

## DISTRICT OF COLUMBIA CONTRACT APPEALS BOARD

### APPEALS OF:

VMT LONG TERM CARE MANAGEMENT, INC.	)	
	)	CAB Nos. D-1356, D1439
	)	(Consolidated)
Under Contract No. POBY-2005-C-0003	)	

### STATUS HEARING ORDER

*Filing ID 52863473*

The parties appeared before the Board for a status conference on June 10, 2013. Appearing for the appellant were Daniel B. Abrahams, Esq. and Michael D. Maloney, Esq. Appearing for the appellee was Brett A. Baer, Esq. The hearing, scheduled as a Pretrial Conference, was held primarily to determine the status of settlement negotiations, establish a revised trial schedule, and rule upon outstanding motions.

Respecting settlement, Mr. Abrahams stated that he had transmitted a settlement offer to the District. Mr. Baer responded that he will explore settlement, although the District considers a negotiated settlement to be unlikely. The parties were encouraged to pursue settlement throughout these proceedings. Settlement conserves resources and, where pursued early, may prevent delays. The Board is available to assist the parties with settlement discussions upon request.

It was agreed that the parties will file an Amended Joint Pretrial Statement and that the Appellant may object to untimely raised defenses (the Appellant having timely filed its Pretrial Statement). With the consent of the parties, the Board established the following amended schedule:

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|---------------------------|--|
| <u>August 12, 2013:</u>   | The parties shall exchange trial exhibits.   |
| <u>August 13, 2013:</u>   | The parties shall file an Amended Joint Pretrial Statement with the Board including respective exhibit and witness lists, and statement of stipulated facts. The Board shall be given a tabbed, indexed single courtesy copy (3 ring binder) of the Appeal File and Appeal File Supplement exhibits. |
| <u>August 15, 2013:</u>   | The Pretrial Conference will be held in the Board courtroom at 1:00 p.m.   |
| <u>October 2-9, 2013:</u> | The hearing on the merits will be held in the Board courtroom at 10:30 a.m. daily (except October 5-6) and shall conclude no later than October 9, 2013. The District shall provide a court reporter.  |

Absent good cause shown, a party's final witness list shall only include persons identified to the opposing party through discovery, and persons not included on such witness list will not be permitted to testify at the hearing. Further, exhibits not exchanged as ordered herein will not be received in evidence, except for exhibits to which no objection has been raised, demonstrative exhibits prepared for trial, and/or rebuttal exhibits.

The Board discussed and denied four pending Motions in Limine<sup>1</sup>, admonishing the parties not to engage in excessive motions practice. The Board also denied as moot the District's June 5, 2013, Motion to Enlarge Time. Further, the parties were instructed to resolve all document disputes, and to request the Board's assistance only after those efforts fail to result in a resolution.

The Board noted that it is not inclined to grant any further continuances. This scheduling order may be amended only by leave of the Board upon motion properly filed and served. All motions shall be in writing, and filed in accordance with the Board's Rules of Procedure. All motions requesting extension of a deadline, or continuance of a hearing or conference, shall be filed in accordance with D.C. Mun. Regs. tit. 27, § 124 et seq. Such motions shall also include proposed dates that are mutually agreeable to all counsel and/or unrepresented parties.

**SO ORDERED.**

**Date:** June 17, 2013

/s/Marc D. Loud, Sr.  
MARC D. LOUD, SR.  
Chief Administrative Judge

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<sup>1</sup> The pending Motions in Limine were: The District has the Burden of Proof (May 8, 2013); Motion in Limine: To Preclude District "Penalties or Fines" Argument that is Without Factual or Legal Support (May 28, 2013); Appellee's First Motion in Limine (June 5, 2013), and ; Appellee's Second Motion in Limine (June 6, 2013).