STATE OF NEW HAMPSHIRE DEPARTMENT OF STATE

)	
IN THE MATTER OF:)	
)	Case No: C2011000036
Local Government Center, Inc., et al.)	
)	

PARTIAL TRANSCRIPT OF OCTOBER 4, 2011 PRE-HEARING CONFERENCE

Audible Parties

BS: Bill Saturley DM: Don Mitchell

10:22 [START]

BS: Thank you very much and I appreciate you bringing us back to that point. You had mentioned that you have reviewed the witness lists and that you see no conflicts or reasons that you cannot rule in this matter.

DM: That is correct. According to statute.

BS: And I appreciate that. I am going to ask you Mr. Mitchell, no disrespect intended. Just for purposes of my due diligence to best represent my client - that the - that you make a somewhat more expanded disclosure in that regard. Though this is not a judicial process — as you pointed out - it is an administrative process, nevertheless, my client is entitled to an impartial hearings officer. I have no reason to suspect that you are not impartial. But I would like nevertheless for our due diligence purposes, some type of formal disclosure of your background so that my client may feel comfortable that there is no connection, or relationship of which we should be aware, and also a disclosure of the terms of engagement under which you are serving, so that again, so that we may feel comfortable that your role and your position is impartial. I have no reason to suspect other than that, but I would — nevertheless, I would ask that the formal disclosure be made at some point.

DM: Well, I would be pleased to. I don't want (inaudible) from any people....

BS: And it can be – after the hearing process is fine.

DM: No, I have no problem with it because if anyone has any reservations, to my understanding it is somewhat extraordinary for the Secretary of State to try to find an old geezer like me, to try to keep all of you in line. That being said, in my background

(inaudible), it's not inconsistent, if you will, with New Hampshire. New Hampshire is a small state. I have been a practicing attorney since 1980. We all know each other – know of each other – is my predisposition. I most recently sat as executive director and chief counsel – and again in a New Hampshire way - also as chief hearing officer at the public employee labor relations board where I ruled on decisions for and against public entities and their unions. I ruled for and against the individual employees. The rest of what the public employee labor relations board does is ensconced RSA 263:A. Prior to that, I was in private practice up until the year 2000, where I practiced primarily in the seacoast. Before I became an attorney, or one overlapped the other, I held public office as the mayor of Dover, which is a non-partisan position, and that was 30 – well thereabouts – 30 years ago. I was, at the beginning, formed the, what is now the COAST bus system which is an intermunicipal, regional public transport system. That takes us back pretty far. I'm a veteran, and while I know some faces in this room from 30 plus years, you know, my wife says that she is the only one that has influence over me in that regard. I can't think, but I am prepared to address anything that you might want to raise at this time in these proceedings that would present a situation where I could not impartially make or render a decision, rule on evidence – that's not to say you're all going to like me every day. I, it would be my goal that, you know, on some days this side of the room will like me and on other days, this side of the room will like me. But know, that I think one of the reason they go after experienced people, and I say that – your client deserves a fully-attentive, impartial hearing officer and I suspect that's why you asked that question. I think it's been known for a couple of months or so, that I would be sitting in this seat and, unless my years of experience askew, I suspect that, you know, some have asked around and tried to determine what it is that I am. I hope that you found a reputation that I am fair. At times I am methodical. When I was younger, I lost my patience a little bit more than I have now, so we'll call that as judicial temperament, and that's why I was pleased to be able to identify some of the attorneys because I know how old they are. So with that, is there anything else that I could address?

BS: Thank you very much for the thorough disclosure and for the disclosure of your approach to this, which I appreciate very much. I would ask, if at some point, you would reveal the terms of the engagement so that we may understand whether or not there are limitations, and the scope of your engagement as it pertains to this matter.

DM: Sure. May I just make one inquiry of you?

BS: Sure.

DM: Have you obtained this information by right-to-know already?

BS: I have not. We made inquiry, to which we had no response.

DM: Okay, well I think the best way to start is to say that I no longer work for the State, other than right now, I guess I am a consultant, presiding officer for purposes of this hearing.

That is to say, what I understand, is that technically I am a vendor.

BS: A ven –

DM: A vendor. Okay?

BS: Thank you.

DM: So I am not an employee, and I believe – I believe that – well I know I have a contract. I don't know what the contract number is. Each contract that a vendor has in New Hampshire has a contract number. I am sorry, I don't have mine. And the length of that contract right now runs through, I believe it is December 22nd, but please give me a fudge-factor of a week or so there. The renumeration is equivalent to what I was receiving when I left state service last year. And I believe that that comes out to a little bit over \$400.00 a day, but I am paid in increments of \$5,000.00. If anyone else in this room knows anything more about my contract, please help Mr. Saturley out. That's – and so – that's my understanding. Now I believe that the representation is that the contract could be rolled over if you all take more than three months.

BS: So when you said December 22nd, I assume that means the end of 2001.

Yes. And I believe that I was offered a longer contract, and I said, "Well that won't be DM: necessary.". So, unless you're going to throw me out, I don't have any anticipation that I would go to the bank with, but I suspect if we get to December 22nd and you all haven't worked this thing out that I may be asked to continue as the hearing officer. I believe those are the – oh, I get mileage when I come to Concord. Let me go further because you all should be at the same information level. And that is that the statute lays some things out that I should comply with - and I will comply with. And part of it is to make sure - I think it was the legislature's intention – that laypeople have some understanding of what goes on here so that you can better judge what the proceedings are and that is similar for the media. So, let me also say that it's - it's going to be alright if the counsel that are representing the various parties that have been named, can all get along together. Administrative hearings are a little bit different and those of you that have been in courtrooms already can tell the difference. And I don't mean by, you know, certain perks or softer chairs, or chairs that don't wiggle, but this is what we have for right now. And later on in the morning, I am going to ask some counsel to start cooperating with each other on some matters. The, you didn't ask this Mr. Saturley, but for counsels' expectations, I am the full-time staff person. Megan is able to give me twelve hours a week. That's essentially it. We had an intern from University of New Hampshire's law school, but there are scheduling problems that are arising in that. So, what you see up here is what is trying to respond to whatever you all may do, and I would just ask you

that you keep that in mind. We will do the best we can. We were doing it last night until about 7:30 or 9:30, respectively. Have I answered your question thoroughly enough?

BS: You have sir. Thank you very much.

DM: Okay. Anyone else have questions, background, what do I think. I mean, I think you're getting the message that not too much effects me. My perspective is, you know, I'm a referee, I'm an umpire. You know? I do the best I can is, what does the constitution say, as the plight of humanity will allow? And that's all I can assure any of you. As the fact finder, it's important that, you know, you believe I'm understanding things. And certainly it's that I'm hearing them. As a presiding official, I would anticipate your cooperation with rules and orders because if rules and orders aren't complied with that I may issue, then we have to go to the Superior Court and ask them to help us out a little bit and that would just take time and I know that you gentlemen are interested in getting this matter heard. Anyone else have any other questions on impart – my belief that I can impartially make a decision in this matter? [Pause] Okay.

24:30 [END]