

STATE OF NEW HAMPSHIRE

DEPARTMENT OF STATE

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

NOTICE OF PRELIMINARY CONFERENCE OF COUNSEL

1. On February 18, 2016 the Supreme Court issued its decision in the consolidated appeals of two cases: Appeal of Town of Salem & a. (New Hampshire Bureau of Securities Regulation) No. 2014-0650; and Appeal of Town of Salem & a. v. Local Government Center, Inc. & a. (Superior Court) No. 2014-0736.
2. The appellants in the administrative matter included a group of eight municipalities, the Towns of Salem, Temple, Auburn, Bennington, Meredith, Northfield, Peterborough, and Plainfield. These municipalities were permitted to intervene in the administrative proceedings in order to be heard on their proposal to participate in the distribution of approximately \$17.1 million in funds as previously ordered by the presiding officer in an administrative order issued August 16, 2012— an order later affirmed in relevant part, by decision of the Supreme Court issued January 10, 2014.
3. These municipalities again were permitted to be heard to intervene at a later point in the administrative proceedings to allow their request to participate in a certain distribution of funds to be heard. Their request to participate in that distribution of funds was denied by the presiding officer in an administrative decision dated August 4, 2014.
4. In ruling on the instant appeal the Supreme Court determined, to the extent that the presiding officer interpreted RSA 5-B to mean that he “lacked the authority to penalize a violation of RSA 5-B:5, I(c) by ordering payment to former members of a pooled risk management program as either restitution or disgorgement, [the presiding officer] committed an error of law.” The court decided to vacate that part of the August 4, 2014 administrative order and remanded the matter for further

proceedings further noting that it expressed no opinion as to what penalty should be ordered as a result of any proceedings.

6. The extensive record already accumulated, the number of legal representatives involved, the changing nature and identity of the relevant parties of record, the potential complexity of further proceedings and potential procedural issues that may surface contribute to a determination that the economies of justice and the interests of all parties, require a preliminary conference among counsel at this time to assure the efficient administrative jurisprudence in this matter.

7. The utilization of counsel conferences is often helpful in complex litigation matters such as the instant matter has, to date, proven to be. As in the past, the parties may address all relevant necessary issues raised by the remand and reveal any relevant anticipated filings that will lead to streamlining such administrative proceedings as may be necessary.

8. The presiding officer recognizes that the parties may consider options available to them to resolve any issues that arise from the remand order in a manner that avoids the continuation of contentious and costly litigation.

Therefore, in furtherance of these proceedings:

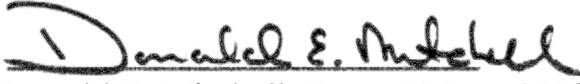
A. In the event that all parties, including the agency charged with the enforcement of RSA 5-B, agree to a settlement the issues presented by the remand decision, said agreement shall be submitted, in writing, for approval by the presiding officer before it becomes effective and as a condition of termination of these administrative proceedings.

B. Lacking the submission of a settlement agreement, a Preliminary Conference among counsel shall be conducted on **Friday, April 1, 2016** beginning at **1:00PM** in Concord at a specific location to be later provided to counsel prior to that date.

C. All counsel who intend to participate in the proceedings necessary to address matters raised by the decision of the Supreme Court issued February 18, 2016 shall confirm their respective representative capacity and file their appearances in these

proceedings within ten (10) calendar days of this notice. Such appearance may be filed in written correspondence form including all contact information, or in electronic form to Meagan Rose, Secretary of State 107 North Main Street, Room 204 Concord, NH 03301 OR administrativehearingsemail@sos.state.nh.us, with simultaneous notice to other counsel of record as appear below in the service list of this notice. If pro hac vice requests are anticipated, such request must be in formal New Hampshire “Motion to Appear Pro Hac Vice” format.

So ordered this 10th day of March, 2016.


Donald E. Mitchell, Esq. NH Bar#1773
Presiding Officer

SERVICE LIST

cc: Barry Glennon, Esq.
Adrian S. LaRochelle, Esq.
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