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IN THE CIRCUIT COURT OF BERKELEY COUNTY, WEST VIRGINIA  
BUSINESS COURT DIVISION

UNIVERSITY HEALTHCARE FOUNDATION, INC.  
f/k/a CITY HOSPITAL FOUNDATION, INC.,

*Petitioner,*

v.

CASE NO. 14-AA-4  
Judge Wilkes

LARRY A. HESS, Assessor  
of Berkeley County, West Virginia, and  
MARK W. MATKOVICH, State Tax  
Commissioner,

*Respondents.*

**ORDER FROM JANUARY 9, 2015 BENCH TRIAL**

On January 9, 2015 this matter came on for bench trial before the Court, Honorable Christopher C. Wilkes presiding. The Petitioner, University Healthcare Foundation, Inc. f/k/a City Hospital Foundation, Inc., appeared by counsel Michael E. Caryl and J. Tyler Mayhew. Respondent Larry A. Hess, Assessor of Berkeley County, West Virginia, appeared by counsel Norwood Bentley, III. Respondent Mark W. Matkovich, State Tax Commissioner, appeared by counsel L. Wayne Williams.

The Court first took up the matter of the admissibility of the parties' proffered exhibits. Having been advised by Respondents that no objection would be lodged to Petitioner's proffered Exhibits 26 and 27, and finding no objection to any of the exhibits proffered by Petitioner or Respondents, the Court ORDERED that all proffered exhibits be ADMITTED.

The Court next took up the proposed Joint Stipulation of Uncontested Facts, signed by all parties. Having been inspected by the Court and approved by all parties, the Court ORDERED said Joint Stipulation of Uncontested Facts FILED.

BERKELEY COUNTY  
CIRCUIT CLERK  
2015 JAN 29 PM 1:04  
VIRGINIA M. SINE, CLERK

1/28/15

The Court then took up Petitioner's motions *in limine* to exclude the testimony of Jeff Amburgey, Steve Duffield, and Hon. Irv Johnson. The Court considered the parties' respective arguments, and stated its ruling DENYING AS MOOT the motions as to Steve Duffield and Hon. Irv Johnson; GRANTING IN PART the motion as to any expert testimony offered by Jeff Amburgey; and DENYING WITHOUT PREJUDICE the motion as to lay testimony offered by Jeff Amburgey.

All preliminary matters having been resolved, the Court proceeded to take evidence and hear argument. Counsel gave their opening statements, and Petitioner proceeded to present testimony and exhibits. Respondents then each put forward their respective cases-in-chief through presentation of testimony and exhibits. The Court preserved all objections that can be drawn from the record.

At the close of evidence, the parties advised the Court that they desired to present briefs and proposed orders in lieu of closing statements. FINDING that the parties are in agreement with this procedure, the Court GRANTED the parties' request to brief their positions, following which the Court will issue its ruling. Accordingly, the Court hereby ORDERS as follows:

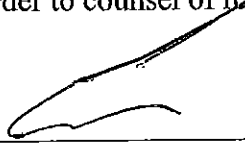
That Petitioner will file its initial brief, and serve a copy upon all other parties, within THIRTY (30) DAYS of entry of this Order. Respondents shall each file a responsive brief, and serve a copy upon all parties, within THIRTY (30) DAYS of the date of service of Petitioner's initial brief. Petitioner shall thereafter have FIFTEEN (15) DAYS from the date of service of Respondents' memoranda to file a reply brief, if desired, and to file a proposed Order setting forth findings of fact and conclusions of law, copies of which shall be served upon all

parties. Respondents shall then have FIFTEEN (15) DAYS from the date of service of Petitioner's proposed Order to submit their own proposed Orders setting forth findings of fact and conclusions of law, copies of which shall be served upon all parties. The Court shall reserve its judgment until the above briefing schedule has closed.

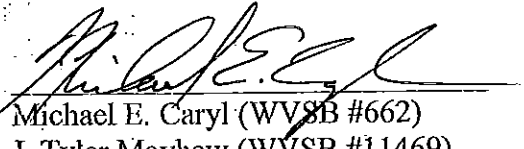
IT IS SO ORDERED.

The Clerk shall mail attested copies of this Order to counsel of record.

ENTERED: January 28, 2015

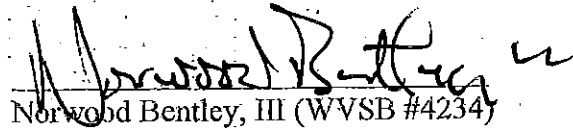
  
CHRISTOPHER C. WILKES, JUDGE

Submitted by:

  
Michael E. Caryl (WVSB #662)  
J. Tyler Mayhew (WVSB #11469)

*Counsel for Petitioner*

Approved as to Form by:

  
Norwood Bentley, III (WVSB #4234)

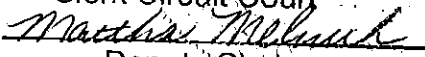
*Counsel for Respondent Larry A. Hess*

  
L. Wayne Williams (WVSB #4370)

*Counsel for Respondent Mark W. Matkovich*

A TRUE COPY  
ATTEST

Virginia M. Sine  
Clerk Circuit Court

By:   
Deputy Clerk