

**STATE OF MINNESOTA  
IN SUPREME COURT**

**CASE NO. A-11-1170**

**In Re Government Shutdown Litigation**

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF RAMSEY

SECOND JUDICIAL DISTRICT

In re Temporary Funding of Core )  
Functions of the Executive Branch )  
Of the State of Minnesota )

CASE TYPE: Civil  
Chief Judge Kathleen R. Gearin  
Court File No. 62-cv-11-5203

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF SCOTT

FIRST JUDICIAL DISTRICT

Canterbury Park Holding Corporation, a )  
Minnesota company, and Minnesota )  
Horsemen's Benevolent & Protective )  
Association, Inc., a Minnesota company )  
)  
Plaintiffs, )

CASE TYPE: Civil  
Judge Diane M. Hanson  
Court File No. 70-cv-11-13433

vs. )

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

Defendants. )

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF DAKOTA

FIRST JUDICIAL DISTRICT

Minnesota Zoological Gardens, )  
)  
Plaintiff, )

CASE TYPE: Civil  
Judge Jerome B. Abrams  
Court File No. 19HA-cv-11-3622

vs. )

Office of Minnesota Management & )  
Budget, )  
)  
Defendants. )

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF ANOKA

TENTH JUDICIAL DISTRICT

CASE TYPE: Civil

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Minnesota Harness Racing, Inc., and  
North Metro Harness Initiative, LLC,  
d/b/a Running Aces Harness Park,

Court File No. 02-CV-11-4462

Plaintiffs,

vs.

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

Defendants.

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**RESPONSE OF MINNESOTA HARNESS RACING, INC. AND NORTH METRO  
HARNESS INITIATIVE, LLC D/B/A RUNNING ACES HARNESS PARK TO  
EMERGENCY MOTION OF THE GOVERNOR TO CONSOLIDATE AND TO STAY  
PROCEEDINGS PENDING CONSOLIDATION**

Minnesota Harness Racing, Inc. (“MHRI”) and North Metro Harness Initiative, LLC, d/b/a Running Aces Harness Park (“Running Aces”), are seeking an order in Anoka County District Court, compelling Defendant Minnesota Office of Management and Budget, and its Commissioner, Jim Schowalter (“Commissioner Schowalter”) to permit the Minnesota Racing Commission (“MRC”) to access prepaid funds already on deposit to cover MRC’s operating expenses in the event of a State Government shut-down. The Running Aces Harness Park, located in Anoka County, can only operate if its race track and card room operations are monitored by the MRC. In turn, the MRC can function only if it is permitted to access abundant funds already collected, on deposit, and dedicated to fund the MRC’s operations.

Importantly, the funds at issue do not involve public monies or General Fund revenues. All the costs necessary for the MRC to operate are fully funded by license fees and prepaid expenses deposited by Running Aces (and Canterbury Park, the other horse racing venue).

As a licensee for horse racing and card club activities, Running Aces has already paid approximately \$315,000 in license fees for services to be provided by the MRC during the 2011-2012 fiscal year. (Canterbury Park likewise has paid a similar amount). In addition, Running Aces prepays hundreds of thousands of dollars to reimburse the MRC for the costs of the MRC’s regulatory oversight of the track and card club operations. Having already received payment to cover the full costs of its services, the MRC has an ongoing obligation to perform these regulatory services. Unfortunately, the MRC will not be able to fulfill its duties unless it is permitted to access pre-paid funds currently on deposit.

The lawsuit in Anoka County is not about whether horse racing is a core or essential government function. Rather, it is about whether the MRC should be permitted to have access to funds already paid by Running Aces that are statutorily dedicated for use in paying the MRC’s

expenses. As a result, the MHRI and Running Aces are not seeking a decision that is inconsistent with any prior determination of core, essential, or critical functions.

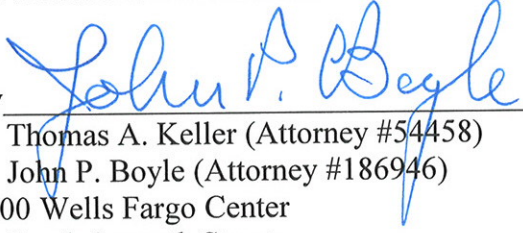
Access by the MRC to the prepaid funds on deposit will not draw upon the General Fund and will not compete for public funds that otherwise would be used for activities classified as core or essential services. Consequently, the situation facing the MHRI and Running Aces is vastly different from that faced by many other agencies that rely in whole or in part on direct appropriations of funds from public revenue sources to sustain operations. The MRC falls into a totally separate category of being entirely self-funded. In effect, it could be characterized as public revenue neutral.

In response to the Governor's request for relief, three items bear noting. First, the MHRI and Running Aces have not appeared previously in any court matter regarding the potential State shut-down. Second, the legal action commenced by the MHRI and Running Aces is venued in Anoka County, where over 600 jobs and many dozens of owners, riders, trainers, and other harness racing professionals will be adversely affected by a closure of the Running Aces Harness Park. Third, the request is not seeking to have the MRC declared a critical or core function.

The Anoka County action is asks that Commissioner Schowalter be required simply to allow the MRC to have access to hundreds of thousands of dollars already paid by Running Aces (and Canterbury Park), which are sitting in a special account dedicated for use by the MRC. If the requested relief were granted, it would cause no burden on Commissioner Schowalter other than to allow payments to be made from already-existing funds held in a designated MRC account.

Dated: June 30, 2011

MOSS & BARNETT  
A Professional Association

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