

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. ) C-2011000036  
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RESPONDENTS )  
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**BUREAU OF SECURITIES REGULATION’S OBJECTION TO HEALTHTRUST’S  
MOTION FOR PARTIAL RECONSIDERATION OF ORDER DENYING MOTIONS  
FOR SUMMARY JUDGMENT**

NOW COMES Petitioner, the New Hampshire Bureau of Securities Regulation (“BSR”), a part of the Corporations Division within the Department of State, by and through counsel, Bernstein, Shur, Sawyer & Nelson, P.A., and respectfully objects to HealthTrust’s Motion for Partial Reconsideration of Order Denying Motions for Summary Judgment, stating as follows:

1. In its current Motion, HealthTrust (“HT”) asks the Presiding Officer to reconsider his decision denying Summary Judgment on the issue of the governance requirements of the August 2012 Final Order. This Final Order required that “[n]o later than 90 days from the date of this Order, the Local Government Center shall organize its two pooled management programs into a form that provides each program with an independent board and its own set of written bylaws.” Final Order at p. 73, ¶1.

2. HealthTrust now claims that because PLT submitted an affidavit indicating that the PLT Board continued to meet after transferring all of its assets to HT on January 10, 2014, HT is entitled to judgment as a matter of law on the reorganization issue. HT maintains that the Final Order only required HT and PLT to continue to have separate existing Boards after all of PLT’s assets were transferred to HT.

3. HT's current Motion focuses too narrowly on the reorganization requirements of the Final Order. If the Final Order simply required two separate Boards of Directors, and no more, there might be some merit to HT's position. However, the Final Order requires that each program be governed by its own independent Board. The fact that the PLT Board claims that it continued to meet after transferring all of its assets to HT does not establish that the PLT Board was governing the PLT program after January 10, 2014.

4. The BSR has provided ample evidence in its pleadings and argument on the Summary Judgment Motions for the Presiding Officer to conclude that there are disputed issues of fact on the issue of compliance with the governance requirements of the Final Order, including, but not limited to, the following:

A. The terms of the secret October 2013 Agreement between HT and PLT. The Agreement required PLT to transfer all of its assets to HT once the Supreme Court ruled against the Respondents. HT accepted the assignment of assets in complete satisfaction of PLT's obligations to repay \$17.1 Million under the Final Order. HT agreed to manage the runoff of PLT's existing administrative structure. Once the assets were transferred, there are absolutely no provisions in the agreement which would grant the PLT Board any ability or influence over HT's control and management of these assets. The contract did not contain any survival language which would allow PLT to unwind the transaction if certain representations in the contract turned out to be inaccurate, or if certain obligations were not performed. HT fully performed its duties under the October 2013 Agreement when it accepted PLT's assets in exchange for the \$17.1 Million debt, and did not owe PLT any further obligations on the January 10, 2014 transfer took place.

B. The BSR provided a document from HT's web site entitled "Why the HealthTrust-PLT Settlement Agreement is a Responsible Action." This document clearly indicates that HT "took everything that PLT had." There is nothing in the document to suggest that the PLT Board would continue to have any ability or right to manage, supervise, or assert any control over the PLT program once HT took all of its assets.

C. The BSR provided legal analysis in its Objection supporting its position that once the assets of the PLT program were transferred to HT, the PLT Board was no longer operating a RSA 5-B risk pool, as it was no longer engaged in risk management as defined by the statute. As such, to the extent that the PLT

Board was meeting, it was not meeting for purposes of governing a RSA 5-B risk pool.

D. Even if the PLT Board was monitoring HT's compliance under the October 2013 Agreement, such monitoring does not establish that the PLT program was being governed by the PLT Board and not the HT Board. Limited monitoring of HT's governance of the PLT program does not equate to governance of the PLT program.

5. Finally, discovery obtained since the Presiding Officer's denial of the Motions for Summary Judgment suggests that the Affidavit of Dennis Pavlicek, on which HT relies for its argument, may not be entirely accurate. Mr. Pavlicek's affidavit indicates that the PLT Board met on March 4, 2014 for purposes of monitoring compliance with the Agreement by HT. However, the actual Board minutes from this meeting do not reflect any review of HT's compliance with the Agreement. Rather the minutes reflect that the PLT Board accepted the minutes of their previous meeting in November, were updated by legal counsel on the current structure of the Board, consulted with legal counsel privately, and entered into non-public session pursuant to RSA 91-A:3(II)(e) to consider or negotiate pending claims or litigation. (See Attached Exhibit A.) There is no indication in the minutes that the PLT Board had any discussion regarding HT's compliance with the Agreement; and given that there are no pending claims threatened in writing or litigation between HT and PLT, there would be no legal basis to conduct this discussion in non-public session under RSA 91-A:3(II)(e).

6. The simple fact that the PLT Board continued to exist and meet after transferring all of its assets to HT does not establish that the PLT program was being governed by a separate Board as required by the Final Order. As such, HT's Motion for Reconsideration should be denied.

WHEREFORE, the Petitioner prays that the Presiding Officer:

a. Deny HT's Motion for Partial Reconsideration of Order Denying Motions for Summary Judgment.

b. And for such other and further relief as may be just.

Respectfully submitted,

The Bureau of Securities Regulations  
State of New Hampshire  
By its attorneys,  
Bernstein, Shur, Sawyer &  
Nelson, P.A.

Dated this 7th day of July, 2014

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Certificate of Service

I hereby certify that I have served a copy of this motion upon counsel for the LGC successor entities electronically this 7th day of July, 2014, those counsel being Bruce Felmly, Esq., Michael D. Ramsdell, Esq., David I. Frydman, Esq., Patrick Closson, Esq., Peter Baylor, Esq., and J. David Leslie, Esq.

/s/ Andru H. Volinsky