

THE STATE OF TEXAS

**SUBPOENA REQUIRING PRODUCTION OF DOCUMENTS
PURSUANT TO TEXAS RULE OF CIVIL PROCEDURE 176**

Cause No. DC-17-11306

In the 298th Judicial District Court of Dallas
County, Texas

DALLAS POLICE & FIRE PENSION
SYSTEM, Plaintiff,

v.

TOWNSEND HOLDINGS, LLC d/b/a THE
TOWNSEND GROUP, RICHARD BROWN,
MARTIN ROSENBERG and GARY B.
LAWSON, Defendants.

TO: Any Sheriff or Constable of the State of Texas or other person authorized to serve and execute subpoenas as provided in Texas Rule of Civil Procedure 176.5.

YOU ARE HEREBY COMMANDED TO SUMMON

**CUSTODIAN OF RECORDS
NBC 5 NEWS - KXAS**

Located at 4805 AMON CARTER BLVD., FORT WORTH, TEXAS 76155 in TARRANT COUNTY, TEXAS, to produce and permit inspection and copying of documents designated in EXHIBIT A attached hereto which are in NBC 5 NEWS – KXAS’s possession, custody, or control, to be used as evidence in this case, **within thirty (30) days** at:

Baker McKenzie, LLP,
1900 North Pearl Street, Suite 1500
Dallas, TX, 75201

*(or electronically by contacting the undersigned counsel at
Elizabeth.Yingling@bakermckenzie.com)*

Duties of Person Served with Subpoena. You are advised that under Texas Rule of Civil Procedure 176, a person served with a subpoena has certain rights and obligations.

Contempt. Failure by any person without adequate excuse to obey a subpoena served upon that person may be deemed a contempt of the court from which the subpoena is issued or a district court in the county in which the subpoena is served, and may be punished by fine or confinement, or both. Texas Rule of Civil Procedure 176.8(a).

DO NOT FAIL to return this writ to the 298th Judicial Court of Dallas County, Texas, either the attached officer’s return showing the manner of execution or a witness’s signed memorandum showing that the witness accepted the subpoena.

****SEE ATTACHED**
AFFIDAVIT**

This subpoena was issued at the request of Defendants Townsend Holdings, LLC d/b/a The Townsend Group, Richard Brown, and Martin Rosenberg, whose attorney of record is Elizabeth L. Yingling, Baker McKenzie, LLP, 1900 North Pearl St., Suite 1500, Dallas, TX, 75201.

Issued this the 14th day of May, 2019.

By: /s/Elizabeth L. Yingling
Elizabeth L. Yingling
elizabeth.yingling@bakermckenzie.com
BAKER MCKENZIE LLP
1900 North Pearl Street, Suite 1500
Dallas, TX 75201
Telephone: (214) 978-3039
Facsimile: (214) 978-3099

RETURN OF SERVICE OF SUBPOENA

I, _____, delivered a copy of this subpoena to _____ in person at _____, in Tarrant County, Texas, on _____, 2019, at _____ o'clock ____m., and tendered to the witness a fee of \$ ____ in cash.

I, _____, was unable to deliver a copy of this subpoena to _____ for the following reasons: _____

****SEE ATTACHED****

*****AFFIDAVIT*****

By Deputy: _____
Sheriff/Constable _____
_____ County, Texas

OR

By: _____
Person who is not a party and is not less than 18 years of age.

**ACCEPTANCE OF SERVICE OF SUBPOENA BY
WITNESS UNDER TEXAS RULE OF CIVIL PROCEDURE 176**

I, the undersigned Witness named in the foregoing Subpoena, hereby voluntarily accept service of same upon me, and I hereby stipulate that such acceptance shall have the same force and effect as if such Subpoena had been formally served upon me by one of the persons or officers designated therein. I will produce the documents designated in Exhibit A as required by this Subpoena.

SIGNATURE

DATE

FEE FOR SERVICE OF SUBPOENA: \$ _____

Not executed as to the witness for the following reasons:

EXHIBIT A

DEFINITIONS AND INSTRUCTIONS

In connection with these discovery requests, the following definitions shall apply:

1. All definitions and rules of construction contained in the Texas Rules of Civil Procedure and the Texas Rules of Evidence are incorporated herein by reference.

2. Unless otherwise indicated, the use in these Requests of the name or identity of any person, business organization, or other entity shall specifically include all past or present employees, officers, directors, partners, agents, representatives, and attorneys of that person, organization, or entity and its predecessors and successors.

3. For purposes of interpreting or construing the scope of these Requests, the terms shall be given their most expansive and inclusive interpretation unless otherwise specifically limited by the language of an individual Request. This includes, without limitation, the following:

- a. Construing the singular form of the word to include the plural and the plural form to include the singular;
- b. Construing the present tense of a verb to include the past tense and vice versa; and
- c. Construing the term "including" to mean including, but not limited to.

4. "Document" shall mean and refer to the originals, any non-identical duplicates (e.g., due to margin notes, handwritten corrections, modifications, or similar alterations) and any copies or reproductions of any written or recorded matter in your custody, possession, or control, or known by you to exist, including, but not limited to, any information that is prepared by hand or is printed, recorded, reproduced, or transcribed by any process. This includes, but is not limited to, business records, correspondence, communications, memoranda, letters, reports, agreements, telegrams, telecopies, facsimiles, photocopies, photographs, film, microfilm, microfiche, videotapes, data processing input and output, electronic mail of any type (including deleted electronic mail), text messages, SMS messages, computer printouts, presentations, summaries and records of conversations, diaries, tape recordings, maps, surveys, charts, plans, drawings, minutes of meetings or conferences, lists, reports, summaries of interviews or investigations, opinions, reports or summaries of negotiations, leases, title opinions, run sheets, drafts, revisions, contracts, notes, calendars, date books, "day-timers," checks, expense account records, messages, receipts, and deeds, or any other similar type of instrument.

5. "NBC 5 NEWS - KXAS," "You," and "Your," mean NBC 5 NEWS - KXAS, and its parent companies, subsidiaries, affiliates, officers, directors, predecessors or successors in interest, agents, employees, investigators, attorneys, assigns, and all other persons acting or purporting to act on behalf of any of them.

6. "DPFPS" shall mean and refer to Plaintiff Dallas Police & Fire Pension System, including the DPFPS Staff and any of its members and the DPFPS Board and any of its members, and all past or present employees, officers, directors, partners, agents, representatives, and attorneys of that person, organization, or entity and its predecessors and successors.

7. "DPFPS Board" shall mean the Board of Trustees of Plaintiff Dallas Police & Fire Pension System and all of its current or former members.

8. These Requests are intended to include all documents in your possession, or subject to your custody or control, whether directly or indirectly. A document is deemed to be within your possession, custody, or control if:

- a. it is within the actual possession, custody, or control of NBC 5 NEWS - KXAS; or
- b. it is within the possession of any other employee, person, or entity, and NBC 5 NEWS - KXAS has the right to obtain the document from the employee, person, or entity.

9. Pursuant to Texas Rule of Civil Procedure 196.4, you are requested to produce documents responsive to the requests set forth below that may exist in an electronic, magnetic, or computer data format. Such documents are to be produced in their native format along with a description of the programs used to create the document and that can be used to view the data.

10. Responsive documents shall be produced as they have been kept in the usual course of business or shall be organized and labeled to correspond with the categories in this request. If there are no documents responsive to a particular category, you shall so state in writing.

11. Unless otherwise indicated, the date range for each request is January 2016 to the present.

12. If any documents herein requested have been lost, discarded, or destroyed, they shall be identified as completely as possible, including without limitation the following information: subject matter, the document's title, previous location, date of disposal, manner of disposal, reason for disposal, person authorizing disposal, and person disposing of the document.

13. To the extent any Request is objected to, set forth the complete reasons for the objection. If you claim a privilege as grounds for not producing documents in response to any Request, produce a privilege log describing the factual basis for the claim of privilege, including relevant dates and persons involved, in sufficient detail so as to permit the Court to adjudicate the validity of the claim

14. In responding to the Requests, you are not directed to reveal any sources for you news reports or any methods of your news collection.

DOCUMENTS TO BE PRODUCED

1. All documents that contain video recordings of DPFPS Board meetings.
2. All documents that contain audio recordings of DPFPS Board meetings.
3. All documents that contain transcriptions of DPFPS Board meetings.

CERTIFICATE OF SERVICE

I hereby certify that on the 14th day of May, 2019, a true copy of the foregoing document was served by e-service on the following counsel of record:

J. Gregory Taylor
Bart Sloan
Mark K. Sales
Diamond McCarthy
2711 Haskell Ave., Suite 3100
Dallas, TX 75204

Andrea L. Kim
Rebecca A. Muff
Diamond McCarthy
909 Fannin, Suite 3700
Houston, TX 77010

William D. Cobb
Carrie Johnson Phaneuf
Cobb Martinez Woodward PLLC
1700 Pacific Avenue, Suite 3100
Dallas, Texas 75201

/s/Elizabeth L. Yingling
Elizabeth L. Yingling

BUSINESS RECORDS AFFIDAVIT

My name is _____. I am over eighteen (18) years of age, of sound mind, capable of making this affidavit, and personally acquainted with the facts herein stated:

I am the Custodian of Records for **NBC 5 NEWS – KXAS** and am familiar with the manner in which its records are created and maintained by virtue of my duties and responsibilities.

Attached hereto or provided herewith are _____ pages of records and/or _____ electronic files. These are the original records or exact duplicates of the original records. The records were made at or near the time of each act, event, condition, opinion, or diagnosis set forth in the record. The records were made by, or from information transmitted by, persons with knowledge of the matters set forth therein. The records were kept in the course of regularly conducted business activity. It is the regular practice of NBC 5 NEWS – KXAS to make these records as a normal business activity.

AFFIANT (Custodian of Records)

Sworn to and subscribed before me on the ____ day of _____, 2019.

NOTARY PUBLIC

My Commission Expires: _____

Respectfully submitted,

BAKER & MCKENZIE, LLP

By /s/Elizabeth L. Yingling
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**ATTORNEYS FOR DEFENDANTS
TOWNSEND HOLDINGS, LLC d/b/a THE
TOWNSEND GROUP, RICHARD BROWN and
MARTIN ROSENBERG**