

STATE OF NEW HAMPSHIRE

DEPARTMENT OF STATE

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

SUPPLEMENTAL SCHEDULING ORDER

On June 17, 2016 a “Scheduling Order” was issued by the undersigned presiding officer. Pursuant to said order, the parties submitted “An Agreed Statement of Facts,” and the Bureau of Securities Regulation (“BSR”) and HealthTrust, Inc. (“HT”) each submitted documents purporting to meet the requirements of the June 17, 2016 order requiring each party to submit a list of intended Exhibits and Witnesses expected to be used in evidence at the subsequent substantive hearing to be conducted as a result of the Supreme Court’s remand.

The purpose of preliminary orders issued by tribunals conducting litigation is to assist the parties in the preparation for a substantive evidentiary hearing and to assure that each party has fair notice of the other’s case as may be revealed by the identity of the intended witnesses to be called to provide testimonial evidence and fair notice of the exhibits intended to be introduced as evidence. Such an exchange also assists the tribunal to undertake its own logistical, staffing, and procedural preparation and to facilitate the conduct of a fair hearing that incorporates the elements of timing, completeness, orderliness and the economies of justice and minimizes the opportunity for one party to “ambush” another at the evidentiary hearing.

Further, the parties have an ongoing obligation to each other to update any information previously requested in discovery, including informal discovery in an administrative proceeding such as these have been, and to reasonably inform each other and the tribunal through their respective filings what issue, or issues, is in controversy.

With these purposes in mind, the presiding officer does not believe after a review of the filings in this remand proceeding that the BSR has complied with the spirit, if not the letter, of the presiding officer’s June 17, 2016 order. Nor does the BSR’s filings

follow the commonly accepted general rules or guidelines pertaining to litigation by New Hampshire attorneys. My review and preparation for the evidentiary hearing on remand has lead me to find that the BSR has not identified with sufficient specificity what facts, as revealed in the exhibits and information provided to it by HT, the BSR disputes. In addition, I find that the BSR has not identified with sufficient specificity the identity of the witnesses it intends to call as part of its case in its requested filings, *e.g.* “Officials from any municipality or political subdivision included in Exhibits 2 or 3.” The two exhibits referenced by BSR list 28 and 58 municipalities or political subdivisions respectively. There are innumerable “[o]fficials” who qualify as potential witnesses. The HT cannot be expected to guess at the exact witnesses BSR plans to use from Exhibits 2 and 3 without further specification.

At this stage of this administrative matter, each party has the obligation to identify the witnesses in its case in chief by name and with contact information. Further, notwithstanding the restrictions on staff allocation asserted by the BSR, there has been ample opportunity for it to undertake the mathematical calculations necessary and to reveal the results of those calculations in a format that demonstrates how its results may differ from those presented by HT.

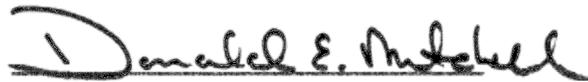
Therefore,

1. The BSR shall supplement its previous filings with a “Statement of Specifications” providing, in detail, (1) the mathematical calculations it has undertaken; (2) the assumptions incorporated therein; (3) the numerical results of those calculations in a format that demonstrates how its results may differ from those presented by HT; and, (4) its rationale supporting its selection of any figures chosen. It shall file this specification on or before July 13, 2016
2. The BSR shall supplement its previous filings with a Witness List that identifies, by name and business address, each witness it intends to call. It shall file this supplement to its Witness List on or before July 15, 2016.
3. As a result of the necessity for this Supplemental Scheduling Order, the discovery deadline appearing in the previous order as July 15, 2016 shall be extended beyond the submissions required in § 1 and § 2, above. Discovery shall be completed by the parties no later than August 5, 2016.
4. In similar manner, any motion, including dispositive motions, shall be filed no later than August 5, 2016. Any objections thereto shall be filed within ten (10) days thereafter.

5. Further, the parties shall immediately confer for the purpose of reaching agreement on two sequential days, not later than September 15, 2016 and September 16, 2016, on which they shall remain available to participate in the evidentiary hearing on remand. The parties shall inform the presiding officer of the agreed upon dates no later than July 1, 2016.

6. All previous orders not modified by the above shall remain in full force and effect.

So ordered, this 27th day of June, 2016.



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

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