

STATE OF NEW HAMPSHIRE

DEPARTMENT OF STATE

IN THE MATTER OF:

Local Government Center, Inc. *et al*

RESPONDENTS

Case No.: C-2011000036

ORDER CONFIRMING CERTAIN PROCEDURES FOR EVIDENTIARY HEARING

On April 2, 2012 an informal conference of all counsel was conducted before the undersigned at which discussion addressed the status of the order on dispositive motions and its unofficial essence was revealed; the status of discovery depositions and response to recently issued subpoenas to deposition; the status of efforts of the parties to produce an agreed stipulation of facts prior to initiation of the evidentiary hearing; and venue for the evidentiary hearing.

Discussion also specifically addressed several procedural issues related to the conduct of the evidentiary hearing. Consensus was acknowledged by the undersigned to exist supporting the following:

1. The final pre-hearing informal conference of counsel shall be conducted on April 16, 2012, beginning at 9:00 A.M. and has been relocated to Room #411 of the State House Annex.
2. Any final pre-hearing memoranda desired to be submitted by any party shall be submitted electronically on or before Friday, April 27, 2012 with the subsequent filing of two copies in hard form with the presiding officer.
3. The final evidentiary hearing shall convene on Monday, April 30, 2012 at 9:30 A.M. in the Grand Room of the State Archives on Fruit Street in Concord and continue from day to day thereafter as ordered by the presiding officer. All counsel shall be ready to begin proceeding at 9:30 A.M. on the first day and at 9:00 A. M. or as otherwise ordered. It is anticipated that the testimonial day will terminate at approximately 4:00 P.M.
4. The parties shall meet and confer in good faith to compose and file, electronically, a set of stipulated uncontested facts on or before Friday, April 27, 2012 with the subsequent filing of two copies in hard form with the presiding officer.

5. Each party is responsible for presenting a sufficient number of sets of its exhibits so that all counsel are provided at least one copy and two copies are presented to the tribunal. The parties shall meet and confer with the objective of composing and providing a single set of exhibits which are anticipated to be entered by more than one party and pre-mark them as "Joint Exhibit" followed by an Arabic number in anticipated sequence of each exhibit's earliest offer, *e.g.* Joint Exhibit 1, Joint Exhibit 2, etc. Other individual exhibits may be marked for identification with the party's name followed by an Arabic number in anticipated sequence of each exhibit's earliest offer, *e.g.* Andrews Exhibit 1; Andrews Exhibit 2; etc.
6. Procedural rules as provided for in RSA 421-B:26-a shall govern the conduct of the hearing.
7. Brief openings by each party may be offered with time allowance granted to the Bureau of Securities Regulation of 20 minutes and of 10 minutes length to each defendant, providing further that all so-called Local Government Center entities shall be treated as a single defendant for purposes of the opening statement.
8. The order of the case shall begin with the Bureau of Securities Regulation, as the petitioner, and it shall bear the burden of proof by a showing of a preponderance of the evidence on each substantive count against the defendants.
9. On its case in chief the BSR shall conduct direct testimony of witnesses called followed by cross-examination of each of the defendants in such order as may be agreed to or, in the absence of agreement by the parties, by order of the presiding officer until cross examination by all defendants has been achieved. The BSR shall then proceed with re-direct questioning of the witness that, again, may be followed by such additional re-cross examination by each defendant as may be necessary. All parties are reminded of limitations that shall be applied by the presiding officer on redundant questioning or redundant witness testimony.
10. Each party shall be entitled to have a single attorney make inquiry of a specific witness.
11. Following the conclusion of the evidentiary hearing, the parties may each submit a legal memorandum in support of its position. Such filing shall not exceed 25 pages, excluding copies of legal cases cited within the memorandum, and shall be filed electronically no later than ten calendar days following the termination of the hearing with the subsequent filing of two copies in hard form with the presiding officer.
12. The respondent LGC shall contact the court reporting service directly to arrange for daily provision of transcripts, including one copy to be provided to the tribunal.
13. Given the nature of these proceedings, the number of parties involved and the evident presence of numerous competent counsel representing each of the parties during the proceedings to date, motions to continue or that otherwise would result in undue delay in the completion of these proceedings will be strictly construed.

So ordered this 12th day of April, 2012


Donald E. Mitchell, Esq.
Presiding Officer

SERVICE LIST

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