

STATE OF NEW HAMPSHIRE
DEPARTMENT OF STATE

_____))
IN THE MATTER OF:))
Local Government Center, Inc., et al.) C-2011000036
RESPONDENTS))
_____)

**PROPERTY-LIABILITY TRUST, INC.’S PETITION TO OBTAIN EXPEDITED
PERMISSION TO ISSUE NEW AND RENEWAL COVERAGES, BINDERS, AND
SIMILAR CONTRACTUAL OBLIGATIONS**

Respondent Property-Liability Trust, Inc. (“PLT”), by and through its attorneys, McLane, Graf, Raulerson & Middleton, Professional Association, respectfully submits to the Presiding Officer this Petition to Obtain Expedited Permission to Issue New and Renewal Coverages, Binders, and Similar Contractual Obligations. In support hereof, PLT states as follows:

I. Facts

1. On February 7, 2014, the New Hampshire Secretary of State Bureau of Securities Regulation (“BSR”) filed a Motion for Entry of Default to enforce the August 16, 2012 Final Order issued by Presiding Officer Donald Mitchell.

2. On April 29, 2014, the New Hampshire Department of Labor (“DOL”) issued an Administrative Order concerning Property-Liability Trust, Inc. and HealthTrust, Inc. that suspended PLT’s ability to write new workers’ compensation coverage until such time as PLT receives the approval of the Commissioner of the New Hampshire Department of Labor (the “Commissioner”) (a copy of the Administrative Order is attached at Exhibit A).

3. On June 6, 2014, PLT paid \$17.1 million to HealthTrust, Inc. in the form of cash and the transfer of ownership of stock in Center at Triangle Park, Inc. (a real estate holding company).

4. On July 25, 2014, PLT entered into a Consent Decree with the BSR and HealthTrust, Inc. (a copy of the Consent Decree is attached at Exhibit B) that included among other conditions that PLT:

- a. pay an additional \$519,000 to HealthTrust, Inc. (Consent Decree, ¶ 1.a);
- b. allow a liaison of the BSR to be on-site at PLT's business location and have access to PLT's executive director, chief financial officer, and be present at Board meetings (Consent Decree, ¶ 9); and
- c. may not issue any new coverages, binders, or similar contractual obligations unless authorized by the Presiding Officer (Consent Decree, ¶ 6).

5. The Consent Decree also provides that:

On or before June 30, 2015, PLT may petition the Presiding Officer seeking permission to issue new and renewal policies of insurance, binders, and similar contractual obligations for those lines of coverage in which PLT currently operates. In order for any such Petition to be granted, PLT shall bear the burden of proof to show that PLT has sufficient financial viability to allow it to issue and honor said policies or renewals without subsidization by HT or any other entity. The BSR shall have the right to object to any such Petition filed with the Presiding Officer. If PLT fails to carry its burden of proof, PLT shall not issue new or renewal policies of insurance, binders, or similar obligations and shall run-off its then outstanding obligations. (Consent Decree, ¶ 7)

6. Pursuant to the terms of the Consent Decree, PLT files this Petition seeking the permission of the Presiding Officer to issue new and renewal coverages, binders, and similar contractual obligations for the workers' compensation, property and liability, and unemployment compensation coverages.

7. The business cycle in the workers' compensation and property liability public entity risk pool coverage markets causes public entities to evaluate their coverage options in April. This timeframe is driven, in part, by the terms of the risk pool member

agreements of PLT and its competitors that require that a member provide notice of its intention to terminate its existing member agreement in early May (PLT's Member Agreement requires that its members notify PLT of its desire to terminate the Member Agreement on or before May 15, 2015).

8. Based on the timeline by which the public entities operate with regard to selecting workers' compensation and property liability coverage, it is critical that PLT receive an expedited decision on its request for permission to issue new and renewal coverages. Failure to receive a timely response to its request could jeopardize PLT's ability to obtain new members and retain its existing members.

9. Pursuant to the terms of the Consent Decree, PLT bears the burden of proof to show that PLT has sufficient financial viability to allow it to issue and honor said policies or renewals without subsidization by HealthTrust, Inc. or any other entity. PLT submits that it manifests and can demonstrate that it clearly has sufficient financial viability to meet its obligations.

II. PLT's Current Financial Condition

10. PLT currently provides workers' compensation coverage to 154 members, property liability coverage to 303 members, and unemployment compensation coverage to 61 members.

11. PLT's programs, operations and management are strong and its financial condition continues to be stable.

12. The PLT Audited Financial Statements for the ten months ended June 30, 2014 (attached at Exhibit C) show PLT having net operating revenues (on a combined

basis) of \$12,879,251. Total expenses during the same period were \$11,073,609. PLT's net position was \$1,349,814.

13. PLT's audited June 30, 2014 financials also show that PLT's total gross revenues (on a combined basis) for the seven month period ending January 31, 2015 totaled \$7,910,740. PLT's gross expenses for this same period were \$7,941,333, resulting in a net loss of \$30,593. The principal cause of the loss was the payment of the \$519,000 settlement negotiated with the BSR as part of the Consent Decree entered into on July 25, 2014 and the loss of investment income from the \$17.1 million payment paid to HealthTrust, Inc. in fiscal year 2014.

14. PLT's confidence level (the sum of PLT's loss reserves and its net position as reported in its audited financial statement) at June 30, 2014 is 70%.

15. PLT's combined ratio (the sum of incurred losses and expenses divided by collected member contributions, net of reinsurance, prior to investment income) based on the pro forma income statements prepared by PLT's actuaries, Towers Watson (report dated March 9, 2015) at June 30, 2014 is 107.5%.

16. The most recent management prepared, unaudited, balance sheet, dated January 31, 2015 (attached at Exhibit D), shows PLT having total assets of \$25,232,199, total liabilities of \$23,713,040, and a total net position of \$1,519,159.

17. PLT continues to have a positive net position and is able to satisfy all claim obligations.

III. Strategic Plan and Addendum

18. On December 9, 2014, PLT delivered to the Commissioner of the New Hampshire Department of Labor a detailed Strategic Plan ("Strategic Plan") that included

a description of PLT's financial condition, a plan for PLT's continued operation (the "Continuing Operations Scenario"), and a plan in the event that PLT opted to runoff its current coverage obligations (the "Runoff Scenario"). (A copy of the Strategic Plan is attached at Exhibit E.)

19. On March 12, 2015, PLT delivered to the Commissioner of the New Hampshire Department of Labor an Addendum to Strategic Plan ("Addendum") that updated the information included in the Strategic Plan. (A copy of the Addendum to Strategic Plan is attached at Exhibit F.)

20. The Strategic Plan and Addendum conclude that PLT is, and will continue to be, financially viable throughout the review period, the seven years from June 30, 2015 through June 30, 2021 (the "Review Period") based on the Continuing Operations Financial Projections for the period from June 30, 2015 through June 30, 2021 included as part of the Strategic Plan and Addendum.

21. The Strategic Plan and Addendum describe how PLT will improve its financial position during the Review Period.

22. The detailed projections prepared by PLT's actuaries and management and included as part of the Strategic Plan and Addendum (subject to the conditions and assumptions set forth therein) support the conclusion that throughout the Review Period PLT will be able to fully and timely pay all of its claims.

23. The pro forma balance sheets and income statements included in Towers Watson's report dated March 9, 2015, for fiscal years 2015-2021 (attached at Exhibit G) show gross earned contributions on a combined basis climbing from \$12,773,000 to \$16,780,000, based on existing membership retention and rate change assumptions

provided by PLT. If contributions, estimated losses, and expenses develop as set forth in the March 9, 2015 pro formas, then the net position for the same period is expected to rise from \$664,000 to \$3,859,000. Looking at PLT's two primary expenses over the same seven year period, retained incurred losses and loss adjustment expenses (LAE), including Second Injury Fund Assessments, rise from \$8,739,000 to \$10,506,000, while operating expenses (excluding unallocated loss adjustment expenses which are included within the loss and LAE estimate) grow from \$2,310,000 to \$2,674,000.

24. The conclusions set forth in the Strategic Plan and Addendum are conditioned upon (a) PLT maintaining its current members during the Review Period (it should be noted that the pro formas assumed that PLT would maintain its existing members, but did not include any additional revenue for new members); (b) PLT would receive the authority to write new coverages; (c) PLT is able to successfully implement rate increases during the Review Period; (d) operating expenses are closely managed; and (e) the DOL timely releases excess funds held in reserve under the terms of a Security Deposit Agreement dated December 5, 2013.

25. PLT has made favorable progress on each of the conditions listed in paragraph 24:

- a. PLT has continued to maintain all of its members since July 1, 2014;
- b. PLT requested the approval to write new coverages from the DOL on March 12, 2015 and met with the DOL on March 17, 2015 to review its request. This request is currently pending with the DOL;

- c. PLT's Board of Directors, which is comprised of member organization administrators or elected officials, expressed at the December 4, 2014 Board of Directors meeting that the rate increases included in the projections in the Strategic Plan were reasonable;
- d. In its March 12, 2015 request to the DOL, PLT set forth a series of combined ratio targets that will allow it to monitor its incurred loss and operating expenses as compared to its collected contributions; and
- e. On March 12, 2015, PLT requested that the DOL release \$3,778,301 from the Security Deposit Agreement. This request is currently pending with the DOL.

IV. Services Agreement

26. PLT and HealthTrust, Inc. are parties to a Services Agreement (the "Services Agreement") dated July 1, 2014 (attached at Exhibit H), and amended by the First Amendment to Services Agreement (attached at Exhibit I).

27. The Services Agreement provides that PLT will provide pool administrator services and pool administrator support services to HealthTrust, Inc., and HealthTrust, Inc. will provide business support services to PLT in the areas of finance, risk and control, human resources, information technology, and communications and member relations.

28. The rates included in the Services Agreement reflect the actual salary, benefit, and overhead costs related to the service provided, calculated by department.

The parties to the Services Agreement pay a monthly budgeted amount for the services each party receives. The Services Agreement includes a reconciliation provision in which the payments made by the parties are reconciled to the actual services received to ensure that the parties only pay for the services actually received.

29. Pursuant to the terms of the Service Agreement, the services are performed in conformance with PLT's Bylaws and under the oversight and direction of PLT's Executive Director.

30. The Service Agreement has been reviewed by the BSR Liaison and changes have been made to the Service Agreement in response to suggestions made by the BSR Liaison retroactive to July 1, 2014.

V. Benefit of Multiple Pooled Risk Management Programs Offering Workers' Compensation and Property-Liability Coverages

31. PLT's ability to issue new and renewal coverages, binders, and similar contractual obligations for its workers' compensation and property liability coverage lines is in the best interests of PLT's current members and the New Hampshire public entity workers' compensation and property and liability marketplace in general, by ensuring that a robust and competitive marketplace continues.

32. Having multiple public sector risk pools in New Hampshire ensures (a) a competitive market offering workers' compensation coverages and property and liability coverages at competitive rates¹, (b) sufficient underwriting capacity for public entities, (c) a market that provides public entities with alternative coverage options to better meet the specific needs of public sector entities, and (d) a greater number of loss prevention

¹ Historically, commercial insurers for workers' compensation and property and liability insurance do not offer adequate coverage for public sector entities, and when commercial insurers do offer this coverage, it is usually at significantly higher rates than those offered by the New Hampshire pooled risk management programs.

and risk management services for public sector entities that are designed to identify potential hazards and avoid or mitigate losses.

WHEREFORE, Property-Liability Trust, Inc. requests the Presiding Officer on an expedited basis to:

A. Find that PLT has sufficient financial viability to allow it to issue and honor said policies or renewals without subsidization by HealthTrust, Inc. or any other entity.

B. Authorize PLT to (1) issue any new coverages, binders, or similar contractual obligations; (2) renew or extend the term of any existing policy, binder, or existing contractual obligations; or (3) take any other action that it deems necessary with regard to any existing contract.

Respectfully submitted,

PROPERTY-LIABILITY TRUST, INC.

By its attorneys,

MCLANE, GRAF, RAULERSON & MIDDLETON
PROFESSIONAL ASSOCIATION

Dated: March 30, 2015

By: /s/ Bruce W. Felmly
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Certificate of Service

I hereby certify that on March 30, 2015 I forwarded a copy of this Petition to counsel of record via electronic mail.

/s/ Bruce W. Felmly
Bruce W. Felmly, NH Bar #787