

ORIGINAL

J. Alan Smith, Private Citizen
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PWC Utility Account No. 61138-24899
In Propria Persona



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Before the Arizona Corporation Commission

ARIZONA CORPORATION COMMISSION
DOCKET CONTROL

Arizona Corporation Commission
DOCKETED

AUG 20 2012

DOCKETED BY [Signature]

COMMISSIONERS

Gary Pierce, Chairman
Paul Newman, Commissioner
Brenda Burns, Commissioner
Bob Stump, Commissioner
Sandra D. Kenndy, Commissioner

J. Alan Smith, Injured Party
Complainant,

vs.

PAYSON WATER CO. INC./BROOKE
UTILITIES INC.
Respondents.

DOCKET NO. W-03514A-12-0007

**RESPONSE TO RESPONDENTS
OBJECTION TO COMPLAINANT'S
4TH, 4TH DISCOVERY AND DISCLOSURE
AND HIS MOTION TO DENY**

NOW COMES, the Complainant J. Alan Smith, to respond and object to Respondents Objection to Complainant's Fourth Discovery and Disclosure and Motion to Deny and Overrule Respondents Objection.

Respondents' Motion is improperly captioned as usual in order to impose Hardcastle's will upon the Commission and for the ulterior motives of the Respondents. The Respondents cannot arbitrarily alter the style of the "Formal Complaint" to eliminate one party at will for their own purposes especially since there has been no ruling to allow such a change. Wherefore, the pleading is improperly entered. The current administrative process is played by the Rules specified in Ariz. Adm. Code R14-3-106 through 111 that Respondents should reference and comply with, furthermore;

On July 30, 2012 Respondents mailed their "Supplemental Motion to Quash Brooke Utilities Inc. as a party to the Complaint." When the document was filed by Docket Control is unknown at this time. The Administrative Law Judge has yet to rule on a similar motion filed in Docket No. W-03514-A-12-0008 and did not rule on that motion in favor of the Respondents at the August 7, 2012 hearing;

On July 31, 2012 and not August 1, 2012 Respondent's mailed their "Notice of Initial Disclosure." When the document was filed by Docket Control is unknown at this time;

On August 1, 2012 and not August 6, 2012 Respondents mailed their "Supplemental Motion to Dismiss" it was received by the Complainant on August 4, 2012. When the document was filed by Docket Control is unknown at this time;

On August 7, 2012 the Complainant filed his "Response and Objection to Respondent's Motion to Dismiss and Motion to Deny;" and, presented to the Judge Nodes, Staff and the Respondents at hearing copy thereof. The Motion to dismiss was denied by Judge Nodes at the hearing, on August 7, 2012;

On August 7, 2012 Complainant filed his Motion to Continue the proceedings with Docket Control and presented to Judge Nodes copy thereof. Additional copies were available for Staff and the Respondents but the Complainant misplaced them at that time, had to orally present it and did mail copy to Mr. Hardcastle on July 7, 2012. At hearing, Judge Nodes granted Complainant's "Motion to Continue" for 90 days;

On August 7, 2012 Judge Nodes took into consideration Complainant's "Motion to Compel Jim Pearson and Person Water Co. to comply with the Subpoenas" issued to them to produce documentation and to appear at the hearing scheduled for August 7, 2012 which Mr. Pearson arbitrarily refused to comply with.

Judge Nodes and Staff appeared to be in a quandary as to how to fulfill their duties and responsibilities to enforce the Subpoena as required by Constitutional and Statutory Mandate as a Court of general jurisdiction and suggested that this had never happened before.

In fact in the previous Docket W-03514A-12-0008 this same issue occurred and all of the Complainants' efforts to move the Administrative Law Judge and his Court of general Jurisdiction to enforce and compel compliance with the Subpoenas issued by the Executive Director on behalf of the Complainants' in those proceedings were not acted upon by the ALJ, Staff and the Commission. To date no justifiable cause or reason has been given for denying the Complainants the right to access vital and necessary evidence Subpoenaed or to cross-examine the witness Pearson. This has created numerous reversible errors and appealable issues for the Complainants in those proceedings;

On August 7, 2012 Complainant filed his "Fourth Notice of Discovery and Disclosure" and appropriately presented courtesy copies of that document to the Respondents, Staff, Judge Nodes and the Court Reporter;

On August 7, 2012 Mr. Tresca filed his Motion for Intervention in these proceedings and his Affidavit. The Complainant appropriately presented courtesy copies of that document to the Respondents, Staff, Judge Nodes and the Court Reporter;

On August 7, 2012 and not August 8, 2012 Complainant mailed his "Notice of Service of Process of Subpoena on Robert T. Hardcastle, Brooke Utilities, Inc. and Payson Water Co. and its corresponding certification." When the document was filed by Docket Control is unknown at this time;

On August 8, 2012 Respondents mailed and did not file their “Objection to Application of Dennis B. Tresca for Intervention into the Docket.” When it was filed by Docket Control is unknown at this time;

On August 9, 2012 Respondents mailed their haphazard “Motion to Dismiss a Portion of the Complaint” with numerous self-incriminating Exhibits that confirm beyond any reasonable doubt that they participated in a conspiracy to make extra ordinary misrepresentations to the Commission and Staff in furtherance of a fraud upon the Complainant to cover up their misguided activities concerning the wrongful termination of Complainant’s water service.

In that pleading Mr. Hardcastle alleged falsely that on August 16, 2012 (which had not even occurred yet) the Respondents had timely filed their responses to Complainant’s Subpoena dated August 2, 2012. Such a claim is shear and utter nonsense as of August 9, 2012, the date of August 16, 2012 was Seven Days away and the Complainant has received no such response. Docket Control may reflect the actual filing of the Respondent’s response to Complainant’s Subpoena dated August 2, 2012;

On August 10, 2012 Respondents mailed their “Objection to Complainant’s Fourth, Fourth Discovery and Disclosure.” In that pleading, Respondents again alleged falsely that they had filed timely responses to Complainant’s Subpoena dated August 2, 2012 on August 16, 2012. Again such a claim is shear and utter nonsense as of August 10, 2012 the date of August 16, 2012 was Six Days away. There is a problem with Respondent Hardcastle’s credibility;

COMPLAINANT’S RESPONSE

In the Respondent’s “Objection to Complainant’s Fourth, Fourth, Discovery and Disclosure” Mr. Hardcastle argues because there is no affidavit signed by Interviewee Pearson attesting to the accuracy and truthfulness of any of the interviews that some how the Interviews are invalid. The same can be said about the Interview of Mr. Roy Williams.

The Affidavits by both the Complainant and Mr. Burt attest to the truthfulness and accuracy of the audio recorded and transcribed Interviews of Mr. Pearson and the Complainant here and now offers those audio recordings into evidence in support of those “Pearson Interviews” being accurate and truthful.

It should be obvious from the Complainant’s Interviews of Mr. Pearson that he is an extremely hostile and uncooperative witness who has been instructed not to cooperate, plans to leave the country and if he were presented with copy of the transcripts and an affidavit for him to sign and notarize he would refuse to comply in the same manor as he refused to comply with the Subpoenas. The accuracy of the transcribed Interviews presented by the Complaint of Mr. Pearson are known and easily proven to be truthful and accurate according to the audio recordings that the Complainant will upon request produce copy of for the Respondents, Staff and the Administrative Law Judge to review.

In Docket No. W-03514A-12-0008, the Respondents claim that they did not audio record their Interview with Mr. Pearson but somehow were able to produce an alleged accurate transcription of the Interview along with Mr. Pearson's Affidavit which was more than suspicious. Who did the Transcription? Why was the Interview not recorded and if it was recorded why did the Respondents refuse to produce a copy of the recording for the Complainant, Staff and the Judge to review? The accuracy of the Pearson Interview cannot be relied upon due to the extreme hostility and uncooperative nature of Mr. Pearson and Mr. Hardcastle's clear ability and practice to alter corporate records to suit his needs.

Both the Complainants and Staff had serious and expressed problems with the Interview of Mr. Pearson being submitted into evidence and with Mr. Allred representing or standing in for Mr. Pearson on the witness stand to answer questions in his behalf. Furthermore, the Complainants' in the previous Docket were denied the right to cross-examine Mr. Pearson in person in those proceedings and Pearson absolutely refused to comply with the Subpoena issued to him as he has done in these proceedings.

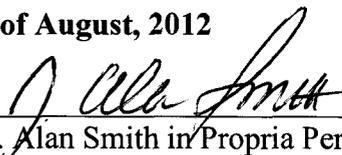
In these proceedings Respondent's have entered into evidence a similar type alleged Interview with Roy Williams who claims to be a resident of Lake Charles, Louisiana and like that of Mr. Pearson there is no offer of proof of its accuracy or authenticity, no audio recording to review. It is highly probable that Mr. Hardcastle intends to play the same game and call Mr. Allred to the witness stand to testify on behalf of Mr. Williams as his representative and stand in party.

The Interview of Mr. Williams is obviously prompted with photos and documents for him to review during a telephone Interview and it is not signed and notarized by a notary public. There are false statements made concerning where a disconnection notice was left and a dog that are easily disproven by the Complainant who does not own the dog described and the notice was found in the meter box not on the door.

If there is an audio recording of that interview the Complaint requests that the Respondents produce a copy for the Complainant to review. If not, the same objection(s) raised by both Staff and the Complainants in the previous Docket are again raised here and now by this Complainant and the motion is submitted that the alleged Interview of Roy Williams and its exhibits not be allowed to be submitted into evidence and/or excluded there from.

Complainant requests that the Interviews of Mr. Pearson and the sworn Affidavits of both the Complainant and Mr. Burt be admitted into evidence on the record, that he be allowed to submit the audio recordings of those Interviews into evidence and that the Respondent's objection to Complainant's Fourth Discovery and Disclosure be over ruled and denied.

Respectfully submitted this 16th day of August, 2012



J. Alan Smith in Propria Persona

CERTIFICATE OF SERVICE

The Original and 13 copies of the foregoing Response, has been mailed this 16th day August, 2012 to the following:

DOCKET CONTROL
ARIZONA CORPORATION COMMISSION
1200 West Washington Street
Phoenix, Arizona 85007

Copies of the foregoing, Response has been mailed this 16th day August, 2012 to the following:

Robert T. Hardcastle
P. O. Box 82218
Bakersfield, Ca. 93380

By: J.A.S.