

**TEXAS COURT OF APPEALS, THIRD DISTRICT, AT AUSTIN**

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**NO. 03-17-00286-CV**

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**In re Heath Howeth**

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**ORIGINAL PROCEEDING FROM HAYS COUNTY**

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**MEMORANDUM OPINION**

Relator Heath Howeth filed a petition for writ of mandamus asking this Court to direct the trial court to vacate its order granting a motion to compel and directing Howeth to produce his tax returns and supporting material. *See* Tex. Gov't Code § 22.221; *see also* Tex. R. App. P. 52.1. At the same time, Howeth filed a motion for emergency temporary relief asking us to stay the order and a motion for expedited consideration asking us to immediately issue the stay. Having reviewed the petition, the record, the response of the real parties in interest, and Howeth's reply, we conclude that the mandamus record is insufficient for us to grant relief because it does not include the order granting the motion to compel. *See* Tex. R. App. P. 52.3(k)(1)(A) (appendix must contain "a certified or sworn copy of any order complained of, or any other document showing the matter complained of"); *id.* R. 52.7(a)(1) (relator must file with petition "a certified or sworn copy of every document that is material to the relator's claim for relief and that was filed in any underlying proceeding"); *In re Bill Heard Chevrolet, Ltd.*, 209 S.W.3d 311, 314 (Tex. App.—Houston [1st Dist.] 2006, orig. proceeding) ("[A]ll orders must be entered of record to be effective," and "[e]ntries made in a judge's docket are not accepted as a substitute for that record."). The mandamus record

before us does not contain an order that has been “reduced to writing, signed by the trial court, and entered in the record” or a reporter’s record memorializing the trial court’s rendition of any order in open court. *In re Bill Heard Chevrolet, Ltd.*, 209 S.W.3d at 314-15; *see also Walker v. Packer*, 827 S.W.2d 833, 837 (Tex. 1992) (orig. proceeding) (relator has burden of providing court with sufficient record to establish right to mandamus relief). Accordingly, we deny the petition for writ of mandamus and the motion for emergency temporary relief. *See* Tex. R. App. P. 52.8; *id.* R. 52.10. We dismiss the motion for expedited consideration as moot.

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Cindy Olson Bourland, Justice

Before Chief Justice Rose, Justices Field and Bourland

Filed: May 2, 2017