

STATE OF NEW HAMPSHIRE
DEPARTMENT OF STATE

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

**BUREAU OF SECURITIES REGULATION'S
REPORT PURSUANT TO ORDER OF AUGUST 16, 2012**

NOW COMES Petitioner, the New Hampshire Bureau of Securities Regulation (the "Bureau" or the "Petitioner"), through counsel Bernstein, Shur, Sawyer & Nelson, P.A., and submits this report concerning implementation of the Final Order of August 16, 2012 (the "Final Order"). The parties have not negotiated these terms because the LGC, notwithstanding RSA 541:18, considers the Final Order not to be final and, therefore, not operative until after a final appeal to the New Hampshire Supreme Court is fully concluded. Thus, the LGC refuses to implement any portion of the Order, with or without prejudice. The Bureau expects the LGC to move for a stay of the Final Order and will timely respond to that filing.

If the parties had negotiated, the Bureau would have been prepared to suggest the following positions.

Re-organization

1. The Bureau contends that the LGC is compelled to re-organize into at least two risk pools as provided for in the Final Order with independent boards of directors and separate written bylaws on or before November 14, 2012. The corporate entities in which the separate risk pools are located shall be New Hampshire not for profits. The New Hampshire Municipal Association shall be organized in a corporation separate from either risk pool if it is to continue to exist. The separate risk pools may contract with each other or with a third party vendor to

provide common services if it chooses to do so to reduce costs or increase efficiency. Any contracting of this nature shall be submitted to the Bureau in advance of its adoption and the Bureau shall cooperate in promptly reviewing same, but the Bureau's review shall be limited to determining compliance with RSA 5-B. Failing timely re-organization, protection from insurance regulation and taxation shall lapse as provided for in the Final Order.

No Tying Arrangements

2. The Bureau contends that the LGC must immediately issue amendments to all agreements by which Members participate in any of the risk pools that remove the requirement that those Members join or financially support the New Hampshire Municipal Association ("NHMA"). Any participation in the NHMA shall be purely voluntary and shall be approved by the governing body of the participating Member. The LGC shall not establish a default position in its contracting agreements that requires participating risk pool Members to opt out of NHMA membership. Rather, the NHMA shall separately solicit and contract for membership with Members whose participation is approved by an appropriate vote of the relevant governing body. Failing compliance with this request, the provisions of participation agreements requiring membership in the NHMA shall be considered null and void.

Return of Health Trust Funds

3. Consistent with the Risk Pool Management Agreements that the Bureau entered into with Primex and School Care, the LGC shall return the sum of \$47,800,000.00¹ to Members who participated in the Health Trust Risk Pool² after June 14, 2010 through the date of the Final

¹ \$47,800,000 is derived from \$33,200,000 noted in paragraph 6 and \$17,100,000 noted in paragraph 13 of the Final Order minus a credit for \$2,500,000 referenced in paragraph 15. The \$2,500,000 valuation for the share of the Realty may be adjusted based upon a commercially reasonable appraisal of the fair market value of the Realty pursuant to paragraph 13, *infra*.

² The Bureau uses the term "Health Trust Risk Pool" to refer to whatever entity succeeds the current corporate iteration of the LGC's risk pool program for health coverage. "PLT Risk Pool" refers to

Order. The return of this sum may be accomplished by issuing premium holidays or discounts expressed in specific dollar amounts to ongoing Health Trust Risk Pool Members. The premium holidays may be issued to Members during the fiscal years ending June 30, 2013 or June 30, 2014 as negotiated between the Health Trust Risk Pool and the specific continuing Member taking into account that some Members utilize a calendar year and some Members utilize a fiscal year. Moreover the Health Trust Risk Pool and the Member may take into account that some Members will receive premium holidays that may be in excess of a single year's annual premium.

4. Members who were participants in the Health Trust Risk Pool may elect to receive cash payments, in their sole discretion, if the governing body of the Member so chooses and the Health Trust Risk Pool shall honor this preference to the extent that it does not exceed the annual premium for either calendar year 2010 for Members who participated on a calendar year basis or for fiscal year ending June 30, 2010 for Members who paid premiums on a fiscal year basis. To the extent cash payments for a Member exceed an annual premium the excess shall be paid during the following calendar or fiscal year as appropriate.

5. The Health Trust Risk Pool shall provide to the Bureau and publish on its web site the names of the Members with which premium discounts or cash payments are negotiated, amounts to be discounted or paid by the Health Trust Risk Pool, and the schedule to be used.

6. The schedule of repayments shall be negotiated and published no later than November 14, 2012.

whatever entity succeeds the current corporate iteration of the LGC's risk pool program for property and casualty coverage.

Return of PLT Risk Pool Funds

7. Consistent with the Risk Pool Management Agreements that the Bureau entered into with Primex and School Care, the LGC shall return the sum of \$3,100,000.00 to Members who participated in the PLT Risk Pool after June 14, 2010 through the date of the Final Order. The return of this sum may be accomplished by issuing premium holidays or discounts expressed in specific dollar amounts to ongoing PLT Risk Pool Members. The premium holidays may be issued to Members during the fiscal years ending June 30, 2013 or June 30, 2014 as negotiated between the PLT Risk Pool and the specific continuing Member taking into account that some Members utilize a calendar year and some Members utilize a fiscal year. Moreover the PLT Risk Pool and the Member may take into account that some Members will receive premium holidays that may be in excess of a single year's annual premium.

8. Members who were participants in the PLT Risk Pool may elect to receive cash payments, in their sole discretion, if the governing body of the Member so chooses and the PLT Risk Pool shall honor this preference to the extent that it does not exceed the annual premium for calendar year 2010. To the extent cash payments for a Member exceed an annual premium the excess shall be paid during the following calendar year.

9. The PLT Risk Pool shall provide to the Bureau and publish on its web site the names of the Members with which premium discounts or cash payments are negotiated, amounts to be discounted or paid by the PLT Risk Pool, and the schedule to be used.

10. The schedule of repayments shall be negotiated and published no later than November 14, 2012.

11. The PLT Risk Pool shall pay the sum of \$14,600,000.00 to the Health Trust Risk Pool no later than December 1, 2013. To the extent the PLT Risk Pool borrows funds to make

this re-payment, it shall do so on commercially reasonable terms that are fully disclosed to the Bureau and deemed to be commercially reasonable by the Bureau prior to the PLT Risk Pool committing to such borrowing. The Bureau shall fully cooperate in reviewing the terms of any proposed financing for its commercial reasonableness.

Repatriation of Real Estate

12. The Local Government Center, Inc. shall cause the Local Government Center Real Estate, Inc. to convey the full title and ownership of the land and buildings located at 14 Triangle Drive, Concord, NH and any associated properties or rights (the “Realty”) to the Health Trust Risk Pool, or with the approval of the Bureau, to a wholly owned subsidiary of the Health Trust Risk Pool on or before November 14, 2012.

13. The PLT Risk Pool shall be credited with the value of a one fourth ownership interest in the Realty as against the \$17,100,000 debt it is required to re-pay the Health Trust Risk Pool pursuant to paragraph 13 of the Final Order. The value of this one fourth interest may be determined based upon a recent appraisal of the fair market value of the property or an appraisal to be undertaken prior to conveyance. The appraisal of fair market value shall be conducted in a commercially reasonable fashion acceptable to the Bureau.

Fees and Costs

14. The LGC is ordered to reimburse the Bureau the sum of \$571,398.86. This amount is subject to modification pending further proceedings before the Hearing Officer or agreement of the parties. Failing modification, the sum stated shall be paid to the Bureau by the Health Trust Risk Pool and the PLT Risk Pool in proportionate shares based on their premium revenues no later than December 1, 2012.

