No. 25A312

In the Supreme Court of the United States

DONALD J. TRUMP, PRESIDENT OF THE UNITED STATES, APPLICANT

v.

LISA D. COOK, ET AL.

REPLY IN SUPPORT OF APPLICATION FOR STAY

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TABLE OF CONTENTS

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By authorizing the President to remove Federal Reserve Governors "for cause," 12 U.S.C. 242, Congress required the President to provide a cause—something more than mere policy disagreement. But Congress otherwise respected the President's constitutional authority over principal officers of the United States by declining to limit him to specific causes or specific removal procedures.

Following the statute, President Trump duly removed respondent Lisa Cook for "deceitful and potentially criminal conduct in a financial matter" that renders her unfit to serve on the Nation's preeminent financial policymaking and regulatory body—a quintessential cause for removal. Appl. App., *infra*, 29a. Weeks later, despite many opportunities, Cook still has not attempted to deny, explain, or justify the facially contradictory, material representations in two mortgage agreements that she executed just two weeks apart—nor has she even said what facts, if any, she would dispute. Instead, in her latest brief, she once again promises a "full-throated rebuttal," Opp. 36, to be provided at some unspecified future date and in some unspecified future proceeding, Opp. 13. Her silence on this point speaks volumes.

The President's removal of Cook was a valid exercise of his authority. Cook's

constitutional due-process claim is meritless because she lacks a "property" interest in the immense public authority of her former office. Her statutory-process claim is equally meritless—she argues that the statute's use of "for cause," without more, implies unspecified procedural rights against removal, even though Congress routinely requires such procedures expressly. Likewise, her attempts to import a series of atextual, implied restrictions into the statute's capacious substantive standard—"for cause"—are unconvincing. By providing for removals "for cause," Congress authorized the President to remove Governors for reasons related to their conduct, ability, fitness, or competence. That is exactly what the President did here.

Tellingly, Cook emphasizes different arguments than the lower courts' flawed grounds for reinstating her. The divided D.C. Circuit rested solely on the district court's due-process theory that Cook holds the same property interest in her immensely powerful former office as do tenured teachers—notwithstanding this Court's clear holding that a "public office is not property." *Taylor* v. *Beckham*, 178 U.S. 548, 576 (1900). The district court further held that "cause" for removal cannot include pre-appointment misconduct, no matter how egregious—a rationale the D.C. Circuit refused to adopt, that Cook disclaimed below, and that Cook now defends on the counter-textual theory that "for cause" means "for causes that arise in office only."

Cook's argument, in the end, rests on policy, not law. See Opp. 2 (arguing that "[t]he bottom line is" that there "must be some" restriction to prevent her removal). Her policy arguments are both exaggerated and meritless. She invokes the mantra of Federal Reserve independence to impose removal protections and procedures Congress did not enact, based on theories the lower courts did not adopt. The Federal Reserve's distinctive status does not justify judicially rewriting "for cause" to mean "for inefficiency, neglect, or malfeasance of duty in office, upon notice and a hearing"

—terms that Congress deliberately used elsewhere but not here.

Contrary to Cook's sweeping claims, this case remains narrow: The Federal Reserve's "for cause" limitation hardly invites "boundless" Presidential removals, Opp. 1, or "sound[s] the death knell" for its "independence," Opp. 2. Cook's significant, apparent, and unexplained misrepresentations on financial documents create a grave appearance of impropriety and undermine public confidence in her authority as a financial regulator. That is ample cause to remove her.

The government is also likely to succeed on the merits based on the lower courts' impermissible reinstatement remedy alone. Here again, Cook declines to defend the lower courts' rationale. She does not dispute that reinstatement of officers exceeds courts' equitable authority. Instead, she argues that this case—unlike others—involved no reinstatement at all, only a status-quo-preserving injunction, because no one effectuated the President's removal by cutting off her building access. That meritless theory would upend equity, rewarding officers who defy removal orders while denying relief to anyone who complies with a removal order under protest.

Finally, the equities are clear-cut. The President suffers irreparable harm from the reinstatement of a Federal Reserve Governor who, in his judgment, lacks the "competence and trustworthiness" needed to serve as a senior financial regulator. Appl. App. 29a. On the other side, recognizing the President's power to remove Governors for apparent financial misfeasance would not compromise the Federal Reserve's policy independence, nor would removing Cook on that basis usher financial-market disaster. Contra Opp. 2. It is not apparent why financial markets would be spooked by removals for pre-confirmation but not in-office financial misconduct, or why they would derive comfort from the prospect that newly detected fraudsters could serve on the Federal Reserve Board so long as the statute of limitations has run. On

the contrary, the President followed the statute Congress enacted in a manner that promotes, not undermines, public confidence in the Federal Reserve System. The stay application should be granted.

A. The Government Is Likely To Succeed On Cook's Procedural Claim

Principal offices of the United States are not property, and this particular office is not plausibly subject to notice-and-hearing requirements that Congress omitted from the Federal Reserve Act. Regardless, Cook's procedural claim fails because she refuses to identify any material factual dispute; she cannot withhold a "full-throated rebuttal" until she is "given a proper forum." Opp. 36.

1. ***Constitutional due process.*** Cook barely defends (Opp. 33-35) the sole theory on which the D.C. Circuit relied: that her removal violated due process. That theory is profoundly flawed. Officers—especially principal officers like Cook—have no property interest in continuing to hold public office, given this Court's holdings in *Crenshaw* v. *United States*, 134 U.S. 99 (1890), and *Taylor* v. *Beckham*, *supra*, that a "public office is not property." *Taylor*, 178 U.S. at 575. Cook dismisses *Crenshaw* (Opp. 34) as involving a congressional rather than executive deprivation of an office, but *Crenshaw* reasoned that the office was not "property" *at all*, not that Congress had provided the "process" that was "due" for the deprivation. 134 U.S. at 104. Whether an office is property does not vary with the branch inflicting the deprivation. Cook says (Opp. 34) *Taylor* involved "an office without for-cause protection," but the officer there "could be removed from office only in the extremely unlikely event of impeachment," making his tenure even more secure than Cook's. Appl. App. 18a (Katsas, J., dissenting). Meanwhile, Cook does not defend the lower courts' inapt reliance on the security-guard-employment decision in *Cleveland Board of Education* v. *Loudermill*, 470 U.S. 532 (1985), or their view that courts should determine what

process is due by applying the balancing test in *Mathews* v. *Eldridge*, 424 U.S. 319 (1976). Nor does she explain why the context-specific due process inquiry would dictate the same process for principal officers of the United States as for tenured schoolteachers or contractual employees. Appl. App. 17a-18a (Katsas, J. dissenting).

Instead, Cook remarkably claims (Opp. 34) that offices are property under the "original public meaning of the [Fifth Amendment's] Due Process Clause," even as she concedes (Opp. 34 n.12) that the answer may well differ for Fourteenth Amendment due process. That odd result misapprehends history. From the Founding to the 20th century, neither offices nor other government jobs were considered property. See *Gutierrez* v. *Saenz*, 145 S. Ct. 2258, 2275-2276 (2025) (Thomas, J., dissenting). The notion that employees have property interests in employment under any Amendment emerged "[i]n the 1960s," when "Professor Charles Reich of the Yale Law School published two articles proposing a radical reinterpretation of the concept of property." *Id.* at 2276. Cook invokes (Opp. 33) English law, but "English common law 'is not to be taken in all respects to be that of America.'" *NYSRPA, Inc.* v. *Bruen*, 597 U.S. 1, 39 (2022). "[I]n this country," a "public office is not property." *Taylor*, 178 U.S. at 576; see *Conner* v. *City of New York*, 5 N.Y. 285, 290 (1851) ("In this country, the incumbent has no property in his office."). Hence, in the debates leading to the Decision of 1789, a member of the First Congress noted that "every man has a property in his office" "in England," but hoped "this doctrine will never be admitted in this country," for it would be "very pernicious in a republic like ours." 1 Annals of Cong. 480 (June 17, 1789). And *Marbury* v. *Madison*, 1 Cranch 137 (1803) (cited at Opp. 33), stated that an officer has a "vested legal right" to his "commission" enforceable via mandamus, not that an office is property for due-process purposes. *Id.* at 162.

2. ***Statutory process.*** Cook emphasizes (Opp. 30-33) a theory neither

lower court adopted: that the Federal Reserve Act provides a statutory right to notice and a hearing. But the statute authorizes the President to remove Governors "for cause," without mentioning notice or a hearing. 12 U.S.C. 242. This Court "ordinarily resist[s] reading words or elements into a statute that do not appear on its face." *Bates* v. *United States*, 522 U.S. 23, 29 (1997). That is especially true of removal restrictions, which require "very clear and explicit language," not mere "inference or implication." *Kennedy* v. *Braidwood Management, Inc.*, 145 S. Ct. 2427, 2448 (2025). That clear-statement rule applies even more forcefully to restrictions on the President's removal of *principal* officers, who wield the most significant executive power. The greater the procedural or substantive restrictions that Congress imposes on the President's authority to remove principal officers, the more clearly one would expect Congress to speak in imposing them.

Thus, when Congress intends to impose procedural constraints on removal, especially of principal officers, it says so. Congress has adopted express notice-and-hearing requirements for removing such principal officers as members of the National Labor Relations Board, 29 U.S.C. 153(a), and the Federal Labor Relations Authority, 5 U.S.C. 7104(b), and even such inferior officers as administrative law judges, see 5 U.S.C. 7521(a). "Atextual judicial supplementation is particularly inappropriate when, as here, Congress has shown that it knows how to adopt the omitted language." *Rotkiske* v. *Klemm*, 589 U.S. 8, 14 (2019). Cook attributes (Opp. 32-33) Congress's inclusion of hearing requirements elsewhere to an "excess of caution," but it strains credulity that Congress felt such a need for caution when enacting the National Labor Relations Act in July 1935, yet not when enacting the Banking Act in August 1935.

Cook cites (Opp. 30-31) *Shurtleff* v. *United States*, 189 U.S. 311 (1903), and *Reagan* v. *United States*, 182 U.S. 419 (1901), but those decisions distinguish between

statutes that specify causes for removal (such as inefficiency, neglect of duty, and malfeasance in office) and statutes that authorize removal for cause *without* naming specific causes. *Shurtleff* explained that, when causes are "named in the statute," a removal "can only be made after notice and an opportunity to defend." 189 U.S. at 317; see Aditya Bamzai, *Taft, Frankfurter, and the First Presidential For-Cause Removal*, 52 U. Rich. L. Rev. 691, 723 (2018) (notice and a hearing required only when the President invokes "enumerated grounds"). *Reagan* similarly stated that "notice and hearing are essential" "where causes of removal are specified," then upheld the removal of an officer who was "given no notice of any charge against him, and no hearing," because the statute at issue required cause without listing specific causes. 182 U.S. at 424-425. Cook interprets (Opp. 30) *Reagan* to require a hearing when an officer serves for a fixed term. But a term simply sets "a ceiling, not a floor, on the length of service," *Severino* v. *Biden*, 71 F.4th 1038, 1045 (D.C. Cir. 2023), and so it has no bearing on an officer's entitlement to a hearing. Thus, the statute here—which simply requires "cause," 12 U.S.C. 242—does not require notice or a hearing.

Cook's reliance (Opp. 31) on English and state practice is likewise misplaced. English practice rested on a premise that this country has rejected: that officers have a "freehold" or property interest in their offices. *Bagg's Case*, 77 Eng. Rep. 1271, 1278 (K.B. 1615). And contrary to Cook's suggestion, American state courts recognized that, while "a question of procedure" might arise if "removals were only authorized for certain specified reasons," a for-cause provision that does not identify specific causes leaves the removing authority free to proceed "ex parte" or to "adopt such mode as to him shall seem proper, without interference on the part of the courts." *Trimble*

v. *People*, 34 P. 981, 985-985 (Colo. 1893).[1] In all events, because Cook is asking this Court to infer a notice-and-hearing requirement that appears nowhere in the enacted text, she must show that such a requirement was "widely accepted" as an inherent component of a for-cause restriction. *Kousisis* v. *United States*, 145 S. Ct. 1382, 1392 (2025). She has failed to establish any such consensus.

Cook invokes (Opp. 33) constitutional avoidance, but that provides a refuge only if the statutory text is ambiguous. See *Jennings* v. *Rodriguez* 583 U.S. 281, 296 (2018). There is no ambiguity here; no language even arguably requires notice and a hearing. Besides, given this Court's square holding that an office is not property, see p. 4, *supra*, the only "*serious*" constitutional doubts, *Reno* v. *Flores*, 507 U.S. 292, 314 n.9 (1993), arise from Cook's position. Imposing atextual notice-and-hearing requirements before the President can remove a principal officer raises grave Article II concerns, since Congress generally may not regulate the President's process for exercising his core Article II powers. See, *e.g.*, *Public Citizen* v. *Department of Justice*, 491 U.S. 440, 482-489 (1989) (Kennedy, J., concurring in the judgment). It is unusual enough—and requires, at a minimum, a serious grounding in history and tradition—for Congress to depart from the constitutional default of "unrestricted" removal of principal officers. See *Seila Law LLC* v. *CFPB*, 591 U.S. 197, 204 (2020); *Trump* v. *Wilcox*, 145 S. Ct. 1415, 1415 (2025). Yet Cook would go further, inviting courts to devise their own procedural restrictions on the President without regard to the Article II disruptions or Congress's inaction.

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[1] See, *e.g.*, *In re Carter*, 74 P. 997, 998 (Cal. 1903) (statute authorizing removal "for cause" did not "require any hearing or proceeding"); *People ex rel. Gere* v. *Whitlock*, 47 Sickels 191, 197-198 (N.Y. 1883) (statute authorizing removal "for cause" did not entitle the officer "to have notice or be heard"); *City of Hoboken* v. *Gear*, 3 Dutch. 265, 287 (N.J. 1859) (statute authorizing removal "for cause," but specifying "no particular kind of cause," allowed "removal without previous notice").

3. Even if some process were required, Cook has no claim. Because "'the purpose'" of notice and a hearing "'is to provide the person an opportunity to clear his name,'" Cook must identify a "factual dispute" that has "some significant bearing" on the charges against her. *Codd* v. *Velger*, 429 U.S. 624, 627 (1977) (per curiam). She still has not done so. She describes (Opp. 36) the charges as "unsubstantiated, untested, and unaddressed," but such generic non-denials do not raise a factual dispute. Notably, she never says that the allegations are *false*, that she never claimed two principal residences at the same time, or that the two representations can somehow be reconciled. Instead, she once again promises—as she did during a month of prior rounds of briefing—that she will justify and explain her conduct at some future, unspecified date. That omission "is fatal" to her demand for a hearing. *Id.* at 627.

On top of that, the President provided enough process by publicizing the criminal referral against Cook, then waiting five days before removing her. See Appl. 18. She had the "opportunity to present [her] side of the story," *Loudermill*, 470 U.S. at 542, but still has chosen not to do so. She derides the charges as "manufactured" (Opp. 2), even as she refuses to explain the glaring inconsistency in her own mortgage documents. And she blames the emergency posture, even though any explanation lies obviously within her personal knowledge. When Congress makes principal officers removable "for cause" without prescribing any process, this Court should not allow them to evade removal—and trigger further constitutional concerns—by insisting upon a hitherto unspecified process that lower courts would presumably have to devise and implement in months of further litigation.

B. The Government Is Likely To Succeed On Cook's Substantive Claim

Cook devotes (Opp. 14-30) most of her brief to another theory that the court of appeals eschewed and that the district court justified differently: that "for cause"

means for in-office causes specified in *other* statutes, and that the President lacked cause to remove her because pre-office misconduct is not "cause" for removal. That statutory rewrite is wrong. Congress chose to allow removal "for cause," without specifying required causes. That gives the President discretion so long as he identifies a cause (which excludes policy disagreement). "Cause" in all events clearly encompasses Cook's apparent misconduct. Far from threatening economic ruin, that reading respects Congress's design for the Federal Reserve Board. Appl. 25-31.

Cook's argument proceeds from a basic misapprehension: She conflates statutes that specify particular causes for removal—like "inefficiency, neglect of duty, or malfeasance in office" (INM), *Humphrey's Executor* v. *United States*, 295 U.S. 602, 620 (1935) (quoting 15 U.S.C. 41)—with this statute, which prescribes removal "for cause" without further specification. That distinction is critical. The former class of statutes allows review of whether the specific causes are satisfied, as both sides' sources confirm. See Appl. 20-21; Opp. 17. But this Court's decision in *Reagan* establishes that, when a statute authorizes removal for cause *without* listing specific causes, the removing authority's determination of cause is "not reviewable." 182 U.S. at 425. More broadly, the Court's cases establish that judicial review "is not available when the statute in question commits the decision to the discretion of the President." *Dalton* v. *Specter*, 511 U.S. 462, 474 (1994). That describes the Federal Reserve Act's broad "cause" standard, and that resolves Cook's challenge on this score.

Cook argues (Opp. 15) that the officer in *Reagan* served an indefinite term, not a fixed term (like the fourteen-year Federal Reserve terms), and that the statute in *Reagan* authorized removal "for causes prescribed by law," not (as here) "for cause." But neither of those factors underpinned *Reagan*'s non-reviewability holding, which rested on the well-settled principle that, "[w]here the statute gives a power of removal

'for cause,' without any specification of the causes," "the exercise thereof can not be reviewed." *Reagan* v. *United States*, 35 Ct. Cl. 90, 105 (1900). That principle draws support from extensive authority establishing that, where a statute authorizes removal "'for cause'" without listing specific causes, the finding of cause "cannot be reviewed." Montgomery H. Throop, *A Treatise on the Law Relating to Public Offices* § 396, at 387 (1892); see Appl. 21. Cook's cases (Opp. 17) do not show otherwise. For example, one case involved a procedural rather than a substantive challenge, see *Board of Street Commissioners* v. *Williams*, 53 A. 923, 925 (Md. 1903); another involved a state law that authorized removal "only for certain causes," *Florida* v. *Henry*, 53 So. 742, 742 (Fla. 1910); and in a third case, it was "not pretended that there was any just cause for remov[al]," *Haight* v. *Love*, 10 Vroom 14, 22 (N.J. 1876).

Repackaging the same mistake, Cook interprets (Opp. 24-25) the term "for cause" to preclude the President from removing a Federal Reserve Governor for pre-office misconduct by conflating "for cause" with the INM standard that Congress has used in other statutes. Cook does not ground that interpretation in any dictionary definition of the term "cause," instead dismissing (Opp. 25) the usual definition, which requires a reason "'relating to the conduct, ability, fitness, or competence of the officer,'" Appl. App. 14a (Katsas, J., dissenting) (quoting *Black's Law Dictionary* (3d ed. 1933)).[2] Nor does she clearly explain her understanding of the relationship between the two standards, variously arguing that "cause" is more demanding than INM, see Opp. 21 ("cause" provides "at least as much protection as INM); that it is less demanding, see Opp. 23 ("inefficiency, neglect, and malfeasance in office [a]re the primary—though not only—forms of 'cause'"); and that the two are the same, see Opp.

[2] Contrary to Cook's assertion (Opp. 26), that definition is consistent with the understanding that policy disagreement is not cause. There is a difference between disagreeing with someone and concluding that her conduct renders her unfit to serve.

22 ("a for-cause standard equates to the INM standard").

Regardless, Cook's effort to equate "for cause" with INM flouts usual rules of statutory interpretation. This Court applies the words Congress enacted ("for cause"), not different words that one party prefers (INM). The Court ordinarily presumes that a difference in statutory language—"for cause" in the Federal Reserve Act, but "INM" in other laws—conveys a difference in statutory meaning. And the Court ordinarily requires Congress to state restrictions on the President's removal power in "very clear and explicit language." *Braidwood*, 145 S. Ct. at 2448.

Cook's interpretation of "for cause" also conflicts with this Court's cases, which recognize that a "'for cause' restriction" grants the President "*more* removal authority" than the INM standard. *Collins* v. *Yellen*, 594 U.S. 220, 225 (2021) (emphasis added). They also recognize that a removal involving an officer's "rectitude" is "a removal for cause," *Wiener* v. *United States*, 357 U.S. 349, 356 (1958), and that "the term 'good cause'" authorizes removal "for 'misconduct,'" *Morrison* v. *Olson*, 487 U.S. 654, 692 (1988). Cook contends (Opp. 28) that "those decisions did not turn on or definitively construe the meaning of 'for cause.'" But *Morrison* and *Wiener* adopted some of the narrowest views of presidential power in the Court's history; the notion that they *overstated* the President's removal power is implausible.

Cook's contrary arguments lack merit. Cook notes (Opp. 21-22) that Congress enacted the current for-cause provision in 1935, soon after *Humphrey's Executor*. But that undermines her interpretation by showing that "Congress deliberately chose a 'for cause' requirement over the stricter INM requirement that was famously at issue in *Humphrey's Executor*." Appl. App. 14a (Katsas, J., dissenting). Cook emphasizes (Opp. 23-24) that this Court has sometimes described removals for INM as removals for "cause." Of course it has: Inefficiency, neglect of duty, or malfeasance in office

are all causes, and so a removal for one of those reasons is a removal for cause. But the term "cause" encompasses other reasons for removal as well, including the misconduct at issue here. Cook invokes (Opp. 25 n.7) *Rex* v. *Richardson*, 97 Eng. Rep. 46 (K.B. 1758), but that case involved a "corporation['s]" "implied power to remove" its officers when its bylaws do not expressly address removal, *id.* at 434—not the President's power to remove principal officers of the United States under a statute authorizing removal "for cause."

Cook's interpretation would lead to absurd results. The President could not remove a Governor who is discovered "to have bribed a Senator to ensure confirmation" or "to have committed murder before taking office." Appl. App. 15a (Katsas, J., dissenting). Cook suggests (Opp. 24-25) that the President could still remove a Governor who is "convicted" of murder—not for being a murderer, but only because he "would struggle to carry out his in-office duties" while "incarcerated." But that would still leave unremovable a Governor who committed grave pre-office crimes for which the statute of limitations has run or who is convicted but only fined. Regardless, the President has found that Cook's pre-office misconduct likewise impairs her *current* ability to perform her in-office duties, for it imperils the American people's "confidence" in her "honesty" and "integrity." Appl. App. 29a.

Cook attacks a strawman in asserting (Opp. 25) that the government's interpretation would "destroy the Federal Reserve's historic independence." The government is not arguing that the President can remove a Governor based on policy disagreement or the mere desire to appoint someone else. Rather, the President has removed a Governor whose mortgage documents appear grossly negligent at best and criminally fraudulent at worst. The Federal Reserve's independence in no way depends on shielding Governors from the consequences of such misconduct. To the con-

trary, the financial community and the public regard the Federal Reserve Board as a trustworthy institution in part because such individuals historically have *not* served on it. Contra Opp. 28-29. Cook warns (Opp. 28-29) that courts must prophylactically cabin the Federal Reserve Act's "for cause" standard lest Presidents mask policy-based removals as removals for cause. But the "presumption of regularity" requires courts to presume that the President will properly discharge his duties, *United States* v. *Chemical Foundation*, 272 U.S. 1, 14 (1926), and "will not use statutorily prescribed removal causes as pretexts," *Bowsher* v. *Synar*, 478 U.S. 714, 739 n.3 (1986) (Stevens, J., concurring in the judgment). Regardless, the judicial task "is to apply the text, not to improve upon it." *Pavelic & LeFlore* v. *Marvel Entertainment Group*, 493 U.S. 120, 126 (1989).

C. The Government Is Likely To Succeed In Showing That Cook Is Not Entitled To Equitable Relief Restoring Her To Office

Unlike respondents in other removal cases, Cook does not challenge the "general rule" that "courts of equity have no jurisdiction * * * over the appointment and removal of public officers." *Harkrader* v. *Wadley*, 172 U.S. 148, 165 (1898). She instead presses (Opp. 37) a purported exception: that "a court sitting in equity" may "preserve the status quo in the context of an attempted removal." In other words, says Cook, as long as the ousted office-holder can still log into her computer or enter her office, the President's removal lacks effect and courts may enjoin the government from effectuating it. That position is meritless.

To start, this Court's precedents reject such an exception. Instead, they categorically hold that "a court of equity" has "no jurisdiction" "over the appointment and removal of public officers," *In re Sawyer*, 124 U.S. 200, 210 (1888); and that "a court of equity will not, by injunction, restrain an executive officer from making a wrongful

removal of a subordinate appointee," *White* v. *Berry*, 171 U.S. 366, 377 (1898). To be sure, the *dissent* in *Sawyer* disagreed, stating that in "rar[e]" cases, a court may grant "a temporary restraining order" to prevent "irremediable mischief" while the plaintiff awaits "the tardy remed[y] of *quo warranto*." 124 U.S. at 223 (Waite, C.J., dissenting). But the majority opinion flatly denied "the power of a court of equity to restrain by injunction the removal" of an officer. *Id.* at 212.

At a minimum, courts lack the power to issue preliminary injunctions preventing presidential removals of principal officers. Appl. 34-35. Even those members of the First Congress who thought removal required Senate consent agreed that the President could suspend officers pending Senate action. See *Myers* v. *United States*, 272 U.S. 52, 124-125 (1926). And this Court has suggested that the President may make a "suspensory removal" of a tenure-protected officer "until the Senate could act upon it by confirming the appointment of a new Commissioner or otherwise dealing with the matter." *Wiener*, 357 U.S. at 356. When principal officers challenge removal by the President, courts should presume that the removal should take effect—not that the officer should remain in place until courts resolve the removal's lawfulness.

Cook's contrary rule—that the "status quo" of office-holding should persist so long as no one effectuates the President's removal order—would encourage defiance and disruptive showdowns. Here, Cook explains (Opp. 37) that, after the President removed her, she ignored his decision and continued to "exercis[e] her duties" as though nothing had happened. Even when the district court declined to issue a temporary restraining order, she continued to "participat[e] fully in Federal Reserve business" (Opp. 8). Such conduct amounts to insubordination—itself a cause for removal. See *Collins*, 594 U.S. at 256. And Cook's approach would invite imitation; officers who resist their removal would win injunctions, but others who decline to act defi-

antly would receive no relief. That would create perverse incentives of the worst kind.

D. The Other Factors Support Granting A Stay

1. Cook argues (Opp. 11-13) that review is unwarranted because the underlying case arises in a preliminary-injunction posture lacking factual development. That is baseless. This case obviously involves a matter of national significance: the scope of the President's authority to remove principal officers for cause. This Court often grants review (and applications for interim relief) in this same posture. See, *e.g.*, *Noem* v. *Vasquez Perdomo*, No. 25A169 (2025); *Mahmoud* v. *Taylor*, 145 S. Ct. 2332, 2350 (2025). This stay application also raises pure questions of law—such as whether offices are property, whether the Federal Reserve Act requires notice and a hearing before a removal, whether the President's determination of cause is reviewable, and whether "cause" excludes pre-office misconduct. Cook cannot leverage the prospect of immaterial factual development to defeat a stay, especially when she is the one withholding facts by refusing to explain the evident and material inconsistency in her mortgage documents. Moreover, if this Court denies a stay now, an officer removed by the President might continue serving—in a uniquely important agency—for much of the President's term given the pace of ensuing litigation. The "interim status" of Cook's removal "*itself* raises a separate question of extraordinary significance" that should be resolved by this Court. *Labrador* v. *Poe*, 144 S. Ct. 921, 929 (2024) (Kavanaugh, J., concurring).

2. Contrary to Cook's contention (Opp. 39-40), the President suffers irreparable harm from the district court's order countermanding Cook's removal. The President has determined that, because Cook's misconduct undermines the American people's "confidence" in the Federal Reserve Board and "calls into question Cook's competence and trustworthiness as a financial regulator," "faithfully executing the

law requires [her] immediate removal from office." Appl. App. 29a. Preventing the President from making a removal that he deems necessary for the faithful execution of the laws is manifestly an irreparable harm. See, *e.g.*, *Morrison*, 487 U.S. at 690 (acknowledging that removal restrictions may not "interfere with" the President's "duty to 'take care that the laws be faithfully executed'").

In addition, this Court has determined that the government suffers irreparable harm "from an order allowing a removed officer to continue exercising the executive power." *Wilcox*, 145 S. Ct. at 1415. That is why it has stayed injunctions reinstating removed members of the National Labor Relations Board and Merit Systems Protection Board, see *ibid.*; the Consumer Product Safety Commission, see *Trump* v. *Boyle*, 145 S. Ct. 2653 (2025); and the Federal Trade Commission, see *Trump* v. *Slaughter*, No. 25A264 (Sept. 22, 2025). Cook distinguishes (Opp. 39) those cases on the ground that they involved removals based on the President's "policy" preferences, while this case involves a removal for cause. "But the harm to the government is surely *magnified* when the removal is based not on the President's policy preferences, but on serious accusations of misconduct that 'call into question' an officer's 'competence and trustworthiness.'" Appl. App. 20a (Katsas, J., dissenting) (brackets omitted).

Cook also faults (Opp. 39) the government for filing its stay application immediately after, rather than during, the Federal Open Market Committee's September 16-17 meeting. But that timing properly accounted for the Committee's and the public's interest in avoiding the disruption of an ongoing meeting. It also belies Cook's claim (Opp. 1) that her removal was "conveniently timed" to influence that meeting.

3. Finally, Cook argues (Opp. 40) that the balance of equities and public interest favor a stay because "[t]he American economy depends on Federal Reserve independence." As explained, however, this removal does not threaten that independ-

ence. The government agrees that policy disagreement is not "cause" for a Governor's removal. See p. 11, *supra*. Cook's contrary argument rests on the premise that her removal was pretextual. See, *e.g.*, Opp. 29. But courts ordinarily "do not look behind a facially valid justification to probe the mental states of the President." Appl. App. 15a (Katsas, J., dissenting); see *Trump* v. *Hawaii*, 585 U.S. 667, 702-704 (2018).

On the other side of the ledger, Congress, the President, and the public all have an interest in ensuring the honesty and integrity of government officials, including members of the Federal Reserve Board, and in safeguarding public confidence in the Board. The Federal Reserve System "no doubt *is* important, but that only heightens the government's interest in ensuring that its Governors are competent and capable of projecting confidence [t]o the markets." Appl. App. 21a (Katsas, J., dissenting). "And in empowering the President to remove Governors for cause, Congress has specifically assigned that task to the President." *Ibid.* Here, the President has determined that maintaining the American people's "full confidence in the honesty" of the Federal Reserve Board's members requires Cook's "immediate removal from office." Appl. App. 29a. The public has a powerful interest in giving effect to that determination.

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This Court should stay the preliminary injunction of the U.S. District Court for the District of Columbia pending the resolution of the government's appeal to the U.S. Court of Appeals for the D.C. Circuit and pending any proceedings in this Court.

Respectfully submitted.

D. JOHN SAUER
Solicitor General

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