

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

KELVIN J. COCHRAN,

Plaintiff,

vs.

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

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

Defendants.

**DEFENDANTS' RESPONSE TO PLAINTIFF'S STATEMENT OF
ADDITIONAL FACTS PURSUANT TO LOCAL RULE 56.1(B)(2)(b)**

Pursuant to Local Rule 56.1(B)(2)(b), Defendants City of Atlanta (the "City") and Mayor Kasim Reed hereby respond to Plaintiff's Statement of Additional Facts as follows:

1. Union President Stephen Borders could have continued to work for Chief Cochran even with the knowledge that Chief Cochran held the religious beliefs expressed in his book. *See* Borders Dep. 108:11-14.

RESPONSE: Defendants admit that Borders testified that he felt he could have continued to work under Plaintiff even though his religious views were known.

Borders also testified that while he had no problem with Plaintiff's religious beliefs, Plaintiff's decision to connect those beliefs with the workplace was concerning:

I didn't have a problem with his beliefs. ... but there was -- there's an issue of -- there's some things that you don't officially talk about and put out that this is -- and I was concerned about the members being represented fairly when you had someone who felt like we crossed the line of expressing that they're in this position, and this is how they believe, and this is how they believe in that capacity of their position. ... We were afraid that there was a line that either had been crossed or was going to be crossed [or] that there would be -- the beliefs from Sunday would carry over while you're in uniform, and that was our concern as the union.

(Deposition Transcript of Stephen Borders, ("SBT"), relevant portions attached as **Exhibit A**, at 106:16-107:8).

2. Chief Cochran wrote his book "for Christian men who struggle with issues of condemnation." Cochran Dep. 188:21-24; Pl.'s Ex. 11 at vii ("I thank God for choosing me to deliver this message to redeemed men of the Body of Christ who wrestle with the stronghold of condemnation.").

RESPONSE: Admitted.

3. Chief Cochran's book was not intended to be a condemnation or a singling out of any individual or group. *See* Cochran Dep. 188:21-24, 109:10-11, 191:23-193:1, 209:8-24; Pl.'s Ex. 11 at vii ("Sharing the lesson plan with my brothers on Friday mornings convinced me that more men would be blessed from this study.").

RESPONSE: Defendants admit that Plaintiff's stated intent behind his book was to provide counsel to Christian men struggling to overcome condemnation. However, Plaintiff's intent is not material to the claims at issue. Rather, the actual language of the book, which condemns and passes judgment on multiple groups of people, is. Based on the dichotomy of the concepts of "naked" vs. "clothed," Plaintiff identifies broad categories of people he considers naked. This list includes homosexuals, murderers, rapists, pedophiles, those who have sex outside of marriage, those who engage in bestiality, and all non-Christians. (Deposition Transcript of Kelvin Cochran ("KCT"), relevant portions attached as **Exhibit B**, at 191:11-22; 193:2-4, Ex. 36, at 82; 195:12-15; 196:17-24; 197:1-10). Plaintiff characterizes these individuals as "wicked," "un-Godly," "deceitful," "loathsome," and "evildoer[s]," (KCT, 176:24-177:5; 178:18-23), and writes that there will be "celebration" when they perish. (KCT, 177:6-178:17). Plaintiff's book also presents his view on women, including his belief that mankind would never have fallen from grace if Eve had consulted with Adam before eating the forbidden fruit. (KCT, 183:17-24; 186:20-187:4; 182:15-183:4). Positive examples of women are conspicuously absent. (KCT, 188:18-190:2). Instead, Plaintiff presents examples such as Delilah, who he describes as "a nagger," "devious," and someone who "used sex as a manipulative weapon," thereby destroying a man, Samson, with her sinful ways. (See *Who Told You That You Were Naked?* at p. 116, attached as **Exhibit C**).

4. Chief Cochran wrote his book to encourage people to “come into a conviction, not to condemnation, to realize that [we] need a Savior.” Cochran Dep. 209:8-11.

RESPONSE: Defendants admit that is what Cochran testified was his motivation in writing the book. However, Plaintiff's intent is not material to the claims at issue. Rather, the actual language of the book, which condemns and passes judgment on multiple groups of people, is. *See* Defendants' Response to ¶ 4.

5. Chief Cochran never discriminated against anyone, loves all categories of people, and in his capacity as Fire Chief would have laid down his life for anyone should the circumstances have required it. Cochran Dep. 45:21-46:6 (“Because the core of our mission is to protect the lives and property of the citizens we serve. . . . people who do what we do for a living have to love . . . all categories of people . . . because . . . we may at any time may have to pay the ultimate sacrifice to lay down our life for a person that we’ve never met before.”); Yancy Dep. 102:11-14; Reed Dep. 156:10-13; Geisler Dep. 47:8-13, 66-67.

RESPONSE: Defendants admit that there is no evidence in the record that Plaintiff engaged in unlawful discrimination. Defendants object to the remainder of this statement as inadmissible speculative lay opinion testimony. Fed. R. Evid. 701.

6. Because “all have sinned,” Chief Cochran considers himself in need of a Savior as well. Cochran Dep. 192: 9-18, 176:13-18.

RESPONSE: Defendants admit that Plaintiff believes he is in need of a Savior. However, this fact is not material to Plaintiff's claims.

7. The Atlanta Fire and Rescue Doctrine was instituted by Chief Cochran to ensure the department was “ism” free, meaning various “isms” like “racism, sexism, territorialism, and cronyism” were not tolerated. Cochran Dep. at 47:5-20.

RESPONSE: Admitted.

8. Chief Cochran's disciplining of the firefighters involved in the Chick-Fil-A incident is consistent with the Atlanta Fire and Rescue Doctrine and with City nondiscrimination policies. *See* Cochran Dep. 294-297.

RESPONSE: Admitted.

9. Chief Cochran was suspended approximately four business days after Defendant City of Atlanta became aware of Chief Cochran's book. Yancy Dep. 20:23-21:1.

RESPONSE: Admitted.

10. Defendant Reed was informed of the book's contents less than two full business days before directing that Chief Cochran be suspended. Yancy Dep. 20:23-21:1, 22:3-22, 24:23-25:24, 26:7-8, 26:22-27:10, 42:6-11; Reed Dep. 124:7-25.

RESPONSE: Admitted. Mayor Reed testified that he learned about the book on or around the Friday before he made the decision to suspend Plaintiff, which occurred on the following Monday. (Deposition Transcript of Kasim Reed ("KRT"), relevant portions attached as **Exhibit D**, at 124:5-25).

11. The Ethics Board approved a request from Chief Cochran for outside employment in March 2008. Defs.' Ex. 4.

RESPONSE: Admitted.

12. Chief Cochran called Nina Hickson to discuss his book because it was a "common practice for commissioners and department heads to call whoever is the subject matter [expert] on an issue" to get advice on the matter. Cochran Dep. 112:11-113:7.

RESPONSE: Defendants admit that Plaintiff called Hickson to discuss a book that he was writing. However, Hickson denies that this book was *Who Told You That You Were Naked?* Hickson testified that during this conversation, Plaintiff told her that he was writing a book about leadership, and asked her if that was a matter the ethics board would be concerned with. (Deposition of Nina Hickson ("NHT"), relevant portions attached as **Exhibit E**, at 45:6-13). Hickson further testified that she responded in the affirmative, and that Plaintiff then told her that it "wasn't happening anytime soon, but he would get back with [her] in about six months." (NHT, 45:14-18). Plaintiff has

no notes of this conversation. (KCT, 110:19-21). Hickson's handwritten, contemporaneous notes of this conversation state: "Advise regarding non-city-related book he is authoring; Will check back w/me in about 6 months." (NHT, 44:1-21 and its Exhibit 23). When presented with Hickson's notes, Plaintiff had no explanation for the "six months" reference. (KCT, 109: 15-16). However, this disputed fact is immaterial, as Hickson lacked authority to grant or deny permission to Plaintiff to publish and sell his book. Only the Ethics Board can grant such permission, and must do so in the form of a written opinion. (KCT, 55:18-23; 56:8-57:10 and its Exhibit 10 at § 2-820(d)).

13. Rule 3 of the City of Atlanta Rules of the Board of Ethics states in part:

Rule 3. Informal Advice

3.1 Verbal or Written Request. The Ethics Code gives the ethics officer the duty to advise all city officials and employees about the provisions of the code. The official or employee may seek advice in writing, over the telephone, or in person.

3.2 Time and Content of Opinions. The ethics officer shall respond to each request in a timely manner. Routine inquiries should be answered within seven days and no later than fourteen days after receipt. The ethics officer may give a written or verbal response.

RESPONSE: Admitted. Rule 2.7 also expressly provides that:

The Code of Ethics gives the *board* responsibility for approving outside employment to all employees who work as department heads, deputy department heads, and bureau directors. The request must be in writing and state the type and place of employment, the proposed work hours, and the employer's name and address. The board shall provide written approval or disapproval within 30 days.

(Dkt. No. 143-6, at 1-2) (emphasis added).

14. The acknowledgement portion of the City of Atlanta Employee Ethics Pledge, which Kelvin Cochran signed on June 21, 2010, states in part: “I understand . . . that I can seek advice from the Ethics Office or Board of Ethics if I need guidance on how to avoid a conflict of interest and comply with the Code of Ethics.” Defs.’ Ex. 12.

RESPONSE: Admitted.

15. On October 31, 2012, Chief Cochran inquired of City Ethics Officer Nina Hickson by phone whether he needed to seek approval from the Board of Ethics to write and publish a non-city related book. Hickson Dep. 52:14-16, 53:8-10; Cochran Dep. 108:3-15.

RESPONSE: Admitted. However, Hickson denies that this book was *Who Told You That You Were Naked?* See Defendants' Response to ¶ 12. Further, this fact is immaterial, as Hickson lacked authority to grant or deny permission to Plaintiff to publish and sell his book. Only the Ethics Board can grant such permission, and must do so in the form of a written opinion. (KCT, 55:18-23; 56:8-57:10 and its Exhibit 10 at § 2-820(d)).

16. Nina Hickson did not tell Chief Cochran that he needed to seek approval for his book from the Board of Ethics. Hickson Dep. 52:25-53:3 (“Q. So you did not advise him that it’s a matter that he should bring to the ethics board? . . . A. No.”),

52:19-20 (“I didn’t advise him of anything other than to say that this is an ethics matter.”).

RESPONSE: Objection, mischaracterizes Hickson's testimony. Hickson's more complete testimony is as follows:

Q: What did you tell him about the book?

A: I answered his question, which was whether this was a matter that the ethics board would be concerned with, *yes*. He says, well, it's not going to happen anytime soon, and I'll check back with you in six months. But I interpreted the question as, is this something that I would need to run by the ethics board, that's the way I took it. Because he said it was non-city related but it was on leadership.

Q: And so you advised him to --

A: I didn't advise him of anything other than to say this is an ethics matter. I didn't -- you know, and he said, okay, I don't think -- this is my memory, that he didn't think it would be happening anytime soon and he would check back with me in about six months.

A: So you did not advise him that it's a matter that he should bring to the ethics board?

Ms. Hinton: Object to form.

Q: No. *I told him that it was -- it was a matter that the ethics board would be concerned with*, but he didn't -- the impression he gave me was that this was something that he was considering and is this something that would come to the ethics board, that was the question as I understood it. I didn't understand that he already had the book. I thought he was contemplating writing the book, and it was about leadership. That's all he told me.

(NHT, 52:8-53:15) (emphasis added). Further, this fact is immaterial, as Hickson lacked authority to grant or deny permission to Plaintiff to publish and sell his book. Only the Ethics Board can grant such permission, and must do so in the form of a written opinion. (KCT, 55:18-23; 56:8-57:10 and its Exhibit 10 at § 2-820(d)).

17. Ms. Hickson did not tell Chief Cochran that he needed to seek approval from Mayor Reed or inform Mayor Reed of his book. Hickson Dep. 52:19-20 (“I didn’t advise him of anything other than to say that this is an ethics matter.”)

RESPONSE: Admitted. However, this fact is immaterial, as Hickson lacked authority to grant or deny permission to Plaintiff to publish and sell his book. Only the Ethics Board can grant such permission, and must do so in the form of a written opinion. (KCT, 55:18-23; 56:8-57:10 and its Exhibit 10 at § 2-820(d)).

18. When Ms. Hickson advises someone that they need to seek approval from the Board of Ethics, her notes typically reflect that guidance. Hickson Dep. 58:8-15 (testifying that if she “told someone that they needed ethics board approval . . . for something” her notes would “typically” reflect that).

RESPONSE: Admitted.

19. Ms. Hickson’s notes from her telephone conversation with Chief Cochran on October 31, 2012 “regarding [the] non-city-related book he [was] authoring” do not

indicate any directive to seek approval from Mayor Reed or from the Board of Ethics. Hickson Dep. 44:14-21; Pl.'s Ex. 23 at 1.

RESPONSE: Admitted. However, Hickson testified that she did inform Plaintiff he would need to refer to the ethics board when and if he decided to publish his book. (NHT, 52:8-53:15). Further, this fact is immaterial, as Hickson lacked authority to grant or deny permission to Plaintiff to publish and sell his book. Only the Ethics Board can grant such permission, and must do so in the form of a written opinion. (KCT, 55:18-23; 56:8-57:10 and its Exhibit 10 at § 2-820(d)).

20. Chief Cochran understood Ms. Hickson's response to his inquiry regarding writing a non-city-related book to be that he could go forward without seeking approval from the Board of Ethics. Cochran Dep. 110:11-18 (testifying he understood "that it was permissible."); *see generally* Cochran Dep. 108-111; Cochran Dep. 111:3-13 ("Q. . . . Based on your description of it, she said that it sounded as if it was fine. A. Yes. Q. Consequently, you did not understand that you were denied permission to proceed with your book by Ms. Hickson, correct? A. No. My understanding of our conversation was I was given the permission to go forward. Q. It was green lighted? A. Yes.").

RESPONSE: Defendants admit this is an accurate recitation of Plaintiff's testimony on this subject. However, Hickson testified that she did inform Plaintiff he

would need to refer to the ethics board when and if he decided to publish his book. (NHT, 52:8-53:15). Further, this fact is immaterial, as Hickson lacked authority to grant or deny permission to Plaintiff to publish and sell his book. Only the Ethics Board can grant such permission, and must do so in the form of a written opinion. (KCT, 55:18-23; 56:8-57:10 and its Exhibit 10 at § 2-820(d)).

21. Chief Cochran sought advice from Ms. Hickson on or about July 9, 2013, as to whether it was permissible for him to engage in a multi-level marketing business, called Life Leadership. Cochran Dep. 125:13-126:16.

RESPONSE: Defendants admit that Plaintiff contacted Hickson on or about July 9, 2013 and asked her about a multi-level marketing campaign. However, Hickson testified that she believed this request was in some way related to the book Plaintiff had called her about previously. (NHT, 53:25). Further, this fact is immaterial, as Hickson lacked authority to grant or deny permission to Plaintiff to publish and sell his book. Only the Ethics Board can grant such permission, and must do so in the form of a written opinion. (KCT, 55:18-23; 56:8-57:10 and its Exhibit 10 at § 2-820(d)).

22. Ms. Hickson told Chief Cochran that he would need to seek permission from the Board of Ethics and the Mayor in order to engage in that multi-level marketing venture. Cochran Dep. 126:13-16; Hickson Dep. 46:25-47:6, 47:22-48:17.

RESPONSE: Admitted.

23. Ms. Hickson's notes from her phone conversation with Chief Cochran, dated July 9, 2013, with regard to that multi-level marketing venture, state: "told him to clear it with the mayor and then get authorization from the Board of Ethics." Hickson Dep. 48:15-17, 49:19-50:5; Pl.'s Ex. 23 at 2.

RESPONSE: Admitted.

24. Chief Cochran ultimately decided not to take part in the multi-level marketing venture. Cochran Dep. 126:18-19.

RESPONSE: Admitted. However, this fact is immaterial to Plaintiff's claims.

25. Chief Cochran received permission from Nina Hickson to identify himself in the "About the Author" section of his book as AFRD Fire Chief. Cochran Dep. 127:5-8, 147:3-8, 18-21; Hickson Dep. 58:24-59:8 (testifying that Ms. Hickson's notes could pertain to this request by Chief Cochran).

RESPONSE: Disputed. Hickson has no memory of Plaintiff making such a request. (NHT, 58:24-59:5). Further, this fact is immaterial, as Hickson lacked authority to grant or deny permission to Plaintiff to publish and sell his book. Only the Ethics Board can grant such permission, and must do so in the form of a written opinion. (KCT, 55:18-23; 56:8-57:10 and its Exhibit 10 at § 2-820(d)).

26. On a separate occasion, Ms. Hickson told Chief Cochran that she looked forward to reading his book. Hickson Dep. 57:12-21.

RESPONSE: Defendants admit that Hickson ran into Plaintiff in City Hall one day and told him that she looked forward to reading his book. However, Hickson thought the book Plaintiff was working on was a leadership book, not *Who Told You That You Were Naked?* (NHT, 57:7-11; 53:11-15).

27. Anne Torres gave an interview to WSB reporter Aaron Diamant concerning Chief Cochran's book and his suspension, but she did not permit Chief Cochran to speak. Torres Dep. 33-35.

RESPONSE: Defendants admit that Anne Torres gave an interview to WSB reporter Aaron Diamant regarding Plaintiff's suspension, and that she denied WSB's request to interview Plaintiff. As Torres testified:

[I]f there is a media inquiry that comes in, then one person is delegated to speak on behalf of the administration. At this point, Chief Cochran was still an employee, and I didn't feel like it was appropriate for him to speak on a book that we didn't have any knowledge about or didn't have any other further information on, so I decided to speak only [on] behalf of the administration. ... [I]t's normal for me to make those types of decisions on a daily basis.

(Deposition Transcript of Anne Torres ("ATT"), relevant portions attached as **Exhibit F**, at 34:22-35:7).

28. Defendants, in addition to releasing the Mayor's Facebook post commenting on the matter, released a number of statements concerning Chief Cochran's suspension to the press. *See* Pl's Ex. 69 (stating that Mayor Reed was "deeply disturbed by the sentiments expressed in [Chief Cochran's book]") & 70 (responding to a reporter's inquiry and stating, before the investigation had concluded, that "[t]here are a number of passages in the book that directly conflict with the City's non-discrimination policies").

RESPONSE: Defendants admit that the City released statements regarding Plaintiff's suspension given his high-profile role within the City. As Mayor Reed stated:

[W]hen you suspend a person who is [as] high profile as the chief of your fire department, there is a role to play in assuring the public that the fire department is going to continue to run and operate. And so the comments that I made reflected the reality that we had to explain where the fire chief was going to be for 30 days. I know you've got important litigation, but I have a city to run. And there was a role as mayor of the City of Atlanta of letting the public know that we had an issue, that the issue was being investigated, but that if you call the fire department, we were going to continue to respond.

(KRT, 140:6-19).

29. Comments objecting to Defendants' treatment of Chief Cochran began "right away" after news of his suspension was posted on the Mayor's Facebook page. Reed. Dep. 136:1-24; Yancy Dep. 109:8-22.

RESPONSE: Objection. This statement mischaracterizes testimony. Mayor Reed testified that soon after he posted his statement about Plaintiff's suspension on Facebook, members of the public began posting responses. (KRT, 136:1-9). However, he did not testify that his Facebook post sparked the broader public backlash that arose after Plaintiffs' suspension. Instead, he testified that he believed the outcry arose after Plaintiff made public appearances at which he discussed his suspension. (KRT, 138:19-139:9).

30. After Defendants' statements concerning Chief Cochran's suspension were publicly broadcast, the issue of Chief Cochran's suspension became widely known, and fellow Christians asked Chief Cochran to share his testimony with them as a result. Cochran Dep. 265:1-8, 268:16-22, 271:8-12, 274:23-275:5.

RESPONSE: Defendants admit that after the City issued statements regarding Plaintiff's suspension, fellow Christians contacted Plaintiff to offer their support. However, Defendants dispute that the City's statements caused Plaintiff's suspension to be "widely known." Instead, Plaintiff's support for and encouragement of a public relations campaign against Mayor Reed and the City initiated by the Georgia Baptist Convention ("GBC") led to Plaintiff's suspension being widely broadcast. The GBC's initiative included the publication of a web-based editorial criticizing Plaintiff's suspension, which Plaintiff reviewed and approved; an online petition linked to a forum

on which to purchase Plaintiff's book; a social media campaign directed at pressuring the Mayor to reconsider Plaintiff's suspension; and the posting of a recording of Plaintiff's GBC speech to the GBC website. (KCT, 251:21-252:18; 257:16-18; 261:22-262:14; 264:16-24, Exs. 49, 50 at PL 001902). (*See also* GBC Mission Board, "Help Us Defend Religious Liberty!", available at <https://gabaptist.org/petition/>, last visited April 17, 2017, attached to Defendants' Brief in Support of Motion for Summary Judgment ("DMSJ") as Ex. I).

In mid-December, Plaintiff approved yet another public relations "offensive fire attack" against the City, which included a social media campaign calling on the public to contact the Mayor and demand that he apologize to Plaintiff for violating his First Amendment rights. (KCT, 268:10-18, 269:12-270:15, Ex. 51). Plaintiff also spoke to the congregations of two churches, arguing once again that the Mayor suspended him solely because of his religious beliefs. (KCT, 274:13-22)

31. Defendants gave Chief Cochran no written instructions as to their expectations during his suspension. *See* Cochran Dep. 222:23, 267:1-2.

RESPONSE: Admitted. Instead, during the meeting at which Plaintiff was suspended, Mayor Reed's Chief of Staff Candace Byrd verbally informed Plaintiff that the Mayor had instructed that he not publicly comment on his suspension during his leave. (Deposition Transcript of Yvonne Yancy ("YYT"), relevant portions attached

hereto as **Exhibit G**, at 76:22-25; Deposition Transcript of Candace Byrd ("CBT"), relevant portions attached as **Ex. H**, at 40:7-11, 43:1-3, 43:20-44:2; KRT, 105:3-7; KCT, 222:13-223:2). While Plaintiff insists that Chief of Staff Byrd only advised him not to hold any press conferences or respond to any requests for interviews, he admits that the intent behind her directive was clear: "she didn't want me to publicly disclose my side of the story." (KCT, 257:4-13).

32. A number of churches and religious organizations offered their assistance to Chief Cochran during his suspension. *See Cochran Dep.* 254:22-255:1, 265:4-8.

RESPONSE: Admitted. However, this fact is immaterial to Plaintiff's claims.

33. Chief Cochran reviewed plans of assistance created by those who volunteered to help him, but he did not create or implement those plans. *See Cochran Dep.* 254:22-255:1, 265:4-8.

RESPONSE: Admitted. Nor did Plaintiff take any steps to moderate or prevent the implementation of those plans, even when given the opportunity to do so by the organizers. (KCT, 264: 16:24; KCT, 271:11-13).

34. Chief Cochran accepted offers of assistance from co-religionists because he found it helpful in dealing with the stress brought about by his public suspension.

Cochran Dep. 265:1-4 (testifying that “at the time [his suspension] was taking place, due to the tremendous amount of stress and pressure, support from my church . . . really was helpful.”).

RESPONSE: Admitted. However, this fact is immaterial to Plaintiff's claims.

35. At the time Chief Cochran was terminated, Defendants knew no details of the efforts of support for Chief Cochran undertaken by various churches and organizations during his suspension, nor did they have any knowledge of his communications with these churches or organizations. *See* Yancy Dep. 128:23-129:1 (admitting that Defendant did not terminate Chief Cochran based upon facts related to the support he received from churches and religious organizations during his suspension), 128:10 (“At the time I didn’t know that, but I know it now . . .”); Reed Dep. 137:11-24 (revealing the Defendants only became aware of support for Chief Cochran from churches and other religious organizations, and of Chief Cochran’s communications with them, during discovery).

RESPONSE: Disputed. Mayor Reed testified that he suspected Plaintiff was involved in the massive public relations campaign launched against the City and him personally during his suspension. (KRT, 137:19-138:13). Specifically, 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). He further testified that he was aware of Plaintiff's public conduct during his suspension, when asked why he suspected Plaintiff of being involved:

Q: What was that susp[icion] based upon?

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

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

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

...

A: ... I do remember the media reports and I remember being shocked that after communicating that he should not discuss issues related to employment, that he was in public forums discussing it. And then shortly after being in those public forums, we were inundated with electronic communications and calls to my home throughout the holidays, included death threats, including calling me the anti-Christ, including calling me a nigger and other inflammatory comments that we got by the thousands.

(KRT, 137:25-139:5).

36. Chief Cochran did not speak to the various religious organizations (who requested him to share his testimony) in order to discuss his suspension. *See Cochran Dep. 256:2-6.* (revealing that during his speech to the Georgia Baptist Convention, Chief Cochran stated that he did not come to talk about his suspension).

RESPONSE: Defendants admit that Plaintiff purports not to have intended to discuss his suspension when speaking to religious organizations during his suspension. However, that fact is immaterial, as Plaintiff did in fact discuss his suspension during at least two of his speaking engagements. (KCT, 259:24-260:6; 274:13-22). At one, Plaintiff went so far as to state that the City suspended him *because of his religious beliefs*. Specifically, Plaintiff stated:

In the book I deal with sexuality as God intended it. God intended for a man and a woman to be married and to have children to populate the earth, and that any sex outside of marriage and outside of a man and a woman, outside of holy matrimony is against the word of God, and *for that stand, I've been laid off for 30 days without pay.*

(KCT, 275:15-277:15) (emphasis added).

37. The purpose of Chief Cochran's appearance at the Georgia Baptist Convention was to "share[] [his] testimony . . . which is a common Christian practice." Cochran Dep. 260:14-20, 255:21-24.

RESPONSE: Admitted.

38. Chief Cochran briefly alluded to his suspension at the beginning of his talk to the First Baptist Church of Newnan, because his “invitation to speak was extended based on” news of that suspension. Cochran Dep. 274-75.

RESPONSE: Defendants admit that Plaintiff discussed his suspension during his speech to the First Baptist Church of Newnan. Defendants dispute that Plaintiff merely "alluded" to the topic. Instead, he explicitly stated that he had been suspended because of his religious beliefs. *See* Defendants' Response to No. 36.

39. Defendants did not “typically talk about employment matters to the media,” and preferred to “reserve comments surrounding suspensions or terminations.” Byrd Dep. 44:2-5.

RESPONSE: Admitted.

40. Defendants’ “policy [was] to not talk about employment matters.” Yancy Dep. 71:12-13; 139:1-8.

RESPONSE: Admitted.

41. Defendants publicly announced Chief Cochran’s suspension and termination. Pl.’s Exs. 10 & 49; Torres Dep. 32-35.

RESPONSE: Admitted. This was due to Chief Cochran's high-profile position as Fire Chief of AFRD. While the City does not normally comment publicly

on employment matters, given Plaintiff's role, it had no choice but to notify the public of what had occurred. As Mayor Reed testified:

I know that we had a press conference after the event, because when you -- when you suspend a person who is high profile as the chief of your fire department, there is a role to play in assuring the public that the fire department is going to continue to run and operate. And so the comments that I made reflected the reality that we had to explain where the fire chief was going to be for 30 days. I know you've got important litigation, but I have a city to run. And there was a role as mayor of the City of Atlanta of letting the public know that we had an issue, that the issue was being investigated, but that if you call the fire department, we were going to continue to respond.

(KRT, 140:5-19).

42. In the "About the Author" section of his book Chief Cochran noted that he was at the time of publication currently "serving as AFRD Fire Chief." Pl.'s Ex. 11 at v.

RESPONSE: Admitted.

43. Chief Cochran also later noted in his book that he considered his religious faith central to carrying out his mission as a fire professional. *Id.* at 76.

RESPONSE: Admitted.

44. It is Defendants' position that employees need to "get permission . . . to do anything outside of work," even if compensation is only possible or perceived. *See* Yancy Dep. 88:3-5, 52:5-7.

RESPONSE: Objection. Mischaracterizes Commissioner Yancy's testimony. Commissioner Yancy testified that employees must seek approval for any outside work that has the potential to earn remuneration. (YYT, 88:9-13). Her testimony was specifically geared towards outside *employment* and activities that could be perceived as employment, not merely any activity outside of work. (*Id.*). Moreover, Defendants object to Plaintiff's attempt to rely upon the testimony of Commissioner Yancy as evidence of what the City's outside employment rules are. Those rules are codified in the City Code and Code of Ethics, and they speak for themselves. (City of Atl. Code, §§ 114-436-37; 2-820(d)).

45. Commissioner of Human Resources Yvonne Yancy, Chief of Staff Candace Byrd, and Chief Counsel Bob Godfrey met with Chief Cochran to inform him that Mayor Reed had decided to suspend him. Cochran Dep. 200:4-6; *see also* Defs.' Statement of Facts at ¶¶59-60.

RESPONSE: Admitted.

46. Yvonne Yancy had a suspension notice drawn up prior to that suspension meeting, along with a termination letter, which action she recommended to Mayor Reed even before speaking to Chief Cochran at the suspension meeting. Yancy Dep. at 44:12-45:16; Defs.' Statement of Facts ¶58.

RESPONSE: Admitted.

47. Before informing him of his suspension, Defendants decided that sensitivity training would be required of Chief Cochran. Yancy Dep. 47:20-24.

RESPONSE: Admitted.

48. Chief Cochran was not given “all the reasons” he was being terminated at his termination meeting, but was merely told that his “services are no longer needed” and that Defendants “decided to go in a different direction.” Yancy Dep. 134:1-7.

RESPONSE: Defendants admit that Plaintiff was not given all of the reasons for his termination at his termination meeting. However, Defendants dispute that Plaintiff was *only* informed that his services were no longer needed and that the City had decided to go in a different direction. Instead, Chief Counsel Bob Godfrey discussed the Law Department's investigation that had taken place during Plaintiff's suspension, as well as the Law Department's finding that members of AFRD had expressed that they did not feel they could serve under his leadership as Fire Chief. (YYT, 134:8-135:4). Further, Commissioner Yancy discussed the fact that Plaintiff had spoken publicly about his suspension, in violation of the Mayor's directive. (YYT, 126:4-8).

49. Chief Cochran's request to speak with Mayor Reed prior to his termination was denied, and he was instead told that “the proceeding was final. . .

[Defendants] were going to move forward . . . the opportunities had all been taken.”
Geisler Dep. 75:11-13.

RESPONSE: Admitted.

50. After becoming aware of Chief Cochran’s book, LGBT Advisor Robin Shahar and Special Assistant to the Mayor Melissa Mullinax concluded that it was “very important that other religious perspectives be put in the public domain.”
Shahar Dep. 80-81; Mullinax Dep. 35:14-36:9.

RESPONSE: Admitted. However, this fact is immaterial to Plaintiff’s claims.

51. In order to accomplish this they enlisted the Anti-Defamation League to provide a different religious perspective from that provided by Chief Cochran in his book. Shahar Dep. 80-81; Mullinax Dep. 35:14-36:9.

RESPONSE: Admitted. However, this fact is immaterial to Plaintiff’s claims.

52. The Anti-Defamation League later sent a letter to Mayor Reed encouraging him to terminate Chief Cochran. Pl’s Ex. 12.

RESPONSE: Admitted. However, Mayor Reed neither requested nor solicited the Anti-Defamation League’s opinion. (Deposition Transcript of Robin Shahar (“RST”), relevant portions attached as **Ex. I**, at 82:7-24) (explaining that she made it

clear to the ADL that the Mayor had not requested their input, and that she was "requesting an objective look by them, and a decision that was 100 percent independent in terms of whether they thought anything, any response from them was needed, and if so, let them decide what they want to do.").

53. In its letter the Anti-Defamation League concluded that Chief Cochran's religious beliefs were incompatible with the City's nondiscrimination policy. *Id.* ("The statements of personal belief contained in the book blatantly contradict [the City's nondiscrimination] policy.").

RESPONSE: Admitted. The ADL also concluded that it had:

...very serious concerns that the attitudes expressed in the book condemn homosexuality and reject, with very strong pejorative language, any faith other than Chief Cochran's brand of evangelical Christianity. ... the Chief is the leader of the City of Atlanta Fire Department and a representative of a demographically diverse workforce and City. As such, the attitudes he has expressed contradict the value commitment to employees of respect, fairness and inclusion, and ultimately erode trust with employees and citizens of the City of Atlanta.

(KRT, Ex. 12). However, as the ADL was not a decision-maker, this fact is immaterial to Plaintiff's claims.

54. Defendants admitted to the public that they disciplined Chief Cochran based on the content of his book. Pl's Ex. 83 (revealing that on February 19, 2015, the Mayor's Director of Communications Anne Torres responded to an

inquiry from an NBC reporter by stating in part that Chief Cochran was disciplined because “he was espousing theories in the workplace about certain groups of people that were in conflict with the City’s nondiscrimination policy,” and because of “his espousing these beliefs while identifying himself as the Atlanta Fire Chief”).

RESPONSE: Objection. Mischaracterizes evidence. Torres did not state that Plaintiff was *disciplined* because of his espousal of such theories in the workplace. Rather, she stated that at the time of Plaintiff’s suspension, he was informed “that the issue was not the religious nature of his book, but the fact that he was espousing theories in the workplace about certain groups of people that were in conflict with the City’s nondiscrimination policy.” (ATT, Ex. 83). Accordingly, Torres’ statement merely refers to the fact that the City informed Plaintiff that his distribution of the book to his subordinates in the workplace raised Title VII concerns for the City, leading to the Law Department’s Title VII investigation which followed. Moreover, as Anne Torres was not the decision-maker with respect to Plaintiff’s suspension or termination, this fact is immaterial to Plaintiff’s claims. (ATT, 100:17-21).

55. Chief Cochran’s book, which was written to help Christian men fulfill God’s purpose for their lives, was a direct outgrowth of a Bible study he undertook at Elizabeth Baptist Church. *See* Am. Comp. ¶¶83-89, 93-94; Cochran Dep. 143:1-3, 106-07; Pl.’s Ex. 11 at vii.

RESPONSE: Admitted.

56. Chief Cochran later shared lessons from his book with co-religionists in the broader Christian community, at the request of other churches and religious organizations. *See* Cochran Dep. 255:2-256:6, 274-78; Defs.’ Ex. 52.

RESPONSE: Admitted.

57. The book was made available online at Amazon and Barnes & Noble because that was the most efficient “mechanism[] of distributing the book to Christian men.” Cochran Dep. 80:8-18.

RESPONSE: Admitted.

58. Chief Cochran did not write the book in order to make a profit. *Id.*

RESPONSE: Admitted. However, 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).

59. Defendants “did not know” whether Chief Cochran profited from the book, only that it was “for sale.” Yancy Dep. 51:16-52:5; *see also id.* at 52:1-2 (testifying “Perhaps he donated it. I don’t know.”).

RESPONSE: Admitted. Defendants were aware that the book was for sale at the time Mayor Reed suspended him. (YYT, 44:3-7; KRT, 102:1-4).

Respectfully submitted this 20th day of July, 2017.

s/Kathryn J. Hinton

David E. Gevertz
GA Bar No. 292430
Kathryn J. Hinton
GA Bar No. 542930
Hannah Jarrells
GA Bar No. 784478

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khinton@bakerdonelson.com

Attorneys for Defendants

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' Response to Plaintiff's Statement of Additional Disputed Facts* 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 Stephen Borders
(relevant portions attached)

KELVIN J. COCHRAN vs. CITY OF ATLANTA, ET AL.
Stephen D. Borders on 02/17/2017

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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
STEPHEN D. BORDERS

FEBRUARY 17, 2017
2:01 P.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

KELVIN J. COCHRAN vs. CITY OF ATLANTA, ET AL.
Stephen D. Borders on 02/17/2017

1 A. Not because of his views, no. We had
2 different views on other things when it came to the
3 fire department and how to address issues, but his
4 personal beliefs were never an issue when it came to
5 official fire department capacity.

6 Q. But you wouldn't deny that he was fit for
7 leadership as a fire chief up until the point you
8 heard -- you read about the book?

9 A. Yes. And he had the qualifications, and
10 yes, he was able to be fire chief.

11 Q. So even disagreeing with the views that
12 you read in the book from those excerpts, if Chief
13 had come back, could you have worked under him?

14 A. I wouldn't have had a choice. That's
15 beyond my control on who the fire chief is, and I
16 didn't -- I didn't have a problem with his beliefs.
17 I didn't have a problem with anyone else's beliefs,
18 but there was -- there's an issue of -- there's some
19 things that you don't officially talk about and put
20 out that this is -- and I was concerned about the
21 members being represented fairly when you had someone
22 who felt like we crossed the line of expressing that
23 they're in this position, and this is how they
24 believe, and this is how they believe in that
25 capacity of their position.

1 It wasn't that they were -- we heard this
2 in a church, that this is how they believe on Sunday.
3 They put a different uniform on, they come in, and
4 they talk about this on Monday. We were afraid that
5 there was a line that either had been crossed or was
6 going to be crossed of that there would be -- the
7 beliefs from Sunday would carry over while you're in
8 uniform, and that was our concern as the union.

9 Q. And that was even though -- like I said,
10 assuming the chief hadn't changed his views, there
11 was no indication that he couldn't operate as fire
12 chief or didn't operate respecting everyone beliefs,
13 serving everyone?

14 A. There were no specific --

15 MS. HINTON: Object to the form.

16 THE WITNESS: There were no specific
17 incidents, no, but there was also -- there
18 had never been -- I think it was widely
19 known Chief Cochran's beliefs, but there
20 had never been an explicit announcement of,
21 this is where I stand in uniform. It's not
22 this is where I stand outside of the
23 capacity.

24 And that was our fear, that we may
25 have crossed that line and that may affect

Exhibit B

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

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

1 Q. I'll ask that after every break.

2 A. Sure.

3 (Exhibit 10 was marked for
4 identification.)

5 BY MR. GEVERTZ:

6 Q. Okay. The next document I'm going to show
7 you is Exhibit 10, and I specifically want to draw
8 your attention -- this is a part of the Atlanta's
9 ordinances, and it's part of this litigation. I'm
10 going to ask you -- you're free to review this to
11 your heart's content, but I'm only going to ask you
12 about a part of page 19, and specifically subsection
13 D, which is towards the middle of the page. With me?

14 A. Yes, sir.

15 Q. Have you had occasion to review this
16 ordinance or this portion of the ordinance before?

17 A. Yes, sir.

18 Q. A couple of questions to ask you. As the
19 Atlanta fire chief, were you a commissioner?

20 A. Yes.

21 Q. And you were also a department head,
22 correct?

23 A. Well, yes.

24 Q. Were you a bureau director?

25 A. Well, the terms, as I understand it,

1 commissioner and department head was used
2 interchangeably within the City of Atlanta.

3 Q. Okay. What about bureau director? Did
4 you understand you were --

5 A. That would have been a lower level.

6 Q. A lower level than you were?

7 A. Yes.

8 Q. Having reviewed this portion of this
9 ordinance before, did you understand that this
10 applied to you?

11 A. Yes.

12 Q. Did you understand this ordinance to
13 prevent you from engaging in private employment for
14 money unless you met certain requirements?

15 A. Yes, to my understanding; and this is the
16 clause that actually provides for speaking
17 engagements. And there was also a requirement that
18 at the end of the year, the ethics department would
19 send out this notice for all employees who had -- I
20 forget what it was called -- that if you had received
21 any compensation, that you just cite the agencies,
22 not the dollar amount.

23 Q. Okay.

24 A. And I complied with that every year.

25 Q. Yes, sir. So in short, since it sounds as

1 if you're familiar with this, let me ask you if this
2 was your understanding, and tell me yes or no. That
3 you were not allowed to engage in private employment
4 for money, but if you got prior written approval from
5 the board of ethics, you could. However, this didn't
6 apply to specific speaking engagements or
7 participation in conferences or professional panels
8 so long as you financially disclosed any money that
9 you received from them?

10 A. That's correct.

11 Q. Did I misstate any of that, to the best of
12 your understanding?

13 A. To the best of my understanding, no.

14 Q. How did this ordinance and its application
15 to you -- strike that.

16 How did you first come to understand that
17 this ordinance applied to you?

18 A. It would have been under Mayor Shirley
19 Franklin, and in further conversations with
20 Ms. Looney and Greg Giornelli. I recall actually
21 discussing with them that this is, you know, ongoing
22 that I get these requests for conferences. And my
23 understanding of their response is as long as it is
24 related to speaking engagement and training --
25 training, then it's permissible.

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 are too many Christian men who still feel that they
2 are condemned and deprived, which is what that word
3 "naked" -- I probably went into explaining to her
4 what I discovered about what that word "naked" meant,
5 condemned and deprived, and what I discovered that
6 "clothed" meant, redeemed and restored, and that
7 there are many Christian men who are saved, clothed
8 men, who are still acting like naked men, and that we
9 can't be the husbands and fathers and leaders we've
10 been called to be. And that was pretty much the
11 theme of the book, overcoming condemnation.

12 When I finished the explanation, she said,
13 "I would like to get a copy of that book when you are
14 finished." I do remember that.

15 The reference to six months later, I don't
16 recall, but what I do recall is when I was finishing
17 the book was the second time that we talked about the
18 book. I explained to her that I was almost done --

19 Q. Well, we'll get to that. I've got
20 another -- I've got another note to talk to you
21 about.

22 Have you now given me your best and
23 fullest recollection of everything that you and
24 Ms. Hickson said during that first conversation about
25 your book?

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 City of Atlanta management or the ethics board ever
2 inform you that they were troubled by the content or
3 the general theme of your book?

4 A. You know, over a year after it was
5 published, you know, when all this came about was the
6 first indication that I had heard that someone was
7 concerned about what I had wrote in the book.

8 Q. But prior to its publication, did you
9 receive any such message, explicitly or implicitly?

10 A. No, sir.

11 Q. Why did you call Ms. Hickson?

12 A. Because I just felt that she was the
13 appropriate person to talk to about, you know,
14 whether or not this was permissible. She was or
15 is -- well, was at the time, what I had deemed to be
16 the City's subject matter expert on ethics.

17 To put it in this way, it's common
18 practice for commissioners and department heads to
19 call whoever is the subject matter on an issue. If
20 I'm having a law issue, I'll call Cathy, and we talk
21 about it. We don't do e-mails. I don't document it.
22 Whatever she tells me, I take it and go with it
23 because she's the City attorney.

24 If I'm having a budget issue, I call the
25 CFO, Jim Beard at the time. Whatever counsel he

1 gives me, I believe he's basing it on policies,
2 procedures, rules, ordinances, and I go with what he
3 says. I don't write it down and document it.
4 Likewise, on HR issues and personnel issues I'm not
5 familiar with, I'll call Yvonne Yancy. She was the
6 commissioner at the time. So this was in the same
7 practice as those with Ms. Hickson.

8 Q. Is it consistent with the things that you
9 did in the HR realm, the financial realm, and the
10 legal realm?

11 A. Yes, sir.

12 Q. Did you feel that it was inappropriate or
13 burdensome for you to have to reach out to
14 Ms. Hickson to explain what you were contemplating?

15 A. No.

16 Q. Were you in any way -- did you in any way
17 chafe or feel offended by the prospect that you had
18 to consult with her before proceeding?

19 A. No.

20 Q. Thank you.

21 You've mentioned I think once or twice,
22 and certainly I've read it in your book, that you had
23 a target audience in mind with this writing?

24 A. Yes, sir.

25 Q. And can you in your own words describe who

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

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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?

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

Page 177

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 in Christ, period, that as a husband, as a father, as
2 a fire chief, as a preacher, as a deacon. In all of
3 the stations that I hold, roles that I hold in life,
4 it's the Christian core to glorify God in all that he
5 gives you to do.

6 Q. Does glorifying God mean living up to his
7 expectations?

8 A. Yes.

9 Q. Does it mean being clothed?

10 A. Yes, being clothed, that's a part of it.

11 Q. Does it mean helping to bring those who
12 you encounter into a state of being clothed?

13 A. Yes, in -- yes, in certain contexts, it
14 does.

15 Q. I'm through with this page. Thank you.

16 In the book there's a section entitled,
17 "You need to talk to my husband." And in it you
18 begin by asking the hypothetical question what would
19 have happened if rather than responding to the
20 serpent to the Garden of Eden, Eve had said instead,
21 you need to talk to my husband. You with me so far?

22 A. Yes.

23 Q. I haven't misinterpreted it so far?

24 A. No.

25 Q. And you go on to postulate -- to

1 hypothesize that if that had happened, then there
2 would not have been a fall from grace; is that
3 correct?

4 A. Yes.

5 Q. And am I correct in understanding that the
6 reason that you don't believe that Adam and Eve would
7 have been kicked out of the Garden of Eden is because
8 Adam would have felt empowered and emboldened enough
9 by Eve referring the conversation to him to serve as
10 his protector -- as her protector?

11 A. The intent behind that was to demonstrate
12 that the decision that was made was going to impact
13 their entire family. At the time, it was just the
14 two of them, but that the power of collaboration
15 between Adam and Eve would have put them in a
16 position to making a better choice.

17 The whole spirit behind, you need to talk
18 to my husband is, in the role of the family, when
19 there's a husband and a wife and children, if God
20 blesses them to have children, on decisions that
21 impact the entire household, there should be
22 collaboration between a husband and a wife, but
23 according to the structure of God and the family, the
24 husband has a final say.

25 In the book of Ephesians it talks about

1 taking place before a final decision was made.

2 That's the intent behind that.

3 Q. Even if you disagree with my
4 interpretation as being reasonable, can we agree that
5 the concept of collaboration of Eve and Adam jointly
6 reaching a decision does not appear in your book?

7 A. I can't say that I do, because, you know,
8 again, I was a Christian man writing this book to
9 Christian men, who I had the assumption that they
10 understood the fundamentals of, you know, family from
11 what took place in the beginning in that whole
12 Genesis Chapter one, Chapter two context, and that
13 they would understand Biblical principles of
14 families, heads of households, wives as the helpmate,
15 Jesus's analogy that a man should love his wife as
16 Christ loves the church and gave himself for her. I
17 drew those conclusions in the context of, you know,
18 understanding or someone would understand that need
19 for collaboration.

20 Q. Okay. With that in mind then, let me
21 follow up on what you've just said. If I am not
22 clothed, and I am not familiar with the gospel and
23 teachings, do you believe that you wrote enough in
24 here for me to conclude that this is about
25 collaboration as opposed to deference, if I lacked

1 the context?

2 A. Without the foundation of that Biblical
3 knowledge and those Biblical principles, you know,
4 it's quite possibly that you could. But I mean,
5 that's a hard scenario to just pinpoint on what one
6 reasonable person, it's just -- it's hard to apply
7 that to every person, every time in the scenario
8 you've given.

9 Q. Okay. Let me change my scenario a bit.
10 Were you aware that your book, or at least portions
11 of your book, ultimately made its way into the hands
12 and readership of people who lacked the context of
13 your target audience?

14 A. Yes.

15 Q. Lacking that context, even though it was
16 not your intent, can you see how those people
17 reasonably could have interpreted this section of
18 your book as talking about deference as opposed to
19 collaboration?

20 MR. THERIOT: Objection. Asked and
21 answered.

22 THE WITNESS: So -- and I'm not
23 trying to be evasive, but in the
24 generalities that you speak, people that
25 don't have a foundation for that context

1 could go either way. I mean, some could,
2 some could not. I guess that's the most
3 fairest way I could answer your question.

4 BY MR. GEVERTZ:

5 Q. Okay. Can we agree that having the
6 context of a Christian man, someone learned in
7 Christianity would be necessary to appropriately
8 interpret what you're writing?

9 A. They would be best suited to understand
10 the role of husbands and wives and family to
11 understand the fact that submitting yourselves to one
12 another, you know, husbands and wives in the role of
13 family, what the wife's role and the husband's role,
14 and that decisions that impact the family should be
15 discussed among the two.

16 Q. Separate question.

17 A. Yes.

18 Q. Nowhere in your book do I find a positive
19 reference to a woman as a role model. Do you
20 disagree with that assertion?

21 A. I can't recall off the top of my head, but
22 again, the book was written by a Christian man for
23 Christian men who struggle with issues of
24 condemnation. You know, I can't think of one. I'd
25 have to review the context of the entire book, but I

1 can't -- in talking about the roles of husbands and
2 family, which I think I've reached that and certainly
3 talked about honoring wives and women in the context
4 of family.

5 Q. Let me be clear. I'm not suggesting that
6 you are suggesting that women are not germane to
7 Christianity, but in the examples that you raise in
8 your book of women, contemporary women, I see
9 references to women who are temptresses. I see
10 reference -- or could be. I see references to women
11 who can lead men astray. I see references to women
12 who display or are capable of a number of vices, but
13 I don't see any reference to a virtuous woman or a
14 woman exercising virtue. Can you -- can you tell me
15 where that appears in your book?

16 A. Because men are not struggling in those
17 areas, who have women that are virtuous women, you
18 know, really are not -- is really not the content or
19 topic subject matter. Condemnation deals with
20 categories that men actually wrestle with, and that
21 there are many Christian men who have women issues,
22 issues with women. And so it's pointing out those
23 particular challenges that men have with women.

24 Q. I think what I hear you saying in so many
25 words is I don't disagree with you, but that's not

1 the purpose of my book.

2 A. It wasn't the purpose of the book.

3 Q. In order to glorify God, one must be
4 clothed; do you agree?

5 A. Well, to glorify God is a person who
6 acknowledges God as God and who acknowledges Jesus
7 Christ as Savior and Lord and commits their life to
8 pursuing his principles.

9 Q. Well, I agree -- I understand everything
10 you've said. So to close the circle then, it seems
11 as if you must be clothed in order to glorify God.
12 You can't be naked and glorify God?

13 A. Not being naked. Condemned and deprived
14 does not glorify God.

15 Q. In fact, if you were naked, you would be
16 doing the opposite, whatever that is, of glorifying
17 God, correct?

18 A. Yes.

19 Q. Glorifying the devil perhaps or sin?

20 A. Not necessarily. God has, according to
21 the Scripture, compassion on the naked. I mean, he
22 has compassion and desires for all the naked to be
23 clothed, using the context -- using those terms in
24 the context of the book, so he's not discompassionate
25 towards the naked.

1 Q. No. I'm sorry if I misspoke. That wasn't
2 my intent. I was instead trying to try see if we
3 could agree that if you were naked, you were the
4 opposite of acting in a Godly fashion; that you were
5 instead celebrating or living in sin.

6 A. That's one context of that description of
7 nakedness, yes, sir.

8 (Exhibit 36 was marked for
9 identification.)

10 BY MR. GEVERTZ:

11 Q. I'm showing you next Exhibit 36, which is
12 another portion from your book, sir. And I ask you
13 to turn, please, to page 82. "Uncleanliness," you
14 write, "is the opposite of purity," and it includes,
15 among other things, homosexuality, lesbianism -- is
16 it pederasty?

17 A. Pederasty.

18 Q. Which I understand is a specific type of
19 pedophilia between a man and a boy?

20 A. Yes. Well, adults and children.

21 Q. Bestiality and all other forms of sexual
22 perversion. Are naked people unclean?

23 A. You know, you can't take this section of
24 the book and single out one. This is not -- this was
25 not written intended to single out one sin or one

1 that may be affected by these sins.

2 Q. But naked people by their very definition
3 are unclean, right?

4 A. Well, yes. It just depends on the extent
5 that -- there can be -- let me just say it this way.
6 According to the Scripture, there can be a person who
7 has accepted Christ as their Savior and their Lord
8 and still have issues with these 17 works of the
9 flesh.

10 Q. Understood. I'm asking the opposite
11 question.

12 A. The opposite of that -- I wanted to put
13 the answer to your question in context. So because
14 of that, because that's the purpose that Christ came,
15 to deliver us from our carnal nature, to deliver us
16 from these works of the flesh, a person who rejects
17 him or does not accept him to be their covering, to
18 be their clothing, is naked.

19 Q. Okay. If I understand what you just told
20 me, clothed people can sin?

21 A. Yes.

22 Q. Clothed people can be unclean?

23 A. Yes.

24 Q. Are naked people necessarily unclean?

25 A. Naked in the context of the definitions

1 transgression, we have forgiveness from Him.

2 Naked people are people who may be on this
3 list who does not know Christ or acknowledge Him as
4 their Savior and Lord, and that's the distinction
5 between the two.

6 Q. So you can't be an actively practicing
7 pedophile and still be clothed?

8 A. Right. It goes against the principles.

9 Q. You have to effectively be recovering, for
10 lack of a better word?

11 A. That's a good way to put it.

12 Q. Similarly, you cannot be a actively
13 practicing homosexual and be clothed?

14 A. According to my understanding of the
15 Scripture.

16 Q. But if that is your orientation or
17 proclivity, or whatever word that you want to use,
18 and you are seeking to change that about yourself,
19 working, recovering, then you can be clothed?

20 A. Yes.

21 Q. Could I say the same thing about alcohol
22 abuse?

23 A. Yes.

24 Q. If I am an alcoholic but seeking through
25 Alcoholics Anonymous to rid myself of that dependency

1 or struggle with that dependency, I can be clothed,
2 but if I'm an unrepentant or continued alcoholic, I
3 must by that definition be naked?

4 A. Yes.

5 Q. Can I be a murderer and be clothed?

6 A. If the murderer has repented of the murder
7 and seeks to not murder anymore, has confessed Christ
8 as his Savior and Lord, he can be clothed. The
9 challenge with using these singular items on this
10 list is that multiple of these 17 applies to all of
11 humanity, and the difference is their confession of
12 faith --

13 Q. I get it.

14 A. -- and their desire to want to repent,
15 which is to turn away from those behaviors that's on
16 this list.

17 Q. By extension, if I am Buddhist or Muslim
18 or Jewish and I am undergoing religious conversion, I
19 can -- I can be clothed?

20 A. Yes.

21 Q. But if I am any of those things and am not
22 seeking to convert, I must by definition be naked?

23 A. According to my understanding of the
24 Scripture, yes.

25 Q. One more hypothetical to run by you. You

1 write that "Since God made sex for procreation, he
2 only intended it to be between a man and a woman,"
3 correct?

4 A. Yes.

5 Q. And I'm sorry, I'm now on the top of page
6 85.

7 "Because procreation is a spiritual act,
8 God intended it only to occur in the institution of
9 holy matrimony or marriage," correct?

10 A. Yes.

11 Q. Would you agree with me that it is well
12 known, at least within Atlanta, that the mayor and
13 his wife conceived their child out of wedlock?

14 A. Well, no. That one gets by me.

15 Q. Well, you know that.

16 A. No, I did not.

17 Q. Notwithstanding all the coverage about
18 their engagement?

19 A. No, sir.

20 Q. You did not know that?

21 A. No, sir.

22 Q. Well, accept for a moment the truth of
23 that statement, please. Would that mean that you
24 were calling the mayor naked?

25 A. No. One act -- one act does not

1 30-day suspension, you know, having the full
2 expectation of returning to work. After I returned,
3 they did not present to me any speci -- other than
4 having a cause of action, any specifics as to, you
5 know, what work rule or policies that I had violated.

6 Q. Was there any avenue for you to grieve or
7 appeal this decision, to your knowledge?

8 A. No.

9 Q. Was there a discussion with either
10 Ms. Yancy, Mr. Godfrey, or Ms. Byrd about how you
11 ought to conduct yourself during the course of that
12 30-day suspension?

13 A. The only guidance I received in that
14 regard was from Candace Byrd, who said that do not
15 conduct any media interviews while you're on your
16 30-day suspension.

17 Q. Any media interviews on any subject or
18 about your employment or about the book or --

19 A. About the entire circumstances regarding
20 my 30-day suspension in the concept of do not respond
21 to any -- my interpretation.

22 Q. Yes, sir.

23 A. They never gave me a letter or anything.
24 My interpretation was, don't hold any press
25 conferences and don't respond to any requests for

1 interviews. That was the context of the guidance,
2 and that was the only guidance. My response to that
3 is I would be honored to do so, no problem. Would
4 you please send some media advisory out so that they
5 would understand that and I wouldn't have to continue
6 to deal with denying requests. And to my knowledge,
7 that was not done.

8 Q. Let me make sure I've understood
9 everything you've told me. Ms. Byrd told you in so
10 many words that during the 30 days, you were not to
11 hold a press conference or engage the media with
12 respect to the fact that you were under this
13 suspension. You requested that they in turn send out
14 some sort of press release so that people would know
15 that you were not being rude or unresponsive.

16 A. Yes.

17 Q. I got that right?

18 A. Yes.

19 Q. And to the best of your knowledge, no such
20 release or dissemination of that information was
21 provided?

22 A. That's correct.

23 Q. Were there consequently requests to have
24 you comment on your employment status from the media?

25 A. There were no requests for interviews, and

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 Q. Did people express to you hostility about
2 the mayor's decision after that editorial was
3 published?

4 A. Explain your question.

5 Q. Yes, sir. What sort of feedback did you
6 receive as a result of this editorial?

7 A. I cannot recall. I can't. My
8 understanding of it is it ended up on the Georgia
9 Baptist Convention's website. They actually posted
10 the testimony I gave on the website, but that's the
11 extent that I can recall.

12 Q. But what about the editorial?

13 A. About the editorial, I --

14 Q. Yeah. In other words, I guess in so many
15 words I'm asking you this. Did the publication of
16 that editorial cool down the topic of your
17 suspension?

18 A. I have no pulse on that. I completely
19 unplugged myself from actually watching and following
20 the media because it was having such a distressful
21 impact on me and my family emotionally, to where we
22 realized after the second day that it's best for us
23 to not really follow or look at newscasts whatsoever.

24 Q. In your comments to the Georgia Baptist
25 Convention, do you recall saying, "Other than the

1 \$14,000 that I won't get, it's really a good
2 blessing. Had I gone to Mayor Reed and asked him for
3 a 30-day vacation, he would have flat out denied me
4 that opportunity"?

5 A. I could have possibly said that in my
6 test -- when I was sharing my testimony.

7 Q. And to be clear, you understood that this
8 was being recorded. Your comments were being
9 recorded for later dissemination, right?

10 A. I didn't understand that during the
11 testimony, no. I discovered it afterwards.

12 Q. Did you do anything to suppress its
13 distribution?

14 A. You know, sharing a testimony is not
15 something that I ever thought should be censored. I
16 mean, it was in the context of sharing my testimony.
17 That was the extent. The purpose of my invitation to
18 that executive committee was to share my testimony,
19 and that's what I was actually doing was sharing my
20 testimony, which is a common Christian practice
21 before a group of Christians, and that was a part of
22 my testimony.

23 Q. But this, and specifically the commentary
24 I just quoted, was about your job status?

25 A. It was not a press conference, and it was

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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Kelvin J. Cochran on 02/10/2017

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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 THE VIDEOGRAPHER: This begins disk
2 number five in the video deposition of
3 Kelvin Cochran. We're back on the record
4 at 4:21 p.m.

5 BY MR. GEVERTZ:

6 Q. Mr. Cochran, how are you feeling?

7 A. Good.

8 Q. Able to continue?

9 A. Yes.

10 Q. The speech to the Georgia Baptist
11 Convention was not the only public speech that you
12 gave during the course of your suspension, was it?

13 A. Actually, I gave testimony I believe on
14 two other occasions.

15 Q. When were those other two? Excuse me,
16 where were those other two?

17 A. First Baptist Church, Newnan, Georgia, and
18 I believe it's called Liberty Baptist Church
19 somewhere in north Georgia.

20 Q. And those were both during the 30-day
21 suspension?

22 A. Yes, sir.

23 Q. During your speech at the First Bap -- is
24 the First -- yeah, the First Baptist Church in
25 Newnan, did you say at the beginning of your

1 testimony that "The invitation to speak was extended
2 based on a set of circumstances that I currently find
3 myself in while serving as fire chief in the City of
4 Atlanta"?

5 A. Yes.

6 Q. Did you go on to say that you wanted to
7 tell the congregation a little bit about a book that
8 you wrote that "Because of some of the content of
9 that book, I found myself in this situation of being
10 laid off for 30 days suspension without pay"?

11 A. If that's a part of that transcript, then
12 I can't deny it.

13 Q. Does it sound consistent with your memory?

14 A. Yes.

15 Q. Towards the end of that same speech,
16 testimony, did you say, "In the book I deal with
17 sexuality as God intended it. God intended for a man
18 and a woman to be married and to have children to
19 populate the earth, and that any sex outside of
20 marriage and outside of a man and a woman, outside of
21 holy matrimony is against the word of God, and for
22 that stand, I've been laid offer for 30 days without
23 pay"?

24 A. Well, if it's a part of that transcript.
25 Do you have an additional copy of that? It'd kind of

1 make this exchange a lot easier.

2 Q. Well, all I'm going to do is show you my
3 own transcript of what I think you said and my
4 question is --

5 A. Okay, yeah. And again, and I'm only
6 asking you that because I can't remember verbatim
7 what I said, but if that is a transcript of that
8 speech, then that would help me to recall better.

9 Q. Well, I'm happy to share it with you, but
10 it doesn't have much evidentiary value.

11 A. Okay.

12 (Exhibits 52 and 53 were marked for
13 identification.)

14 BY MR. GEVERTZ:

15 Q. So this is Exhibit 52.

16 MR. CORTMAN: For the record, what is
17 it?

18 BY MR. GEVERTZ:

19 Q. And I'm going to ask you to turn to what's
20 marked as page six of my transcript, towards the
21 back.

22 MR. CORTMAN: And this is a
23 transcript of what?

24 MR. GEVERTZ: Of PL 002487.

25 THE WITNESS: Is this the sermon that

1 I preached at First Baptist Newnan?

2 BY MR. GEVERTZ:

3 Q. It's the transcript of the audio that you
4 were provided, yes, sir.

5 A. Okay.

6 Q. And so my question is, if you look at
7 page six toward the middle of the page, can you
8 confirm for me that your reference and representation
9 about the circumstances of your suspension were
10 accurately transcribed, or at least consistent with
11 your memory of giving this speech?

12 A. Yes. Can you point me to the specific
13 line that you had read?

14 Q. Beginning here (indicating).

15 A. Okay. Yes.

16 Q. Thank you.

17 A. And I was simply explaining to them that
18 this book is not about sex and sexuality. I was
19 explaining to them what the theme of the book
20 actually was about.

21 Q. And you went beyond that to say that that
22 was the reason that you had been laid off for 30 days
23 without pay, correct?

24 A. Yes, because that's what was told me in
25 the meeting, the suspension meeting, and that's what

ARTICLE VII. - OFFICERS AND EMPLOYEES^[16]

Footnotes:

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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.

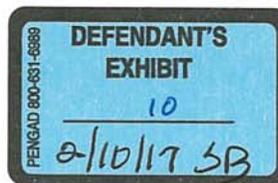
Sworn to and subscribed before me this _____ day of _____.

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.

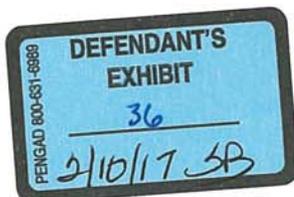
Secs. 2-826—2-840. - Reserved.

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,



godly applications of the word “lust” although these applications are rarely if ever described as lust.

Synonyms of the word “lust” used in godly applications are desire and pleasure. This kind of lust is associated with God’s passionate, overwhelming desire to please his children (Psalm 149:4; Psalm 35:27b) and a clothed man’s passionate, overwhelming desire to please God (Psalm 19:7-14). Consequently, there are sinful applications of the word “lust” and there are righteous applications of the word “lust”.

God’s desire is for a man to enjoy life and to have an abundant life. Here is a news flash from heaven. God’s desire is for a man to enjoy sex, but according to his purpose and statutes. God wants a man to be rich, but according to his plan and purpose. God wants a man to have prestige, but according to his plan and for his glory. God does not want a man to be sexually depraved, broke and insignificant. In his presence is fullness of joy (we call it ecstasy), and at his right hand there are pleasures forevermore (Psalm 16:11). But apart from a relationship with God, a man’s motives are driven by self-pleasure, self-aggrandizement, and self-exaltation.

A naked man’s motives are driven by sensuality—lust of the flesh, lust of the eyes and the pride of life; not spirituality—love, joy, peace, patience, kindness, gentleness, faithfulness, goodness and self-control. Sensuality drives the personality of a naked man. Spirituality drives the personality of a clothed man.

All lusts both sinful and righteous originate in the heart. We are born with the capacity of imaginations. As we get older, our sight, smell, touch, hearing and tastes are exposed to things

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;

uncurbed rivalry spirit in religion, business, society, and other fields of endeavor; fervent minded; envy; jealousy; and indignation.

Wrath – indignation and fierceness; turbulent passions; domestic and civil turmoils; rage; determined and lasting anger.

Strife – contention; disputing; jangling; strife about words; angry contentions; contest for superiority or advantage; strenuous endeavor to equal or pay back in kind the wrongs done to one.

Seditious – divisions; parties and factions; popular disorder; stirring up strife in religion, government, home or any other place.

Heresies – a doctrinal view or belief at variance with the recognized and accepted tenets of a system, church, or party. It takes on an evil meaning when sound doctrine is rejected and fallacy is accepted and taught in preference to truth. Heretic-a person who holds a heresy, a dissenter, a nonconformist.

Envy – Pain, ill-will, and jealousy at the good fortune or blessing of another; the most base of all degrading and disgraceful passions.

Murders – To kill; to spoil or mar the happiness of another; hatred.

Drunkenness – Living intoxicated; a slave to drink; drinking bouts.

Revelling – Rioting; lascivious and boisterous feasting, with obscene music, and other sinful activities; pleasures; carousing.

“But chiefly them that walk after the flesh in the lust of uncleanness, and despise government; presumptuous are they, self-willed, they are not afraid to speak evil of dignities.” 2 Peter 2:10

Every one of these infirmities of the flesh are rooted in deprivation—the overwhelming sense of not having enough, consequently engaging in carnal, man-made solutions to fill the void of emptiness and lack. Notice the top four matters of lust of the flesh are related to sex. God’s plan and purpose for sex is always enough. Sex outside of God’s plan and purpose always leaves a man empty, causing him to pursue greater frequency and variety to be sexually fulfilled. He never has enough.

How Much Sex is Enough

So how much sex is enough? To answer the question, let’s start with the fundamentals. God created sex. His purpose for sex was in accordance with his plan for populating the earth. Because of the number of people required to fill his population agenda in the beginning and across centuries and generations, he intended it to be something that both Adam and Eve would enjoy immensely and frequently. It takes several attempts for conception to occur in some cases. As such, God wanted each effort to be an enjoyable experience so Adam and Eve would keep trying—over and over and over again!

Additionally, since God made sex for procreation, he only intended it to be between a man and a woman. Since procreation

is a spiritual act between carnal beings, God intended it to occur only in the institution of holy matrimony—marriage.

During the rigors and pain of childbirth women often conclude they will never go through the experience again. In other words, she vows she will never have sex again. Thank goodness those thoughts are only temporary. Subsequently, soon after cradling the bundle of joy in her arms, within a short period of time the delight of motherhood gives way to the ecstasy of what made it all possible. Her desire for sexual intimacy is restored and the procreative process begins again.

In holy matrimony, even after a couple has met their charge to be fruitful and will have no more children, the desire for sexual intimacy still exists. So they continue to affectionately enjoy each other in ways that bring one another pleasure, honoring God without defiling their bodies and until death breaks the holy union. This is the lifestyle of sex intended by the Creator. This is the kind of sex that fulfills a man—a clothed man.

Sexual acts pursued for purposes other than procreation and marital pleasure in holy matrimony is the sex life of a naked man. When men are unrestrained in their quest for sex outside of God's purpose they will never be fulfilled. Naked men refuse to give in, so they pursue sexual fulfillment through multiple partners, with the opposite sex, same sex and sex outside of marriage and many other vile, vulgar and inappropriate ways which defile their body-temple and dishonor God. This is the kind of sex that leaves a man continually empty—the sex life of a naked man. Who told you that you were naked?

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.

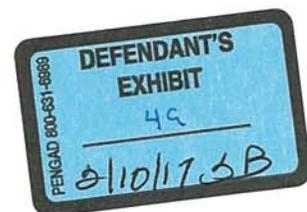
Please remove the statements regarding the ethics office altogether.

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:

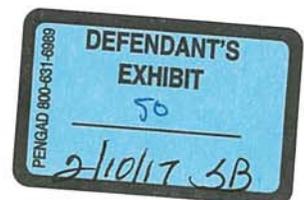
FYI

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:

- a. Mark will format and put on letterhead to appear as official article from Christian Index / GA Baptist
 - b. Mark will PDF and secure document before posting and distribution
 - c. A hard copy without hyperlink alias (web address will be typed out) will be created for printing and used for sending via US Mail.
6. Social Media:
- a. Create buzz via Facebook, Twitter and LinkedIn
 - b. Push out info on book and Amazon link
 - c. Ask GA Baptists to read the book; provide reviews on Amazon
7. Dr. White's letter to Pastors:
- a. Email letter/blast in process; will review and optimize
 - b. Hard copy without hyperlink alias (web address will be typed out) will be created for US Mail (copy of press release will be included)
8. Additional buzz:
- a. Suggest providing a simple email draft/summary and ask Ministry leaders/Specialists to send out to contacts (Men's ministry contacts, SS teachers, others, etc.); not an official blast but more of a peer-to-peer Hey did you hear about this
9. Public Affairs Mike Griffin:
- a. Unsure how you will distribute once you receive final versions and all goes live. -Mark

I just want to make sure all components are telling the same story and that the timing is lined up for maximum effect.

Please keep me in the email loop for communication on this topic among this group.

Thanks.

Mark

Mark Strange

Specialist, Communication Services

Email: mstrange@gabaptist.org

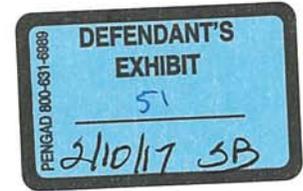
Phone: 770.936.5233

Web: www.gabaptist.org

GBCLogo-NEW

This email has been scanned for email related threats and delivered safely by Mimecast.
For more information please visit <http://www.mimecast.com>

<image003.jpg>



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:

>>>

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>>>

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>>>

>>>

>>> Sent from my iPad

Exhibit C

"Who Told You You were Naked"

(p. 116)

fine suits. The men could not figure it out, so they coerced his fiancé that Samson would give her the answer. After seven days of crying and nagging, Samson gave in and gave her the answer. His weakness for whining, nagging women would ultimately cost his destiny. He lost the bet because of her.

In his wrath he killed thirty innocent men, gave their clothes to settle the bet and went back home to live with his mama and daddy—angry. Because of his abrupt and brash departure, his father-in-law gave his wife to his best man. In Chapter 15, he returns to reclaim his wife, and discovered she was given to his best man. Samson went into a rage and burned all the fields of the crop of the Philistines. When the Philistines found out it was Samson's doing and why he did it, they burned his wife and her father to death. In his wrath of revenge, Samson killed a thousand Philistines with the jawbone of an ass.

Though he was anointed, he could not control his temperament nor his temptations. His infirmities dominated his character. Satan is not intimidated by your anointing if he has control of your character. In Chapter 16 it does not get any better. Samson gets involved with a prostitute in Gaza. Because his enemies knew his habits and where he hung out, they laid an ambush for him there. He escaped by lifting the entire gate of the city off its brackets.

He now falls in love with Delilah—another Philistine woman. His temptation and depravity kept taking him back to the same kind of women, no matter how much pain and loss he had experienced before. Delilah was also a nagger, she was devious and she used sex as a manipulative weapon.

Exhibit D

Deposition Transcript of Mayor Kasim Reed
and its exhibit
(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 A. I did not give them specifics about what
2 conversation to have with him.

3 Q. Did you tell them to tell him not to talk
4 to the press?

5 A. I definitely asked that during the
6 investigation that he not communicate about this
7 employment matter.

8 Q. And that was the phrase you used?

9 A. Definitely.

10 Q. Okay. As far as you know, is that what
11 they told him?

12 A. As far as I know.

13 Q. Do you have any indication -- is there
14 anything in writing about what they told him in the
15 meeting that they had with him?

16 A. Not that I have in my possession.

17 Q. Did you ever discuss what -- how that
18 meeting went that they had with Chief Cochran where
19 they informed him of his suspension with Ms. Yancy or
20 Mr. Geisler?

21 A. No. I didn't discuss it, because I don't
22 think anyone enjoys being suspended.

23 Q. Right. Was the admonition not to -- I
24 don't want to misphrase your -- misquote you -- not
25 to do any communication; is that right?

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

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1 Q. So this, on November 24th, the day he was
2 suspended, was in response to some press that
3 occurred that day?

4 A. I don't recall what it was in response to.

5 Q. You say that, "I was surprised and
6 disappointed to learn of this book on Friday."

7 So it's your testimony that he -- that was
8 the first time you were aware of the book, was the
9 Friday before November 24th?

10 A. I testified --

11 MR. GEVERTZ: Object to the form.

12 THE WITNESS: -- that the first time
13 that I learned of the book was when
14 Yvonne Yancy walked in my office and talked
15 to me about it on whatever that day was, so
16 I'm not going to guess on the dates.

17 BY MR. THERIOT:

18 Q. All right.

19 A. But this is consistent with my testimony.
20 But I did not -- what I know is, is that the person
21 that walked in my office with the book with
22 highlighted sections was Yvonne Yancy. After I met
23 with Yvonne, I received a telephone call from
24 Councilmember Alex Wan. So that -- those were the
25 series of events that made me aware of this book.

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

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

KELVIN J. COCHRAN vs. CITY OF ATLANTA, ET AL.
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

Page 138

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

1 communications and calls to my home throughout the
2 holidays, included death threats, including calling
3 me the anti-Christ, including calling me a nigger and
4 other inflammatory comments that we got by the
5 thousands.

6 Q. How did those -- how did you receive
7 those? Were they texts, did you say?

8 A. No. I said that they were e-mails.

9 Q. E-mails?

10 A. More than --

11 Q. To which account?

12 A. To my city hall account. And phone calls
13 to my home.

14 Q. Phone calls to your home.

15 A. Phone calls to my home.

16 Q. Any idea how they got your home phone
17 number?

18 A. I have no idea.

19 MR. GEVERTZ: For the record, we
20 produced those 17,000 e-mails. I think
21 you've seen them.

22 THE WITNESS: We stopped counting at
23 10,000.

24 BY MR. THERIOT:

25 Q. Did you make any public statements during

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

1 the time of his suspension?

2 A. None that I recall.

3 Q. Other than the Facebook statement?

4 A. I would have to review the record. I
5 don't recall. I know that we had a press conference
6 after the event, because when you -- when you suspend
7 a person who is high profile as the chief of your
8 fire department, there is a role to play in assuring
9 the public that the fire department is going to
10 continue to run and operate.

11 And so the comments that I made reflected
12 the reality that we had to explain where the fire
13 chief was going to be for 30 days. I know you've got
14 important litigation, but I have a city to run. And
15 there was a role as mayor of the City of Atlanta of
16 letting the public know that we had an issue, that
17 the issue was being investigated, but that if you
18 call the fire department, we were going to continue
19 to respond.

20 Q. Did you respond to any of the Facebook
21 posts?

22 A. I don't recall.

23 Q. Okay. Are you aware of any other books
24 that Chief Cochran wrote?

25 A. I'm not aware. I was made aware in my

Regional Leadership

Regional Board Chair

Steven A. Pepper

Regional Director

Mark Moskowitz

National Leadership

National Chair

Barry Curtiss-Lusher

National Director

Abraham H. Foxman



December 22, 2014

The Honorable Kasim Reed
Mayor of Atlanta
2nd Floor, Atlanta City Hall
55 Trinity Avenue
Atlanta, GA 30303-3520

Dear Mayor Reed:

The Anti-Defamation League is one of the nation's leading civil rights and human relations agencies. For over 101 years, the ADL has devoted itself to combating anti-Semitism and all forms of prejudice and to securing justice and fair treatment for all people.

The Anti-Defamation League writes to share our perspective with you on Atlanta Fire Chief Cochran's recent book and on the issues it raises. Unfortunately, the Chief published his book without City leaders being aware of its content. We have serious concerns that the attitudes expressed in the book condemn homosexuality and reject, with very strong pejorative language, any faith other than Chief Cochran's brand of evangelical Christianity.

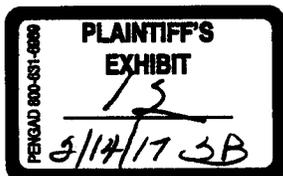
The issues at hand are not about Chief Cochran's religious freedom or free speech rights, though these are undoubtedly the issues you have heard the most about. As an organization, ADL strongly supports the right to religious freedom and freedom of speech. We respect every person's right to freely observe their faith and to express their views, but any cogent analysis of this situation requires that you look beyond just these issues. The Chief is the leader of the City of Atlanta Fire Department and a representative of a demographically diverse workforce and City. As such, the attitudes he has expressed contradict the value commitment to employees of respect, fairness and inclusion, and ultimately erode trust with employees and citizens of the City of Atlanta.

As the leader of the City of Atlanta Fire Department, the Chief must be a role model and representative of the City's nondiscrimination policy. The statements of personal belief contained in the book blatantly contradict that policy. With higher levels of authority and leadership, there are definite higher standards for behavior that must result in building trust and credibility. Top level organizational leaders must not indicate they favor one demographic group over another with their behavior and personal statements. This includes race, gender, sexual orientation, gender identity, religious and faith beliefs, and individuals who do not identify with any religion, as examples, all of which are specifically protected in the City's nondiscrimination policy.

Imagine a World Without Hate®

Southeast Region

One Securities Centre, 3490 Piedmont Road NE, Suite 610, Atlanta, GA 30305, T 404.262.3470 F 404.262.3548 www.adl.org



December 22, 2014
The Honorable Kasim Reed
Page 2 of 2

Due to the deep personal sentiments expressed in the book and the uncompromising nature in how he presented his beliefs and points of view, the Chief has irrevocably compromised his leadership position. It is difficult and unreasonable to believe the Chief can check his prejudices at the door and lead the City of Atlanta Fire Department without his decision-making, both overt and covert, being significantly influenced by these beliefs. This becomes even more evident when you review the Chief's post-suspension comments on the matter at hand.

If the Chief returns to his position, it is likely and understandable that City employees, both within and outside the City of Atlanta Fire Department, will not feel included and respected; and, particularly within the fire department, that they will have concerns and perceptions of a hostile work environment. They may also harbor fears of retaliation if they confront and express different viewpoints than those of the top person in the organizational position of power and authority. This is not only true for LGBT, non-Christian, and individuals who do not identify with any religion, but other Christian employees who do not adhere to the beliefs expressed by the Chief.

Finally, if the circumstance had to do with obvious expressions of racial or gender prejudice by an organizational leader, the situation would likely result in an immediate termination of that individual.

ADL is an organization that values inclusion and respect for all. We believe leaders must be role models in exemplifying these values. We encourage and support you in your continued investigation of this matter and believe the final resolution will be reflective of the highest standards of respect, fairness and inclusion of all employees and citizens of the City.

Sincerely,



Mark Moskowitz
Southeast Regional Director



Steven A. Pepper
Southeast Regional Board Chair

Exhibit E

Deposition Transcript of Nina Hickson and its
exhibit
(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 BY MR. WARDLOW:

2 Q. I'm going to have the court reporter set
3 in front of you what will be marked as Plaintiff's
4 Exhibit 23. This is a two-page document showing
5 handwritten notes. Is this your handwriting?

6 A. It is my handwriting, but these were two
7 separate documents. They were not together.

8 Q. So these two pages are your notes?

9 A. They are my notes. And then there's a
10 sticky note and that's a separate -- that would be a
11 third separate document.

12 Q. So this on the first page here --

13 A. Yes.

14 Q. -- it says, "T/C 10:34 a.m." It's dated
15 the 31st of October, 2012. Do you see that?

16 A. Yes.

17 Q. And I believe it says, "Advise regarding
18 non-city-related book he is authoring." Is that a
19 reference to Chief Cochran's a book?

20 A. That's a reference to a conversation I had
21 with Chief Cochran, yes.

22 Q. And that's the book entitled Who Told You
23 That You Were Naked?

24 A. No. No, because I didn't know -- I was
25 not given a title. What I was told was he -- there

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.

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

1 A. Uh-huh.

2 Q. Advice regarding the book.

3 A. Uh-huh.

4 Q. And why did you tell him to check back in
5 about six months?

6 A. I did not. He said he would check back in
7 six months.

8 Q. What did you tell him about the book?

9 A. I answered his question, which was whether
10 this was a matter that the ethics board would be
11 concerned with, yes. He says, well, it's not going
12 to happen anytime soon, and I'll check back with you
13 in six months.

14 But I interpreted the question as, is this
15 something that I would need to run by the ethics
16 board, that's the way I took it. Because he said it
17 was non-city related but it was on leadership.

18 Q. And so you advised him to --

19 A. I didn't advise him of anything other than
20 to say that this is an ethics matter. I
21 didn't -- you know, and he said, okay, I don't
22 think -- this is my memory, that he didn't think it
23 would be happening anytime soon and he would check
24 back with me in about six months.

25 Q. So you did not advise him that it's a

1 matter that he should bring to the ethics board?

2 MS. HINTON: Object to form.

3 THE WITNESS: No. I told him that it
4 was -- it was a matter that the ethics
5 board would be concerned with, but he
6 didn't -- the impression he gave me was
7 that this was something that he was
8 considering and is this something that
9 would come to the ethics board, that was
10 the question as I understood it.

11 I didn't understand that he already
12 had the book. I thought he was
13 contemplating writing the book, and it was
14 a book about leadership. That's all he
15 told me.

16 BY MR. WARDLOW:

17 Q. Do you recall any other details about this
18 first conversation on October 31st of 2012?

19 A. Just what I've told you.

20 Q. Turn to the second page of the notes, the
21 July 9th, 2013, notes. Tell me everything that you
22 recall about your discussion with Chief Cochran about
23 the book.

24 A. I just recall that I thought this was
25 related to his initial call about a leadership book,

1 A. Yes.

2 MS. HINTON: Object to form.

3 We've been going about an hour, so
4 whenever you want to take a break, we could
5 use one.

6 BY MR. WARDLOW:

7 Q. Do you recall Chief Cochran mentioning
8 that the book referred to in these -- in your notes
9 was a faith-based book for Christian -- for Christian
10 men?

11 A. Not at all.

12 Q. Do you recall asking him for a copy when
13 he was completed -- when the book was completed?

14 A. What I recall was running into him in the
15 atrium in city hall and saying to him, I look forward
16 to reading your book.

17 Q. And when was this approximately?

18 A. That I don't know.

19 Q. Do you know if it was after this second
20 note?

21 A. I would suspect it was, but I don't know
22 specifically. But I do recall saying that to him
23 based on my understanding it was a leadership book.

24 Q. Do you recall anything else about that
25 conversation in the atrium with Chief Cochran?

1 A. No, just -- I mean, it was a pleasant
2 conversation and just I look forward to reading his
3 book.

4 Q. And you said it probably occurred after
5 July 9th, 2013?

6 A. I said probably, but I don't know for
7 sure.

8 Q. Now, if you told someone that they needed
9 ethics board approval --

10 A. Uh-huh.

11 Q. -- for something --

12 A. Uh-huh.

13 Q. -- would your notes typically reflect
14 that?

15 A. I think they would, typically.

16 Q. Looking at the July 9th, 2013 notes where
17 it says "mentioning in book" --

18 A. Uh-huh.

19 Q. -- does that phrase jog your recollection
20 at all about the substance of the conversation you
21 had with Chief Cochran?

22 A. I mean, no more than what I've already
23 told you.

24 Q. Do you recall Chief Cochran discussing
25 whether he could mention the fact that he is the fire

1 chief of Atlanta -- was the fire chief of Atlanta in
2 the authorship portion of the book?

3 A. I don't recall that. It's possible that
4 he did. But I don't recall. That may be where that
5 note comes from, but I don't --

6 Q. So that could be what "mentioning in book"
7 means?

8 A. It could be. It could be.

9 Q. And that could be why you wrote
10 "Fire Chief Cochran"?

11 A. Well, no, I just would have -- that's the
12 way I would have referred to him.

13 Q. Do you remember at the time of the second
14 conversation whether the book was completed or almost
15 completed?

16 A. He never mentioned whether it was
17 completed or not. I was still under the impression
18 he was thinking about writing it. I had no idea
19 there was a -- if there was a completed book.

20 Q. At what point did you become aware the
21 book was near completion or completed?

22 A. When it hit the news.

23 Q. Were you aware that it was near completion
24 when you had a conversation in the atrium with
25 Chief Cochran?

31 Oct 2012

T/C 10:34 am

Address regarding non-city-related
book he is authoring.

Will check back w me in about
6 mos.

Left
message w
Bob Hodgney
c 10:48 a.
Mondy, 24 Nov 2014

PLAINTIFF'S
EXHIBIT
23
2/16/17 SB

2:22pm

9 July 2013

T/C Fire Chief Cochran -

mentoring in book

advice → Leadership Assoc.

Assoc.

MUM

get a percentage of profit

— told him to clean up
Mayer

— then get authority
for Board of Ethics

Exhibit F

Deposition Transcript of Anne Torres

(relevant portions attached)

KELVIN J. COCHRAN vs. CITY OF ATLANTA, ET AL.
Anne M. Torres on 02/22/2017

1 Q. Do you review any documents before you
2 spoke to Mr. Diamant?

3 A. No.

4 Q. Did you prepare any documents or notes
5 that you can recall?

6 A. I might have.

7 Q. Do you know whether those have been
8 produced by your counsel?

9 A. I mean, it looks like they're right
10 here --

11 Q. So you think --

12 A. -- in e-mail.

13 Q. -- you're the one that wrote this e-mail?

14 You also say here -- I'm reading the third
15 sentence -- "Aaron Diamant will be here at city hall
16 shortly to interview council members." Next
17 sentence, "I have denied their request to interview
18 Chief Cochran."

19 A. Uh-huh.

20 Q. Why did you deny their request to
21 interview Chief Cochran?

22 A. Because at the time when -- so if there is
23 an media inquiry that comes in, then one person is
24 delegated to speak on behalf of the administration.
25 At this point, Chief Cochran was still an employee,

KELVIN J. COCHRAN vs. CITY OF ATLANTA, ET AL.
Anne M. Torres on 02/22/2017

1 and I didn't feel like it was appropriate for him to
2 speak on a book that we didn't have any knowledge
3 about or didn't have any other further information
4 on, so I decided to speak only behalf of the
5 administration. It's not -- it's not out of
6 the -- it's not -- it's normal for me to make those
7 types of decisions on a daily basis.

8 Q. Do you recall what you said to
9 Mr. Diamant?

10 A. I don't remember.

11 Q. Looking at that e-mail right above that
12 from Ms. Yancy --

13 A. Uh-huh.

14 Q. -- at 10:12 --

15 A. Yes.

16 Q. -- she appears here to be responding to
17 some of the things you were planning on saying.

18 A. Yes.

19 Q. She said, "We've been told by employees it
20 was distributed in a command staff meeting."

21 A. Uh-huh.

22 Q. "I stopped investigating based on the
23 feedback meeting from last week."

24 A. Uh-huh.

25 Q. Were you part of that feedback meeting

KELVIN J. COCHRAN vs. CITY OF ATLANTA, ET AL.
Anne M. Torres on 02/22/2017

Page 100

1 A. Yes.

2 Q. Is that correct? What are you basing that
3 statement on?

4 A. Just an assumption, a recollection.

5 Q. Do you have a distinct memory of having a
6 conversation with the mayor in which he told you that
7 he received a copy of the book?

8 A. No.

9 Q. Okay. So you're assuming that may have
10 happened?

11 A. Yes.

12 Q. But you don't know either way?

13 A. Yes.

14 Q. Okay. You have no personal knowledge of
15 whether or not he received a copy of that book?

16 A. No.

17 Q. Did you have any personal involvement in
18 the decision to suspend Mr. Cochran?

19 A. No.

20 Q. Did you have any personal involvement in
21 the decision to terminate Mr. Cochran?

22 A. No.

23 Q. Do you have any -- did you have any
24 personal involvement in the conversations between
25 Chief Cochran and Nina Hickson?

From: Torres, Anne
Sent: Thursday, February 19, 2015 4:00 PM
To: Margolin, Emma (NBCUniversal); atlmedia
Subject: RE: Statement request for msnbc

Hi Emma-

Statement below. Please attribute to city spokesperson.

Mr. Cochran was informed at the time of his suspension that he had failed to receive the required approvals pursuant to the City Code in seeking to engage in an outside income-producing venture. He was also informed that the issue was not the religious nature of his book, but the fact that he was espousing theories in the workplace about certain groups of people that were in conflict with the City's nondiscrimination policy.

He was further informed that there was an issue with his espousing these beliefs while identifying himself as the Atlanta Fire Chief. Finally, Mr. Cochran was informed that distributing the book to members of his command staff in the workplace was improper and risked sending a message to his staffers that they were expected to embrace his beliefs.

The religious nature of his book is not the reason he is no longer employed by the City of Atlanta. The totality of his conduct—including the way he handled himself during his suspension after he agreed not to make public comments during the investigation—reflected poor judgment and failure to follow clearly defined work protocols.

The City of Atlanta remains a place where all people, including those who share Mr. Cochran's beliefs, are equally valued and respected. However, religious beliefs cannot shield any employee from the consequences of poor judgment and insubordination.

The City will vigorously defend its actions in any legal proceedings brought by Mr. Cochran and is confident that the decision to terminate Mr. Cochran was both the right thing to do and fully legal.

Thanks,
Anne

Anne Torres
Director of Communications
Office of Mayor Kasim Reed
(O) 404.330.6423
(C) 404.904.2618
(F) 404.546.2983
www.atlantaga.gov
@AnneMTorres

Stay connected on Twitter: @CityofAtlanta and @KasimReed



From: Margolin, Emma (NBCUniversal) [mailto:Emma.Margolin@nbcuni.com]
Sent: Thursday, February 19, 2015 10:52 AM
To: atlmedia
Subject: Statement request for msnbc

Hi there,

I'm a reporter at msnbc in New York, and I was wondering if Mayor Reed had a statement in response to the federal lawsuit filed yesterday on behalf of former Fire Chief Kelvin Cochran. Feel free to email me back here, or you can give me a call at the below number.

Office: 212-664-1774

Thanks so much,
Emma

Exhibit G

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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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
YVONNE COWSER YANCY

FEBRUARY 17, 2017
10:02 A.M.

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

(TRANSCRIPT CONTAINS CONFIDENTIAL PORTION)
PAGE 9, LINE 4 TO PAGE 9, LINE 10

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

1 the City of Atlanta in the book, and making income
2 from the book, which was for sale on Amazon.com.

3 Q. When did you first learn that it was for
4 sale on Amazon.com?

5 A. When I Googled it and bought a copy.

6 Q. That was on?

7 A. Thursday.

8 Q. The court reporter will place in front of
9 you what has been previously marked as Plaintiff's
10 Exhibit 9.

11 A. Okay.

12 Q. So Plaintiff's Exhibit 9 is a letter dated
13 November 24th, 2014, signed by you; is that correct?

14 A. Yes.

15 Q. This is to Mr. Cochran, correct?

16 A. Correct.

17 Q. And the subject line is "Notice of 30-day
18 suspension without pay," correct?

19 A. Correct.

20 Q. So was this hand delivered to Mr. Cochran?

21 A. Yes, it was.

22 Q. At the meeting that you described on
23 November 24th?

24 A. Yes.

25 Q. Did you draft this letter?

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1 do the Title 7 investigation. We'd give him an
2 opportunity to respond to the investigation.

3 That our hope was that over the 30-day
4 period of time that we'd be able to resolve this
5 entire matter; that he'd return to work on the date
6 of January 6th. I talked about the diversity
7 training that would happen when he returned to work;
8 that that would be a part of the expectation for him
9 to return to work.

10 Mr. Cochran puts people on suspension, and
11 so we referenced the process when you're on
12 suspension you don't discuss the suspension. We
13 talked about returning his vehicle and, you know, his
14 badge, et cetera, the things that you have as an
15 employee. We talked about how he would get back
16 home.

17 We talked about naming Joel Baker as the
18 interim chief. He was fine with that choice. I
19 mean, he wasn't fine with being suspended, but he was
20 fine in the lieu of that that Joel Baker was an
21 appropriate person to name to be the interim chief.
22 We explained that we would not be commenting on this
23 employment matter, and that per our process we
24 expected him not to comment on this employment
25 matter.

1 anything that creates a perception of a conflict,
2 actually is a conflict, could be remuneration, could
3 be perceived as remuneration. You have to get
4 permission from who you work for to do anything
5 outside of work. The form clearly says that.

6 Q. To do anything outside of work?

7 A. Yeah. Yes. And it has a little subpart
8 that says is not a speech here or there like work.
9 So you can speak on Saturday to the kids. You can do
10 different things, but if you're doing something
11 consistently that's perceived as work, has the
12 potential for remuneration, you have to in fact get
13 permission for that. And people do get permission
14 for it.

15 So it's not just a process that's written.
16 It's one that's actually employed by others and
17 signed off on by others, including Mr. Cochran. So
18 again, my point is he knows the process. He didn't
19 follow it.

20 Q. So what exactly constitutes an ethics
21 violation?

22 A. I can't speak to that. You have to speak
23 to the ethics officer. I don't make that
24 determination.

25 Q. So you don't determine what's an ethics

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1 Pledge of Allegiance under God, and that, you know,
2 we do have a culture of God in our workplace of life,
3 liberty, and the pursuit of happiness.

4 And I asked him, why did you speak and --
5 because that was the crux of the problem, the
6 suspension. He spoke on his suspension about the
7 suspension, which explicitly you cannot do, and we
8 talked about in the prior meeting. And Mr. Cochran
9 knows because he's suspended people. And what he
10 said was that he gave his testimony; that he did not
11 speak about his suspension. He gave his testimony
12 about his faith and that the mayor and Ann, who's the
13 director of communications, had spoken. It was the
14 mayor and Ann --

15 Q. I'm sorry?

16 A. -- had spoken. So his answer was, he
17 didn't speak but the mayor did speak. And the answer
18 is, the mayor's the mayor. He's not on suspension.
19 You are. And so his response to why did you speak
20 was a question I asked specifically, was that he had
21 given his testimony, that he hadn't spoken about the
22 suspension, but the mayor and Ann had.

23 Q. So you don't know whether the
24 communications that the City received about this
25 suspension issue were the result of Chief Cochran

1 for the specific line, but I believe what was
2 communicated was your services are no longer needed
3 because he's an at-will employee. So we did not go
4 through the 17-bullet point around let me explain to
5 you all the reasons why you can't come back. We
6 said, we decided to go in a different direction.
7 Your services are no longer needed.

8 Q. Did you -- did someone in the meeting tell
9 him -- tell Chief Cochran that people would not
10 follow his leadership?

11 A. Yes. Mr. Godfrey gave Mr. Cochran and the
12 group the overview of the investigation, which was
13 something we had promised in the November 24th
14 meeting, that he would receive that investigation,
15 and we made it clear that there would be a public
16 component to the investigation.

17 The investigation was done by Mr. Godfrey,
18 who of course is an attorney. It's a privileged
19 document, but there would be a public disclosure of
20 the outcome of the investigation; and we wanted
21 Mr. Cochran to know that and to know what it was
22 going to say.

23 And it was going to say that he had, in
24 fact, to our knowledge, not treated anyone
25 differently under Title 7 because of his faith he

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1 espoused or his beliefs he espoused. It was also
2 going to say that the members of the department did
3 not -- had expressed they did not feel they could
4 serve under his leadership.

5 And so, you know, it was important for
6 Mr. Cochran to be aware of that, and that was a part
7 of what we promised. In our normal practice if
8 there's an investigation about you, or that you're a
9 party to, you get an update on the investigation.

10 MR. GEVERTZ: Let me go ahead and ask
11 what the lunch plan is because it's 12:40.

12 MR. WARDLOW: I don't think I am
13 going to take a lot more time, so --

14 THE WITNESS: I can keep going if you
15 can keep going.

16 THE VIDEOGRAPHER: The time is now
17 12:40 p.m. We're off the record.

18 (A lunch recess was taken.)

19 THE VIDEOGRAPHER: The time is now
20 1:50 p.m. We are back on the record.

21 BY MR. WARDLOW:

22 Q. You mentioned before that you received
23 e-mails from union folks and from others around the
24 time of the suspension or before?

25 A. Uh-huh. Yes.

Exhibit H

Deposition Transcript of Candace Byrd
(relevant portions attached)

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1 could continue -- well, Chief Cochran could continue
2 to lead the department based on what was written in
3 the book. And so we were putting him on a 30-day
4 suspension without pay, and then that would -- after
5 the 30 days, he would come back. I think he would be
6 reinstated after the 30-day period.

7 My responsibility was to talk about the
8 fact that we wanted him to remain quiet during this
9 30-day period and not talk about the facts
10 surrounding his suspension and just to be on a 30-day
11 suspension without pay.

12 Q. You mentioned that a couple of times. Why
13 was the suspension without pay?

14 A. Because basically that's a vacation. If
15 I'm going to be suspended and get paid, I'm basically
16 off for 30 days with pay. And so we were doing an
17 investigation, and the suspension, again, was for the
18 30 days. And that pretty much, I believe, was the
19 content or the conversation of the meeting.

20 Q. And you said just a second ago you were
21 doing an investigation, so I'm assuming, again,
22 correct me if I'm wrong, that that would mean the
23 investigation hadn't been concluded?

24 A. I don't know who actually concluded the
25 investigation. I would say they were still

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1 A. To remain quiet and not to talk about the
2 events surrounding his suspension and to be on
3 suspension for 30 days.

4 Q. What's the normal protocol when an
5 employee is suspended regarding communications like
6 that?

7 MR. GEVERTZ: Object to the form.

8 THE WITNESS: I don't -- I don't
9 really know in the sense of when -- people
10 get suspended for any number of things, and
11 in my seven years being here, I've not
12 known of an employee to write a book. And
13 so you're talking about in terms of those
14 communications, I don't -- I don't know.
15 So it's not our -- a routine kind of
16 suspension as far as I'm concerned.

17 BY MR. CONNELLY:

18 Q. So you said that you gave that admonition?

19 A. I did.

20 Q. Did you come up with that admonition, or
21 did somebody say "We need to do this, Candace, please
22 do this"?

23 A. I believe the mayor said this is what we
24 need to do while we are going to have this
25 suspension, and just to, again, be on suspension for

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1 30 days and not to talk about the nature of the
2 suspension and the employment. We don't typically
3 talk about employment matters to the media either.
4 Those are employment matters, and we reserve comments
5 surrounding suspensions or terminations or anything
6 else.

7 Q. Did the City communicate the facts or the
8 circumstances or the existence of the suspension in
9 this case?

10 MR. GEVERTZ: Object to the form.

11 THE WITNESS: When you mean "the
12 City," who do you mean?

13 BY MR. CONNELLY:

14 Q. Well, I think you just said that it's not
15 normal for the City to talk about suspensions --

16 A. Right.

17 Q. -- in the normal course.

18 Did the City or any official statement
19 emanate from the communications department regarding
20 Chief Cochran's suspension?

21 A. I don't recall if it was an outward or an
22 external communication. I believe that I sent an
23 e-mail, I believe, to members of council, to members
24 of city council and the council president.

25 Q. And what did that e-mail say? Do you

Exhibit I

Deposition Transcript of Robin Shahar
(relevant portions attached)

1 Q. Was this -- where you disclaim -- that's
2 my word, of course. You can use another word. You
3 disclaim the involvement of the mayor up front. Was
4 that something you had to tell Shelley, or was that
5 actually the case, you had done this before talking
6 with the mayor?

7 A. I had not spoken to the mayor about this,
8 nor had Melissa.

9 Q. Is that fairly common, in other words,
10 outreach to certain groups?

11 A. I don't -- you know, I wanted the
12 Anti-Defamation League to view this in a neutral
13 manner. I did not want them to believe that the
14 mayor was making a request of them. That felt very
15 important to me, like in some way he would have been
16 asking for a favor. No. You know, I wanted her to
17 understand that I as someone that she knows -- I
18 mean, we had had a conversation that's referenced in
19 the first sentence I believe that we spoke about.

20 So I wanted the ADL to know that what I
21 was requesting was an objective look by them, and a
22 decision that was 100 percent independent in terms of
23 whether they thought anything, any response from them
24 was needed, and if so, let them decide what they want
25 to do. I did not want to influence that at all, and