

From: Douglas Markham <drdoug@totalhealthdoc.com>
To: Gary Sackett <GSackett@joneswaldo.com>
Date: 6/20/2008 5:45 PM
Subject: Re: Markham v DVWW
Attachments: Pace voice 6-12-08.pdf

CC: <pschmid@utah.gov>, <sgoodwill@utah.gov>, <ppowlick@utah.gov>, <wduncan@...>
Hi Gary:

No one has ever been sued or threatened to be sued related to this issue!

Brooks Pace needs to be clear that we sent him a letter through our attorney, Russ Mitchell to let him know how we had been treated by his employee Carol Thorpe after questioning the huge difference in our water bill.

We just got finished with a huge law suit with Jay Bradley and due to Mr. Bradley's comments to our neighbors about not transferring our water shares, etc. and later Carol Thorpe asking for proof of our water shares and unwillingness to cooperate, we thought that maybe Brooks Pace should know about what was going on and that we needed clarity about our water share rights, billing rates, etc. from the water company.

We actually went the extra mile by paying Russ Mitchell hundreds of dollars to craft the letter to Brooks Pace to avoid this process with the Public Service Commission. A letter from our attorney is far from suing someone!

So instead of Brooks Pace being a "straight up" guy as he so eloquently stated to his Utah Senator friend Ross Romero and related in the threatening tone of his voice mail to you, he turns around and back bills us for thousands of dollars!

Maybe our biggest mistake was that we were under the misconception that he was a man of integrity, never thinking that he would misinterpret a letter from our attorney as a lawsuit!

This is the problem with a public utility monopoly owned by an individual. There's absolutely no recourse for the public consumer who is totally at the whim of the individual who owns and controls the monopoly.

My wife CEDrea also said that when you questioned Mr. Pace in the hearing on 6-12-08 about why he back billed us and not the Bradley's, he said that he was waiving the bill to the Bradley's due to past work Jay Bradley had done for him.

Does this mean that if I treated the CEO of California Edison, that he could legally excuse my electric bill in exchange for my services? All of this seems purely discriminatory and certainly not legal or within the posted tariff agreements.

Also, what if we didn't have the thousands of dollars we have spent to bring this injustice to the attention of the PSC?

How is the PSC going to protect the water consumers of Dammeron Valley who don't have the thousands of dollars to foster a valid complaint when the

water company won't cooperate on the local level?

Isn't the PSC funded by tax payers to protect the public?

Is there something I should know?

Is the PSC afraid of Brooks Pace and not willing to enforce action against an individually owned public utility company due to his connections with powerful state senators like Senator Ross Romero?

Should the media be alerted?

Is an investigation beyond the water company warranted?

Please advise.

Thanks,

Doug

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Dr. Douglas Markham
Total Health
3835-R E. Thousand Oaks Blvd., Suite 130
Westlake Village, CA 91362
Ph: (805) 496-6255
Cell: (805) 551-6255
Fax: (805) 496-7288
<http://www.totalhealthdoc.com>

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> Doug and 'Drea:

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> Below is a follow-up to the conversation that I had with Trisha Schmid at the
> Friday hearing. Don't know if this will go anyplace, but 'Drea and I thought
> it was worth a try. I have also attached the transcription of the voice mail
> left by Brooks Pace on my office phone on Thursday.

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> --Gary

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> From: Gary Sackett
> Sent: Monday, June 16, 2008 11:38 AM
> To: pschmid@utah.gov
> Subject: Markham v DVWW

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> Trisha:

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> This e-mail is to follow up on our conversation of last Friday
> concerning the Markhams' position as the case has developed. Assuming that

> the Division's second memo as to the accuracy of the billing records is the
> final word, and that underbilling for overage usage on the Bradleys' and
> Markhams' account was "inadvertent," the Markham's believe that they should be
> accorded the same treatment as the Bradleys were given.

> Namely, DVWW has indicated that it will not back-bill the Bradleys for
> the \$16,504 that it underbilled them before it discovered the "error." Yet,
> they did back-bill the Markhams under the same circumstances for the May-June
> 2006 billing period.

> The original billing was \$485.00 (Ex. B to the Markhams' Complaint).
> The revised billing was \$2,956.00 a difference of \$2,471.00 (Ex. D to the
> Complaint).

> Although the Markhams' were misled into believing that they would be
> charged only \$0.25/1000 gal. for all overage on their irrigation account, they
> are willing to concede that forward-going billings using the \$2.00 overage
> rate beginning July 2008 are appropriate if they, like the Bradleys, are not
> back-billed for the mis-billing prior to the time the error was
> discovered (that is, sometime in July or August 2006).

> In sum, the Markhams want no more than the same treatment that the
> water company gave to the Bradleys for water service to the same property,
> accompanied by the same three water shares. That treatment is for the water
> company to forgo back-billing and collecting the difference from both owners
> of the property purchased by the Markhams from the Bradleys.*

> Because the Markhams have paid the full May-June bill of \$2,956.00,
> they would be willing to forgo any further action against the water company if
> they were to receive a credit of \$2,471.00 (the amount of the May-June
> back-billing) on their irrigation account. It seems only fair to them that
> they receive the same treatment on back-billing as the previous owners of the
> property. (And, as I related to you Friday, I believe Paul Hicken's position
> is that no other customers were the subject of any significant mis-billing of
> the type that occurred on the Bradley-Markham property.)

> You indicated that the Division might regard this as a fair way to
> settle the matter. Please contact me if you have questions. Thanks for your
> efforts trying to find a way to resolve this issue.

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> -Gary

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> *It is notable that Mr. Bradley and Mr. Pace are friends and business
> colleagues and that Mr. Bradley was quite exercised that the Markhams
> prevailed in a hotly contested lawsuit involving the purchase of the property
> by the Markhams from the Bradleys. Jay Bradley is known to have told the
> Markhams that he would make it hard on them in their dealings with
> DVWW--presumably through his connections with Mr. Pace.

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**Telephone Message Left On Gary Sackett's Voicemail System
June 12, 2008 (approximately 5:00 p.m.)**

Gary, this is Brooks Pace. It's a little after 5 o'clock; I'm just leaving the hearing.

And I had hoped, ...after the hearing a couple of months ago I was having dinner with Ross Romero and he happened to mention your name.

And I said "Jees, what a heck of a coincidence, I'm being sued by this fellow Democrat."
And I said "Jees, you ought to mention to Gary that I'm a good guy and so forth."

But anyway I just called Ross, and he said, "Look I didn't mention it to Gary, and I don't know that it would have been appropriate to do so and certainly it's not appropriate for me to get involved in it right now, but here's his office number. Maybe you can reach him."

So, I don't have anything to offer as a settlement because this case has no merit on the part of your client; but I'd like to sit down with you and the client, if you would like to, and try and bring it to a conclusion because I just don't see us doing anything but wasting more time of public officials and cost to your client. And I'm sorry about the misunderstanding, but we didn't do anything wrong. And you can keep plumbing [?] that as long as you want. You'll find that we are a very straight up and up company, and I have a reputation in St. George for being honest to the fault. And that's probably what's been going on here is that I just always bend over and go the extra mile except when people sue me and then I get pissed off and I go after their ass. So that's where I'm at in this case.

If you want to talk, you can call me. Call Ross, maybe he'll give you my phone number.