

BEFORE THE STATE CORPORATION COMMISSION
OF THE STATE OF KANSAS

In the Matter of the Investigation of Howison Heights Inc.'s Ability to Provide Sufficient and Efficient Service)
) Docket No. 13-HHIW-460-GIV
)

In the Matter of the Application of Howison Heights, Inc. for Approval of the Commission to Make Certain Changes in its Rates for Water Service)
) Docket No. 13-HHIW-570-RTS
)

RESPONSIVE TESTIMONY OF
STACEY HARDEN
ON BEHALF OF
CITIZENS' UTILITY RATEPAYER BOARD

JANUARY 31, 2014

1 **Q. Please state your name and business address.**

2 A. My name is Stacey Harden. My business address is 1500 SW Arrowhead Road, Topeka,
3 Kansas, 66604.

4

5 **Q. Did you previously file testimony in this proceeding?**

6 A. Yes. On January 17, 2014, I filed Direct Testimony on behalf of the Citizens' Utility
7 Ratepayer Board ("CURB").

8

9 **Q. What is the purpose of your Responsive Testimony?**

10 A. The purpose of my Responsive Testimony is to respond to the rebuttal testimony
11 submitted by Mr. Timothy B. Howison on behalf of Howison Heights, Inc. ("Howison"
12 or "Company").

13

14 **Q. Mr. Howison comments that the Company is in a "catch-22" dilemma because of
15 lack of revenues and continuing expenses.¹ Do you agree with his comment?**

16 A. Partially. I understand and do not dispute that Howison has charged its customers the
17 same rate for water utility service for 18 years. I would also agree that it is likely that the
18 cost of providing service to these customers has increased over the course of 18 years.
19 In turn, I would not dispute that stationary revenues, coupled with rising expenses, may
20 lead to a scenario where there is insufficient cash flow.

21 As Mr. Howison acknowledges, the Company should have come before the
22 Commission to request a rate increase much sooner. While hindsight may be 20/20, it

¹ Rebuttal Testimony of Timothy B. Howison, at page 4, line 14.

1 does little to address the condition of the Company in 2014 and beyond. The current
2 problems faced by this utility are problems that have been getting exponentially worse
3 year, after year, and yes, might have been mitigated with regular rate increases.

4 Unfortunately, that is not the case, and the Commission's ultimate task in this proceeding
5 is to determine what reasonable conclusions and actions can be made now, to ensure the
6 Company's customers receive safe and efficient water service.

7
8 **Q. Mr. Howison comments that the revenues generated by the water utility have not**
9 **made it economically feasible to install a water storage standpipe.² Do you agree**
10 **with his comment?**

11 A. Not entirely. I would agree only that the rates charged by the Company prior to this
12 proceeding did not include \$65,000 in capital costs for the erection of a water storage
13 standpipe. However, on January 17, 2007, the Company borrowed \$40,150 from Central
14 National Bank for the purpose of setting a standpipe. There has been no evidence
15 provided by the Company as to what this \$40,150 was actually used for. In fact, there is
16 no evidence that this money was even used for the water utility company. While Mr.
17 Howison's statement that revenues are not enough to pay for the installation of the
18 standpipe may be partially correct, the fact remains that the Company borrowed the
19 money to install the standpipe, and did not.

20
21
22

² Rebuttal Testimony of Timothy B. Howison, at page 6, beginning at line 13.

1 **Q. Mr. Howison comments that the Company has replaced old water meters that were**
2 **not recording water usage correctly and that these repairs will significantly reduce**
3 **the Company's lost and unaccounted for water.³ Has the installation of these meters**
4 **significantly reduced the Company's lost and unaccounted for water?**

5 A. Based upon the evidence available at this time, the new meters do not appear to be
6 reducing the Company's lost and unaccounted for water. In its response to Staff Data
7 Request No. 25, the Company provided its monthly meter data collection reports for
8 August, September, and October 2013. These reports serve as the meter reading sheets
9 for all customers of the utility. I compared these reports with the list of newly changed
10 meters that the Company provided in its response to CURB Data Request No. 82. My
11 comparison of the two reports shows that 23 of the 28 meters replaced were replaced
12 prior to the October reading cycle.⁴ However, despite replacing 23 meters – which is
13 38% of the entire system – prior to the October billing cycle, the Company's lost and
14 unaccounted for water percentage at the end of the October billing cycle was still 40%.

15
16 **Q. Why would the Company's lost and unaccounted for water remain excessively high**
17 **even after the Company replaced 38% of its water meters?**

18 A. There isn't enough evidence in this case to determine with any accuracy why the
19 Company's lost and unaccounted for water percentage is so high. Based upon my
20 experience in the water utility industry and my knowledge of the Company, I presume
21 that there is not one single answer. More likely, it is a combination of factors. Slow leaks

³ Rebuttal Testimony of Timothy B. Howison, at page 10.

⁴ Company's response to CURB Data Request No. 82 indicates 28 meters were replaced. According to the meter data collection sheets provided in Company's response to Staff Data Request No. 25, the final five were replaced in October 2013. The Company's response to Staff Data Request No. 25 is attached to this testimony. The Company's response to CURB Data Request No. 82 was included as an attachment to my January 17, 2014, direct testimony.

1 in distribution lines, leaking connections at the meters, regular flushing of lines or
2 hydrants, or leaks at the pump house likely play a part, as well.

3 Yes, slow meters that do not register the appropriate amount of consumption can
4 be partially to blame. However, in the month of September 2013, Howison recorded
5 1,232,000 gallons of water pumped from its wells and only accounted for 735,000 gallons
6 of water sold to its customers. This leaves nearly half a million gallons – 497,000 gallons
7 – of lost and unaccounted for water in one billing cycle. It is highly unlikely, in my
8 opinion, that slow or stuck meters are solely to blame for this excessive amount of
9 unaccounted for water.

10
11 **Q. Mr. Howison comments that the Company has not shown a disregard for**
12 **Commission and KDHE directives.⁵ Do you agree with his comment?**

13 A. No. Mr. Howison states that it is “not a matter of ignoring the directives from these state
14 agencies. It is about having a utility that is not generating enough revenues to comply
15 with those directives.”⁶ Many of the directives issued to the Company involved little-to-
16 no monetary cost. For example, KDHE directed the Company to, among others: (1)
17 update the Howison Heights Water District Emergency Water Supply Operation Plan, as
18 required by K.A.R. 28-15-18(c), (2) begin following the current bacteriological sampling
19 site plan as originally submitted or submit another bacteriological sampling site plan, (3)
20 begin submitting daily chlorine residual log sheets for the system on a monthly basis, and
21 (4) install a 16-mesh non-corrodible screen on the ventilation line for the air/vacuum

⁵ Rebuttal Testimony of Timothy B. Howison, at page 10, beginning at line 10..

⁶ *Id.*

1 relief valve.⁷ These four directives have little or no out-of-pocket expense associated
2 with them. Mr. Howison's assertion that the Company can't comply with directives
3 because of inadequate revenues is wrong. The Company could have followed these
4 directives, without any significant expenditure. Further, some of the KDHE directives go
5 back as far as 2009. If revenues were inadequate then to meet required operational and
6 maintenance costs, the Company should have sought a rate increase then, rather than let
7 the situation deteriorate.

8
9 **Q. Would your recommendations in this proceeding have been different, if the**
10 **Company had followed the recommendations made by the Commission Staff and**
11 **CURB in previous dockets?**

12 A. It's possible. In February 2012, after noting the record keeping discrepancies for the 2010
13 test year, both Staff and CURB recommended that the Company keep all invoices,
14 statements, and receipts for each and every expense. Staff and CURB shared a similar
15 concern that this Company needed some assistance in conforming to the Commission's
16 requirements. Staff generously offered to meet with the owner at the end of each quarter
17 to review invoices and documents so that any future audits would be more efficient and
18 productive. The Company wholly disregarded these recommendations and suggestions. If
19 the Company had followed the recommendations made in early 2012, when the
20 Commission ordered in July 2013 that the test year be updated to 2012, all of the
21 documents supporting the Company's cost of service would have been readily available.
22 Instead, the Company made no effort to follow the recommendations of Staff or CURB.

⁷ November 20, 2013, Letter from KDHE to Tim Howison, attached as Attachment 3 to December 10, 2013, Amended Notice of Filing of Staff's Report and Recommendation; Motion for Hearing and Directives.

1 If the Company had shown the slightest regard for the recommendations made by Staff
2 and CURB in previous dockets, I may have been inclined to recommend the Commission
3 allow the owner to continue operating the company, under the general guidance of the
4 Commission. However, the Company's unwillingness to implement even the simplest of
5 recommendations has fortified my opinion the Company will continue to fail to comply
6 with Commission directives and recommendations in the future.

7
8 **Q. Mr. Howison concluded that the Company would not be able to find a third party in**
9 **the \$23,500 price range to cover all the work suggested by CURB.⁸ Do you agree**
10 **with his conclusion?**

11 A. No. As part of the Company's application, Mr. Howison included an estimate for
12 management and operator costs obtained from Mary Douglas of Saline Rural Water
13 District No. 2. According to the estimate, the Saline RWD #2 – which has 168 total
14 connections – pays an individual \$750 per month – or \$9,000 annually – to manage the
15 office. The Saline RWD #2 also paid an Operator, Pat Weller, \$16,268 to operate and
16 run the system. Based upon these estimates obtained from the Saline RWD #2 and
17 provided by Mr. Howison in the Company's application, the annual cost to operate the
18 system and perform the day-to-day office tasks is \$25,268. This amount is less than the
19 maximum amount of \$29,535 that I recommended in my August 5, 2013 Report and
20 Recommendation.

21
22
23

⁸ Rebuttal Testimony of Timothy B. Howison, at page 12, beginning at line 18.

1 **Q. Would contracting a third party to manage all day-to-day operations of the**
2 **utility increase the Company's current operating expenses?**

3 A. No. The interim rates that were approved by the Commission on April 17, 2013, included
4 \$23,500 in salary expense. This salary expense, plus applicable payroll taxes, was to be
5 paid to the current manager, Mr. Tim Howison, beginning in May 2013. My
6 recommendation that the Commission require the Company to hire a third party operator
7 and manager would simply reassign the existing salary expense to a different contractor.

8

9 **Q. Do you have any final comments regarding Mr. Howison's rebuttal testimony?**

10 A. Yes. In his rebuttal testimony, Mr. Howison testifies that he has not "personally gained at
11 the cost of the customers in owning and operating HHI and will not do so if the interim
12 rates are made permanent."⁹ It may be true that Mr. Howison has not received a huge
13 salary at the expense of rate payers, or purchased a million dollar yacht, or invested in
14 gold with the dollars of its customer. But, Mr. Howison has personally gained at the cost
15 of the utility's customers. Mr. Howison regularly pays expenses associated with several
16 other unregulated businesses from utility revenues and bought gifts for his family and
17 paid bills for his personal home out of the utility business checking account. Further, an
18 audit of the business checking account shows that nearly \$4,000 in customer payments
19 was unaccounted for in 2010. A subsequent audit of the same business checking account
20 for 2012 shows over \$7,500 in cash withdraws from the account. Withdrawing cash,
21 paying personal expenses, and depositing customer payments into a personal checking
22 account, benefits only Mr. Howison, at the cost of the Company's customers.

⁹ Rebuttal Testimony of Timothy B. Howison, at page 15, beginning at line 16.

1 Furthermore, this Company, with less than \$100,000 in net property, plant and
2 equipment – at the direction of its owner – borrowed close to a half a million dollars from
3 local banks, and mortgaged nearly every utility asset owned. I could presume that Mr.
4 Howison financed 100% of the Company’s property, plant and equipment with these
5 debts, but that leaves nearly \$400,000 unaccounted for. There is no record that any of
6 these funds were used for the water utility company. The only reasonable presumption
7 that can be is that Mr. Howison used these funds for personal use or in the operations of
8 his other unregulated business ventures. The fact that he didn’t pay himself a salary
9 doesn’t mean he didn’t personally gain from utility revenues and mortgage proceeds, and
10 thus far, he has presented no evidence that would convince me otherwise.

11

12 **Q. Does this conclude your testimony?**

13 **A. Yes.**

VERIFICATION

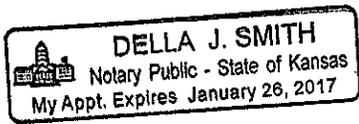
STATE OF KANSAS)
COUNTY OF SHAWNEE) ss:

I, Stacey Harden, of lawful age and being first duly sworn upon my oath, state that I am a regulatory analyst for the Citizens' Utility Ratepayer Board; that I have read and am familiar with the above and foregoing document and attest that the statements therein are true and correct to the best of my knowledge, information, and belief.



Stacey Harden

SUBSCRIBED AND SWORN to before me this 31st day of January, 2014.





Notary Public

My Commission expires: 01-26-2017.

REFERENCE

Howison Heights, Inc.'s Response to Staff Data Request 25

**Kansas Corporation Commission
Information Request**

Request No.: 25

Company Name HOWISON HEIGHTS, INC.

Docket Number 13-HHIW-460-GIV

Request Date November 12, 2013

Date Information Needed November 20, 2013

RE: Analytical results from Continental Analytical Services Inc.

Please Provide the Following:

The Howison Heights water system has been undergoing repairs and replacement of equipment over the last few months.

1. Please provide a copy of the invoices for repairs and equipment purchases for the water system from August 1, 2013 to the present.

2. Please provide a copy of the customer meter readings for the months of August, September, and October 2013.

Submitted By Leo Haynos

Submitted To James G. Flaherty

RESPONSE: 1. See attached invoices. In addition, Howison has not yet received a bill from the contractor who made repairs. Howison estimates the contractor's bill will be between \$1,800 and \$2,000.

2. See attached.

If, for some reason, the above information cannot be provided by the date requested, please provide a written explanation of those reasons.

Verification of Response

I have read the foregoing Information Request and answer(s) thereto and find the answer(s) to be true, accurate, full and complete, and contain no material misrepresentations or omissions to the best of my knowledge and belief; and I will disclose to the Commission Staff any matter subsequently discovered which affects the accuracy or completeness of the answer(s) to this Information Request.

Signed: _____

Date: _____

1-10 #5
11-17 #4
18-25 #3

725 '22'

Howison Heights, Inc.

SPT 2013
Readings eom
Meter Data Collection

| Route | Beginning Reading | Customers Name | Service Adr | Meter ID/ Account # | Current Reading | |
|-------|-------------------|-----------------------------|------------------------|---------------------|-----------------|---------------------------------|
| 1 | 1769 | Guerrero, John | 4216 North Sandy Ave | 4 1002 | 1773 | 60 |
| 2 | 696 | McKellips, Derek | 4215 North Sandy | 2 1001 | 698 | 50 |
| 3 | 12 | Wooten, James & Ginger | 4257 North Sandy Ave | 5 1003 | 17 | 65 |
| 4 | 1118 | Ray, Linda | 4280 North Sandy Ave. | 8 1062 | 1126 | 80 |
| 5 | 1112 | Cleveland, Blain & Beverly | 4277 North Sandy Ave. | 5 1004 | 1117 | 65 |
| 6 | 8 | Traban, James & Linda | 4301 N. Sandy | 4 1086 | 12 | 60 |
| 7 | 2 | MEYERS, GREG | 4333 NORTH SANDY | 3 1093 | 5 | 55 |
| 8 | 22 | Shamburg, Kevin & Jolita | 4340 North Sandy Ave | 4 1008 | 26 | 60 |
| 9 | 211 | Komarek, Shane & Beth | 4368 North Sandy Ave. | 31 1009 | 242 | 156 ¹⁰ |
| 10 | 18 | Gibson, Gary & Diane | 4377 North Sandy Ave. | 25 1058 | 43 | 142 |
| 11 | 1378 | Linenberger, Jim & Valerie | 4395 North Sandy Ave. | 5 1011 | 1383 | 65 |
| 12 | 23 | Coad, Ron & Dianna | 4400 North Sandy Ave. | 27 1012 | 50 | 146 ⁷⁰ |
| 13 | 10 | Odle, Terry & Mary Lou | 4415 North Sandy Ave. | 15 1013 | 25 | 78 110 ⁸⁰ |
| 14 | 2534 | Pearl, Morgan & Janella | 4448 N.Sandy Ave | 24 1088 | 2558 | 139 |
| 15 | 774 | Walker, C Henry & Karla | 4441 North Sandy Ave. | 4 1015 | 778 | 60 |
| 16 | 1254 | Falcon, Todd & Dorie | 4485 North Sandy Ave. | 9 1016 | 1263 | 85 |
| 17 | 19 | Westbrook, Richard & Arleen | 4464 N. Sandy Ave. | 28 1067 | 47 | 169 ⁰⁵ |
| 18 | 1949 | Bruner, Richard & Vicky | 221 East Shipton Rd | 8 1018 | 1957 | 80 |
| 19 | 18 | Pahls, Doug | 1624 Dover Cr. | 2 1052 | 20 | 50 |
| 20 | 502 | Kleiber, Lynn & Peggy | 4276 North Turner Lane | 6 1053 | 508 | 70 ² |
| 21 | 31 | Schalles, Phillip & Leanne | 4326 Turner Ln. | 22 1050 | 53 | 133 ⁷⁸ |
| 22 | 25 | Monroe, Darin & Cindy | 4382 Turner Ln. | 12 1054 | 37 | 98 ¹⁰⁰ |
| 23 | 619 | Stover, Kirk | 4412 N. Turner Ln. | 9 1055 | 628 | 85 |

262M

85
2051⁸⁵

| Route | Beginning Reading | Customers Name | Service Adr | Meter ID/ Account # | Current Reading | |
|-------|-------------------|---------------------------|------------------------|-------------------------|-----------------|-----------------|
| 24 | 472 | Hicks, Richard | 372 East Shipton Road | 2 1056 | 474 | 50 |
| 25 | 2280 | Crank, Michael | 421 East Shipton Road | 3 1057 | 2283 | 55 |
| 26 | 1357 | Levin, Jesse & Breanna | 469 East Shipton Rd. | 6 1063 | 1363 | 70 |
| 27 | 1153 | STRICKLAND, BILL | 537 EAST SHIPTON R | 6 1092 | 1159 | 70 |
| 28 | 2387 | George, Bobby | 532 East Shipton Rd. | 10 1023 | 2397 | 90 |
| 29 | 2042 | Martin, Alan | 633 East Shipton Rd. | 4 1024 | 2046 | 70 |
| 30 | 1373 | Martin, Alan | 633 East Shipton Rd. | 2 1025 | 1375 | |
| 31 | 880 | Simpson, Marie | 636 East Shipton Rd. | 6 1026 | 886 | 70 |
| 32 | 3435 | Hull, Robert & JoAnn | 636-A East Shipton Rd | 6 1027 | 3441 | 70 |
| 33 | 194 | Heyde, Tim & Tressa | 636 B. East Shipton | 4 1089 | 198 | 60 |
| 34 | 3309 | Staton, Clay & Francis | 636-C East Shipton Rd. | 7 1029 | 3316 | 75 |
| 35 | 3485 | Hanscom, Jacque | 636 D E. Shipton Rd | 28 1091 | 3513 | 14905 |
| 36 | 2902 | Hodges, Mike | 636-F East Shipton Rd. | 9 1031 | 2911 | 85 |
| 37 | 20 | King, Joe | 636-G East Shipton Rd | 22 1032 | 42 | 133 |
| 38 | 620 | Bieberly, David | 532-B East Shipton Rd | 9 1033 | 629 | 85 |
| 39 | 1611 | Hulteen, Michael & Kelley | 4409 North Wasserman | 8 1034 | 1619 | 80 |
| 40 | 1231 | Swindler, Dale & Kamecl | 4441 North Wasserman | 6 1035 | 1237 | 70 |
| 41 | 167 | Hurd, Phil | 4489 North Wasserman | 29 1036 | 196 | 15140 |
| 42 | 4043 | Miller, Randal & Pat | 4563 North Wasserman | 4 1039 | 4047 | 60 |
| 43 | 1146 | Watts, Larry & Jennifer | 4561 North Wasserman | 10 1038 | 1156 | 90 |
| 44 | 10 | Engel, Curt & Cynthia | 444 East Country Hgts | 11 1044 | 21 | 99 |
| 45 | 1755 | Ryan, Francis | 4660 North Wasserman | 38 1040 | 1793 | 1725 |
| 46 | 131 | Rupright, John | 4737 North Wasserman | 173 173 1041 | 304 | 4800 |
| 47 | 1204 | Wasserman, Ken & Pamela | 4876 North Wasserman | 0 1042 | 1204 | 40 |
| 48 | 174 | Wasserman, Ken & Pamela | 4876 North Wasserman | 0 1043 | 174 | 40 |
| 49 | 3380 | Weary, Brian | 4763 N. Bowen Dr. | 12 1065 | 3392 | 100 |
| | | | | | 415M | # 24798 |

304
- 82

222

[Handwritten scribbles and signatures]

| Route | Beginning Reading | Customers Name | Service Adr | Meter ID/ Account # | Current Reading | |
|-------|-------------------|----------------------------|-------------------------|---------------------|-----------------|-----|
| 52 | 6 | Mayorga, Tim & April | 5595 Wyatt Earps Draw | 4 1073 | 10 | 60 |
| 56 | 7 | Immenschuh, Mike | 5696 Wyatt Earps Draw | 8 1071 | 15 | 80 |
| 57 | 173 | Armstrong, Josh & Amber | 5650 Wyatt Earps Draw | 9 1072 | 181 | 80 |
| 58 | 194 | Wolfe, Karen | 5501 N. Streckfus Trail | 9 1083 | 203 | 85 |
| 59 | 487 | Juencman, Wayne & Toni | 5529 N. Streckfus Trail | 5 1068 | 492 | 65 |
| 65 | 497 | Prendergast, David & Beth | 5715 N. Streckfus Trail | 23 1069 | 520 | 136 |
| 66 | 391 | Schumacher, Gerald & Ioyce | 5560 N. Streckfus Trail | 16 1077 | 407 | 114 |
| 69 | 430 | Campbell, Kristy | 800 E. Doc Holiday Pas | 4 1090 | 434 | 60 |
| 70 | 7 | Pfannenstiel, Jodi & Jan | 740 Doc Holiday Pass | 3 1059 | 10 | 55 |
| 71 | 34 | Arnold, Michael D. | 698 Doc Holiday Pass | 10 1082 | 44 | 90 |
| 78 | 281 | Sokol, Claude | 695 Annie Oakleys | 8 1081 | 289 | 80 |
| 80 | 444 | Watson, David & Sue | 825 Wild Bills Bluff | 10 1078 | 454 | 90 |
| 82 | 696 | Peters, Shannon & Lisa | 768 Wild Bills Bluff | 7 1074 | 703 | 75 |
| 84 | 4 | Garcia, Paul | 5249 N. Streckfus Trail | 1 1084 | 5 | 45 |
| 85 | 177 | Madden, Randy & Susan | 691 E. Doc Holiday Pas | 4 1085 | 181 | 60 |

501787
25.3028

120
415
262
797M
ind meters

120M

1175
2051
2479
#5706

797
- 62
735

1170
- 735
435

497 =
1232

| | | | Used | Loss |
|------------------|--------|--------|-------|------------------|
| NN well | 355 | 355 | 0 | 0 |
| NS well | 8187 | 8,249 | 62 | 62 |
| SS well | 29,314 | 30,484 | 1,170 | 435 |
| TOTALS | | | 1,232 | 497 |
| turn w/ N32. hlp | | | | 497 / 1232 = 40% |

CERTIFICATE OF SERVICE

13-HHIW-570-RTS/13-HHIW-460-GIV

I, the undersigned, hereby certify that a true and correct copy of the above and foregoing document was served by electronic service on this 31st day of January, 2014, to the following parties:

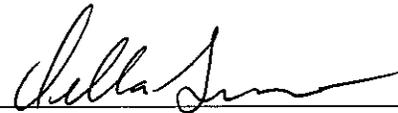
JAMES G. FLAHERTY, ATTORNEY
ANDERSON & BYRD, LLP
216 S HICKORY
PO BOX 17
OTTAWA, KS 66067
jflaherty@andersonbyrd.com

MICHAEL NEELEY, LITIGATION COUNSEL
KANSAS CORPORATION COMMISSION
1500 SW ARROWHEAD RD
TOPEKA, KS 66604-4027
m.neeley@kcc.ks.gov

JAY VAN BLARICUM, ADVISORY COUNSEL
KANSAS CORPORATION COMMISSION
1500 SW ARROWHEAD RD
TOPEKA, KS 66604-4027
j.vanblaricum@kcc.ks.gov

TIMOTHY B. HOWISON, PRESIDENT
HOWISON HEIGHTS, INC
1212 MEYER DR
SALINA, KS 67401-5274
timhowison.remax@yahoo.com

GARY HANSON, ATTORNEY
STUMBO HANSON, LLP
2887 SW MACVICAR AVE
TOPEKA, KS 66611
gary@stumbolaw.com



Della Smith
Administrative Specialist