

BRIAN M. QUIRK
DIRECT DIAL: 603-410-1530
bquirk@preti.com

VIA HAND-DELIVERY

October 7, 2013

New Hampshire Supreme Court
Eileen Fox, Clerk
One Charles Doe Drive
Concord, NH 03301

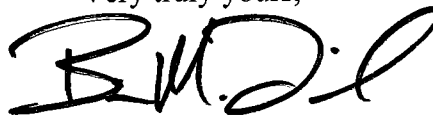
**RE: Local Government Center, Inc., et al.
Appeal by Petition
Case No. 2012-0729**

Dear Clerk Fox:

Please find enclosed an original and eight (8) copies of a *Motion of Appellant Property-Liability Trust, Inc. for Partial Stay of Final Order Pending Appeal* for filing with the Court in connection with the above-referenced matter.

Kindly note that copies of this letter and the within *Motion* have been provided to all parties interested in this action.

Very truly yours,



Brian M. Quirk

BMQ:mdr

Enclosures

PRETI FLAHERTY

Eileen Fox, Clerk

RE: **Local Government Center, Inc., et al**/*Appeal by Petition*

Page 2

October 7, 2013

cc: Suzanne M. Gorman, Esq.
Andru H. Volinsky, Esq.
Roy W. Tilsley, Jr.
Christopher G. Aslin, Esq.
Earle F. Wingate, III, Esq.
Jeffrey D. Spill, Esq.
Adrian LaRochelle, Esq.
Eric Forcier, Esq.
William S. Saturley, Esq.
David I. Frydman, Esq.
Michael D. Ramsdell, Esq.
Mark E. Howard, Esq.

million payment, but such efforts were unsuccessful. *See* Exhibit B, Affidavit of George Bald, filed herewith (“Bald Aff.”), ¶¶ 4 - 7. Since the Court’s prior ruling, new facts have arisen which justify staying payment of the \$17.1 million pending appeal. *See* RSA 541:14.

PLT returned \$3.1 million to members who participated in the Property and Liability risk pool, as the Final Order directed. The Final Order next requires PLT to pay \$17,100,000 to its co-appellant, HealthTrust, by December 1, 2013. Because PLT produced detailed financial information during the hearing, both the Bureau and the Presiding Officer knew that PLT lacked the assets to make this payment. *See, e.g.,* Final Order at 27-28 (“property liability trust had net assets . . . of \$10,225,000 in 2010 . . . worker’s compensation trust had net assets of . . . \$177,000 in 2010”) (emphasis added); Final Order at 74, Item 5 (“The parties have litigated this dispute by agreement based upon the 2010 year-end audited financial statements and this Order is issued, contingent upon said agreement, based upon those financial statements”); LGC Hearing Exhibit 169. The Final Order therefore suggested that “funds to make this re-payment may be borrowed from an independent entity at commercially reasonable rates.” Final Order at 78, Item 13.

PLT’s attempts to obtain financing were rejected by the three financing sources it approached, including, notably, its own regular, longstanding bank, Citizens Bank in Manchester. Bald Aff. ¶¶ 10 - 13.

With the December 1, 2013 payment looming, PLT must now set rates for its members for the coming year and secure policy renewals. The uncertainty created by the mandated December 1, 2013 payment gravely harms PLT, indeed, threatens PLT’s existence as a going concern, because members are reluctant to renew policies in light of the uncertainty about what will happen on December 1, 2013 when PLT fails (as it must) to make the mandated payment. *See* Exhibit C, Affidavit of Wendy Lee Parker, filed herewith (“Parker Aff.”), ¶¶ 18 – 19.

PLT thus faces irreparable harm based on its inability to make the \$17.1 million payment to HealthTrust. Because failure to enter a stay would cause irreparable harm to PLT, while entry of a stay will not harm the Bureau or the public interest, the Court should now stay further enforcement of the Final Order as to the \$17.1 million payment pending appeal. *See, e.g., Union Fidelity Life Ins. Co. v. Ins. Commissioner*, 114 N. H. 549, 550 (1974) (Court will exercise discretion to stay order pending appeal when appellant makes showing that it “will suffer irreparable harm, occasioned by circumstances beyond his control, if the order is given immediate effect” and it is “clear that the harm to the plaintiff outweighs the public interest in enforcing the order for the duration of the appeal”).

ARGUMENT

I. FAILURE TO ISSUE A STAY WILL CAUSE PLT IRREPARABLE HARM.

PLT cannot pay what it does not have. The Presiding Officer knew that PLT did not have assets sufficient to pay \$17.1 million and to still meet its obligations to claimants and covered persons. The Final Order reflected that reality by suggesting that PLT borrow the money to make the payment. But PLT has been unable to borrow money.¹ *Bald Aff.*, ¶¶ 9-14. In light of that changed circumstance, the question is whether PLT must risk ceasing to function as a going concern before its appeal is resolved or whether the Final Order should be stayed as to the \$17.1 million payment, so that a functioning PLT can survive to enjoy any relief that this Court may

¹ The Bureau previously informally suggested that PLT assess its members to make the payment. First, RSA 5-B:6, III provides in part that “[p]articipation by a political subdivision in a pooled risk management program formed and affirmed under this chapter shall not subject any such political subdivision to any liability to any third party for the acts or omissions of the pooled risk management program.” Because the Final Order also requires Health Trust to return the \$17.1 million to its members, even if such an assessment were possible (as it is not), one group of political subdivisions would be paying money to another group, without regard to whether the former group included members of PLT when the acts on which the payment is based occurred. Second, even if an assessment were possible, PLT’s statement that it would be assessing its members millions of dollars in the coming year would have but one consequence: PLT would rapidly lose its members. *Parker Aff.*, ¶ 15.

ultimately order. Common sense and precedent confirm that a stay is appropriate in these circumstances.

PLT typically sends members proposed new rates in October. This year, as PLT seeks to renew policies, its members have inquired how PLT will address the \$17.1 million payment, in light of the fact that PLT cannot borrow the funds, as the Final Order proposed. Many members have expressed unwillingness to renew policies until that issue is resolved. Many members do not want to remain in PLT if it is perceived not to be in compliance with the Final Order. Parker Aff., ¶¶ 7 - 8.

Accordingly, unless the Final Order is stayed pending appeal, PLT likely will not be able to secure enough renewals to continue operating until its appeal is resolved. *Id.* Were this Court ultimately to conclude that the Bureau lacked authority to order the \$17.1 million repayment, a defunct or insolvent PLT would have no remedy. Unless the Final Order is stayed insofar as it calls for payment of \$17.1 million on December 1, 2013, PLT will be deprived of an opportunity to continue to operate and to obtain relief from this Court.

A stay pending appeal is appropriate when enforcement of a lower court's order will cause the appellant irreparable harm. This Court has repeatedly ordered a stay in circumstances in which the appellant alleges that compliance will result in potential insolvency, even when the appellee disputes that claim. In *New Hampshire-Vermont Physician Svc.*, 113 N.H. 295, 296 (1973), the Court noted that the appellant "contends that the reduction in rates ordered by the defendant will erode its financial integrity and place it in a state of technical insolvency or just above it," while the appellee "disputes this entirely." In ordering a stay pending appeal, the Court observed that, if a stay were not entered and the appellant ultimately prevailed, the appellant could not be made whole. *Id.* at 296-97. *See also New Eng. Tel. & Tel. Co. v. State*, 97

N.H. 555, 557 (1952) (“In the light of these conflicting claims, preservation of the status quo would seem best to serve the ends of justice”).

In *New Hampshire-Vermont Hospitalization Svc. v. Whaland*, 113 N.H. 461, 464-65 (1973), just as in this case, the appellant “contend[ed] that unless relief is granted . . . its financial integrity will be eroded resulting in a state of insolvency.” *Id.* at 464. The Court suspended the order in question pending resolution of the appeal. *Id.* at 465. Similarly, in *New Hampshire Milk Dealers Assoc. v. New Hampshire Milk Control Board*, 107 N.H. 150, 151-52 (1966), the Court held that the appellants’ allegation that enforcement of the agency’s order would cause it irreparable harm by placing the milk industry ““in a state of chaos”” justified staying the agency’s order, on stated conditions. *See also Duffley v. New Hampshire Interscholastic Athletic Assoc.*, 122 N.H. 484, 485 (1982) (pending appeal, Court vacated trial court’s order dismissing petition and reinstated order granting appellant temporary injunctive relief); *Appeal of New England Power Company*, 120 N.H. 866, 870 (1980) (granting stay pending appeal to preserve *status quo*); *City of Concord v. New Testament Baptist Church Heritage Christian School*, 118 N.H. 56, 58 (1978) (stay pending appeal so that 50 students could continue in school); *see also Fisk Ventures, LLC v. Segal*, 2009 WL 1478490, 1 (Del.Ch. 2009) (order mandating dissolution and sale of assets “is a clear example of irreparable harm”); *Performance Unlimited, Inc. v. Questar Publishers, Inc.*, 52 F.3d 1373, 1382 (6th Cir. 1995) (“The impending loss or financial ruin of [a] business constitutes irreparable injury”); *Com., Bd. of Fin. & Revenue v. Rosetta Oil, Inc.*, 535 Pa. 343, 348 (1993) (“Significant financial problems for the company, causing it to be unable to stay in business,” constitutes irreparable harm); *Gold v. Ziff Commc'ns Co.*, 196 Ill. App. 3d 425, 435 (1989) (“Action by a party which will ultimately result in putting another party out of business constitutes irreparable harm which justifies a preliminary

injunction”); *Tri-State Generation & Transmission Ass'n, Inc. v. Shoshone River Power, Inc.*, 805 F.2d 351, 356 (10th Cir. 1986) (“A threat to trade or business viability may constitute irreparable harm”).

In this case, PLT will lose many of its members and may not be able to continue as a going concern, unless the Final Order is stayed insofar as it calls for PLT to make a payment of \$17.1 million to Health Trust by December 1, 2013. As in *New Hampshire-Vermont Physician Svc.*, compliance would leave appellant in “a state of technical insolvency or just above it.” *Id.* 113 N.H. at 296. Such harm is properly characterized as irreparable. See *Unifirst Corp. v. City of Nashua*, 130 N.H. 11, 15 (1987) (closing down plant for ten days, resulting in “significant loss of business and the lay-off of employees” is irreparable harm). In light of the Final Order’s acknowledgement that PLT’s assets could not support the \$17.1 million payment, see, e.g., Final Order at 27-28, PLT’s subsequent inability to borrow funds to make the payment, and the irreparable harm that enforcement of that provision would cause PLT, the Court should stay the Final Order pending appeal insofar as it calls for payment of the \$17.1 million.

II. **A STAY OF THE FINAL ORDER WILL NOT HARM THE BUREAU OR THE PUBLIC INTEREST.**

Staying payment of the \$17.1 million will not harm the Bureau or the public interest. If the appellants prevail, then there will be no need for PLT to comply with the remaining terms of the Final Order and the Bureau will have suffered no harm. On the other hand, if a stay were to issue and the Bureau were ultimately to prevail, both it and the public would then be in no worse position than they are now: PLT still would be unable to make the \$17.1 million payment and the question would then arise whether, and how, PLT could continue to operate. (Indeed, there is reason to believe that PLT’s continued operation pending appeal would put it in a stronger financial position than it is in presently, although it would still be incapable of paying \$17.1

million. Parker Aff., ¶ 21.). In neither case will the Bureau or the public suffer a cognizable harm if payment of the \$17.1 million is stayed pending appeal.

The Final Order, entered over a year ago, calls for the \$17.1 million payment to be made on December 1, 2013. The Bureau cannot plausibly argue that payment on that precise date is of special significance. At worst, were that aspect of the Final Order to be upheld in its entirety, compliance (insofar as that might be possible) would be delayed by approximately six months. *See* New Hampshire Supreme Court Judicial Evaluation Program dated July 2, 2012 at pp. 3-4 (indicating oral argument held on average 116 days after appellee's brief filed and opinion issued on average 89 days after oral argument or submission). Just as in *New Hampshire-Vermont Physician Service*, 113 N.H. at 296-97, and other cases in which this Court has granted a stay, denying the stay will irreparably harm appellant, while granting it will at worst merely delay the transfer of money. *See, e.g., New Hampshire-Vermont Hospitalization Svc.*, 113 N.H. at 464 (staying order pending appeal because if appellant's "dire predictions should come to pass, thousands of members would find their hospital bills unpaid").

ASSENT OF OTHER CO-APPELLANTS

All co-appellants, including HealthTrust, the intended recipient of the \$17.1 million payment that is the subject of this Motion, assent to the relief sought herein. HealthTrust advises that it assents because the specter of the Final Order's direction to PLT to make a payment which would cause PLT to become insolvent creates significant risk of irreparably damaging its own member relationships and market reputation. HealthTrust explains that this is because it would be extremely difficult for HealthTrust's members and potential members to distinguish the difference between a potentially impaired PLT and a financially sound HealthTrust since their respective businesses were previously conducted in an integrated manner. *See* Exhibit A.

CONCLUSION

For the reasons set forth above, this Court should stay that portion of the Final Order that requires PLT's payment of \$17.1 million to HealthTrust, pending appeal.

Respectfully submitted,

PROPERTY-LIABILITY TRUST, INC., successor-in-interest to Local Government Center Property-Liability Trust, LLC

By its attorneys,



William C. Saturley (NH Bar # 2256)

Brian M. Quirk (NH Bar #12526)

Preti Flaherty PLLP

PO Box 1318

Concord, NH 03302-1318

Tel.: (603) 410-1500

Fax: (603) 410-1501

wsaturley@preti.com

bquirk@preti.com



Michael D. Ramsdell (NH Bar #2096)

RAMSDELL LAW FIRM, PLLC

46 South Main Street

Concord, NH 03301

Tel: (603) 856-7536

mramsdell@ramsdelllawfirm.com

CERTIFICATE OF SERVICE

I certify that on the 7th day of October, 2013, I filed an original and eight copies of this *Motion of Appellant Property-Liability Trust, Inc. for Partial Stay of Final Order Pending Appeal* with the New Hampshire Supreme Court, and forwarded two copies of this pleading via U.S. mail and E-mail to all counsel of record.



Brian M. Quirk



October 7, 2013

BY E-MAIL

William C. Saturley, Esq.
Preti Flaherty PLLP
PO Box 1318
Concord, NH 03302-1318

Michael D. Ramsdell, Esq.
Ramsdell Law Firm P.L.L.C.
69 Bay Street
Manchester, NH 03104

**Re: Property-Liability Trust, Inc. Proposed Motion for Partial Stay of Final Order Pending Appeal
New Hampshire Supreme Court -- Case No. 2012-0729**

Dear Bill and Mike:

Property-Liability Trust, Inc. ("PLT") has requested Health Trust, Inc. ("HealthTrust") to assent to the "Motion of Appellant Property-Liability Trust, Inc. for Partial Stay of Final Order Pending Appeal" ("Motion").

I have reviewed the Motion with HealthTrust's Executive Director as well as outside counsel engaged by the HealthTrust Board of Directors to advise it concerning the Final Order entered on August 16, 2012 by a presiding officer appointed by the New Hampshire Secretary of State ("Final Order"). I and outside counsel have consulted with the HealthTrust Board of Directors concerning the implications of a motion for a stay of the \$17.1 million payment to HealthTrust directed by the Final Order.

You are hereby authorized to inform the New Hampshire Supreme Court that Health Trust assents to the relief sought by the Motion because the specter of the Final Order's direction to PLT to make a payment which would cause PLT to become insolvent creates significant risk of irreparably damaging HealthTrust's own member relationships and market reputation. The risk is due to the fact that it would be extremely difficult for HealthTrust's members and potential members to distinguish the difference between a potentially impaired PLT and a financially sound HealthTrust since their respective businesses were previously conducted in an integrated manner.

Very truly yours,

A handwritten signature in black ink, appearing to read "David I. Frydman". The signature is fluid and cursive, with a long horizontal stroke at the end.

David I. Frydman,
General Counsel

STATE OF NEW HAMPSHIRE
SUPREME COURT
2012 TERM

IN THE MATTER OF:)
)

Local Government Center, Inc. *et al.*)
)
_____)

Case No. 2012-0729

**AFFIDAVIT OF GEORGE BALD IN SUPPORT OF RENEWED MOTION
OF APPELLANT PROPERTY-LIABILITY TRUST, INC.
FOR STAY OF FINAL ORDER PENDING APPEAL**

I, George Bald, depose and state on oath as follows:

1. From February 6, 2013, through August 19, 2013, I served as the Interim Executive Director of Local Government Center Property-Liability Trust, LLC (“Old PLT”), to which, as of September 1, 2013, Property-Liability Trust, Inc. (“PLT”) became the successor-in-interest, pursuant to a transfer of all assets and all liabilities from Old PLT to PLT in connection with a restructuring of Old PLT.

2. My career has been spent in local, regional (intra-state), and state government in New Hampshire beginning in 1978 with the first of my three terms as mayor of the City of Somersworth, which then had the “strong mayor” form of municipal government. I also served for a total of six years with the Pease Development Authority (the “PDA”), the last two, 2004-2006, as the PDA’s Executive Director. While several serious disputes arose between the City of Portsmouth and the PDA, they were all resolved, and the redevelopment of Pease Air Force Base was successful. Most recently before my employment with Old PLT, I served from 2006 to

November 2012 as Commissioner of the New Hampshire Department of Resources and Economic Development.

3. In my capacity as Old PLT's Interim Executive Director, I was actively and daily engaged with PLT's efforts and activities both (a) to negotiate with the BSR regarding the terms of the Final Order, and (b) to comply with the terms of the Final Order.

4. Indeed, compliance with, and clarification of, the Final Order was one of my principal responsibilities, as PLT had told me would be the case if I accepted its offer of employment. I was thus intent both on complying to the extent possible, and on negotiating, notwithstanding the BSR's rejection of a PLT proposal to mediate that preceded my arrival at PLT.

5. Among other things, the Final Order called for PLT to pay \$17.1 million by December 1, 2013, to co-appellant HealthTrust, Inc. ("HT"), which since September 1, 2013 has been the successor-in-interest to Local Government Center HealthTrust LLC ("Old HT"), pursuant to an Asset Purchase Agreement by and among HT, Old HT, and Local Government Center, Inc. The financial statements that Old PLT submitted during the proceeding before the Bureau demonstrated that PLT did not have funds sufficient to make that payment.

6. The Final Order therefore provided that "[t]he funds to make this re-payment may be borrowed from an independent entity at commercially reasonable terms, in consultation with the Bureau of Securities Regulation in the exercise of its supervisory powers which shall be exercised in good faith." Final Order at 78, Item 13.

7. My office calendar records during my six-month tenure as Interim Executive Director shows at least 12 personal meetings or telephone calls, the first on February 12, 2013, and the last on August 6, 2013, with Barry Glennon, the Director of the Bureau, regarding the Final Order. The same records also show six meetings or telephone calls with William Gardner, the New Hampshire Secretary of State and Mr. Glennon's superior. The \$17.1 million payment required by the Final Order and PLT's inability to pay such an amount – and my position that the parties should acknowledge the reality of such inability and attempt to deal with it – were always among the topics discussed during these meetings and telephone conferences.

8. At no time during my tenure at PLT, did either PLT or I lose sight of, or ignore, the \$17.1 million obligation or the peril it posed for PLT.

9. PLT simultaneously availed itself of the permission granted to it in the Final Order to seek to borrow the money to discharge the \$17.1 million obligation.

10. The most obvious avenue for borrowing such a large amount was PLT's current and long-standing bank, RBS Citizens, N.A. ("Citizens Bank") in Manchester. I met four times with PLT's banker, Jeffrey B. Tatro, Senior Vice President of Citizens Bank. One of the meetings was also attended by Mr. Tatro's colleague, Keith Pine, Vice President of Citizens Bank's Government Banking Division. I provided Citizens Bank with PLT's most recent 2011 audited financials and other requested financial information. Citizens Bank concluded after the meetings and its review of the situation that the requested loan was "not a bankable credit," expressing concerns about the insufficiency both of cash flow to repay the loan and of collateral to secure it. While it is true that PLT did not submit a formal "loan application," it was merely sparing itself a nugatory effort. PLT was not a stranger to Citizens Bank, walking in off the

street to get a home mortgage. If anyone was going to lend \$17.1 million to PLT, it was Citizens Bank.

11. Nonetheless, I also met with Steve Webb, President of TD Bank New Hampshire, on May 1, 2013, to explore a loan from Mr. Webb's bank. Mr. Webb reviewed PLT's audited financials at the meeting. He declined to pursue PLT's request further politely but firmly.

12. My third and final approach on behalf of PLT was to the New Hampshire Business Finance Authority ("BFA"), an organization I know well from my years in government. I spoke three times with Jack Donovan, the Executive Director of BFA, and also provided him with PLT's audited financials.

13. BFA, which is not itself a direct lender but rather a provider of loan guaranties, declined to provide support for a borrowing from a third-party private lender and expressed its opinion that no such lender could be found, even if BFA support were available, because of the same cash flow and collateral concerns that deterred Citizens Bank.

14. What is obvious from PLT's 2010 financials before the Presiding Officer was also obvious to prospective lenders from PLT's 2011 financials: PLT was in no position to discharge or incur a \$17.1 million obligation.

15. In light of PLT's inability to make the \$17.1 million payment, I met with the Bureau's consultant, Michael Coutu, in July 2013 and eventually was able to schedule a negotiating session between PLT and the Bureau.

16. The meeting convened on neutral territory, at the office of the New Hampshire Department of Resources and Economic Development. Old PLT was represented by myself and

two board members (including the chair); Old HT, the prospective recipient of PLT's \$17.1 million repayment (and PLT's co-appellant of the Final Order), sent two board members (including its chair); Old PLT's and Old HT's corporate parent, Local Government Center, Inc., sent its board chair.

17. The Bureau was represented by two people, Mr. Glennon, its Director, and Mr. Coutu, its consultant. The Secretary of State was invited, but did not attend.

18. The meeting was held on Monday, August 5, 2013.

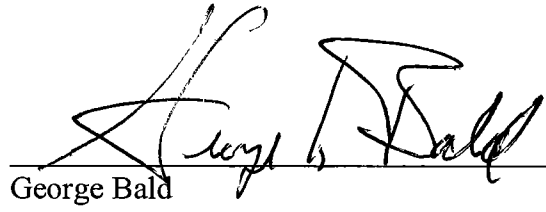
19. The attendees tentatively agreed on a list of items that Mr. Coutu undertook to turn into a written term sheet. It is my understanding and belief that Mr. Coutu prepared the term sheet and gave it to Mr. Glennon to present to the Secretary of State. Neither Old PLT nor Old HT nor LGC has received a copy of this term sheet.

20. On Tuesday afternoon, August 6, 2013, I received a telephone call from Mr. Glennon. He told me that the term sheet that was prepared by Mr. Coutu was not acceptable to the Secretary and that the \$17.1 million repayment order was no longer under discussion.

21. These matters stood until the end of my agreed-upon six-month term on August 19, 2013. On August 14, I had asked Mr. Glennon to give me a copy of Mr. Coutu's term sheet, in the hope it might assist my successor in renewing settlement efforts. Mr. Glennon denied my request the next day.

22. I believe I did my best to end or ameliorate the disputes and difficulties arising from the Final Order, and I regret that they remain in the judicial arena, where it appears they will have to be resolved.

Subscribed and sworn to before me under the pains and penalties of perjury on this 3rd
day of October, 2013.


George Bald

2258314.3

STATE OF NEW HAMPSHIRE
SUPREME COURT
2012 TERM

)	
IN THE MATTER OF:)	
)	Case No. 2012-0729
Local Government Center, Inc. <i>et al.</i>)	
)	
)	

**AFFIDAVIT OF WENDY LEE PARKER IN SUPPORT OF RENEWED MOTION
OF APPELLANT PROPERTY-LIABILITY TRUST, INC.
FOR STAY OF FINAL ORDER PENDING APPEAL**

I, Wendy Lee Parker, depose and state on oath as follows:

1. I am the Executive Director of Property-Liability Trust, Inc. ("PLT"), the successor-in-interest to Local Government Center Property-Liability Trust, LLC. Effective September 1, 2013, all of the assets and liabilities of Local Government Center Property-Liability Trust, LLC were transferred to Property-Liability Trust, Inc. pursuant to an Asset Purchase Agreement by and among Property-Liability Trust, Inc., Local Government Center Property-Liability Trust, LLC, and Local Government Center, Inc.

Background Experience

2. From 2004 until August 31, 2013, I was the Deputy Director for Risk Pool Operations for Local Government Center, Inc. My responsibilities included managing the day-to-day operations of the Property-Liability Trust and HealthTrust coverage programs. I had primary responsibility for all operational aspects of the program, including working with the actuaries to establish appropriate rate recommendations for approval by the Board, communication with the Members regarding any rate adjustments, responding to request for proposals, and developing new loss prevention programs designed to reduce risk as well as be

sure the claims are being handled appropriately as outlined in the Member Agreement. In this role, I have had significant contact with Members both directly and through the staff. I have a strong understanding of the coverage and budget needs of the Members. .

3. From September 1 to September 30, 2013, I was the Interim Pool Administrator for PLT. In that role, I had the same responsibilities as I had as Deputy Director and the same individuals reported to me.

4. As the Executive Director of PLT, I have continued oversight of the roles I previously played at PLT.

PLT's Compliance with the Final Order

5. Since its issuance, I have been involved in PLT's compliance with the Final Order issued by Presiding Officer Donald E. Mitchell on September 24, 2012 in case No. 2011000036 (the "Final Order") before the New Hampshire Bureau of Securities (the "Bureau").

6. PLT's members are New Hampshire municipalities, schools and quasi-governmental entities, with fiduciary duties to their citizens. In my experience, PLT's Members are thoughtful and conservative in expending their citizens' money.

7. Based on my experience, including fielding questions from, and regular discussions with, Members and reports from PLT's Risk Management Advisors and Member Relations staff, PLT's compliance with the Final Order has been a significant factor in PLT retaining members. In response to Members' questions, PLT has always assured members that it was complying with the Final Order and that the New Hampshire Supreme Court would have the final say on the propriety of the Final Order.

8. Based on my experience, I believe that there is a strong likelihood that many members would choose not to renew their policies with PLT, if PLT were not in compliance with the Final Order.

PLT's Rate-Setting and Renewal Schedule

9. PLT's members operate on January 1 or July budget cycles.

10. PLT has scheduled two public rate-setting hearings for October 15, 2013. In late October or early November 2013, PLT will publish proposed rates. PLT has traditionally issued rates at this time because coverage costs are a big part of Members' budgets and they need lead time to make decisions about such a significant an budget item. PLT's competitors follow a similar schedule; for example, Primex has scheduled its public rate hearing for October 1, 2013.

11. Typically, current and new Members with a January budget cycle (about 50% of PLT's current workers' compensation members) will purchase coverage for the coming year in late November to early December. Members on a July 1 cycle typically purchase coverage between mid-November and April.

PLT Cannot Borrow or Otherwise Make the December 1, 2013 Payment

12. On December 1, 2013, the Final Order calls for PLT to make a \$17.1 million payment to HealthTrust, Inc. ("HealthTrust").

13. As the Final Order anticipated, PLT does not have assets sufficient to make this payment. In the proceeding that culminated in the Final Order, PLT introduced detailed financial information setting forth its assets, which were (and have remained) significantly below \$17.1 million.

14. Presumably in acknowledgement of this fact, the Final Order states that "[t]he funds to make this re-payment may be borrowed from an independent entity at commercially reasonable terms in consultation with the Bureau of Securities Regulation in the exercise of its supervisory powers which shall be exercised in good faith."

15. While I was not personally involved in PLT's efforts to borrow, as part of my duties at PLT, including review of PLT's books and records, I am aware that PLT made

unsuccessful attempts to borrow, through its Interim Executive Director, George Bald.

Additionally, it is my understanding that PLT lacks the authority to assess or otherwise cause its Members to pay \$17.1 million. Even if PLT had such authority, however, were PLT to try to recover this money from Members, I am highly confident that few, if any Members would willingly pay, much less renew with PLT. Seeking to recover money from Members would be a recipe for the prompt demise of PLT.

Consequences to PLT If Further Compliance with the Final Order Is Not Stayed

16. Because it has been unsuccessful in borrowing funds to make the December 1, 2013, \$17.1 payment, PLT will not be able to make that payment timely. While I understand that there are legal justifications for failing to comply with an order when one lacks the means to do so, I believe that PLT's members will see only that PLT has failed to comply and will have significant uncertainty about PLT's ability to cover their future claims since there are no clear rules about what would happen next.

17. A risk pool like PLT operates in part by taking advantage of economies of scale. At some point, a risk pool can have so few members that administrative costs, which cannot be apportioned among a large number of members, dwarf the cost of coverage. (In the extreme case that makes the point clearly, a single member would be supporting the infrastructure - - staff, facilities, equipment - - that would otherwise be apportioned among the many members of a pool).

18. As set forth above, my experience and discussions with PLT's members lead me to conclude that many of PLT's members will fail to renew their policies with PLT, if they perceive it as not having complied with the Final Order due to the lack of stability that noncompliance causes and for the uncertainty of what that means for the future of PLT and its ability to effectively maintain the financial resources necessary to remain operational. While I

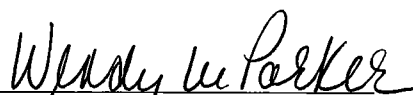
cannot quantify the number that will fail to renew, I believe that it would be large enough to threaten PLT's ability to continue to operate as a going concern.

19. Because the December 1, 2013 payment falls immediately following the municipal and school budget season, I believe that many PLT members will simply choose not to renew their policies with PLT. There is a strong likelihood that so many will do so that PLT will not continue to operate if a clear solution to the December 1, 2013 payment is not communicated during the budget preparation season in October, so as to allow Members to feel secure in keeping their coverage with PLT.

20. Since PLT's financials demonstrated that it could not make such a payment, PLT will have been put out of business merely because it was not able to borrow money, as the Final Order anticipated it could.

21. Ironically, if further enforcement of the Final Order is stayed pending appeal, PLT's financial situation is likely to improve. Therefore, even if the Bureau were to prevail on appeal, as the result of a stay PLT would be in a better position to meet all of its obligations, including any payment to Health Trust, although PLT would still not be able to pay the entire \$17.1 million to Health Trust.

Subscribed and sworn to by me under the pains and penalties of perjury on this 3rd day of October 2013.


Wendy Lee Parker