

STATE OF NEW HAMPSHIRE

DEPARTMENT OF STATE

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IN THE MATTER OF:)	
)	
Local Government Center, Inc. <i>et al</i>)	Case No.: C-2011000036
)	
RESPONDENTS)	
_____)	

SUPPLEMENTAL ORDER REGARDING ADDITIONAL SUBMISSION OF DOCUMENTS BY THE BUREAU OF SECURITIES REGULATION FOR *IN CAMERA* REVIEW

On February 18, 2012 an order issued regarding the production of certain documents submitted by the Bureau of Securities Regulation (“BSR”) for *in camera* review by the presiding officer. Among the several provisions of that order, two called for submission of additional documents. This order addresses those two supplemental submissions.

During the previous review two documents listed in the *Vaughn* index by the BSR were found to be missing from those pages submitted for review. Pursuant to said order, those documents have now been submitted by the BSR and are reviewed under the same terms, conditions and considerations applied and utilized in making determinations on the documents reviewed for the February 18, 2012 order. All facts, law, rationale and determinations appearing in the earlier order are applied to these two remaining documents. All pleadings, offers and arguments of counsel made for purposes of the previous order were applied to the two documents subject to this order.

In the previous order it was found that,

“Within the numbered sequence spanned by the above documents, it is noted that there was no page BSR 3080 listed as either produced or submitted for *in camera* review. Therefore the BSR shall either immediately explain its non-

inclusion, produce this document to the respondents, or submit it for *in camera* review if a privilege or protection is asserted that would justify withholding the document in full or subject to redaction.”

The BSR has now submitted document BSR 3080 to the Presiding Officer for *in camera* review and asserts that this document is subject to protection as both work product and as part of the deliberative process. Upon review I find that this document falls appropriately within the protection of the work product doctrine and need not be produced by the BSR. Having found that it may be properly withheld on that basis, I do not further address the assertion that it also is protected as part of the asserted “deliberative process” exemption.

The second document now submitted by the BSR and subject to this supplemental order is document BSR 3548. The previous order stated, “The document numbered BSR 3548 was apparently inadvertently omitted from the documents produced to the Presiding Officer for *in camera* review due to a photocopying error.” Page BSR 3548 is part of a collective series of emails, numbered BSR 3546-3550, as shown on the *Vaughn* index. The BSR previously asserted that the document numbered BSR 3546-3550, before it was determined that the actual BSR 3548 was not included in its previous submission, is subject to the attorney-client privilege. It has now submitted page BSR 3548 within a complete version of document BSR 3546-3550 for review and asserted attorney client privilege over this page as well. Upon reviewing this sequence this second time, including BSR 3548, I find that BSR 3548, like its companion pages in this group, is subject to the attorney client privilege and need not be produced to the respondents.

All previous orders not inconsistent with this order remain in effect.

So ordered, this 28th day of February, 2012


Donald E. Mitchell, Esq.
Presiding Officer

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