

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF ANOKA

TENTH JUDICIAL DISTRICT

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In re Government Shutdown Litigation,

Case Type: Civil  
Chief Judge Kathleen Gearin  
Court File No. 02-CV-11-4462

Minnesota Harness Racing, Inc.,  
North Metro Harness Initiative, LLC

**ORDER**

Plaintiffs,

v.

State of Minnesota and Jim Schowalter,  
Commissioner of Minnesota Management  
& Budget,

Defendants.

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This matter came before the undersigned, on July 1, 2011, pursuant to a complaint filed by Plaintiffs Minnesota Harness Racing, Inc. and North Metro Harness Initiative, LLC (hereinafter together “Minnesota Harness Racing”) against the State of Minnesota and Jim Schowalter, the Commissioner of Minnesota Management & Budget (“Commissioner Schowalter”). Minnesota Supreme Court Chief Justice Lori Gildea appointed the undersigned to hear this case as well as all cases filed in any district court in the State that seek or oppose funds of the executive or legislative branch functions during the current government shutdown.

John Boyle, Esquire, appeared on behalf of Plaintiffs Minnesota Harness Racing.

Kristyn Anderson, an Assistant Attorney General, appeared on behalf of Defendant Commissioner Schowalter.

Based upon the files, pleadings, and proceedings herein, the Court makes the following

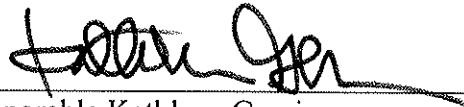
Order:

1. The motion to dismiss the State of Minnesota as a defendant is granted.
2. The defendant' motions for a temporary restraining order and a writ of mandamus are denied.

DATED:

7-2-11  
2:15PM

BY THE COURT:



Honorable Kathleen Gearin  
Chief Judge, Second Judicial District

#### Memorandum

The state treasury has an account that contains all revenues from licensing and other fees imposed by the Minnesota Racing Commission. Minn. Stat. 240.155 requires a biennial appropriation from the legislature before these funds can be made available to the commission. That statute also requires that the legislature set a cap on what amount may be spent on regulating racing and card playing. The appropriation bill appropriating \$899,000 in fiscal year 2012 (July 1, 2011-June 30, 2012) to the commission from the special account did not become law. The court cannot ignore the exact words of the statute and order the Commissioner of the Minnesota Office of Management and Budget to appropriate funds from this account for a non-essential function. Minn. Stat. 240.03 (10) requires the commission to make a biennial budget request to the legislature. That provision further supports the court's analysis.

Minn.Stat 240.155 creates a racing "reimbursement account" to cover the costs of "services provided by veterinarians, stewards and medical testing of horses". Plaintiffs argue that this statute makes this narrow special revenue fund a standing appropriation that does not require biennial consideration and appropriation by the legislature. After reviewing the entire statute, the court disagrees.