

**In the Supreme Court of the United States**

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TIMOTHY BARTON, PETITIONER

*v.*

SECURITIES AND EXCHANGE COMMISSION

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*ON PETITION FOR A WRIT OF CERTIORARI  
TO THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT*

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**BRIEF FOR THE RESPONDENT IN OPPOSITION**

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**QUESTION PRESENTED**

Whether the district court abused its discretion by appointing a receiver to oversee corporate entities that had received or benefited from funds traced to petitioner's alleged securities fraud.

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**BRIEF FOR THE RESPONDENT IN OPPOSITION**

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**OPINIONS BELOW**

The opinion of the court of appeals (Pet. App. 1a-36a) is reported at 135 F.4th 206. A previous opinion of the court of appeals (Pet. App. 115a-130a) is reported at 79 F.4th 573. The opinion and order of the district court (Pet. App. 39a-69a) is unpublished.

**JURISDICTION**

The judgment of the court of appeals was entered on April 17, 2025. A petition for rehearing was denied on June 16, 2025 (Pet. App. 37a-38a). On September 5, 2025, Justice Alito extended the time within which to file a petition for a writ of certiorari to and including October 14, 2025, and the petition was filed on that date.

**STATEMENT**

The Securities and Exchange Commission (SEC or Commission) brought a civil enforcement action alleg-

ing that petitioner had engaged in securities fraud by soliciting money from investors for the purchase and development of specific parcels of land and then misappropriating nearly all of those funds. Based on evidence that a then-undetermined number of entities had received or benefited from investor funds, the United States District Court for the Northern District of Texas, at the Commission's request, initially appointed a receiver over all entities that petitioner controlled. The court of appeals vacated that order, concluding that the district court had erred both in determining whether a receivership was warranted and in setting its scope. Pet. App. 115a-130a.

On remand, the district court applied the standards articulated by the court of appeals, determined that appointment of a receiver remained appropriate, and limited the scope of the receivership to entities that had received or benefited from funds traced to petitioner's alleged securities fraud. Pet. App. 39a-69a. The court of appeals affirmed. *Id.* at 1a-36a.

1. The Commission filed a complaint against petitioner and others, alleging that they had defrauded more than 100 investors out of more than \$26 million. Pet. App. 40a. As alleged in that complaint, petitioner told investors that their funds would be used to "purchase specific parcels of lands at specific prices." *Id.* at 41a. But petitioner instead misappropriated nearly all the invested funds and used them to pay for personal expenses and other, unrelated real-estate projects. *Ibid.* The SEC alleged that petitioner had violated Section 10(b) of the Securities Exchange Act of 1934, 15 U.S.C. 78j(b), and Rule 10b-5 promulgated thereunder, 17 C.F.R. 240.10b-5; and Section 17(a) of the Securities Act of 1933, 15 U.S.C. 77q(a). See Pet. App. 2a.

At approximately the same time, and based on the same alleged conduct, a federal grand jury indicted petitioner on criminal counts of wire fraud, conspiracy to commit wire fraud, and securities fraud. *United States v. Barton*, No. 22-cr-352 (N.D. Tex.).

2. Petitioner’s conduct regarding the allegedly misappropriated investor funds placed those funds at risk of dissipation. The SEC presented evidence that petitioner had misused investor funds—including after the Commission had filed its complaint—on personal expenses, including “payments on his personal credit card”; “meals, car payments, [and] educational expenses”; and “payments to [his] ex-wife and children.” Pet. App. 3a (second set of brackets in original); see *id.* at 46a-47a. And, employing a web of entities he controlled, petitioner had used investor funds for other real-estate projects that carried sizeable debt and faced liens, lawsuits, and the threat of foreclosure. *Id.* at 12a. Some of those real-estate projects (which included a hotel and apartment complexes) required active management to avoid “deteriorat[ion].” *Ibid.* The Commission therefore moved the district court to appoint a receiver over all of the corporate entities petitioner controlled, in order to protect and preserve their assets. *Id.* at 3a.

a. The district court granted that motion. Pet. App. 131a-158a. To determine whether a receivership was warranted, the court applied the legal test set forth in *SEC v. First Financial Group*, 645 F.2d 429 (5th Cir. 1981), which permits appointment of a receiver upon a *prima facie* showing of fraud and mismanagement. Pet. App. 41a. Finding that the SEC had made that showing, the court appointed a receiver of its own choosing rather than the candidate proposed by the Commission. *Id.* at 41a-42a. The receivership order did not cover pe-

tioner's personal assets. See *id.* at 131a-158a. The court separately granted the Department of Justice's unopposed motion to stay the SEC's civil case pending completion of the parallel criminal action, though the receiver's work was not subject to the stay. See D. Ct. Doc. 64 (Nov. 16, 2022).

b. The court of appeals vacated the receivership order. Pet. App. 115a-130a. The court concluded that the district court had erred by applying the *First Financial* test in determining whether a receivership was warranted because that test is specific to instances in which the Commission has already obtained injunctive relief. *Id.* at 120a-123a. The court of appeals concluded that the district court should have instead applied the test set out in *Netsphere, Inc. v. Baron*, 703 F.3d 296 (5th Cir. 2012), cert. denied, 574 U.S. 974 (2014), under which the appointment of a receiver is warranted if "1) [there exists] a clear necessity to protect the defrauded investors' interest in property, 2) legal and less drastic equitable remedies are inadequate, and 3) the benefits of receivership outweigh the burdens on the affected parties." Pet. App. 123a. The court of appeals also agreed with petitioner that the district court had erred by including certain entities without first determining that they had "received or benefitted from" funds traced to petitioner's alleged securities fraud. *Id.* at 125a-126a.

3. a. On remand, the Commission moved the district court to appoint a receiver over 82 entities that had received or benefited from investor funds traced to petitioner's alleged securities fraud. Pet. App. 4a. In opposing that motion, petitioner briefly contended, *inter alia*, that any receivership should "permit the expenditure of funds to pay lawyers to defend against the Government's allegations," D. Ct. Doc. 334, at 28 (Oct. 2,

2023), but he did not demonstrate a need for such funds or request access to specific funds. Petitioner also did not challenge the court's authority to impose a receivership, and he did not invoke the Sixth Amendment.

Applying *Netsphere*, as instructed by the court of appeals, the district court again determined that a receivership was warranted. See Pet. App. 45a-50a. The court selected the same receiver it had previously appointed, and it placed into the receivership 54 of the 82 entities proposed by the Commission. *Id.* at 4a, 51a-55a.<sup>1</sup> For each of those 54 entities, the court identified record evidence showing that the entity had received or benefited from funds traced to petitioner's alleged securities fraud. *Id.* at 50a-66a. Once again, the receivership did not reach petitioner's personal assets or in any way preclude petitioner from using those assets to hire attorneys. See *id.* at 70a-100a.

b. The court of appeals affirmed. Pet. App. 1a-36a. Petitioner again argued, *inter alia*, that the district court had erred in determining that a receivership was warranted and by including certain entities in the receivership. See *id.* at 5a. Petitioner did not challenge the district court's authority to impose the receivership or contend that the receivership implicated his Sixth Amendment rights.

As relevant here, the court of appeals first concluded that the district court had not abused its discretion in

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<sup>1</sup> The district court "excluded" from the receivership the other 28 entities proposed by the SEC "for insufficient evidence of having received or benefited from" petitioner's alleged fraudulent activities. Pet. App. 40a n.1. The court separately entered a preliminary injunction freezing the assets of petitioner-controlled corporate entities that were not placed into the new receivership. *Id.* at 101a-114a.

determining that a receivership was warranted under *Netsphere*. Pet. App. 10a-16a. The court of appeals concluded that such an appointment was “‘clear[ly] necess[ary]’” to protect the interests of the allegedly defrauded investors because, “[w]ithout a receivership, [petitioner]’s actions threaten to further dissipate the investment assets,” particularly in light of petitioner’s “continued \* \* \* spending spree even after he had been indicted.” *Id.* at 11a (first two sets of brackets in original). The court also determined that a receivership was justified because “the value of the assets will decline if they are not well managed,” noting that the properties faced risks of foreclosure, litigation, and other encumbrances by third parties. *Id.* at 12a. And the court concluded that “any ‘less drastic remedies’ would be inadequate” because “no other remedy insulates the investor assets from [petitioner] while also allowing for a litigation stay and active management.” *Id.* at 13a, 15a. Finally, the court of appeals agreed with the district court’s assessment that the receivership’s likely “benefits to the defrauded investors outweigh the burdens on [petitioner].” *Id.* at 15a.

The court of appeals likewise affirmed the district court’s inclusion within the receivership of all “entities that received or benefited from assets traceable to [petitioner]’s alleged fraudulent activities that are the subject of this litigation.” Pet. App. 16a (citation and emphasis omitted); see *id.* at 16a-22a. Petitioner contended that the district court had improperly included within the receivership entities that “did not receive or benefit *enough*” from investor funds. *Id.* at 17a. In rejecting that argument, the court of appeals explained that there is no “proportionality limitation” in the “received-or-benefited” standard; that “the received-or-benefited-

from rule is the rule [petitioner] himself requested in the initial district court proceedings and appeal”; and that petitioner’s newly proposed alternative standard—“that a particular entity *sufficiently* receives or benefits from” investor funds—was “unworkable.” *Id.* at 18a. The court of appeals also determined that the district court had “committed no abuse of discretion in its admission and assessment of the tracing evidence” and had properly exercised its discretion in applying “the received-or-benefited-from rule as a floor” for inclusion in the receivership. *Id.* at 21a; see *id.* at 19a-21a.<sup>2</sup>

c. Petitioner sought en banc review. He contended, *inter alia*, that the receivership should have been limited to entities that had benefited to an unspecified degree from funds traced to his alleged securities fraud. 23-11237 C.A. Reh’g Pet. 4-11. Petitioner did not contest the district court’s authority to impose the receivership or argue that the receivership was constitutionally infirm. The court of appeals denied rehearing en banc. Pet. App. 37a-38a.

#### ARGUMENT

Petitioner asserts (Pet. 16-23) that the decision below “implicate[s] important constitutional concerns,” and he contends (Pet. 23-29) that the receivership imposed in this litigation lacks a sufficiently “clear” statutory basis. Neither argument was pressed or passed upon in the court of appeals, and that fact alone makes this case unsuitable for the Court’s review.

In all events, the district court did not abuse its discretion in establishing a receivership here, and the

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<sup>2</sup> The court of appeals also concluded that the district court had not abused its discretion in finding that an asset freeze was warranted under *Starbucks Corp. v. McKinney*, 602 U.S. 339 (2024). Pet. App. 27a-33a.

court of appeals' decision affirming that order does not conflict with any decision of this Court or of another court of appeals. The scope of the receivership does not approach any "constitutional line" (Pet. 3) established by the Sixth Amendment. Petitioner remains in control of his personal assets. He has never demonstrated that he needs funds from receivership entities to pay counsel, and he has never requested that the district court release such funds from the receivership. Petitioner acknowledges (Pet. 4), moreover, that there is no "disagreement among the circuit courts" with respect to the authority underlying receiverships or the Sixth Amendment's implications for receiverships of this scope. Further review is not warranted.

1. Petitioner's failure to present his current contentions to the court of appeals is by itself a sufficient reason for this Court to deny review. This Court "is a court of final review and not first view." *Adarand Constructors, Inc. v. Mineta*, 534 U.S. 103, 110 (2001) (per curiam) (citation omitted). Thus, where "issues are neither raised before nor considered by the Court of Appeals, this Court will not ordinarily consider them." *Zobrest v. Catalina Foothills Sch. Dist.*, 509 U.S. 1, 8 (1993) (citation omitted); accord *Glover v. United States*, 531 U.S. 198, 205 (2001) ("In the ordinary course we do not decide questions neither raised nor resolved below.").

In neither of the receivership appeals he has taken thus far did petitioner argue—as he now does before this Court—that the imposition of a receivership exceeds "the Commission's authority to seek 'equitable relief' in 15 U.S.C. § 78u(d)(5)." Pet. 23. Indeed, save for a single reference in the jurisdictional statement of his opening brief in the first appeal, petitioner did not discuss or analyze Section 78u(d) in any of his appellate

briefs. See 22-11132 Pet. C.A. Br. 1. Rather, in his first appeal, petitioner contended that a receivership was warranted only as to “‘entities that received or [benefited] from assets traceable to [his] alleged fraudulent activities that are the subject of this litigation,’” Pet. App. 17a-18a (emphasis omitted; first set of brackets in original); and in his second appeal, he “argue[d] for a standard \* \* \* that [would] require ‘a significant and imminent risk of asset flight that cannot be controlled by other means,’” *id.* at 12a. Petitioner thus failed to assert his current statutory claim in either of his appeals.

Petitioner’s appellate submissions likewise did not mention the Sixth Amendment or discuss the constitutional precedents on which he now relies (Pet. 16-23). Although petitioner briefly argued that the receivership should be structured to permit him to fund his legal defense, see 23-11237 Pet. C.A. Br. 77-78, he never proposed a particular structure, requested the release of specific funds from the receivership entities to pay his legal expenses, or demonstrated that he lacked adequate personal assets to pay for representation. Petitioner’s criticism (Pet. 4) of “the Fifth Circuit’s indifference to the potential constitutional problems at issue here” is particularly misplaced given his failure to develop any constitutional argument before that court.

2. Even if petitioner’s contentions had been preserved below, they would not warrant this Court’s review. The court of appeals correctly affirmed the district court’s receivership order, and—by petitioner’s own admission (Pet. 30)—that decision does not implicate any conflict of authority.

a. District courts have well-established authority to appoint receivers in cases like petitioner’s. “Since the appointment of receivers by the chancery court of Eng-

land dates back to the reign of Queen Elizabeth, which, of course, preceded the adoption of the United States Constitution, it follows that the power of the federal courts to appoint receivers dates back to the inception of our federal courts and their power to appoint receivers is based on precedents dating back to the time of Queen Elizabeth.” 1 Ralph E. Clark, *A Treatise on the Law and Practice of Receivers* § 6 (2d ed. 1918). “For a long period the practice expanded as a result of the increasing willingness of courts of equity both in England and the United States to undertake the administration of the assets of corporations and other debtors when sufficient need was shown.” 12 Charles Alan Wright & Arthur Miller, *Federal Practice and Procedure* § 2981 (3d ed. 2025); see *Grupo Mexicano de Desarrollo, S.A. v. Alliance Bond Fund, Inc.*, 527 U.S. 308, 319 (1999) (Federal courts have the power to award relief “traditionally accorded by courts of equity” at ratification.).

Accordingly, federal courts have long treated a receivership as “a means to reach some legitimate end sought through the exercise of the power of a court of equity.” *Gordon v. Washington*, 295 U.S. 30, 37 (1935); see *Burnrite Coal Briquette Co. v. Riggs*, 274 U.S. 208, 212 (1927) (holding that a court’s authority to establish a receivership for these purposes comes from its “general equity powers”). “Generally a receiver is appointed by a court before judgment to preserve property pending judicial proceedings” because, “[i]f the subject matter of the litigation should be alienated during the litigation and not be in existence when the litigation is ended, the decree of the court would be futile.” Clark, *supra*, § 87. Relying on these deep historical roots, this Court long ago concluded that a court’s power to appoint a receiver over entities implicated in ongoing liti-

gation “cannot \* \* \* be seriously disputed.” *Wallace v. Loomis*, 97 U.S. 146, 162 (1877); see *Leadville Coal Co. v. McCreery*, 141 U.S. 475, 477-478 (1891).

Congress has expressly recognized and channeled this authority through statutes governing receiverships. *E.g.*, 28 U.S.C. 1292(a) (permitting appeals of specified interlocutory orders concerning receivers); 28 U.S.C. 754 (governing receivers over property situated in different districts); 28 U.S.C. 959(a) (allowing receivers to be sued). Federal Rule of Civil Procedure 66 additionally provides that “the practice in administering an estate by a receiver or a similar court-appointed officer must accord with the historical practice in federal courts or with a local rule.” And Congress has sometimes enacted agency- or program-specific statutes governing receiverships. *E.g.*, 7 U.S.C. 2009cc-12(b) (authorizing courts to appoint receivers to hold the assets of rural business investment companies); 15 U.S.C. 687c (authorizing courts to appoint receivers to administer assets of small business investment companies).

The Commission first pursued such receiverships “in the aftermath of the 1929 financial crash, when Congress created the SEC to protect investors and financial markets.” *Zacarias v. Stanford Int’l Bank, Ltd.*, 945 F.3d 883, 895 (5th Cir. 2019), cert. denied, 141 S. Ct. 950 and 141 S. Ct. 952 (2020); see *Deckert v. Independence Shares Corp.*, 311 U.S. 282, 288 (1940) (recognizing district courts’ equitable power to appoint receivers under the securities laws). “Drawing upon the explicit provisions of Article III, in turn drawn from England’s Chancery Court, Congress conferred jurisdiction on the district courts over SEC enforcement actions, including both ‘suits in equity’ and actions at law.” *Zacarias*, 945 F.3d at 895 (citation omitted). Congress thus “granted

the SEC access to the courts' full powers, including use of the traditional equity receivership, to coordinate the interests in a troubled entity and to ensure that its assets are fairly distributed to investors." *Ibid.*

Congress bolstered this authority in the Sarbanes-Oxley Act of 2002, Pub. L. No. 107-204, 116 Stat. 745. That legislation added Section 21(d)(5) of the Securities Exchange Act, which provides that, "[i]n 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." 15 U.S.C. 78u(d)(5). While "Congress did not define what falls under the umbrella of 'equitable relief,'" this Court has held that the term includes "those categories of relief that were typically available in equity." *Liu v. SEC*, 591 U.S. 71, 75, 79 (2020). For hundreds of years, one such category of relief has been receiverships. See pp. 9-11, *supra*. District courts thus have "both statutory and residual equitable authority" to establish receiverships in Commission enforcement actions. *SEC v. Complete Bus. Solutions Grp., Inc.*, 44 F.4th 1326, 1334 (11th Cir. 2022).

Petitioner argues (Pet. 24-25) that statutes like Section 21(d)(5) do "not authorize remedies that test constitutional boundaries absent a clear and express statement from Congress." But as discussed, Congress has repeatedly enacted "clear and express statement[s]" recognizing the equitable mechanism of receiverships, including in statutory provisions that courts have been applying for decades. Petitioner identifies no support for his contention that a court must prophylactically limit a statutorily authorized receivership to avoid "test[ing] constitutional boundaries" whenever a crimi-

nal defendant claims a need for corporate funds to pay counsel. And as discussed below, even if such a rule existed, it would not apply here.

b. Petitioner contends (Pet. 26) that the scope of the receivership “presents serious constitutional questions under the Sixth Amendment.” His argument lacks merit.

This Court has twice rejected similar Sixth Amendment challenges to equitable mechanisms designed to preserve defeasible assets. In *Caplin & Drysdale, Chartered v. United States*, 491 U.S. 617 (1989), a criminal defendant challenged the application of a forfeiture statute on the ground that he would not be able to hire an attorney without using forfeitable assets. *Id.* at 625. This Court held that the Sixth Amendment’s “protection does not go ‘beyond the individual’s right to spend his own money to obtain the advice’” of counsel, and that “[a] defendant has no Sixth Amendment right to spend another person’s money for services rendered by an attorney, even if those funds are the only way that that defendant will be able to retain the attorney of his choice.” *Id.* at 626 (citation omitted). In a companion case decided the same day, the Court stated that the Sixth Amendment does not require “Congress to permit a defendant to use assets adjudged to be forfeitable to pay that defendant’s legal fees.” *United States v. Monsanto*, 491 U.S. 600, 614 (1989). The *Monsanto* Court found no violation of the Sixth Amendment in restraining the use of property for hiring an attorney based on a prejudgment showing of probable cause. *Id.* at 615-616.

Petitioner does not meaningfully address these decisions. He relies instead on *Luis v. United States*, 578 U.S. 5 (2016), for the proposition that “the untainted assets of a criminal defendant cannot be seized if it would leave him unable to pay his criminal-defense lawyers.”

Pet. 29; see Pet. 26-29. In *Luis*, pursuant to a statute that authorized courts to freeze assets obtained from or traceable to alleged criminal conduct, a court had frozen certain assets that belonged to a criminal defendant and were untainted by the alleged crime, and that the defendant wished to use to hire counsel. 578 U.S. at 8-10. A plurality of this Court concluded that the Sixth Amendment barred such an order, distinguishing *Caplin & Drysdale* and *Monsanto* based on the nature of the assets involved in each case. *Id.* at 12. “The relevant difference,” the plurality stated, “consists of the fact that the property here is untainted; *i.e.*, it belongs to the defendant, pure and simple,” whereas *Caplin & Drysdale* and *Monsanto* had involved “tainted” property. *Ibid.*

For several reasons, *Luis* does not assist petitioner. Unlike the order invalidated in *Luis*, the receivership here does not affect property that “belongs to [petitioner], pure and simple.” 578 U.S. at 12. To the contrary, the receivership covers only corporate entities rather than any of petitioner’s personal assets. See Pet. App. 72a-74a. The Court in *Luis* did not address whether the Sixth Amendment protects a criminal defendant’s ability to use the assets of independent entities—here, corporations with separate legal identities that function, in part, to shield their owners from personal liability—to pay for personal legal representation. Moreover, unlike the untainted personal assets in *Luis*, the corporate entities subject to the receivership here were found by the district court to have received or benefitted from funds traced to petitioner’s alleged securities fraud. *Cf. Luis*, 578 U.S. at 13 (“The robber’s loot belongs to the victim, not to the defendant.”).

This case also lacks a critical predicate showing that underlay the plurality’s reasoning in *Luis*. There, this

Court found that “Luis *needs* some portion of [the forfeited] funds to pay for the lawyer of her choice.” *Luis*, 578 U.S. at 18 (emphasis added). And the Court concluded that, “insofar as innocent (*i.e.*, untainted) funds *are needed* to obtain counsel of choice, \* \* \* the Sixth Amendment prohibits the court order that the Government seeks.” *Ibid.* (emphasis added).

Here, by contrast, the record contains no showing that the receivership has prevented petitioner from retaining counsel of his choice in the parallel criminal proceeding. Like the imposition of an asset freeze, the appointment of a receiver does not preclude the release of funds for attorneys’ fees if a court determines such release is warranted. See, *e.g.*, *SEC v. Quinn*, 997 F.2d 287, 289 (7th Cir. 1993). But petitioner has never shown any unmet need for legal expenses, nor has he requested the release of any specific amount for that purpose. At a minimum, he has fallen far short of demonstrating that “the restraint [embodied by the receivership] suffices to completely deny this constitutional right.” *Luis*, 578 U.S. at 20.

3. Finally, even if petitioner could establish some case-specific error in the decision below, the question presented would not warrant this Court’s review. See Sup. Ct. R. 10 (“A petition for a writ of certiorari is rarely granted when the asserted error consists of erroneous factual findings or the misapplication of a properly stated rule of law.”); *Ross v. Moffitt*, 417 U.S. 600, 616-617 (1974) (“This Court’s review \* \* \* depends on numerous factors other than the perceived correctness of the judgment we are asked to review.”).

Petitioner concedes (Pet. 30) that “[t]here is no conflict among the circuits” implicated by his petition. He does not identify any decision holding that a court lacks

authority to establish a receivership when the scope of the receivership covers corporate entities from which a criminal defendant wishes to extract money to pay legal expenses. Nor does he cite any precedent suggesting that the imposition of a receivership implicates a defendant's Sixth Amendment rights when the receivership covers corporate entities that received or benefited from funds traced to his alleged fraudulent conduct.

Petitioner nevertheless urges (Pet. 30-32) this Court to grant review here on the supposition that “[f]ew if any other individuals will be able to secure counsel to appeal receiverships of this scope,” so that “a decision to wait for a circuit split to arise is unlikely to yield any other appellate-court rulings addressing the legality of these types of receiverships.” That contention rests on several unfounded premises.

First, in hypothesizing “a criminal defendant who has all of his assets frozen,” Pet. 30, petitioner sidesteps the fact that the receivership here does not reach *any* of petitioner's *personal* assets and covers only a subset of the corporate entities that petitioner controlled. Second, as demonstrated by petitioner's appeals in this litigation (one of which succeeded), a district court's order establishing a receivership does not preclude effective appellate review of the imposition and scope of that receivership. Third, even when the bulk of a defendant's assets are included in a receivership, the defendant is free to ask the court to release money from the receivership for use in legal proceedings—an option petitioner has not pursued here.

Indeed, through these and other mechanisms, numerous defendants have challenged receiverships in Commission actions—and have even filed petitions for writs of certiorari, which this Court has denied. *E.g.*,

*Zacarias v. Stanford Int'l Bank, Ltd.*, 945 F.3d 883 (5th Cir. 2019), cert. denied sub nom. *Rupert v. Janvey*, 141 S. Ct. 950 (2020) (No. 19-1411), and *Zacarias v. Janvey*, 141 S. Ct. 952 (2020) (No. 19-1402); see *SEC v. Quest Energy Mgmt. Grp.*, 768 F.3d 1106 (11th Cir. 2014); *SEC v. Vescor Capital Corp.*, 599 F.3d 1189 (10th Cir. 2010). The same outcome is appropriate here.<sup>3</sup>

#### CONCLUSION

The petition for a writ of certiorari should be denied.

Respectfully submitted.

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<sup>3</sup> Petitioner contends (Pet. 4, 30) that the receivership “is designed to prevent individuals like [him] from pursuing their appellate remedies.” There is no basis for that claim. The Commission requested a receivership, and the district court granted that request in part, in order to prevent dissipation of investor assets, not to stymie appellate review. Petitioner’s unsupported speculation of an ulterior motive underlying the receivership order cannot overcome the “invincible presumption \* \* \* that the judicial tribunal, acting within its jurisdiction, has acted impartially and honestly.” *Crescent City Live Stock Co. v. Butchers’ Union Slaughter-House Co.*, 120 U.S. 141, 159 (1887).