

STATE OF NEW HAMPSHIRE

DEPARTMENT OF STATE

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

CORRECTED SCHEDULING ORDER AND NOTICE OF HEARING

REGARDING ISSUE OF JURISDICTION

1. An conference of counsel was conducted by the undersigned hearing officer on March 10, 2014 at which the original petitioner, Bureau of Securities Regulation, (“BSR”) and all remaining parties believed at this time to be in interest or at this time remaining parties purporting to be successors in interest to the original respondent LGC entities were represented by counsel and provided opportunities to be heard. A discussion ensued among counsel and with the hearing office regarding possible approaches to address legal and procedural issues presented by the pending motion and objections thereto in an effort to refine and streamline these administrative proceedings. (See RSA 5-B and RSA 421-B:26-a, XIV and XV).

2. The objections to the motion of the BSR by the instant respondents, Healthtrust, Inc. (“HT”) and Property-Liability Trust, Inc. (“PLT”), raise issues relating to both jurisdiction and the merits of the allegations stated within the BSR motion that the respondents are operating in violation of certain orders contained within the previous August 16, 2014 Final Order issued by the undersigned officer that the Supreme Court has subsequently upheld as legal, and that the respondents continue to operate in violation of the provisions of RSA 5-B.

3. The BSR requested that issues relating to jurisdiction and relating to the underlying merits be heard together as part of a single administrative hearing session. The respondents HT and PLT requested that the jurisdictional issues raised in their respective objections be separated from those issues relating to the merits of the BSR allegations and that the jurisdictional issues be addressed first. A substantial discussion ensued regarding the issues attendant to the procedural path of these administrative proceedings, wherein the respondents asserted that each would be prejudiced if they had to prepare to present their case on the merits in conjunction with, or within the conduct of, a single simultaneous hearing. Jurisdictional issues and other summary issues are often combined for hearing in administrative matters. However, the hearing officer finds upon consideration of the points raised by respondents' counsel regarding efficiency of conduct of these proceedings and the costs of preparation anticipated in support of their respective objections on the merits when they may prevail on the jurisdictional issue, that the jurisdictional issues shall be heard and decided upon prior to the conduct of a hearing on the merits of the substantive issues alleged in the BSR Motion. (See Paragraph 2, above).

4. During the conference, the hearing officer requested counsel for all parties to meet and confer for purposes of considering the manner by which the parties might agree to proceed in the event that the hearing officer granted the request of the respondents to conduct a separate hearing on the jurisdiction issues raised in their objections. Notwithstanding the BSR position in opposition to this approach on the jurisdictional issue, counsel did meet for that purpose and a consensus of counsel, contingent on the hearing officer finding that a separate hearing would be conducted on the jurisdictional matter as he has (See Paragraph 3, above), was achieved and is included in the following orders relating to schedule and presentation:

- A. The BSR shall not file any supplemental relevant facts or summary of relevant facts in addition to those as appear in its instant motion for purposes of the hearing to be conducted on the jurisdiction

issue and has represented that it will rely on those facts contained within its instant motion for purposes of argument at hearing on the issue of jurisdiction.

- B. On or before March 26, 2014 the respondents shall file their respective motions that the pending BSR motion be dismissed for lack of jurisdiction.
- C. On or before April 4, 2014 the BSR shall file its objection to any motion to dismiss for lack of jurisdiction as may have been be filed by the respondents.
- D. On or before April 4, 2014, the respondents shall file a summary of relevant facts upon which the respondents shall rely in the event the hearing officer finds he has jurisdiction in this matter and the matter proceeds to a merits hearing or a summary judgment proceeding.
- E. On or before April 10, 2014 any further replication or statement in response to the BSR objection to the respondents' motions to dismiss, if necessary, shall be filed by any respondent.
- F. Counsel shall confer on the matter of obtaining the services of a stenographer/transcriptionist in the event that that service is desired in order that a stenographic record can be maintained of these administrative proceedings. If such services are obtained, counsel shall instruct the service provider to contact the hearing officer prior to the scheduled hearing.
- G. A hearing on Respondents' anticipated Motions to Dismiss for lack of jurisdiction shall proceed on the filings of the parties as described herein and supplemented by oral argument. Any memoranda of law to be submitted in support of a party's position shall be filed prior to the conduct of the hearing.
- H. The hearing shall be convened on Monday, April 14, 2014 beginning at 9:00 AM in Concord at a location to be later specified and noticed to the parties.

So ordered this 13th day of March, 2014

/s/ Donald E. Mitchell, Esq.

Donald E. Mitchell, Esq. NHB#1773

Presiding Officer

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