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14 JAN FRANK

15 SUPERIOR COURT OF THE STATE OF CALIFORNIA
16 FOR THE COUNTY OF SAN FRANCISCO

17 CALIFORNIA ATTORNEYS,
18 ADMINISTRATIVE LAW JUDGES AND
19 HEARING OFFICERS IN STATE
20 EMPLOYMENT, GLEN GROSSMAN,
21 MARK HENDERSON, GEOFFREY
22 SIMS, and DOES 1-500,

23 Petitioners/Plaintiffs,

24 vs.

25 ARNOLD SCHWARZENEGGER as,
26 Governor of the State of California;
27 DAVID GILB as Director of the
28 Department of Personnel Administration;
29 JOHN CHIANG, Controller of the State of
30 California; JAN FRANK, as President of
31 STATE COMPENSATION INSURANCE
32 FUND, and DOES 1 50,

33 Defendants/Respondents.

Case No. CPF-09-509205

**DECLARATION OF JANET FRANK IN
SUPPORT OF RESPONSE TO VERIFIED
PETITION FOR WRIT OF MANDATE**

[Filed concurrently herewith Respondent and
Defendant Jan Frank's Memorandum of Points
and Authorities in Response to Verified Petition
for Writ of Mandate]

Date: March 20, 2009
Time: 9:30 a.m.
Department: 301

I, Janet Frank, declare:


1. I have personal knowledge of the following facts. If called as a witness in this action, I could and would testify competently to the facts stated in this declaration.
2. I am the President of the State Compensation Insurance Fund (the "Fund").

1 The Fund is a self-supporting, non-profit enterprise that provides workers' compensation
2 insurance to California employers at cost with no financial obligation to the public. The Fund
3 employs approximately 475 legal professionals, such as attorneys, Administrative Law Judges,
4 and Hearing Officers.

5 3. I understand that Respondent and Defendant California Governor Arnold
6 Schwarzenegger issued an Executive Order on or about December 19, 2008 (the "Order")
7 requiring Respondent and Defendant the Department of Personnel Administration ("DPA") to
8 implement a furlough program of two days per month of all State employees. It is also my
9 understanding that the Order provided for a limited exemption process. A copy of the Order is
10 attached as Exhibit 1 to this declaration.

11 4. The Fund attempted to obtain an exemption from the DPA. The Fund
12 made many of the same arguments asserted by Petitioners in this litigation. After extensive
13 negotiations, however, the Fund was unable to obtain an exemption. The DPA instructed the
14 Fund to move forward with two days of furloughs per month. Accordingly, the Fund felt it had
15 no choice but to comply with the Order and implemented a furlough plan consistent with the
16 Order and as directed by the DPA.

17 I declare under penalty of perjury under the laws of the State of California that the
18 following is true and correct. Executed this 10th day of March, 2009.

19
20 
21 _____
22 JANET FRANK

23 41368883.2

24
25
26
27
28

EXHIBIT 1



Office of the Governor

ARNOLD SCHWARZENEGGER
THE PEOPLE'S GOVERNOR

EXECUTIVE ORDER S-16-08

12/19/2008

WHEREAS, due to developments in the worldwide and national financial markets, and continuing weak performance in the California economy, there is an approximately \$15 billion General Fund deficit for the 2008-09 fiscal year, which without effective action, is estimated to grow to a \$42 billion General Fund budget shortfall over the next 18 months; and

WHEREAS the cash reserve in the State Treasury is below the amount established by the State Controller to ensure that the cash balance does not reach zero on any day in the month; and

WHEREAS without effective action to address the fiscal and cash crisis, the cash reserve in the State Treasury is estimated to be a negative \$5 billion in March 2009; and

WHEREAS on November 6, 2008, due to concerns regarding dramatically declining revenues, I issued a Special Session Proclamation and convened the Legislature of the State of California to meet in extraordinary session to address the fiscal crisis that California faces; and

WHEREAS the Legislature failed during that Special Session to enact any bills to address the State's significant economic problems; and

WHEREAS on December 1, 2008, due to the worsening fiscal crisis, I declared that a fiscal emergency exists and convened the Legislature to meet in extraordinary session to address the fiscal crisis that California faces; and

WHEREAS on December 1, 2008, due to the fiscal emergency and the nationwide economic recession, I also issued a Special Session Proclamation and convened the Legislature of the State of California to meet in extraordinary session to address the economic crisis; and

WHEREAS on December 17, 2008, the California Pooled Money Investment Board took the unprecedented action to halt lending money for an estimated 2,000 infrastructure projects as a result of the cash crisis, including the substantial risk that California will have insufficient cash to meet its obligations starting in February 2009; and

WHEREAS in the December 1, 2008 fiscal emergency extraordinary session, the Legislature failed to effectively address the unprecedented statewide fiscal crisis; and

WHEREAS immediate and comprehensive action is needed to address the fiscal and cash crisis facing the State of California; and

WHEREAS failure to substantially reduce the deficit carried forward from the current fiscal year into the next fiscal year will likely prevent the State from being able to finance the cashflow shortages of billions of dollars, thus making it likely that the State will miss payroll and other essential services payments at the beginning of 2009; and

WHEREAS immediate and comprehensive action to reduce current spending must be taken to ensure, to the maximum extent possible, that the essential services of the State are not jeopardized and the public health and safety is preserved; and

WHEREAS State agencies and departments under my direct executive authority have already taken steps to reduce their expenses to achieve budget and cash savings for the current fiscal year; and

WHEREAS a furlough will reduce current spending and immediately improve the State's ability to meet its obligations to pay for essential services of the State so as not to jeopardize its residents' health and safety in the current and next fiscal year.

NOW, THEREFORE, I, ARNOLD SCHWARZENEGGER, Governor of the State of California, by virtue of the power and authority vested in me by the Constitution and statutes of the State of California, do hereby determine that an emergency pursuant to Government Code section 3516.5 exists and issue this Order to become effective immediately:

IT IS ORDERED that effective February 1, 2009 through June 30, 2010, the Department of Personnel Administration shall adopt a plan to implement a furlough of represented state employees and supervisors for two days per month, regardless of funding source. This plan shall include a limited exemption process.

IT IS FURTHER ORDERED that effective February 1, 2009 through June 30, 2010, the Department of Personnel Administration shall adopt a plan to implement an equivalent furlough or salary reduction for all state managers, including exempt state employees, regardless of funding source.

IT IS FURTHER ORDERED that effective January 1, 2009 through June 30, 2010, the Department of Personnel Administration shall work with all State agencies and departments to initiate layoffs and other position reduction and program efficiency measures to achieve a reduction in General Fund payroll of up to ten percent. A limited exemption process shall be included.

IT IS FURTHER ORDERED effective January 1, 2009, the Department of Personnel Administration shall place the least senior twenty percent of state employees funded in any amount by General Fund resources on the State Restriction of Appointment (SROA) list.

IT IS FURTHER ORDERED that effective January 1, 2009 through June 30, 2010, all State agencies and departments under my direct executive authority, regardless of funding source, are prohibited from entering into any new personal services or consulting contracts to perform work as a result of the furloughs, layoffs or other position reduction measures implemented as a result of this Order.

IT IS REQUESTED that other entities of State government not under my direct executive authority, including the California Public Utilities Commission, the University of California, the California State University, California Community Colleges, the legislative branch (including the Legislative Counsel Bureau), and judicial branch, implement similar or other mitigation measures to achieve budget and cash savings for the current and next fiscal year.

This Order is not intended to create, and does not create, any rights or benefits, whether substantive or procedural, or enforceable at law or in equity, against the State of California or its agencies, departments, entities, officers, employees, or any other person.

I FURTHER ORDER that, as soon as hereafter possible, this Order shall be filed in the Office of the Secretary of State and that widespread publicity and notice be given to this Order.



IN WITNESS WHEREOF I have hereunto set my hand and caused the Great Seal of the State of California to be affixed this 19th day of December, 2008.

ARNOLD SCHWARZENEGGER
Governor of California

ATTEST:
DEBRA BOWEN

1 **PROOF OF SERVICE**

2 I, Linda Allen, declare as follows:

3 I am employed in San Francisco County, San Francisco, California. I am over the
4 age of eighteen years and not a party to this action. My business address is MANATT, PHELPS
& PHILLIPS, LLP, One Embarcadero Center, 30th Floor, San Francisco, California 94111. On
5 March 10, 2009, I served the within:

6 **DECLARATION OF JANET FRANK IN SUPPORT OF RESPONSE TO
7 VERIFIED PETITION FOR WRIT OF MANDATE**

8 on the interested parties in this action addressed as follows:

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19 (BY ELECTRONIC MAIL) By transmitting such document(s) electronically at
20 [time] from my e-mail address, lallen@manatt.com at Manatt, Phelps & Phillips,
21 LLP, San Francisco, California, to the person(s) at the electronic mail addresses
22 listed above. The transmission was reported as complete and without error.

23 I declare under penalty of perjury under the laws of the State of California that the
24 foregoing is true and correct and that this declaration was executed on March 10, 2009, at San
25 Francisco, California.

26 

27 Linda Allen