

STATE OF MINNESOTA
COUNTY OF RAMSEY

FILED
Court Administrator

JUL - 8 2011
By AW Deputy

DISTRICT COURT
SECOND JUDICIAL DISTRICT

In re Government Shutdown Litigation,

Case Type: Civil
Court File No. 62-CV-11-5203

In Re Temporary Funding of Core Functions of
the Executive Branch of the State of Minnesota

**ORDER REGARDING PETITIONS
OF THE MINNESOTA HISTORICAL
SOCIETY, SEVEN DETECTIVES IN
THE DEPARTMENT OF COMMERCE
INSURANCE FRAUD DIVISION
AND THE MINNESOTA STATE
RETIREMENT SYSTEM**

On June 23, 2011, the undersigned heard oral argument pursuant to the Motion of Petitioner Lori Swanson, Attorney General for the State of Minnesota, for temporary funding of the executive branch. On June 29, 2011, the Court issued its Findings of Fact, Conclusions of Law and Order Granting Motion for Temporary Funding.

In its Findings of Fact, Conclusions of Law, and Order Granting Motion for Temporary Funding dated June 29, 2011, the Court appointed retired Minnesota Supreme Court Chief Justice Kathleen Blatz as Special Master to hear and make recommendations to the Court with respect to issues regarding compliance with the terms of its Order. On July 5 and July 7, 2011, Special Master Blatz conducted evidentiary hearings regarding Petitioners seeking state funding as providers of critical core functions of government.

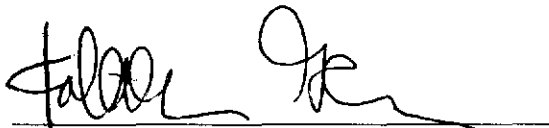
The Court accepts and adopts the attached findings of the Special Master subject to modification pursuant to Minn. R. Civ. P. 53.07(b) with respect to the requests of government offices and petitions brought by programs (hereinafter listed). Based on the file, proceedings, and recommendations, the Court makes the following ORDER:

1. The petition filed by the Minnesota Historical Society is granted. Property protection, enterprise technology protection and feeding the animals, at the Oliver Kelley Farm historical site, are included within core functions addressed in the Court's June 29, 2011 Order.
2. The petition filed by the seven detectives, in the Department of Commerce Insurance Fraud Division, is denied. While having some law enforcement officers is a core function, the Court does not have the authority to determine how many and what areas of enforcement should be covered. Those decisions are the province of the other branches.
3. The petition filed by the Minnesota State Retirement System regarding continuous payments under the Elective State Officers Plan is granted.

Dated:

7-8-11

BY THE COURT:



The Honorable Kathleen R. Gearin
Chief Judge
Ramsey County District Court

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF RAMSEY

SECOND JUDICIAL DISTRICT

Court File No. 62-CV-11-5203

In Re: Temporary Funding of Core Functions
of Executive Branch of the State of Minnesota

**SPECIAL MASTER
RECOMMENDATIONS ON PETITION
OF THE MINNESOTA HISTORICAL
SOCIETY**

This matter came before the Special Master, the Honorable Kathleen A. Blatz, in Room 230 of the Minnesota Judicial Center on July 5, 2011. Present before the Special Master were Lori Swanson, Attorney General; Al Gilbert, Solicitor General and Deputy Attorney General; David Lillehaug, Special Counsel to the Office of the Governor; Joseph Cassioppi, Special Counsel to the Office of the Governor; Stephen Elliot, Director of the Minnesota Historical Society, and David Kelliher, Director of Public Policy of the Minnesota Historical Society.

Based upon the testimony at the hearing, the Special Master makes the following:

Recommendation

1. Petitioner's request to amend the Court's Findings of Fact, Conclusions of Law and Order Granting Motion for Temporary Funding of June 29, 2011 (the "Order") should be **GRANTED**. The Court should **AMEND** the Order to allow Petitioner to continue sufficient staffing levels for critical services during the shutdown.

Concerns of Petitioner

2. The Order did not include a specific authorization to Petitioner for funding critical services during the shutdown. Petitioner seeks funding for minimal staffing for critical services

during the shutdown consisting of property and enterprise technology protection and support for such services.

Analysis

1. Petitioner operates the Minnesota History Center in Saint Paul, along with other historical sites throughout the state, and maintains the State archives.


2. Petitioner has to operate and maintain over 100 structures at 26 historic sites throughout the state. In addition, Petitioner has to ensure that the historical records and materials at the Minnesota History Center are properly preserved in climate-controlled conditions. In addition, Petitioner oversees the care of animals at the Oliver Kelley Farm.

3. Petitioner has an extensive technology network, which must continue to be minimally maintained during the shutdown.

4. Petitioner does not seek funding to reopen the Minnesota History Center or other historic sites throughout the State. It merely seeks continued funding for 16 FTEs, which is less than 5% of its normal staff.

5. The Order specifically recognizes that minimal staffing levels sufficient to keep property and animals safe is a critical core function that should remain funded during the shutdown. (See Order Ex. A.)

Dated: July 8, 2011



The Honorable Kathleen A. Blatz
Special Master

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF RAMSEY

SECOND JUDICIAL DISTRICT

Court File No. 62-CV-11-5203

In Re: Temporary Funding of Core Functions
of Executive Branch of the State of Minnesota

**SPECIAL MASTER
RECOMMENDATIONS REGARDING
PETITION SEEKING CONTINUED
FUNDING FOR SEVEN DETECTIVES IN
DEPARTMENT OF COMMERCE –
INSURANCE FRAUD DIVISION**

This matter came before the Special Master, the Honorable Kathleen A. Blatz, in Room 230 of the Minnesota Judicial Center on July 7, 2011. Present before the Special Master were Al Gilbert, Solicitor General and Deputy Attorney General; Jacob Kraus, Assistant Attorney General; David Lillehaug, Special Counsel to the Office of the Governor; Joseph Cassioppi, Special Counsel to the Office of the Governor; Detective Jonathan Ferris and State Trooper Mathew Hodapp on behalf of seven detectives in the Department of Commerce – Insurance Fraud Division.

Based upon the testimony at the hearing, the Special Master makes the following:

Recommendation

1. Petitioner's request that the Court amend the Findings of Fact, Conclusions of Law and Order Granting Motion for Temporary Funding of June 29, 2011 (the "Order") to fund the continued full staffing of the Insurance Fraud Division of the Department of Commerce should be **DENIED**.

Concerns of Petitioner

1. The Department of Commerce has laid off 7 of the 10 licensed police officers who are employed and assigned to the Insurance Fraud Division. Petitioner believes that continued funding of all law-enforcement agents within the Insurance Fraud Division is necessary to ensure public safety as a critical core function of government.

Analysis

1. Exhibit A to the Order provided for the continued funding of 16 FTE in the Department of Commerce. The Commissioner of Commerce has determined that 3 of the 16 FTE complement approved by the Court be sworn police officers within the Insurance Fraud Division. Accordingly, the remaining 7 sworn police officers within the Division have been laid off as part of the current government shutdown.

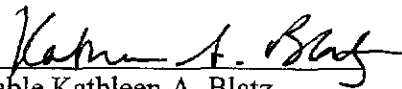
2. Petitioner argues that funding for the Insurance Fraud Division comes from a special assessment imposed on insurers operating within the State. Minn. Stat. § 45.0135. The Court heard testimony that funds collected by the State from this special assessment are directed to the State General fund and do not remain in a completely segregated account used to fund the Division.

3. Petitioner argues that continued funding of the laid-off officers is essential to the maintenance of public safety because ongoing insurance-fraud investigations are not continuing during the shutdown thereby posing an economic danger to all citizens.

4. The activities of the Insurance Fraud Division are no doubt important to the long-term economic wellbeing of the State. However, in the Order, the Court specifically approved only limited staffing for the Division during the shutdown. The Special Master does not believe

that the immediate life, health, and safety of Minnesota citizens requires increased staffing at this time.

Dated: July 8, 2011



The Honorable Kathleen A. Blatz
Special Master

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF RAMSEY

SECOND JUDICIAL DISTRICT

Court File No. 62-CV-11-5203

In Re: Temporary Funding of Core Functions
of Executive Branch of the State of Minnesota

**SPECIAL MASTER
RECOMMENDATIONS ON PETITION
OF THE MINNESOTA STATE
RETIREMENT SYSTEM REGARDING
CONTINUING PAYMENTS UNDER THE
ELECTIVE STATE OFFICERS PLAN**

This matter came before the Special Master, the Honorable Kathleen A. Blatz, in Room 230 of the Minnesota Judicial Center on July 5, 2011. Present before the Special Master were Lori Swanson, Attorney General; Al Gilbert, Solicitor General and Deputy Attorney General; David Lillehaug, Special Counsel to the Office of the Governor; Joseph Cassioppi, Special Counsel to the Office of the Governor; and David Bergstrom, Executive Director of the Minnesota State Retirement System and Judy Hunt, Finance Director of the Minnesota State Retirement System.

Based upon the testimony at the hearing, the Special Master makes the following:

Recommendation

1. The Court should **CLARIFY** the Findings of Fact, Conclusions of Law and Order Granting Motion for Temporary Funding of June 29, 2011 ("Order") as allowing for continued payment of retirement benefits to the retired Constitutional Officers and survivors in the Elective State Officers Plan.

Concerns of Petitioner

1. Petitioner Minnesota State Retirement System ("MSRS") requests that the Court clarify that the Order allows MSRS to continue to pay retirement benefits to the retired Constitutional Officers and survivors in the Elective State Officers plan until the enactment of the fiscal year 2012 appropriations.

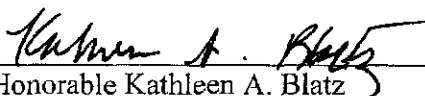
Analysis

1. Even during the course of the current shutdown, retirement benefits are being paid to the over 30,000 individuals receiving retirement benefits administered by Petitioner. These MSRS benefits do not rely on state appropriations for funding, and, are instead funded by pension trust funds. However, fourteen retired Constitutional Officers and their survivors are covered by the Elective State Officer Plan ("Plan") administered by Petitioner. Retirement benefits under the Plan are funded through legislative appropriation, and, thus, were not paid on July 1, 2011.

2. The Special Master received testimony and evidence that Constitutional Officers are not covered by Social Security, and, thus, payments under the Plan may be their sole source of retirement income. The total gross monthly sum paid on behalf of the fourteen retirees/survivors under the Plan is \$37,899.34.

3. The Order specifically identified the "[p]rovision of benefits payments . . . to individuals" as a critical core function of government that should continue to be funded after June 30, 2011. (Order p. 9 ¶ 27, subp. 3.) The Special Master recommends that continued payment of monthly benefits under the Plan is encompassed by this finding in the Order.

Dated: July 8, 2011


The Honorable Kathleen A. Blatz
Special Master