

THE IOWA DISTRICT COURT FOR POLK COUNTY

CHRISTOPHER HALL,	)	
Plaintiff,	)	No. _____
	)	
vs.	)	
	)	
KIMBERLY K. REYNOLDS, in her	)	
official capacity as Governor of Iowa,	)	PETITION AT LAW AND
DAVID ROEDERER, in his official	)	REQUEST INJUNCTIVE RELIEF
capacity as the Director of the Iowa	)	
Department of Management.	)	
Defendants.	)	

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COMES NOW Plaintiff CHRISTOPHER HALL and hereby files this Petition at Law pursuant to sections 8.38 and 8.55 of the Code of Iowa against Defendants KIMBERLY K. REYNOLDS and DAVID ROEDERER. Plaintiff alleges upon personal knowledge and information based upon the investigation of counsel as follows:

**PARTIES, JURISDICTION, & VENUE**

1. At all times relevant to this Petition, CHRISTOPHER HALL was a taxpayer, resident and citizen of the state of Iowa, and a member of the Iowa House of Representatives from House District 13.
2. At all times relevant to this Petition, Defendant KIMBERLY K. REYNOLDS was the Governor of the State of Iowa and Lt. Governor of the State of Iowa.
3. At all times relevant to this Petition, Defendant DAVID ROEDERER was the Director of the Iowa Department of Management.
4. Venue is proper in this Court pursuant to Iowa Code section 616.3 as the unlawful acts giving rise to the causes of action occurred in Polk County, Iowa.

**FACTUAL BACKGROUND**

5. Representative CHRISTOPHER HALL brings this action to protect the citizens of Iowa from the unlawful misuse of state funds.

6. In just four years under the supervision of GOVERNOR REYNOLDS and DIRECTOR ROEDERER, the State of Iowa has gone from a \$927 million budget surplus in fiscal year 2013 to a \$259 million budget gap requiring reductions, transfers, and adjustments in fiscal year 2017.

7. The change is not the result of a shrinking economy.

8. To the contrary, over that same time, Iowa has had a growing gross domestic product and low unemployment.

9. Instead, the budget gap is the result of several years of appropriating more revenue than taking in and excessive corporate tax giveaways.

10. GOVERNOR REYNOLDS and DIRECTOR ROEDERER's budget problems came to a head on July 3, 2017, when the non-partisan Iowa Legislative Services Agency identified an estimated \$104 million shortfall in the ending balance of the State General Fund for fiscal year 2017.

11. For reasons that are as unexplained as they are inexplicable, GOVERNOR REYNOLDS and DIRECTOR ROEDERER did not foresee the budget deficit in the ending balance of the State General Fund before the end of the fiscal year.

12. Nonetheless, GOVERNOR REYNOLDS always had the legal option of issuing a proclamation to convene a special session of the Iowa General Assembly and seek legislation to authorize an appropriation to cover the deficit. *See* Iowa Const. art. III, § 2.

13. A special legislative session, however, would have created a political problem for GOVERNOR REYNOLDS by drawing attention to her inability to adequately manage the State's fiscal affairs.

14. Thus, GOVERNOR REYNOLDS faced a dilemma: (1) either call a special session; (2) do nothing and leave the State General Fund out of balance; or (3) request the Iowa General Assembly to pass a legislative fix in the next legislative session.

15. GOVERNOR REYNOLDS and DIRECTOR ROEDERER refused to use any of the legal options and instead unlawfully transferred money from the State Economic Emergency Fund.

16. Their scheme followed in three steps.

17. First, DIRECTOR ROEDERER officially declared that the State General Fund shortfall was \$14.6 million; not the \$104 million estimated by the Legislative Services Agency.

18. Second, on September 28, 2017, GOVERNOR REYNOLDS signed an Official Proclamation ordering the “transfer of \$13 million from the State Economic Emergency Fund to the State General Fund as provided under IOWA CODE § 8.55.”

19. Third, acting under GOVERNOR REYNOLDS’ proclamation, DIRECTOR ROEDERER carried out the \$13 million transfer.<sup>1</sup>

20. Iowa Code section 8.55, however, does not grant GOVERNOR REYNOLDS authority to transfer moneys from the State Economic Emergency Fund unless the “revenue estimating conference estimate of general fund receipts made during the last quarter of the fiscal year was or the actual fiscal year receipts and accruals were at least one-half of one percent less than the comparable estimate made during the third quarter of the fiscal year.” Iowa Code § 8.55(3)(c)(1).

21. In fiscal year 2017, the difference between the revenue estimating conference’s third quarter estimate of general fund receipts (\$7.107 billion) and the actual net general fund revenue (\$7.096 billion) was only \$11 million, which is only .15%, which is short of the .5% threshold set forth in Iowa Code section 8.55.

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<sup>1</sup> The remaining \$1.6 million was transferred from the ending balance.

22. The variance requirement in section 8.55(3)(c)(1) is important because it distinguishes between budget shortfalls that are the product of true economic emergencies from those that are the foreseeable result of years of fiscal mismanagement.

23. There is no meaningful dispute that the condition set forth in section 8.55(3)(c)(1) of the Iowa Code was not been satisfied.

24. Indeed, on September 29, 2017, Iowa Treasurer Michael Fitzgerald sent a letter to GOVERNOR REYNOLDS informing her that she would not be in compliance with the law if she transferred the money from the State Economic Emergency Fund.

**DIVISION I: CONSPIRACY TO UNLAWFULLY APPROPRIATE STATE FUNDS**

25. The preceding paragraphs are incorporated herein by reference.

26. GOVERNOR REYNOLDS and DIRECTOR ROEDERER reached an agreement to transfer \$13 million from the State Economic Emergency Fund in violation of Article III, section 24 of the Iowa Constitution, which provides that “[n]o money shall be drawn from the treasury but in consequence of appropriations made by law.”

27. GOVERNOR REYNOLDS voluntarily and intentionally joined in the agreement to unlawfully appropriate state funds either at the time it was first reached or at some later time while it was still in effect.

28. DIRECTOR ROEDERER voluntarily and intentionally joined in the agreement to unlawfully appropriate state funds either at the time it was first reached or at some later time while it was still in effect.

29. At the time that GOVERNOR REYNOLDS and DIRECTOR ROEDERER joined in the agreement, they each knew its purpose.

30. As part of the agreement, GOVERNOR REYNOLDS issued the Official Proclamation ordering the transfer of \$13 million from the State Economic Emergency Fund.

31. In turn, DIRECTOR ROEDERER transferred \$13 million from the State Economic Emergency fund into the State General Fund.

WHEREFORE, Plaintiff requests that a trial be held in this matter and the Court enter an order that:

- (A) Declares that GOVERNOR REYNOLDS and DIRECTOR ROEDERER acted unlawfully in transferring money from the State Economic Emergency Fund;
- (B) Voids all actions taken as a result of the unlawful Official Proclamation signed on September 28, 2017;
- (C) Awards Plaintiff his costs and fees, including his reasonable attorney fees, and for such other appropriate relief as the Court finds just and equitable;
- (D) Directs GOVERNOR REYNOLDS and DIRECTOR ROEDERER to comply with the requirements of Article III, section 24 of the Iowa Constitution and Section 8.55 of the Code of Iowa; and
- (E) Grants all such additional relief as the interests of justice may require.

**DIVISION II: MISUSE OF APPROPRIATIONS**

32. Iowa Code section 8.38 prohibits any department director or other person connected with any such department from expending funds for any purpose other than for which the money was appropriated, except as otherwise provided by law.

33. GOVERNOR REYNOLDS and DIRECTOR ROEDERER violated section 8.38 by directing the expenditure of funds from the State Economic Emergency Fund in violation of Iowa Code section 8.55.

34. As a result, GOVERNOR REYNOLDS and DIRECTOR ROEDERER are liable to the state for \$13 million together with interest and costs.

WHEREFORE, Plaintiff requests that a trial be held in this matter and the Court enter an order that:

- (A) Declares that GOVERNOR REYNOLDS and DIRECTOR ROEDERER violated Iowa Code section 8.38 by expending funds from the State Economic Emergency Fund in violation of Iowa Code section 8.55;

- (B) Awards Plaintiff his costs and fees, including his reasonable attorney fees, and for such other appropriate relief as the Court finds just and equitable;
- (C) Grants all such additional relief as the interests of justice may require.

DATED this 1st day of January 2018.



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