

**STATE OF NEW HAMPSHIRE  
DEPARTMENT OF STATE  
BUREAU OF SECURITIES REGULATION**

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IN THE MATTER OF: )  
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)  
Local Government Center, Inc.; Local )  
Government Center Real Estate, Inc.; )  
Local Government Center Health Trust, )  
LLC; Local Government Center )  
Property-Liability Trust, LLC; )  
Health Trust, Inc.; New Hampshire )  
Municipal Association Property-Liability )  
Trust, Inc.; LGC-HT, LLC; Local )  
Government Center Workers' )  
Compensation Trust, LLC; and the )  
following individuals: Maura Carroll, )  
Keith R. Burke, Stephen A. Moltenbrey, )  
Paul G. Beecher, Robert A. Berry, )  
Roderick MacDonald, Peter J. Curro, )  
April D. Whittaker, Timothy J. Ruehr, )  
Julia N. Griffin, Paula Adriance, John )  
P. Bohenko, and John Andrews )  
\_\_\_\_\_ )

**RESPONSE OF INTERVENORS**

Now Comes the Intervenors and respond to the Objections to the Motions to Intervene filed by Respondents as follows:

1. By motions filed September 6, 2011 and September 21, 2011, the following named individuals and associations seek to intervene in this matter:

a. the "original complainant" , an individual who filed a written complaint to the Secretary of State which began an investigation and resulted in the conduct of these proceedings;

b. a class of retired public employees who pay to the Local Government Center ("LGC") 100% of the cost of their health insurance;

c. the Professional Fire Fighters of New Hampshire, a labor Union representing over 2000 active and retired firefighters and paramedics, the majority of whom bargained for and purchase health insurance from the LGC;

d. the State Employees' Association of New Hampshire, SEIU Local 1984 ("SEA") representing hundreds of active and retired municipal workers who have bargained for and purchase health insurance from the LGC and thousands of State employees who bargained for and purchase pharmacy benefits from the LGC;

e. the National Education Association of New Hampshire ("NEA-NH") representing hundreds of educators and support employees who bargained for and purchase health insurance from the LGC;

f. the American Federation of State, County and Municipal Employees, Council 93 ("AFSCME") representing hundreds of public employees who bargained for and purchase health insurance from the LGC; and

g. the American Federation of Teachers New Hampshire ("AFT") representing hundreds of educators and support personnel who bargained for and purchase health insurance from the LGC.

2. Collectively, the Intervenors represent over ten thousand individuals who purchase health insurance from the LGC.

3. Collectively, the Intervenors represent over ten thousand individuals that have paid money to the LGC - money used by the LGC for purposes unrelated to health insurance and money (tens of millions of dollars) sought by the Secretary of State to be returned by the LGC.

4. The Respondents object to the PFFNH request to intervene raising, primarily, a standing issue.

5. The Intervenor has standing in this proceeding as the money sought to be returned belongs to them.

6. The general rule in New Hampshire is that a party only has standing when the party's own rights have been or will be affected. Hughes v. N.H. Div. of Aeronautics, 152 N.H. 30, 35 (2005). "In evaluating whether a party has standing to sue, we focus on whether the party suffered a legal injury against which the law was designed to protect. Libertarian Party of N.H. v. Secretary of State, 158 N.H. 194, 195 (2008) (quotation omitted). The Court has recognized representative suits on many occasions. State Employees Ass'n of N.H., Inc. v. Belknap County, 122 N.H. 614, 623 (1982). The New Hampshire Supreme Court, in allowing these suits, reasons that "justice and administrative convenience often warrant the implementation of extraordinary procedural devices." Textile Workers Union v. Textron, 99 N.H. 385, 387 (1955). In Textile Workers Union, the defendant employer challenged the ability of the plaintiff, a union, to maintain a suit against it for recovering back wages due to many of the members. The Court concluded that a representative suit could be maintained as the members had all agreed to let the union represent their interests in regards to any action against the employer. Moreover, the Court further asserted that requiring 2,700 people to bring separate suits would be both absurd and costly.

7. Although RSA 5-B details a relationship between pooled risk management programs and political subdivisions, the health insurance benefits that are procured through these programs (such as the LGC) are bargained for and purchased by active and retired public employees.

Where money has been ordered to be returned to these political subdivisions, the actual "victims" of the alleged misconduct of the LGC are, in fact, the Intervenor. Intervenor has much more than some passing interest in these proceedings : they have a direct pecuniary interest in the outcome.

8. Further, these proceedings are governed by RSA 421-B:26-a not RSA 5-B. As Respondents themselves acknowledge, this statute references not only “Parties” but “interested parties”. Thus, contrary to the assertions of the Respondents, the Legislature clearly intended that RSA 421-B:26-a proceedings involve more than simply named “Parties”. A central canon of statutory construction is, after all, that all of the words used by the Legislature must be given effect. In re Search Warrant for Medical Records, 160 N.H. 214, 221 (2010).

9. Contrary to the assertion of Respondents, the status of “interested parties” involves much more than scheduling concerns. Indeed, RSA 421-B:26-a, VIII contemplates notice of hearings be provided to “interested parties” so as to allow them time for “preparation of the case”. Plainly, this statute contemplates involvement by interested parties far greater than receiving hearing notices.

10. As to only the status of PFFNH as an intervenor, LGC asserts that PFFNH has somehow dropped its long standing complaints about the LGC and its cavalier usage of health insurance money paid to them by active and retired public employees. LGC, of course, states only part of that story. PFFNH instituted a mandamus action in Merrimack County Superior Court seeking much of the relief sought here by the Secretary of State - the return of millions of dollars in surplus paid to the LGC. That action was commenced in March 2010. (All of the substantive pleadings of the PFFNH case are available [here](#)). However, effective June 14, 2010, RSA 5-B was amended to provide exclusive jurisdiction in such matters to the Secretary of State. Thus, PFFNH voluntarily dismissed its case and seeks now to participate in these proceedings as an “interested party”. Whether this is permissible depends on the language of RSA 421-B:26-a not any notion the PFFNH has dropped its claims against LGC.

11. The cases cited by Respondent do not support a denial of the Motions to Intervene. The cases cited by Respondents involve standing in actions involving insurance policies (Benson) and actions where an organization only has an interest in the outcome of a case (Sierra

Club). In New Hampshire, it remains the law that associations indeed have standing to represent its members if they have in fact been injured. Appeal of Richards, 134 N.H. 148,156 (1991).

This is precisely one of those cases: here the LGC has been ordered to return millions of dollars that have been earned and paid by members of the associations seeking intervention. Further, these standing complaints do not pertain at all to the individual intervenors - the original complainant and the class of retired public employees.

12. Respondents argue that allowing intervention will ‘open the floodgates’ and create an unmanageable administrative hearing. Quite the opposite is true: here the intervenors are represented by one counsel and themselves represent the thousands of affected active and retired employees. Further, only one other motion to intervene is pending. Finally, the intervenors do not seek such involvement in the case that would result in duplication of efforts in any way and would be amenable to any reasonable restrictions placed on their role in these proceedings.

13. Intervenors have a direct pecuniary interest in this case and represent individuals that have suffered, in fact, an injury caused by the LGC. They are “interested parties” and should be allowed to intervene.

Respectfully submitted,  
MOLAN, MILNER & KRUPSKI, PLLC

October 17, 2011

/s/ Glenn R. Milner, Esq.  
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**CERTIFICATION OF SERVICE**

I hereby certify that a copy of the foregoing was this same day forwarded via electronic mail to Earl Wingate, Esq., William Saturley, Esq., David Frydman, Esq., Brian M. Quirk, Esq., Peter Perroni, Esq., Michael D. Ramsdell, Esq., and Mark Howard, Esq.

*/s/ Glenn R. Milner, Esq.*\_\_\_\_\_

Glenn R. Milner, Esq.