

FREEDOM FROM RELIGION *foundation*

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SENT BY U.S. MAIL AND E-MAIL
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The Honorable Darrell H. Smith
Mayor, Draper City
1020 Pioneer Road
Draper, UT 84020

Re: Government Endorsement of Proselytizing Singer

Dear Mayor Smith:

I am writing on behalf of the Freedom From Religion Foundation (FFRF) to urge you to immediately cease using Draper City (City) resources and taxpayer funds to plan, organize and promote a religious concert. FFRF is a national nonprofit organization with over 18,500 members, including over 100 members in Utah. Our purpose is to protect the constitutional principle of separation between state and church.

It is our information and understanding that you are hosting the Draper City Concert. We understand that Draper City paid Michael W. Smith, a self-described “worship leader,” whose hits include “You are Holy (Prince of Peace),” “Agnus Dei,” and “Awesome God,” up to \$40,000 to perform his “Wonder, Worship, & Glory Tour.” This is unconstitutional.

The Establishment Clause to the First Amendment to the U.S. Constitution prohibits government sponsorship of religious messages. The Supreme Court has said time and again, that the “First Amendment mandates government neutrality between religion and religion, and between religion and nonreligion.” *McCreary County, Ky. v. American Civil Liberties Union of Ky.*, 545 U.S. 844, 860 (2005); *Wallace v. Jaffree*, 472 U.S. 38, 53 (1985); *Epperson v. Arkansas*, 393 U.S. 97, 104 (1968); *Everson v. Board of Ed. of Ewing*, 330 U.S. 1, 15-16 (1947).

It is inappropriate for Draper to pay for Michael W. Smith’s worship concert because it conveys government support for for his religious and overtly Christian message. The Supreme Court has ruled that “The Establishment Clause, at the very least, prohibits government from appearing to take a position on questions of religious belief.” *County of Allegheny v. American Civil Liberties Union Greater Pittsburgh Chapter*, 492 U.S. 573, 593-594 (1989). Thus, it does not matter if the city believes that it may recoup some of the money – the religious concert was made possible with government funds. Spending taxpayer money on Christian evangelism is illegal.

Michael W. Smith’s concerts are religious services. A worship service conceived, hosted and

advocated by a publicly-supported government does not pass constitutional muster. This concert amounts to a declaration of orthodoxy in Draper must cease immediately.

Notably, this event excludes non-Christians and non-believers. Nearly one out of every six Utahns identifies as non-Christian. Additionally, the non-religious are the fastest-growing segment of the U.S. population by religious identification — at 15% by national average, more than 45 million Americans are non-religious (American Religious Identification Survey 2008, Trinity College). This event “sends the ancillary message to members of the audience who are nonadherents ‘that they are outsiders, not full members of the political community, and an accompanying message to adherents that they are insiders, favored members of the political community.’” *Santa Fe Indep. Sch. Dist. v. Doe*, 530 U.S. 290, 309-310 (2000)(quoting *Lynch v. Donnelly*).

The City must cease all sponsorship and organization of the Michael W. Smith’s concert. We ask that you disassociate the Mayor’s office from the event and refrain from hosting, organizing, or otherwise coordinating religious events in the future. All coordination of the events by the City must be discontinued immediately. We request a response in writing about what steps you are taking to ensure constitutional dictates are being followed.

Sincerely,



Andrew L. Seidel
Staff Attorney

ALS:jjr