICATE OF COMPLIANCE

Undersigned counsel certifies the foregoing document has been prepared with one of the font and point selections (Times New Roman, 14 point) approved by the Court in local rule 5.1(C) and 7.1(D).

This 20th day of July, 2017.

s/ Kathryn Hinton
Kathryn J. Hinton
GA Bar No. 542930

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of the foregoing *Defendants' Reply in Support of Their Motion for Summary Judgment* via the Court's ECF filing notification which will automatically send an electronic copy of the foregoing to the following attorney of record for Plaintiff:

Kevin Theriot, Esq.
Jeana Hallock, Esq.
Ken Connelly, Esq.
Alliance Defending Freedom
1000 Hurricane Shoals Road, NE
Suite D-1100
Lawrenceville, Georgia 30043

This 20th day of July, 2017.

s/ Kathryn Hinton
Kathryn J. Hinton
GA Bar No. 542930

Exhibit A

Deposition Transcript of Mayor Kasim Reed
(relevant portions attached)

KELVIN J. COCHRAN vs. CITY OF ATLANTA, ET AL.
Mayor Kasim Reed on 02/14/2017

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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

KELVIN J. COCHRAN,)
)
Plaintiff,)
) CIVIL ACTION FILE
vs.)
) NO. 1:15-cv-00477-LMM
CITY OF ATLANTA, GEORGIA;)
)
and MAYOR KASIM REED, IN)
)
HIS INDIVIDUAL CAPACITY,)
)
Defendants.)

- - -

VIDEOTAPED DEPOSITION OF
MAYOR KASIM REED

FEBRUARY 14, 2017
9:35 A.M.

BAKER DONELSON BEARMAN CALDWELL & BERKOWITZ, P.C.
MONARCH PLAZA, SUITE 1600
3414 PEACHTREE ROAD, N.E.
ATLANTA, GEORGIA

(TRANSCRIPT CONTAINS CONFIDENTIAL PORTIONS)
PAGE 10, LINE 4 TO PAGE 10, LINE 7
PAGE 31, LINE 4 TO PAGE 39, LINE 5
PAGE 110, LINE 4 TO PAGE 114, LINE 22

Reported by: Suzanne Beasley, RPR
CCR-B-1184

KELVIN J. COCHRAN vs. CITY OF ATLANTA, ET AL.
Mayor Kasim Reed on 02/14/2017

1 A. I was concerned that if a person was
2 having a book with the contents of his book being
3 distributed, either for sale or directly from a
4 person in that position of authority, that it could
5 cause real discomfort to our employees, and we could
6 be sued as a result.

7 Q. Based on what aspect of Title 7? What --

8 A. Hostile environment.

9 Q. Hostile environment towards -- based on
10 religion, based upon --

11 A. I think the breadth of the book covered so
12 much.

13 Q. Okay.

14 A. For any number of reasons. I think it
15 certainly warranted an inquiry.

16 Q. And so at that point you were concerned.
17 You didn't have any evidence of a hostile work
18 environment?

19 A. I did not. But I do know that once a
20 matter is brought to your attention and that you
21 don't act to at least make an inquiry, that you open
22 the city up to significant liability long term, and
23 so that was a concern of mine. And I tried to make
24 the judgment in an even-handed fashion to give time
25 and space to find out what were all of the facts

KELVIN J. COCHRAN vs. CITY OF ATLANTA, ET AL.
Mayor Kasim Reed on 02/14/2017

1 prior to making a decision.

2 Q. Prior to his suspension on November 24th,
3 did anyone other than your attorneys recommended that
4 he be terminated?

5 A. I don't recall.

6 Q. Was there anyone that -- other than your
7 attorneys -- that recommended that he not be
8 suspended prior to this suspension date on
9 November 24th?

10 A. No.

11 Q. Why did you decide -- all right. I
12 mean -- strike that.

13 So your testimony, as I understand it, is
14 that you decided to suspend him so you could take --
15 could do an investigation because you were concerned
16 about some possible Title 7 ramifications.

17 A. The answer is, I decided to suspend him
18 because we needed to find out what the facts were.

19 So I had received a phone call from
20 Councilmember Wan, my HR representative had raised
21 legitimate concerns that involved the treatment of
22 women, comments about Jewish people, comments about
23 homosexual people, and so I had a concern that this
24 book -- I didn't know whether it was sold or given.
25 So if you're in my shoes, you have no idea what the

1 facts are.

2 And so I thought that -- and you couldn't
3 have the chief in the building because the fire
4 department, Atlanta Fire Rescue, operates under a
5 command structure. So how could you have gone
6 through and interviewed people and gotten their
7 honest reflection with the chief sitting in the
8 building?

9 And so I thought that the fairest path was
10 to suspend him, get him out of the building, and to
11 find out what the facts were.

12 Q. Whom did you tell to suspend him?

13 A. Commissioner Yancy.

14 Q. Did -- did you tell her to give him a
15 specific reason?

16 A. I didn't direct the execution of the
17 suspension. I made it clear to Commissioner Yancy
18 and the chief operating officer, who is the person
19 that the fire chief directs -- reports directly to
20 and is the person that they communicate to, that it
21 be done.

22 Q. That was Michael Geisler?

23 A. Mr. Geisler, yes.

24 Q. But you didn't give them any specifics
25 about what to tell him, just suspend him?

1 it, which we knew pretty quickly, was completely
2 inappropriate and wrong. And at no time did my chief
3 of -- at fire and rescue come in my office and sit
4 down and have an in-person conversation and say, I am
5 writing a book and I would like you to support me.

6 And a passing "I wrote a book that I'd
7 love for you to read" doesn't cut it when you're
8 responsible for a fire department that has
9 responsibility for 150,000 people's lives.

10 And it should not have been a vacation.
11 And the only way that it's not a vacation is that if
12 you're not compensated during that month.

13 Q. So that was -- that was part of the reason
14 why he was suspended without pay, was that he didn't
15 check with you first?

16 A. The reason -- no. The reason that
17 he -- I'm a human being with feelings. He was
18 suspended because he wrote a book without getting an
19 opinion from our ethics officer in writing. I don't
20 believe that that required extraordinary judgment or
21 additional steps. And then he passed the book out.

22 Now, I don't know whether he was paid or
23 gave the book freely. I don't know. But if you are
24 the head of a department with a thousand people, if
25 they feel pressured to accept a book that cost \$10 or

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1 \$20, that's real money.

2 Q. Did --

3 A. So I have no -- no, but I have no idea
4 whether he charged people for the book or not. But
5 in my opinion, I shouldn't have to be figuring this
6 out for my fire chief.

7 Q. Would it have mattered if he charged or
8 gave it away?

9 A. I'm not going to give you -- I'm not going
10 to address that, whether it would have mattered.
11 What I know is, I felt it inappropriate for the chief
12 of the fire department for the City of Atlanta to be
13 passing out a book that they authored to make money
14 off of and to gain a profit.

15 Q. You mentioned that you spoke with the ADL.
16 Was that prior to his suspension?

17 A. I don't remember the exact date, but the
18 local office of the ADL came to meet with me about
19 how offensive they found this book. I was just
20 citing it as an example.

21 Q. Okay.

22 A. What I'm laying out is, there was a need
23 for an investigation in a calm space. That's what
24 I'm getting at. The advice that I received from law
25 and from HR, the concerns that I had heard from

1 counsel, the fact that other people in the fire
2 department had gotten the book, I didn't know whether
3 he had given it to them or charged for it, there are
4 a number of facts.

5 I couldn't make a decision on someone's
6 career without having a factual investigation. And I
7 was not going to have an investigation during the
8 time and be paying for it. I just wasn't going to do
9 that.

10 Q. The concern about him not talking with you
11 first, is that based upon any kind of policy or is
12 that just a practice?

13 A. No. It's based upon professional
14 courtesy, being a colleague.

15 Q. Would that -- what would that have looked
16 like? Would he have made an appointment through
17 Mr. Geisler?

18 A. He could have made an appointment through
19 Mr. Geisler. He could have made an appointment
20 through my chief of staff.

21 Q. Up to the point where he was --
22 before -- let me strike that.

23 Before November 24th, 2014, was
24 there -- were there any articles in the press or was
25 there anything that you were aware of in the media

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1 Kevin Sandlin dated November 24th. They responded
2 right away to your Facebook post on the
3 November 24th; is that correct?

4 MR. GEVERTZ: Object to the form.

5 THE WITNESS: It appears so.

6 BY MR. THERIOT:

7 Q. Okay. And -- and they expressed
8 disagreement with your post; isn't that right?

9 A. It appears so.

10 MR. GEVERTZ: Object to the form.

11 BY MR. THERIOT:

12 Q. Were there any other responses that you're
13 aware of, other than on your Facebook page, to your
14 Facebook post?

15 A. I don't know.

16 Q. Not that you're aware of?

17 A. Not that I'm aware of. But, I mean, you
18 can't possibly mean responses in general, because
19 during the course of this, I received more than -- we
20 stopped counting at 10,000 e-mails.

21 Q. And those began when?

22 A. They began between the date that he was
23 suspended and the date that he was terminated.

24 Q. Okay.

25 A. And I have been in politics long enough to

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Mayor Kasim Reed on 02/14/2017

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1 know that they were manufactured. I believed it the
2 minute that we started getting e-mails that read
3 almost exactly the same.

4 Q. That -- was that the -- the basis of your
5 statement they were manufactured is the e-mails were
6 essentially the same?

7 A. They were very similar.

8 Q. Okay. Any other thing that indicated they
9 were manufactured?

10 A. No, not that I can think of right now.

11 Q. Was there any indication that you are
12 aware of that -- who was behind the manufacturing of
13 the e-mails and the texts?

14 A. No. I mean, I did not know it verifiably
15 until we got the document showing that Chief Cochran
16 was -- was a part of an effort to stimulate comment
17 towards me and my family.

18 Q. When did you get that document?

19 A. I only learned of the document during the
20 course of discovery, but I had a strong suspicion
21 that Chief Cochran was coordinating with members from
22 certain communities that didn't agree with the
23 judgment that I made to communicate their displeasure
24 to that.

25 Q. What was that suspension based upon?

KELVIN J. COCHRAN vs. CITY OF ATLANTA, ET AL.
Mayor Kasim Reed on 02/14/2017

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1 A. My suspicion was that -- it was based upon
2 my instinct and a person who's been in politics for
3 almost 20 years, that the opposition was coordinated
4 and manufactured.

5 Q. What was your -- why did you think that
6 Chief Cochran was involved in that coordination?

7 A. Because I watched his behavior. He went
8 out, after -- after we made it very clear that during
9 the course of this investigation related to your
10 employment that you should not comment on issues
11 related to your employment, he went out and gave
12 public speeches that were covered by the press that I
13 thought inflamed a certain part of the community.

14 Q. What did he say in those public speeches
15 that concerned you?

16 A. I don't recall.

17 Q. Anything that specifically had to do with
18 your behavior?

19 A. I don't recall. I just said that I didn't
20 recall. I do remember the media reports and I do
21 remember being shocked that after communicating that
22 he should not discuss issues related to employment,
23 that he was in public forums discussing it.

24 And then shortly after being in those
25 public forums, we were inundated with electronic

KELVIN J. COCHRAN vs. CITY OF ATLANTA, ET AL.
Mayor Kasim Reed on 02/14/2017

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1 examination of all your religious precepts. What
2 I'm -- what I'm looking for is, is what exactly about
3 the book do you -- that is not your beliefs and that
4 you disagree with?

5 MR. GEVERTZ: Currently or in 2014?

6 Because I think with respect to 2014, at
7 least seven times today, he's given you the
8 same answer.

9 THE WITNESS: Well, what I've said
10 is, is in 2014, I'm not going to recall the
11 elements that were -- I'm not going to
12 pretend like today I remember every single
13 provision that was offensive to me.

14 BY MR. THERIOT:

15 Q. Have your beliefs changed since 2014?

16 A. Some have.

17 Q. Have the beliefs regarding, for instance,
18 what the Bible has to say about homosexuality changed
19 since 2014?

20 A. It has.

21 Q. It has? How has it changed?

22 A. I believe that Christianity and God have
23 room to care about all of His people, and I believe
24 that the Bible and your faith experience has to be
25 viewed in its entirety. And I think that the God

KELVIN J. COCHRAN vs. CITY OF ATLANTA, ET AL.
Mayor Kasim Reed on 02/14/2017

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1 that I worship would not turn His back on any of His
2 people, and I think all -- everyone is a child of God
3 worthy of redemption.

4 And so the place that I moved from was a
5 place that was -- that believed one thing, certainly
6 around homosexuality, to a broader understanding
7 after an enormous amount of personal soul searching
8 and spending time with my Bible.

9 And the view that I came to is, is that
10 the God that I worship and love would not set forth a
11 path that didn't allow people who I think were born a
12 certain way not to be embraced by our entire
13 community. So that's where I ended up.

14 Q. When did that start, that change?

15 A. I think candidly, Counselor, it was a long
16 time, really over a five- to seven-year period after
17 talking through the issue with people that I respect
18 and with really primarily my chief of staff, who I've
19 known since I was a law school student.

20 Q. Who is your chief of staff?

21 A. A woman named Candace Byrd.

22 Q. And I appreciate you sharing that.

23 What about your beliefs regarding same-sex
24 marriage, have those changed since 2014 also?

25 A. They have.

KELVIN J. COCHRAN vs. CITY OF ATLANTA, ET AL.
Mayor Kasim Reed on 02/14/2017

1 Q. How have they changed?

2 A. They changed from believing that being a
3 person who was homosexual could not enjoy the full
4 faith and embrace of God to the fact that a person
5 who is a homosexual could still be whole in Christ.

6 Q. And that would include being able to get
7 married?

8 A. It would.

9 Q. That -- and that also is over the past
10 five or six years, that change?

11 A. I think seven to eight years would be more
12 accurate.

13 Q. And same prompting of the change as
14 regarding the same-sex marriage as -- that you spoke
15 of with regard to homosexuality?

16 MR. GEVERTZ: Object to the form.

17 THE WITNESS: I mean, I wouldn't
18 characterize it in that fashion. I think
19 it's an overall change that came about over
20 time, that everybody that loves God and
21 loves Jesus is entitled to work out their
22 own faith with their creator.

23 BY MR. THERIOT:

24 Q. I understand.

25 Are there people in the -- well, strike

KELVIN J. COCHRAN vs. CITY OF ATLANTA, ET AL.
Mayor Kasim Reed on 02/14/2017

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1 proceed.

2 Q. And that was -- so that was Ms. Yancy,
3 Mr. Geisler and --

4 A. And Ms. Hampton.

5 Q. Ms. Hampton.

6 I'm sorry, Ms. Hampton.

7 MS. HAMPTON: That's okay.

8 BY MR. THERIOT:

9 Q. That was something that you ordered them
10 to do and wasn't somebody else's idea; is that right?

11 A. No, that was a recommendation.

12 Q. A recommendation by your senior team?

13 A. Yes, from the human resources commissioner
14 about the aspects of his suspension.

15 Q. Okay. Do you know who the person was that
16 actually did the investigation?

17 A. I do not.

18 Q. You mentioned you received -- during the
19 investigation and during his suspension you received
20 thousands, I believe you may have said 10,000 --

21 A. You know that I have. You have the
22 documents. You know that 17,000 people contacted me.

23 Q. Right.

24 A. What you don't know is that my phone rang
25 so much that we could not answer it through the

KELVIN J. COCHRAN vs. CITY OF ATLANTA, ET AL.
Mayor Kasim Reed on 02/14/2017

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1 it before --

2 THE WITNESS: The human resources
3 commissioner and the city attorney came
4 into my office to brief me on the results
5 of the investigation. We had an in-person
6 meeting and they briefed me on the results.
7 They said these are -- this is what we
8 know.

9 But I -- they didn't -- we didn't sit
10 down and they hand me a document and say,
11 let's review the document. So I just
12 described what happened.

13 BY MR. THERIOT:

14 Q. Okay. Did -- so you didn't have any input
15 into this document or edit it?

16 A. I did not. No.

17 Q. Were you -- if you look on page 3 of the
18 document under Roman Numeral Number 3, and first line
19 says, "There is currently no indication that
20 Chief Cochran allowed his religious beliefs to
21 compromise his disciplinary decisions."

22 You -- were you aware of that?

23 A. I was. I was told that. I was told that
24 there weren't specific instances of where we -- of
25 where his faith had in a demonstrable way influenced

1 his decisions at work.

2 Q. You didn't have any reason to disagree
3 with that statement, did you?

4 A. I did not, because I didn't conduct the
5 investigation.

6 Q. And then if you look on page 4 on the very
7 next page, in the second paragraph from the top
8 there, it begins with "No interviewed."

9 A. On page 4? Okay.

10 Q. I believe so.

11 A. Okay.

12 Q. All right. "No interviewed witness could
13 point to a specific instance in which any member of
14 the organization has been treated unfairly by
15 Chief Cochran on the basis of his religious beliefs."

16 You were aware of that too, correct?

17 A. Yeah. I was also aware of the fact that
18 the same report says a number of employees -- number
19 of members of the department and people who work for
20 the city were disgusted with his comments, and that
21 it had affected morale in the department.

22 Q. You don't know the names of those -- any
23 individuals, that they say it's "a number"; is that
24 right?

25 A. That's right. I don't remember the names.

KELVIN J. COCHRAN vs. CITY OF ATLANTA, ET AL.
Mayor Kasim Reed on 02/14/2017

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1 A. I don't recall.

2 Q. Okay. When did you decide to terminate
3 Chief Cochran?

4 A. I came to that decision sometime in the
5 first ten days of January.

6 Q. Was that a collaborative decision with
7 your senior team?

8 A. Yeah, it was a collaborative decision
9 after the results of the investigation, which were
10 crystal clear that he had violated the path -- or the
11 process for you to write a book and sell it for a
12 profit. And he had not done it. And I did
13 not -- and he no longer had my confidence.

14 Q. And you made that -- you're the one who
15 made that final decision; is that correct?

16 A. I am the one that made that final decision
17 after consultation with our city attorney, the COO,
18 my chief of staff, and the human resources
19 commissioner, that he could not continue with the
20 support of the people that worked for him.

21 Q. Was that at a meeting?

22 A. I don't recall the forum.

23 Q. Okay. So it may not have been a formal
24 meeting where you consulted with all them together,
25 you may have consulted with them individually?

Exhibit B

Deposition Transcript of Yvonne Yancy
(relevant portions attached)

KELVIN J. COCHRAN vs. CITY OF ATLANTA, ET AL.
Yvonne Cowser Yancy on 02/17/2017

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1 that conversation.

2 A. So we discussed, you know, the option
3 around how to handle what we had discovered this far
4 concerning the book. I recommended separating
5 Mr. Cochran. The mayor was uninterested in
6 separating Mr. Cochran. He really respected him,
7 talked about how he'd been the number one fire
8 professional nationally; that he did not want to
9 separate him, that he wanted other options. And so
10 the 30-day suspension was the second option.

11 The 30 days was picked because that's
12 really the longest period of time someone's suspended
13 traditionally in terms of our practices in lieu of
14 termination, and so that's how we got to that 30-day.
15 There are other examples of 30-day suspensions that
16 had taken place that made sense for the mayor.

17 He also wanted to have some process put
18 together so that when Mr. Cochran returned from his
19 suspension that we could help the department move
20 forward. We talked about sensitivity training. I
21 recommended Al Vivian and BASIC Diversity. They're
22 known for their, one, faith, but also their race work
23 and their work in helping organizations grapple with
24 different issues.

25 I thought they would be a great sort of

1 option because we're familiar with them internally,
2 and that I thought Mr. Cochran would respect Al
3 Vivian, C.T. Vivian, if they were the people that we
4 asked him to work with around the department
5 afterwards; and put together sort of a process for
6 how to deal with that.

7 The communication process in terms of, you
8 know, we would have to say the fire chief was not at
9 work. We'd have to have an interim fire chief in
10 that process. Joel Baker was identified as the
11 interim fire chief. He was currently a deputy of
12 Mr. Cochran's, who was well regarded internally, and
13 I thought that Mr. Cochran would support Mr. Baker
14 being put in that interim role, that would not be
15 seen as problematic for him. And then we put
16 together a process to notify Mr. Cochran.

17 Q. So tell me, what were all the bases for
18 the suspension decision?

19 MR. GEVERTZ: Object to the form.

20 If you can read the mayor's mind, go
21 for it.

22 THE WITNESS: In lieu of terminating
23 Mr. Cochran, there had to be disciplinary
24 activity for his failure to get approval
25 from his direct manager for this book.

KELVIN J. COCHRAN vs. CITY OF ATLANTA, ET AL.
Yvonne Cowser Yancy on 02/17/2017

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1 There was also a failure to disclose
2 it in the ethics forms that we gather. The
3 ethics officer had indicated in our
4 conversation with her that she had not
5 given permission for the book and was not
6 aware that it had been published.

7 And we also had to conduct a process
8 to investigate whether or not Mr. Cochran's
9 beliefs had led to different outcomes in
10 his management of the department because he
11 referenced his leadership of the department
12 and how he led the department in his book.
13 That cannot take place with Mr. Cochran at
14 work.

15 And so the discipline was about his
16 failure to get approval, his failure to
17 operate within the processes that are
18 clearly identified, not just in the code,
19 but in general expectations as an employer.

20 And then the second part of that
21 process was he could not be present while
22 we ensured there wasn't a Title 7 issue,
23 which we had to make sure of because as the
24 employer, we're compelled to offer an
25 environment where employees are treated

KELVIN J. COCHRAN vs. CITY OF ATLANTA, ET AL.
Yvonne Cowser Yancy on 02/17/2017

1 consistently. And we didn't know there had
2 been an issue with how employees were
3 treated, but we had to in fact document
4 that we had looked at that and there was an
5 outcome.

6 That would have taken place whether
7 he was terminated or not, but if he was
8 going to be retained as a fire chief, it
9 certainly could not take place with him at
10 work.

11 BY MR. WARDLOW:

12 Q. Anything else?

13 A. No.

14 Q. So you mentioned failure to get approval
15 or permission from the mayor?

16 A. Correct, or the COO.

17 Q. Mr. Geisler?

18 A. Or the ethics board.

19 Q. With respect to getting permission or
20 approval from the mayor or the CEO -- COO,

21 Mr. Geisler --

22 A. Yes.

23 Q. -- is there a rule that you can point to
24 that would require such approval?

25 A. Yes. There's a form that we have to sign

1 going through the process that's clearly articulated
2 in the City code and the basic employment
3 expectation. Which frankly, was disappointing and
4 upsetting because he's a credentialed, successful,
5 accomplished leader who knows how to follow the
6 process. He upheld the process for others, but he
7 did not find it appropriate and applicable to
8 himself, and that is a problem.

9 Q. So the content of the book was relevant
10 because that's what you thought could possibly lead
11 to a situation where you had some kind of hostile
12 work environment problem, right?

13 A. Or a Title 7 issue, yes, that is correct.

14 Q. Now, if a book doesn't have any content
15 that might lead to, in your view, a Title 7 issue,
16 and isn't published for remuneration, is not done for
17 profit, is not sold, and does not convey the
18 impression of endorsement by the City, would you be
19 able to discipline, in your view, an employee for
20 such a book?

21 A. If they did not follow the process to get
22 approval to write said book, absolutely.

23 Q. So you need to get approval for any book
24 whatsoever?

25 A. Absolutely. You have to get approval for

KELVIN J. COCHRAN vs. CITY OF ATLANTA, ET AL.
Yvonne Cowser Yancy on 02/17/2017

1 espoused in the book.

2 Q. So again, list for me just one more time
3 the areas of content that you discussed that led to
4 that conclusion that there should be an
5 investigation.

6 MR. GEVERTZ: Object to the form.

7 THE WITNESS: The references in the
8 book concerning the role of women, the
9 reference in the book concerning the role
10 of -- or what would happen if you were not
11 a believer in Christ, so Jewish people and
12 people of other faiths who don't believe in
13 Christ. The reference in the book around
14 LGBTQ community. The reference in the book
15 around how he articulated Christianity from
16 his viewpoint, how there are many views of
17 Christianity and many denominations in the
18 Christian faith. And so those things all
19 are covered under Title 7.

20 And you can have a viewpoint, but we
21 have to make sure that you're not managing
22 to that viewpoint. And since the book
23 includes a reference where you talk about
24 how you lead to create a culture and
25 cultivate the culture of God, then we're

KELVIN J. COCHRAN vs. CITY OF ATLANTA, ET AL.
Yvonne Cowser Yancy on 02/17/2017

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1 an e-mail this morning that I responded to
2 from a citizen about a concern about an
3 employee. My response to that was to
4 include the law department and to say,
5 gosh, how should we proceed and look at
6 this matter. We have to address this
7 particular issue.

8 BY MR. WARDLOW:

9 Q. So --

10 A. And so as an employer when you're notified
11 by someone, you're on notice under the EEOC. The
12 clock starts around potential damages and fines,
13 et cetera, and so you have to respond not just in a
14 timely way, but in a complete way.

15 And in this matter because the issue that
16 was raised was specifically around potential faith,
17 religion, gender, you know, sexual orientation, et
18 cetera, it was highly relevant to include the law
19 department and, frankly, for them to lead it because
20 Title 7 is under their umbrella as well.

21 Q. So generally hostile work environment
22 investigation comes -- begins because of a complaint;
23 is that fair?

24 A. It can begin because of a complaint. It
25 can begin because of an observation someone makes, or

Exhibit C

Deposition Transcript of Nina Hickson
(relevant portions attached)

KELVIN J. COCHRAN vs. CITY OF ATLANTA, ET AL.
Nina Hickson on 02/16/2017

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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

KELVIN J. COCHRAN,)
)
Plaintiff,)
) CIVIL ACTION FILE
vs.)
) NO. 1:15-cv-00477-LMM
CITY OF ATLANTA, GEORGIA;)
)
and MAYOR KASIM REED, IN)
)
HIS INDIVIDUAL CAPACITY,)
)
Defendants.)

- - -

VIDEOTAPED DEPOSITION OF
NINA HICKSON

FEBRUARY 16, 2017
9:54 A.M.

BAKER DONELSON BEARMAN CALDWELL & BERKOWITZ, P.C.
3414 PEACHTREE ROAD, N.E.
MONARCH PLAZA
SUITE 1600
ATLANTA, GEORGIA 30326

Reported by: Suzanne Beasley, RPR
CCR-B-1184

1 was a leadership book that he was authoring. But I
2 was never given a title or a content other than
3 leadership.

4 Q. If he came to you -- well, first of all,
5 did he contact you about this matter?

6 A. He called me. This indicates it was a
7 telephone call. He called me.

8 Q. And what did he say?

9 A. My memory was that he was writing a
10 non-city book on leadership, and was this a matter
11 that the ethics -- that the ethics board would be
12 concerned about or would this fall under the ethics
13 code? That was my understanding of his question.
14 And so I said yes.

15 And he said, well -- as I recall, he said
16 it wasn't happening anytime soon, but he would get
17 back with me in about six months. That was the
18 extent of it. Or that's what I remember.

19 (Exhibit 24 was marked for
20 identification.)

21 BY MR. WARDLOW:

22 Q. I'm placing in front of you what will be
23 marked as Plaintiff's Exhibit 24. This is an e-mail
24 from Sherry Dawson to you --

25 A. Uh-huh.

Exhibit D

Deposition Transcript of Kelvin Cochran and its
exhibits
(relevant portions attached)

KELVIN J. COCHRAN vs. CITY OF ATLANTA, ET AL.
Kelvin J. Cochran on 02/10/2017

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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

KELVIN J. COCHRAN,)
)
Plaintiff,)
) CIVIL ACTION FILE
vs.)
) NO. 1:15-cv-00477-LMM
CITY OF ATLANTA, GEORGIA;)
and MAYOR KASIM REED, IN)
HIS INDIVIDUAL CAPACITY,)
)
Defendants.)

- - -

VIDEOTAPED DEPOSITION OF
KELVIN J. COCHRAN

FEBRUARY 10, 2017
8:53 A.M.

ALLIANCE DEFENDING FREEDOM
1000 HURRICANE SHOALS ROAD, N.E.
SUITE D-1100
LAWRENCEVILLE, GEORGIA

Reported by: Suzanne Beasley, RPR
CCR-B-1184

1 specifically I'll refer to them by the number on the
2 sticker that I attach to them.

3 I'm going to show you Exhibit 1, and all
4 I'm trying to do is confirm that this is the
5 selection letter that you received and signed for
6 from the then mayor or her administration,
7 Shirley Franklin?

8 A. That's correct.

9 Q. As fire chief did you understand that that
10 position was an appointed position?

11 A. Yes.

12 Q. What's your understanding of that phrase?

13 A. It is an appointed position by the mayor
14 of the City of Atlanta.

15 Q. Do you serve at -- did you understand that
16 you served at the mayor's leisure?

17 A. Yes.

18 Q. And so during this first term of your
19 employment, did you understand that Mayor Franklin
20 had the right to terminate your employment?

21 A. Yes.

22 Q. At any time?

23 A. Yes.

24 Q. For any reason?

25 A. Yes.

KELVIN J. COCHRAN vs. CITY OF ATLANTA, ET AL.
Kelvin J. Cochran on 02/10/2017

Page 37

1 A. Yes.

2 Q. Can you give me some names or job titles?

3 A. I believe that from the rank of battalion
4 chief and above were unclassified.

5 Q. So let's take a battalion chief. By the
6 way, what's immediately below a battalion chief?

7 A. A captain.

8 Q. So I'm just going to draw on the
9 distinction between the two for a moment. If a
10 captain was terminated from his or her employment, do
11 you understand whether or not they had any grievance
12 or administrative rights to appeal that decision?

13 A. Yes.

14 Q. What's your understanding of what rights
15 that person would have?

16 A. Well, there are -- there's a due process
17 within the civil service laws and ordinances that
18 governs that.

19 Q. So there's civil service policies and
20 procedures that would apply to someone in this
21 hypothetical, a captain who is being terminated, if
22 they wanted to appeal or grieve that decision?

23 A. Yes.

24 Q. By contrast, if we took a battalion chief
25 and he or she was going to be terminated, would that

1 individual have the right to invoke those civil
2 service procedures, to your knowledge?

3 A. To my knowledge, I think they would. I
4 can't recall a time under my leadership where we
5 actually had that to happen, but I believe that they
6 were.

7 Q. What do you base that understanding on?

8 A. I just understand that the same process
9 that's available for captains and below would be
10 available for them.

11 Q. What's above a battalion chief?

12 A. An assistant chief.

13 Q. Did you ever have an occasion to
14 discipline or fire an assistant chief? Monetarily
15 discipline.

16 A. Yes.

17 Q. I'm not talking about verbal counseling.

18 A. Assistant chief, yes.

19 Q. If you were to monetarily discipline --
20 again, I'm trying to figure out the difference in
21 your mind between unclassified and classified. If
22 you were to monetarily discipline a captain, do you
23 know whether or not he or she would have the
24 opportunity to avail themselves of the civil service
25 grievance process?

1 A. A captain, yes.

2 Q. Now, how about an assistant chief in that
3 occasion? Were there rights or remedies that the
4 assistant chief could follow through the civil
5 service process to appeal that decision?

6 A. Yeah, I think there are. You know, again,
7 I'm to the best of my recollection trying to recall
8 it, and to be quite honest, I'm not absolutely sure
9 about whether the same rights and privileges afforded
10 to captains and below would be afforded to battalion
11 chiefs, assistant chiefs, or deputy chiefs.

12 Q. So let me see if I can fairly characterize
13 your understanding. At a captain or below, there are
14 civil service remedies that set out somewhere.
15 You're generally familiar with them?

16 A. Yes.

17 Q. Above that, there may or may not be
18 certain rights or remedies, but you're unclear as to
19 what they are and where they might be ensconced?

20 A. That's correct.

21 Q. Did you as the chief understand that you
22 had any rights or remedies to grieve a decision to
23 monetarily penalize you?

24 A. Please restate the question.

25 Q. Sure. You're the chief. If the COO or

1 the mayor said, I don't like what you did and you are
2 suspended from work for a week, did you understand
3 that you had any sort of grievance right or
4 administrative appeal right to that decision?

5 A. No, not if it was -- not if it was handed
6 down from the mayor.

7 Q. Same question about a termination. If the
8 mayor were to terminate you, did you understand that
9 you had any sort of grievance right or administrative
10 appeal right if the mayor made that decision?

11 A. No.

12 Q. Thank you. I'm done with this document.

13 By the way, let me reiterate, I'm a camel.
14 I go all day, so don't wait on me if you need a
15 break.

16 A. I'm good.

17 (Exhibit 7 was marked for
18 identification.)

19 MR. GEVERTZ:

20 Q. Okay. Exhibit 7, I'm simply going to ask
21 if you can confirm that this was a letter
22 congratulating you on your selection, and informing
23 you that you still needed city council authorization?

24 A. Yes.

25 Q. And that's your signature at the bottom, I

1 this page, it talks about how a classified employee,
2 assuming that they have completed their probationary
3 period, could appeal nonadverse disciplinary actions,
4 meaning oral counseling or written counseling. Was
5 that your understanding as well?

6 A. Yes.

7 Q. Further on in that section, it says that
8 unclassified employees do not have the right to file
9 grievances against nonadverse disciplinary actions.
10 In other words, if you were unclassified, you
11 couldn't contest verbal or written counseling. Was
12 that your understanding as well?

13 A. Yes.

14 Q. Now, I'm on the Section 9.2. A classified
15 employee, again, assuming that they had completed
16 probation, could appeal an adverse disciplinary
17 action, meaning something more serious, suspension,
18 termination, things of that nature. Is it your
19 understanding that that was the procedure in place
20 for classified employees within the fire department?

21 A. Yes.

22 Q. Unclassified employees did not have the
23 right to appeal adverse actions to the Atlanta Civil
24 Service Board. Instead, officers above the rank of
25 captain were considered to hold discretionary

1 positions. Did you understand that provision to mean
2 that if you were at captain or above, you didn't have
3 any appeal rights with respect to adverse
4 disciplinary actions?

5 A. According to as it is written, it would
6 have begun at the battalion chief level. It says
7 above the rank of captain.

8 Q. Above the rank of captain. I apologize.
9 So let me rephrase the question.

10 Was it your understanding and your
11 practice within the fire department that the
12 battalion chief level and above, you did not have a
13 right to appeal adverse decisions?

14 A. Yes.

15 Q. So if I string all that together, would
16 you agree with me that within the fire department, at
17 least during your tenure, that unclassified employees
18 did not have any appellat rights either with respect
19 to nonadverse disciplinary actions or adverse
20 disciplinary actions?

21 A. That's correct.

22 Q. Instead, they were discretionary, as you
23 previously defined them?

24 A. Yes.

25 Q. Serving at the will or leisure of the

1 Q. Had you been engaged in writing your book
2 Who Told You You Were Naked? between January 1 of
3 2013 and the time that you signed this, March 21st of
4 2014?

5 A. Yes, I was engaged in writing the book.

6 Q. Were you engaged in the marketing of that
7 book?

8 A. Other than being on Amazon or Barnes &
9 Noble.

10 Q. So it was written, it was published, and
11 it was posted for sale by those two outlets?

12 A. Yes.

13 Q. Had you made any personal efforts to
14 promote your book during that period?

15 A. No.

16 Q. So just to be clear, no speaking
17 engagements where you plugged your book?

18 A. No.

19 Q. Or setting up a booth at a conference to
20 try to sell your book during that timeframe?

21 A. Not that I can -- no.

22 Q. Tell me, given that you had engaged in
23 writing and in publishing and in posting your book
24 for sale on Barnes & Noble and Amazon, why you
25 answered the question "no," that you had no -- that

1 you had not been self-employed during that timeframe?

2 A. I didn't see my book as employment.

3 Q. What do you understand employment to refer
4 to?

5 A. To actually have a business where the
6 intent is to generate income or to work for an
7 employer for the purpose of generating income.

8 Q. So if we were not to focus on working for
9 an employer but focus on self-employment, was it your
10 purpose in posting the book on Amazon or through
11 Barnes & Noble to derive income?

12 A. No, it really was not my motive. I knew
13 that the book had to be posted at a price, but the
14 motive was to distribute the book to Christian men.
15 It was a book written for Christian men, and I just
16 on advice of my publisher saw that those two avenues,
17 Amazon, Barnes & Noble, were mechanisms of
18 distributing the book to Christian men.

19 Q. Okay. Did you sell or offer to sell
20 through Amazon or Barnes & Noble, the book at cost?

21 A. No. I can't remember the details. I know
22 that it was higher than the actual cost of printing
23 the book.

24 Q. So there was some margin --

25 A. Right.

1 Q. -- in it for you as the author, correct?

2 A. Yes.

3 Q. So forgive me for pressing, but if
4 self-employment meant in your mind under engaging in
5 activity for the purpose of making a profit, explain
6 to me again, please, why you didn't believe that
7 writing and publishing and marketing this book
8 constituted self-employment.

9 A. I just did not see it as such.

10 Q. If you had it to do all over again, would
11 you still check the box "no," or would you perhaps
12 come to a different answer?

13 A. Based on my understanding and
14 interpretation of that particular section, I would
15 probably still check "no."

16 Q. I want to engage in one more hypothetical
17 with you. Let's say that you had kept your fire
18 chief job.

19 A. Uh-huh.

20 Q. And you had to fill out one of these in
21 the year 2015. And your book continued to sell at
22 roughly the same pace as it did in 2014 on Amazon and
23 on Barnes & Noble. Under that set of circumstances,
24 do you believe it would be appropriate to answer the
25 question non-city employment income as a no?

1 (Exhibit 15 was marked for
2 identification.)

3 BY MR. GEVERTZ:

4 Q. Did you understand that this applied to
5 you?

6 A. Yes.

7 Q. Were you familiar with it?

8 A. Yes.

9 Q. At the top of the second page, you're
10 there, in big letters in bold in a box there is a
11 phrase used, "at-will employment." Do you see that?

12 A. Yes.

13 Q. Do you have an understanding of what that
14 phrase means?

15 A. Yes.

16 Q. What's your understanding of at-will
17 employment?

18 A. Well, you serve at the will of your
19 employer and, you know, at their discretion.

20 Q. And that you can be fired for any reason
21 that doesn't break the law?

22 A. Yes.

23 Q. And you can quit for any reason, period?

24 A. Yes.

25 Q. Did you understand yourself to be an

1 at-will employee --

2 A. Yes.

3 Q. -- during the time you worked as the fire
4 chief for the City of Atlanta?

5 A. Yes.

6 Q. To belabor the point, would you turn to
7 page 25. There's a section towards the bottom
8 entitled Dismissal, and the last sentence in so many
9 words says that unclassified employees can be fired
10 for any reason so long as it doesn't break the law.
11 Did you understand that that was a term of your
12 employment while you were the fire chief of the City
13 of Atlanta?

14 A. Yes.

15 Q. You had told me before that you and I
16 believe it was somewhere around 30 something members
17 of the fire department created the AFRD doctrine?

18 A. Yes, sir.

19 (Exhibit 16 was marked for
20 identification.)

21 BY MR. GEVERTZ:

22 Q. And is that Exhibit 16?

23 A. Yes.

24 Q. So you would have been an active
25 participant in this document's creation and

1 A. Yes.

2 Q. And when I'm looking at what she said, it
3 sounds as if she asked you what the book was about
4 and asked to see a copy of the book when you were
5 done.

6 A. She wanted her personal copy --

7 Q. Yes.

8 A. -- not to see a copy.

9 Q. Okay. She wanted a copy of your book?

10 A. Yes.

11 Q. And she asked you what the book was about.
12 Did she ask or say anything else during that
13 conversation?

14 A. Yes. She did specifically point out that
15 as long as it doesn't have to do with subject matter
16 pertaining to my job as fire chief or my role in city
17 government, based on the description that I gave her,
18 that it was permissible.

19 Q. Do you have any notes of your conversation
20 with Ms. Hickson?

21 A. No, sir.

22 Q. Ms. Hickson did not ask you anything else?

23 A. Not that I can recall.

24 Q. And certainly she did not say anything to
25 the effect that you could not write a book about

1 three in that group.

2 And then in that last group, the three
3 that I recall were Stephen Hill, Chris Wessels, and
4 William Collier.

5 I just recalled another name in that
6 middle group. Michael Simmons was another name in
7 that middle group.

8 Q. Approximately how many total people within
9 the fire department do you recall giving a copy of
10 your book to?

11 A. I'd say nine to 12.

12 Q. And your department had how many people
13 working?

14 A. Eleven hundred.

15 Q. Chaplain Miller, was he among the people
16 you --

17 A. Yes.

18 Q. Would he be in the first, second, or third
19 group?

20 A. That middle group.

21 Q. In each case I think you described the
22 categories of groups as consisting of Christian men?

23 A. Yes.

24 Q. Why did you not offer your book to
25 non-Christians?

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1 Q. Thank you.

2 Now, the cost of the book --

3 MR. THERIOT: Just object as to form
4 as to that last question.

5 (Exhibit 31 was marked for
6 identification.)

7 BY MR. GEVERTZ:

8 Q. Here's Exhibit 31. The cost of the book
9 was \$4.00, excluding shipping and handling; is that
10 correct?

11 A. No, that's -- yes. Yes, it is.

12 Q. So when you ordered the hundred books,
13 this was the invoice for them, correct?

14 A. It looks like it, yes.

15 Q. When you brought the books to Shreveport,
16 did you sell them?

17 A. Yes.

18 Q. How much did you sell them for?

19 A. Ten dollars.

20 Q. And under the terms of your agreement,
21 were you -- how much of that \$10.00 were you able to
22 keep?

23 A. The \$6.00.

24 Q. So all the profit?

25 A. Yes.

1 A. Yes.

2 Q. Okay. So naked means that you're a
3 sinner, and clothed means you're righteous?

4 A. Yes.

5 Q. You're one or the other? And further, and
6 I think we -- I think I understand this part, if
7 you're naked, you're naked. There are no gradations
8 of being naked?

9 A. That's correct.

10 Q. And you write, "Similarly, if you are
11 clothed, you are clothed." There are no gradations
12 of clothed?

13 A. That's correct. Because according to our
14 faith, accepting Christ as our Savior and Lord, we
15 become the righteousness of God in him, that even
16 though we have issues in our carnal nature, that the
17 blood of Christ covers our sins, and in him we are
18 righteous.

19 Q. In your book you have a chapter devoted to
20 the distinction between the clothed and the naked.
21 You're still introducing the readers to these
22 concepts and that they're different from one another.

23 A. Yes.

24 Q. And some of the adjectives you use to
25 describe naked are "sinner," correct?

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1 A. Yes.

2 Q. Naked -- the naked are wicked?

3 A. Yes.

4 Q. And un-Godly, and evildoers, correct?

5 A. Yes.

6 Q. And then you quote from the different
7 Proverbs and talk about how the naked shall perish.

8 A. Uh-huh.

9 Q. Correct?

10 A. Yes.

11 Q. Sorry. I just need you to articulate.

12 A. Sure.

13 Q. That the naked will not inherit the earth,
14 correct?

15 A. Yes.

16 Q. And that in fact, when the naked perish or
17 die, there is celebration?

18 A. The whole purpose behind -- to put it in
19 the proper context, what you just prefaced before
20 getting to Proverbs, in my research based upon the
21 definitions I discovered of naked and clothed, all of
22 those words can be used synonymously with either
23 naked or clothed, that we don't have to try to figure
24 that out.

25 If you see any one of those words that

1 fall under clothed, it's talking righteous, good man,
2 just, all those words. It's talking about one type
3 of man, a clothed man. If you look at the words that
4 fall under the heading of naked, wicked, evildoer,
5 scorner, it's talking about one type of man, the
6 naked man. And so I use those Psalms to replace
7 words that fall under those categories to see how
8 that translates into the Scripture.

9 Q. And you find it translates?

10 A. Yes.

11 Q. And so, for example, in your book you
12 write that the naked, "When the naked perish, they
13 are shouting," which I think means that there's joy
14 and celebration?

15 A. Yes. And the word synonymous to that in
16 Scripture is when the wicked, so rather than use
17 wicked, naked.

18 Q. The naked are deceitful, correct?

19 A. Yes.

20 Q. The naked are mischievous?

21 A. Yes.

22 Q. A naked man is loathsome?

23 A. Yes.

24 Q. Thank you.

25 In the book you reference your role in

1 Q. How many of them did you give a book to?

2 A. All four of them. Again, they were
3 Christian men that we had established a prior
4 relationship with, and either asked me for a copy of
5 it or heard that I had written one and wanted a copy.

6 Q. Did you give a copy of your book to any of
7 the assistant chiefs?

8 A. Yes. Yes.

9 Q. How many of them are there? How many
10 people hold the title?

11 A. As I recall, there's about six that hold
12 the title.

13 Q. And how many of them?

14 A. William Collier, Bernard Coxton, Chad
15 Jones, Chris Wessels.

16 Q. Those are the four of the six who received
17 a copy of your book?

18 A. Yes.

19 Q. Returning for a moment back to the
20 suspension letter, did you have any idea that you
21 were going to be suspended that day?

22 A. No.

23 Q. You walked into this meeting cold without
24 any heads up or tip?

25 A. Well, I knew something was going on. The

1 A. Yes.

2 Q. And you don't believe that that meeting
3 would have in any way interfered with your ability to
4 perform the functions of your job, I take it?

5 A. That's correct. It would have been done
6 on my prescribed personal time and not interfere with
7 work-related duties.

8 Q. I'm sorry. What do you mean by it would
9 have been done on your personal time?

10 A. During a work day, there's never a
11 structured time of taking a break or taking lunch.
12 Many times I work without taking either a break or a
13 lunch. From time to time when I had personal
14 meetings of this nature -- and I would emphasize from
15 time to time -- I would always schedule them at a
16 time that did not with conflict with work or business
17 and would use that time as my personal time.

18 (Exhibit 49 was marked for
19 identification.)

20 BY MR. GEVERTZ:

21 Q. Next I'm going to show you Defendants'
22 Exhibit 49.

23 Greg Harris at the Christian Index wrote
24 to you following a telephone conversation, and he was
25 providing a rough draft of an editorial that he wrote

1 about your situation. Do you recall that
2 conversation?

3 A. Yes.

4 Q. And he said he wanted you to give it a
5 careful look to make sure that you were all right
6 with it, correct?

7 A. Yes.

8 Q. What is the Christian Index?

9 A. The Christian Index is a component of the
10 Georgia Baptist Convention. My church is a part of
11 the Georgia Baptist Convention, and he works for the
12 Georgia Baptist Convention in their communications
13 department.

14 Q. So this is a communications branch for the
15 Georgia Baptist Convention?

16 A. That's correct.

17 Q. And what is the Georgia Baptist
18 Convention?

19 A. It's the state level of the Southern
20 Baptist Convention, and it has geographical regions
21 that churches within the state of Georgia who are
22 Southern Baptist actually fall under in the state of
23 Georgia.

24 Q. Is it a large organization?

25 A. Yes.

1 that, that you should not do that before your 30-day
2 suspension. What I'm saying to you is I never did
3 any one of those things through my 30-day suspension.

4 Q. I see. And what did you understand was
5 her intent in asking you to abide by those
6 directives?

7 MR. THERIOT: Objection. Calls for
8 speculation.

9 BY MR. GEVERTZ:

10 Q. No. No. What did you understand was her
11 intent?

12 A. That she did not want me to publicly
13 disclose my side of the story.

14 Q. Were you doing that?

15 A. No.

16 Q. Did the article discuss your employment
17 situation?

18 A. As I recall it did, but there is nothing
19 in the article, and I'm sure there's a record of
20 it --

21 Q. Yes, sir.

22 A. -- that could be quoted as having directly
23 coming from me, and that was not already publicly
24 disclosed by either the mayor or the communications
25 director or some other media outlet.

1 not a response to a media interview as I was directed
2 by Candace Beard -- Byrd.

3 (Exhibit 50 was marked for
4 identification.)

5 BY MR. GEVERTZ:

6 Q. Next I'm going to show you Defendants'
7 Exhibit 50.

8 You were still on suspension in December
9 of 2015, correct?

10 A. Yes.

11 Q. Who's Mike Griffin? Excuse me. Who's
12 Mark Strange?

13 A. Mark Strange. I have --

14 Q. He's on the third page of the document.

15 A. I have no idea.

16 Q. Well, his e-mail signature block holds him
17 out to be a specialist in communication services --

18 A. I see.

19 Q. -- affiliated with the Georgia Baptist --

20 A. I see that, yes.

21 Q. -- Conference.

22 Do you know who Mike Griffin is?

23 A. Mike Griffin is a member of the staff of
24 the Georgia Baptist Convention.

25 Q. And what position, to the best of your

1 knowledge, does he hold?

2 A. He's like their advocate, their
3 legislative liaison.

4 Q. He sent to you a battle plan, right?

5 A. Yes, that -- this looks like some steps,
6 yes.

7 Q. And he calls it a battle plan, right?

8 A. Well, I haven't read that part.

9 Q. Bottom of the first page, sir.

10 A. Okay.

11 Q. So while you're on suspension and asked
12 not to speak with the media, you're presented with a
13 communication battle plan, correct?

14 A. Yeah, based on his description of it.

15 Q. And it included providing testimony that
16 was recorded and would be put up on the general
17 website, correct? Number 2-D.

18 A. Okay, yes.

19 Q. And it included a petition with a web page
20 and a web address, correct?

21 A. Yes.

22 Q. And it included a release of a press
23 statement, a press release to be distributed to media
24 outlets for E, correct?

25 A. Yes.

1 it along to someone by the name of Ed.

2 A. Ed Elliott, yes.

3 Q. Who is Mr. Elliott?

4 A. He's a fire chief in, somewhere I believe
5 in Virginia, another Christian fire chief.

6 Q. So other than forwarding along the battle
7 plan seeking maximum effect to Mr. Elliott, do you
8 recall any other response that you took?

9 A. Not that I can recall.

10 Q. Did in fact the battle plan get
11 implemented?

12 A. I'm not sure. I'm familiar with that they
13 had my testimony on the website; I know the article
14 in the Christian Index; and I know that there was a
15 petition that was placed on there.

16 Q. At any point in time did you reach back
17 out to Mr. Strange and tell him that his battle plan
18 that was sought to have maximum effect was not a good
19 idea?

20 A. No.

21 Q. At any point in time, did you tell him
22 that you thought that this might run contrary to the
23 terms of your suspension?

24 A. No, I did not.

25 Q. Why not?

1 You said that Ed Elliott was a firefighter
2 colleague in Virginia? Did I hear you correctly?

3 A. Yes.

4 Q. Did he play some sort of advisory or
5 consultant role in the communications battle plan
6 that we were just discussing?

7 A. No, sir, not to my knowledge.

8 Q. On December 13th of 2014 -- and I'm
9 referring to the top page -- Mr. Elliott sounds as if
10 he's acting as your agent or consultant. He writes
11 that "I have a phone call in this morning with Mike
12 Griffin of the Georgia Baptist Convention. Awaiting
13 his return call so we can strategize best with our
14 support." Did you authorize or allow Mr. Elliott to
15 be acting on your behalf in this way?

16 A. As best I recall, Ed Elliott was -- in his
17 church affiliations was wanting to as a church show
18 some support. And I indicated to them that Mike
19 Griffin would be a good resource, to my recollection,
20 and that they had already done something similar to
21 what he was wanting to do is the spirit, as I
22 understand it.

23 Q. So is it fair to take from that that you
24 were in fact enlisting his advocacy and support?

25 A. Not enlisting it.

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1 Q. He's offering it. Did you accept it?

2 A. I didn't deny it.

3 Q. He's just acting on his own, and you're
4 just a bystander?

5 A. He's acting on his own.

6 Q. But he's not a member, I would imagine by
7 virtue of his address, of the Georgia Baptist
8 Convention if he lives in Virginia, is he?

9 A. No.

10 Q. And he writes -- and this is toward the
11 bottom of the page, "In our lingo this is an" and I
12 quote, "offensive fire attack, but if anything feels
13 uncomfortable or too aggressive for you, please let
14 me know and we will adjust as appropriate."

15 Do you see that?

16 A. Which paragraph is that?

17 Q. Sorry. If I may.

18 A. I see it.

19 Q. And then he goes on to explain what his
20 proposed offensive fire attack would consist of on
21 the second page. And among other things, in number
22 two, wanted to contact Atlanta Mayor Kasim Reed for a
23 variety of reasons, right?

24 A. Yes.

25 Q. He was enlisting the support of fellow

1 Christians and pastors to help pressure the mayor to
2 apologize, correct?

3 A. Yes.

4 Q. And to acknowledge that he had violated
5 your rights, correct?

6 A. Yes.

7 Q. And in response to the offensive fire
8 attack when Mr. Elliott was asking you, tell me if
9 you're uncomfortable, tell me if this is too
10 aggressive, you wrote back, "This is very
11 appropriate. Only the mayor's name is Kasim.
12 Everything else is fine. Thank you, brother. God
13 bless you."

14 Did I read that correctly?

15 A. Yes.

16 Q. That's you being a bystander?

17 MR. THERIOT: Objection.

18 Argumentative.

19 THE WITNESS: I provided some
20 feedback on it.

21 BY MR. GEVERTZ:

22 Q. That was the only feedback you provided,
23 correct?

24 A. To my knowledge.

25 Q. To change an R to a K, but otherwise, it

1 was very appropriate in your eyes, correct?

2 A. Yes.

3 Q. At this point in time, if this battle
4 plan, this offensive fire attack was executed, how
5 did you envision that you were going to go back to
6 work at the City of Atlanta and have a productive
7 relationship with your boss?

8 A. Well, I just thought it was -- these
9 organizations, who as Christian organizations wanted
10 to do something to support what had occurred to me,
11 that I just didn't feel a need to stop it. And
12 that's essentially it. I just didn't feel a need to
13 intervene. I felt that I was in compliance with what
14 Candace Byrd had directed me to do and that this was
15 not in violation of that.

16 Q. But I asked you a different question, sir.
17 How did you understand that an offensive fire attack
18 could be leveled at your boss and you return to work
19 at the City of Atlanta? How did you envision that
20 was going to work?

21 A. I didn't see that it would not work.

22 Q. So what did you think was going to happen
23 on your first day? After saying that the offensive
24 fire attack directed against your boss was very
25 appropriate, how did you envision your first day was

1 was said there? Were you present? Did you hear a
2 tape recording?

3 A. No. A couple of the members that were
4 participants or who attended that meeting at the time
5 told me that they were in the meeting and what the
6 meeting was about.

7 Q. And what was -- what was -- what is your
8 best and fullest understanding of what was said at
9 that meeting by them and by the mayor?

10 A. As best I recall, the mayor was explaining
11 the reasons for the action that he took against me.

12 Q. What did he say, as best you know?

13 A. I cannot -- it would be futile for me to
14 even try to attempt to explain anything further than
15 that.

16 Q. Okay.

17 A. I would do it just --

18 Q. We've exhausted your knowledge on that
19 topic?

20 A. Right.

21 Q. I understand. Did the church, did the
22 Elizabeth Baptist Church in any way finance the
23 publication of your book?

24 A. No.

25 Q. Did they in any way provide you with the

1 money to publish your book?

2 A. No.

3 Q. Did anyone there ask you or direct you to
4 publish your book?

5 A. No.

6 Q. Did anyone within the leadership of that
7 organization encourage you to publish that book?

8 A. No.

9 Q. How is it that you came to come to work at
10 the Elizabeth Baptist Church?

11 A. During my termination, my pastor
12 approached me and said, Hey, I have a need for a
13 chief administrative officer. At that time, he was
14 calling it an administrative pastor, and felt that my
15 skill sets would be a good fit to fit that -- to meet
16 that need. And by August of that year, we had worked
17 out everything to where I actually went to work for
18 Elizabeth Baptist Church.

19 Q. Had you applied for any jobs anywhere
20 between the time of your suspension and the time of
21 that offer?

22 A. Not any other jobs other than Elizabeth
23 Baptist Church, again, because of the terms that was
24 publicly conveyed surrounding my suspension and
25 subsequent termination. Really the impact began from

ARTICLE VII. - OFFICERS AND EMPLOYEES⁽¹⁶⁾

Footnotes:

--- (16) ---

Charter reference— Civil service, § 3-501 et seq.

Cross reference— Lease of city owned houses to certain public officers, § 2-6; city council staff, § 2-151 et seq.; mayor, § 2-176 et seq.; executive branch offices, § 2-231 et seq.; municipal clerk, § 2-266 et seq.; chief financial officer, § 2-341 et seq.; employee benefits, § 2-841 et seq.; chief procurement officer, § 2-1136 et seq.; municipal court judges, § 62-27; municipal court solicitor and assistants, § 62-28; municipal court public defender and assistants, § 62-29; municipal court clerk, § 62-34; personnel, ch. 114.

DIVISION 1. - GENERALLY

Sec. 2-781. - Official oath.

The following is the official oath to be assumed by all officials of the city who by law, except the mayor and members of the council, are required to assume an oath of office, except the mayor and members of the council:

GEORGIA

FULTON COUNTY

I, _____, do solemnly swear that I will faithfully and impartially perform the duties imposed upon me as during my continuance in office, without fear or favor, reward or the hope thereof, to the best of my ability.

I further swear that I will uphold and support the Ethics Code of the City of Atlanta, so help me God.

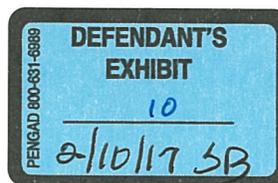
Sworn to and subscribed before me this _____ day of _____.

Mayor

(Code 1977, § 18-4001; Ord. No. 2002-54, §§ 1, 2, 6-20-02)

Sec. 2-782. - Bonds of officials.

- (a) Conditions, form, filing, premium. If official bonds are required, they shall provide that the officials bonded shall account to the city for all articles, goods and moneys coming into their hands by virtue of their offices, including books, papers or other property. The form of these bonds shall be approved by the city attorney and their suretyship by the mayor, and they shall thereafter be filed with the chief financial officer, provided that the chief financial officer's bond shall be filed with the municipal clerk. Surety company bond premiums shall be paid by appointment made therefor in current apportionment sheets.



- (b) Officers disqualified as sureties. No member of the council or the mayor or any other city officer shall become a surety on the bond of any city official or contractor for city work. A violation of this section shall subject the offending city official to dismissal from office, and a new bond shall be made without that officer as surety thereon.
- (c) Requirements of sureties. No individual shall be accepted as personal surety on any bond, official or otherwise, that under the Charter and related state laws or ordinances of the city or under general law is required to be given to the city or to the council or to the mayor or to any officer or department of the city or to any head of any department of the city, unless that person shall own real estate in the state of a value over and above any homestead exemption allowed by law and any incumbrances thereon and that is equal to the full amount of the bond on which the person is tendered as surety.

(Code 1977, § 18-4002)

Sec. 2-783. - Defense in civil litigation.

- (a) Authority. Pursuant to the authority of O.C.G.A. tit. 45, ch. 9, art. 2 (O.C.G.A. § 45-9-20 et seq.), the city adopts a policy establishing the terms and conditions under which the city may provide for the defense of any officer or employee involved in civil litigation arising out of the performance of the official duties of the officer or employee and under which the city may pay part or all of any civil judgment rendered against any officer or employee or of any monetary settlement of pending litigation against any such officer or employee when any such claim or civil judgment arises out of the performance of official duties or is in any way reasonably related thereto and in accordance with this section.
- (b) Immunity of city not waived. Nothing in this section shall be construed to constitute any waiver by the city of the governmental immunity afforded it under the laws and constitution of the state, except as specifically set forth in this section. This section shall not apply to those claims or judgments for damages of \$25,000.00 or less which are authorized pursuant to section 2-4 of this Code and which constitutes a waiver of governmental immunity only up to such amount. Nothing in this section shall be construed in any way to reduce or eliminate the rights of any officer or employee against any other party.
- (c) Defense upon request of officers and employees. Whenever any civil litigation is instituted in or before any court of this state or of any other state or of the United States against any officer or employee in either such officer's or employee's individual or official capacity asserting personal liability for damages arising out of the performance of the official duties of such officer or employee or in any way reasonably related thereto, whether based upon negligence, violation of contract rights or violation of civil, constitutional, common law or other statutory rights, whether federal, state or local, the city, upon the written request of any such officer or employee and as a part of such officer's or employee's compensation and terms of employment, subject to the limitations and exclusions as set forth in this section, may in its discretion undertake to defend the civil action on behalf of any such officer or employee by and through the office of the city attorney.
- (d) Expenditures for defense. The city may expend funds for such purposes, including but not limited to court costs, deposition costs, witness fees and compensation, and all other like costs, expenses and fees.
- (e) Notice to city attorney. This section shall not apply unless the officer or employee or the department head of such officer or employee has given notice in writing of any such pending civil action to the city attorney within ten days after the officer or employee has received notice thereof or has been served with any such summons and complaint.
- (f) Grounds for refusal of defense. The city shall refuse to undertake to defend civil actions brought against any officer or employee if it is determined by the city attorney that:

- (1) The act or omission did not arise out of and in the course of the employment of such officer or employee nor was the act or omission reasonably related to such employment.
 - (2) The officer or employee acted or failed to act because of actual or intentional misconduct, fraud, corruption or malice.
 - (3) The defense of any such civil action by the city would create a conflict of interest between the city and the officer or employee.
 - (4) The litigation is for the purpose of criminal prosecution.
 - (5) Undertaking to defend against any such civil action would not be in the best interest of the city.
 - (6) The officer or employee acted or failed to act as a result of impaired judgment caused by the voluntary consumption of alcohol or by the voluntary illegal use of any controlled substance as defined by the laws of the state.
 - (7) Except in an emergency situation or upon the existence of extenuating circumstances, the officer or employee acted or failed to act directly contrary to the advice of the city attorney.
 - (8) The officer or employee acted or failed to act in such a manner as to constitute a criminal offense involving theft, embezzlement or other like crime with respect to the property or money of or in which the city has an interest.
- (g) Conflict of interest between officers or employees. Nothing in this section shall be construed to prohibit the city from undertaking to defend against any such civil action on behalf of any officer or employee where there exists a conflict of interest with another officer or employee. If, at the initiation of or during the course of any such civil litigation, a conflict of interest arises as to the representation of any officers or employees, the city attorney shall provide representation pursuant to the following:
- (1) As between elected officials and other officers and employees, the city attorney shall represent the elected officials;
 - (2) As between officers and employees, the city attorney shall make the determination, subject to the approval, by resolution duly adopted and approved, of the council and the mayor; and
 - (3) As between elected officials, the determination shall be made by a resolution duly adopted and approved by the council and the mayor.
- Further, where any such conflict of interest exists and a determination has been made as to which officers or employees shall be represented by the city attorney, the city in its discretion may by a resolution duly adopted and approved, authorize those officers or employees not represented by the city attorney to employ counsel at the expense of the city. However, the selection and compensation of such other counsel shall be subject to the prior approval by the city.
- (h) Payment of judgments or monetary settlements. Where the city has undertaken to defend civil actions brought against officers or employees as provided by this section, the city may, in its sole discretion, by resolution duly adopted and approved, pay all or any part of final judgments awarded against officers or employees by courts of competent jurisdiction or any amount payable as a monetary settlement of any such civil action, subject to the limitations and exclusions which follow:
- (1) Payments on behalf of officers or employees in satisfaction of any judgment or as a monetary settlement of any pending litigation, shall not exceed the total amount of \$2,000.00 for any and all civil actions instituted as the result of any single or continuing incident or occurrence.
 - (2) No sum shall be paid pursuant to this section where punitive or exemplary damages have been assessed against any officer or employee by any court of competent jurisdiction.
 - (3) No sum in excess of \$25,000.00 shall be paid pursuant to this section for damages on account of bodily injury, death or property damage arising from the ownership, maintenance, operation or use of any motor vehicle by the city under its management, control or supervision, as provided for in section 2-4.

- (4) No sum shall be paid pursuant to this section when the officer or employee has, without prior authorization, been represented by counsel other than the city attorney.
- (5) No sum shall be paid pursuant to this section unless the claimant unconditionally releases each and every officer and employee and the city from any and all suits, claims, actions, causes of action, demands, damages, costs, expenses and compensation on account of or in any way arising out of or related to any such single or continuing incident or occurrence.
- (i) Disbursements paid from city funds. Any such disbursement as provided in this section shall be deemed to be for public purposes and may be paid from city funds.

(Code 1977, § 7-3017.1; Ord. No. 2000-37, §§ 1, 2, 6-27-00; Ord. No. 2002-7, §§ 1, 2, 3-5-02)

Editor's note— Section 3 of Ord. No. 2002-7, approved March 5, 2002, states that the provisions of subsections 2-783(b), (h), and (h)(3) shall become effective Jan. 1, 2003.

Sec. 2-784. - Treatment of employees at hospitals other than Grady Memorial in emergency situations.

- (a) Each department head shall be authorized to permit an employee working under the department head to receive treatment in emergency situations at hospitals other than Grady Hospital when such employee is injured arising out of and in the course of employment by the city and where it is determined by the department head or the person supervising such employee at the time of such injury deems it to be in the best interest of the employee to receive treatment at the hospital nearest to the place where such injury is incurred.
- (b) The chief financial officer is authorized to make payment pursuant to provisions of workers' compensation laws for the cost of such treatment at such hospital without prior approval for such treatment.
- (c) The treatment as provided in this section shall apply only to emergency treatment. All followup and continuing treatment shall be accomplished through Grady Hospital, unless prior permission for treatment elsewhere is obtained from the office of the risk management division.

(Code 1977, § 7-4111)

Secs. 2-785—2-800. - Reserved.

DIVISION 2. - STANDARDS OF CONDUCT^[17]

Footnotes:

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Editor's note—Ord. No. 2002-27, § 1, approved April 10, 2002, repealed and reenacted §§ 2-801—2-824 to read as herein set out. Formerly, said sections pertained to similar subject matter. See the Code Comparative Table.

Cross reference— Ethics in public contracting, § 2-1481 et seq.

Sec. 2-801. - Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Agency means any board, bureau, body, commission, committee, department or office of the city, including any joint board to which the council or the mayor has appointment powers.

Business means any corporation, partnership, proprietorship, organization, self-employed individual and any other entity operated for economic gain, whether professional, industrial or commercial, and entities which for purposes of federal income taxation are treated as nonprofit organizations.

Direct ownership, leasehold or option interest in real property means the holding or possession of good legal or rightful title of property or the holding of real or beneficial use of the property by an official or employee, including any interest owned or held by the spouse of the official or employee if such interest is held jointly or as tenants in common.

Confidential information means information which has been obtained in the course of holding public office, employment, an independent contract or otherwise acting as an official or employee, and which information is not available to members of the public under state law or other law or regulation and which the official or employee is not authorized to disclose.

Filing means delivered to the municipal clerk by the end of the designated business day or, if the designated day is not a business day, the first business day thereafter or depositing in the United States mail, properly addressed, with adequate postage affixed, postmarked by the designated day; or any other method of delivery authorized by the board of ethics.

Financial interest means any interest which shall yield, directly or indirectly, a monetary or other material benefit to the official or employee, other than the duly authorized salary or compensation for the official's or employee's services to the city, or to any person employing or retaining the services of the official or employee or to the official's or employee's immediate family.

Gratuity means anything of value given by or received from a prohibited source; provided, however, that the term "gratuity" within the meaning of this division does not include any of the following:

- (1) Payment by the city of salaries, compensation, expenses, or employee benefits; or payment by an employer or business other than the city of salaries, compensation, expenses, or employee benefits or payment of fees for services rendered pursuant to a contract, when the payment is unrelated to the official's or employee's status with the city and is not made for the purpose of influencing, directly or indirectly, the vote, official action or decision of the official or employee; or
- (2) Campaign or political contributions made and reported in accordance with state law; or
- (3) Reasonable meals or refreshments furnished in connection with an official's or employee's appearance in an official capacity at a public, civic, charitable or non-profit ceremony, event, convention or conference whether the sponsor of the event does or does not do business with the city; or
- (4) Hospitality, or meals, extended for a social, charitable, non-profit, convention, conference, or business purpose unrelated to the official business of the city; or
- (5) Reimbursements from non-city sources of reasonable hosting expenses, including travel, meals, and lodging, provided to an official or employee in connection with speaking engagements, participation on professional or civic panels, teaching, or attendance at conferences in an official capacity; provided, however, that receipt of such reimbursements is subject to the reporting requirements governing disclosure of expense reimbursements found at section 2-815; or
- (6) An award, plaque, certificate, memento, novelty or similar item given in recognition of the recipient's civic, charitable, political, professional, or public service; or
- (7) Nominal gifts or other tokens of recognition presented by representatives of governmental bodies or political subdivisions who are acting in their official capacities; or

- (8) Anything of value when the thing of value is offered to the city, is accepted on behalf of the city, and is to remain the property of the city provided that the recipient complies with the provisions governing solicitation found at section 2-818; or
- (9) Commercially reasonable loans made in the ordinary course of the lender's business in accordance with prevailing rates and terms, and which do not discriminate against or in favor of an official or employee because of such individual's status; or
- (10) Anything of value received as a devise, bequest or inheritance; or
- (11) A gift received from the official's or employee's immediate family or a relative within the third degree of consanguinity under the civil law computation method.

Honorarium means a payment of money or anything of value for any service, including but not limited to an appearance, speech or article, or a series of appearances, speeches, or articles, if the subject matter is related to the official's or employee's official duties or the payment is made because of the official's or employee's status with the city.

Immediate family shall include the spouse, domestic partner registered under section 94-133, mother, father, sister, brother, and natural or adopted children of an official or employee.

Income means any money or item of value in excess of \$5,000.00 received or to be received as a claim on any future services, including but not limited to fees, salaries or commissions.

Official or employee means any person elected or appointed to or employed or retained by the city or any agency, whether paid or unpaid and whether part time or full time. This definition includes retired employees or former city employees during the period of time in which they are later employed or retained by the city or any agency.

Personal interest means any interest arising from relationships with immediate family or from business, partnership or corporate associations, whether or not any financial interest is involved.

Prohibited source means any person, business or entity that an official or employee knows or should know:

- (1) Is seeking official action from the city; or
- (2) Is seeking to do or does business with the city; or
- (3) represents a client who meets the definitions in subparagraphs (1) or (2) above; or
- (4) Has interests that may be substantially affected by performance or non-performance of the official's or employee's official duties; or
- (5) Is a registered lobbyist in accordance with state law.

(Code 1977, § 18-2001; Ord. No. 2002-27, § 1, 4-10-02; Ord. No. 2006-48, § 1, 7-25-06)

Cross reference— Definitions generally, § 1-2.

Sec. 2-802. - Purpose.

It is the purpose of this division to promote the objective of protecting the integrity of the government of the city by prohibiting any official or employee from engaging in any business, employment or transactions, from rendering services or from having contractual, financial, or personal interests, direct or indirect, which are in conflict with or which would create the justifiable impression in the public of conflict with the proper discharge of the official or employee's official duties or the best interest of the city or which would tend to impair independence or objectivity of judgment or action in the performance of official duties. It is also the purpose of this division to require disclosure of the assets and income of elected officials and certain employees so that the public may review actual and potential conflicts of interest. Finally, it is the purpose of this division to provide for an orderly and fair process for raising and

addressing ethical questions and for disciplining those officials and employees and other persons who violate these standards of conduct.

(Code 1977, § 18-2002; Ord. No. 2002-27, § 1, 4-10-02)

Sec. 2-803. - Reporting violations.

Any person who witnesses or becomes aware of a violation of this division may complaint of that violation as follows:

- (1) By appearing before a judge of the municipal court, the city solicitor or the solicitor's assistant and swearing out a complaint for the violation. Upon signing the complaint, under oath, a warrant may be issued by the municipal court for the accused to appear and answer the charges; or
- (2) By communicating with the ethics officer. Where a complaint is communicated anonymously to the ethics officer, such complaint shall be made in good faith, and with veracity and sufficient specificity so as to provide the ethics officer with salient and investigable facts. The ethics officer may require the anonymous complaint to be made in a manner and form that is intended only to obtain relevant facts related to the alleged violation of this division, and that is not designed to reveal the identity of the complainant; or
- (3) By filing a sworn written complaint with the ethics officer or the board of ethics, as described in this division. All written complaints to be considered by the board of ethics and the ethics officer shall contain the following if applicable:
 - a. The name and address of the person or persons who file the complaint.
 - b. The sworn verification and signature of the complainant.
 - c. The name and address of the party or parties against whom the complaint is filed, and if such party is a candidate and the office being sought.
 - d. A clear and concise statement of acts upon which the complaint is based along with an allegation that such facts constitute one or more violations of law under the jurisdiction of the board of ethics.
 - e. A general reference to the statutory provision(s) of the Code within the jurisdiction of the board of ethics allegedly violated.
 - f. Any further information which might support the allegations in the complaint including, but not limited to, the following:
 1. The name and address of all other persons who have firsthand knowledge of the facts alleged in the complaint; and
 2. Any documentary evidence that supports the facts alleged in the complaint.
- (4) Preliminary action on complaint. Upon receipt of a complaint whether by the ethics officer or by the ethics board, the ethics officer or the secretary of the ethics board shall send a written notice to the subject of the complaint by the next business day. Both this notice and any subsequent documents are subject to the Georgia Open Records Act.
- (5) Defective complaint. Upon receipt of a written, non-anonymous complaint which does not conform to the applicable requirements of paragraph (3) of this section, the ethics officer shall by letter acknowledge receipt of the complaint and advise complainant of the defect in the complaint and that the complaint will not be considered by the board of ethics unless the defect is corrected.

(Ord. No. 2002-27, § 1, 4-10-02; Ord. No. 2002-44, § 1, 5-28-02)

Sec. 2-804. - Board of ethics.

- (a) There is hereby continued in existence a board of ethics to consist of seven members, all of whom shall be known for their personal integrity and all of whom shall be residents of and domiciled in the city. It is further urged that the members of the board of ethics shall reflect the diversity of the city with regard to race, color, creed, religion, gender, marital status, parental status, familial status, sexual orientation, national origin, gender identity, age and disability. The new board of ethics shall come into existence as set forth in delayed effect of 2002 amendment found at section 2-824 of this division.
- (b) The members of the board of ethics shall be selected as follows:
 - (1) One member shall be selected by the Atlanta Bar Association, chosen from the attorney members of the association;
 - (2) One member shall be selected by the Gate City Bar Association, chosen from the attorney members of the association;
 - (3) One member shall be selected by the Atlanta Business League, chosen from the organizations that are members of the league, which member shall not be an attorney;
 - (4) One member shall be selected by the Metro Atlanta Chamber of Commerce from the organizations that are members of the chamber, which member shall not be an attorney;
 - (5) One member shall be selected by the Atlanta-Fulton County League of Women Voters, which member shall not be an attorney.
 - (6) One member shall be selected by the Atlanta Planning Advisory Board, which member shall not be an attorney nor an officer of a neighborhood planning unit.
 - (7) One member shall be selected by the six major universities/colleges within the city (Georgia State University, Georgia Institute of Technology, Clark Atlanta University, Morehouse College, Morris Brown College, and Spelman College).
- (c) The members shall each serve for terms of three years; provided, however, that the initial terms of the first Metro Atlanta Chamber of Commerce appointee, the first Atlanta Business League and the first University/College appointee shall be two years, and the initial term of the first Atlanta Planning Advisory Board appointee and Atlanta-Fulton County League of Women Voters appointee shall be one year. Members shall serve without compensation. The members shall elect a chair and develop their own organization internally.
- (d) The position of a member of the board shall be deemed vacated:
 - (1) Upon the expiration of his or her term;
 - (2) Upon the death of a member or the disability or incapacity of a member for more than 90 days;
 - (3) Upon the written resignation of the member, when accepted by the nominating party. A resignation tendered for more than 30 days shall be deemed accepted;
 - (4) By the member ceasing to be a resident of the city; or
 - (5) Upon removal of the member for good cause by a majority vote of the board of ethics;
 - (6) New members shall be identified and their names submitted to the municipal clerk within 30 days of the date on which a vacancy in a board position occurs. The municipal clerk will sound their names at the next regularly scheduled council meeting. Nominees for the board of ethics and ethics officer shall be subject to an education and employment background check as well as a criminal history check. Nominees shall execute all releases necessary for the department of personnel and human resources and the department of police to accomplish the same. If the nominee is determined to have committed a felony, the nomination shall be withdrawn.
- (e) Members shall be prohibited from engaging in city election political activities and from making campaign contributions to candidates in city elections during their terms as board members.

Violations of this subsection may be punished by removal from board membership by a majority vote of the members.

- (f) The board of ethics shall:
 - (1) Elect a chair by majority vote of the serving members. Each chair will serve a one-year term and shall be eligible to serve as chair in successive years.
 - (2) Elect a vice-chair to preside in the absence of the chair. The vice-chair will serve a one-year term and shall be eligible to serve as vice-chair in successive years.
 - (3) Elect a secretary to provide administrative assistance to the board.
 - (4) Hold regular monthly meetings at City Hall. Such meetings shall be televised. All meetings of the board shall be conducted as required by the Georgia Open Meetings Act.
 - (5) Conduct its business only with a quorum. A majority opinion of the members sitting at any hearing shall govern as to decisions of the board. In no event shall a decision of the board be voted upon by fewer than four members.
 - (6) Be free to contract for the services of a competent court reporter to take down statements, testimony and discussions at its meeting or to use in lieu thereof a competent person adept at shorthand reporting and/or mechanical transcribing devices, whichever method is from time to time desired by the board, such services to be paid for by the city.
 - (7) Maintain all records in the office of the ethics officer as required by the Georgia Open Records Act.
 - (8) Report, as appropriate, suspected ethical and criminal violations to state or federal law enforcement agencies.
 - (9) Notify the ethics officer of any report of an alleged violation of the code of ethics received by the board.
 - (10) Establish procedures to notify the subject of any report of an alleged violation of the code of ethics as required by the Georgia Open Records Act.
- (g) The city shall pay all administrative costs, including those specifically stipulated in this section, pertaining to the operation of the board of ethics.
- (h) The board shall have the authority to prescribe rules and regulations pursuant to this division to administer the financial disclosure process and to issue opinions under this division. The board shall prescribe appropriate financial disclosure forms, instructions and methods of disclosure as required to comply with the requirements of disclosure of income and financial interests found at section 2-814.
- (i) Except as otherwise provided in this division, the meetings of the board will be governed by Robert's Rules of Order.
- (j) The board shall render an advisory opinion based upon a real or hypothetical set of circumstances, when requested in writing by anyone who is an official or employee of the city or a member of a board, council, committee or commission who is personally involved in a matter requiring interpretation of the ethics code. Any person requesting an opinion in accordance with this section who has made a full and complete disclosure of all relevant facts shall be entitled to rely on the opinion or finding of the board of ethics as a guide to the conduct of such person in the person's relations to and with the city. Compliance with the opinion or finding of the board of ethics shall serve in mitigation in any proceedings against such person for violation of this division. Advisory opinions based upon current law shall be maintained as required by the Georgia Open Records Act.
- (k) The board of ethics shall have the authority to investigate any alleged violation of the code of ethics as follows:
 - (1) Upon a sworn written complaint by any person in a form prescribed by the board;

- (2) Upon the request of the ethics officer; or
- (3) Upon the determination by a majority of the board that any matter should be investigated.

(Ord. No. 2002-27, § 1, 4-10-02; Ord. No. 2002-45, § 1, 5-28-02)

Sec. 2-805. - Ethics officer.

- (a) There is hereby created as a full time salaried position an ethics officer for the city. The city ethics officer must be an active member of the Georgia Bar Association in good standing with five years experience in the practice of law. The ethics officer shall be appointed by a majority of the members of the board of ethics for a period of five years, subject to confirmation by a majority of the council and approval by the mayor. Removal of the ethics officer before the expiration of the designated term shall be for cause by a majority vote of the members of the board of ethics.
- (b) The ethics officer need not be a resident of the city at the time of his or her appointment, but he or she shall reside in the city within six months of such appointment and continue to reside therein throughout such appointment.
- (c) The ethics officer shall not be involved in partisan or nonpartisan political activities or the political affairs of the city.
- (d) The duties of the ethics officer shall include, but not be limited to, the following:
 - (1) Educating and training all city officials and employees to have an awareness and understanding of the mandate for and enforcement of ethical conduct and advising of the provisions of the code of ethics of the city;
 - (2) Maintaining the records of the board of ethics as required by the Georgia Open Records Act;
 - (3) Meeting with the board of ethics;
 - (4) Advising officials and employees regarding disclosure statements and reviewing same to ensure full and complete financial reporting;
 - (5) Urging compliance with the code of ethics by calling to the attention of the board of ethics any failure to comply or any issues, including the furnishing of false or misleading information, that the ethics officer believes should be investigated by the board so that the board may take such action as it deems appropriate;
 - (6) Monitoring, evaluating and acting upon information obtained from an "ethics hotline" which shall be a city telephone number for the receipt of information about ethical violations. Each complaint, as of the time it is reported, whether by telephone or otherwise, shall be deemed to be a separate pending investigation of a complaint against a public officer or employee as provided by the Georgia Open Records Act;
 - (7) Notifying the subject of a report of any alleged violation of the ethics code, whether the report is anonymous, made by an identified individual or is written. Such notice shall be given in writing, by facsimile or hand delivery, to the subject of the complaint at the same time and in the same form that any disclosure of information is required by the Georgia Open Records Act;
 - (8) Notifying the board of ethics of any report of an alleged violation of the ethics code received by the ethics officer.
 - (9) Reporting, as appropriate, suspected ethical violations to the city board of ethics;
 - (10) Reporting, as appropriate, suspected criminal violations to state or federal law enforcement agencies; and
 - (11) Filing with the board, the mayor and the council each January a written report describing the activities of the ethics officer in carrying out the goals of his or her office and the code of ethics and reporting on the ethical health of the city.

(Ord. No. 2002-27, § 1, 4-10-02; Ord. No. 2011-48(11-O-1495), § 1, 11-16-11)

Sec. 2-806. - Investigations and hearings.

The board of ethics shall conduct investigations into alleged violations of the ethics code, hold hearings and issue decisions as prescribed below:

- (1) The proceedings of the board and records shall be open unless otherwise permitted by state law.
- (2) Upon request of the board of ethics, the city attorney, or any attorney representing the city attorney's office, or in the event of a conflict, any attorney who shall be selected by a majority of the board and who will provide pro bono services to the board, shall advise the board of ethics.
- (3) a. Preliminary investigation of complaint. The ethics officer shall conduct a preliminary investigation of any complaint and provide a written report to the board of ethics discussing the ethics officer's findings and recommend to the board of ethics whether there is probable cause for belief that this division has been violated warranting a formal hearing.
b. If the board determines after the preliminary investigation of a complaint that there does not exist probable cause for belief that this division has been violated, the board shall so notify the complainant and the subject of the investigation. If the board determines after a preliminary investigation of the complaint that there does exist probable cause for belief that this division has been violated, the board shall give notice to the person involved to attend a hearing to determine whether there has been a violation of this division.
- (4) For use in proceedings under this division, the board shall have the power to issue subpoenas to compel any person to appear, give sworn testimony, or produce documentary or other evidence. Any person who fails to respond to such subpoenas may be subjected to the penalties set forth in section 2-807 of this division.
- (5) All hearings of the board pursuant to this section shall be as follows:
 - a. All testimony shall be under oath, which shall be administered by a member of the board. Any person who appears before the board shall have all of the due process rights, privileges and responsibilities of a witness appearing before the courts of this state. Any person whose name is mentioned during a proceeding of the board and who may be adversely affected thereby may appear personally before the board on such person's own behalf or may file a written sworn statement for incorporation into the record to be made part of all proceedings pursuant to this subsection.
 - b. The board's decision shall be governed by a preponderance of the evidence standard.
 - c. At the conclusion of proceedings concerning an alleged violation, the board shall immediately begin deliberations on the evidence and proceed to determine by a majority vote of members present whether there has been a violation of this division. The findings of the board concerning a violation and the record of the proceedings shall be made public by the board as soon as practicable after the determination has been made.

(Ord. No. 2002-27, § 1, 4-10-02; Ord. No. 2002-44, § 2, 5-28-02)

Sec. 2-807. - Violations; appeals.

- (a) Any intentional violation of this division or the furnishing of false or misleading information to the board of ethics or the ethics officer, or the failure to follow an opinion rendered by the board or the failure to comply with a subpoena issued by the board pursuant to this division shall subject the violator to any one or more of the following:
 - (1) Administrative sanction of not more than \$1,000.00 assessed by the board of ethics;

- (2) Public reprimand by the board of ethics; and
 - (3) Prosecution by the city solicitor in municipal court and, upon conviction, to a fine of up to \$1,000.00 per violation and up to six months imprisonment, whether the official or employee is elected or appointed, paid or unpaid. Nothing in this section shall be interpreted to conflict with state law. An action for violation of this division or the furnishing of false or misleading information or the failure to comply with a subpoena issued by the board must be brought within two years after the violation is discovered.
- (b) With regard to violations by employees, in addition to the remedies in paragraph (a) the board may recommend any one or more of the disciplinary actions set forth in section 114-502.
 - (c) With regard to violations by persons other than officials or employees, in addition to the remedies in paragraph (a) the board may recommend to the purchasing director any one or more of the following:
 - (1) Suspension of a contractor; and
 - (2) Disqualification or debarment from contracting or subcontracting with the city.
 - (d) The decision of the board after a hearing shall be final; provided, however, that such proceeding shall be subject to review by writ of certiorari to the superior court of the county. The board's designee shall be authorized to acknowledge service of any such writ and shall, within the time provided by law, certify and cause to be filed with the clerk of the superior court a record of the proceedings before the board, the decision of the board and the notice of the board's final actions.
 - (e) The value of any gratuity transferred or received in breach of the provisions of this division may be recovered from either the receiving official or employee or the person or entity providing the gratuity, for deposit in the City of Atlanta General Fund.
 - (f) All violations of this division shall be prosecuted in accordance with chapter 62, article II, division 2 of this Code.

(Ord. No. 2002-27, § 1, 4-10-02)

Sec. 2-808. - Representing private interest before agencies.

No official or employee shall appear on behalf of private interests before any agency, except as a matter of public record in a court of law as provided by section 2-809 of this division. Councilmembers may appear on behalf of constituents or in the performance of public or civic obligations before any agency but only without compensation or remuneration of any kind. In no instance shall council members appear before the Zoning Review Board (ZRB) or the Board of Zoning Adjustment (BZA) on behalf of constituents or in the performance of their public or civic obligations; they may, however, appear in their own behalf, in relation to their own property interests.

(Ord. No. 2002-27, § 1, 4-10-02; Ord. No. 2014-46(14-O-1479), § 1, 10-29-14)

Sec. 2-809. - Representing private interest before courts.

No official or employee shall represent any person or private interest in any action or proceeding in conflict with the interests of the city, in any litigation in which the city or any agency of the city is involved or is a party, or any action or proceeding in the municipal courts and traffic courts of the city involving any charges or violations in which the complainant is the city or any agency of the city or any official or employee thereof pertaining to the official's or employee's official duties. However, this section shall not restrict or prohibit any official or employee who is an attorney at law from appearing or participating as an attorney in the representation of a client in any action or proceeding in the municipal courts or the City Courts of Atlanta.

(Ord. No. 2002-27, § 1, 4-10-02; Ord. No. 2002-37, § 1, 5-28-02)

Sec. 2-810. - Representation after separation from employment.

No person who has served as an official or employee shall, for a period of one year after separation from such service or employment, appear before any agency or receive compensation for any services rendered on behalf of any person, business or association in relation to any case, proceeding, or application with respect to which such former official or employee was directly concerned or in which such official or employee personally participated during the period of such official's or employee's service or employment or which was under such official's or employee's active consideration or with respect to which knowledge or information was made available to such official or employee during the period of such official's or employee's service or employment. Nothing in this section shall be construed to preclude a former official or employee from being engaged directly by the city to provide services to or on behalf of the city during this one-year period.

(Ord. No. 2002-27, § 1, 4-10-02)

Sec. 2-811. - Use of property and services.

No official or employee shall request, use or permit the use of any publicly owned or publicly supported property, vehicle, equipment, labor or service for the private advantage of such official or employee or any other person or private entity. However, no official or employee is prohibited from requesting, using or permitting the use of any city-owned or city-supported property, vehicle, equipment, material, labor or service which as a matter of city policy is made available to the public at large or which is provided as a matter of stated public policy for the use of officials and employees in the conduct of official city business.

(Ord. No. 2002-27, § 1, 4-10-02)

Sec. 2-812. - Participation in contracts.

No official or employee, including but not limited to those identified in section 2-813(b), shall participate directly or indirectly through decision making, approval, disapproval, recommendation, the preparation of any part of specifications or requests for proposal, influencing the content of any specification or contract standard, rendering advice, investigating, auditing or reviewing of any proceeding or application, request for ruling or other determination, claim or other matter pertaining to any contract or subcontract and any solicitation or proposal therefore or seek to influence the votes or decisions of others with respect thereto when the official or employee knows or with reasonable investigation should know that there is a financial or personal interest possessed by:

- (1) The official or employee;
- (2) One or more members of the immediate family of the official or employee;
- (3) A business other than a public agency in which the official or employee, or a member of the official's or employee's immediate family, serves as an officer, director, stockholder, creditor, trustee, partner or employee; or
- (4) Any other person or business with whom the official or employee or a member of the official's or employee's immediate family is negotiating or seeking prospective employment or other business or professional relationship.

(Ord. No. 2002-27, § 1, 4-10-02)

Cross reference— Ethics in public contracting, § 2-1481 et seq.

State Law reference— Voting upon questions by interested councilmembers, O.C.G.A. § 36-30-6; sale of city property to city officer or employee, O.C.G.A. § 16-10-6.

Sec. 2-813. - Disclosure of interests.

- (a) Every official or employee listed in paragraph (b) of this section who knows or with reasonable investigation should know that the official or employee has a financial interest or personal interest, direct or indirect, in any proposed legislation or in any decision pending before that official or employee or the agency of which the official or employee is a member or employee shall not vote for or against, discuss, decide, in any way participate in considering the matter or seek to influence the votes or decisions of others on such matter.
 - (1) Prior to any determination of the matter, the official or employee shall verbally disclose at the meeting, if any, the nature of such interest, and shall have such disclosure placed on the official records of the agency.
 - (2) Should an official or employee be absent from that meeting or a portion of that meeting, the official or employee is required to verbally disclose the nature of the conflict at the next attended meeting and said disclosure shall be placed on the official records of the agency.
 - (3) Further, the official or employee must complete an online Disclosure of Conflicts of Interest form at <https://apps.atlantaga.gov/efile> as maintained by the City of Atlanta Ethics Officer, immediately upon his or her recognition of said conflict.
- (b) The officials and employees covered by this section shall be as follows:
 - (1) Mayor;
 - (2) President of council;
 - (3) Members of council;
 - (4) Municipal and traffic court judges;
 - (5) Chief operating officer and deputy chief operating officers;
 - (6) Chief of staff and deputy chiefs of staff;
 - (7) All employees of the office of the mayor who report directly to the mayor;
 - (8) Commissioners, deputy commissioners, department heads and their equivalents;
 - (9) Bureau directors, assistant bureau directors and managers;
 - (10) Division heads;
 - (11) Executive directors of city boards, commissions, authorities or other similar bodies;
 - (12) Zoning administrator and any assistant zoning administrators;
 - (13) Inspectors of all departments and bureaus;
 - (14) City attorney and deputy, assistant, and associate city attorneys;
 - (15) Director of the office of contract compliance and employees of the office of contract compliance with discretionary or supervisory authority over certification, compliance, monitoring, or auditing;
 - (16) Assistant directors, contracting officers, and buyers in the purchasing bureau;
 - (17) Within the department of finance, assistant directors and all employees who have discretionary or supervisory authority over the investment of city funds or the auditing of city finances or city contracts;
 - (18) City internal auditor and employees of the office of internal auditor with investigative and supervisory authority over audits, the audit process, and audit reports;

- (19) City ethics officer;
- (20) Hearing officers;
- (21) Members, whether paid or unpaid, of all city boards, committees, councils, commissions, authorities and other similar bodies created by state law, Charter ordinance or resolution;
- (22) Members appointed by the mayor and/or council or council president to other public boards, committees, councils, commissions and authorities of the city, county, or state; and
- (23) Officers of neighborhood planning units.

(Ord. No. 2002-27, § 1, 4-10-02; Ord. No. 2006-44, § 1, 6-22-06)

State Law reference— Voting upon questions by interested councilmembers, O.C.G.A. § 36-30-6.

Sec. 2-814. - Disclosure of income and financial interests.

- (a) The officials and employees listed in paragraph (b) of this section shall annually file with the municipal clerk statements disclosing the following:
 - (1) All positions of employment held by the official or employee in any business (as defined in section 2-801(b)) for all or any portion of the year, including a description of the type of business and the existence and nature of any business done by the employer entity with the city. Lawyers, accountants, consultants, public relations representatives, and other persons rendering services for financial consideration shall disclose the organization, if any, with which they are connected, the type of services offered by the organization, and any particular segment of such services in which the member specializes;
 - (2) Each and every source of income from any business received by such official or employee in excess of \$5,000.00 derived from any single source in the preceding calendar year. Nothing in this section shall be construed to require reporting of the identity of individual clients, customers or patrons; however, the president of council and members of council shall include the information required to be reported under paragraph (d) of this section;
 - (3) Any benefit, whatever its nature, of such official's or employee's immediate family derived from transactions with the city or an agency, by employment, contract, or otherwise, either directly or through a business in which such immediate family member has a majority or controlling interest;
 - (4) All direct ownership interests in real property held by the official or employee; and
 - (5) All persons listed in subparagraphs (b)(1) through (8) of this section shall also disclose the identity of all stocks, blind trusts, bonds, debentures, and other forms of debt obligations of any corporation or any business or entity collectively in excess of \$10,000.00 held by the official or employee at any time during the year except for mutual funds, personal checking accounts, time deposit accounts, other savings or retirement fund accounts held by any financial institution of the United States government, or any city approved or maintained deferred compensation or pension program.
- (b) The following officials and employees shall be required to file annual disclosure statements as set forth in paragraph (a):
 - (1) Mayor;
 - (2) President of council;
 - (3) Members of council;
 - (4) Municipal and traffic court judges;

- (5) Chief operating officer and deputy chief operating officers;
 - (6) Chief of staff and deputy chiefs of staff;
 - (7) All employees of the office of the mayor who report directly to the mayor;
 - (8) Commissioners, deputy commissioners, department heads and their equivalents;
 - (9) Bureau directors, assistant bureau directors and managers;
 - (10) Division heads;
 - (11) Executive directors of city boards, commissions, authorities or other similar bodies;
 - (12) Zoning administrator and any assistant zoning administrators;
 - (13) Inspectors of all departments and bureaus;
 - (14) City attorney and deputy, assistant, and associate city attorneys;
 - (15) Director of the office of contract compliance and employees of the office of contract compliance with discretionary or supervisory authority over certification, compliance, monitoring, or auditing;
 - (16) Assistant directors, contracting officers, and buyers in the purchasing bureau;
 - (17) Within the department of finance, assistant directors and all employees who have discretionary or supervisory authority over the investment of city funds or the auditing of city finances or city contracts;
 - (18) City internal auditor and employees of the office of internal auditor with investigative and supervisory authority over audits, the audit process, and audit reports;
 - (19) City ethics officer;
 - (20) Hearing officers;
 - (21) Members, whether paid or unpaid, of all city boards, committees, councils, commissions, authorities and other similar bodies created by state law, Charter, ordinance or resolution;
 - (22) Members appointed by the mayor and/or council or council president to other public boards, committees, councils, commissions, authorities of the city, county, or state; and
 - (23) Officers of neighborhood planning units.
- (c) The municipal clerk shall maintain a list of all current members of all city boards, committees, authorities and commissions and all current members appointed by the mayor and council to other public boards, committees, councils, commissions, and authorities of the city, county, or state. The chief operating officer shall provide a complete list of all employees required to submit income disclosure forms as designated in paragraph (b) of this section, including the employee's name, title and department, to the municipal clerk and ethics officer no later than January 5 of each calendar year. The board of ethics shall prescribe the form and method of disclosure statement forms. The ethics officer, in cooperation with the municipal clerk, shall have such forms delivered to each official and employee required to file disclosure statements, by first class mail or by hand delivery, no later than January 15 of each year. The failure of the ethics officer or municipal clerk to cause a disclosure form to be delivered to any official or employee required to file a disclosure statement shall not relieve such official or employee of the obligation to file a disclosure statement. The municipal clerk shall maintain all completed disclosure forms as public documents available for public inspection immediately upon filing.
- (d) With respect to the president of council and members of council, if the official reports income from a business in accordance with paragraph (a)(2), said official shall be required to report the identity (name and address) of individual clients, customers, or patrons of the business when (i) the client, customer, or patron is a prohibited source; (ii) the official has actual knowledge that the client, customer, or patron is a prohibited source; and (iii) the official has actual knowledge that the prohibited source is a client, customer, or patron of the official's business.

- (e) Every official and employee required to file an annual disclosure statement shall do so on or before the close of business on April 1 of each year in which the official or employee holds a position with the city or an agency and for the year following that in which the official or employee leaves such position. Such official or employee shall sign such disclosure statement under penalty of perjury. The failure of any official or employee so required to file an annual disclosure statement by April 1 without reasonable cause shall render such person delinquent and result in an administration sanction of \$50.00 per day for each business day beyond April 1 of such delinquency, provided that the maximum penalty for the first offense shall be \$500.00.
- (f) Within 30 days of the disclosure report filing date, the municipal clerk shall forward all financial disclosure statements received to the ethics officer. The ethics officer shall prepare and forward to the board of ethics a report of all persons required to file under this section, those who have complied with the filing requirements, those who have filed a late or incomplete statement, and those who have failed to file a disclosure statement. The ethics officer shall be responsible for collecting all administrative sanctions levied by the board of ethics under this section for deposit to the City of Atlanta General Fund.
- (g) For the year 2002 only: A list of employees to be provided by the chief operating officer pursuant to paragraph (c) of this section shall be provided within five days after this ordinance is signed by the mayor. Because the board of ethics will not have had sufficient time to prescribe a new financial disclosure form as provided in section 2-804 (h) of this division, copies of the current disclosure form must be distributed as required by paragraph (c) no later than ten days after receipt of the list of employees. Every official and employee required to file an annual disclosure statement must do so within 35 days after this ordinance is signed by the mayor.

(Ord. No. 2002-27, § 1, 4-10-02; Ord. No. 2013-54(13-O-1294), § 1, 10-30-13)

State Law reference— Acceptance by public officers of monetary fees or honoraria, O.C.G.A. § 21-5-11.

Sec. 2-815. - Disclosure of expense reimbursements.

Within 30 days of receipt of reimbursements authorized to be received under section 2-801 ["gratuity" definition, subsection (5)], any official or employee must report such reimbursements on a form to be developed and provided by the ethics officer. The form shall be filed with the municipal clerk, with a copy sent by the official or employee to the ethics officer. The form shall include the following:

- (1) Name and position of employment with the city;
- (2) Name and address of all persons or entities providing reimbursement;
- (3) Date, location, and subject matter of conference, speaking engagement, or event for which the official or employee received reimbursement; and
- (4) Amount and category (e.g., travel costs, meals, lodging) of each component of the reimbursement.

(Ord. No. 2002-27, § 1, 4-10-02)

Sec. 2-816. - Passes, tickets and gratuities.

- (a) No contract or lease with the city may require passes, tickets or gratuities to be given to officials or employees or permit reduced fees to be paid by officials or employees. The contracting party shall not provide gratuities or prerequisites to any official or employee in connection with execution of or performance under the contract or lease.

(b) No official, employee or person appointed to any board, corporation, commission or authority, including the mayor, the president of council, members of council, and judges of the municipal and traffic courts, shall knowingly accept any ticket of admission or other evidence of right of entry to any entertainment event, such as, but not limited to, musical concerts and dramatic productions, or to any athletic events, as a gift or for a value less than the price printed on the ticket, which would not be offered or given to such official or employee if such person were not an official or employee. For purposes of determining whether such ticket would be offered or given by reason of the official's or employee's position with the city, it shall be presumed that the offer of such ticket or right of entry from a member of the official's or employee's immediate family or from a business other than a public agency in which the official or employee, or a member of the official's or employee's immediate family, serves as an officer, director, stockholder, creditor, trustee, partner, or employee, is not made by virtue of that official's or employee's position. For purposes of determining whether such ticket would be offered or given by reason of the official's or employee's position with the city, it shall be presumed that any offer of such ticket or right of entry made by any prohibited source, but not limited to the Atlanta Fulton County Recreation Authority and any professional sports team located in the metro Atlanta area, is given by reason of such official's or employee's position with the city. As used in this section, "entertainment event" shall not include breakfasts, lunches, or dinners.

(1) Any official or employee who is performing an official duty at an entertainment event shall be exempt from this section with regard to that particular entertainment event.

(Ord. No. 2002-27, § 1, 4-10-02)

Sec. 2-817. - Prohibition on giving or receiving gratuities.

(a) No official or employee shall accept any gratuity as defined in section 2-801(g).

(b) No person, business, or other entity shall give or convey to any official or employee a gratuity as defined in section 2-801.

(Ord. No. 2002-27, § 1, 4-10-02)

Sec. 2-818. - Solicitation.

No official or employee shall solicit or accept anything of value, in any form whatsoever, calculated to influence a vote, decision, or the exercise of official authority in any manner involving the city; provided, however, nothing in this section shall prohibit any official or employee from accepting a gift on behalf of the city which is properly reported to the board of ethics and the department of administrative services for addition to the inventory of property of the city.

(Ord. No. 2002-27, § 1, 4-10-02)

Sec. 2-819. - Disclosure of confidential information.

No official or employee shall disclose confidential information concerning the property, governing operations, policies or affairs of the city, except when required by state or federal law or by a court order or lawful subpoena, nor shall such official or employee use such confidential information acquired in an official capacity to advance the financial interest or personal interest of the official, employee or others in any instance where such would conflict with the best interest of the city.

(Ord. No. 2002-27, § 1, 4-10-02)

Sec. 2-820. - Incompatible interests.

- (a) No official or employee shall invest or hold any investment, directly or indirectly, in any financial, business, commercial or other private transaction, which creates a conflict with and adversely affects official duties of the official or employee to the detriment of the city.
- (b) No official or employee shall engage in or accept private employment or render services for private interests when such employment or service is adverse to and incompatible with the proper discharge of official duties of the official or employee.
- (c) No official or employee shall own stock in or be employed by or have any business, financial or professional connection with or ownership interest in any business, company or concern which does business with the city, unless such business with the city is conducted through sealed competitive bidding or requests for proposal where such bids are opened and the awards are made at meetings open to the public. Such involvement shall not be considered as doing business with the city so as to cause any conflict of interest; provided, however, that any such person shall remain subject to sections 2-812 and 2-813 governing participation in contracts and disclosure of interests. This section is not intended to apply to ownership of less than ten percent of any publicly traded stock.
- (d) Commissioners, deputy commissioners, department heads, chief operating officer, deputy chief operating officers, chief of staff, deputy chiefs of staff, bureau directors, and employees of the office of the mayor who report directly to the mayor shall not engage in any private employment or render any services for private interests for remuneration, regardless of whether such employment or service is compatible with or adverse to the proper discharge of the official duties of such employee. However, the employees named in this paragraph may engage in private employment or render services for private interests only upon obtaining prior written approval from the board of ethics in accordance with this paragraph. The board of ethics shall review each request individually and provide written approval or disapproval of the notification within 30 days. All requests for approval of outside employment shall state the type and place of employment, the hours of work, and the employer's name and address. City employment shall remain the first priority of the employee, and if at any time the outside employment interferes with city job requirements or performance, the official or employee shall be required to modify the conditions of the outside employment or terminate either the outside employment or the city employment. This paragraph shall not apply to single speaking engagements or to participation in conferences or on professional panels; provided, however, that any expense reimbursements received for such engagements must be reported in accordance with section 2-815.
- (e) The mayor shall not accept honoraria, earned income other than the salary of the mayor, or payments-in-kind in any amount as remuneration for services. This section does not apply to receipt of dividends, interest, passive investment income, or income from a blind trust.
- (f) Officials and employees other than the mayor may not accept honoraria from a prohibited source.

(Ord. No. 2002-27, § 1, 4-10-02)

Sec. 2-821. - Loans.

- (a) It shall be unlawful for any official or employee to lend money to any employee or to charge for obtaining credit for that employee, except that loans of \$2,000.00 or less may be made or credit may be obtained for employees in cases of emergency. When these loans are made in emergencies, if not made voluntarily without charge, they shall be made only at the legal rate of interest on judgments in the state. If this loan or accommodation is made, it shall be unlawful for the official whose duty it is to pay the employee to deduct the amount so lent from the pay of the employee. All such accommodations or advances made, together with the interest thereon, shall be reported by the person making them to the head of his or her department or, if made by the head of the department, shall be reported to the mayor. These reports shall be made monthly and filed with the mayor and the municipal clerk in the public record.
- (b) The mayor shall see that this section is complied with and that no business or practice shall be carried on of making loans by officials or employees to other employees of the city but that only

accommodation loans in emergencies and for legal interest on judgments in the state shall be made or allowed. In no event shall any charge for obtaining credit be made or allowed. Any officer or employee violating this section shall, on conviction, be punished as provided in section 1-8 of this Code and shall also be dismissed from the service of the city.

(Ord. No. 2002-27, § 1, 4-10-02)

Sec. 2-822. - Persons handling city funds becoming surety, guarantor or endorser.

No official or employee who handles or controls any funds of the city shall, during the official's or employee's term or continuance in office, become surety, guarantor or endorser of any bond, note or other obligation for any person employed by the city, excluding a member of the official's or employee's immediate family, an adult child or a parent.

(Ord. No. 2002-27, § 1, 4-10-02)

Sec. 2-823. - Protection for reporting of violations.

Officials and employees are encouraged to report suspected ethical violations to the ethics officer. No official or employee shall use or threaten to use any official authority or influence to discourage, restrain or interfere with any other person for the purpose of preventing such person from acting in good faith to report or otherwise bring to the attention of the board of ethics information relating to an ethics violation or investigation. No official or employee shall use or threaten to use any official authority or influence to effect any action as a reprisal against an official or employee who reports, initiates a complaint, or otherwise brings to the attention of the board of ethics information relating to a board investigation or an ethics violation.

(Ord. No. 2002-27, § 1, 4-10-02)

Sec. 2-824. - Effective date and interim provisions.

The ethics board members serving on June 8, 2002 are authorized to remain office and to administer the ethics code until August 5, 2002, or such other time as the new ethics board is constituted.

(Ord. No. 2002-27, § 1, 4-10-02; Ord. No. 2002-52, § 1, 6-20-02)

Sec. 2-825. - Mandatory ethics training.

- (a) AH part-time, full-time, and contract employees of the offices of council members, council staff, municipal clerk, and council president shall receive a minimum of two hours of training within six months of the effective date of this ordinance and receive additional training at least once every three years after completing the initial training. This includes, but is not limited to, all employees reporting to the director of council staff and the municipal clerk, as well as city council assistants, senior council assistants, special council assistants, and contracted employees of the council member offices. Contract employees covered in this code section shall be persons that receive a 1099 FORM or 1099- MISC FORM from the Internal Revenue Service, pursuant to Section 530 of the Revenue Act of 1978 as extended by section 269(c) of P.L. 97-248, for services offered to a council member, the council President or any office of the council member or council president that amounts to \$600.00 or more per calendar year and work for the department of council for a period of 21 days per calendar year or more.

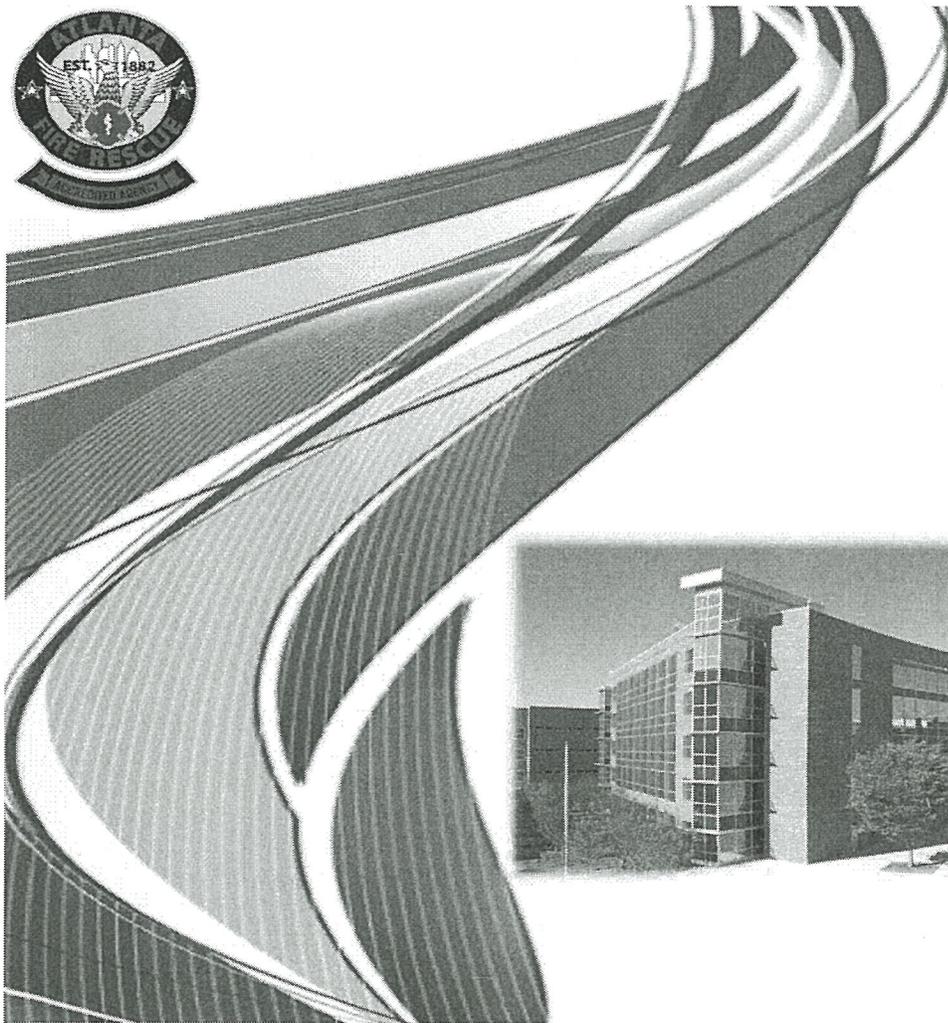
- (b) The ethics officer, or a designee, and the office of ethics shall be responsible for offering the training at least once a month or more and providing for all the staffing, materials, and all other operations of the training.
- (c) The department of human resources shall be responsible for maintaining and enforcing this code section and ensuring that all the eligible employees meet the minimum requirements set forth in this code section.

(Ord. No. 2014-36(14-O-1369), § 1, 7-30-14)

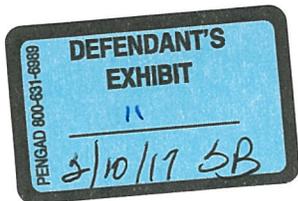
Editor's note— Ord. No. 2002-27, § 1, approved April 10, 2002, did not set out provisions for § 2-825. Formerly said section pertained to registration and disclosure of reports by lobbyists. Subsequently, Ord. No. 2014-36(14-Or-1369), § 1, approved July 30, 2014, added provisions designated as a new § 2-825. See the Code Comparative Table.

Secs. 2-826—2-840. - Reserved.

ATLANTA FIRE RESCUE DISCIPLINARY PROCEDURE MANUAL 2nd Edition



Atlanta Fire Rescue Department
Kelvin J. Cochran, Fire Chief
2013



COA-Cochran 001030

SECTION - 9 APPEALS

9.1 APPEAL OF NON-ADVERSE DISCIPLINARY ACTION

A classified employee who has completed the probationary period may appeal non-adverse disciplinary actions (oral admonishments and / or written reprimand) by filing a grievance. If the grieving employee is sworn, any decision by the fire chief on the grievance is not subject to any further administrative appeal. However, if the grieving employee is non-sworn, the chief's decision can be appealed to the Department of Human Resources under the Labor-Management Relations Ordinance of the City of Atlanta. (Reference #5). The process has been outlined previously in section 6.2 of this manual. Unclassified employees do not have the right to file grievances against Non-Adverse Disciplinary Actions. They do, however, have the opportunity, in the spirit of good employee relations, to go through their chain of command to schedule a meeting with the fire chief to discuss their concerns.

9.2 APPEAL OF ADVERSE DISCIPLINARY ACTIONS

A classified employee who has completed the probationary period may appeal adverse disciplinary actions to the Atlanta Civil Service Board.

9.2.1 Unclassified employees and discretionary employees do not have the right to appeal adverse actions to the Atlanta Civil Service Board. Officers above the rank of captain, which include all chief officers, are considered to hold discretionary positions.

9.2.2 An employee who wishes to appeal an adverse disciplinary action must file a written notice of appeal to the commissioner of the Department of Human Resources (Appendix # 6) within the prescribed time limits.

- 9.2.3 Witnesses for both the appellant and the city will be made available should they be at work that day, to give testimony before the Civil Service Board (CSB). They shall be allowed to do so, on the condition that they have been served in advance with a CSB subpoena. This condition does not apply to chief officers.
- 9.2.4 The fire advocate shall have the responsibility and the authority to represent the AFRD before the Atlanta Civil Service Board. That responsibility and authority shall span adverse actions involving one (1) through thirty (30) day suspensions. The fire advocate shall have the authority to speak on behalf of the AFRD and to authorize resolutions, in the absence of a superior officer or if directed to do so by the board.
- 9.2.5 The appeal process will be conducted in accordance with Sections 114-546 through 114-556 of the Labor-Management Relations Ordinance of the City of Atlanta.

9.3 REVERSAL OF EMERGENCY ADVERSE ACTION

If on appeal to the Civil Service Board, it is determined that the adverse action was correct, but there was no emergency situation, the Board may take the appropriate steps necessary to remedy the situation by awarding back pay equal to the period required for notification during non-emergency action. Such back payments are subject to the terms of section 9.3.1 shown below.

9.4 CIVIL SERVICE BOARD DETERMINATIONS

Appeals brought before the Atlanta Civil Service Board by eligible appellants are resolved, subject to higher judicial review, by either:

- a. A determination in favor of the appellant or;
- b. A determination in favor of the department.

- 9.4.1 Any determination in favor of the appellant will be reflected on the employee's disciplinary record as having been rescinded. The employee will also be reimbursed for the time in which they were suspended and / or dismissed without pay, less any monies received from outside sources during their absence.

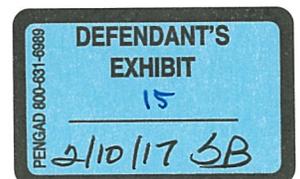
City of Atlanta

Employee Handbook



**Department of Human Resources
November 2010**

DHR - 10/10



This employee handbook is for informational purposes only. It is not intended to create a contract of employment or to establish terms or conditions of employment. Pursuant to OCGA §34-7-1, employment with the City of Atlanta is at-will and may be terminated at will by the employee or the city.

Introduction

This handbook provides employees of the City of Atlanta with general information regarding the city's policies and procedures. It supersedes and replaces all prior published versions. The most current version is maintained on the city's intranet site at www.atlanta.web.

The information provided within should be helpful in familiarizing employees with the city's policies and procedures. This handbook, however, cannot anticipate every situation or answer every question about employment. The city will demonstrate appropriate flexibility in the administration of guidelines and reserves the right to make changes and revisions without notice when necessary.

The information in this handbook is not intended to supersede or override any provision of the city charter or code of ordinances. Employees are directed to this charter and code for guidance.

How Atlanta City Government Works

Atlanta has a "strong mayor" form of government, established by city charter. The charter was granted by the State of Georgia and gives the city all powers necessary to promote the safety, health, peace and general welfare of Atlanta and its people.

City government is divided into three branches: legislative, executive and judicial. City council comprises the legislative branch and makes the laws that govern the city. City departments, under the direction of the mayor, constitute the executive branch and are responsible for the day-to-day operation of the city. The chief financial officer (CFO) and city attorney have dual reporting responsibilities to the mayor and city council. The judicial branch is comprised of the municipal court system.

Vision, Mission, Management Philosophy and Values

- Ensure Atlanta is clean and safe
- Maintain and develop a strong infrastructure
- Nurture open and honest government
- Ensure that the city is fiscally responsible
- Maintain effective and efficient government

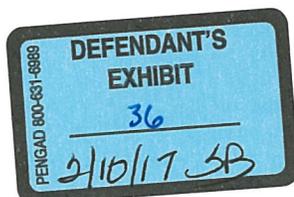
The vision of the City of Atlanta is to become a global leader, creating and supporting an environment where all people thrive and prosper.

evil, who tear off their skin from them and their flesh from their bones, who eat the flesh of my people, strip off their skin from them, break their bones and chop them up as for the pot and as meat in a kettle.” Micah 3:1-3

Men in a state of depravity begin to feed on their families and anyone else they feel has something to satisfy their carnal cravings. Their quest to be fulfilled through worldly pleasures eventually leads to self-destructive behaviors and addictions. Proverbs 23:31-35 depicts an episode of a man who has a zombie-like lifestyle. It starts with him having too much red wine. It bites like a serpent and stings like an adder. The wine is analogous to a snake, just like the words of their ancestor, the serpent in the Garden of Eden. Because of this habit of too much red wine, his eyes are attracted to strange women, and his heart begins to conjure up perverse fantasies. He has so much to drink, when he lies down it is as if he is lying in the midst of the sea upon a mat. He wakes up the next day and realizes he has been in a fight. He concludes, he was beaten and did not feel a thing. When his head clears from the stupor of his hangover, he will repeat the same pattern all over again. Such is the case of a man without Christ in his life—a depraved man, a naked man. He is consumed with the state of depravity. All he thinks about is fulfilling his carnal desires.

Lust Originates in the Heart

Lust is a passionate, overwhelming desire or craving for things such as power, prestige, money and other possessions. The most common use of the word “lust” is in the context of intense sexual desire or appetite; or uncontrolled, illicit sensual desire. However, because “lust” is first and foremost a passionate, overwhelming desire, there are righteous, spiritual,



Adultery – unlawful sexual relations between men and women, single or married when one is married.

Fornication – same as adultery above besides all manner of other unlawful sexual relations.

Uncleanness – whatever is opposite of purity; including sodomy, homosexuality, lesbianism, pederasty, bestiality, and all other forms of sexual perversion.

Lasciviousness – licentiousness, lustfulness, unchastity (sexually suggestive), and lewdness (inciting to lust); wantonness (sexually lawless) and filthy; anything tending to foster sexual sin and lust.

Idolatry – image worship, including anything upon which passions are affectionately set; extravagant admiration of the heart.

Witchcraft – sorcery, practice of dealing with evil spirits; magical incantations and casting of spells and charms upon one by means of drugs and potions of various kinds.

Hatred – bitter dislike, abhorrence, malice, and ill-will against anyone; tendency to hold grudges against or be angry at someone.

Variance – dissensions, discord, quarreling, debating, and disputes.

Emulations – envies, jealousies; striving to excel at the expense of another; seeking to surpass and out do others;

From: Kelvin Cochran (kelvin.cochran@yahoo.com)
Sent: Friday, December 05, 2014 4:48:42 PM
To: gharris@christianindex.org (gharris@christianindex.org)
Subject: Re: article for The Christian Index

Good Morning Gerald:

Please remove the section referencing Mayor Franklin's comments (the final three candidates, and offering me the position). You may simply state I was appointed in January 2008 under her administration.

Please remove the statements regarding the ethics office altogether.

Kelvin

On Friday, December 5, 2014 12:02 AM, "gharris@christianindex.org" <gharris@christianindex.org> wrote:

Dear Chief Cochran,

I was thrilled to have the opportunity to meet you this morning. I was immediately impressed with your humility, grace, spirit and brilliant mind. I have already read much of your book and have found it to be excellent. I am attaching a rough draft of the editorial I wrote about your situation and want you to give it a careful look to make sure you are all right with it. I will look forward to your response. Sometimes our filter system prohibits emails from getting through, so if your response to this email bounces back feel free to give me a call on my cell at 770.906.6339 and we will work out another plan. Blessings, Gerald Harris



From: Kelvin Cochran (kelvin.cochran@yahoo.com)
Sent: Saturday, December 13, 2014 2:48:03 AM
To: eeelliott@mac.com (eeelliott@mac.com)
Subject: Fw: Plan: Cochran confidentialPress Release, Index Article, etc.

Let's try this again.

On Friday, December 12, 2014 7:27 PM, Ed Elliott <eeelliott@mac.com> wrote:

Kelvin,
The timing of this is perfect. Providential! We will work with, and alongside of, the GBC's plan of action. This is a solid strategy, which I don't see how it can be improved upon. It certainly will keep us from reinventing the wheel, and the unified front will strengthen the effort. The key will be to bath everything in fervent prayer and get as many of God's people involved as we can. We'll keep in touch as things progress. Stand strong in Him, my friend!
Ed

"And Moses said unto the people, Fear ye not, stand still, and see the salvation of the Lord,...The Lord shall fight for you, and ye shall hold your peace."
Exodus 14:13-14 (KJV)
Sent from my iPad

On Dec 12, 2014, at 17:16, Kelvin Cochran <kelvin.cochran@yahoo.com> wrote:

FYI

Sent from my iPhone

Begin forwarded message:

From: Mike Griffin <MGriffin@gabaptist.org>
Date: December 12, 2014 at 12:23:22 PM EST
To: Jonathan C email <jcrumly@manercc.com>, Kelvin Cochran E <kelvin.cochran@yahoo.com>
Subject: Fwd: Plan: Cochran confidentialPress Release, Index Article, etc.

Here is the battle plan. Your eyes only.



Let me know any concerns.
Pressing on for Christ,
Mike

Sent from my iPhone

Here is what the current communications plan is regarding this topic:

1. Petition: We are creating the petition website and will send out link to this group for review before going live; target is tomorrow
 - a. Receiving petition language from Dr. White (Karen), review and put on web
 - b. Petition page web address (currently no content/not live):
<http://gabaptist.org/petition>
 - c. Petition page will contain online version of press release, links to article, and PDF versions that can be downloaded
 - d. Share button will be added so visitors can share the page with friends
2. General Website:
 - a. Petition page will be added and go live
 - b. Banner on main GBC landing page will summarize and link to Petition
 - c. Expect that press release and article will be on website, possibly multiple locations
 - d. Kelvin's testimony was recorded; Rod will provide link that we can add to website, email blast, social media, etc. for those that want to listen to him
3. Christian Index:
 - a. Article will be posted
 - b. Link to press release and petition
 - c. Firewall brought down so people can access (this will be temporary, so need to make sure links will go back to free version on GBC website)
4. Press Release:
 - a. Mark is putting into press release format; along with hyperlinks throughout for SEO purposes.
 - b. Press release will go on official letterhead
 - c. Mark will PDF and secure document before posting and distribution
 - d. Release Date: After discussion with Dr. White, and with his approval, we will date and release on Monday morning at 9am will not have good pickup on a Friday afternoon.
 - e. Mark will distribute to media outlets Monday morning
 - f. A hard copy with all links typed out will be created for printing and used for sending via US Mail.
5. CI Article:



From: Kelvin Cochran (kelvin.cochran@yahoo.com)
Sent: Saturday, December 13, 2014 4:19:54 PM
To: Ed Elliott (eeelliott@mac.com)
Subject: Re: Fb Posting Review and Update

Ed:

This is very appropriate. Only the mayor's name is "Kasim". Everything else is fine. Thank you, brother. God bless you.

Kelvin

Sent from my iPhone

> On Dec 13, 2014, at 10:17 AM, Ed Elliott <eeelliott@mac.com> wrote:

>

> Good morning, Kelvin. I received both of your forwards last night, but still no attachments. Gotta love technology! I have a phone call in this morning with Mike Griffin of GBC and awaiting his return call so we can strategize best with our support. Evangelist Byron Fox, of Bible Truth Music / God Bless America Crusades, has been on a much needed vacation this week. He just texted me to let me know he is on his way home now and we will talk later.

>

> Below, is a draft note I intend to post on my personal Facebook account (which is primarily my own Christian circle, pastors, evangelists, missionaries, etc,) later today. Before I posted anything at all, I wanted to get your review and approval. I sure don't want to misrepresent anything, nor inadvertently make matters any worse. I'm trying to stay with the GBC script as close as possible to maintain a consistent message.

>

> I also intend to recruit the assistance of Pastor David Cloud of Way of Life Literature, who publishes a weekly newsletter which reaches several thousand Baptist, and other Bible-believing, preachers, teachers and churches around the world.

>

> In our lingo this is an "offensive fire attack", but if anything feels uncomfortable or too aggressive for you, please let me know and we will adjust as appropriate.

>

> Here is my proposed FB post:

> Atlanta Fire Chief, Kelvin Cochran, was recently given a 30-day suspension without pay and a requirement to attend "sensitivity training" by Atlanta Mayor Kasim Reed. This was in response to a book that Chief Cochran penned and self-published titled, "Who Told You That You Were Naked?", in which he expressed his own personal, religious convictions drawn from the Bible. The controversy erupted from the statement in this small paperback which reads, "uncleanness is the opposite of purity; including sodomy, homosexuality, lesbianism, pederasty, bestiality, and all other forms of sexual perversion."

>

> Chief Cochran wrote the faith-based book, which focuses on the sin of man and the redemption through Jesus Christ, for a men's Bible class in

his church, Elizabeth Baptist Church. I am a friend of Chief Cochran and have spoken with him personally about this matter, and not surprisingly, there are inaccuracies in the news reports from the liberal media. The Christian community is now mobilizing in defense of Chief Cochran, as well as for Christian liberty all across America, and we are asking for fellow Christians, and in particular, PASTORS, to help in three ways:

>

> 1. PRAY! For Fire Chief Kelvin Cochran and his family; for The King to turn the heart of the mayor; for God's children to maintain a Christ-like spirit; and that Jesus Christ would be honored and glorified in all of this.

>

> 2. Contact the Atlanta Mayor Rasim Reed to:

> • Acknowledge Chief Cochran's First Amendment rights.

> • Make a public apology for the suspension and grief it has caused the Chief and his family, and

> • Restore Chief Cochran's pay and reputation as an honorable Fire Chief.

>

> The Mayor can be contacted by email at mkreed@atlantaga.gov, by phone at (404) 330-6100, or by mail at 55 Trinity Ave. Suite 2500, Atlanta, GA 30303.

>

> 3. Purchase a copy of "Who Told You That You Were Naked?" and encourage others to do the same. This will be personal vote of confidence in Chief Cochran, as well help supplant his loss of a month's pay to support his family. The book can be ordered from Amazon.com.

>

> Please be clear that this campaign has NOTHING at all to do with what is often termed, "gay-bashing", but has EVERYTHING to do with defending the First Amendment rights for all Christians across America. Those of you know me well, know that I don't jump on every bandwagon that comes along, but it is high time that we, as Christians, stand up for Biblical principles and for the freedoms afforded to us as citizens of the United States, and to come to the defense of fellow believers being punished or persecuted because of their faith in Christ. Will YOU stand with us???

>

> More to come next week, but wanted to get something out today, so churches could start praying at their services tomorrow.

>

>

> Sent from my iPad

From: Kelvin Cochran (kelvin.cochran@yahoo.com)
Sent: Saturday, December 13, 2014 11:41:01 PM
To: Ed Elliott (eeelliott@mac.com)
Subject: Re: Fb Posting Review and Update

There is not a fund at this time. I will let you know if there is a need at a later date. Thanks again for your support and prayers.

Sent from my iPhone

> On Dec 13, 2014, at 2:53 PM, Ed Elliott <eeelliott@mac.com> wrote:

>

> Will do. Haven't heard back from him yet.

> Also, is there a legal defense fund established, or do you anticipate the need for one in the future? Asking now just in case any questions come in about financial donations.

>

> Sent from my iPad

>

>> On Dec 13, 2014, at 11:20, Kelvin Cochran <kelvin.cochran@yahoo.com> wrote:

>>

>> Also, when you talk to Mike have him send those documents to you directly.

>>

>> Sent from my iPhone

>>

>>> On Dec 13, 2014, at 10:17 AM, Ed Elliott <eeelliott@mac.com> wrote:

>>>

>>> Good morning, Kelvin. I received both of your forwards last night, but still no attachments. Gotta love technology! I have a phone call in this morning with Mike Griffin of GBC and awaiting his return call so we can strategize best with our support. Evangelist Byron Fox, of Bible Truth Music / God Bless America Crusades, has been on a much needed vacation this week. He just texted me to let me know he is on his way home now and we will talk later.

>>>

>>> Below, is a draft note I intend to post on my personal Facebook account (which is primarily my own Christian circle, pastors, evangelists, missionaries, etc,) later today. Before I posted anything at all, I wanted to get your review and approval. I sure don't want to misrepresent anything, nor inadvertently make matters any worse. I'm trying to stay with the GBC script as close as possible to maintain a consistent message.

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>>>

>>> Chief Cochran wrote the faith-based book, which focuses on the sin of man and the redemption through Jesus Christ, for a men's Bible class in his church, Elizabeth Baptist Church. I am a friend of Chief Cochran and have spoken with him personally about this matter, and not surprisingly, there are inaccuracies in the news reports from the liberal media. The Christian community is now mobilizing in defense of Chief Cochran, as well as for Christian liberty all across America, and we are asking for fellow Christians, and in particular, PASTORS, to help in three ways:

>>>

>>> 1. PRAY! For Fire Chief Kelvin Cochran and his family; for The King to turn the heart of the mayor; for God's children to maintain a Christ-like spirit; and that Jesus Christ would be honored and glorified in all of this.

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>>>

>>> Please be clear that this campaign has NOTHING at all to do with what is often termed, "gay-bashing", but has EVERYTHING to do with defending the First Amendment rights for all Christians across America. Those of you know me well, know that I don't jump on every bandwagon that comes along, but it is high time that we, as Christians, stand up for Biblical principles and for the freedoms afforded to us as citizens of the United States, and to come to the defense of fellow believers being punished or persecuted because of their faith in Christ. Will YOU stand with us???

>>>

>>> More to come next week, but wanted to get something out today, so churches could start praying at their services tomorrow.

>>>

>>>

>>> Sent from my iPad

particular client contract and hence there is little commonality based solely on a title. Further, Defendant objects to this request as unduly burdensome to the extent it seeks information pertaining to the specific compensation of individuals who are not parties to this lawsuit. Subject to and without waiving these objections, Defendant will make its General Manager, Anj Balusu, available to testify regarding William Ringler's and Alexandria Jones' compensation, as well as the general policies pertaining to the methods of compensation of Defendant's Network Security Consultants/Network Engineer Architects during the relevant time period.

4. Hours worked by the Network Security Consultant/Network Engineer Architects.

RESPONSE: Defendant objects to this topic as broad and unduly burdensome because it is not limited to a particular period of time. Defendant further objects that it is vague and ambiguous, as Defendant contracts with/employs personnel that work in a variety of roles in the security consulting space. These personnel are collectively referred to herein as “Security Consultants” and would include job titles such as Network Security Consultants and Network Engineer Architects. Project hours (scope) are determined specifically from each particular client contract and hence there is little commonality based solely on a title. Further, Defendant objects to this request as unduly burdensome to the extent it seeks information pertaining to the specific compensation of individuals who are not parties to this lawsuit. Subject to and without waiving these objections, Defendant will make its General Manager, Anj Balusu, available to testify regarding William Ringler's and Alexandria Jones' hours worked, as well as the general policies pertaining to hours worked by Network Security Consultants/Network Engineer Architects during the relevant time period.

5. The processes, procedures and documentation by which the hours worked by the Network Security Consultant/Network Engineer Architects are recorded and preserved.

RESPONSE: Defendant objects to this topic as overly broad and unduly burdensome because it is not limited to a particular period of time. It is also overly broad and unduly burdensome to the extent it seeks information pertaining to the recording of hours worked by individuals who are not parties to this lawsuit. Defendant further objects that it is vague and ambiguous. Defendant contracts with/employs personnel that work in all types of roles in the security consulting space. These personnel are collectively referred to herein as “Security Consultants” and would include job titles such as Network Security Consultants and Network Engineer Architects. Subject to and without waiving these objections, Defendant will make its General Manager, Anj Balusu, available to testify regarding the general processes, procedures and record-keeping practices for hours worked by its Network Security Consultants/Network Engineer Architects during the relevant time period.

6. Any communications regarding the proper classification of the Network Security Consultant/Network Engineer Architects as exempt or non-exempt under the FLSA, including any communications (at any time) with any local, state or federal wage enforcement agency.

RESPONSE: Defendant objects to the deposition topic as overly broad and unduly burdensome because it is not limited to a particular period of time. Defendant further objects to the deposition topic to the extent it seeks materials prepared in anticipation of litigation, or which contain or reflect or call for the disclosure of the mental impressions, conclusions, opinions or legal theories of any attorney for Defendant, or any other information protected by the Federal

Rules of Civil Procedure. Subject to and without waiving these objections, Defendant will make its General Manager, Anj Balusu, available to testify regarding any non-privileged and/or work product communications regarding the proper classification of Network Security Consultants/Network Engineer Architects as exempt or non-exempt under the FLSA, including communications with any governmental enforcement agency on the topic.

7. The steps Defendant has taken to locate responsive documents.

RESPONSE: Defendant objects to this topic to the extent it seeks information protected by the attorney-client privilege and/or work product doctrine. Defendant further objects to this topic as vague and ambiguous, as "responsive documents" are not defined. Subject to and without waiving these objections, Defendant will make its General Manager, Anj Balusu, available to testify regarding Defendant's efforts to locate documents responsive to Plaintiff's discovery requests.

8. Defendant's computer, email and filing systems as they relate to the existence, location and preservation of documents pertaining to the foregoing topics.

RESPONSE: Defendant objects to this topic as "documents pertaining to the foregoing topics" is vague, ambiguous, overly broad and unduly burdensome. Subject to and without waiving these objections, Defendant will make its General Manager, Anj Balusu, available to testify regarding the existence, location and preservation of data within its systems as it pertains to emails, time and payroll records during the relevant time period.

DOCUMENTS TO BE PRODUCED FOR INSPECTION

In regard to the Request for Production of Documents set out in Plaintiff's 30(b)(6) Deposition Notice, Defendant incorporates its responses to Plaintiff's Request for Production of Documents, as if set out fully therein. Defendant specifically incorporates by reference, the

objections, responses and documents produced in response to Plaintiff's First Requests for Production of Documents, a copy of which are attached hereto as Exhibit A.

Dated: July 20, 2017

Respectfully submitted,

/s/Kathryn J. Hinton

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khinton@bakerdonelson.com

David E. Gevertz*

dgevertz@bakerdonelson.com

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Fax: (412) 232-3441

Counsel for Defendant

Norwin Technologies

**Admitted pro hac vice*

CERTIFICATE OF SERVICE

I hereby certify that on this 20th day of July, 2017, a copy of the foregoing document was served on the following via e-mail and U.S. mail, postage prepaid:

Joseph H. Chivers
jchivers@employmentrightsgroup.com
THE EMPLOYMENT RIGHTS GROUP
First & Market Building
100 First Avenue, Suite 650
Pittsburgh, PA 15222

John R. Linkosky
linklaw@comcast.net
JOHN LINKOSKY & ASSOCIATES
715 Washington Avenue
Carnegie, PA 15106

s/ Kathryn J. Hinton

Kathryn J. Hinton, Esq.

Exhibit E

Deposition Transcript of Robin Shahar
(relevant portions attached)

KELVIN J. COCHRAN vs. CITY OF ATLANTA, ET AL.
Robin Joy Shahar on 02/22/2017

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE NORTHERN DISTRICT OF GEORGIA
3 ATLANTA DIVISION

4 KELVIN J. COCHRAN,)
5 Plaintiff,)
6 vs.)
7 CITY OF ATLANTA, GEORGIA;)
8 and MAYOR KASIM REED, IN)
9 HIS INDIVIDUAL CAPACITY,)
10 Defendants.)

CIVIL ACTION FILE
NO. 1:15-cv-00477-LMM

- - -

VIDEOTAPED DEPOSITION OF
ROBIN JOY SHAHAR

FEBRUARY 22, 2017
9:40 A.M.

BAKER DONELSON BEARMAN CALDWELL & BERKOWITZ, P.C.
MONARCH PLAZA, SUITE 1600
3414 PEACHTREE ROAD, N.E.
ATLANTA, GEORGIA

Reported by: Suzanne Beasley, RPR
CCR-B-1184

1 half of your job duties, which begin on page 114
2 there on the revised -- on the LGBT side. You said
3 the mayor asked you at some point to become his LGBT
4 advisor. How did that happen; do you recall?

5 A. I believe he contacted me by phone --

6 Q. Okay.

7 A. -- and asked me to serve in that position.

8 Q. Do you recall when that was?

9 A. If you have a date when I took that
10 position, that's when it occurred right then.

11 Q. No. I was just asking actually.

12 When he called you on the phone, do you
13 recall why? Did he say why he wanted to create the
14 position?

15 A. I don't believe he said why he wanted to
16 create the position.

17 Q. Did you have an opinion or a sense as to
18 why he would want to create that position?

19 A. I mean, other than the obvious that this
20 was -- that -- I think that the mayor -- in my
21 experience, the mayor takes pride in the City of
22 Atlanta being a welcoming city, being a diverse city.
23 He takes a lot of pride in our civil rights history,
24 and he wants to be certain that our city continues to
25 be a welcoming place where people are treated without

KELVIN J. COCHRAN vs. CITY OF ATLANTA, ET AL.
Robin Joy Shahar on 02/22/2017

Page 44

1 BY MR. CONNELLY:

2 Q. Well, I guess what I -- let's move a
3 little bit back to the meeting then. You said there
4 was a group discussion, I think, that you had your
5 personal view when you read the material --

6 A. Uh-huh.

7 Q. -- and then what were the ideas or beliefs
8 expressed in the book that you found personally
9 offensive?

10 A. I did.

11 Q. Were those --

12 A. I would say frightening and offensive.

13 Q. Were those -- did anyone else discuss
14 those in the meeting?

15 A. The contents of the book?

16 Q. Yes.

17 A. Within the context of his role as leader
18 of the fire department, yes.

19 Q. Can you break that down for me? In other
20 words, people said what, if you can recall? Who said
21 what, or give me an example?

22 A. People -- some people in the room were
23 concerned that the City must abide by
24 nondiscrimination laws, and that publishing this book
25 with the statements that are in it, including Chief

1 Cochran identifying himself as the chief of the fire
2 department, including putting in there what his
3 responsibilities were as fire chief, and then
4 defining the way that he did what it meant to bring
5 the glory of God, what that meant, that that as a
6 package was troubling.

7 Q. Did anyone in that room express an opinion
8 that was different from yours?

9 A. Expressed lots of opinion.

10 Q. Do you recall any opinions about the LGBT?

11 A. Oh, about the LGBT community?

12 Q. About the book and relating to the
13 comments that you found to be offensive with regard,
14 or problematic with regard to the LGBT community.

15 A. I was not focused on LGBT comments in that
16 meeting. Like I said, I was focused on a collective
17 group of facts that talked about who Chief Cochran
18 would be as the leader of a department. And frankly,
19 under federal law, I was more concerned about
20 religion and gender, so I'm not sure what your
21 question is.

22 Q. Well, let's pass on that for a second.

23 So the book itself, okay, you said there
24 were a core of problems with it, right? What -- and
25 you said one of your main -- one of your first

1 were these instances of discrimination. Were they
2 instances of disagreement with the management style.
3 You know, so my recollection from those conversations
4 was listening to the information. I did not have
5 concerns about Chief Cochran's senior staff. People
6 expressed concerns, but I had not heard enough about
7 that to come to any opinion about the validity of
8 that.

9 The distribution of the book in the
10 department to employees to me raised issues under
11 Title 7. Even -- the most serious example was the
12 individual who had come to Chief Cochran to talk
13 about what to do to get promoted. And within that
14 context to be provided a copy of the book, even if
15 the promotional conversation was over, that action
16 raises serious concerns for me under Title 7.

17 Q. Do you recall who that firefighter was?

18 A. I think his last name was Hill, but I --
19 that's -- I don't know if that's correct or not.

20 Q. Did you have a discussion with Chief Hill?

21 A. No.

22 Q. How did you -- how do you recall his name?

23 A. From the deposition two weeks ago. But I
24 knew the situation then. I just didn't recall his
25 name until I was reminded a couple of weeks ago.

1 BY MR. CONNELLY:

2 Q. The court reporter has handed you what's
3 been marked as Plaintiff's Exhibit 63. Do you
4 recognize that e-mail?

5 A. Yes.

6 Q. We talked a little bit I think about when
7 we broke down your job responsibilities on the
8 advisor side about attending meetings and events.
9 This appears to be that type of situation. The
10 subject line is "Human Rights Campaign Gala, can you
11 attend." It's an e-mail from you to Joel Baker. Do
12 you recall sending this e-mail to Chief Baker?

13 A. Yes.

14 Q. What was your involvement in this gala?

15 A. The mayor purchased a table of ten seats
16 and tasked me with filling it.

17 Q. How did -- did he purchase it in his
18 personal capacity? His official capacity?

19 A. I think his campaign purchases it.

20 Q. Okay.

21 A. It never -- I was never part of the -- it
22 was not the City, and I was never part of the payment
23 process.

24 Q. Okay.

25 A. I was purely part of finding it, inviting

Exhibit F

Deposition Transcript of Stephen Borders
(relevant portions attached)

1 this proper, was it not, and that it really -- it
2 would only cloud the issue to involve Chief Cochran,
3 so we didn't involve Simon and didn't involve Chief
4 Cochran.

5 Q. I want to turn to what is at the heart of
6 this case, a book written by Chief Cochran. When did
7 you become aware that Chief Cochran had written a
8 book?

9 A. When Chief Wessels brought it to my
10 attention after work one morning in the back parking
11 lot of Station 1, and he showed me the book, told me
12 that it had been given to him, and that he finally
13 got around to reading it or reading part of it, and
14 there were some passages that were disturbing. And
15 that he wanted to make me aware and get my opinion
16 and see how we wanted -- how we wanted to handle that
17 as the union.

18 Q. Working at, you said Station 1; is that
19 correct?

20 A. Yes.

21 Q. Was Chief Wessels -- did he work out of
22 that station?

23 A. Yes. His office was on the back of
24 Station 1. I mean, there's -- it's a separate
25 office, but it's attached to the station.

1 Q. Do you recall -- sounds like you have a
2 pretty good memory of where it happened, back parking
3 lot, I think you said. Do you recall when, if you
4 can give me your best guess on a date?

5 A. I feel like it was the end of October,
6 early November. Maybe a month or so before Chief
7 Cochran's suspension.

8 Q. So Chief Wessels brings you the book. Did
9 he tell you he had read the whole book? What was
10 the -- give me the conversation soup to nuts, if you
11 would.

12 A. The conversation was -- it was, hey, I
13 want to show you something. This is a book that
14 Chief Cochran wrote that was given to me during a
15 work event. And I don't remember exactly what the
16 details were, and that when he read it, there was
17 some very explicit conservative Christian ideals that
18 concerned him since he also identified himself very
19 clearly and explicitly as the fire chief in the City
20 of Atlanta.

21 And it was -- from a firefighter
22 standpoint, that we were all brought up very clearly
23 that if you say that you are representing the City of
24 Atlanta that -- and you give an interview, a public
25 statement, write a book, write an article in a

1 underlines or notes on the side.

2 Q. Do you recall on that initial conversation
3 with Chief Wessels the portions of the book he was
4 concerned about?

5 A. I only remember the very beginning where
6 it identifies Chief Cochran working for the City of
7 Atlanta, and then there were some other passages
8 where -- that were talking about homosexuality and
9 kind of a conservative Christian.

10 Q. So that was -- when you said you all
11 bought books after that and you read through it, was
12 that the population you were talking about with
13 respect to the problems you had with the book?

14 MR. GEVERTZ: Object to the form.

15 THE WITNESS: Can you clarify a
16 little?

17 BY MR. CONNELLY:

18 Q. What did you find -- did you find anything
19 objectionable about the book when you read it?

20 A. I personally didn't agree. I don't think
21 it was anything that I felt like -- I mean, Chief
22 Cochran is -- he's welcome to have any opinion he
23 wants to, any interpretation of the Bible he wants
24 to, and I didn't have a problem with it. It just, as
25 a labor organization, I had an issue with that it

1 seemed like that he was putting himself as an
2 official representative of the city explicitly, and
3 saying that he believes these views, as well as being
4 on -- at an employee-sponsored event or meeting or
5 something, and that it seemed to be given to chief
6 officers in the boss/employee-type relationship and
7 that -- those were the two things that really
8 concerned me. And I felt like that we needed to have
9 a response and some counsel from the city on how --
10 what their opinion was and how they wanted to handle
11 the situation.

12 Q. So going back to Wessels again, that
13 initial conversation, did he express misgivings about
14 the book?

15 A. I think -- personally, I think he
16 was -- he disagreed with how the book was presented,
17 as well as the two things I mentioned earlier. That
18 it was, you're saying that you're the fire chief and
19 you're saying that you believe this way, and that
20 that was a -- a concerning issue.

21 Q. And when you said presented, you mean how
22 the book was given -- the circumstances under which
23 the book was given to him?

24 A. Yes. That was one issue. The
25 circumstances of how the book was given, as well as

1 it being framed as a official representation of how
2 the fire department feels.

3 Q. After you and the executive board or
4 Justin Padrazzi and Vic Bennett decided to hand it up
5 to Councilman Wan, did you have any more
6 conversations with Chief Wessels about it?

7 A. I'm sure we did. I don't recall
8 specifically, but it was not an issue that I wanted
9 to get out internally or externally in the public
10 until we felt like that we had a good response and
11 the city had a good response, and so it was something
12 that we -- that I tried to keep a lid on the best I
13 could.

14 Q. So you didn't publicize this with any
15 other members of the AFRD; is that an accurate
16 statement?

17 A. Yeah, I spoke to some specific chief
18 officers and other members in trying to ask if they
19 were aware of it. It was not something that we
20 announced, this is going on, this has happened, and
21 tried to stir the pot with it, no.

22 Q. So when you give the book to Councilman
23 Wan, do you remember the -- can you approximate the
24 date, to the best of your ability?

25 A. Early November -- early to mid November