

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

KELVIN J. COCHRAN,

Plaintiff,

v.

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

Defendants.

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

**REPLY BRIEF IN SUPPORT OF
PLAINTIFF'S MOTION FOR
SUMMARY JUDGMENT**

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**pro hac vice* admission

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INTRODUCTION

After voluminous briefing on cross motions for summary judgment, it is clear that Defendants punished Chief Cochran based upon the content of his book. Defendants dutifully attempt to deny this obvious conclusion, baldly stating that “content . . . played no role in Mayor Reed’s decision to suspend or terminate [Chief Cochran].” Defendants’ Response to Plaintiff’s Motion for Summary Judgment (“Defs.’ Resp. Br.”) 14. But a wealth of record evidence and Defendants’ own admissions prove that Defendants’ substantive disagreement with the messages conveyed in Chief Cochran’s book drove their disciplinary process from start to finish.¹ Defendants themselves do not even appear to believe their own denial, executing an about face in the space of two sentences in their response to argue that “the damaging nature of [Chief Cochran’s] speech” justified his punishment. *Id.* Astonishingly, Defendants go even further than

¹ See Defs.’ Resp. Br. 16 (focusing on the “substance of [Chief Cochran’s] speech” in arguing that his punishment was thereby justified); Defendants’ Response to Plaintiff’s Statement of Material Facts Not in Dispute (“Defs.’ Resp. to Pl.’s Facts”) ¶74 (admitting that Defendants “thought the content [of the book] was problematic”), ¶76 (admitting that Defendants found Chief Cochran’s book “offensive”), ¶98 (admitting that Defendants publicly took issue with the content of the book upon suspending Chief Cochran); see also Defendants’ Brief in Support of Summary Judgment 18 (“Defs.’ Br.”) (citing the “language” and “views” contained in the book as a predicate for discipline); Brief in Support of Plaintiff’s Motion for Summary Judgment (“Pl.’s Br.”) 6-10, 19 (establishing that Defendants punished Chief Cochran based upon their substantive disagreement with his speech).

this. Despite the fact that their own investigation showed that Chief Cochran never discriminated against anyone, *see* Pl.’s Ex. 13 at 3-4, they now argue—without any authority—that the messages conveyed in Chief Cochran’s book “violat[e] . . . federal and local laws prohibiting workplace discrimination.” Defs.’ Resp. Br. 23 n.13. It is thus Defendants’ position that the communication or even the revelation of Chief Cochran’s religious beliefs—which by their own admission “are consistent with the Bible and historic Christian teaching”²—constitute *per se* discrimination justifying investigation and punishment. This extreme position not only definitively proves that content drove Defendants’ decision making, but also betrays Defendants’ self-characterized “legitimate, non-retaliatory reasons” for Chief Cochran’s punishment to be mere pretexts. Defs.’ Resp. Br. 20. When taken together with Defendants’ failure to adduce any evidence whatsoever that Chief Cochran’s speech resulted in any damage, disruption, or inefficiency to the administration of City government or AFRD operations, it becomes clear that Chief Cochran should be granted summary judgment on his retaliation claim.³

² *See* Defs.’ Resp. to Pl.’s Facts ¶42; *see also* Defs.’ Resp. to Pl.’s Facts ¶¶40-41.

³ Defendants improperly characterize Chief Cochran’s First Amendment rights as “limited,” but they are mistaken. Defs.’ Resp. Br. 14. As “private religious speech,” Chief Cochran’s book “is as fully protected under the Free Speech Clause as secular private expression.” *Capitol Square Review and Advisory Bd. v. Pinette*, 515 U.S. 753, 760 (1995). Defendants’ further attempt to portray Chief Cochran’s speech as “behavior” that is unprotected by the First

Furthermore, because Defendants have failed to raise any genuine issue of material fact to defeat Chief Cochran's viewpoint discrimination, prior restraint, unbridled discretion, and procedural due process claims, a grant of summary judgment in his favor is appropriate on each of those claims as well.

I. Chief Cochran is Entitled to Summary Judgment on His Retaliation Claim.

A. Chief Cochran's Interests Outweighs Defendant's Interests.

Having adduced no evidence of disruption or inefficiency brought about by Chief Cochran's speech, Defendant now argues that all it must show is a "[r]easonable possibility of adverse harm" to tip the scales in its favor. Defs.' Resp. Br. 18 (quoting *Moss v. City of Pembroke Pines*, 782 F.3d 613, 622 (11th Cir. 2015)). Defendant's resort to *Moss* and its relaxed standard is proof positive that it has abandoned any pretense that Chief Cochran's book caused any *actual* disruption or inefficiency. Moreover, its attempt to prevail in the balancing test enunciated in *Pickering v. Board of Education*, 391 U.S. 563 (1968), by positing a lesser evidentiary burden on response comes to naught in any event, as *Moss* is entirely inapposite.

In *Moss* an assistant fire chief was discharged after he refused to abide by the fire chief's command that he "refrain from commenting on the budget and

Amendment must also be rejected, Defs.' Resp. Br. 17, as this claim finds no support in the factual record or in the case law.

collective bargaining agreement issues,” which issues were known to be “volatile” and “divisive” and had produced violence in similar negotiations involving the city’s police department. *Id.* at 621-22. Given that history and the fact that the trial transcript contained a “wealth of evidence to support [a] showing” that “adverse harm” was possible and perhaps even likely, the Eleventh Circuit affirmed the district court’s finding that “Plaintiff’s interest in expressing his opposition” was outweighed by the “City’s interest in avoiding dissension and discord.” *Id.* at 621-22.

Nothing of the kind presents itself here. Chief Cochran wrote a book—on his own time—expressing traditional Christian beliefs in the hope of helping Christian men lead virtuous lives. Defs.’ Resp. to Pl.’s Facts ¶¶38-40. That book was not an act of insubordination and it engendered no government dissension or discord. Indeed, up until someone voluntarily read the 162-page book and Defendant seized upon this instance of personal disagreement with the book’s content to punish Chief Cochran for the “substance of his speech,” Defs.’ Resp. Br. 16, the book, the City, AFRD, and the community peacefully coexisted for over a year. Thus any attempt by Defendant to posit that “adverse harm” was reasonably possible or even impending must be rejected.⁴ This conclusion is

⁴ The fact that Defendant’s own investigation exonerated Chief Cochran by finding that he had never discriminated against, or treated unfairly, any AFRD

especially appropriate when it is considered that it was Defendant itself who publicly repudiated Chief Cochran's beliefs, publicly suspended him without pay, and publicly launched a Title VII investigation into his leadership of AFRD. *See* Yancy Dep. 26:22, 68-69, 102, 105-06; Pl.'s Ex. 10. Defendant should not now be heard to blame Chief Cochran for the very notoriety it created itself through its public pronouncements disagreeing with his book. Nor should it be able to precipitate the controversy and then use that controversy to justify prevailing under *Pickering*.

Without any hint of even the possibility of "adverse harm," Defendant is left with nothing more than the disagreement of a largely unspecified and unquantified number of AFRD employees who apparently disagreed with the traditional Christian beliefs expressed in Chief Cochran's book, Pl.s' Ex. 13 at 3-4, along with its own unsupported conclusion that Chief Cochran's religious beliefs "threatened AFRD's ability to operate effectively and risked destroying the public's trust in the Department." Defs.' Resp. Br. 19. As to the former, a heckler's veto cannot justify punishing Chief Cochran for the content of his book. *Flanagan v. Munger*, 890 F.2d 1557, 1566-67 (10th Cir. 1989) (stating that the "Supreme Court has squarely rejected . . . the 'heckler's veto' as a justification for

member, buttresses the conclusion that Defendant's asseveration of adverse harm is without support in the record. *See* Pl.'s Ex. 13 at 3-4.

curtailing ‘offensive’ speech,” and finding disciplinary action unjustified where the evidence “pointed only to potential problems which might be caused by the public’s reaction to plaintiff’s speech”); *see also* Pl.’s Br. 14-15. As to the latter, Defendant has shown no actual or even potential internal disruption, and that is what is required.⁵ *See Tinker v. Des Moines Indep. Cmty. Sch. Dist.*, 393 U.S. 503, 508 (1969) (stating that “undifferentiated fear or apprehension of disturbance is not enough to overcome the right to freedom of expression”). Indeed, if Defendant’s “disruption by disagreement” logic were to be adopted, the right of public employees to speak as private citizens on matters of public concern would be effectively eviscerated, because a corpus of fellow employees holding alternative views and beliefs could always be identified. Fortunately, however, the natural and predictable difference of opinion in a free society with respect to matters of religion and moral life is not a proxy or substitute for disruption or inefficiency, and Defendant has cited no authority to the contrary.

⁵ Janet Ward, who managed communications for the AFRD, testified that she didn’t remember getting any media inquiries about Chief Cochran’s book until near the time of Chief Cochran’s suspension or the day of his suspension. *See Ward Dep. 59:1-10*. Thus any argument that the book itself caused disruption—rather than Defendant’s unnecessarily public reaction to the content of the book—must be rejected out of hand.

B. Chief Cochran's Speech Played a Substantial Role in Defendant's Decision to Suspend and Terminate Him.

Defendant asserts that Chief Cochran's speech "[p]layed [n]o [r]ole" in its punishment of Chief Cochran. Defs.' Resp. Br. 20. But the record is replete with evidence proving that this is simply untrue. *See supra* at n.1, Pl.'s Br. 19; *see also* Pl.'s Resp. Br. 7-10. Moreover, Defendant devotes multiple pages of both its response brief and its opening brief on summary judgment to detailing the ostensibly problematic nature of the beliefs expressed in Chief Cochran's book, which ultimately led Defendant to suspend and terminate him. *See* Defs. Resp. Br. 16 (arguing that the "substance of [Chief Cochran's] speech" justified his punishment), 17 (concluding that the "language" in Chief Cochran's book "is directly contrary to myriad federal and local non-discrimination laws"), 22 (admitting that "the content of the book was certainly considered by the Mayor and his team"), 24 (admitting that "Mayor Reed and the City sought to distance themselves from—and even reject outright—the message" conveyed in Chief Cochran's book); *see also* Defs.' Br. 16 (focusing on the "message" conveyed in the book), 18 (relying on the "language" and "views" expressed in the book to justify punishment), 22 (arguing that Chief Cochran punishment was appropriate because he "expressed views antithetical to the City's"). Given thus the record facts and Defendant's own arguments, Defendant's denial must be rejected. Chief Cochran has more than shown that speech played a substantial role in

Defendant's decision to punish him.⁶ *See Beckwith v. City of Daytona Beach Shores, Fla.*, 58 F.3d 1554, 1564-65 (11th Cir. 1995) (internal quotations and citations omitted) (stating that "an employee's burden is not a heavy one" to prevail on this factor).

C. Defendant Has Not Shown It Would Have Terminated Chief Cochran Absent His Speech.

Defendant proffers three reasons why Chief Cochran's termination was justified, to wit: his alleged violation of the City's Ethics Code, his communications with co-religionists during his suspension, and the City Law Department's investigative findings. Each of these reasons, however, fails as a predicate for termination. *See* Pl.'s Br. 20-23; *see also* Pl.'s Resp. Br. 10-18. Moreover, Defendant's general assertion that Chief Cochran had "lost the trust of his subordinates," Defs.' Resp. Br. 24, is completely unsubstantiated—it is a self-serving conclusion improperly presented as record evidence. In fact, the only two AFRD employees to testify in this action contradict Defendant's claim. AFRD Community Affairs Director Janet Ward testified that in her experience working for Chief Cochran she concluded that he "treat[ed] everybody the same," Ward

⁶ Defendant's preoccupation with content would be inexplicable if content was not material to its disciplinary decision. Additionally, Defendant cannot negate evidence that it punished Chief Cochran based upon his speech by asserting other reasons for its discipline, as this mistakenly conflates the "substantial role" inquiry with the "but for" inquiry concluding this Court's free speech retaliation analysis.

Dep. 47:17-49:2, and she notified Chief Cochran just one day after his suspension that he had her “support in everything” and that in her opinion he was “the best person [she] ha[d] ever worked for.” Pl’s Ex. 17. And union president Stephen Borders testified that despite the fact that Chief Cochran’s beliefs had become widely known, he could have worked for him if he had returned to work rather than having been terminated. Borders Dep. 108:11-14.

In sum, because Chief Cochran’s interest in his right to free speech outweighs Defendant’s interest, speech played a substantial role in Defendant’s punishment, and Defendant is unable to show that it would have suspended or terminated Chief Cochran absent that speech, summary judgment in his favor as to his First Amendment retaliation claim is warranted.

II. Defendant Engaged in Content and Viewpoint Discrimination When It Suspended and Terminated Chief Cochran Based Upon the Content of His Book.

In its response Defendant proffers one argument to counter Chief Cochran’s viewpoint discrimination claim, arguing that a precise mirror-image comparator is required to sustain such claims. Defendant is mistaken in asserting that any such requirement exists. There need be no showing of unequal treatment of ideological competitors before a viewpoint discrimination claim can obtain. *See Lamb’s Chapel v. Ctr. Moriches Union Free Sch. Dist.*, 508 U.S. 384, 393-94 (1993) (recognizing use of hypothetical comparator to demonstrate

viewpoint discrimination); *Rosenberger v. Rector and Visitors of Univ. of Va.*, 515 U.S. 819, 831 (1995) (stating that it is “objectionable . . . to exclude one, the other, or yet another political, economic, or social viewpoint”); *see also* Pl.’s Resp. Br. 20-22. Moreover, the record shows that Defendant did treat high-level employees who publicly expressed support for same-sex marriage and various LGBT causes more favorably than it did Chief Cochran—in fact, rather than leveling punishment for such beliefs Defendant specifically created a position to advance the interests of the LGBT community, and permitted the public communication of such beliefs without incident. *See* Shahar Dep. 21-22 (discussing creation of new LGBT Advisor position); 114-117 & Pl.’s Ex. 61 (revealing communications between Shahar and Mayor Reed’s cabinet officials, in which she discussed her interaction with a New York Times reporter in connection with Shahar’s support for the pro-LGBT group Georgia Equality’s efforts to defeat Georgia’s proposed religious freedom restoration act, which interaction produced not even a hint of discipline or concern from the Mayor or his cabinet officials).

In this case the record reveals that Defendant punished and eventually terminated Chief Cochran because the beliefs he expressed in his book were apparently considered offensive by some City employees, and because those beliefs conflicted with the views officially adopted and approved by the City. *See*

Pl.’s Ex. 10 (stating that the “contents of [Chief Cochran’s] book do not reflect the views of Mayor Reed or the Administration”); Defs.’ Resp. Br. 24 (outlining Mayor Reed’s and the City’s views regarding LGBT issues and same-sex marriage and Defendant’s characterizing Chief Cochran’s book as a “message of condemnation and judgment”); Defs.’ Resp. Br. 23 (arguing that the “message of inequality [Chief Cochran] espoused [in his book] is antithetical to and in violation of federal and local laws prohibiting workplace discrimination”); Defendant even ordered Chief Cochran to undergo sensitivity or diversity training to remediate his wayward beliefs before it would permit him to return to work. *See* Yancy Dep. 76:6-9. Defendant, in other words, discriminated based on viewpoint when it punished and terminated Chief Cochran, and thus summary judgment in his favor is warranted on this claim. *See Matal v. Tam*, 137 S. Ct. 1744, 1764 (2017) (rejecting the idea that the “Government has an interest in preventing speech expressing ideas that offend” as “striking at the heart of the First Amendment”); *Id.* at 1769 (Kennedy, J., concurring) (stating that the “First Amendment does not entrust . . . to the government’s benevolence” the power to prohibit “speech found offensive to some portion of the public”).

III. Defendant’s Pre-Clearance Policies Cannot Be Constitutionally Applied to Chief Cochran.

In its response Defendant confirms that it considers a religious book written by a private citizen on issues of public concern—one that implicates none

of the concerns of the City or AFRD—to be a fit subject of review for its pre-clearance policies. *See* Defs. Resp. Br. 30 (explaining that any work “receiv[ing] compensation” triggers the policies). In spite of this admission, Defendant maintains that its policies do not burden speech, are narrowly tailored, and do not grant unbridled discretion. But in practice such asseverations cannot withstand scrutiny.

As to the burden on speech, Defendant claims that “[e]mployees remain free to speak [or] write . . . without seeking approval . . . so long as they do not receive compensation for doing so.” Defs.’ Resp. Br. 30. But the record reveals this to be untrue. *See* Yancy Dep. 88:3-5; 52:5-7 (stating that employees need to “get permission . . . to do anything outside of work,” even if compensation is only “perceived”). Moreover, in practice,⁷ Defendant clearly burdened the speech of Chief Cochran by punishing him for writing and publishing a book when it did not even know whether he had made a profit on it.⁸

⁷ Defendant seeks to distinguish the cases cited by Chief Cochran on the basis that the regulations in those cases more specifically targeted speech. *See* Defs.’ Resp. Br. 30-31. Defendant, however, raises a distinction without a difference. Defendant punished Chief Cochran because it disagreed with his speech. It would be difficult to conceive of a more direct form of targeting than that. Thus the cases cited by Chief Cochran are entirely apposite. *See* Pl.’s Br. 26-29.

⁸ Defendant has provided no evidence that Chief Cochran made a profit on the book. Defendant, in fact, did not know whether Chief Cochran had profited from the book before it disciplined him. *See* Yancy Dep. 51:16-52:5 (stating that Defendant only knew the book was “for sale”). Moreover, Chief Cochran actually suffered a loss of approximately \$3,385.11 on the book until sales were kick

As to narrow tailoring, Defendant has applied its policies in this case to speech by a private citizen on a matter of public concern that is wholly unrelated to the operations of City government or AFRD. Additionally, pursuant to its exception for “single speaking engagements,” Def. Resp. Br. 30, Defendant’s policies would permit Chief Cochran to deliver for compensation a speech explicating the contents of his book, but those same policies forbid him to write and publish for compensation identical speech in the form of a book. Defendant’s policies are thus both overinclusive (by targeting religious speech which poses no conflict and inflicting punishment based thereon) and underinclusive (by ignoring speech that could potentially pose a conflict simply because it is spoken once, rather than written and published in book form), which means that they are anything but narrowly tailored. *See Republican Party of Minn. v. White*, 416 F.3d 738, 751 (8th Cir. 2005) (stating that “[a] narrowly tailored regulation is one that . . . does not sweep too broadly [and] does not leave significant influences bearing on the interest unregulated”).

started late in 2014 by Defendants’ exceedingly public suspension and termination announcements. *See* Pl.’s Ex. 152 (revealing only \$1,628 in book sale profits for 2014 after accounting for speaking engagements); Defs.’ Ex. 25 (revealing a contract cost of \$1,250.00 to publish the book); Defs.’ Ex. 31 (revealing a further publishing and goods charge from the book’s publisher for \$585.39); Pl.’s Ex. 155 (revealing \$3,533.72 in book purchases by Chief Cochran from late 2013 until Nov. 18, 2014, just days before he was suspended, and only \$356 in royalties).

Finally, as to unbridled discretion, Defendant claims that its policies “are sufficiently limited to pass Constitutional muster” because approval is “based solely on whether the outside employment creates a conflict of interest or otherwise interferes with the employee’s City employment.” Defs.’ Resp. Br. 31-32. These are, however, broadly formulated interests and not the “narrowly drawn, reasonable, and definite standards” required to “avoid unbridled discretion.” *Bloedorn v. Grube*, 631 F.3d 1218, 1236 (11th Cir. 2011). Defendant has identified no such standards. Accordingly, Chief Cochran should be granted summary judgment on his claim challenging Defendant’s pre-clearance policies.

IV. Defendants Violated Chief Cochran’s Right to Procedural Due Process.

Chief Cochran has already established that Defendants violated his right to procedural due process by invoking the Code of Ethics as a sword to punish him, while depriving him of the shield that was his due by statutory right. *See* Pl.’s Br. 33-35. In response Defendants claim that Chief Cochran’s alleged violation of the Code provides them with an independent predicate for termination. *See* Defs.’ Resp. Br. 20, 23. But Defendants also claim, in the alternative, that the City Charter establishes that Chief Cochran’s employment was at-will, which they contend gave them carte blanche to terminate him for any reason, with or without the Ethics Code. *Id.* at 34. Thus Defendants invoke the Code when it suits them in the *Pickering* balancing inquiry, but pivot to the

Charter when the Code fails them, here in the procedural due process context. *See id.* (“In the event of a discrepancy between the City Code and the City Charter, the Charter controls.”). Defendants, in other words, want to have it both ways—they advance the classic “heads we win, tails you lose” proposition. But such convenient (and clearly pretextual) toggling back and forth between the Code and the Charter—as the situation dictates—should not be countenanced by this Court, as it amounts to the very type of unbridled discretion that is odious to the Constitution. *See* Pl.’s Br. 29-31. Indeed, permitting such arbitrary pretexts to suffice as adequate justifications for punishment would place a judicial imprimatur on patently discriminatory conduct, would improperly reward Defendants for dressing up punishment for disfavored speech as mere compliance with City guidelines, and would compound the already egregious violation of due process visited upon Chief Cochran by Defendants. Fortunately, however, because Defendants have failed to assert any valid justification for depriving Chief Cochran of the procedural protections promised him by the Code, a grant of summary judgment on his procedural due process claim is warranted.

CONCLUSION

For the foregoing reasons, and those contained in his Brief in Support of Summary Judgment, Chief Cochran respectfully requests that the Court grant his Motion for Summary Judgment.

Respectfully submitted this 20th day of July, 2017.

By: /s/ Kevin H. Theriot

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**pro hac vice admission*

ATTORNEYS FOR PLAINTIFF

CERTIFICATE OF COMPLIANCE

Undersigned counsel hereby certifies that this document was prepared in Century Schoolbook 13-point font and fully complies with Local Rules 5.1C and 7.1D.

/s/ Kevin H. Theriot
Kevin H. Theriot

CERTIFICATE OF SERVICE

I hereby certify that on the 20th day of July, 2017, the foregoing document was filed with the Clerk of the Court using the ECF system, which will effectuate service on all parties.

/s/ Kevin H. Theriot
Kevin H. Theriot
Attorney for Plaintiff

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Motion for Summary Judgment**

<u>Exhibit No.</u>	<u>Description</u>
61	Robin Shahar Email dated 2/23/15
148	Yancy deposition page excerpts
149	Borders deposition page excerpts
150	Ward deposition page excerpts
151	Shahar deposition page excerpts
152	2014 income tax return page excerpts
153	Self-Publishing Author Agreement (Defendants' Deposition Exhibit 25)
154	Myrna Gale email dated 6/7/14 (Defendants' Deposition Exhibit 31)
155	3G Publishing invoices and royalty statement

From: Shahar, Robin
Sent: Monday, February 23, 2015 11:55 AM
To: Hampton, Cathy D.; Mullinax, Melissa; Torres, Anne; Byrd, Candace; Yancy, Yvonne Cowser
Cc: Thomas, Karen
Subject: press questions to me in my personal capacity

Good Morning everyone.

I want to make you aware that I unexpectedly received a call from a NYT reporter this morning, and spoke with him on the record in my individual capacity, regarding Michael Bowers' working with Georgia Equality. They are working together to help defeat Georgia's pending "Religious Freedom" Restoration Act ("RFRA") bill (see AJC link below). I anticipate being contacted by other news outlets this week.

My purpose in writing is to see if you have any concerns or questions that you want to discuss with me. I have already discussed this matter with Cathy, but wanted to personally inform each of you about the situation as well.

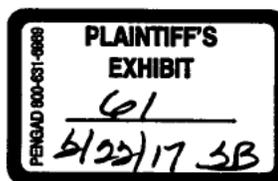
Important information:

These news stories pertain only to my role as a former Plaintiff. That said, I am aware that I am a visible figure in Atlanta City government, and want to assure you that my comments are respectful and commend Mr. Bowers and Georgia Equality for their decision to partner on this issue.

I did not and will not answer any questions about the City, my work here (as attorney or as Mayor Reed's LGBT Advisor) or Mayor Reed. I did answer some questions about RFRA, within the context of why Mr. Bowers would choose to oppose the bill – addressing the dangers of the bill from a legal perspective as a reason why the Former Attorney General would have grave concerns about its passage.

Because these news stories arise from the RFRA bill, it is likely that some of them will discuss former Fire Chief Cochran. I will not answer any questions about Mr. Cochran or Mayor Reed's terminating him. Though the NYT reporter spoke a bit about his support for Mayor Reed's decision to fire former Fire Chief Cochran, I remained silent and simply listened.

It feels personally important to me to address the questions of reporters related to Mr. Bowers. My litigation against him was a major part of my life for many years. His decision to work with Georgia Equality is remarkable, in a positive way. Because of my history with him, I bring a unique perspective to the societal significance of his decision and want to share it.



COA-Cochran 002374

Please let me know if you want to talk with me about this issue.

Thanks.

Robin

<http://politics.blog.ajc.com/2015/02/21/a-one-time-foe-takes-on-religious-liberty-bills-for-gay-rights-group/>

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

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

1 A. I said, Sir, I have received this book
2 from Councilman Wan. I read it from cover to cover.
3 I spoke with the COO about the book. I have concern
4 about the book's reference as his employer. Did you
5 provide permission for Mr. Cochran to write the book?
6 Are you aware of this book?

7 Q. And was the mayor aware of the book?

8 A. No, he was not.

9 Q. And what concerns about the book did you
10 tell the mayor that you had specifically?

11 A. Specifically that the City of Atlanta is
12 referenced in the book, that Mr. Cochran's role as
13 the fire chief is referenced in the book as a point
14 of reference in terms of his leadership and his
15 activity, and that -- and we had not given permission
16 for the book, that in fact was a problem.

17 It appeared as though the City of Atlanta
18 had endorsed the book, when in fact if we had not
19 given permission for the book, that would not be
20 acceptable.

21 Q. Did you relay any other concerns?

22 A. I thought the content was problematic, but
23 the issue in the book was whether or not we had given
24 permission for it.

25 Q. Did you talk about any content that you

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

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1 if in fact to receive second income. You have to get
2 permission to receive that income before it happens.
3 It's well known. It's signed off on by department
4 heads. I assume Mr. Cochran had signed one before
5 because I'm sure people who work for him have had
6 second income.

7 There's also an ethics pledge you sign
8 when you start an employee that talks about getting
9 permission from your manager, and then a perception
10 or a conflict, or an actual conflict and income.

11 And then the ethics code requires that if
12 you in fact are going to engage in receiving second
13 income and you report the certain line in the
14 organization, the ethics board has to actually give
15 you approval for that as well.

16 Q. Do you know whether Chief Cochran was
17 receiving any profit from this book?

18 A. I did not know, but I did know it was for
19 sale, and so at least one of us had bought a book.
20 So that would be profit because I bought one, so --

21 Q. Well, it would be --

22 A. A profit if it was for sale.

23 Q. Maybe not, right?

24 A. Well, I can't speak to the contract, so
25 no. But we will presuppose if it was for sale that

KELVIN J. COCHRAN vs. CITY OF ATLANTA, ET AL.
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1 there was some income going someplace. Perhaps he
2 donated it. I don't know.

3 Q. You presupposed that he was taking
4 personal income?

5 A. Absolutely. And the policy is not just
6 that you have income. It's that you could have
7 income. So there's declarations that we have income,
8 and the form talks about are you going to have the
9 second employment or not. And so it's not simply, I
10 have received it now, are you okay with it. It's, I
11 could receive it, are you okay with it.

12 Q. You said you presumed that Chief Cochran
13 had signed this form.

14 A. I had not found a record that he had
15 signed that form, which required the COO's signature
16 or the mayor's signature. So I had no documentation
17 that indicated that Chief Cochran had in fact gotten
18 permission for this income and this book.

19 Q. Have you all produced a blank copy of this
20 form?

21 A. I can't speak to that.

22 MR. GEVERTZ: I'm sorry. We're
23 talking about -- yeah, it was an exhibit to
24 Chief Cochran's deposition. It's the
25 employee ethics pledge that he signed on

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1 Q. And why did you suggest that?

2 A. Because there was a perception that it was
3 possible Mr. Cochran had a lack of sensitivity to
4 people who have different beliefs, and if our intent
5 was to keep him in our employ, as an employer we had
6 to show a proactive way of ensuring that Mr. Cochran
7 was in fact not managing to those beliefs or treating
8 people differently.

9 And so once the mayor decided that he
10 wanted to keep Mr. Cochran in our employ, it was
11 important that when he returned to work that we made
12 a proactive position to ensure the department and to
13 protect us as an employer with potential Title 7
14 activities that -- or litigation, that if someone
15 came up, you know, six months later and said, Oh, but
16 I feel like I'm being treating differently, we would
17 have had this documented sensitivity training and
18 awareness that we could say, Oh, no, no, our
19 employment environment, you know, meets all standards
20 meets the code, et cetera.

21 So doing that is an acceptable proactive
22 action to take under the EEOC umbrella guidelines,
23 and so, you know, it made sense to include that,
24 given our circumstance.

25 Q. And you made a determination that it would

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1 be good to do that?

2 A. Yes.

3 Q. Why did you think that Chief Cochran may
4 have had a lack of sensitivity to other people's
5 beliefs, as you said?

6 A. Well, I didn't know, so to that end --

7 Q. Why do you think he may have had that --

8 A. Because he espoused beliefs that were
9 offensive to many different groups, and he had to
10 lead a department that reflected many different
11 groups. We had to as an employer -- my role was to
12 ensure that the employer is protected. I am -- I am
13 responsible for ensuring that we meet our standards.

14 And so my focus was really on how the City
15 was going to be impacted. And offering that training
16 and documenting that took place was, yeah, another
17 way of validating that we did not have any potential
18 issues down the road.

19 Q. You also mentioned a communications
20 process that you discussed at that meeting, correct?

21 A. Yes.

22 Q. And tell me about the substance of those
23 conversations surrounding the communications process.

24 A. Well, we had to make sure that we brought
25 in the communications staff, and that the mayor would

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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.

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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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Yvonne Cowser Yancy on 02/17/2017

1 BY MR. WARDLOW:

2 Q. So we have --

3 A. -- and we have to do an investigation
4 around Title 7. The issue as relates to the content
5 of the book triggers a Title 7 investigation that
6 would have happened whether he was an employee or not
7 because we had created a risk by having a leader of a
8 department espouse his views, and we had to make sure
9 those views had not been replicated throughout the
10 department.

11 The investigation showed that he had in
12 fact not treated people differently, which I was
13 actually, frankly, ecstatic to see and hear, and it's
14 consistent with my knowledge of Mr. Cochran. But our
15 decision to separate Mr. Cochran was about his
16 failure to go through the process and to speak to the
17 people he worked for, which would give the minimum,
18 not just courtesy but respect and process where we
19 work and for our employer.

20 BY MR. WARDLOW:

21 Q. Did an employee bring the book to you?

22 A. No. A council member brought the book to
23 me.

24 Q. Okay.

25 A. The council member said the book came from

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

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1 Q. Was the option of suspension with pay
2 discussed?

3 A. No, because it was not a vacation. It was
4 intended to be punitive. You were suspended because
5 of your failure to follow the process, and we put
6 together a process to bring you back. So it's clear
7 in our conversation that we're not trying to
8 terminate you.

9 Although that was recommended, it was not
10 accepted, and so we put together a process that would
11 cover the City in terms of potential claims in the
12 future, ensure that Chief Cochran was able to come
13 back into his position and be chief, create a process
14 that we had documented around a proactive position
15 with sensitivity training through an entity that we
16 thought he and other people respect and think of as
17 credible, and that process didn't work out.

18 Q. Is there a standard for determining when
19 someone should be suspended with pay or without pay?

20 A. Typically, when we have not made a
21 determination about the outcome, we suspend you with
22 pay pending the outcome of the investigation. When
23 we spoke with Mr. Cochran on that Monday, we already
24 knew he didn't have permission for the book. We knew
25 that because people who give permission hadn't given

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1 it. His manager didn't know anything about it.

2 And Mr. Cochran said in that meeting he
3 did not -- that the mayor did not know anything about
4 it. And we work for the mayor and for the COO. And
5 so we'd already covered the baseline issue. That's
6 enough to fire you right there on its face. We
7 didn't separate him. We chose to bring him back to
8 work, but in the interim, there was going to be a
9 consequence and something punitive about that.

10 At the same time, we had to deal with the
11 Title 7 issue, which would have happened regardless.
12 If we had terminated him on the 24th, we still would
13 have had Bob Godfrey do the Title 7 investigation,
14 right?

15 Q. So is that --

16 A. So the issue was, the discipline -- the
17 discipline that was given was that unpaid time. The
18 point of that was we didn't know. You didn't go
19 through our process. We are not pleased. There's a
20 negative outcome to that. That is being suspended
21 without pay. If we were unsure of those things and
22 those facts weren't clear, then he would have been
23 suspended with pay.

24 Q. So the investigation then, what was the
25 purpose of the investigation?

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 his ability to lead in the City, and that's
2 why we asked for the City's help to look
3 into it.

4 BY MR. CONNELLY:

5 Q. But apart from the fact that you say you
6 have no choice as an operational firefighter who's
7 not in the --

8 A. Right.

9 Q. -- upper ranks or the mayor who has --

10 A. Right.

11 Q. Is it your testimony you could have worked
12 for him even though he had those views and they were
13 known?

14 A. Yes.

15 Q. You talked a little bit about the handful
16 of people that may have come to you or come to you
17 through third parties.

18 A. Right.

19 Q. I think you also said that there were some
20 expressions of support for Chief Cochran; is that
21 correct?

22 A. Yes, there were.

23 Q. Who were those firefighters; do you
24 remember?

25 A. I don't remember specifically who they

KELVIN J. COCHRAN vs. CITY OF ATLANTA, ET AL.
Janet L. Ward on 02/15/2017

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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
JANET L. WARD

FEBRUARY 15, 2017
9:36 A.M.

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

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

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1 continued then with Chief Baker?

2 A. Yes.

3 MS. HALLOCK: Okay. Great.

4 I do want to introduce another
5 document here. If you could please mark
6 that with an exhibit tab for me.

7 (Exhibit 17 was marked for
8 identification.)

9 BY MS. HALLOCK:

10 Q. Okay. I'm handing you what is Plaintiff's
11 Exhibit 17, which appears to be an e-mail from you to
12 Chief Cochran on approximately November 25th of 2014.
13 And I'd just like to go ahead and read a couple of
14 lines out of that e-mail. Does this look like an
15 e-mail that you sent?

16 A. Yes.

17 Q. Do you recognize this e-mail?

18 A. Yes.

19 Q. Okay. Do you recall writing this e-mail?

20 A. I do.

21 Q. Is there anything in this e-mail that's
22 inaccurate?

23 A. No.

24 Q. Okay. There's a statement a few sentences
25 in that says, "You are the best person I have ever

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1 worked for and I have worked for a lot of people in
2 my career."

3 A. Yep.

4 Q. What did you mean by that?

5 A. I mean he treated me -- he -- I had just
6 come from the Department of Watershed Management
7 where I was treated very badly, and he treated me
8 better than anybody. He respected me and respected
9 my abilities better than anybody I ever worked for.

10 Q. Thank you. Can you give me a little more
11 information about how Chief Cochran demonstrated that
12 respect that he had for you, how you perceived that?

13 A. Really, if somebody respects what you do,
14 you -- you know that. You understand that. I can't
15 tell you specifics, but he always complimented the
16 things that I did. When I did a good job, he pointed
17 it out.

18 Q. Okay. There's another statement in here
19 that I'd like to read. There's a sentence that says,
20 "There is no part of me that thinks you would hate
21 people based on who they are."

22 Can you tell me what you meant by that?

23 A. I absolutely believe that he treats
24 everybody the same. I do believe that.

25 Q. Okay. Thank you. And did you observe

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1 that, then, when you were working for him?

2 A. Yes.

3 Q. Okay. And what prompted you to write that
4 statement in this e-mail?

5 A. I just believe that -- it was something
6 that I believed and something I believed that he
7 needed to hear.

8 Q. Thank you.

9 Are you familiar with the Atlanta Fire
10 Rescue doctrine?

11 A. Yes.

12 Q. Can you explain what that is to me?

13 A. Well, no. You talking about the mission
14 statement or the vision statement or the values?

15 Q. Yes. Let me actually give you a document
16 that might help here.

17 We can go ahead and mark this as the next
18 plaintiff's exhibit.

19 (Exhibit 18 was marked for
20 identification.)

21 BY MS. HALLOCK:

22 Q. So this will be Plaintiff's Exhibit 18.
23 And I've handed you what appears to be a copy of the
24 Atlanta Fire Rescue Department doctrine.

25 A. Okay.

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1 Q. So from January through probably sometime
2 in November, until he was close to the time of his
3 suspension, do you think that you received any
4 inquiries about his -- media inquiries about his
5 book?

6 A. I really don't remember getting any.

7 Q. Okay. But then near the time of his
8 suspension or on the day of his suspension, did you
9 begin receiving media inquiries?

10 A. Yes.

11 Q. Okay. And did you receive very many
12 inquiries or --

13 A. I honestly don't remember.

14 Q. Okay. What about during the period of his
15 30-day suspension? Did you receive very many
16 inquiries from media regarding his suspension or the
17 book?

18 A. No.

19 Q. Okay. And why do you think that was?

20 A. Because all the media inquiries went to
21 the Mayor's Office of Communications.

22 Q. And why do you think that was?

23 A. Because the Mayor's Office of
24 Communications was handling this -- the matter.

25 Q. Okay. Did the department do any sort of

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

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

6 Q. Okay.

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

8 Q. Do you recall when that was?

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

11 Q. No. I was just asking actually.

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

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

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

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

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

1 discrimination.

2 Q. And did you view that LGBT advisory
3 position as helping advance that purpose of the
4 mayor's?

5 A. It was a new position. I didn't know what
6 the position would be.

7 Q. Getting to more specifics, number two
8 there, which is LGBT personnel issues, what did that
9 entail? What type of issues would you be dealing
10 with?

11 A. There were times when employees were
12 concerned that they were being mistreated because of
13 their sexual orientation. I don't think gender
14 identity ever arose at that point. I would evaluate
15 the situation -- I'm trying to remember examples --
16 and if -- and give my opinion about typically was it
17 worthy of doing some kind of educational remediation.
18 My big push in my position is to educate.

19 Q. So when it says remedial measures there,
20 is that what you meant?

21 A. Yes. That is -- that is how it would
22 arise would have been what types of remedial measure,
23 if any, are warranted, and how -- what might that
24 look like.

25 Q. And so you said -- and that was actually

1 my sleeves and being in there to solve the problem,
2 but I certainly thought it would be appropriate for
3 me to sit in a meeting and talk with them about what
4 was going on and some potential solutions.

5 (Exhibit 61 was marked for
6 identification.)

7 BY MR. CONNELLY:

8 Q. The court reporter has handed you what's
9 been marked as Plaintiff's Exhibit 61. Appears to be
10 an e-mail from you to Ms. Hampton, Ms. Mullinax,
11 Ms. Torres, Ms. Byrd, and Ms. Yancy, and cc'ing Karen
12 Thompson about a press interview you had with --
13 press contact you had with a New York Times reporter;
14 is that correct?

15 A. Yes.

16 Q. Can you tell me a little bit about this
17 conversation you had with the New York Times reporter
18 and how it came about?

19 A. Yes. So first of all, this is the -- an
20 example of what I was referring to earlier in terms
21 of notifying supervisors of an issue which is
22 important for them to be aware of and give them --
23 have an opportunity to talk about it.

24 So the purpose of this was to let them
25 know that something had come up in my personal

1 capacity, and I was aware that -- as I say here, "I'm
2 aware that I am a visible figure in Atlanta city
3 government" and wanted to be clear about what my
4 expectations were for how I would conduct myself, but
5 also wanted to be clear that I was open to talking
6 about it if they had concerns or questions. So that
7 was the purpose of this.

8 Q. And you said you spoke with him -- I'm
9 looking at the second line -- spoke with him, meaning
10 the New York Times reporter, on the record in my
11 individual capacity regarding Michael Bowers's
12 working with Georgia Equality?

13 A. Yes.

14 Q. Who is Michael Bowers again?

15 A. Michael Bowers is the former Attorney
16 General of the State of Georgia. He was the
17 defendant along with the State of Georgia in my
18 earlier lawsuit.

19 Q. So you had already spoken to the New York
20 Times reporter in your individual capacity prior to
21 sending this e-mail?

22 A. I had spoken to Cathy, my immediate boss.

23 Q. Prior to speaking with the New York Times
24 reporter?

25 A. Likely so. This was a follow-up e-mail to

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Robin Joy Shahar on 02/22/2017

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1 Melissa and -- like, well, you can see who else it's
2 to. I said I had already spoken to Cathy. I was
3 aware -- I'm just reading this for a second. I was
4 contacted by Georgia Equality directly the night that
5 their board voted to engage Michael Bowers as a
6 consultant to work on the RFRA bill on their behalf,
7 so I likely would have -- and I -- and I -- so I was
8 aware that this was going to bubble up and would have
9 informed Cathy, my boss.

10 Q. And were you doing so because you were
11 opposing the RFRA bill, or religious freedom bill?

12 A. I wasn't -- the issue was not whether I
13 opposed the RFRA bill. Actually it was not about
14 that.

15 Q. Okay. What was it about?

16 A. Yeah. No, it wasn't. It was about --
17 Michael Bowers had taken public positions in the past
18 that were -- well. So Michael Bowers, Bowers in the
19 Bowers versus Hardwick. He then terminated my job
20 after I had a religious ceremony with my partner
21 Fran, and so now I guess -- let's see. So 20 some
22 years later, he actually came out and was opposing
23 RFRA, the RFRA bill, was talking about it as an
24 avenue for discrimination. He was asked about having
25 terminated me, and he talked publicly about wishing

1 it had not happened. So I was being asked about my
2 response to his comments.

3 My response was that I genuinely
4 appreciated his willingness to talk about his changed
5 views. I thought it was courageous to do so
6 publicly. And so while I did not see that as in any
7 way impairing my work for the City. Because my name
8 would be showing up in the press, I wanted them to
9 have advance notice of what was going on and
10 certainly be able to express concerns and talk about
11 it so we could be on the same page with what I was
12 saying.

13 (Exhibit 62 was marked for
14 identification.)

15 BY MR. CONNELLY:

16 Q. The court reporter has handed you what's
17 been marked Plaintiff's Exhibit 62. I'll give you a
18 chance to review that. It looks to be an e-mail from
19 Jeff Graham with Georgia Equality to you on January
20 16th, 2015. Like I said, I'll give you a little time
21 to review it.

22 A. Okay.

23 Q. The first question I have is just really
24 just a logistical one. He starts off the e-mail --
25 looks like it's sent just to you in your work e-mail,

**SCHEDULE C
(Form 1040)**

Profit or Loss From Business
(Sole Proprietorship)

OMB No. 1545-0074

2014
Attachment
Sequence No. **09**

Department of the Treasury
Internal Revenue Service (99)

► Information about Schedule C and its separate instructions is at www.irs.gov/schedulec.
► Attach to Form 1040, 1040NR, or 1041; partnerships generally must file Form 1065.

Name of proprietor KELVIN COCHRAN		Social security number (SSN) [REDACTED]
A Principal business or profession, including product or service (see instructions) CONSULTING/ BOOK PUBLISHED	B Enter code from instructions ▶ [REDACTED]	
C Business name. If no separate business name, leave blank.	D Employer ID number (EIN), (see Instr.) [REDACTED]	
E Business address (including suite or room no.) ▶ [REDACTED] City, town or post office, state, and ZIP code [REDACTED]		
F Accounting method: (1) <input checked="" type="checkbox"/> Cash (2) <input type="checkbox"/> Accrual (3) <input type="checkbox"/> Other (specify) ▶		
G Did you "materially participate" in the operation of this business during 2014? If "No," see instructions for limit on losses		<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
H If you started or acquired this business during 2014, check here		<input type="checkbox"/>
I Did you make any payments in 2014 that would require you to file Form(s) 1099? (see instructions)		<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
J If "Yes," did you or will you file required Forms 1099?		<input type="checkbox"/> Yes <input type="checkbox"/> No

Part I Income

1 Gross receipts or sales. See instructions for line 1 and check the box if this income was reported to you on Form W-2 and the "Statutory employee" box on that form was checked ▶ <input type="checkbox"/>	1	11,948.
2 Returns and allowances	2	
3 Subtract line 2 from line 1	3	11,948.
4 Cost of goods sold (from line 42)	4	372.
5 Gross profit. Subtract line 4 from line 3	5	11,576.
6 Other income, including federal and state gasoline or fuel tax credit or refund (see instructions)	6	
7 Gross income. Add lines 5 and 6 ▶	7	11,576.

Part II Expenses. Enter expenses for business use of your home **only** on line 30.

8 Advertising	8		18 Office expense (see instructions)	18	
9 Car and truck expenses (see instructions).	9		19 Pension and profit-sharing plans	19	
10 Commissions and fees	10		20 Rent or lease (see instructions):		
11 Contract labor (see instructions)	11		a Vehicles, machinery, and equipment	20a	
12 Depletion	12		b Other business property	20b	
13 Depreciation and section 179 expense deduction (not included in Part III) (see instructions).	13		21 Repairs and maintenance	21	
14 Employee benefit programs (other than on line 19)	14		22 Supplies (not included in Part III)	22	
15 Insurance (other than health)	15		23 Taxes and licenses	23	
16 Interest:			24 Travel, meals, and entertainment:		
a Mortgage (paid to banks, etc.)	16a		a Travel	24a	393.
b Other	16b		b Deductible meals and entertainment (see instructions)	24b	847.
17 Legal and professional services	17	1,377.	25 Utilities	25	
			26 Wages (less employment credits)	26	
			27a Other expenses (from line 48)	27a	200.
			b Reserved for future use	27b	
28 Total expenses before expenses for business use of home. Add lines 8 through 27a ▶	28	2,817.	29 Tentative profit or (loss). Subtract line 28 from line 7	29	8,759.
29 Tentative profit or (loss). Subtract line 28 from line 7	29	8,759.	30 Expenses for business use of your home. Do not report these expenses elsewhere. Attach Form 8829 unless using the simplified method (see instructions). Simplified method filers only: enter the total square footage of: (a) your home: _____ and (b) the part of your home used for business: _____. Use the Simplified Method Worksheet in the instructions to figure the amount to enter on line 30	30	
31 Net profit or (loss). Subtract line 30 from line 29. • If a profit, enter on both Form 1040, line 12 (or Form 1040NR, line 13) and on Schedule SE, line 2. (If you checked the box on line 1, see instructions). Estates and trusts, enter on Form 1041, line 3. • If a loss, you must go to line 32.	31	8,759.	32a <input type="checkbox"/> All investment is at risk. 32b <input type="checkbox"/> Some investment is not at risk.		
32 If you have a loss, check the box that describes your investment in this activity (see instructions). • If you checked 32a, enter the loss on both Form 1040, line 12, (or Form 1040NR, line 13) and on Schedule SE, line 2. (If you checked the box on line 1, see the line 31 instructions). Estates and trusts, enter on Form 1041, line 3. • If you checked 32b, you must attach Form 6198. Your loss may be limited.					

Part III Cost of Goods Sold (see instructions)

33	Method(s) used to value closing inventory: a <input type="checkbox"/> Cost b <input type="checkbox"/> Lower of cost or market c <input type="checkbox"/> Other (attach explanation)		
34	Was there any change in determining quantities, costs, or valuations between opening and closing inventory? If "Yes," attach explanation	<input type="checkbox"/> Yes	<input type="checkbox"/> No
35	Inventory at beginning of year. If different from last year's closing inventory, attach explanation	35	
36	Purchases less cost of items withdrawn for personal use	36	372 .
37	Cost of labor. Do not include any amounts paid to yourself	37	
38	Materials and supplies	38	
39	Other costs	39	
40	Add lines 35 through 39	40	372 .
41	Inventory at end of year	41	
42	Cost of goods sold. Subtract line 41 from line 40. Enter the result here and on line 4	42	372 .

Part IV Information on Your Vehicle. Complete this part **only** if you are claiming car or truck expenses on line 9 and are not required to file Form 4562 for this business. See the instructions for line 13 to find out if you must file Form 4562.

43	When did you place your vehicle in service for business purposes? (month, day, year) ▶ _____
44	Of the total number of miles you drove your vehicle during 2014, enter the number of miles you used your vehicle for: a Business _____ b Commuting (see instructions) _____ c Other _____
45	Was your vehicle available for personal use during off-duty hours? <input type="checkbox"/> Yes <input type="checkbox"/> No
46	Do you (or your spouse) have another vehicle available for personal use?. <input type="checkbox"/> Yes <input type="checkbox"/> No
47a	Do you have evidence to support your deduction? <input type="checkbox"/> Yes <input type="checkbox"/> No
	b If "Yes," is the evidence written? <input type="checkbox"/> Yes <input type="checkbox"/> No

Part V Other Expenses. List below business expenses not included on lines 8–26 or line 30.

CELL PHONE	200 .
48 Total other expenses. Enter here and on line 27a	48 200 .

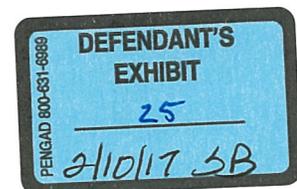
From: **Myrna Gale** <myrna.gale@gmail.com>
Date: Mon, May 20, 2013 at 11:40 PM
Subject: Contract
To: "Cochran, Kelvin" <kjcochran@atlantaga.gov>

Good evening Kelvin,

Please find attached for your perusal the contract as promised. If you have any questions, please do not hesitate to contact me. If everything is in order, please execute and return to me as soon as possible, so that we may start the project upon receiving your approval. Looking forward to hearing from you.

Blessings,

Myrna Gale
[404-553-1566](tel:404-553-1566)



**SELF-PUBLISHING
Author Agreement**

This contract is entered into on the 25th day of February, 2013 between **3G Publishing, Inc.**, (hereinafter known as "**Publisher**") located at 3600 Park Lake Lane, Suite 3508, Norcross, GA 30092, and **Kelvin J. Cochran** (hereinafter known as "**Author**") of **Who Told You that You are Naked?** (hereinafter known as "Work").

The Contract is considered legal and binding in the United States. If there should be any legal dispute, the laws of the state of Georgia shall apply.

I. The Author hereby represents and warrants to the Publisher that:

- A. The Work is free and clear of any counts of libel, plagiarism, breach of privacy or misrepresentation of facts.
- B. The Work does not infringe upon any copyright or proprietary right, common law or statutory law, and does not contain any material of libelous nature.
- C. The Work is not in the public domain and the Author is the sole owner and copyright holder of the work with full power to enter into this contract.
- D. If the Work has been previously published in whole or part, the Author currently holds all copyrights to the Work and is legally permitted to enter this agreement.
- E. The Author releases Publisher from any responsibilities relating to any legal actions incurred by the contents of the Work or the Author.
- F. The Publisher will obtain appropriate ISBNs for the Work under the name of Kelvin J. Cochran.

This representations contained herein are true on the date of the signing of this contract.

II. Grantor of Rights:

- A. The Author, on behalf of himself/herself and his/her heirs, executors, administrators, successors and assignees, agrees to grant the Publisher exclusive rights to produce, publish and sell in electronic format (including email, download, disk, CD, or any other digital format known or to be invented), the Work. This contract does not infringe on print rights.

III. Term of Contract:

- A. Electronic rights will be exclusive for one year commencing on the date the Work becomes available for sale on the Publisher's site. After such time, the contract can continue if both parties agree.
- B. The Contract may be terminated by either party upon a thirty (30)-day written notice to the other party. Notification of intention to terminate the contract is to be delivered by certified mail or other receipted delivery service. Upon expiration of the contract term or termination, all rights granted the Publisher will revert back to author.

- C. Upon breach of contract, the Contract may be terminated by either party with a 30-day written notice. Notification of breach and intention to terminate the contract is to be delivered by certified mail or other receipted delivery service. If breaching party cures said breach within 30 days, the contract shall continue to remain enforceable until its natural expiration. Upon expiration of the contract term, all rights granted the Publisher will revert back to author.
- D. During the term of the contract, the Work will not be said to be out of print.

IV. Basic Services to be rendered (\$750.00):

- 1. One-on-One Author Support
- 2. Full Color Cover
- 3. Setup of Interior Design
- 4. Image Insertions (24)
- 5. New ISBN
- 6. Electronic proof
- 7. Online Distribution
 - a. Barnes & Noble.com
 - b. Amazon.com
- 8. Professional Marketing Consultation
- 9. Bookstore availability (available for direct ordering)
- 10. 3 complimentary copies
- 11. Bookseller Returnability
- 12. eBook Distribution
- 13. Copyright

Additional Services to be rendered (\$500.00):

- 1. Ghost Writer
 - a. Proofing
 - b. Editing

V. Compensation:

Both parties agree to the package cost for comprehensive publishing services shall be \$1250.00 for completion of **Who Told You that You are Naked?** A 50% deposit is required upon acceptance of contract to commence work. **ALL DEPOSITS ARE NON-REFUNDABLE.** The final amount must be finalized before an electronic galley delivery is given to author for authorization.

VI. Manuscript Preparation:

- A. Author shall provide an acceptable, final revision of the manuscript in either Microsoft Word or RTF within the time agreed upon or this contract will be void. Publisher will not be held liable for lost manuscripts or defective disks. Both parties should always keep a back up copy.

VII. Royalties and Statements:

- A. Publisher and Author will mutually set the retail price of the Work based on length and comparable works. Publisher agrees to pay to the Author, a royalty of fifteen (15%) percent per retail sale price of each book sold, whether via internet or retail store in United States dollars (USD). If the Work is purchase in eBook form, the royalty will be ten (10%) percent per retail sale price. Author is not entitled to any royalties if the publication is reduced by outside retailers for less than original retail price.

- B. The Publisher has the right to contract with distributors, bookstores, vendors, organizations and or outlets of electronic books to sell the Work in association with the Publisher's name. For all sales through these outlets, the Author will be compensated ten percent (10%) of the download price less any handling costs or discounts charged by the outlet.
- C. In order to stimulate sales, the Publisher reserves the right to lower the price of the Work after a reasonable amount of time if the price appears to be too high (no sooner than three months).
- D. Royalties shall be calculated and paid no later than forty-five (45) days following the end of each calendar quarter for sales during that quarter. Royalties shall be paid by check. Payment arrangements, mutually agreed upon by the Publisher and the Author, shall be made for payment of royalties to Author if he/she resides outside the USA. Royalties equaling less than \$20 will be held until such a time as they accrue to \$20 or above. Any withheld royalties shall be made immediately upon contract termination.
- E. No royalty shall be paid on paper or digital copies distributed for review, advertising, publicity, promotional purpose, samples, or other similar purposes, or on copies sold below or at cost.
- F. If Author has elected to grant Publisher the right to contract with various distributors and outlets, royalties will be paid to Author contingent on payment received from distributor. In most cases, distributors pay Publishers every sixty to ninety days for sales through their channels during those timeframes.
- G. The Author is responsible for paying his/her own taxes on all royalty payments received from Publisher and is advised to keep accurate records for tax purposes.

VIII. Marketing and Promotion:

- A. The Author shall provide the Publisher with biographical information, a photo (if author desires), and a suggested blurb for use on Publisher's website. Author agrees to give Publisher the right to use the Author's name, likeness, title of work and biographical material for publishing, advertising and promoting the Work. Publisher reserves the right to edit or rewrite the blurb submitted by Author.
- B. Cover art will be provided by Publisher. If the Author has his/her own cover art, the Author must warrant that the provided art is either owned by the Author or that it does not infringe on any copyright.
- C. Publisher reserves final approval of art in consultation with Author.
- D. Author agrees to self-promote the Work to the best of his/her ability. Any major marketing consultation will be discussed between Publisher and Author, and agreed upon a separate contractual agreement. If Author has his/her own website, the Work must be linked to the Publisher's website. With any promotional material the Author generates, the Author will consult with Publisher to insure proper use of Publisher's name and/or other information.
- E. Author may use up to 3 chapters to post on his/her website or to give away as "teasers" to promote the work provided it includes a link to **www.3gpublishinginc.com**.

- F. Author is encouraged to solicit reviews along with the Publisher. For added promotional purposes, Publisher and Author agree to notify each other as to what review sites submissions have been made.
- G. With enough advance notice, Publisher will provide Author any needed book copies for Author appearances or signings. These copies can be purchased by the author at a discount set by the Publisher.

IX. Assignment:

- A. **3G Publishing, Inc.** may at any time sell itself, or the majority of itself, its holdings, or licenses. Current contracts would transfer to the new owner.
- B. Bankruptcy: If **3G Publishing, Inc.** is legally judged bankrupt or liquidates its business, this Contract shall be terminated effectively and all rights granted to **3G Publishing, Inc.** shall be terminated.

X. Entire Agreement:

This Contract hereby constitutes the entire agreement between Author and Publisher and supersedes all previous agreements regarding the Work, whether oral or in writing. Modification of this contract may only occur in writing, signed by both parties.

Author's Real Name: _____

Pseudonym (if any): _____

Street Address: _____

City, State, Zip: _____

Phone Number: _____

Email Address: _____

Website URL: _____

Title of Work: _____

Social Security Number: _____

Author's Signature: _____

Date: _____

3G Publishing, Inc.

Authorized Signature: _____

Date: _____

From: behalf of Myrna Gale

Sent: Saturday, June 07, 2014 12:31:42 AM

To: Kelvin Cochran (

Subject: Cost

Kelvin,

The following is the breakdown for the cost of the books and revisions:

100 copies @ 4.00 each = 400.00

Shipping & Handling 35.39

Revisions 150.00 (I waived the fees for making the book unavailable until it is reloaded, and also waived the reloading charges.)

Total Due 585.39

Blessings to you and your family!!

--



Myrna Gale
CEO
3G Publishing, Inc.
www.3gpublishinginc.com





3G Publishing, Inc.

Invoice Date 06/13/2014

Due Date Upon Receipt

Client Purchase Order 29067211

My Reference REF001

INVOICE

Kelvin Cochran
Via Email

3G Publishing, Inc.
4393 Grove Lake Street
Loganville, GA 30052

Qty.	Description	Per Copy	Total
100	Who Told You That You Were Naked?	4.38	\$ 438.00
		Shipping & Handling	60.72
		Tax	
		Total Due	\$ 498.72
SEND PAYMENT TO		PAYMENT INSTRUCTIONS	
3G Publishing, Inc. 4393 Grove Lake Street Loganville, GA 30052			
NOTES			



3G Publishing, Inc.

Invoice Date 01/09/2014

Due Date Upon Receipt

Client Purchase Order 26759131

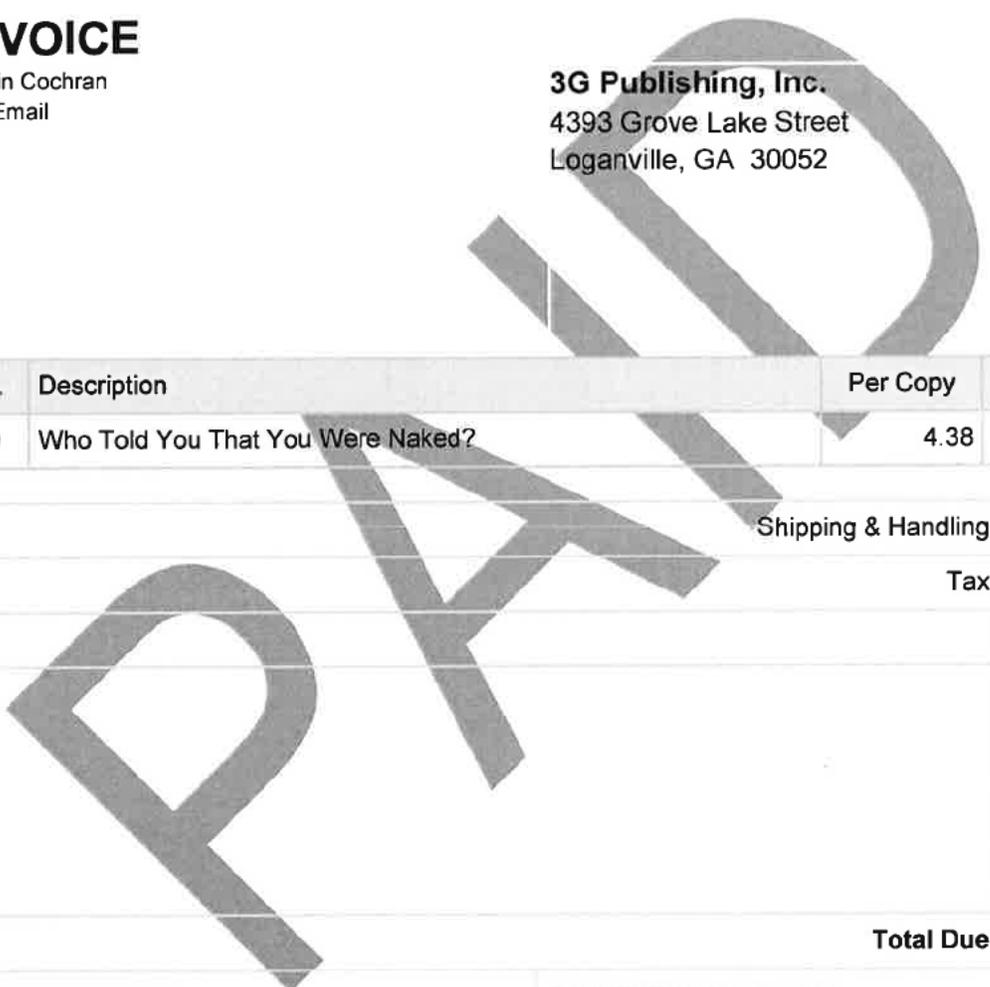
My Reference REF001

INVOICE

Kelvin Cochran
Via Email

3G Publishing, Inc.
4393 Grove Lake Street
Loganville, GA 30052

Qty.	Description	Per Copy	Total
100	Who Told You That You Were Naked?	4.38	\$ 438.00
Shipping & Handling			60.72
Tax			
Total Due			\$ 498.72
SEND PAYMENT TO		PAYMENT INSTRUCTIONS	
3G Publishing, Inc. 4393 Grove Lake Street Loganville, GA 30052			
NOTES			





3G Publishing, Inc.

Invoice Date 11/07/2013

Due Date Upon Receipt

Client Purchase Order 25861981

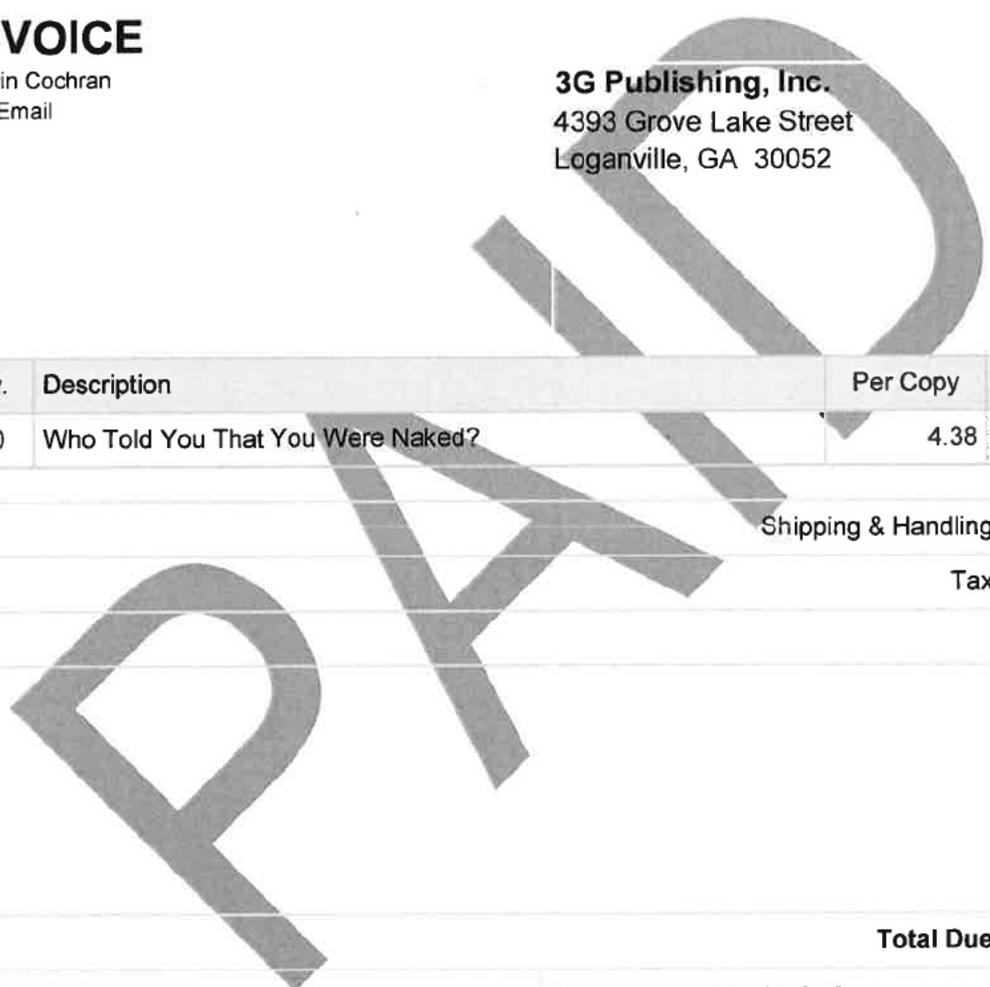
My Reference REF001

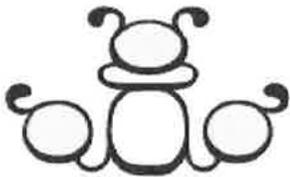
INVOICE

Kelvin Cochran
Via Email

3G Publishing, Inc.
4393 Grove Lake Street
Loganville, GA 30052

Qty.	Description	Per Copy	Total
100	Who Told You That You Were Naked?	4.38	\$ 438.00
Shipping & Handling			60.72
Tax			
Total Due			\$ 498.72
SEND PAYMENT TO		PAYMENT INSTRUCTIONS	
3G Publishing, Inc. 4393 Grove Lake Street Loganville, GA 30052			
NOTES			





3G Publishing, Inc.

Invoice Date 11/28/2014

Due Date Upon Receipt

Client Purchase Order **WEB-3175948-1**

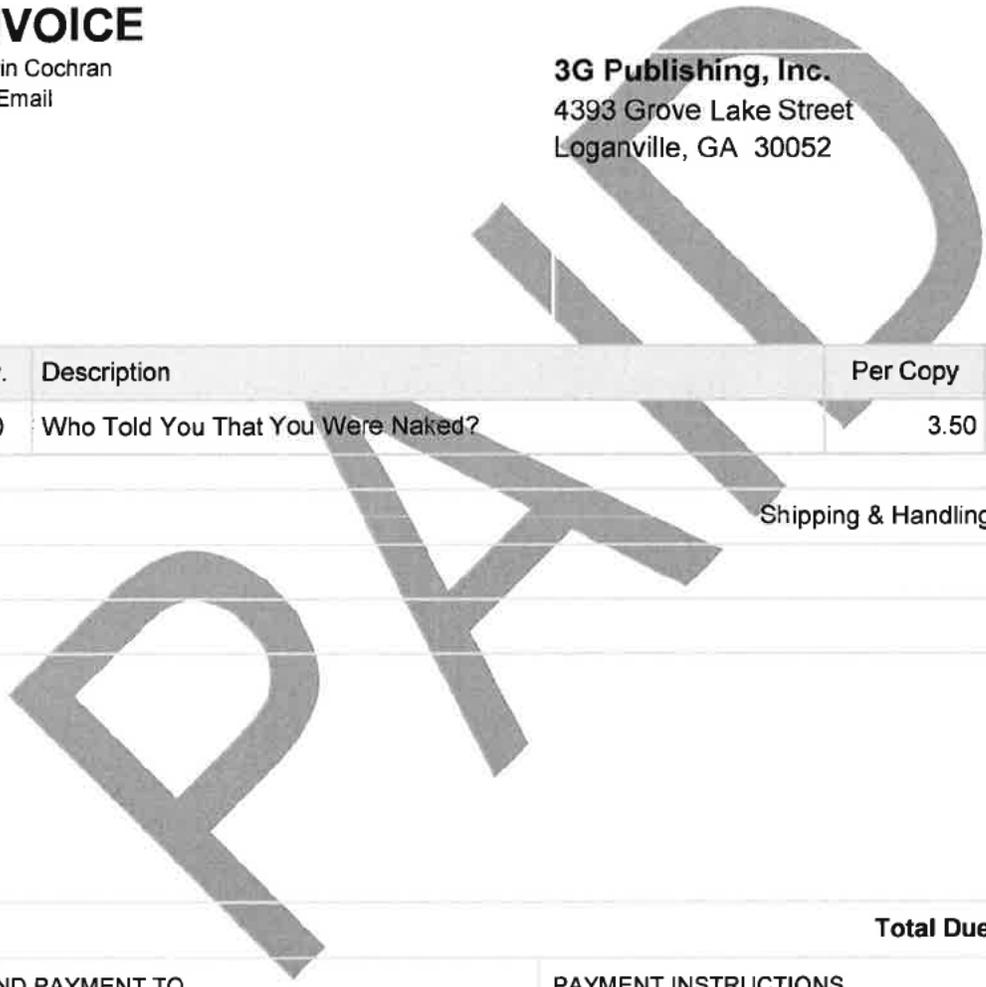
My Reference REF001

INVOICE

Kelvin Cochran
Via Email

3G Publishing, Inc.
4393 Grove Lake Street
Loganville, GA 30052

Qty.	Description	Per Copy	Total
500	Who Told You That You Were Naked?	3.50	\$ 1750.00
		Shipping & Handling	171.00
Total Due			1921.00
SEND PAYMENT TO		PAYMENT INSTRUCTIONS	
3G Publishing, Inc. 4393 Grove Lake Street Loganville, GA 30052			
NOTES			





3G Publishing, Inc.

Invoice Date 10/02/2014

Due Date Upon Receipt

Client Purchase Order WTYWYN001

My Reference REF001

INVOICE

Kelvin Cochran
Via Email

3G Publishing, Inc.
4393 Grove Lake Street
Loganville, GA 30052

Qty.	Description	Per Copy	Total
100	Who Told You That You Were Naked?	4.38	\$ 438.00
		Shipping & Handling	60.72
		Tax	21.34
Total Due			\$ 520.06
SEND PAYMENT TO		PAYMENT INSTRUCTIONS	
3G Publishing, Inc. 4393 Grove Lake Street Loganville, GA 30052			
NOTES			



3G Publishing, Inc.

Invoice Date 01/05/2015

Due Date Upon Receipt

Client Purchase Order 3222531

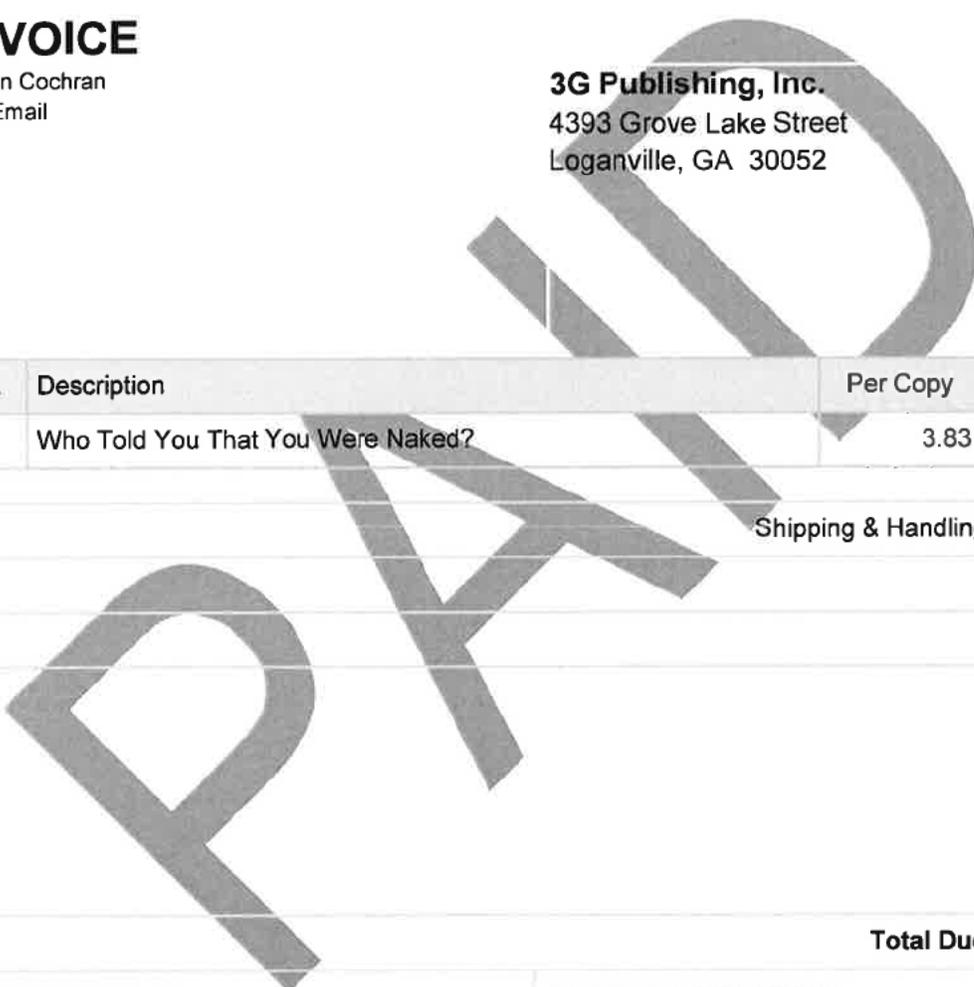
My Reference REF001

INVOICE

Kelvin Cochran
Via Email

3G Publishing, Inc.
4393 Grove Lake Street
Loganville, GA 30052

Qty.	Description	Per Copy	Total
300	Who Told You That You Were Naked?	3.83	\$ 1149.00
		Shipping & Handling	145.00
Total Due			1294.00
SEND PAYMENT TO		PAYMENT INSTRUCTIONS	
3G Publishing, Inc. 4393 Grove Lake Street Loganville, GA 30052			
NOTES			





3G Publishing, Inc.

Invoice Date 10/02/2014

Due Date Upon Receipt

Client Purchase Order 3154483

My Reference REF001

INVOICE

Kelvin Cochran
Via Email

3G Publishing, Inc.
4393 Grove Lake Street
Loganville, GA 30052

Qty.	Description	Per Copy	Total
100	Who Told You That You Were Naked?	4.38	\$ 438.00
Shipping & Handling			60.72
Tax			21.34
Shipped to: Tallahassee, Florida			
Total Due			\$ 520.06
SEND PAYMENT TO		PAYMENT INSTRUCTIONS	
3G Publishing, Inc. 4393 Grove Lake Street Loganville, GA 30052			
NOTES			



3G Publishing, Inc.

Invoice Date 11/18/2014

Due Date Upon Receipt

Client Purchase Order 3154483

My Reference REF001

INVOICE

Kelvin Cochran
Via Email

3G Publishing, Inc.
4393 Grove Lake Street
Loganville, GA 30052

Qty.	Description	Per Copy	Total
100	Who Told You That You Were Naked?	4.38	\$ 438.00
		Shipping & Handling	60.72
		Tax	
		Total Due	\$ 498.72
SEND PAYMENT TO		PAYMENT INSTRUCTIONS	
3G Publishing, Inc. 4393 Grove Lake Street Loganville, GA 30052			
NOTES			



3G Publishing, Inc.

Invoice Date 08/01/2014

Due Date Upon Receipt

Client Purchase Order 29774151 / 29774001

My Reference REF001

INVOICE

Kelvin Cochran
Via Email

3G Publishing, Inc.
4393 Grove Lake Street
Loganville, GA 30052

Qty.	Description	Per Copy	Total
100	Who Told You That You Were Naked?	4.38	\$ 438.00
		Shipping & Handling	60.72
		Tax	
		Total Due	\$ 498.72
SEND PAYMENT TO		PAYMENT INSTRUCTIONS	
3G Publishing, Inc. 4393 Grove Lake Street Loganville, GA 30052			
NOTES			

