

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.,
Respondents.

On Application to Stay the Preliminary Injunction of the United States
District Court for the District of Columbia and Request for Administrative Stay

**BRIEF *AMICUS CURIAE* OF THE
NEW CIVIL LIBERTIES ALLIANCE
IN SUPPORT OF APPLICATION TO STAY**

Jacob Huebert
Counsel of Record
Mark Chenoweth
NEW CIVIL LIBERTIES ALLIANCE
4250 N. Fairfax Dr., Suite 300
Arlington, VA 22203
Phone: (202) 869-5210
jacob.huebert@ncla.legal
Counsel for Amicus Curiae

TABLE OF CONTENTS

TABLE OF AUTHORITIES	ii
INTEREST OF THE AMICUS CURIAE	1
INTRODUCTION AND SUMMARY OF ARGUMENT	2
ARGUMENT	3
I. FEDERAL RESERVE BOARD GOVERNORS EXERCISE EXECUTIVE POWER	3
II. ARTICLE II FORBIDS CONGRESS FROM RESTRICTING THE PRESIDENT’S AUTHORITY TO REMOVE MEMBERS OF THE FEDERAL RESERVE BOARD OF GOVERNORS	6
A. Article II Mandatorily Vests All Executive Power in the President	7
B. The Executive Power Is the Power to Exercise the Nation’s Action, Strength or Force, Including Law-Executing Power	9
C. Absolute Removal Authority Is Essential for the President to “Take Care that the Laws Be Faithfully Executed”	11
D. Unlike the Constitution’s Appointments Authority, the Removal Authority Is Absolute	12
III. THE FEDERAL RESERVE IS NOT EXEMPT FROM THE CONSTITUTION	14
CONCLUSION	16

TABLE OF AUTHORITIES

	Page(s)
Cases	
<i>Collins v. Yellen</i> , 594 U.S. 220 (2021)	10
<i>Cunningham v. Neagle</i> , 135 U.S. 1 (1890)	7
<i>Fleming v. U.S. Dep’t of Agric.</i> , 987 F.3d 1093 (D.C. Cir. 2021)	8
<i>Free Enter. Fund v. PCAOB</i> , 561 U.S. 477 (2010)	8, 11, 12, 14
<i>Myers v. United States</i> , 272 U.S. 52 (1926)	7, 11
<i>Seila Law LLC v. CFPB</i> , 591 U.S. 197 (2020)	6, 7, 11, 14
<i>United States v. Arthrex, Inc.</i> , 594 U.S. 1 (2021)	8
Statutes	
12 U.S.C. § 242.....	3, 6
12 U.S.C. § 371b.....	4
15 U.S.C. § 1681m(e)(1)	4
15 U.S.C. § 41.....	2
Other Authorities	
1 Annals of Cong. 463 (1789).....	12
1 Annals of Cong. 582 (1789).....	13
Aditya Bamzai & Aaron L. Nielson, <i>Article II and the Federal Reserve</i> , 109 Cornell L. Rev. 843 (2024)	3, 4, 5
Daniel K. Tarullo, <i>The Federal Reserve and the Constitution</i> , 97 S. Cal. L. Rev. 1 (2024).....	15
Federal Reserve Board, <i>2024 Press Releases</i> (Feb. 4, 2025).....	5

James Madison (June 16, 1789), <i>in</i> 11 <i>Documentary History of the First Federal Congress</i> 868-69 (Charlene Bangs Bickford et al. eds., The Johns Hopkins Univ. Press 1992)	13
John Vining (May 19, 1789), <i>in</i> 10 <i>Documentary History of the First Federal Congress</i> 728 (Charlene Bangs Bickford et al. eds., The Johns Hopkins Univ. Press 1992)	13
Philip Hamburger, <i>Delegating or Divesting?</i> , 115 Nw. L. Rev. Online 88 (2020)	9
Philip Hamburger, <i>Nondelegation Blues</i> , 91 Geo. Wash. L. Rev. 1083 (2023)	9
The Federalist No. 78 (Alexander Hamilton)	9

Regulations

12 C.F.R. § 205.4	4
12 C.F.R. § 206.4	4
12 C.F.R. § 211.3	4
12 C.F.R. § 235.4	4
68 Fed. Reg. 13,144 (Mar. 18, 2003)	4

Constitutional Provisions

U.S. Const. art. I, § 8, cl. 5	15
U.S. Const. art. II, § 1	9
U.S. Const. art. II, § 1, cl. 1	2, 7
U.S. Const. art. II, § 2, cl. 2	12
U.S. Const. art. II, § 3	2, 10, 11

INTEREST OF THE AMICUS CURIAE¹

The New Civil Liberties Alliance (“NCLA”) is a nonpartisan, nonprofit civil rights organization and public-interest law firm devoted to defending constitutional freedoms from the administrative state’s depredations. Professor Philip Hamburger founded NCLA to challenge multiple constitutional defects in the modern administrative state through original litigation, *amicus curiae* briefs, and other advocacy.

The “civil liberties” of the organization’s name include rights at least as old as the U.S. Constitution itself, such as jury trial, due process of law, and the right to have laws made by the nation’s elected lawmakers through constitutionally prescribed channels (*i.e.*, the right to self-government). These selfsame civil rights are also very contemporary—and in dire need of renewed vindication—precisely because Congress, the President, federal agencies, and sometimes even the Judiciary, have neglected them for so long. NCLA aims to defend these civil liberties—primarily by advocating for constitutional constraints on the administrative state.

Although the American people still enjoy the shell of their Republic, there has developed within it a very different sort of government—a type, in fact, that the Constitution was designed to prevent. This unconstitutional administrative state within the Constitution’s United States is the focus of NCLA’s concern.

¹ No counsel for a party authored this brief in whole or in part, and no person other than *amicus* or its counsel made a monetary contribution to its preparation or submission.

NCLA is particularly disturbed in this case by Congress’s flouting of the Constitution’s Separation of Powers by infringing the President’s absolute authority to remove members of the Board of Governors of the Federal Reserve System. By limiting the President’s authority to remove members solely “for cause,” 12 U.S.C. § 242, Congress improperly and unconstitutionally usurps power that the Constitution vests in the President alone and compels the President to act contrary to his judgment in “tak[ing] Care that the Laws be faithfully executed.” U.S. Const. art. II, § 3.

INTRODUCTION AND SUMMARY OF ARGUMENT

The Board of Governors of the Federal Reserve exercises executive power. It promulgates regulations—using the same notice-and-comment rulemaking procedures as other federal agencies—and it enforces them, imposing penalties, including fines, on violators.

Because the Board’s members exercise executive power, the President has the absolute authority to remove them—at any time, for any reason. That is because Article II of the Constitution vests *all* executive power in the President, U.S. Const. art. II, § 1, cl. 1—which means that anyone else exercising executive power does so in the President’s stead. And that is true regardless of the quantity or quality of the executive power that an agency or official possesses. The President’s absolute removal power is essential to his fulfillment of his duty to “take Care that the Laws be faithfully executed.” U.S. Const. art. II, § 3.

Nonetheless, Congress has purported to limit the President’s power to remove members of the Board of Governors with a “for cause” requirement. 12 U.S.C. § 242. That putative restriction violates the Vesting Clause of Article II of the Constitution and therefore should be of no effect. The Federal Reserve and its governors are not exempt from the Constitution and may not operate unaccountably outside the structure of government it establishes.

ARGUMENT

I. FEDERAL RESERVE BOARD GOVERNORS EXERCISE EXECUTIVE POWER

The Federal Reserve Board of Governors exercises executive power. Notwithstanding its supposed “independence” from the rest of the federal government, the Board promulgates and enforces regulations, just like the myriad other federal agencies that exercise executive power.

Indeed, the Board has become “one of the nation’s most important financial and consumer-protection regulators,” as it “implements more than thirty statutes through rulemaking.” Aditya Bamzai & Aaron L. Nielson, *Article II and the Federal Reserve*, 109 Cornell L. Rev. 843, 887 (2024). For example, among other things, the Board

- “establishes reserve requirements that apply for all banks,” *id.* at 861 (quoting *The Fed Explained: What the Central Bank Does* 38 (11th ed. 2021) [hereinafter *The Fed Explained*]) (citing 12 U.S.C. § 3105(a)(1) (granting authority to impose reserve requirements on federal and state branches of

foreign banks); 12 C.F.R. § 204.1(c) (imposing reserve requirements on various banks));

- enacts regulations to ensure financial institutions’ financial soundness, *id.* at 862 (citing *The Fed Explained* at 63);
- promulgates consumer-protection and “community reinvestment” regulations, *id.* at 863—for example, under the Fair Credit Reporting Act, *see* 15 U.S.C. § 1681m(e)(1) (authorizing regulations to prevent identity theft), and the Dodd-Frank Act, *see, e.g.*, 12 C.F.R. § 235.4 (restricting debit-card fees);
- regulates member banks’ advertisement of rates of interest on deposits, 12 U.S.C. § 371b;
- may modify or suspend member banks’ authority to establish foreign branches, 12 C.F.R. § 211.3;
- restricts banks’ permissible credit exposure, 12 C.F.R. § 206.4;
- regulates credit evaluations of borrowers that banks may perform, 68 Fed. Reg. 13,144, 13,147 (Mar. 18, 2003), and related recordkeeping to “monitor compliance,” *id.* at 13,167-68; and
- regulates consumer disclosures regarding electronic funds transfers, 12 C.F.R. § 205.4.

See generally Bamzai & Nielson, *supra*, at 887, 905-08.

The Board of Governors not only promulgates regulations—through the same notice-and-comment rulemaking procedure as other federal agencies, under the Administrative Procedure Act—but it also enforces them. It imposes penalties,

including fines, on entities that it regulates for violations of its rules. For example, in 2024, among other enforcement actions, the Board “fine[d] Toronto-Dominion Bank \$123.5 million for violations related to anti-money-laundering laws,” fined Green Dot \$44 million for what it called “numerous unfair and deceptive practices and a deficient consumer compliance risk management program,” and fined Citigroup \$60.6 million for violating the terms of a previous enforcement action by the Board. *See* Federal Reserve Board, *2024 Press Releases* (collecting announcements of major enforcement actions).²

“The power to promulgate regulations and issue fines”—which the Fed Board of Governors exercises—“clearly requires *executive* power under the Court’s modern precedent.” Bamzai & Nielson, *supra*, at 905 (emphasis added) (citing *Dep’t of Transp. v. Ass’n of Am. R.Rs.*, 575 U.S. 43, 58 (2015) (Alito, J., concurring) (power to create mandatory standards “obviously regulatory”); *Free Enter. Fund v. Pub. Co. Acct. Oversight Bd.*, 561 U.S. 477, 485 (2010) (PCAOB members subject to Article II because PCAOB “promulgates ... standards” and imposes sanctions); *Buckley v. Valeo*, 424 U.S. 1, 137-39 (1976) (“rulemaking” and “functions necessary to ensure compliance with the statute and rules” fall within scope of Article II)).

Thus, the Board of Governors “wields ‘substantial’ executive power in the same way that the Director of the [Consumer Financial Protection Bureau] does.” *Id.* at 892. “Indeed, the Board of Governors and the CFPB may jointly issue consumer-protection regulations.” *Id.* at 892 & n.325 (citing, as an example, Press Release, Bd.

² <https://www.federalreserve.gov/newsevents/pressreleases/2024-press.htm> (Feb. 4, 2025).

of Governors of the Fed. Rsrv. Sys., Agencies Issue Final Amendments to Regulation CC Regarding Funds Availability (Jun. 24, 2019) ³). And this Court held that the CFPB Director exercises executive power and is thus subject to removal by the President notwithstanding the CFPB’s putative “independent” status in *Seila Law LLC v. Consumer Financial Protection Bureau*, 591 U.S. 197 (2020). There is no basis for treating the Board of Governors any differently.

Because the Board of Governors exercises executive power, the President may remove any of its members, just as he may remove any executive-branch official, exercising the authority that Article II of the Constitution grants him. If the Board of Governors no longer had rulemaking and enforcing authority, perhaps because Congress cleaved such executive power responsibilities from the Board, whether the President could then remove a member of the Board of Governors for any reason or no reason would present a closer question than the one the Court confronts today.

II. ARTICLE II FORBIDS CONGRESS FROM RESTRICTING THE PRESIDENT’S AUTHORITY TO REMOVE MEMBERS OF THE FEDERAL RESERVE BOARD OF GOVERNORS

By statute, the President may remove a duly appointed member of the Federal Reserve Board of Governors only “for cause.” 12 U.S.C. § 242. That statute violates the Vesting Clause of Article II of the Constitution, however, because, as shown above, the Board possesses and exercises executive power—which, as shown below, means that the President possesses an absolute and unqualified power to remove its members.

³ <https://perma.cc/4FJS-W7VU>.

A. Article II Mandatorily Vests All Executive Power in the President

Article II of the Constitution provides that “[t]he executive Power shall be vested in a President of the United States of America.” U.S. Const. art. II, § 1, cl. 1. That language vests one person, “*a* President” with “*the* executive Power”—not “most” executive power, not “some” executive power, but “*the* executive power” in its entirety. As this Court held in *Seila Law*, 591 U.S. at 203: “Under our Constitution, the ‘executive Power’—all of it—is ‘vested in a President,’”

Of course, the President cannot execute the laws all by himself; he must rely on subordinates to do most of the execution. See *Myers v. United States*, 272 U.S. 52, 134 (1926); *Cunningham v. Neagle*, 135 U.S. 1, 63-64 (1890). Yet the President, by using subordinate officers or employees, does not irretrievably delegate away his “executive power.” Rather, that power remains fully and permanently vested in the President. As this Court held in *Seila Law*, the President maintains the authority to “supervise and remove the agents who wield executive power in his stead.” 591 U.S. at 238.

Such removal authority is essential for the President to control the executive branch and thus exercise the executive power that the Constitution gives to him alone. As the Court explained in *Myers*, “The imperative reasons requiring [the President to possess] an unrestricted power to remove the most important of his subordinates ... must therefore control the interpretation of the Constitution as to *all* appointed by him.” 272 U.S. at 134 (emphasis added); see also *Seila Law*, 591 U.S. at 238 (“In our constitutional system, the executive power belongs to the President, and

that power generally includes the ability to supervise and remove the agents who wield executive power in his stead.”); *Free Enter. Fund*, 561 U.S. at 483 (“Since 1789, the Constitution has been understood to empower the President to keep ... officers accountable—by removing them from office, if necessary.”); *Fleming v. U.S. Dep’t of Agric.*, 987 F.3d 1093, 1114 (D.C. Cir. 2021) (Rao, J., concurring-in-part and dissenting-in-part) (“Article II executive power necessarily includes the power to remove subordinate officers, because anything traditionally considered to be part of the executive power ‘remained with the President’ unless ‘expressly taken away’ by the Constitution.”) (quoting Letter from James Madison to Thomas Jefferson (June 30, 1789)).

The vast growth of the administrative state over recent decades makes the President’s exclusive, absolute removal power all the more vital. See *United States v. Arthrex, Inc.*, 594 U.S. 1, 11 (2021) (“Today, thousands of officers wield executive power on behalf of the President in the name of the United States. That power acquires its legitimacy and accountability to the public through ‘a clear and effective chain of command’ down from the President, on whom all the people vote.”) (quoting *Free Enter. Fund*, 561 U.S. at 498). If the President cannot hold these others who exercise executive power ultimately accountable via removal, then they are acting outside the structure of government provided by the Constitution and are effectively accountable to no one.

B. The Executive Power Is the Power to Exercise the Nation’s Action, Strength or Force, Including Law-Executing Power

The “executive power” is much broader than merely the power to execute the laws. Undoubtedly, such power includes the execution of law, but at the Founding it was understood as also including the nation’s action, strength, or force. This more expansive foundation reinforces and broadens the conclusion that the President’s “executive power” includes the authority to remove subordinates at will.

An understanding of executive power as the “nation’s action, strength, or force” was a familiar concept at the time of the Founding. See Philip Hamburger, *Delegating or Divesting?*, 115 Nw. L. Rev. Online 88, 110-16 (2020). For example, Jean-Jacques Rousseau associated executive power with society’s “force,” and Thomas Rutherford defined it as society’s “joint strength.” *See id.* at 112; *see also generally* Philip Hamburger, *Nondelegation Blues*, 91 Geo. Wash. L. Rev. 1083, 1122-25 (2023). As Alexander Hamilton explained, the Constitution divides the government’s powers into those of “Force,” “Will,” and “Judgment”—that is, executive force, legislative will, and judicial judgment. The Federalist No. 78, at 523 (Alexander Hamilton) (Cooke ed., 1961).

This vision of executive power extended beyond mere law enforcement. Conceiving of the executive power in this way has the advantage of, for example, explaining the President’s power in foreign policy, which cannot easily be understood as mere law enforcement. The Constitution’s adoption of this broad vision of executive power is clear from its text—in particular, from the contrast between the President’s “executive Power,” U.S. Const. art. II, § 1, and his duty to “take Care that the Laws

be faithfully executed,” *id.* § 3. Article II frames the President’s authority in terms of executive power, not merely “executing the law.” The latter is merely a component of the former, which on one hand is limited by the requirement that the President “take Care that the Laws be faithfully executed,” but also includes the “nation’s action, strength, or force.”

It follows that the more expansive the definition of “executive power,” the broader the concomitant authority to remove executive officials must be. Because the Constitution vests in the President the “nation’s action strength, or force,” it follows that he must have sufficient authority to remove people whom he views as undermining that strength or lacking in action or forcefulness.

The second foundation matters not only because it is the more accurate understanding of the President’s executive power but also because it clarifies the breadth of the President’s removal authority. His law-executing authority, which is part of his executive power, reveals that he can hire and fire subordinates engaged in law enforcement. And his executive power—understood more fully as the nation’s action or force—shows that he can also hire and fire all other sorts of subordinates. *See Collins v. Yellen*, 594 U.S. 220, 256 (2021) (“The President must be able to remove not just officers who disobey his commands but also those he finds negligent and inefficient, those who exercise their discretion in a way that is not intelligent or wise, those who have different views of policy, those who come from a competing political party who is dead set against the President’s agenda, and those in whom he has simply lost confidence.”) (cleaned up). The ability to remove subordinates at will is

thus inherently part of the President’s extensive executive power. *See Seila Law*, 591 U.S. at 238; *Free Enter. Fund*, 561 U.S. at 483; *Myers*, 272 U.S. at 134.

C. Absolute Removal Authority Is Essential for the President to “Take Care that the Laws Be Faithfully Executed”

In addition, the President’s absolute removal authority is the primary means by which he may fulfill his duty under Article II, Section 3, to “take Care that the Laws be faithfully executed.” Although the President must delegate much of his authority to carry the laws into execution, as discussed above, he may *not* delegate his duty to “take Care that the Laws be faithfully executed.” It follows that the President must hold the power to remove individuals who, in his view, do not help him fulfill, or worse yet, undermine his duty of faithful execution of the nation’s laws. Put another way, the President cannot “take Care that the Laws be faithfully executed” if he cannot enforce the faithfulness of the officers who execute them.

If such subordinates are essential for enforcing the law, then the Constitution must also “empower the President to keep these officers accountable—by removing them from office, if necessary.” *Free Enter. Fund*, 561 U.S. at 483. Only the threat of removal allows the President to exercise ultimate control over stubborn subordinates, ensuring that through *their* actions or inactions, *he* doesn’t fail in *his* duty “to take Care that the Laws” are faithfully executed. “[T]o hold otherwise would make it impossible for the President, in case of political or other difference with the Senate or Congress, to take Care that the Laws be faithfully executed.” *Myers*, 272 U.S. at 164. *See, e.g., Free Enter. Fund*, 561 U.S. at 498 (“[E]xecutive power without the Executive’s oversight ... subverts the President’s ability to ensure that the laws are

faithfully executed—as well as the public’s ability to pass judgment on his efforts”); *id.* at 513 (“The Constitution that makes the President accountable to the people for executing the laws also gives him the power to do so.”).

D. Unlike the Constitution’s Appointments Authority, the Removal Authority Is Absolute

Although the President’s executive power includes both appointments and removal authority, the Constitution treats them differently. Article II modifies and delimits the President’s power of appointments, but it leaves the removal power unconstrained.

Madison stated in the first Congress that “[i]f any power whatsoever is in its nature Executive, it is the power of appointing, overseeing, and controlling those who execute the laws.” 1 Annals of Cong. 463 (1789). Article II, however, distinguished between the President’s executive power as to appointments and as to removal.

It limited his appointment authority. To appoint “Ambassadors, other public Ministers and Consuls, Judges of the [S]upreme Court, and all other Officers of the United States,” the President must obtain “the Advice and Consent of the Senate.” U.S. Const. art. II, § 2, cl. 2.

Conversely, Article II remains silent about removal, thereby leaving the President’s executive removal power entirely unlimited. As explained in 1789 by Representative John Vining of Delaware:

[T]here were no negative words in the Constitution to preclude the president from the exercise of this power, but there was a strong presumption that he was invested with it; because, it was declared, that all executive power should be vested in him, except in cases where it is otherwise qualified; as, for example, he could not fully exercise his

executive power in making treaties, unless with the advice and consent of the Senate—the same in appointing to office.

John Vining (May 19, 1789), in 10 *Documentary History of the First Federal Congress* 728 (Charlene Bangs Bickford et al. eds., The Johns Hopkins Univ. Press 1992).

James Madison was equally emphatic. When it was suggested that Congress should limit the President’s executive power over removal by requiring Senate approval, Madison responded:

The constitution affirms, that the executive power shall be vested in the president: Are there exceptions to this proposition? Yes there are. The constitution says that, in appointing to office, the senate shall be associated with the president, unless in the case of inferior officers, when the law shall otherwise direct. Have we a right to extend this exception [to removals]? I believe not. If the constitution has invested all executive power in the president, I venture to assert, that the legislature has no right to diminish or modify his executive authority.

James Madison (June 16, 1789), in 11 *Documentary History of the First Federal Congress* 868-69 (Charlene Bangs Bickford et al. eds., The Johns Hopkins Univ. Press 1992). Similarly, rejecting limits on removals, Madison said that although the power of appointment “be qualified in the Constitution, I would not extend or strain that qualification beyond the limits precisely fixed for it.” 1 *Annals of Cong.* 582 (1789) (quoted in *Myers*, 272 U.S. at 128).

In 1789, the First Congress rejected efforts to statutorily limit the President’s removal authority, in what is misleadingly called “The Decision of 1789.” This framing inaccurately suggests the President owes his unlimited removal authority to Congressional acquiescence. In fact, the Constitution’s text and structure establish the President’s absolute removal authority—by granting the President executive

power without qualifying his executive removal authority. The 1789 debate, thus, merely confirmed the contemporaneous understanding of the Constitution.

This Court has recognized the import of this history, noting, for instance, in *Free Enterprise Fund* that “[s]ince 1789, the Constitution has been understood to empower the President to keep ... officers accountable—by removing them from office, if necessary.” 561 U.S. at 483. *See also Seila Law*, 591 U.S. at 238 (“In our constitutional system, the executive power belongs to the President, and that power generally includes the ability to supervise and remove the agents who wield executive power in his stead.”).

In short, at the time of the Founding, it was clearly understood that the President’s unlimited removal power differed from, and stood in contrast to, his somewhat cabined power of making appointments.

III. THE FEDERAL RESERVE IS NOT EXEMPT FROM THE CONSTITUTION

The preceding sections present a simple syllogism: Fed Governors exercise executive power; the President has the absolute authority to remove anyone who exercises executive power; therefore, the President may remove a Fed Governor without cause, notwithstanding a statute that says otherwise. The only way to avoid this logical conclusion is to identify or create an exception to the constitutional rule for the Fed. But there is no constitutional basis to recognize such an exception.

Some argue that the Fed must maintain strict independence to serve the nation’s economic interests. *See, e.g., Br. of Amici Curiae Experts on Law, Finance, & Economics*. But that is an argument about public policy, not an argument about

what the Constitution requires. As a legal scholar who is also a former Fed Governor has written, “[w]hatever the policy merits of this argument ... it is not grounded in the Constitution. There is nothing [in the Constitution’s text] stating, or even implying, a different separation of powers principle for central banking.” Daniel K. Tarullo, *The Federal Reserve and the Constitution*, 97 S. Cal. L. Rev. 1, 95 (2024). The Constitution grants Congress the power “[t]o coin Money, regulate the Value thereof,” U.S. Const. art. I, § 8, cl. 5—but that is plainly *not* a power to create an agency that operates outside the structure of government the Constitution creates, whose officials are accountable to no one.

Those who insist on absolute Fed independence might believe that the Founders would have been wiser to establish a wholly independent, unaccountable fourth branch to oversee the nation’s money supply and banking—just as many have believed that public policy in many areas would be better made and enforced by “experts” rather than by democratically elected officeholders. But, for good reasons, the Constitution the Founders devised includes no fourth branch—and this Court therefore must not tolerate Congress’s attempt to create one by shielding members of the Federal Reserve Board of Governors from being subject to at-will removal by the President.

CONCLUSION

The Court should grant the Government's application.

Respectfully submitted,

/s/ Jacob Huebert

Jacob Huebert

Counsel of Record

Mark Chenoweth

NEW CIVIL LIBERTIES ALLIANCE

4250 N. Fairfax Drive, Ste. 300

Arlington, VA 22203

(202) 869-5210

jacob.huebert@ncla.legal

Counsel for Amicus Curiae

October 29, 2025