

IN THE MATTER OF FINAL
ORDER OF THE DISPUTE
RESOLUTION COMMITTEE,
DOCKET NO. DRC 2024-0002

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MOTION TO THE BOARD OF
TRUSTEES OF IFTA, INC.

DECEMBER 20, 2024

**MOTION FOR CLARIFICATION OF THE PROCEDURES UTILIZED FOR THE
HEARING ON OR ABOUT FEBRUARY 3, 2025**

The Commissioner of Revenue Services of the Connecticut Department of Revenue Services (the “Commissioner”) hereby submits a motion in advance of the hearing scheduled for February 3, 2025 seeking clarification regarding the procedures that will be utilized to ensure a fair, unbiased hearing as well as the preservation of the record for any future litigation that may result therefrom.

FORMAT OF HEARING

It is unclear from prior correspondence under what format the hearing will take place. The Commissioner seeks information from the Board of Trustees for IFTA, Inc. (“Board”) regarding the specific format that the hearing will follow. To that end, please identify the rules of procedure that will be followed during the conduct of the hearing along with the following:

- Please advise as to the format the Board contemplates this hearing to follow. Specifically, does the Board intend for this hearing to be conducted as simply oral argument, or will this be a more formal hearing including the introduction of evidence through witnesses and exhibits.
- Consistent therewith, please advise as to whether the Board will have reviewed the evidence presented to the IFTA Dispute Resolution Committee prior to the hearing, or whether the Commissioner should be prepared to re-present said evidence.
- If a more formal hearing:
 - Will the Board issue a scheduling order including prehearing briefing, the exchange of exhibits and exhibit lists, and the identification of witnesses?
 - Will the Board accept pre-hearing motions concerning jurisdictional issues and the standard of review/burden of proof?

- Who will be representing the Board in the hearing and whether they will provide copies of the evidence and witnesses they intend to present, if any, in advance of the hearing.
- Please advise as to how long the Commissioner will have to present of the time allotted and whether it is contemplated that the Commissioner presents oral argument and testimony during said time.
- Please advise as to the rules of evidence that will be utilized for the introduction of evidence.

RECORD PRESERVATION

It is unclear from prior correspondence how the record at this hearing will be preserved. The Commissioner seeks information from the Board regarding the specific mechanisms that will be in place to preserve the record and allow for remote testimony and introduction of evidence. To that end, please identify the rules of procedure that will be followed during the conduct of the hearing along with the following:

- Please advise as to what mechanisms will be in place to preserve the record (e.g. video recording and/or a court reporter). If none, please advise as to whether the Commissioner can supply his own video recording and court reporter to preserve the record.
- Please advise as to what mechanisms will be in place to ensure that the Commissioner has the ability to remotely (1) present oral argument, (2) present testimony, and (3) present written evidence.
- Please advise as to what technology will be available for the Commissioner to display evidence both remotely and in person.
- Please advise as to how briefs and evidence be submitted to whom, by when, and how many copies (e.g. electronically, paper copy, etc).
- Please advise as to whether the Board will agree to provide its findings and determinations in writing and whether the Board will voluntarily stay enforcement of penalties for a period should the penalties be affirmed in order for the Commissioner to seek judicial relief.

STANDARD OF REVIEW/BURDEN OF PROOF

It is unclear from prior correspondence what type of review the Board is conducting at this hearing. The Commissioner seeks information from the Board regarding the exact scope of its review including (1) the standard of review the Board will employ in rendering its decision, (2) the burden of proof applicable to the Board's decision, and (3) on whom does the burden, in the Board's opinion, lie.

Finally, please advise as to whether there will be a prehearing mediation conference with the Board and its representatives. To the extent that such a conference is contemplated, please identify the timeframe in which such conference will be held and the procedures governing said hearing.

This submission should not be taken as acknowledgment that the Commissioner concedes to the Board's jurisdiction over the State of Connecticut. Rather, and so as to be clear for record purposes, the Commissioner seeks this information in order to be able to make informed decisions about how to address the notices issued by the Board.

RESPECTFULLY SUBMITTED

MARK BOUGHTON, COMMISSIONER
OF REVENUE SERVICES FOR THE
STATE OF CONNECTICUT

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