

**BEFORE THE PENNSYLVANIA OFFICE OF OPEN RECORDS**

|                   |   |                  |
|-------------------|---|------------------|
| IN THE MATTER OF: | : |                  |
|                   | : |                  |
| JOHN YAKIM,       | : |                  |
|                   | : |                  |
| Requester,        | : |                  |
|                   | : |                  |
| v.                | : | No. AP 2018-1512 |
|                   | : |                  |
| GREGG TOWNSHIP,   | : |                  |
|                   | : |                  |
| Respondent.       | : |                  |
|                   | : |                  |

---

**RESPONDENT’S RESPONSE TO REQUESTER’S APPEAL**

The Respondent, Gregg Township, hereby files this Response to Requester’s Appeal, stating in support thereof as follows:

**I. Factual Background**

In this matter involving the Pennsylvania Right to Know Law (“Law”), 65 P.S. §§ 67.101 to 67.3104, Requester John Yakim filed a Standard Right to Know Request Form with Respondent Gregg Township (“Township”) on August 16, 2018. Mr. Yakim’s request was as follows:

Please provide all emails to or from  
Kerimiller.greggtownship@gmail.com for December 2017

*Standard Right-to-Know Request Form* (Aug. 16, 2018).

Jennifer Snyder is the Right to Know Law Officer for the Township. In her attestation, Ms. Snyder confirms that, on August 23, 2018, the Township responded to Mr. Yakim’s request. *Snyder Attestation* ¶ 35. In that response, Ms. Snyder noted that the Township had no responsive records because the kerimiller.greggtownship@gmail.com email account did not exist or had not been opened in December of 2017—the account was opened at a later date. *Id.* ¶¶ 3-6.

Mr. Yakim filed his appeal on the same day that he received the Township's response, August 23, 2018. Confusingly, Mr. Yakim contends that the Township was required to provide an attestation of Keri Miller when it responded to the request for information. For the reasons set forth below, it is believed that Mr. Yakim has confused the procedures for responding to a request, when no formal attestation is required, with the procedures for responding to an appeal before the Office of Open Records, when an attestation is required.

**II. Legal Argument: The Township Was Not Required to Provide an Attestation in Response to Mr. Yakim's Request for Information.**

The Township is not required to provide an attestation in response to a request under the Law. Even in the case of a denial of information—which this was not, because the Township granted access to the records but noted that there were no available records—the Township is only required to provide the following information:

- (1) A description of the record requested.
- (2) The specific reasons for the denial, including a citation of supporting legal authority.
- (3) The typed or printed name, title, business address, business telephone number and signature of the open-records officer on whose authority the denial is issued.
- (4) Date of the response.
- (5) The procedure to appeal the denial of access under this act.

65 P.S. § 67.903. No part of the Law requires any additional procedures, like the provision of an attestation by those with knowledge of the situation.

Despite Mr. Yakim's confusion, the Township hereby files an attestation from Keri Miller. In that attestation, Ms. Miller certifies that the relevant email account was not opened and did not exist in December of 2017. *Miller Attestation* ¶ 4.

### III. Conclusion

For the reasons set forth above, the Respondent, Gregg Township, respectfully requests that the appeal filed by the Requester, John Yakim, be denied.

Respectfully submitted,



---

David S. Gaines, Jr.  
Pa. I.D. No. 308932  
MILLER, KISTLER & CAMPBELL  
720 South Atherton Street, Suite 201  
State College, PA 16801  
(814) 234-1500 TEL  
(814) 234-1549 FAX  
dgaines@mkclaw.com  
*Counsel for Respondent*

Dated: September 4, 2018

**BEFORE THE PENNSYLVANIA OFFICE OF OPEN RECORDS**

IN THE MATTER OF:

JOHN YAKIM,

Requester,

v.

GREGG TOWNSHIP,

Respondent.

---

:  
:  
:  
:  
:  
:  
:  
:  
:  
:  
:  
:  
:

No. AP 2018-1512

**ATTESTATION OF JENNIFER SNYDER**

I, Jennifer Snyder, make the following attestation under the penalty of perjury:

1. I am the Right to Know Law Officer for the Respondent, Gregg Township ("Township").

2. I received a Standard Right to Know Request Form from John Yakim on August 16, 2018, which requested the following information:

Please provide all emails to or from  
Kerimiller.greggtownship@gmail.com for December 2017

3. After receiving the request, I contacted Keri Miller, the chair of the Township's board of supervisors, to obtain all records in response to Mr. Yakim's request.

4. Through those conversations, I learned that kerimiller.greggtownship@gmail.com was not registered, and thereby opened and active, until after December of 2017.

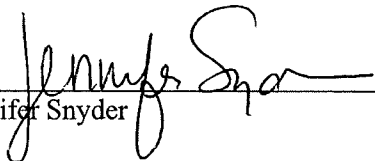
5. On behalf of the Township, I responded to Mr. Yakim's request on August 23, 2018.

6. In the response, I noted that the Township granted the request—the Township saw no reason to withhold any records contained within Mr. Yakim's request—but that no records

existed in response to the request, because the stated email address was not opened on or before December of 2017.

7. I did not provide an attestation in response to the Right to Know Law request because, based on the Township's understanding of the law, attestations are only required at the appeals level before the Office of Open Records.

8. I hereby certify that the facts contained in the foregoing Attestation are true and correct to the best of my knowledge, information, and belief, and that I make this Attestation subject to the penalties of 18 Pa. C.S. § 4904 relating to unsworn falsification to authorities.

  
Jennifer Snyder

Dated: September 4, 2018

**BEFORE THE PENNSYLVANIA OFFICE OF OPEN RECORDS**

|                   |   |                  |
|-------------------|---|------------------|
| IN THE MATTER OF: | : |                  |
|                   | : |                  |
| JOHN YAKIM,       | : |                  |
|                   | : |                  |
| Requester,        | : |                  |
|                   | : |                  |
| v.                | : | No. AP 2018-1512 |
|                   | : |                  |
| GREGG TOWNSHIP,   | : |                  |
|                   | : |                  |
| Respondent.       | : |                  |
|                   | : |                  |

---

**ATTESTATION OF KERI MILLER**

I, Keri Miller, make the following attestation under the penalty of perjury:

1. I am the chair of the board of supervisors of the Respondent, Gregg Township (“Township”).
2. Shortly after August 16, 2018, I became aware that John Yakim had requested emails from [kerimiller.greggtownship@gmail.com](mailto:kerimiller.greggtownship@gmail.com) during December of 2017.
3. I became aware of this request because Jennifer Snyder, the Township’s Right to Know Law Officer, contacted me to discuss this matter and request all relevant records.
4. During those communications, I indicated to Ms. Snyder that I did not open the account “[kerimiller.greggtownship@gmail.com](mailto:kerimiller.greggtownship@gmail.com)” until after December of 2017, and consequently, there were no records that could possibly be responsive to Mr. Yakim’s request.
5. I hereby certify that the facts contained in the foregoing Attestation are true and correct to the best of my knowledge, information, and belief, and that I make this Attestation subject to the penalties of 18 Pa. C.S. § 4904 relating to unsworn falsification to authorities.

  
Keri Miller

Dated: September 4, 2018

**BEFORE THE PENNSYLVANIA OFFICE OF OPEN RECORDS**

IN THE MATTER OF:

JOHN YAKIM,

Requester,

v.

GREGG TOWNSHIP,

Respondent.

No. AP 2018-1512

**CERTIFICATE OF SERVICE**

I, David S. Gaines, Jr., hereby certify that a true and correct copy of this Response to Requester's Appeal was served by United States first-class mail, postage prepaid, on this fourth day of September, 2018, addressed as follows:

John G. Yakim  
1033 Harvard Road  
Monroeville, PA 15146



David S. Gaines, Jr.

Dated: September 4, 2018