

STATE OF NEW HAMPSHIRE  
DEPARTMENT OF STATE

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IN THE MATTER OF: )  
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Local Government Center, Inc.; )  
Government Center Real Estate, Inc.; )  
Local Government Center Health Trust, LLC; )  
Local Government Center Property-Liability Trust, )  
LLC; )  
Health Trust, Inc.; )  
New Hampshire Municipal Association Property-Liability ) Case No: C2011000036  
Trust, Inc.; )  
LGC – HT, LLC; )  
Local Government Center Workers’ Compensation )  
Trust, LLC; )  
And the following individuals: )  
Maura Carroll; Keith R. Burke; Stephen A. Moltenbrey; )  
Paul G. Beecher; Robert A. Berry; Roderick MacDonald; )  
Peter J. Curro; April D. Whittaker; Timothy J. Ruehr; )  
Julia A. Griffin; and John Andrews )  
)  
RESPONDENTS )  
)

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**MOTION FOR PROTECTIVE ORDER  
AND CONFIDENTIAL TREATMENT**

NOW COMES the Petitioner, the Bureau of Securities Regulation (BSR), a part of the Corporations Division within the Department of State, and submits this Motion for Protective Order and Confidential Treatment, stating in support thereof the following:

1. On December 14, 2011, the Presiding Officer issued an Order on BSR’s Request for On-site Examination (the Order). As part of the Order, the Presiding Officer required disclosure of LGC books and records to BSR personnel. LGC maintains that the information requested will be subject to extensive review and redaction as the information contains Health Insurance Portability and Accountability Act of 1996 (HIPAA) confidential information.
2. To expedite this process, considering the considerable time constraints under which the BSR is conducting the ordered on-site examination, the BSR submits this Motion for Protective Order and Confidential Treatment.

3. Pursuant to HIPAA, 45 CFR § 164.512(e)(1)(ii)(B) (copy attached):

[a] covered entity may disclose protected health information in the course of any judicial or administrative proceeding...[i]n response to a subpoena, discovery request, or other lawful purpose, that is not accompanied by an order of a court or administrative tribunal, if...[t]he covered entity receives satisfactory assurance, as described in paragraph (e)(1)(iv) of this section, from the party seeking the information that reasonable efforts have been made by such party to secure a qualified protective order that meets the requirements of paragraph (e)(1)(v) of this section.

4. 45 CFR § 164.512(e)(1)(iv)(B) goes on to state:

[f]or the purposes of paragraph (e)(1)(ii)(B) of this section, a covered entity receives satisfactory assurances from a party seeking protected health information, if the covered entity receives from such party a written statement and accompanying documentation demonstrating that...[t]he party seeking the protected health information has requested a qualified protective order from such court of administrative tribunal.

5. Finally, 45 CFR § 164.512(e)(1)(v)(A) and (B) state:

[f]or the purposes of paragraph (e)(1) of this section, a qualified protective order means, with respect to protected health information requested under paragraph (e)(1)(ii) of this section, an order of a court or of an administrative tribunal or a stipulation by the parties to the litigation or administrative proceeding that...[p]rohibits the parties from using or disclosing the protected health information for any purpose other than the litigation or proceeding for which such information was requested, and...[r]equires the return to the covered entity or destruction of the protected health information (including all copies made) at the end of the litigation or proceeding.

6. Although the BSR does not seek HIPAA-related information, LGC has raised it as a legitimate impediment to the BSR's seeking information for the ordered examination, claiming that it is inextricably linked with the financial information the BSR seeks to examine.
7. As this dispute has arisen regarding not only disclosure of HIPAA-related information, but also "claims information," the Bureau believes a qualified protective order regarding such information, as set forth in 45 CFR § 164.512(e)(1)(v)(A) and (B), will not only expedite the on-site examination of LGC books and records but will also protect the information in dispute.
8. The BSR requests that the Presiding Officer issue an order protecting the above-described information from public disclosure pursuant to 45 CFR § 164.512(e)(1). A proposed

protective order has been attached.

9. The BSR also requests that with such a protective order in place, the BSR be permitted to view such information during the on-site examination of LGC, but be prevented from disclosing such information consistent with the restrictions outlined in 45 CFR § 164.512(e)(1)(v)(A) and (B).

WHEREFORE, the BSR respectfully requests that the Presiding Officer:

- A. Issue an appropriate order that exempts from public disclosure and otherwise protects, as requested above, the confidentiality of HIPAA and confidential claims information in the possession of LGC;
- B. Issue an appropriate order that permits the Bureau to examine information protected by this order although exempt from public disclosure; and
- C. Grant such additional relief as he deems appropriate.

Dated this 19th day of December, 2011



Earle F. Wingate, III  
Staff Attorney  
N.H. Bureau of Securities Regulation  
Bar # 2763

cc: Adrian S. LaRochelle, Esq.  
Jeffrey D. Spill, Esq.  
Eric A. Forcier, Esq.  
Roy W. Tilsley, Jr., Esq.  
William C. Saturley, Esq.  
Brian M. Quirk, Esq.  
Michael D. Ramsdell, Esq.  
Joshua M. Pantesco, Esq.  
Mark E. Howard, Esq.  
Jaye L. Rancourt, Esq.