

**STATE OF NEW HAMPSHIRE**  
**DEPARTMENT OF STATE**

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IN THE MATTER OF: )  
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Local Government Center, Inc. et al ) Case No.: C-2011000036  
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RESPONDENTS )  
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**SCHEDULING ORDER AND NOTICE OF HEARING**

**BACKGROUND**

At the outset of proceedings that were previously scheduled and conducted on April 14, 2014 the presiding officer addressed an additional motion filed on April 10, 2014 by the respondent Health Trust, Inc., (“HT”) requesting that the presiding officer recuse or disqualify himself from further conducting these proceedings. That motion, similar to a previous motion requesting the same action made by the same counsel that was denied and addressed, in part, by the Supreme Court in its decision of January 10, 2014, was denied by the presiding officer without an oral hearing.

The scheduled hearing was then conducted on the motions of the respondents’, HT and Property Liability Trust, Inc. (“PLT”), which requested that these proceedings to consider the post judgment motion of the Bureau of Securities Regulation (“BSR”) seeking a default judgment against the respondents be dismissed at this time for lack of jurisdiction. After conducting the hearing, during which all parties were given the opportunity to present oral argument and rebuttal, a recess was declared by the presiding official for the purpose of considering the parties’ presentations and his earlier review of all written filings, exhibits and memoranda of law submitted prior to the hearing by the parties. The hearing was later reconvened at which time the respondents’ request for dismissal was denied.

Immediately prior to adjournment, counsel for HT, in light of a possible ruling that the proceedings would continue to the merits, informed the presiding officer of the existence of a videotape recording of a meeting among all parties that occurred on or about February 4, 2014. It was represented by counsel that the videotape contained information that would be in contest at any future scheduled hearing on the merits, that there was no other known recording of the meeting in existence, that the person who made the recording and is believed to still be in possession of the same was present in the audience, and that previous attempts to obtain a copy of the videotape were unsuccessful. The BSR agreed that it had knowledge of the tape but stated that it did not believe the information it portrayed would be relevant to the hearing on the merits. Counsel for HT then made a motion requesting permission that a subpoena issue for a copy of the tape and that a protective order issue against the owner’s destruction of the tape. The presiding officer made inquiry of the attending individual as to the existence of the tape and willingness to provide a copy to the requesting party. The individual, identified

to the presiding officer as David Lang, confirmed the tape's existence and indicated that he planned to seek legal counsel before determining whether he would voluntarily provide a copy to the HT. The presiding officer took the request under advisement and adjourned the hearing.

The presiding officer, in light of his denial of the respondents' motions to dismiss, then immediately convened an informal conference of counsel representing all parties pursuant to RSA 5-B and RSA 421-B:26-a, XIV and XV. At the outset, counsel for the parties were instructed to confer and consider mutually acceptable dates important to the continuation of the proceedings that would form the basis of a scheduling order. After counsel had conferred and the presiding officer reconvened the conference of counsel, the two members of the public, including Mr. Lang, who had been present for the hearing on the motions to dismiss left the hearing room. Counsel for the BSR presented the presiding officer with the mutually agreed litigation schedule desired by all counsel. A discussion ensued among counsel and the hearing office regarding the suggested dates for preliminary actions necessary to the conduct of the hearing on the merits of the BSR allegations. The schedule below represents the result of those discussions.

In addition, upon a repeated request of the HT counsel for the presiding officer to take some action on the subject of the videotape and with the belief that Mr. Lang, as an attendee at the February 4, 2014 meeting, would appear on the respondent HT's witness list, permission was granted to HT's counsel to prepare and serve a subpoena upon the expected witness to provide a copy of the tape to this tribunal for viewing at a mutually agreed upon date and time. The presiding officer urged counsel to use all means to informally discuss the matter with Mr. Lang and his counsel before exercising the subpoena authorized.

The scheduling orders are as follows:

1. Any motions for summary judgment or other dispositive motions shall be filed at or before 5:00 PM on May 9, 2014. Objections to any dispositive motions made shall be filed at or before 5:00 PM on June 4, 2014. Legal memoranda to be considered in connection with these filings shall be filed prior to the conduct of the hearing.
2. A hearing on all dispositive motions and objections thereto shall be conducted beginning at 9:00 AM on Monday, June 9, 2014 in Concord at a specific location to be later determined and noticed to the parties.
3. If necessary, following a determination of the issues raised in the summary judgment or other dispositive motions, a final hearing on the merits between the parties shall be commenced at 9:30 AM on Monday July 21, 2014 and continue from day to day until the hearing is completed. It is represented by counsel, and therefore expected by the presiding officer, that if a final hearing is necessary, two days for the hearing will allow sufficient time for completion.
4. The parties have elected to have the services of a stenographer/transcriptionist present at all formal hearings and shall also determine the manner by which those services shall be compensated.

So ordered this 15<sup>th</sup> day of April, 2014.



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

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