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**WITNESS FOR RATEPAYERS REPRESENTATIVES OF THE
WINDERMERE OAKS WATER SUPPLY CORPORATION
DANIEL FLUNKER**

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RATEPAYERS APPEAL OF THE	§	BEFORE THE STATE OFFICE
DECISION BY WINDERMERE	§	
OAKS WATER SUPPLY	§	OF
CORPORATION TO CHANGE	§	
WATER AND SEWER RATES	§	ADMINISTRATIVE HEARINGS

DIRECT TESTIMONY OF DANIEL FLUNKER

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1 **I. INTRODUCTION, POSITION, AND QUALIFICATIONS**

2 Q Please state your name and address.

3 A. Danny Flunker 307 Coventry Rd

4 Q Please describe your history with the Windermere Oaks Water Supply Corporation
5 (WOWSC)

6 A. Member since 2006.

7 **II. PURPOSE OF TESTIMONY**

8 Q Please describe the purpose of your testimony?

9 A. My testimony is about Public Information Request (PIR) that I submitted to WOWSC in
10 2019.

11 Q What have you done to prepare for your testimony?

12 A. have studied the requests I personally submitted in 2019. According to my records there
13 were a total of seventeen PIR.

14 **III. DIRECT TESTIMONY**

15 **REGARDING PIR TO THE WOWSC**

16 Q Did you make any PIR to the WOWSC in 2019?

17 A. Yes, a total of seventeen.

18 Q How did you make a PIR?

19 A. All PIRs were made via email.

20 Q Who did you send your PIR to?

21 A. I routinely sent all PIR requests to the entire board. On occasion the WOWSC general
22 counsel was cc'd. Per WOWSC website all requests are processed by their attorneys.

23 Q Why did you make your PIR?

1 A. The PIRs I made were to collect and share information WOWSC seemed to want to
2 keep secret including financials. In 2018 when financials were requested at a meeting
3 the WOWSC attorney told the member to do a PIR.

4 Q Did you research how to make a PIR to a government entity?

5 A. Yes, I reviewed the Public Information Act of Texas. I also researched what the
6 responsibilities the governing body had. All of that information was researched via the
7 Texas Attorney Generals website regarding this matter. I also read the WOWSC
8 bylaws.

9 Q What did you reference prior to submitting your PIR?

10 A. I referenced the Public Information Act and Texas AG Opinions and the WOWSC
11 bylaws.

12 Q How many unique requests did you make?

13 A. I made seventeen unique requests in 2019.

14 Q Please categorize the requests made to the WOWSC in 2019 and provide exhibits if
15 applicable.

16 A. The request I made are listed below and the text of the email which I sent to the
17 WOWSC board and their attorneys.

18 1) 5/17/19 Pursuant to the **Public** Information Act, I would like to request any and all
19 correspondence from the D&O insurance provider regarding the TOMA Integrity
20 suit.

21 2) 5/28/2019 I am requesting per the PIA, copies of all legal invoices from 3/7/18 to
22 todays date, that is all invoices of all work done by Les Romo and Lloyd Goosling

1 for WOWSC. Note- WOWSC Missed their ten-day deadline and filed a lawsuit
2 over this request only to make the information available in 2021.

3 3) 6/10/2019 I am respectfully requesting per the TPIA, the resignation letter/email
4 from William Bill Stein, the approximate date of that would be 4/10/18.

5 4) 6/5/2019 Pursuant to the Public Information Act, I am respectfully requesting any
6 and all correspondence with (both to and from WOWSC or its agents to Insurer)
7 the D&O insurance provider regarding the petition to remove Dana Martin, TOMA
8 Integrity suit, etc. I am listing points of reference from the letter dated January 30th
9 2018, given to me per PIA Request dated 5/17/19, so as to better help target time
10 frames of correspondence with the insurance carriers.

11 5) 6/14/2019 I am respectfully requesting per the TPIA, the draft minutes (as soon as
12 they are available) for the 6/12/19 WOWSC meeting.

13 6) 6/24/2019 Per the TPIA I am respectfully requesting the email that was omitted in
14 my previous PIA request (see snip). The reference for this omitted email is as
15 follows and is below in the snip, Ms. Martin sent an email to WOWSC Directors
16 Dorothy Taylor, Bob Mebane and Jeff Hagar on July 27, 2017 at 9:18 pm. Please
17 furnish me a copy of this email.

18 7) 6/19/2019 As follow up to my 6/14/19 TPIA request, I am respectfully requesting
19 per the TPIA, the draft minutes for the 6/12/19 WOWSC meeting. I do understand
20 that the Texas Public Information Act and opinions of the Attorney General only
21 applies to information already in existence and does not require the water supply
22 corporation to inform me or make information available when it comes into
23 existence after the date of my request, however in the interest of full transparency,

1 I would hope that you would simply make that information available to the
2 community as soon as it is available. If this information is not available, please let
3 me know when this information may be available.

4 Your cooperation is much appreciated and thank you for your service.

5 8) 7/15/2019 I am respectfully requesting per the TPIA copies of all TPIA request that
6 the WOWSC has received from 3/9/19 to current. You can simply scan them and
7 send them to me via email.

8 9) 6/20/2019 Per the TPIA, I am respectfully requesting any follow up response letter
9 from the insurance carrier to Jose De le Fuentes letter dated 5/31/19 and any other
10 correspondence regarding cause # 48292 since the date of 5/31/19. Note-WOWSC
11 missed the ten-day deadline. They made multiple excuses including not
12 understanding the request.

13 10) 7/24/2019 I am respectfully requesting an emailed copy of the current manager's
14 contract.

15 11) 7/24/2019 I am respectfully requesting an emailed copy of the current Corix
16 contract. Note-WOWSC said they had no responsive documents hence the need for
17 the 8/1/2019 request.

18 12) 8/1/2019 I am respectfully requesting a copy of the current contract between Water
19 Management Inc and Corix. The WOWSC board unanimously approved of the
20 entering into this contract (see attached minutes).

21 13) 7/25/2019 I am respectfully requesting the draft minutes for the 7/10/19 WOWSC
22 meeting. Note-after receiving the draft minutes Mr. Gimenez was made aware of a
23 mistake. That mistake was not corrected to the best of my knowledge. "My exact

1 comment on #12 was- Joe, don't you think its a conflict of interest for you to make
2 the motion to compensate yourself for being the PIO."

3 14) 8/5/2019 I am respectfully requesting emailed copies of any
4 communication/correspondence, between WOWSC (or its agents) and the
5 insurance carrier since 6/19/19 to today's date.

6 15) 9/26/2019 I am requesting a copy of the draft minutes from the 9/18/19 meetings.

7 I am also requesting copies of all communication/correspondence between WOWSC
8 and Roger Jay Grissom. Note-Mr. Gimenez was not forthcoming about a possible
9 lawsuit regarding a bad grinder pump and WOWSC paying for that. Mr. Gimenez also
10 forgot to tell the members that He and Mr. Grissom were friends and fellow POA
11 directors.

12 16) 10/14/2019 Please provide copies of the 9/18/19 meeting minutes, both special and
13 regular. If they haven't been approved yet please provide copies of the draft
14 minutes.

15 17) 10/27/2019 A copy of the emails and the email chains regarding such in their
16 entirety that was read at the 10/26/19 meeting from Bob Mebane, Sandy Neilson
17 and Nancy Lerner. Also, any other correspondence between WOWSC and any
18 members from 7/1/19 to 10/27/19. Copies of Bank Statements and cancelled
19 checks from March 2018 to current. If there is a cost for this portion of the request
20 let me know. Note-Mr. Gimenez sent multiple links to PIA requests. He later sent
21 three PDF's as requested.

22 Q How many requests did you make for legal invoices in 2019?

1 A. I made one request for legal invoices in 2019. I also included the AGs opinion regarding
2 attorney fee bills showing they were not privileged. The attorney general agreed with
3 that. It was then WOWSC sued the Texas AG.

4 Q Were responses to your request for public information promptly replied to?

5 A. No, the request was made May 28th. The PIO followed up with a fee schedule for the
6 cost of copies which I agreed to. On June 12th 2019 I received a letter from WOWSC
7 attorneys stating they filed a request with the AG to withhold information. On
8 September 23rd 2019, I was notified WOWSC filed a lawsuit against AG Ken Paxton
9 after the AG required them to make most of the information available.

10 Q Did the WOWSC deliver to you the specific documents which were requested?

11 A. No, they nonsuited in spring of 2021 but to date the documents have not been given to
12 me. To this day there is no way to ascertain if the information is accurate since they
13 failed to deliver the red bracketed version the AG supplied to WOWSC to requestor.

14 Q If not please list what documents requested in 2019 have not been supplied.

15 A. The attorney fee bills (invoices) were never delivered to me.

16 Q Have you read the Texas Public Information Act?

17 A. Yes

18 Q Does it seem reasonable to you after reading the TPIA on which documents a
19 government entity may withhold from a requestor.

20 A. Yes, very few.

21 Q How many document requests made in 2019 do you believe fall under the TPIA
22 provision of documents which may be withheld from a requestor according to TPIA
23 page?

1 A. None

2 Q Which documents were withheld?

3 A. Attorney fee bills

4 Q What communication did you receive regarding the documents withheld?

5 A. WOWSC did not communicate with until they had filed a lawsuit against the Texas
6 AG. They are supposed to let me know that the Texas AG disagreed with them, that
7 did not happen.

8 Q Do you have any knowledge of Mr. Gimenez experience as a public information
9 specialist?

10 A. Yes, On Mr. Gimenez company website he has a Public Information Act Response tab.
11 It states- "We help you put your best foot forward with that first impression. Don't
12 underestimate this opportunity to make lemonade out of lemons." ¹

13 **TEXAS ATTORNEY GENERAL DECISION**

14 **WOWSC LEGAL INVOICES**

15 Q When did you find out about the WOWSC filing for a Texas Attorney General Decision
16 on withholding WOWSC Legal Invoices?

17 A. June 12th and June 19th 2019

18 Q Did you submit a response to the Texas AG in response to WOWSC request for a decision?

19 A. Yes, June 16th 2019

20 Q What was the result of the Texas AG decision?

21 A. The AG agreed with my position allowing for nominal redactions however I found this out
22 after WOWSC filed suit.

¹ <https://g3publicrelations.com>

1 Q Did the WOWSC then provide the invoices, if not describe the events which took place
2 following the AG decision?

3 A. No, On September 23rd 2019 I received an email from WOWSC attorney they filed a
4 lawsuit against the Texas AG. I was never notified the Texas AG required WOWSC to
5 make the invoices available.

6 Q What is the current status of this case or any additional cases the WOWSC has filed in
7 Travis County regarding TPIA request related to WOWSC legal invoices you have
8 requested?

9 A. WOWSC filed two lawsuits against Ken Paxton regarding legal invoices. I found out via
10 WOWSC website that the 2019 suit was nonsuited on March 15th 2021 when it appeared
11 on WOWSC website.² Again, I never received the request. The second request for
12 invoices was to ascertain how much money WOWSC has spent on certain legal matters to
13 include the two AG lawsuits, the PUC rate case, etc. To my knowledge the second AG suit
14 is ongoing however WOWSC claims to have now made that information available.³

15 Q Did WOWSC vote to file suit against the Texas AG?

16 A. WOWSC filed suit on September 23, 2019 without a board vote in violation of TOMA.
17 After much condemnation in the community, in October of 2019 the board voted to sue the
18 Texas AG after the fact. The membership comments show their disapproval. This was
19 once again in violation of TOMA as it was not properly noticed in a previous meeting
20 agenda nor noticed properly in the October 9th 2019 agenda.⁴ The second Texas AG suit
21 regarding a PIA request was never noticed nor voted on by the WOWSC board.

² https://www.wowsc.org/documents/778/Order_Granteeing_Notice_of_Nonsuit_D-1-GN-20-007251_file_marked_2021.03.15_pdf

³ Id

⁴ https://www.wowsc.org/documents/778/2019-10-9_WOWSC_Board_Meeting_Minutes_Approved.pdf

1 IV. CONCLUSION

2 Q. Does this conclude your testimony?

3 A. Yes

4 Q. Do have any further comments?

5 A. Yes, All PIA requests were made in an effort to make information available to the
6 membership. As it was made available it was then freely shared with the members. WOWSC has
7 a history of disregarding PIRs or letting information out slowly to routinely keep the members in
8 the dark. The biggest question and concern I still have is how much of the members resources did
9 the WOWSC board spend concealing invoices they deemed confidential in the AG lawsuits and
10 the PUC rate case? My conclusions that WOWSC has no regard for using and wasting the members
11 resources. That should be apparent by the sudden change of heart regarding privileged information
12 after fighting for years to keep it hidden to suddenly release it.