

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

CORINTH WATER DISTRICT AND ITS	)	
INDIVIDUAL COMMISSIONERS, W.D. FIELD,	)	
DIANE MINCARELLI, SHANNON LONG, CHERISH	)	CASE NO.
KENNEDY, AND ASHLEY LAUDERMAN	)	2022-00061
ALLEGED FAILURE TO COMPLY WITH KRS	)	
278.300	)	

**CORINTH WATER DISTRICT AND ITS COMMISSIONERS' RESPONSE  
TO THE COMMISSION'S APRIL 8, 2022 ORDER**

Corinth Water District and its individual commissioners, W.D. “Dan” Field, Cherish Kennedy, and Ashley Lauderman, (“District Respondents”),<sup>1</sup> by counsel, in Response to the Order entered by the Kentucky Public Service Commission (“the Commission”) on April 8, 2022 state as follows:

In early 2020 Brian Skinner, a financial advisor employed by Ross, Sinclaire & Associates came to the office of Corinth Water District General Manager Tara Wright and asked to speak with her about a potential refinancing of federal debt obligations incurred by the Corinth Water District (“the District”).<sup>2</sup> Mr. Skinner informed Ms. Wright that due to historically low interest rates, the District might be able to realize significant savings on these debt obligations if they

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<sup>1</sup> Named Commissioner Diane Mincarelli was appointed in February 2019. Ms. Mincarelli’s term ended in October 2020, and she did not have any involvement in or knowledge of the facts underlying this inquiry as it relates to either the District’s 2021 refinancing of debt obligations or 2017 truck purchase. Similarly, named Commissioner Shannon Long was appointed in October 2020, but stopped serving as a commissioner when she moved out of the district in April 2021. Ms. Long also did not have any involvement in or knowledge facts underlying this inquiry as it relates to either the District’s 2021 refinancing of debt obligations or 2017 truck purchase. Ms. Long was replaced by named commissioner Ashley Lauderman. *See* Affidavit of Tara Wright attached hereto as Exhibit A at ¶¶ 3-4.

<sup>2</sup> *Id.* at ¶¶ 2-6.

refinanced.<sup>3</sup> Ms. Wright took over the position of District General Manager in 2020 shortly before this meeting, and has prioritized effective management in her role and compliance with all applicable rules and regulations since doing so.<sup>4</sup> For this reason, when Mr. Skinner made his initial approach about a potential refinancing, and despite this being only a preliminary and informal meeting, Ms. Wright informed him that the District was governed by Commission regulations and therefore any refinancing would require Commission approval.<sup>5</sup> Mr. Skinner assured her that should the District make the decision to refinance that his office would handle all necessary regulatory approvals, including from the Commission.<sup>6</sup>

The District did not re-visit the issue of financing its debt for more than a year due to delays associated with the COVID-19 pandemic.<sup>7</sup> In May 2021, the District again explored the possibility of refinancing and that month Mr. Skinner came to a public meeting being held by the District to make brief presentation about the potential benefits and savings that would accompany a refinancing.<sup>8</sup> In attendance at this meeting were Ms. Wright as well as District Commissioners Dan Field, Cherish Kennedy, and Ashley Lauderman.<sup>9</sup> As part of his presentation, Mr. Skinner reiterated that his company would obtain all necessary Commission approvals before any prospective refinancing occurred.<sup>10</sup> Following his presentation, Ms. Wright and Commissioner Field asked Mr. Skinner multiple times to confirm that he understood the refinancing would need

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<sup>3</sup> *Id.* at ¶ 6.

<sup>4</sup> *Id.* at ¶¶ 3-6.

<sup>5</sup> *Id.* at ¶ 6.

<sup>6</sup> *Id.*

<sup>7</sup> *Id.* at ¶ 7.

<sup>8</sup> *Id.*

<sup>9</sup> See Minutes of the District's May 12, 2021 Meeting previously provided to the Commission.

<sup>10</sup> Affidavit of Tara Wright attached hereto as Exhibit A at ¶ 7.

to be approved by the Commission, and whether he would obtain such approvals.<sup>11</sup> Mr. Skinner again reassured the District that he would ensure all necessary approvals would be obtained.<sup>12</sup> Following Mr. Skinner’s answers to their questions, the District’s Commissioners tabled a decision about refinancing in order to conduct more due diligence on what Mr. Skinner proposed and, specifically, to obtain advice and guidance on the refinancing issue from an accountant and attorney about the deal.<sup>13</sup>

The District held its next meeting on June 2, 2021.<sup>14</sup> At this meeting, the District’s commissioners moved to accept the proposed refinancing agreement that Mr. Skinner presented the month before but did not yet enter into the agreement.<sup>15</sup> The District refrained from entering into the agreement in June for a simple reason – it had not been informed by its counsel that all regulatory and administrative hurdles had been cleared. This changed on July 23, 2021 when the District received an Opinion Letter from counsel which indicated that the agreement was ready to be finalized.<sup>16</sup> The July 23, 2021 letter stated, in relevant part:

All consents, approvals or authorizations of any governmental entity and all filings and notices required on the part of the Lessee [Corinth Water District] in connection with the authorization, execution and delivery of the Lease and the consummation of the transactions contemplated thereby have been obtained and are in full force and effect.<sup>17</sup>

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<sup>11</sup> *Id.*

<sup>12</sup> *Id.*

<sup>13</sup> *Id.* at ¶ 8.

<sup>14</sup> *See* Minutes of the District’s June 2, 2021 Meeting previously provided to the Commission.

<sup>15</sup> *Id.*

<sup>16</sup> Affidavit of Tara Wright attached hereto as Exhibit A at ¶ 9.

<sup>17</sup> *Id.* A copy of this Opinion letter was provided to the Commission on February 11, 2022 as part of the Corinth Water District’s Responses to Commission Staff’s First Request for Information dated February 2, 2022. *See* Response to Item 1.

On the same date this letter was provided to the District, Commissioner Field, as Chair of the District's Water Commission, and Commissioner Lauderman, as Secretary, executed a Lease Agreement with the Kentucky Bond Corporation to refinance the District's outstanding debts.<sup>18</sup> The District's willingness to enter into this agreement was based in large measure on the assurances of both Mr. Skinner in his role as a financial advisor and the Opinion Letter from counsel indicating that all approvals were obtained.<sup>19</sup>

It wasn't until several months later, in December 2021, that the District discovered that not all approvals were properly obtained.<sup>20</sup> Upon learning of this information, the District, through counsel, filed an Application for retroactive approval of the refinancing Lease.<sup>21</sup> After several deficiencies were cured in the District's December 2021 filing, the Application was formally and officially submitted for Commission approval on January 18, 2022.<sup>22</sup> The Commission denied the District's Application on March 16, 2022,<sup>23</sup> and pursuant to the same order, established a docket to investigate the District and its Commissioners. On April 8, 2022, the Commission entered an Order finding "a prima facie case exists that Corinth District Commissioners: Dan Field; Diane Mincarelli; Shannon Long; Cherish Kennedy; and Ashley Lauderman; acting in their respective individual capacities as commissioners of Corinth District, willfully aided and abetted in one or more violations of KRS 278.300."<sup>24</sup> Specifically, the Commission references the refinancing of

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<sup>18</sup> The Lease Agreement was provided in its entirety as Exhibit A to the Application submitted by the Corinth Water District to the Commission to authorize the Lease Agreement.

<sup>19</sup> Affidavit of Tara Wright attached hereto as Exhibit A at ¶ 12.

<sup>20</sup> *Id.* at ¶ 11.

<sup>21</sup> See Application for Approval of a Lease Agreement Between the Corinth Water District and the Kentucky Bond Corporation filed on December 22, 2021.

<sup>22</sup> See Application for Authorization to Enter into a Lease Agreement filed on January 18, 2022.

<sup>23</sup> See generally Commission Order Entered March 16, 2022.

<sup>24</sup> Commission Order Entered April 8, 2022 at pg. 4.

the District’s debt obligation for which it submitted an Application in January 2022, as well as indebtedness entered into by the District with Huntington Bank for the purchase of a truck.<sup>25</sup>

KRS 278.300 states, in part, “[n]o utility shall issue any securities or evidences of indebtedness, or assume any obligation or liability in respect to the securities or evidences of indebtedness of any other person until it has been authorized so to do by order of the commission.”<sup>26</sup> Here, it cannot be said that the District, through its Manager Tara Wright or any of its Commissioners, *willfully* aided and abetted in one or more violations of this statute. While retroactive approval was sought for the refinancing of its indebtedness, the only reason this was done after the refinancing occurred – and not before – was due to the advice the District obtained from counsel which expressly stated “[a]ll consents, approvals or authorizations of any governmental entity. . . have been obtained and are in full force and effect.”<sup>27</sup>

The District Respondents should not now be held liable for advice that was provided to them and upon which they relied in entering into this refinancing agreement, and their reliance on counsel’s advice precludes this from being a “willful violation” of KRS 278.300. The Commission previously defined a “willful violation” as being:

[A]n act that is committed intentionally, not accidentally or involuntarily, it has also been stated that a willful violation does not necessarily and solely entail an intention to do wrong and inflict injury, but may include conduct which reflects an indifference to its natural consequences. For a civil and administrative proceedings, a willful violation has been explained as one which is intentional, knowing, voluntary, deliberate or obstinate, although it may be neither malevolent nor with the purpose to violate the law.<sup>28</sup>

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<sup>25</sup> *Id.* at pg. 2.

<sup>26</sup> KRS 278.300(1).

<sup>27</sup> *See* Response to Item 1 provided by the District to the Commission on February 11, 2022.

<sup>28</sup> Case No. 2016-00338, Wood Creek Water District and Its Individual Commissioners, Glenn Williams, Earl Bailey, and Jimmy Keller Alleged Failure to Comply with KRS 278.300(1). (Citations Omitted).

None of these descriptions appropriately fit the actions of the District Respondents as it relates to the refinancing in question. It cannot be said the behavior of Ms. Wright, as District Manager, or any of the Commissioners were indifferent to natural consequences of a failure of the District to obtain Commission approval for the refinancing. The opposite is true and is demonstrated by Ms. Wright's and Commissioner Field's repeated queries to Mr. Skinner regarding the requirement for Commission approval for the refinancing to occur, and is further demonstrated by the District's delayed approval of the refinancing until they had a letter from counsel in hand which stated that the refinancing could move forward.

Similarly, even if one assumes Ms. Wright and the Commissioners did not act "malevolent[ly], nor with purpose to violate the law[,]" they cannot be said to have "intentional[ly], knowing[ly], voluntar[ily], deliberate[ly] or obstinate[ly]" violated KRS 278.300.<sup>29</sup> Indeed, based on the July 23 Opinion letter from counsel, Ms. Wright and the Commissioners were of the belief they were *in compliance* with the law.<sup>30</sup> This is a far cry from what is required under the Commission's own definition of a "willful violation" of the law. While the District recognizes that KRS 278.300 does not contain any language which creates an exception for reasonable cause as to why it should not be strictly complied with, it also feels that it should not be penalized for the reasonable, good faith reliance on the advice provided to it by counsel.

The District should also not be penalized for the agreement it entered into with Huntington Bank for the purchase of a truck in 2017. The general manager charged with managing the District at that time no longer serves in that role. He was replaced by Ms. Wright in 2020. Ms. Wright had

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<sup>29</sup> *Id.*

<sup>30</sup> Believing they were in compliance with the law, Ms. Wright and the Commissioners sought to refinance this debt due to the consequential amount of \$307,517.22 in savings it would provide. The District did not incur any additional amounts of debt as a result of the refinancing.

no involvement in the purchase of the truck in question. Similarly, a majority of the District's current commissioners have also only served in their roles since 2020 and had no involvement in the purchase of the truck. While the District acknowledges the Commission investigated a similar matter in case number 2013-00187, it respectfully submits that under the guidance of its new leadership every measure will be taken to ensure that no such issues arise in the future. This inquiry – particularly as it relates to the issue surrounding refinancing – has only reinforced for the District Respondents that Commission pre-approval is required for any indebtedness or purchase. Ms. Wright and the Commissioners will continue to make every effort to remain in compliance with the Commission's rules and regulations.

For the foregoing reasons, the District respectfully requests that the Commission not issue any penalties to the District Respondents for the refinancing of its federal debt obligations on July 23, 2021 or for the agreement it entered into with Huntington Bank for a truck in 2017.

Respectfully submitted,

*/s/ Derek Miles*

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*Counsel for Corinth Water District  
and its Commissioners*

**Certification**

I hereby certify that a copy of this Notice of Substitution of Counsel has been served electronically on all parties of record through the use of the Commission's electronic filing system on this the 26<sup>th</sup> day of May 2022, and there are currently no parties that the Commission has excused from participation by electronic means. Pursuant to the Commission's July 22, 2021 Order in Case No. 2020-00085, a paper copy of this filing has not been transmitted to the Commission.

/s/ Derek Miles  
Derek Miles

# **EXHIBIT A**

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**AFFIDAVIT OF TARA WRIGHT**

I, Tara Wright., under oath, do hereby assert the following:

1. My name is Tara Wright. I am over the age of twenty-one, and I make this affidavit from my personal knowledge and under my own volition.
2. I am the General Manager for the Corinth Water District, a position that I have held since early-2020.
3. Since I was hired as General Manager of the Corinth Water District, a majority of the commissioners currently serving have been newly appointed. Commissioner Cherish Kennedy was appointed in 2020 and Ashley Lauderman was appointed in May 2021.
4. Diane Mincarelli was appointed as a commissioner on February 19, 2019 and her term as a commissioner ended in October 2020. She was not reappointed and did not have any involvement in the refinancing of the District's debts or in the 2017 purchase of the truck that are referenced in the PSC's April 8, 2022 Order. Shannon Long was appointed as a commissioner on October 6, 2020 but moved out of the district in April 2021 and Ashley Lauderman replaced her

the next month. Shannon also did not have any involvement in the refinancing of the District's debts in 2021 or in the 2017 purchase of the truck referenced in the PSC's April 8, 2022 Order.

5. One of my primary focuses in my position is to ensure that the Corinth Water District remains in compliance with all Public Service Commission Rules and Regulations.

6. Shortly after I started as District Manager for the Corinth Water District, Brian Skinner came to my office to drop off his card and inquire about whether the District would like to refinance its federal debt obligations. Brian told me that because of low interest rates, the District could realize significant savings if it did refinance. I told Brian that the proposed refinancing would have to be approved by the Public Service Commission and Brian responded that his company had experience in this area and would take care of all necessary approvals. This was a preliminary conversation and no action was taken at that time.

7. In May of 2021, following multiple delays due to the COVID-19 pandemic, Brian Skinner came to a public water district meeting and made a presentation about refinancing the debt. At that meeting, myself and Commissioner Field informed Brian that any refinancing would need to be approved by the Public Service Commission. We asked whether Brian and his company would obtain this approval. Brian assured us multiple times that he would take care of all necessary approvals.

8. At the May 2021 meeting, a decision about whether to refinance the Corinth Water District's debts was put on hold until the proposed deal could be reviewed by an accountant and an attorney.

9. Several months later, in late-July 2021, the Corinth Water District received a letter from an attorney stating that all necessary governmental approvals were obtained for the refinancing of our debts.

10. Upon receipt of this letter, an agreement was entered into by which the Corinth Water District refinanced its debts for the purpose of saving over \$300,000.

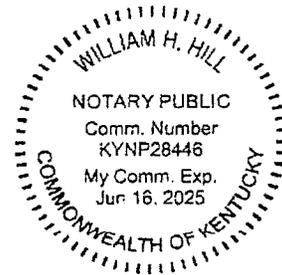
11. Several months later, in late-2021, I was notified that not all governmental approvals were obtained as required for the refinancing of the Corinth Water District's debts. This came as a surprise to me as I was assured by Brian that all of this would be taken care of, and because I received a letter from an attorney that stated all of these approvals were previously obtained

12. I would have advised the Corinth Water District against entering into this refinancing agreement had we not been notified that all governmental approvals were obtained.

FURTHER AFFIANT SAYETH NAUGHT.

I affirm, under the penalties of perjury, that the foregoing representations are true. Signed under the penalties of perjury this 26<sup>th</sup> day of May 2022.

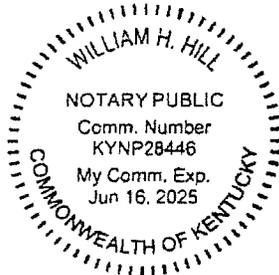
Tara Wright  
TARA WRIGHT



STATE OF KENTUCKY

COUNTY OF

I hereby attest that on the 26<sup>th</sup> day of May 2022, TARA WRIGHT, signed the foregoing document before me.



William H. Hill  
Notary Public

Commission No. KYNP 28446

My Commission Expires: 06/26/2025