

**STATE OF NEW HAMPSHIRE
DEPARTMENT OF STATE
BUREAU OF SECURITIES REGULATION**

IN THE MATTER OF:

Local Government Center, Inc.; et al

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Case No.: C-2011000036

**LOCAL GOVERNMENT CENTER’S MOTION FOR THE ISSUANCE
OF A SUBPOENA DUCES TECUM DIRECTED TO
DAVID LANG OF PROFESSIONAL FIRE FIGHTERS OF NEW HAMPSHIRE**

Respondents Local Government Center, Inc. and affiliated entities, and Maura Carroll (hereafter, “LGC”), submit this Motion to the Presiding Officer for the Issuance of a *Subpoena Duces Tecum* Directed to David Lang of Professional Fire Fighters of New Hampshire (“PFFNH”), stating the following:

1. LGC files the instant Motion requesting that the Presiding Officer issue the attached *Subpoena Duces Tecum* directed to David Lang, President of PFFNH. *See* Appendix A.
2. Mr. Lang, as President of the PFFNH, possesses relevant information in the form of testimony and documents that LGC seeks to obtain in support of its defenses in this matter.
3. The BSR is seeking up to \$100 million dollars from LGC as alleged in its Staff Petition for Relief. In defense of these serious allegations, LGC seeks information from Mr. Lang as part of the normal discovery process, and relies upon its state and federal constitutional rights of due process—including the opportunity to present all proofs favorable to it. *See* N.H. CONST. pt. I, art. 15; U.S. CONST. amend. V, VI and XIV.
4. LGC, as well as the other Respondents, is entitled to information that is relevant or that would lead to the discovery of admissible evidence. *See Desclos v. Southern New Hampshire Medical Center*, 153 N.H. 607, 611 (2006).

5. Specifically, LGC would question Mr. Lang regarding several topics that likely would provide relevant, admissible evidence at the hearing. The areas of inquiry would include, but are not limited to, the following:

- PFFNH’s lawsuit against LGC, which formed the basis for the BSR’s Staff Petition;
- any connection between PFFNH and the complaint(s) that was lodged with the BSR regarding LGC;
- Mr. Lang’s service on HealthTrust, Inc.’s Board of Directors, including actions made by the Board during Mr. Lang’s tenure involving the decision to use risk-based capital as the method of measuring reserves; the approval of certain expenses—including, but not limited to, sponsorships to PFFNH; the decision that funds determined to be surplus would be returned to the participating political subdivisions in the form of rate reductions; and decisions concerning the initial funding of the Workers’ Compensation Pool;
- discussions Mr. Lang had during any meetings with the Secretary of State’s Office and/or BSR staff that relate to LGC;
- discussions that Mr. Lang had with BSR staff concerning the Staff Petition and the allegations in the Staff Petition;
- the documents requested in the proposed *Subpoena Duces Tecum*, including communications between Mr. Lang and the BSR, Secretary of State’s Office, and any third parties relating to LGC; and
- Mr. Lang’s testimony before the House Select Committee regarding proposed amendments to RSA 5-B.

6. If LGC and the other Respondents are not permitted to take Mr. Lang's deposition and question him regarding the areas of inquiry set forth above, it would be fundamentally unfair and Respondents would be severely prejudiced.

7. In particular, information that Mr. Lang possesses concerning decisions made by HealthTrust, Inc.—while he was a member of its Board of Directors—regarding the proper method to determine prudent reserves, the funding of sponsorships, and the manner in which surplus was returned to political subdivisions, and issues involving the funding of Workers' Compensation is highly relevant and central to issues raised by the BSR in its Staff Petition.

8. In addition, the fact that Mr. Lang has been an outspoken critic of LGC and has testified before the Legislature regarding LGC's alleged improper conduct makes communications he had with the Secretary of State's Office and the BSR relevant to LGC's selective prosecution claim and its defenses that relate to the BSR's lack of authority to regulate LGC and the other risk pools prior to June 29, 2009. Mr. Lang's communications with the BSR and/or the Secretary of State could also provide relevant information regarding LGC's defense concerning the vagueness of RSA 5-B and RSA 421-B. Further, information bearing upon the fact that PFFNH was the driving force behind the BSR Staff Petition is relevant to LGC's defense that the BSR, as regulator, failed to provide timely notice to LGC concerning the topics raised in the Staff Petition, including allegations regarding the Securities Act.

9. Thus, the deposition of Mr. Lang is necessary to provide LGC and the other Respondents with the ability to obtain information that is relevant or that would lead to the discovery of admissible evidence in furtherance of its defenses to the BSR's allegations.

10. Accordingly, LGC requests that the Presiding Officer issue the *Subpoena Duces Tecum* to David Lang, President of PFFNH, to provide LGC and the other Respondents with the opportunity to take his deposition on January 23, 2012.

WHEREFORE, LGC respectfully requests that the Presiding Officer:

- A. Grant the Motion for the Issuance of the attached *Subpoena Duces Tecum* directed to David Lang, President of Professional Fire Fighters of New Hampshire;
- B. Issue the *Subpoena Duces Tecum* directed to David Lang, attached as Appendix A; and
- C. Grant such other and further relief as may be deemed just and proper.

Respectfully submitted,

LOCAL GOVERNMENT CENTER, INC.;
LOCAL GOVERNMENT CENTER
REAL ESTATE, INC.;
LOCAL GOVERNMENT CENTER
HEALTHTRUST, LLC;
LOCAL GOVERNMENT
HEALTHTRUST, LLC;
LOCAL GOVERNMENT CENTER
PROPERTY-LIABILITY TRUST,
LLC;
HEALTHTRUST, INC.;
NEW HAMPSHIRE MUNICIPAL
ASSOCIATION PROPERTY-
LIABILITY TRUST, INC.;
LGC-HT, LLC;
LOCAL GOVERNMENT CENTER
WORKERS' COMPENSATION
TRUST, LLC; AND
MAURA CARROLL,

By Their Attorneys:
PRETI FLAHERTY BELIVEAU &
PACHIOS, PLLP

Dated: January 10, 2012

By: /s/ Brian M. Quirk
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CERTIFICATE OF SERVICE

I hereby certify that I have this 10th day of January 2012, forwarded copies of the within Motion for the Issuance of a *Subpoena Duces Tecum* Directed to David Lang of Professional Fire Fighters of New Hampshire *via* E-mail to counsel of record and Attorney Glenn Milner.

/s/ Brian M. Quirk