

In the
Supreme Court of the United States



TIMOTHY BARTON,

Petitioner,

v.

SECURITIES AND EXCHANGE COMMISSION,

Respondent.

On Petition for a Writ of Certiorari to the
United States Court of Appeals for the Fifth Circuit

BRIEF OF AMICI CURIAE
UNITED STATES CONGRESSIONAL REPRESENTATIVES
NANCY MACE; RANDY WEBER;
JEFF VAN DREW; AND LANCE GOODEN
IN SUPPORT OF PETITIONER

Paul A. Rossi
Counsel of Record
316 Hill Street
Suite 1020
Mountville, PA 17554
(717) 961-8978
Paul-Rossi@comcast.net

TABLE OF CONTENTS

	Page
TABLE OF AUTHORITIES	ii
INTEREST OF THE AMICI CURIAE.....	1
SUMMARY OF ARGUMENT	3
I. The statutory text limits equitable relief to investor restitution.	4
II. Equity must operate within statutory and constitutional constraints.	4
III. Sound governance requires fiscal and legal backing for every exercise of power.	5
ARGUMENT	6
I. Statutory Text and Limits on Equitable Authority	6
II. Equity Follows the Law: Judicial Power and Statutory Boundaries	8
III. Fiscal Integrity and Public Confidence	11
CONCLUSION.....	13

TABLE OF AUTHORITIES

	Page
CASES	
<i>Grupo Mexicano de Desarrollo S.A. v. Alliance</i> <i>Bond Fund, Inc.</i> , 527 U.S. 308 (1999) 4, 5, 7, 9, 15	
<i>INS v. Chadha</i> , 462 U.S. 919 (1983)	11
<i>Liu v. SEC</i> , 591 U.S. 71 (2020)	6, 7, 9
<i>McCulloch v. Maryland</i> , 17 U.S. (4 Wheat.) 316 (1819)	8
<i>Reeside v. Walker</i> , 52 U.S. 272 (1850)	5, 11
<i>West Virginia v. EPA</i> , 597 U.S. 697 (2022)	3, 7, 9
 CONSTITUTIONAL PROVISIONS	
U.S. Const., amend. IV	1
U.S. Const., amend. V	2
U.S. Const., amend VIII	2
U.S. Const., amend. IX	2
U.S. Const., art. I	1
U.S. Const., art. I, sec. 9	1, 8
 STATUTES	
15 U.S.C. § 78u(d)(5)	3,-10, 14
15 U.S.C. §§ 78u-1–78u-5	1, 7
28 U.S.C. § 1651	1

TABLE OF AUTHORITIES – Continued

Page

OTHER AUTHORITIES

Alexander Hamilton, <i>The Federalist No. 78</i>	9
Alexander Hamilton, <i>The Federalist No. 84</i>	13
James Madison, <i>The Federalist No. 47</i>	10, 14
James Madison, <i>The Federalist No. 51</i>	12, 14
James Madison, <i>The Federalist No. 62</i>	8, 10
<i>Magna Carta</i> (1215).....	2



INTEREST OF THE AMICI CURIAE

The undersigned Members of the United States House of Representatives appear as *Amici Curiae*¹ to defend the prerogatives that Article I of the Constitution entrusts to Congress the exclusive authority of oversight and the power to legislate. In this case, the SEC utilizes sweeping powers not granted by Congress and not available under common law. The undersigned have long been troubled with excesses and abuses in civil asset forfeiture, and while this case directly involves a receivership, the undersigned believes it presents many overlapping constitutional issues.

Congress has passed the underlying laws enabling action in this case, here including the All Writs Act (28 U.S.C. § 1651) and Securities Exchange Act of 1934 (15 U.S.C. § 78u(d)(5)) (“In any action or proceeding brought or instituted by the Commission under any provision of the securities laws, the Commission may seek, and any Federal court may grant, any equitable relief that may be appropriate or necessary for the benefit of investors.”). In so doing, Congress did not intend, and the statute in no way sustains, the sweeping application of those statutes as used in in this case which appears inconsistent with the underlying principles of Article I, Section 9 (Bill of Attainder), the Fourth Amendment (unreasonable seizure), the

¹ Pursuant to Supreme Court Rule 37.2(a), Amicus Curiae provided timely notice of its intent to file this brief to counsel for all parties. No counsel for any party authored this brief in whole or in part, and no one other than Amicus and its supporters made any monetary contribution to its preparation or submission.

Fifth Amendment (deprived of life, liberty, or property, without due process of law), the Sixth Amendment (right to counsel), the Eighth Amendment (excessive bail or fines), the Ninth Amendment (unenumerated rights), and the Fourteenth Amendment (Due Process and Excessive Fines).

The Declaration of Independence lists “unalienable Rights” of man as including, “Life, Liberty, and the pursuit of Happiness.” The Petitioner’s right to liberty, property and ability to run his lawful businesses are curtailed today before trial on the merits. The rights of man were enshrined before the Declaration in Magna Carta, which stated that “No free man is to be arrested, or imprisoned, or disseized (‘dispossessed’), or outlawed, or exiled, or in any other way ruined, nor will we go against him or send against him, except by the lawful judgment of his peers or by the law of the land.² And “Neither we nor our bailiffs shall seize any revenue for any debt, so long as the chattels of the debtor suffice to pay the debt...”³ Each branch of government, and indeed every citizen, has a duty to uphold these principles – today the lower Court has erred in failing to uphold them.

The undersigned’s interest in this case arises from the same constitutional principle that guides their work in Congress: power must trace to law. They support judicial equity that restores victims but opposes the use of equitable remedies to create self-funding executive programs that evade legislative appropriation. The undersigned file this brief to emphasize that

² *Magna Carta* (1215), cl. 39.

³ *Magna Carta* (1215), cl. 9.

when the Securities and Exchange Commission operates beyond the text of 15 U.S.C. § 78u(d)(5), it undermines the constitutional appropriations process and erodes public trust in the rule of law.

Amici file this brief to support a narrow, text-based holding that equitable remedies under § 78u(d)(5) must remain tethered to statutory purpose and to congressional appropriation. Such restraint protects not only investors and defendants but also the legitimacy of judicial equity itself.



SUMMARY OF ARGUMENT

This case is not about whether courts may grant equitable relief. It is about how far that relief may reach under the law Congress enacted.⁴ Section 78u(d)(5) authorizes federal courts to “grant any equitable relief that may be appropriate or necessary for the benefit of investors.”⁵ That text allows restitution or disgorgement of ill-gotten gains but does not authorize the creation of judicial receiverships that seize and manage assets unconnected to proven violations or that finance ongoing enforcement activities outside congressional appropriations.⁶

⁴ *West Virginia v. EPA*, 597 U.S. 697 (2022) (holding that major questions require clear congressional authorization).

⁵ 15 U.S.C. § 78u(d)(5) (full statutory text quoted).

⁶ *Liu v. SEC*, 591 U.S. 71, 80–81 (2020) (limiting disgorgement to net profits returned to victims).

The distinction matters because equity follows the law; it does not replace it. Courts act in equity to make injured parties whole—not to enlarge agency power or fund enforcement programs.⁷ When equity is extended beyond statutory boundaries, discretion replaces discipline and courts become unwitting partners in executive overreach. Such use of equitable power resembles monetary inflation: authority is issued without backing, and confidence in both process and outcome declines.

I. The statutory text limits equitable relief to investor restitution.

Congress specified that equitable remedies must be “for the benefit of investors.” That phrase confines judicial relief to returning funds wrongfully taken—not to managing or redistributing unrelated property.⁸ Reading § 78u(d)(5) as authorizing open-ended receiverships disregards that limitation and transforms a narrow remedial clause into a general grant of enforcement authority.

II. Equity must operate within statutory and constitutional constraints.

This Court has consistently held that courts may not invent new equitable powers beyond those recognized in 1789 or conferred by statute. *Grupo*

⁷ *Grupo Mexicano de Desarrollo S.A. v. Alliance Bond Fund, Inc.*, 527 U.S. 308, 332 (1999) (holding that equity may not invent new remedies beyond statute).

⁸ 15 U.S.C. § 78u(d)(5) (“for the benefit of investors”) (statutory limitation on equitable relief).

Mexicano and its progeny reaffirm that principle.⁹ Permitting the SEC to administer private assets through judicial receivership collapses the separation between executive enforcement and judicial remedy, erasing the line that keeps power accountable.

III. Sound governance requires fiscal and legal backing for every exercise of power.

Agencies that seize and spend funds outside appropriations act beyond congressional control. Such practices dilute constitutional accountability much as unsound currency dilutes value.¹⁰ The Constitution prevents both forms of inflation by requiring authorization and consent before any new issuance—of money or of power.

Amici urge the Court to reaffirm a simple rule: equity cannot cure what Congress did not authorize. By reading § 78u(d)(5) according to its text and purpose, the Court will protect investors, preserve judicial legitimacy, and restore confidence in the rule of law.

⁹ *Grupo Mexicano*, 527 U.S. 308, 318–19 (1999); *Liu v. SEC*, 591 U.S. at 79–81 (explaining that equity is confined to restitutionary remedies).

¹⁰ *Reeside v. Walker*, 52 U.S. 272, 291 (1850) (“It is a well known constitutional provision, that no money can be taken or drawn from the Treasury except under an appropriation by Congress.”).



ARGUMENT

I. Statutory Text and Limits on Equitable Authority

The foundation of this case is the text Congress enacted. Section 78u(d)(5) provides:

“In any action or proceeding brought or instituted by the Commission under any provision of the securities laws, the Commission may seek, and any Federal court may grant, any equitable relief that may be appropriate or necessary for the benefit of investors.”¹¹

This clause authorizes courts to use traditional equitable remedies—restitution, disgorgement, or injunctions—to protect investors from proven violations. It does not confer an open-ended license to create or finance administrative programs, to seize unrelated assets, or to administer entire businesses through receiverships.¹² Congress used the term “for the benefit of investors,” not “for the convenience of the Commission.”¹³

This Court has already construed § 78u(d)(5) narrowly. In *Liu v. SEC*, it held that disgorgement qualifies as equitable relief only when awarded for victims and

¹¹ 15 U.S.C. § 78u(d)(5) (full statutory quotation).

¹² *Liu v. SEC*, 591 U.S. 71, 80 (2020) (in general, equitable relief limited to returning funds to victims).

¹³ *Id.* at 81 (courts must ensure that disgorgement does not exceed victims’ losses).

not simply to penalize.¹⁴ That decision rested on the statute’s text and history, reaffirming that equity must remain restitutionary—not punitive or managerial.¹⁵ By transforming judicial equity into a vehicle for asset control and funding, the SEC’s receivership practice exceeds that boundary.

Equitable remedies are historically confined to the scope recognized in 1789 or expressly extended by Congress.¹⁶ This principle, reaffirmed in *Grupo Mexicano*, ensures that courts supplement legislative purpose but do not invent new powers.¹⁷ A receivership designed to operate indefinitely, collecting income and distributing proceeds at the agency’s direction, is not a remedy known to traditional equity. It is a hybrid of enforcement and administration, and its authorization belongs to Congress alone.¹⁸

Reading § 78u(d)(5) expansively also contradicts the statute’s structure. Elsewhere in the securities laws, Congress explicitly granted administrative enforcement powers and funding mechanisms when it intended them. It did not do so here.¹⁹ By treating “any equit-

¹⁴ *Liu*, 591 U.S. at 80–81.

¹⁵ *Id.* (equitable remedies must be consistent with statutory purpose).

¹⁶ *Grupo Mexicano de Desarrollo S.A. v. Alliance Bond Fund, Inc.*, 527 U.S. 308, 332 (1999).

¹⁷ *Id.* at 321–322 (the Judiciary does not invent a remedy where Congress has chosen not to provide one).

¹⁸ *West Virginia v. EPA*, 597 U.S. 697 (2022) (major actions require clear congressional authorization).

¹⁹ Securities Exchange Act of 1934 §§ 21A–21E, 15 U.S.C. §§ 78u-1–78u-5. (explicit enforcement and funding provisions).

able relief” as a grant of general enforcement power, the SEC asks the Court to transform a remedial clause into an appropriation clause—something the Constitution forbids.²⁰

The rule of law depends on predictability: statutes mean what they say, and agencies may do only what they are told.²¹ When courts extend equity beyond statutory purpose, they dilute that predictability, producing uncertainty akin to inflation in economics—each new issuance of authority reduces the value of the old. The remedy is not to abolish equity but to restore its backing in law.²²

Amici urge this Court to reaffirm that § 78u(d)(5) authorizes equitable relief only to the extent necessary to restore investors, not to empower agencies. By enforcing the statute’s limits, the Court will preserve both investor protection and the constitutional discipline that keeps equity a servant of law, not its master.

II. Equity Follows the Law: Judicial Power and Statutory Boundaries

The judiciary’s equitable power is ancient, but it has never been autonomous. Equity is a mode of judicial

²⁰ U.S. Const. art. I, § 9, cl. 7 (Appropriations Clause).

²¹ *The Federalist No. 62* (James Madison) (“The internal effects of a mutable policy are still more calamitous. It poisons the blessing of liberty itself. It will be of little avail to the people, that the laws are made by men of their own choice, if the laws be so voluminous that they cannot be read, or so incoherent that no man, who knows what the law is to-day, can guess what it will be to-morrow.”).

²² *McCulloch v. Maryland*, 17 U.S. (4 Wheat.) 316, 407 (1819) (the Constitution endures because it limits and defines power).

reasoning, not a source of independent authority. From the earliest chancery practice, the maxim has endured: equity follows the law.²³ That principle means courts may supply remedies to enforce statutes but not invent new duties or rights where Congress has remained silent.

This Court reaffirmed that distinction in *Grupo Mexicano*, holding that federal courts cannot create equitable remedies that were unknown to the courts of 1789 or that lack statutory authorization.²⁴ *Liu v. SEC* applied the same logic to § 78u(d)(5): disgorgement survives as an equitable remedy only when it restores victims and conforms to statutory purpose.²⁵ Both decisions rest on a shared premise—judicial innovation cannot substitute for legislative intent.²⁶

The SEC’s receivership practice blurs that boundary. By transforming equity from a remedial instrument into a form of administrative management, it converts courts from adjudicators into supervisors of property. Such arrangements may appear efficient, but efficiency is not the test of legality. As this Court has

²³ *The Federalist No. 78* (Hamilton) (“The judiciary, on the contrary, has no influence over either the sword or the purse; no direction either of the strength or of the wealth of the society; and can take no active resolution whatever. It may truly be said to have neither FORCE nor WILL, but merely judgment.”).

²⁴ *Grupo Mexicano de Desarrollo S.A. v. Alliance Bond Fund, Inc.*, 527 U.S. 308, 322–33 (1999).

²⁵ *Liu v. SEC*, 591 U.S. 71, 80–81 (2020).

²⁶ *West Virginia v. EPA*, 597 U.S. 697 (2022) (major actions require clear congressional authorization).

often noted, convenience cannot justify unconstitutional power.

Proper equity vindicates rights; improper equity creates them. The power to seize and administer assets on behalf of the government is an executive function, not a judicial one, and Congress has never assigned it to the courts under § 78u(d)(5).²⁷ To treat that section as a blank check for judicial receiverships ignores both statutory text and constitutional structure. Equity's strength lies in its discipline—its refusal to act without clear authority.²⁸

This Court has long recognized that judicial overreach in equity can imperil liberty as much as executive excess. The founders agreed. Madison warned that if judges could “exercise will instead of judgment,” the written Constitution would become a parchment barrier.²⁹ The danger is not that courts will act, but that they will act without law.

The undersigned therefore urges the Court to maintain the equilibrium that has preserved constitutional governance for over two centuries: Congress defines the scope of authority; the Executive enforces it; and the Judiciary remedies violations within that framework. When courts extend equity beyond those boundaries, they unintentionally blur the very separation that keeps

²⁷ 15 U.S.C. § 78u(d)(5) (no explicit authorization for administrative receiverships).

²⁸ *The Federalist No. 62* (Madison) (predictable law as foundation of justice).

²⁹ *The Federalist No. 47* (Madison) (accumulation of legislative, executive, and judicial powers constitutes tyranny).

power accountable.³⁰ Reaffirming that equity follows the law will protect both judicial legitimacy and public trust.

Equity, properly confined, remains a vital instrument of justice. It ensures that wrongdoers do not profit from misconduct and that victims are restored. But equity untethered from statute becomes indistinguishable from policy. Restoring the doctrine's original restraint will strengthen, not weaken, the judiciary's moral authority.

The Court should apply that wisdom here: let equity serve the law, not surpass it.

III. Fiscal Integrity and Public Confidence

Every power of government, like every unit of currency, derives its legitimacy from backing. In finance, that backing is tangible value; in government, it is law. When authority is exercised without appropriation, authorization, or statutory restraint, it becomes an unbacked issuance of power—a form of institutional inflation that weakens both liberty and trust.³¹

The Constitution prevents such inflation through structural discipline. Congress must authorize all spending; the Executive must execute those appropriations faithfully; and the Judiciary must apply, not expand, the law.³² Each branch thereby restrains the

³⁰ *INS v. Chadha*, 462 U.S. 919, 951 (1983) (separation of powers preserves accountability).

³¹ *Reeside v. Walker*, 52 U.S. 272, 291 (1850) (“It is a well known constitutional provision, that no money can be taken or drawn from the Treasury except under an appropriation by Congress.”).

³² U.S. Const. art. I, § 9, cl. 7 (Appropriations Clause).

others.³³ Self-funded enforcement upends that balance. It allows an agency to create its own revenue stream, spend beyond legislative control, and answer only to itself.

The economic consequences of such arrangements are not theoretical. As has been stated in floor debate, *inflation is taxation without representation*. The same is true when agencies fund themselves through seizures and settlements outside appropriations: they impose financial burdens on citizens without consent. In both cases, the value extracted is confidence—the public’s faith that government acts by law rather than expediency.

This Court has recognized that predictability in law is as vital to liberty as predictability in markets is to prosperity. When enforcement powers shift with administrative discretion, that steadiness disappears. Citizens cannot conform to rules that move with the regulator’s incentives.

Fiscal integrity and public confidence are thus inseparable. New Mexico’s reforms to civil asset forfeiture, and similar measures in other States, confirm that eliminating self-funded enforcement restores both transparency and trust. Recent state reforms illustrate that when agencies are barred from self-funding through seizure, public trust rises accordingly.

The Court need not question equity’s existence to preserve its credibility; it must only require that equity operate within budgeted law. When enforcement pays for itself, justice becomes a business; when it is funded

³³ *The Federalist No. 51* (Madison) (checks and balances define good government).

by law, justice becomes a trust. The difference is the distinction between private interest and public duty.³⁴

Amici submit that restoring fiscal integrity will strengthen both liberty and confidence. A government that lives by appropriations, not confiscations, honors the people who authorize it. And a judiciary that insists upon such discipline ensures that law remains the sole currency of power. The Constitution demands nothing more—and tolerates nothing less.



³⁴ *The Federalist No. 84* (Hamilton) (written limits, faithfully observed, secure liberty).

CONCLUSION

The Constitution endures because it restrains power. Those restraints are not obstacles to justice—they are the means by which justice remains lawful.³⁵ Section 78u(d)(5) gives courts a valuable but limited tool: the authority to restore investors through traditional equity. It does not authorize the creation of receiverships that operate as self-funding enforcement programs beyond congressional supervision. Reading the statute as written protects both investors and institutions, ensuring that equity continues to follow, not replace, the law.³⁶

Respect for judicial equity and respect for congressional authority are not in conflict. They are complementary. Congress writes the law; the courts interpret and apply it; the executive enforces it. When each branch acts within its sphere, the people remain sovereign. When those spheres overlap, liberty gives way to discretion and predictability gives way to expedience.³⁷

Amici ask this Court to reaffirm a principle as old as the Republic: no power, however equitable, may exceed the law that grants it. By holding that § 78u(d)(5) confines equitable relief to investor restitution and forbids self-funding enforcement, the Court will safe-

³⁵ *The Federalist No. 51* (Madison) (structure, not will, secures liberty).

³⁶ *Liu v. SEC*, 591 U.S. 71, 80–81 (2020) (disgorgement limited to restitution for victims).

³⁷ *The Federalist No. 47* (Madison) (accumulation of legislative, executive, and judicial powers constitutes tyranny).

guard not only property rights but public confidence in the judiciary's fidelity to its constitutional charge.³⁸

A nation that insists its money be backed by value should insist its government be backed by law. When each act of authority can be traced to statute and consent, liberty regains its full worth.

Respectfully submitted,

Paul A. Rossi
Counsel of Record
316 Hill Street
Suite 1020
Mountville, PA 17554
(717) 961-8978
Paul-Rossi@comcast.net

Counsel for Amici Curiae

November 17, 2025

³⁸ *Grupo Mexicano de Desarrollo S.A. v. Alliance Bond Fund, Inc.*, 527 U.S. 308, 332 (1999) (courts may not create new equitable powers beyond statute).