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TO: N. Esc. Com.

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SENDER'S NAME: Fredric McCall

SUBJECT: Letter from Stephen B. Shell

COVER SHEET AND 3 PAGE(S)

COMMENTS:

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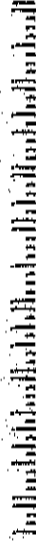
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March 3, 2010

VIA CERTIFIED MAIL, RETURN RECEIPT REQUESTED

Mr. William Reynolds
P.O. Box 105
Walnut Hill, FL 32568

Dear Mr. Reynolds:

We write as attorneys for Mr. Alfonzie Cottrell in connection with published comments, which make disparaging references to our client. See William Reynolds, *Code Enforcement Cases Headed to Court; Resident Claims Racial Bias*, Dec. 8, 2009, <http://www.northescambia.com> and William Reynolds, *Century Councilman: Faulty Gas Meters Cause High Gas Bills; Mayor Says It was Cold Weather*, Feb. 16, 2010, <http://www.northescambia.com>. In particular, you have linked our client to statements that he never made and positions that he never took. You have published statements which are damaging to Mr. Cottrell's reputation, border on libel, and violate your own published requirements for the publication of comments in your journal.

We are sending you this letter to place you on notice that Constitutional free speech and press considerations do not shield publishers who knowingly or negligently publish untruthful statements when the defamatory potential is apparent to a reasonably prudent person and the defamed individual suffers actual injury. The Supreme Court of the United States has chosen not to define "actual injury;" however, the Court stated that injury is not limited to monetary loss and that states may find liability for such things as impairment of reputation, standing in the community, personal humiliation, and mental anguish. *Gertz v. Robert Welch, Inc.*, 418 U.S. 323 (1974). In addition, as a republisher of comments from your reading audience, you should also be aware that you are liable on the same general basis as the primary publisher, or the individual who initially made the defamatory statement. *Hutchinson v. Proxmire*, 443 U.S. 111, 121 (1979).

We also note that you ask your readers to refrain from making comments that are libelous. You should understand that the only requirements for a *prima facie* case for the defamation of a private citizen in matters that are not of public concern, are that a defamatory statement has identified the defamed individual to a reasonable reader, has been communicated to a third party who understands it, and has actually injured the defamed individual's reputation. The only additional requirement for matters of public concern is reckless disregard concerning the truth of the publication. *Friedgood v. Peters Pub. Co.*, 521 So. 2d 236 (Fla. 4th DCA 1988).

I have assured Mr. Cottrell that, as a conscientious journalist who is now cognizant of the legal requirements for defamation, you will provide unbiased but ethical coverage of future matters when Mr. Cottrell exercises his guaranteed right of free speech, and that you will be careful in your attribution of words or positions to him.

Thank you for your attention to this matter, and we trust that there will be no need for any action with respect to future publications.

Very truly yours,

SHELL, FLEMING, DAVIS & MENGE



Stephen B. Shell

SBS/tgs

SFD&M File No.: B3031.00000

cc: Mr. Alfonzie Cottrell

Members of the Century Town Council

Gary Riley made a motion to give the employees, Mayor and the Council a ham for Christmas.

Nadine McCaw seconded the motion – Gary Riley, Sharon Scott, Ann Brooks, Nadine McCaw voted in favor. Henry Hawkins voted no.

Janet Little Cooper said on December 24th they will come out with their Christmas Edition paper and they always have a section with Dear Santa letters and they also have in that section a photo contest and she brought a sample ad to show the Council what they placed in the paper last year and if they went with that again it would be \$330 and if they chose to do an ad in the New Year's paper they would get that ad for half price for \$165 – but they do not have to.

Gary Riley made a motion to place the same size Christmas ad in the paper for \$330 and the New Year's ad for \$165.

Nadine McCaw seconded the motion and all voted in favor.

Mayor McCall said he needed to go to his office for a minute – Code Enforcement sent him a notice of five properties that they are ready to move on. When he returned he began going over the list of properties – on number 1, 2, and 4 – they will be summary abatements and number 3 and 5 will be Magistrate cases.

Robert Mitchell asked what the names are on them?

Mayor McCall said they don't have any names on them.

Helen Mincy said she can't hear what he is saying.

Mayor McCall said there are 5 cases that the Code Enforcement people have worked and they've run them and re-run them for months and months now and they've went through 3 or 4 steps of checking to be sure everything is correct and ready to go – so they're ready to move on with these 5 cases. They said they will have more coming but their computer is down and it will be next week before they've got it going and they will come up with another list.

Ann Brooks asked if they are ready to advertise these 5?

Mayor McCall said they're ready to move on them.

Ann Brooks said they're certifying that these names are correct?

Mayor McCall said yes and they don't recommend advertising because it causes so much confusion with people.

Helen Mincy asked the Mayor if when he says they are ready to move on – does he mean they are ready to take action?

Mayor McCall said yes – they are ready to take action on 5 cases right now and 2 of them are going to the courts and the other 3 are summary abatement and what that means is they will come up here with some contractors and they will clean the yard up . . .

Robert Mitchell asked where are they located?

Mayor McCall said at 15 Raymar, 8001 Alger, 9441 N. Century Blvd., 13 George Street, and 8850 Blackmon. He and Mr. Riley went down to this 13 George Street and it's a car parked there that needs to be removed – the house is abandoned and there is nobody living there but the man next door told him where to go find the lady that knows where these people are at and she misunderstood what the code people had told her. The car had been moved – it was in the back and they said they had to be able to move it and they moved it with a chain and a truck and put it out in front. So he told her that the car has got to crank and back up 2 foot and pull up 2 foot and all four tires has got to be standing up so she assured he and Mr. Riley this afternoon that they were going to take care of the car – so they told her if she takes care of the car before this is initiated that she will be alright – but she misunderstood the code man about it having to be moved.

Helen Mincy asked what is this on Blackmon Street?

Mayor McCall said it is a house trailer that Ivan tore up five years ago and it is still sitting there and they pulled a FEMA trailer right in front of it and code enforcement has contacted them numerous times and the man is not doing anything about it so it is going to take a judge to tell him what he has got to do with it.

Alfonzie Cottrell said he sees they didn't put the names on these again and is there any specific reason why?

Mayor McCall said because he gave them exactly what code enforcement gave him.

Ann Brooks told Mr. Cottrell that it is an email that they sent – it is not anything that the Mayor created – this is from code enforcement. It was just the addresses they emailed to him.

Robert Mitchell asked well how are they going to contact the people?

Ann Brooks said they have all of that information . . .

Mayor McCall said they've been contacting them for months.

Alfonzie Cottrell asked well when they send these out why don't they put the names on them

– he thinks they (Council) could ask for those names?

Ann Brooks said really in her opinion – the decision that they make – it shouldn't matter if it was him or her or who it is – if they've been contacted and cited and asked to clean up and refused to do it then it shouldn't matter who they are.

Alfonzie Cottrell said it matters and he will tell them why – one reason why it is important is because code enforcement is going around primarily in the black areas – and that is exactly what they're doing and he thinks that everything ought to be out in the open on that thing.

Ann Brooks said she does to but she doesn't agree with him about them only going around in black areas because she . . .

Alfonzie Cottrell said he knows they're going around in black areas.

Ann Brooks said well they are more than 50% black in Century but she has had property that has been cited and the Mayor has had property that has been cited . . .

Alfonzie Cottrell said yeah – there are several white people that have been cited but they're mainly in black areas – that's what he's talking about – he's watching them – he knows.

Mayor McCall asked Mr. Hawkins if he could comment on that? He has ridden with them some.

Henry Hawkins said he rode with them twice.

Mayor McCall said okay – can he comment on that – are they picking and choosing?

Henry Hawkins said when he went with them they took an area and went but now he has some questions and he has some issues – some of these vehicles they are writing up as inoperable and they don't know if the vehicles are running or not.

Mayor McCall said well he has been riding with Ms. Sandra Slay the supervisor and she just makes up a list and she doesn't do any coding – the code enforcement officer comes back after she gives him the list and he goes back and investigates it.

Henry Hawkins said and they write up pretty much what she is saying – because he has talked to several people that have been written up for inoperable vehicles – just because a vehicle is parked in somebody's back yard don't mean it don't work.

Ann Brooks asked if they have called when they got the citation?

Henry Hawkins said yeah – but if they're going to write up a vehicle as an inoperable vehicle

then it needs to have flat tires and they need to know without a shadow of a doubt that it don't run.

Ann Brooks said well they can't know that if somebody is not home.

Alfonzie Cottrell said well if they go and write that up and put it on somebody's record – because it's on their record – that they've got an inoperable vehicle and then find out later that the vehicle is not inoperable – this is what happened to him – it is still on their record. And they're going around and doing this thing and to him it looks like their just dwelling in black areas.

Sharon Scott said Essie Pearl Washington had a car in her yard and she told her to get that car out of her yard because it wasn't working – but she didn't get it moved and the code enforcement officer came and cited her for that and she hurried up and had it moved and called the officer to come back to inspect it and she hasn't had any more problems.

Alfonzie Cottrell said they won't if their car is inoperable but if her car had not been inoperable and they wrote that up – it's on her record.

Ann Brooks said that really isn't a record that stays there – it's not like a court record or anything that stays there – if they take care of the problem it goes away. If they take care of the problem there is no place that it is recorded that it stays – because she goes on the court's website very frequently and there are all the courts records and that information is not there – not until it goes to the Magistrate. It isn't a record that ever shows up anywhere except for in their office and if they take care of it – it doesn't go on any record that anyone would ever be able to see.

Alfonzie Cottrell said but it is still there.

Mayor McCall said it has got "case closed" on it.

Alfonzie Cottrell said but it is still there.

Ann Brooks asked the Mayor if he needs a motion on this?

Mayor McCall said they gave it to them for courtesy because that is what the Council asked them to do . . .

Alfonzie Cottrell said they are supposed to make a report to them.

Ann Brooks said no – this isn't the report – they make reports to the town very frequently and often weekly but that is not what this is. This is where they have contacted these individuals over and over again and given them lots of time to correct the problem and these people have

not done anything and so they want to proceed to the next level with these 5.

Alfonzie Cottrell said he can't see why their name can't be on there.

Ann Brooks said it's just not – it's just not there. She asked if they could have a motion to authorize code enforcement to go ahead with these 5?

Gary Riley asked about the one they contacted today – she wanted a few days to get in touch with the owner – how soon will they start on this once the town gives them the go ahead?

Mayor McCall said he doesn't know how long it will be but they both talked to that lady this evening and she was going to call her sister and all she has got to do is get a chain and hook to it and leave with it and that is all they will have to do. He told her that if it got moved in a hurry that she wouldn't have any problem.

Ann Brooks said that Ms. Slay had told them that anything that they've been cited for if it gets taken care of before the action is taken that it will not cost them any money at all.

Alfonzie Cottrell asked if the papers that they have now for these people to go down there are the ones for \$1100?

Mayor McCall said there are 2 of them on there for \$1100 to go to the Magistrate.

Alfonzie Cottrell said that is if they have fixed it now or haven't fixed it now – it is still \$1100.

Ann Brooks said once it gets to the court that's true – once they've scheduled the hearing – that's true for those 2 that go to the Magistrate.

Robert Mitchell said that's a lot of money that somebody's got to pay.

Ann Brooks said well they should be cleaning up their property.

Nadine McCaw said these addresses have been turned in several times on their reports and code enforcement has gone back over and over again.

Ann Brooks asked if they could have a motion.

Sharon Scott made a motion to authorize code enforcement to go ahead with the 5 cases.

Nadine McCaw seconded the motion – Gary Riley, Sharon Scott, Ann Brooks, and Nadine McCaw voted in favor. Henry Hawkins voted no.