

FREEDOM FROM RELIGION *foundation*

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November 9, 2018

SENT BY MAIL AND EMAIL TO:
rjackson@hsmclaw.com

Mr. Robert C. Jackson, Esq.
Harrison Sale McCloy
P.O. Drawer 1579
Panama City, FL 32402

Re: Divisive religious promotion on social media

Dear Mr. Jackson:

I am writing on behalf of the Freedom From Religion Foundation (FFRF) to alert the City of Lynn Haven to citizen concerns over religious promotion on the city's Facebook page. As you may recall from our December 2015 letter to the city, FFRF is a nationwide nonprofit organization with the purposes to protect the constitutional separation between state and church, and to educate the public on matters related to nontheism. We currently have more than 32,000 members throughout the country, including more than 1,500 in Florida and a state chapter, the Central Florida Freethought Community. If you no longer represent the City of Lynn Haven, please notify me as soon as possible.

A concerned area resident recently reported to FFRF that City Manager Michael White regularly posts proselytizing messages to the city's Facebook page. These messages come at the end of posts regarding official city business. For instance, a post from October 31 ended in relevant part with this bible quote and religious message:

I would like to leave you with this message from my Lord and Savior:

1 John 1:7

But if we walk in the light, as he is in the light, we have fellowship with one another, and the blood of Jesus Christ his Son cleanseth us from all sin.

I want to encourage you to come to tonight's event and fellowship with your community. As we enjoy each other's company, I encourage you to share your faith and know Jesus cleansed us from sin and wants us to love one another.

Mr. White's November 5 message ended in relevant part with:

I would like to leave you with a message from my Savior:

Psalm 23:1

The Lord is my shepherd: I shall not want.

God is our protector and he will deliver us from anything. He gives us the air to breathe and the water to relieve our thirst. He provides shelter when we are cold and food when we are hungry. If you walk with Jesus you shall never want. I encourage you to give him your troubles and the rest is history.

Similar religious messages appear at the end of numerous posts signed by Mr. White. We write to ensure that the city manager ceases promoting his personal religious beliefs through the machinery of city government.

The Supreme Court has long held that the Establishment Clause “mandates government neutrality between religion and religion, and between religion and nonreligion.” *McCreary Cty., Ky. v. Am. Civil Liberties Union of Ky.*, 545 U.S. 844, 860 (2005); *Wallace v. Jaffree*, 472 U.S. 38, 53 (1985); *Epperson v. Ark.*, 393 U.S. 97, 104 (1968); *Everson v. Bd. of Educ. of Ewing*, 330 U.S. 1, 15-16 (1947). By posting explicitly Christian messages on the City of Lynn Haven Facebook page, City Manager White conveys a message to non-Christians that they are not “favored members of the political community.” *Cty. of Allegheny v. Am. Civil Liberties Union Greater Pittsburgh Ch.*, 492 U.S. 573, 595 (1989).

The City of Lynn Haven is home to a diverse population that consists of not only Christians, but also minority religious and nonreligious citizens. We hope you will agree that city officials must be even-handed and avoid any appearance of bias toward some citizens, or hostility toward others. Religious endorsements made by the city or a city official send a message that excludes the 24 percent of American adults who identify as nonreligious, including 38 percent of millennials and younger Americans.¹ Such religious promotion needlessly alienates the non-Christian and nonreligious citizens of Lynn Haven, turning them into outsiders in their own community.

It is entirely possible, of course, for Mr. White to send uplifting and motivational messages to the community without ostracizing those in the religious minority. By expressing sentiments in exclusively religious terms, and by quoting extensively from his religion’s holy book, the city manager unnecessarily sends the message that minority religious and nonreligious community members are less valued than that of their Christian counterparts.

Sticking to secular messages is inclusive of everyone and honors our Constitution. 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.”); *Allegheny*, 492 U.S. at 593–94 (“The Establishment Clause, at the very least, prohibits government from appearing to take a position on questions of religious belief . . .”). Promoting one specific set of religious beliefs on the official Lynn Haven Facebook page violates the city’s obligation under the Constitution as a government entity.

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

¹ Robert P. Jones & Daniel Cox, *America’s Changing Religious Identity*, PUBLIC RELIGION RESEARCH INSTITUTE (Sept. 6, 2017), available at www.ppri.org/wp-content/uploads/2017/09/PRRI-Religion-Report.pdf.

omitted). Government entities must be particularly diligent not to entangle religious messages with official government pronouncements made in this “modern public square.”

Government employees 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 through the machinery of a government office. The City of Lynn Haven belongs to “We the people,” not the city government’s temporary occupants. As a city official, Mr. White is charged with great responsibility and has been given significant trust by citizens of the community, including those who do not share his religious viewpoint.

Finally, Mr. White’s promotion of Christianity while acting in his capacity as City Manager needlessly jeopardizes taxpayer dollars by exposing the city to legal liability. Not long ago Bradley County, Tennessee agreed to pay more than \$40,000 in damages and attorneys’ fees after promoting religion on social media and ignoring objections to the practice. *Am. Atheists v. Watson*, No. 1:2016cv00118 (E.D. Tenn. filed May 6, 2016). There is no need to expose the City of Lynn Haven to similar liability by continuing to promote Christianity on a government account.

To avoid further Establishment Clause concerns, the city must refrain from promoting religion on social media. Mr. White must be reminded of his constitutional duty not to promote his personal religious beliefs while acting as a government official. If he is unwilling or incapable of respecting this constitutional requirement, then he is unfit to serve as city manager. Please inform us in writing of the steps taken to respect the rights of conscience of all Lynn Haven residents, regardless of their personal religious or nonreligious beliefs. Thank you for your time and attention to this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Sam Grover", with a long horizontal line extending to the right.

Sam Grover
Associate Counsel