

# FREEDOM FROM RELIGION *foundation*

P.O. BOX 750 · MADISON, WI 53701 · (608) 256-8900 · WWW.FFRF.ORG

October 15, 2019

**SENT VIA U.S. MAIL AND EMAIL TO: [ltgov@ltgov.alabama.gov](mailto:ltgov@ltgov.alabama.gov)**

The Honorable Will Ainsworth  
Lieutenant Governor of Alabama  
Office of the Lt. Governor of Alabama  
11 S. Union Street  
Montgomery, AL 36130

Re: Divisive religious promotion on social media

Dear Lt. Governor Ainsworth:

I am writing on behalf of the Freedom From Religion Foundation (FFRF) to alert you to citizen concerns over religious promotion on your official Facebook page. As you may be aware, FFRF is a nationwide nonprofit organization with more than 30,000 members throughout the country, including members in Alabama. Our purposes are to protect the constitutional separation between state and church, and to educate the public on matters related to nontheism.

A concerned Alabama resident has reported that you regularly use your position as Lieutenant Governor of Alabama to promote and endorse your personal religious beliefs and encourage Alabama citizens to pray. In particular, we understand that on October 2, 2019, you shared an article about the Blount County Sheriff utilizing his official position to promote and endorse Christianity with the message:

An anti-religion group is trying to make Blount County's sheriff abandon a prayer vigil. Don't they know Alabama's motto is "We Dare Defend Our Rights"? Join me in praying for the sheriff and asking God to touch the hearts of the misguided FFRF lawyers.

To answer your question, we are aware of Alabama's motto, which is why when Alabama residents come to us asking for help defending their constitutional rights, we write letters like this one.

As Lieutenant Governor, you represent a diverse population that consists of not only Christians, but also minority religious and nonreligious citizens. Religious endorsements made in your official capacity send a message that excludes the 24 percent of American adults who identify as nonreligious, including 38 percent of millennials and younger Americans.<sup>1</sup> Religious endorsements coming from your office needlessly alienate the non-Christian and nonreligious citizens you represent, turning them into political outsiders in their own community.

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<sup>1</sup> Robert P. Jones & Daniel Cox, *America's Changing Religious Identity*, PUBLIC RELIGION RESEARCH INSTITUTE (Sept. 6, 2017), available at [www.prrri.org/wp-content/uploads/2017/09/PRRI-Religion-Report.pdf](http://www.prrri.org/wp-content/uploads/2017/09/PRRI-Religion-Report.pdf).

It would be entirely possible, of course, for you to send messages to your constituents without ostracizing a significant portion of those you represent. By always couching your messages in exclusively religious terms you unnecessarily exclude a significant portion of the community. Regardless of your intent, these social media posts send the message to your minority religious and nonreligious constituents that their participation in the political process is less valued than that of their Christian counterparts.

Sticking to secular messages is inclusive of everyone and honors our Constitution, the document you swore to uphold when you took your oath of office. It should be a matter of pride that the United States was first among nations to adopt an entirely secular constitution, in which the only references to religion are exclusionary, such as barring religious tests for public office and separating religion from government.

Our Constitution's Establishment Clause, which protects all Americans' religious freedom by ensuring the continued separation of religion and government, dictates that the government cannot in any way endorse religion. The First Amendment prohibits even the *appearance* of religious endorsement by government officials. *See, e.g., Capitol Square Review and Advisory Bd. v. Pinette*, 515 U.S. 753, 787 (1995) (Souter, J., concurring) ("Effects matter to the Establishment Clause, and one, principal way that we assess them is by asking whether the practice in question creates the appearance of endorsement to the reasonable observer."); *Cty. of Allegheny v. ACLU Greater Pittsburgh Chapter*, 492 U.S. 573, 593–94 (1989) ("The Establishment Clause, at the very least, prohibits government from appearing to take a position on questions of religious belief . . ."). Promoting your personal religious beliefs on your official Facebook page violates your obligation under the Constitution as a public official.

The Supreme Court recently described the power of social media sites as "the principal sources for knowing current events, checking ads for employment, speaking and listening in the modern public square, and otherwise exploring the vast realms of human thought and knowledge." *Packingham v. North Carolina*, 137 S. Ct. 1730, 1737 (2017) (internal citations omitted). Government officials must be particularly diligent not to entangle their personal religious beliefs with official government pronouncements made in this "modern public square."

Even the private social media accounts of people who assume government office can become accounts that speak for the government, unless these officers carefully distinguish their public and private roles. Courts are willing to treat accounts that politicians believe to be private as official government accounts when they are used to disseminate official communications. *See, e.g., Hawaii v. Trump*, 859 F.3d 741, 773 n. 14 (9th Cir. 2017) (noting that the President's personal Twitter feed is composed of "official statements by the President of the United States"); *Davison v. Randall*, 912 F.3d 666 (4th Cir. 2019) (holding that chair of county supervisors acted under color of state law in maintaining "Chair Phyllis J. Randall" Facebook page); *Robinson v. Hunt Cty.*, 921 F.3d 440 (5th Cir. 2019) (finding that a county sheriff acted with final policymaking authority when he created a Sheriff's Office Facebook page). We see no legal reason why your Facebook page would be treated differently.

Government officials can worship, pray, or quote any religious text they wish when acting in their personal capacities. But they are not permitted to provide prestige to their personal religion by lending a government office and government title to religious ideology. Their

offices and titles belong to “We the people,” not the offices’ temporary occupants. As Lieutenant Governor, you are charged with great responsibility and have been given significant trust by citizens in your state, including those citizens who do not share your religious viewpoint.

We ask that in the future you disassociate your government office from your personal religious beliefs and refrain from posting religious endorsements on your official Facebook page. Please inform us in writing of the steps taken to respect the rights of conscience of all Alabama residents, regardless of their religious or nonreligious beliefs.

Sincerely,



Christopher Line  
*Staff Attorney*  
*Freedom From Religion Foundation*