



Industry Unites With Industry-Funded Political Groups To Argue SCOTUS Should Do Away With Consumer Financial Protection Bureau.

Executive Summary

The vast majority of amicus curiae briefs filed in support of Seila Law before the Supreme Court were not filed by parties uniquely interested in lofty, constitutional questions about the Bureau's leadership structure. Nor were they filed by unbiased public officials merely concerned about a supposedly "[rogue agency](#)."

The fact is that these briefs were filed mostly by parties with an axe to grind against an agency that attempted to rein in their misdeeds or their enablers who work in lockstep with the industries that bankroll their campaigns and research.

Of the 23 briefs filed in support of the petitioner Seila Law, at least 18 – or 78% – were drafted by CFPB-regulated entities, Republican politicians who have taken campaign contributions from or publicly supported those CFPB-regulated industries, or think tanks and legal foundations funded by industry money or led by industry insiders.

Petitioners who say they're concerned about "Constitutional issues" include:

- Seila Law Who Attacked The CFPB As Unconstitutional After It Sought Documents Related To The Law Firm [Allegedly Misrepresenting Debt Relief Services While Violating Federal Telemarketing Laws](#).
- [Roni Dersovitz And His Associated Companies](#) Who Were [Sued By CFPB And the New York Attorney General](#) For "Allegedly Scamming 9/11 Heroes Out Of Money Intended To Cover Medical Costs, Lost Income, And Other Critical Needs."
- Payday Lender Mike Hodges And His Business Who [Spent \\$350,000 On Lobbying Efforts](#) To Get The Trump Administration To Ease The CFPB's Payday Lending Regulations.
- A Group Of Republican Members of Congress Who Received Nearly \$68 Million From CFPB-Regulated Industry Donors
- Competitive Enterprise Institute Whose [Annual Dinner Was Sponsored By A Major Payday Trade Group](#).

These parties are not concerned with what the CFPB *is*, they are concerned with what the CFPB *does* – regulate the consumer finance space and take on companies that try to harm consumers.

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**More Than 75% Of The Amicus Briefs Filed In Seila Law V. CFPB
Were Drafted By Industry, Republican Politicians, Or Industry-**

Connected Think Thanks—And All Those Who Mentioned The CFPB’s Structure Argued That It’s Unconstitutional.

78% Of The Amicus Briefs Filed In Seila Law V. CFPB Were Drafted By Industry, Republican Politicians, Or Corporate-Sponsored Think Tanks And Legal Foundations.

Out Of The 23 Amicus Briefs Filed In Seila Law v. CFPB, 18 Were Drafted By Industry, Republican Politicians, Or Corporate-Sponsored Think Tanks And Legal Foundations. [[“Seila Law LLC, Petitioner v. Consumer Financial Protection Bureau,”](#) United States Supreme Court, accessed 01/06/20]

A “Bevy” Of “Business Groups,” Congressional Republicans, “Defendants In CFPB Proceedings,” And “Conservative And Libertarian Groups” Submitted Amicus Briefs Arguing Against The Constitutionality Of The CFPB’s Structure. “A bevy of business groups, including trade associations for consumer financial institutions regulated by the CFPB; Republicans in both the U.S. House and Senate; defendants in CFPB proceedings and conservative and libertarian groups told the Supreme Court that they agree with Seila Law that the CFPB’s structure is unconstitutional because the bureau’s lone director cannot be removed by the president except for good cause.” [Alison Frankel, [“At SCOTUS, business groups and lawmakers cast doubt on DOJ’s proposed easy fix for CFPB,”](#) *Reuters*, 12/17/19]

Industry

Seila Law, A Law Firm Tied To Known Bad Actors, Brought Its Case Against The CFPB After The Bureau Filed A Civil Investigative Demand Against Them For Allegedly “Engaging In Unlawful Acts Or Practices In The Advertising, Marketing, Or Sale Of Debt Relief Services Or Products.”

In October 2019, The Supreme Court Announced It Would Hear A Case Challenging The Constitutionality Of The CFPB’s Single Director Structure Brought By Seila Law.

In October 2019, The Supreme Court Announced It Would Hear Seila Law’s Case Arguing That The CFPB’s Single Director Structure “Grants Too Much Power To Its Director, In Violation Of The Constitution’s Separation Of Powers.” “The Supreme Court on Friday announced that it will hear a case challenging the constitutionality of the Consumer Financial Protection Bureau, a regulatory agency established in the wake of the 2008 financial crisis. The case was brought by Seila Law, a California-based law firm, which alleges that the structure of the agency grants too much power to its director, in violation of the Constitution’s separation of

powers.” [Tucker Higgins, “[Supreme Court will hear challenge to Consumer Financial Protection Bureau](#),” *CNBC*, 10/18/19]

In May 2019, Seila Law Was Defeated In Its Case Against The CFPB In The 9th U.S. Circuit Court Of Appeals. “In May, the CFPB defeated Seila Law before a panel of the 9th U.S. Circuit Court of Appeals.” [Tucker Higgins, “[Supreme Court will hear challenge to Consumer Financial Protection Bureau](#),” *CNBC*, 10/18/19]

When The CFPB Began Investigating If Seila Law “Violated Federal Telemarketing Laws,” The Firm Objected To The CFPB’s Request For Documents And Information And Argued The Bureau’s Single Director Structure Was Unconstitutional. “When the CFPB began an investigation into whether Seila had violated federal telemarketing laws, it sought information and documents from the firm. Seila objected to the request. It argued that the structure of the CFPB is unconstitutional because the bureau is headed by a single director, who has significant power but can only be removed by the president ‘for cause’ – that is, for a very good reason.” [Amy Howe, “[Justices to review constitutionality of CFPB structure](#),” *SCOTUSblog*, 10/18/19]

Seila Law Had Challenged A 2017 CFPB Civil Investigative Demand (CID) Investigating Whether “Debt Relief Providers, Lead Generators, Or Other Unnamed Persons” Were “Engaging In Unlawful Acts Or Practices In The Advertising, Marketing, Or Sale Of Debt Relief Services Or Products.”

In February 2017, The CFPB Issued A Civil Investigative Demand Against Seila Law, LLC, To Determine If “Debt Relief Providers, Lead Generators, Or Other Unnamed Persons” Were “Engaging In Unlawful Acts Or Practices In The Advertising, Marketing, Or Sale Of Debt Relief Services Or Products.” On February 27, 2017, the Consumer Financial Protection Bureau (CFPB) issued a Civil Investigative Demand against Seila Law, LLC: “to determine whether debt relief providers, lead generators, or other unnamed persons are engaging in unlawful acts or practices in the advertising, marketing, or sale of debt relief services or products, including but not limited to debt negotiation, debt elimination, debt settlement, and credit counseling, in violation of Sections 1031 and 1036 of the Consumer Financial Protection Act of 2010, 12 U.S.C. §§ 5531, 5536; 12 U.S.C. § 5481 et seq., the Telemarketing Sales Rule, 16 C.F.R. § 310.1 et seq., or any other Federal consumer financial law.” [[Order Granting in Part Petition to Enforce Civil Investigative Demand \(Doc.1\), CFPB v. Seila Law, LLC](#), Case No. 8:17-cv-01081-JLS-JEM, 08/25/17]

Seila Law Has Claimed In Its Briefs That It Provides “A Variety Of Legal Services To Consumers, Including Assistance With The Resolution Of Consumer Debt.” “[...] Seila Law, a law firm that provides, according to its briefs, ‘a variety of legal services to consumers, including assistance with the resolution of consumer debt.’” [Amy Howe, “[Justices to review constitutionality of CFPB structure](#),” *SCOTUSblog*, 10/18/19]

Seila Law Claims On Its Website That It Is A “Consumer Advocacy Law Practice Which Prides Itself In Providing A Full Suite Of Affordable Legal Services To Individuals

Nationwide.” “Seila Law, LLC is a consumer advocacy law practice which prides itself in providing a full suite of affordable legal services to individuals nationwide.” [[Home](#), Seila Law LLC, accessed 10/24/19]

In 2017, A Federal Judge “Called Out Seila Law For Using Ellipses” In Trying To Argue That The CFPB Omitted Key Information About Its Investigation Against The Firm.

In 2017, U.S. District Judge Josephine Staton “Called Out Seila Law For Using Ellipses In Trying To Persuade The Court That The CFPB Had Failed To Provide Adequate Notice” In Its Civil Investigative Demand Against The Firm. “A California law firm was unable to persuade a federal judge in Santa Ana that the Consumer Financial Protection Bureau had gone on an ‘impermissible fishing expedition’ in seeking the firm’s debt-relief records. U.S. District Judge Josephine Staton called out Seila Law for using ellipses in trying to persuade the court that the CFPB had failed to provide adequate notice, the National Law Journal (sub. req.) reports.” [Debra Cassens Weiss, “[Federal judge calls out law firm for 'cleverly' using ellipses,](#)” *ABA Journal*, 08/30/17]

Judge Staton Said, “Seila Law Cleverly Uses Ellipses,” But “What Seila Law Omits Through Ellipses Provides The Fair Notice That It Supposedly Seeks.” “Seila Law cleverly uses ellipses’ to suggest the notice in the civil investigative demand was inadequate, Staton wrote. ‘But what Seila Law omits through ellipses provides the fair notice that it supposedly seeks.’ Seila Law’s brief had quoted from the civil investigation demand.” [Debra Cassens Weiss, “[Federal judge calls out law firm for 'cleverly' using ellipses,](#)” *ABA Journal*, 08/30/17]

Through Its Ellipses, Seila Law Omitted Who Among Its Staff Was Being Investigated, What Type Of Services Was Being Investigated, And What Specific Laws It Was Being Investigated For. Seila Law’s brief “Omitted that the types of persons being investigated included debt relief providers and lead generators. [...] Omitted that the type of debt relief services being investigated included debt negotiation, debt elimination, debt settlement, and credit counseling. [...] Omitted a recitation of the specific laws possibly being violated.” [Debra Cassens Weiss, “[Federal judge calls out law firm for 'cleverly' using ellipses,](#)” *ABA Journal*, 08/30/17]

The Judge “Rejected Seila Law’s Argument That The Structure Of The CFPB Is Unconstitutional,” Ruling That The Firm “Relied On A Now-Vacated Decision” She “Continues To Find Unpersuasive.” “Staton also rejected Seila Law’s argument that the structure of the CFPB is unconstitutional. Staton said Seila Law had relied on a now-vacated decision by the U.S. Court of Appeals for the D.C. Circuit that she ‘continues to find unpersuasive.’ Staton had previously rejected a constitutional challenge.” [Debra Cassens Weiss, “[Federal judge calls out law firm for 'cleverly' using ellipses,](#)” *ABA Journal*, 08/30/17]

Previously, In February 2016, The CFPB Found That Seila Law Was “Founded Just Weeks After” Affiliated Firms Were Ordered To Stop Certain Illegal Practices— And The Bureau Requested That Seila Law

Be Held In Contempt Of Court, Claiming The Firm Was Working “In Active Concert” With Those Affiliated Firms.

In February 2016, The Bureau Sought To Hold Seila Law, “Founded Just Weeks After” Affiliated Firms Were Ordered To Stop Illegal Practices, In Contempt For Violating Court Orders By Acting In “Active Concert And Participation With” Firms That Were Forbidden To Keep Charging Illegal Up-Front Fees. “The Bureau also seeks an Order holding attorney Aissac Seila Aiono and his law firm, Seila Law, LLC (‘Seila Law’), in contempt for violating the Court’s Orders. The clear and convincing evidence demonstrates that the Attorneys have— *for over six months*—continued to engage in conduct expressly forbidden by Orders of this Court, of which the Attorneys had actual notice, and that Mr. Aiono and Seila Law, founded just weeks after the Court confirmed that the Attorneys can no longer charge up-front fees for debt relief services, have acted in active concert and participation with Howard and his firms.”

[[Memorandum, CFPB v. Morgan Drexen, Inc.](#), Case No. Case No. SACV13-01267 JLS (JEMx), 02/18/16]

- **“The Attorneys” Were “Vincent Howard, Howard Law, PC, and Williamson & Howard, LLP”** [[Memorandum, CFPB v. Morgan Drexen, Inc.](#), Case No. Case No. SACV13-01267 JLS (JEMx), 02/18/16]

The CFPB Requested That A U.S. District Court Hold Seila Law And Aissac Aiono In Contempt And Impose Monetary Sanctions On Them. “For the foregoing reasons, the Bureau respectfully requests that the Court grant its *ex parte* application and enter an Order holding Vincent Howard, Howard Law, PC, Williamson & Howard, LLP, Aissac Aiono, and Seila Law, LLC in contempt, and imposing coercive and compensatory monetary sanctions.”

[[Memorandum, CFPB v. Morgan Drexen, Inc.](#), Case No. Case No. SACV13-01267 JLS (JEMx), 02/18/16]

Harpeth Financial Services Argues That The CFPB’s Structure Violates Constitutional Separation Of Powers, But They’ve Also Spent \$350,000 Lobbying On The CFPB’s Payday Rule, And Their CEO Was Caught On Tape Saying He Needed To Raise Campaign Funds To Maintain A Relationship With The President.

In It Amicus Brief, Harpeth Financial Argues That The CFPB Violates Constitutional Separation Of Powers.

In Its Amicus Brief, Harpeth Financial Urged The Court To Find The CFPB In Violation Of The Constitution’s Separation Of Powers. “The Court should hold that the Bureau’s structure violates the separation of powers and that 12 U.S.C. § 5491(c)(3) cannot be severed from Title X of the Dodd-Frank Act.” [[Brief Of Amici Curiae Harpeth Financial](#), Seila Law LLC v. CFPB, 12/13/19]

In December 2018, Advance Financial, A Subsidiary Of Harpeth Financial, Formally Requested The CFPB “Exclude Debit Cards From The [Payday] Rule's Payment Restrictions.”

In December 2018, Advance Financial Formally Requested The CFPB “Exclude Debit Cards From The [Payday] Rule's Payment Restrictions That Seek To Limit How Often A Lender Can Access A Consumer’s Checking Account.” “The Consumer Financial Protection Bureau has been determined to move forward with a key piece of its payday lending rule. But a challenge by a Tennessee lender to the rule's so-called payment provision could stand in the way. The Nashville-based Advance Financial made a formal request in December 2018 that the CFPB exclude debit cards from the rule's payment restrictions that seek to limit how often a lender can access a consumer’s checking account.” [Kate Berry, “[Nothing comes easy for CFPB in payday lending rule,](#)” *American Banker*, 10/29/19]

Harpeth Financial Services Is The Parent Company Of Advance Financial. “The parent company of local cash advance giant Advance Financial is suing a small Murfreesboro competitor for trademark infringement, saying the use of a red and yellow circular logo and red trim may cause confusion. Harpeth Financial Services, the legal name of Advance Financial, filed suit in the U.S. District Court for Middle Tennessee May 16 [...]” [“[Advance Financial sues Murfreesboro cash advance store over logo,](#)” *Nashville Post*, accessed 01/21/20]

Mike Hodges, Founder Of Harpeth Financial Services, Told His Fellow Payday Executives That Giving Money To President Trump’s Campaign Would Enable Him To Maintain Access To White House Officials.

Michael Hodges Told Fellow Payday Lenders That “Industry Contributions To The President’s Reelection Campaign Could Be Leveraged To Gain Access To The Trump Administration.” “Michael Hodges told fellow payday lenders recently that industry contributions to the president’s reelection campaign could be leveraged to gain access to the Trump administration. ‘Every dollar amount, no matter how small or large it is’ is important, Hodges, founder of Advance Financial, one of the country’s largest payday lenders, said during a 48-minute webcast, obtained by The Washington Post.” [Renae Merle, “[Payday lenders discussed raising money for Trump’s campaign to fend off regulation, audio reveals,](#)” *The Washington Post*, 10/29/19]

- **Hodges Claimed That Large Donations To The Republican National Committee Would Afford Him Meetings At The White House.** “‘For example, I’ve gone to Ronna McDaniel and said, ‘Ronna, I need help on something,’ Hodges said, referring to the chair of the Republican National Committee. ‘She’s been able to call over to the White House and say, ‘Hey, we have one of our large givers. They need an audience. ... They need to be heard and you need to listen to them.’ So that’s why it’s important.’” [Renae Merle, “[Payday lenders discussed raising money for Trump’s campaign to fend off regulation, audio reveals,](#)” *The Washington Post*, 10/29/19]

Hodges Said That The More Money He Raises, The More “Clout” He Has To Speak To The Administration And Make Sure They Listen. “During the webinar, Hodges explained why such fundraisers were important. When money comes in that way “that raises the clout of that fundraiser so that when you go and speak to the administration through the campaign, they will listen.” [Renaë Merle, “[Payday lenders discussed raising money for Trump’s campaign to fend off regulation, audio reveals](#),” *The Washington Post*, 10/29/19]

Advance Financial – Harpeth’s Trade Name – Has Also Paid \$350,000 To Have Mick Mulvaney’s Former Chief Of Staff Lobby The White House’s Office Of Administration On “The Small Dollar Rule” And CFPB Issues Through Nine Consecutive Quarters Since 2017.

Al Simpson Became Mick Mulvaney’s Chief Of Staff In January 2011 Before Becoming A Partner And Managing Director Of Mercury Public Affairs In February 2017. [[Linkedin Profile for Al Simpson](#), accessed 10/29/19]

Al Simpson Was Hired By Advance Financial As Their Lobbyist. Al “Simpson has been lobbying Congress and the Office of Administration on behalf of Tennessee-based Advance Financial, which was founded by Mike Hodges, a major fundraiser and contributor to President Trump’s campaign.” [Reane Merle, “[Once Mulvaney’s chief of staff, payday lobbyist enjoys frequent access to his old boss](#),” *The Washington Post*, 11/20/19]

- **“Simpson has earned \$350,000 as a lobbyist for Advance Financial, according to government lobbying reports.”** [Reane Merle, “[Once Mulvaney’s chief of staff, payday lobbyist enjoys frequent access to his old boss](#),” *The Washington Post*, 11/20/19]

The Office Of Administration Is One Of The Offices “Overseen By The White House Chief Of Staff.” “Overseen by the White House Chief of Staff, the EOP has traditionally been home to many of the President’s closest advisors.” [[“Executive Office of the President”](#), The Obama White House Archive, accessed 10/29/19]

In The Third Quarter Of 2019, Harpeth Financial Services Hired Al Simpson And Mercury Public Affairs, LLC For \$50,000 To Lobby The “Office Of Administration” On The “CFPB Small Dollar Rule.” [[Mercury Public Affairs, LLC LD-2 Disclosure Form](#), U.S. Senate Lobbying Disclosure Database, 10/03/19]

In The Second Quarter Of 2019, Harpeth Financial Services Hired Al Simpson Of Mercury Public Affairs, LLC For \$50,000 To Lobby The “Office Of Administration” On The “CFPB Small Dollar Rule.” [[Mercury Public Affairs, LLC LD-2 Disclosure Form](#), U.S. Senate Lobbying Disclosure Database, 07/17/19]

In The First Quarter Of 2019, Harpeth Financial Services Hired Al Simpson Of Mercury Public Affairs, LLC For \$50,000 To Lobby The “Office Of Administration” On The “CFPB Small Dollar Rule.” [[Mercury Public Affairs, LLC LD-2 Disclosure Form](#), U.S. Senate Lobbying Disclosure Database, 04/11/19]

In The Fourth Quarter Of 2018, Harpeth Financial Services Hired AI Simpson And Mercury Public Affairs, LLC For \$50,000 To Lobby The “Office Of Administration” On The “CFPB Small Dollar Rule.” [[Mercury Public Affairs, LLC LD-2 Disclosure Form](#), U.S. Senate Lobbying Disclosure Database, 01/18/19]

In The Third Quarter Of 2018, Harpeth Financial Services Hired AI Simpson And Mercury Public Affairs, LLC For \$50,000 To Lobby The “Office Of Administration” On The “CFPB Small Dollar Rule.” [[Mercury Public Affairs, LLC LD-2 Disclosure Form](#), U.S. Senate Lobbying Disclosure Database, 10/16/18]

In The Second Quarter Of 2018, Harpeth Financial Services Hired AI Simpson And Mercury Public Affairs, LLC For \$30,000 To Lobby The “Office Of Administration” On The “CFPB Small Dollar Rule.” [[Mercury Public Affairs, LLC LD-2 Disclosure Form](#), U.S. Senate Lobbying Disclosure Database, 07/19/18]

In The First Quarter Of 2018, Harpeth Financial Services Hired AI Simpson And Mercury Public Affairs, LLC For \$30,000 To Lobby The “Office Of Administration” On The “CFPB Small Dollar Rule.” [[Mercury Public Affairs, LLC LD-2 Disclosure Form](#), U.S. Senate Lobbying Disclosure Database, 04/18/18]

In The Fourth Quarter Of 2017, Harpeth Financial Services Hired AI Simpson And Mercury Public Affairs, LLC For \$30,000 To Lobby The “Office Of Administration” On The “CFPB Small Dollar Rule.” [[Mercury Public Affairs, LLC LD-2 Disclosure Form](#), U.S. Senate Lobbying Disclosure Database, 01/19/18]

In The Third Quarter Of 2017, Harpeth Financial Services Hired AI Simpson And Mercury Public Affairs, LLC For \$10,000 To Lobby The “Office Of Administration” On The “CFPB Reform.” [[Mercury Public Affairs, LLC LD-2 Disclosure Form](#), U.S. Senate Lobbying Disclosure Database, 07/23/18]

After The CFPB Filed A Lawsuit Against Roni Dersovitz For “Allegedly Scamming 9/11 Heroes Out Of Money,” He And His Associated Companies Filed A Brief Arguing The Bureau’s Single-Director Structure And Funding Source Made It Unconstitutional.

An Amicus Brief Filed By Roni Dersovitz And His Companies – RD Legal Funding Partners, LP; RD Legal Finance, LLC; And RD Legal Funding, LLC – Claimed The Bureau’s Single Director Structure And Funding Independence Made It Unconstitutional.

In Its Amicus Brief, RD Legal Funding Partners, LP; RD Legal Finance, LLC; RD Legal Funding, LLC; And Roni Dersovitz Argued That The CFPB Was Unconstitutional For

Several Reasons, “The CFPB’s Single Director Removable Only For Cause, Its Authority To Independently Obtain Funds From The Federal Reserve Outside Of Congressional Oversight And Control, And Its Oversight By The FSOC.” “The CFPB’s single Director removable only for cause, its authority to independently obtain funds from the Federal Reserve outside of congressional oversight and control, and its oversight by the FSOC, each give rise to constitutional problems that warrant finding those provisions of Title X unconstitutional even when considered in isolation from one another. Taken together, these features of Title X render the CFPB sui generis—an agency with vast power over vital sectors of our economy, but too insulated from accountability to the political branches, and through them to the People, to pass constitutional muster.” [[Brief Of Amici Curiae RD Legal Funding Partners, LP, RD Legal Finance, LLC, RD Legal Funding, LLC, And Roni Dersovitz](#), Seila Law LLC v. CFPB, accessed 01/14/20]

Roni Dersovitz Is Connected With Each Of The RD Entities That Joined The Amicus Brief. “RD Legal Funding Partners, LP is a hedge fund that invests in legal financing. RD Legal Finance, LLC is a limited liability company that also engages in legal financing. RD Legal Funding, LLC is the entity that originates the financing transactions entered into by RD Legal Funding Partners, LP, and RD Legal Finance, LLC. Roni Dersovitz is the chief executive officer and managing member of the entity that is the manager of RD Legal Funding Partners, LP. He is also the managing member of RD Legal Finance, LLC, and RD Legal Funding, LLC. These entities and Mr. Dersovitz constitute and are referred to collectively herein as the ‘RD Legal Amici.’” [[Brief Of Amici Curiae RD Legal Funding Partners, LP, RD Legal Finance, LLC, RD Legal Funding, LLC, And Roni Dersovitz](#), Seila Law LLC v. CFPB, accessed 01/14/20]

In 2017, The CFPB And The New York Attorney General’s Office Filed A Lawsuit Against Roni Dersovitz And His Associated Companies For “Allegedly Scamming 9/11 Heroes Out Of Money Intended To Cover Medical Costs, Lost Income, And Other Critical Needs.”

On February 7, 2017, The CFPB Announced That It And The New York Attorney General’s Office Had Filed A Lawsuit Against “RD Legal Funding, LLC, Two Related Entities, And Roni Dersovitz, The Companies’ Founder And Owner, For Allegedly Scamming 9/11 Heroes Out Of Money Intended To Cover Medical Costs, Lost Income, And Other Critical Needs.” “Today the Consumer Financial Protection Bureau (CFPB) and the New York Attorney General filed a lawsuit against RD Legal Funding, LLC, two related entities, and Roni Dersovitz, the companies’ founder and owner, for allegedly scamming 9/11 heroes out of money intended to cover medical costs, lost income, and other critical needs.” [[Press Release](#), Consumer Financial Protection Bureau, 02/07/17]

Daniel S. Lipsky And His Associated Companies—Which Had To Pay A Nearly \$8 Million Penalty After The CFPB Sued Them For Misleading Consumers—Filed An Amicus Brief Asking The Supreme Court To Rule Against The CFPB’s Structure And To

“Terminate Enforcement Actions Taken By The Unconstitutionally Structured Agency.”

In September 2017, A Federal District Court “Imposed A \$7.93 Million Civil Money Penalty” Against Daniel S. Lipsky And His Associated Companies After A CFPB Lawsuit Alleged They Misled Consumers About The Costs And Savings Of A Biweekly Mortgage Payment Program.

In May 2015, The CFPB Filed A Lawsuit In Federal District Court Against Daniel S. Lipsky And His Companies – Nationwide Biweekly Administration Inc. And Loan Payment Administration LLC – Alleging They “Misrepresent[ed] The Interest Savings Consumers Will Achieve Through A Biweekly Mortgage Payment Program And [Misled] Consumers About The Cost Of The Program.” “Today the Consumer Financial Protection Bureau (CFPB) filed a lawsuit in federal district court against Nationwide Biweekly Administration, Inc., Loan Payment Administration LLC, and the companies’ owner, Daniel Lipsky, alleging that Nationwide misrepresents the interest savings consumers will achieve through a biweekly mortgage payment program and misleads consumers about the cost of the program. The CFPB is seeking compensation for harmed consumers, a civil penalty, and an injunction against the companies and their owner.” [[Press Release](#), Consumer Financial Protection Bureau, 05/11/15]

In September 2017, The Court Found That Daniel S. Lipsky And His Companies “Had Engaged In Deceptive And Abusive Conduct In Violation Of The CFPA [Consumer Financial Protection Act] And TSR [Telemarketing Sales Rule]” And “Imposed A \$7.93 Million Civil Money Penalty.” “On May 11, 2015, the Bureau filed a complaint against Nationwide Biweekly Administration, Inc., Loan Payment Administration LLC, and Daniel S. Lipsky alleging that they engaged in abusive and deceptive acts and practices in violation of the CFPA and the Telemarketing Sales Rule (TSR) [...] A trial was held beginning on April 24, 2017, and on September 8, 2017, the court issued an opinion and order finding that the defendants had engaged in deceptive and abusive conduct in violation of the CFPA and TSR. The court imposed a \$7.93 million civil money penalty, but denied the Bureau’s request for restitution and disgorgement.” [[Press Release](#), Consumer Financial Protection Bureau, accessed 01/08/20]

In Their Amicus Brief, Lipsky And His Companies Urged The Court To Rule Against The CFPB’s Structure And “Terminate Enforcement Actions Taken By The Unconstitutionally Structured Agency.”

In Their Amicus Brief, Daniel S. Lipsky Nationwide Biweekly Administration Inc., And Loan Payment Administration LLC Argued That The “CFPB’s Single Director, Removable Only For Cause, Violates The Separation Of Powers” And Urged The Court To Set Aside The Bureau’s Enforcement Action Against Seila Law. “For the reasons well explained in Petitioner’s brief, Nationwide agrees that the CFPB’s single Director, removable only for cause, violates the separation of powers. Nationwide takes no position on whether, if the Court agrees that the CFPB is unconstitutional, it should sever 12 U.S.C. § 5491(c)(3) from the remainder of

the Dodd-Frank Act. Whatever the answer to that question, the Court’s remedy must include setting aside the challenged agency action.” [[Brief Of Amici Curiae Nationwide Biweekly Administration Inc., Loan Payment Administration LLC, and Daniel S. Lipsky](#), Seila Law LLC v. CFPB, 12/16/19]

The Amicus Brief Argued That “Setting Aside Past Agency Action Also Is Necessary To Provide Meaningful Relief To Litigants.” “Setting aside past agency action also is necessary to provide meaningful relief to litigants and thus to create sufficient incentives to raise separation of powers challenges. Where a party succeeds in its separation of powers challenge as a defense to enforcement action, the *only* meaningful remedy is one that includes vacating the enforcement action. Thus, failing to award that relief leaves a challenger like Seila Law with no remedy at all, contrary to the fundamental principle that every right must have a remedy.” [[Brief Of Amici Curiae Nationwide Biweekly Administration Inc., Loan Payment Administration LLC, and Daniel S. Lipsky](#), Seila Law LLC v. CFPB, 12/16/19]

The Brief Also Argued That The Court Should “Terminate Enforcement Actions Taken By The Unconstitutionally Structured Agency.” “Nationwide agrees with Petitioner that the removal restriction violates the separation of powers. That leaves the question of what to do next. There is only one answer: set aside the CFPB’s past actions. In other words, however this Court answers the severance question, its remedy should terminate enforcement actions taken by the unconstitutionally structured agency.” [[Brief Of Amici Curiae Nationwide Biweekly Administration Inc., Loan Payment Administration LLC, and Daniel S. Lipsky](#), Seila Law LLC v. CFPB, 12/16/19]

Think Tanks & Legal Foundations

The Competitive Enterprise Institute—Whose 2019 Annual Dinner Was Sponsored By Payday Loan Industry Group FiSCA—Urged The Supreme Court To Invalidate The CFPB’s Leadership Structure And Let Congress Rewrite The Section Of Dodd-Frank Financial Reform That Created The Bureau.

In Its Amicus Brief, The Competitive Enterprise Institute Urged The Supreme Court To Invalidate The CFPB’s “Novel Structure,” Arguing The “Constitution Does Not Permit The Amalgamation Of Such Sweeping And Unchecked Authority In A Single Executive Entity.”

In Its Amicus Brief, The Competitive Enterprise Institute, Alongside The State National Bank Of Big Spring And The 60 Plus Association, Urged The Supreme Court To Invalidate The “CFPB’s Novel Structure” As The “Constitution Does Not Permit The Amalgamation Of Such Sweeping And Unchecked Authority In A Single Executive Entity.” “Whatever the merits of Congress’s policy objectives in creating the CFPB, the

Constitution does not permit the amalgamation of such sweeping and unchecked authority in a single executive entity. Certain features of the CFPB viewed in isolation may or may not be constitutionally permissible, but the combination most definitely is not. Fidelity to the Constitution requires that the CFPB's novel structure be invalidated." [[Brief Of Amici Curiae State National Bank of Big Spring et. al.](#), Seila Law LLC v. CFPB, accessed 01/15/20]

The Competitive Enterprise Institute And The Brief's Other Signatories Asked The Court To "Hold That The CFPB Violates The Separation Of Powers" And Let Congress Rewrite The Section Of Dodd-Frank Financial Reform That Created The CFPB. The Amicus Brief Concluded, "This Court Should Hold That The CFPB Violates The Separation Of Powers, And It Should Leave For Congress The Task Of Rewriting Title X Of The Dodd- Frank Act." [[Brief Of Amici Curiae State National Bank of Big Spring et. al.](#), Seila Law LLC v. CFPB, accessed 01/15/20]

- "Title X of the Dodd-Frank Act (aka: 'Consumer Financial Protection Act of 2010'), created the Consumer Financial Protection Bureau ('CFPB' or 'Bureau') as an independent agency within the Board of Governors of the Federal Reserve System ('Federal Reserve')." [[Dodd-Frank: Title X - Bureau of Consumer Financial Protection](#)," Cornell Law School Legal Information Institute, accessed 01/13/20]

FiSCA, A Payday Loan Industry Group, Sponsored CEI's Annual Dinner And Reception In 2019.

FiSCA, The Financial Service Centers Of America, Served As A Bronze Sponsor To CEI's 35th Anniversary Dinner And Reception In 2019. [[CEI 35th Anniversary Dinner and Reception](#)," Competitive Enterprise Institute, accessed 01/13/20]

- **CEI Held Its 35th Anniversary Dinner And Reception On June 20, 2019.** [[CEI 35th Anniversary Event Speakers Announced](#)," Competitive Enterprise Institute, 04/03/19]

FiSCA Is A Trade Association Representing Financial Service Providers Offering "Check Cashing, Money Transfers, Prepaid Cards, Money Orders, Bill Payments And Small Dollar, Short-Term Loans." "Established in 1987, Financial Service Centers of America (FiSCA) is the oldest national trade organization representing the nation's financial service center providers. Financial service centers offer a wide array of critical financial services to millions of Americans including check cashing, money transfers, prepaid cards, money orders, bill payments and small dollar, short-term loans." [[Welcome to FiSCA](#)," Financial Service Centers of America, accessed 01/13/20]

The Cato Institute, Whose Board Member And Former President Once Led The "10th-Largest Financial Services Holding Company Headquartered In The United States," Argued The Supreme Court "Should Declare The CFPB's Structure Unconstitutional And Void."

The Cato Institute, Alongside Other Right-Wing Organizations, Filed An Amicus Brief In Which They Argued That The Court “Should Declare The CFPB’s Structure Unconstitutional And Void.”

In Their Amicus Brief, The Cato Institute, The Center For Individual Rights, And Americans For Prosperity Argued That The Court “Should Declare The CFPB’s Structure Unconstitutional And Void.” “Because the director of the CFPB unquestionably exercises executive power through her unilateral control over the enforcement of the nation’s consumer protection laws, the Court should declare the CFPB’s structure unconstitutional and void.” [[Brief Of Amici Curiae Center for Cato Institute et. al.](#), *Seila Law LLC v. CFPB*, 12/16/19]

The Cato Institute Was Among The “Conservative And Libertarian Think Tanks” That Filed Amicus Briefs For The Case. “Briefs from some conservative and libertarian think tanks, including the Cato Institute and the Washington Legal Foundation, did not address a remedy for the CFPB’s allegedly unconstitutional structure.” [Alison Frankel, “[At SCOTUS, business groups and lawmakers cast doubt on DOJ’s proposed easy fix for CFPB](#),” *Reuters*, 12/17/19]

John A. Allison, The Former President And CEO And A Current Board Member Of The Cato Institute, Is The Former Chairman And CEO Of BB&T Corporation, “The 10th-Largest Financial Services Holding Company Headquartered In The United States.”

John A. Allison, The Former President & CEO Of The Cato Institute And A Current Member Of Its Board Of Directors, Is The Former Chairman And CEO Of BB&T Corporation. John A. Allison “is a member of the Cato Institute’s Board of Directors and Chairman of the Executive Advisory Council of the Cato Institute’s Center for Monetary and Financial Alternatives. Allison was president and CEO of the Cato Institute from October 2012 to April 2015.” [[“John A. Allison](#),” Cato Institute, accessed 01/07/20]

- **From 1989 To 2008, John A. Allison Served As Chairman And CEO Of BB&T Corporation, “The 10th-Largest Financial Services Holding Company Headquartered In The United States.”** “Prior to joining Cato, Allison was chairman and CEO of BB&T Corporation, the 10th-largest financial services holding company headquartered in the United States. During his tenure as CEO from 1989 to 2008, BB&T grew from \$4.5 billion to \$152 billion in assets.” [[“John A. Allison](#),” Cato Institute, accessed 01/07/20]

The Corporate-Backed Washington Legal Foundation Argued That The CFPB Director Should Be Removable At Will In A Brief Submitted By A Former Banking Lawyer, And Its Legal Advisory Board Is Chaired By Another Elite Lawyer Who Works With Firms

On “Regulatory Enforcement Strategies” In A Practice With “Extensive Experience” Representing The Financial Industry.

The Washington Legal Foundation Argued That The CFPB Director’s “For-Cause Protection” Should Be Ruled Unconstitutional And The President Allowed To Remove Them At Will.

In Its Amicus Brief, The Washington Legal Foundation Argued That The Court Should “Declar[e] The CFPB Director’s For-Cause Protection Unconstitutional.” “Although the Court has struck the right tone in some recent decisions, declaring for instance that ‘a single President’ is ‘responsible for the actions of the Executive Branch,’ Free Enter. Fund, 561 U.S. at 496-97 (2010), Congress’s attempts to cut into the president’s removal power have only become more brazen with time. At the very least, therefore, this Court should stop the bleeding by declaring the CFPB director’s for-cause protection unconstitutional.” [[Brief Of Amici Curiae Washington Legal Foundation](#), Seila Law LLC v. CFPB, 12/16/19]

The Washington Legal Foundation’s Amicus Brief Was Signed By Its Vice President Of Litigation And “Counsel Of Record,” Who Represented The Banking Industry Before Joining The Group.

Cory L. Andrews, “Counsel Of Record” And Vice President Of Litigation For The Washington Legal Foundation, Has Litigated On Behalf Of The Banking Industry While At Law Firm White & Case LLP. “As counsel of record for WLF and other clients, he has authored more than 75 briefs in the U.S. Supreme Court at petition and merits stages. Before joining WLF in 2009, Mr. Andrews practiced trial and appellate law for White & Case LLP, where he litigated in state and federal courts on behalf of clients in the telecommunications, hospitality, and banking industries.” [[Cory Andrews](#),” Washington Legal Foundation, accessed 01/07/20]

- Cory L. Andrews Is The Vice President Of Litigation For The Washington Legal Foundation. [[Staff](#),” Washington Legal Foundation, accessed 01/07/20]

Cory L. Andrews Submitted The Washington Legal Foundation’s Amicus Brief For Seila Law V. CFPB. [[Brief Of Amici Curiae for Washington Legal Foundation](#), Seila Law LLC v. CFPB, 12/16/19]

The Chairman Of Washington Legal Foundation’s Legal Policy Advisory Board Is Of Counsel For Kirkland & Ellis—“The Highest-Grossing Law Firm In The World” For Two Years Straight—Where He Counsels Firms On “Regulatory Enforcement Strategies” In A Practice With “Extensive Experience” Representing The Financial Industry Against Federal Regulators.

Jay B. Stephens is Chairman of The Washington Legal Foundation’s Legal Policy Advisory Board. [[“Legal Policy Advisory Board,”](#) Washington Legal Foundation, accessed 01/23/20]

Jay B. Stephens Is “Of Counsel” For D.C. Law Firm Kirkland & Ellis, Where He Counsels Corporate “Boards And Senior Management” On “Enforcement Matters” And Advises Clients On “Compliance Issues And Regulatory Enforcement Strategies.” “Jay B.

Stephens is Of Counsel in the Washington, D.C. office of Kirkland & Ellis LLP. He practices in collaboration with attorneys across the Firm to support client engagements by counseling boards and senior management on corporate governance, transactional, and enforcement matters; by advising clients regarding complex internal investigations, compliance issues and regulatory enforcement strategies; and by contributing to the sound resolution of regulatory and litigation disputes.” [[“Jay B. Stephens,”](#) Kirkland & Ellis LLP, 01/23/20]

In 2019, It Was Reported That Kirkland & Ellis “Was The Highest-Grossing Law Firm In The World For The Second Year Running, Earning \$3.76 Billion In Revenue.” “Four hundred of Kirkland & Ellis LLP’s top lawyers gathered in May at an oceanfront resort in Southern California to toast another banner year. Kirkland was the highest-grossing law firm in the world for the second year running, earning \$3.76 billion in revenue.” [Sara Randazzo, [“Being a Law Firm Partner Was Once a Job for Life. That Culture Is All but Dead.”](#) *The Wall Street Journal*, 08/09/19]

Kirkland & Ellis Has Had A Reputation Of “Winning Big For Clients With Dubious Reputations.” “Over the past two years, Kirkland litigators have taken more than two dozen cases to trial, often winning big for clients with dubious reputations.” [[“If It’s Broke, They Fix It,”](#) Kirkland & Ellis LLP, 07/01/02]

Jay B. Stephens Is In Kirkland & Ellis’ “Government, Regulatory & Internal Investigations” Practice. [[“Jay B. Stephens,”](#) Kirkland & Ellis LLP, 01/23/20]

Kirkland & Ellis’ “Government, Regulatory & Internal Investigations” Has “Extensive Experience Representing Investment Banks, Private Equity Firms, And Other Financial Institutions” In Investigations Involving “A Wide Array” Of Federal Regulators. “We have extensive experience representing investment banks, private equity firms, and other financial institutions in cross-border and other complex investigations involving a wide array of regulators, including the DOJ, SEC, CFTC, SFO, New York Department of Financial Services, Federal Reserve, and others.” [[“Government, Regulatory & Internal Investigations,”](#) Kirkland & Ellis, accessed 01/23/20]

Almost Half Of The Washington Legal Foundation’s Funding Came From Corporations In 2018.

In 2018, 49% Of The Washington Legal Foundation’s Financial Support Came From Corporations. [[“2018 Annual Report,”](#) Washington Legal Foundation, accessed 01/07/20]

The Buckeye Institute, Which Argued The Supreme Court Should Invalidate The CFPB's Investigative Demand Against Seila Law, Has Taken Over \$3 Million From Groups Linked To The Koch Family And Has Received At Least \$5,000 From The Chairman Of The Conservative Claremont Institute – Who Runs An Investment Firm.

In Its Amicus Brief, The Buckeye Institute Argued That The Supreme Court Should Invalidate The CFPB's Investigative Demand Against Seila Law.

The Buckeye Institute Believes The Supreme Court Should Invalidate The Investigative Demand At The Heart Of Seila Law V. CFPB As The “Severability Doctrine Robs The Legislators Responsible For Making The Law Of The Right To Address The Statute’s Partial Unconstitutionality.” “The severability doctrine robs the legislators responsible for making the law of the right to address the statute’s partial unconstitutionality. See Pet. Br. 37-41. Here, however, the Court can avoid the severability inquiry altogether by limiting the remedy to invalidation of the investigative demand. The Court should do so. It is what Article III requires and it is the prudent way to end this litigation.” [[Brief Of Amici Curiae Buckeye Institute](#), Seila Law LLC v. CFPB, 12/16/19]

The Buckeye Institute’s President And CEO Argued The CFPB Director’s Authority “Clearly Violates The Separation Of Powers” As He Said The Supreme Court Should Invalidate The CFPB’s “Unlawful Regulatory Action” Against Seila Law.

In A Press Release Announcing Its Amicus Brief, The Buckeye Instituted Said, “The Case Raises Important Questions About The Power Of The Unelected Administrative State And The Blatantly Unconstitutional Structure Of The CFPB.” [[Press Release](#), The Buckeye Institute, 12/18/19]

The Buckeye Institute’s President And CEO Said The CFPB Director’s “Autonomy And Power” “Clearly Violates The Separation Of Powers” And Argued The Supreme Court Should Invalidate “The Challenged Unlawful Regulatory Action Taken By The CFPB.” “The autonomy and power given to the Consumer Financial Protection Bureau (CFPB) director clearly violates the separation of powers that our constitution demands,’ said Robert Alt, president and chief executive officer of The Buckeye Institute. ‘If the Supreme Court invalidates the challenged unlawful regulatory action taken by the CFPB, it doesn’t need to pull out a crystal ball to divine which parts of the law Congress would have enacted if it knew about this decision, but rather should leave the lawmaking to Congress.” [[Press Release](#), The Buckeye Institute, 12/18/19]

The Buckeye Institute Has Taken Over \$3 Million From Organizations Linked To The Koch Family, Which Has Also “Heavily Funded” Several University Centers Known For Hosting One Of “The Most Outspoken Scholars Against The CFPB.”

From 2015 To 2018, The Buckeye Institute Has Taken \$3,090,168 From Groups Associated With The Koch Family. The Buckeye Institute has taken a total of \$3,090,168 From The Charles Koch Foundation, The Charles Koch Institute, Donors Capital Fund, And Donors Trust from 2015 To 2018. [Alex Kotch, “[Koch Funds Groups Supporting Lawsuit Against Donor Transparency](#),” *The Center for Media and Democracy*, 01/10/20]

A 2017 U.S. Department Of Treasury Report “Excoriating” The CFPB’s Rule To Protect Consumers’ Access To Class Action Lawsuits Cited Research By Todd Zywicki, “A George Mason University Law Professor Who Works For Several Campus Centers Heavily Funded” By Charles Koch. “In a rare instance of one federal agency publicly attacking another, the U.S. Department of the Treasury issued an 18-page report Monday excoriating the Consumer Financial Protection Bureau’s proposed arbitration rule, which would prevent financial institutions from preventing class action lawsuits from customers via consumer contracts. In doing so, the department cited a paper co-authored by a George Mason University law professor who works for several campus centers heavily funded by the billionaire industrialist, free-market evangelist and far-right political donor Charles Koch.” [Alex Kotch, “[US Treasury Cites Koch-Funded Research In Critique Of Consumer Protections](#),” *International Business Times*, 10/27/17]

- **Zywicki Was Known As One Of “The Most Outspoken Scholars Against The CFPB, Serving As A Model Of Koch's Weaponized Academics.”** “Zywicki has been among the most outspoken scholars against the CFPB, serving as a model of Koch's weaponized academics, housed in Koch's Mercatus Center at George Mason University,” [‘Unkoch My Campus’ Researcher Ralph] Wilson told IBT.” [Alex Kotch, “[US Treasury Cites Koch-Funded Research In Critique Of Consumer Protections](#),” *International Business Times*, 10/27/17]

Thomas D. Klingenstein, Chairman For The Conservative Claremont Institute And A Principal Of An Investment Firm, Has Given At Least \$5,000 To The Buckeye Institute.

In 2016, The Thomas D. Klingenstein Fund Donated \$5,000 To The Buckeye Institute For “General Operating Support.” [[Thomas D. Klingenstein Fund, IRS Form 990](#), 2016]

Thomas D. Klingenstein, Chairman Of The Claremont Institute Board Of Directors, Is Also A Principal Of Cohen Klingenstein, LLC, An Investment Firm. “Thomas D. Klingenstein is a principal in the investment firm of Cohen, Klingenstein, LLC and the chairman [sic] of the Board of Directors of the Claremont Institute.” [“[Thomas D. Klingenstein](#),” *Claremont Review Of Books*, accessed 01/07/20]

The Claremont Institute Is “A Conservative Think Tank.” “It took just 80 minutes after racially incendiary emails started flying for the Claremont Institute, a conservative think tank, to shut down an email Listserv connecting hundreds of high-profile conservatives.” [Eliana Johnson, “[Trump speechwriter’s ouster sparks racially charged debate](#),” *Politico*, 08/23/18]

The Pacific Legal Foundation, Whose Leadership Has Ties To The Financial Industry And Is The Beneficiary Of A Large Financial Industry Donor, Argued “The CFPB Should Be Declared Unconstitutional.”

In Its Amicus Brief Filed For *Seila Law V. CFPB*, The Pacific Legal Foundation Stated That The Court Should Rule The CFPB’s Leadership As Unconstitutional.

In Its Amicus Brief, The Pacific Legal Foundation Argued That The Court Should Rule The CFPB’s Leadership Structure As Unconstitutional As The “CFPB’s Structure Runs Afoul Even Of The Court’s Most Limited Interpretations Of The President’s Removal Power.” “On the narrow question, this Court should hold that the structure of the CFPB, with a Director protected from removal except for cause and thereby insulated from political accountability, violates the Constitution. This modest ruling would be consistent with the Court’s presidential-removal jurisprudence, which makes clear that the CFPB’s structure runs afoul even of the Court’s most limited interpretations of the President’s removal power.” [[Brief Of Amici Curiae Center Pacific Legal Foundation](#), *Seila Law LLC v. CFPB*, December 2019]

The Pacific Legal Foundation’s Amicus Brief Concluded, “The CFPB Should Be Declared Unconstitutional.” [[Brief Of Amici Curiae Center Pacific Legal Foundation](#), *Seila Law LLC v. CFPB*, December 2019]

The Vice Chair Of The Pacific Legal Foundation Board Of Trustees Also Serves As A Senior Advisor For A “Financial Services Consultancy” Whose Consultants “Exploit Their Connections To Regulators.”

Brian G. Cartwright, Vice Chair Of The Pacific Legal Foundation Board Of Trustees, Also Serves As A Senior Advisor For Patomak Global Partners. [[“About Board of Trustees,”](#) Pacific Legal Foundation, accessed 01/06/20]

Patomak Global Partners “Is A Financial Services Consultancy That Provides Industry And Regulatory Expertise, Delivers Value In An Efficient Manner, And Provides A Competitive Edge To Companies Navigating Global Markets.” [[“Our Mission,”](#) Patomak Global Partners, accessed 01/06/20]

Patomak Global Partners' Consultants "Exploit Their Connections To Regulators To Help Their Clients — Banks And Other Financial Institutions — Navigate The Rules." "Patomak has thrived as financial firms tried to navigate the new world of post-crisis regulations. Patomak and its counterparts, like Promontory Financial Group, are not technically lobbyists, but they exploit their connections to regulators to help their clients — banks and other financial institutions — navigate the rules. (Such consulting firms say they help clients comply with, not circumvent, the rules. A Patomak spokeswoman did not respond to a request for comment.)" [Jesse Eisinger, "[Surprise: Trump's Adviser on Wall Street Regulations is a Longtime Swamp-Dweller](#)," *ProPublica*, 11/23/16]

The Pacific Legal Foundation Is Among A Group Of Libertarian Think Tanks That Have Taken Millions Of Dollars From William A. Dunn, The Founder Of A Commodity Advisory Firm With More Than \$1 Billion In Managed Assets.

William A. Dunn, The Founder Of Dunn Capital Management, Has Donated "Millions" Of Dollars To Libertarian Groups Including The Pacific Legal Foundation. "The foundation was founded by William A. Dunn in 1994 to advocate for and fund libertarian causes. William A. Dunn is the founder of Dunn Capital Management in Florida, which has over \$1 billion in assets under management, and seems to be the main source of the foundation's assets. The Dunns have given millions to the Institute for Justice, the Pacific Legal Foundation, and the Landmark Legal Foundation." [Zane Mokhiber and Celine McNicholas, "[Who's Behind the Janus Lawsuit?](#)," *The American Prospect*, 2/26/18]

Dunn Capital Management Is A Commodity Trade Advisor That "Manages Over \$1B In Client Assets Worldwide." [[About Dunn](#)," Dunn Capital Management, accessed 01/08/20]

- "Founded In 1974, DUNN Capital Management Is A Commodity Trading Advisor (CTA) With A Long, Rich History Of Experience And Performance." [[Dunn Capital Management](#)," Institutional Advisory Services Group, accessed 01/08/20]

The Landmark Legal Foundation, Which Called The CFPB "A Dangerous Innovation In The Government That Violates The Constitution's Separation Of Powers" Is The Beneficiary Of A Commodity Advisory Firm Founder With More Than \$1 Billion In Managed Assets.

The Landmark Legal Foundation Called The CFPB "A Dangerous Innovation In The Government That Violates The Constitution's Separation Of Powers."

In Its Amicus Brief, The Landmark Legal Foundation Called The CFPB "A Dangerous Innovation In The Government That Violates The Constitution's Separation Of Powers."

“Given its structure and funding, the CFPB is a dangerous innovation in the government that violates the Constitution’s separation of powers. For the foregoing reasons, the Court should grant Petitioner’s request for relief.” [[Brief Of Amici Curiae Landmark Legal Foundation](#), Seila Law LLC v. CFPB, accessed 01/14/20]

The Landmark Legal Foundation Is Among A Group Of Libertarian Think Tanks That Have Taken Millions Of Dollars From William A. Dunn, The Founder Of A Commodity Advisory Firm With More Than \$1 Billion In Managed Assets.

William A. Dunn, The Founder Of Dunn Capital Management, Has Donated “Millions” Of Dollars To Libertarian Groups Including The Landmark Legal Foundation. “The foundation was founded by William A. Dunn in 1994 to advocate for and fund libertarian causes. William A. Dunn is the founder of Dunn Capital Management in Florida, which has over \$1 billion in assets under management, and seems to be the main source of the foundation’s assets. The Dunns have given millions to the Institute for Justice, the Pacific Legal Foundation, and the Landmark Legal Foundation.” [Zane Mokhiber and Celine McNicholas, “[Who's Behind the Janus Lawsuit?](#),” *The American Prospect*, 2/26/18]

Dunn Capital Management Is A Commodity Trade Advisor That “Manages Over \$1B In Client Assets Worldwide.” [[About Dunn](#),” Dunn Capital Management, accessed 01/08/20]

- “**Founded In 1974, DUNN Capital Management Is A Commodity Trading Advisor (CTA) With A Long, Rich History Of Experience And Performance.**” [[Dunn Capital Management](#),” Institutional Advisory Services Group, accessed 01/08/20]

The Center For Constitutional Jurisprudence—Which Argued That The CFPB’s Structure Should Be Ruled Unconstitutional And The Law That Created The Bureau Should Be Invalidated—Is Part Of A Conservative Think Tank Whose Chairman Is Also An Investment Firm Executive.

The Center For Constitutional Jurisprudence Argued In Its Amicus Brief That The Supreme Court Should Not Only Rule That The CFPB’s Structure As Unconstitutional, But Also Called For The Court To Invalidate The Section Of Dodd-Frank Financial Reform Law That Created The Bureau.

The Center For Constitutional Jurisprudence Believes The Supreme Court Should Not Only “Find That The For-Cause Restriction On The President’s Ability To Remove A CFPB Director Is Unconstitutional,” But It Should Also Invalidate The Entire Section Of Dodd-Frank Financial Reform That Created The CFPB. “For the above reasons, this Court

should find that the for-cause restriction on the President’s ability to remove a CFPB Director is unconstitutional. Further, because merely excising the for-cause removal restriction from Title X of the Dodd-Frank Wall Street Reform and Consumer Protection Act would significantly alter the balance of political accountability envisioned by Congress, the entirety of Title X should be invalidated, leaving it to Congress to craft a new structure for the CFPB to the extent it thinks warranted.” [[Brief Of Amici Curiae Center For Constitutional Jurisprudence](#), Seila Law LLC v. CFPB, December 2019]

- “Title X of the Dodd-Frank Act (aka: ‘Consumer Financial Protection Act of 2010’), created the Consumer Financial Protection Bureau (‘CFPB’ or ‘Bureau’) as an independent agency within the Board of Governors of the Federal Reserve System (‘Federal Reserve’).” [[Dodd-Frank: Title X - Bureau of Consumer Financial Protection](#),” Cornell Law School Legal Information Institute, accessed 01/13/20]

The Center For Constitutional Jurisprudence Is Part Of Conservative Think Tank The Claremont Institute, Whose Chairman Also Serves As A Principal Of An Investment Firm.

Thomas D. Klingenstein, Chairman Of The Claremont Institute Board Of Directors, Is Also A Principal Of Cohen Klingenstein LLC, An Investment Firm. “Thomas D. Klingenstein is a principal in the investment firm of Cohen, Klingenstein, LLC and the chairman [sic] of the Board of Directors of the Claremont Institute.” [[Thomas D. Klingenstein](#),” Claremont Review Of Books, accessed 01/07/20]

The Center For Constitutional Jurisprudence Is The “Public Interest Law Arm Of The Claremont Institute.” “The Center for Constitutional Jurisprudence is the public interest law arm of the Claremont Institute, whose stated mission is to restore the principles of the American founding to their rightful and preeminent authority in our national life.” [[Brief Of Amici Curiae Center for Constitutional Jurisprudence](#), Seila Law LLC v. CFPB, December 2016]

The Claremont Institute Is “A Conservative Think Tank.” “It took just 80 minutes after racially incendiary emails started flying for the Claremont Institute, a conservative think tank, to shut down an email Listserv connecting hundreds of high-profile conservatives.” [Eliana Johnson, “[Trump speechwriter’s ouster sparks racially charged debate](#),” *Politico*, 08/23/18]

Trade Associations

In Its Amicus Brief, The Consumer Bankers Association—Whose Member Banks Have Been Ordered To Pay Hundreds Of Millions Of Dollars In CFPB Enforcement Actions—Argued Against The CFPB’s Single-Director Structure And Asked The Supreme Court To Strike Down The Entire Dodd-Frank Section That Created The Bureau.

In its Amicus Brief, The Consumer Bankers Association Argued Against The CFPB’s Single-Director Structure And Argued That The Supreme Court Should “Sever Title X”—The Section Of Dodd-Frank Financial Reform That Created The CFPB—If The Court Rules The Bureau’s Structure As Unconstitutional.

In Its Amicus Brief, The Consumer Bankers Association Advocated For A Commission To Lead The Bureau Instead Of A Single-Director As This Would “Help Alleviate The Political Strife That Has Hindered CFPB Since Its Inception.” “In that capacity, CBA has advocated for a bipartisan, five-member Bureau since well before Dodd-Frank’s passage. As CBA has argued, a commission structure—the one proposed by then-Professor Warren and later ratified in the version of Dodd-Frank the House of Representatives originally passed—would provide regulatory fairness, balance, and stability that cannot exist when every new appointment has the power to upend the regulatory environment unilaterally. Moreover, the elimination of the Bureau’s single-director structure will help alleviate the political strife that has hindered CFPB since its inception.” [[Brief Of Amici Curiae Consumer Bankers Association](#), Seila Law LLC v. CFPB, 12/16/19]

The Consumer Bankers Association’s Brief Concluded That The Supreme Court Should “Sever Title X,” The Section Of Dodd-Frank Financial Reform That Created The CFPB. “For the foregoing reasons, if the Bureau’s structure is held unconstitutional, the Court should sever Title X, not merely section 5491(c)(3), and stay its judgment for six months to provide Congress time to enact a permissible structure.” [[Brief Of Amici Curiae Consumer Bankers Association](#), Seila Law LLC v. CFPB, 12/16/19]

- “Title X of the Dodd-Frank Act (aka: ‘Consumer Financial Protection Act of 2010’), created the Consumer Financial Protection Bureau (‘CFPB’ or ‘Bureau’) as an independent agency within the Board of Governors of the Federal Reserve System (‘Federal Reserve’).” [[Dodd-Frank: Title X - Bureau of Consumer Financial Protection](#),” Cornell Law School Legal Information Institute, accessed 01/13/20]

The CFPB Has Issued Hundreds Of Millions Of Dollars In Enforcement Actions Against Several Consumer Bankers Association Members, Including Bank Of America, Wells Fargo, Santander Bank, And Ally Bank.

In April 2014, The CFPB Ordered Bank Of America And An Affiliate To Provide “An Estimated \$727 Million In Relief To Consumers Harmed By Practices Related To Credit Card Add-On Products” Alongside A “\$20 Million Civil Money Penalty To The CFPB.” “CFPB has ordered Bank of America, N.A. and FIA Card Services, N.A. to provide an estimated \$727 million in relief to consumers harmed by practices related to credit card add-on products. [...] Bank of America will pay a \$20 million civil money penalty to the CFPB.” [[Press Release](#), Consumer Financial Protection Bureau, 04/19/14]

- **Bank Of America Is A Member Of The Consumer Bankers Association.** [[“Corporate Membership List,”](#) Consumers Bankers Association, accessed 01/08/20]
- **FIA Is Affiliated With Bank Of America.** “FIA affiliates include Bank of America, N.A. (BANA)” [[Fia Card Services, N.A. Community Reinvestment Act Performance Evaluation,](#) Office of the Comptroller of the Currency, 01/01/05-12/31/06]

In September 2016, The CFPB Fined Wells Fargo “\$100 Million For The Widespread Illegal Practice Of Secretly Opening Unauthorized Deposit And Credit Card Accounts.” “Today the Consumer Financial Protection Bureau (CFPB) fined Wells Fargo Bank, N.A. \$100 million for the widespread illegal practice of secretly opening unauthorized deposit and credit card accounts. Spurred by sales targets and compensation incentives, employees boosted sales figures by covertly opening accounts and funding them by transferring funds from consumers’ authorized accounts without their knowledge or consent, often racking up fees or other charges.” [[Press Release,](#) Consumer Financial Protection Bureau, 09/08/16]

- **Wells Fargo And Company, Inc. Is A Member Of The Consumer Bankers Association.** [[“Corporate Membership List,”](#) Consumers Bankers Association, accessed 01/08/20]

In July 2016, The CFPB Fined Santander Bank, N.A. \$10 Million For “Illegal Overdraft Service Practices.” “The Consumer Financial Protection Bureau found that Santander’s telemarketing vendor deceptively marketed the overdraft services and signed certain [sic] of the bank’s customers up for overdraft services without their consent. CFPB has ordered Santander Bank, N.A. to pay a \$10 million fine for illegal overdraft service practices.” [[Press Release,](#) Consumer Financial Protection Bureau, 07/14/19]

- **Santander Bank, N.A. Is A Member Of The Consumer Bankers Association.** [[“Corporate Membership List,”](#) Consumers Bankers Association, accessed 01/08/20]

In December 2013, The CFPB Ordered Ally Financial Inc. And Ally Bank To Pay \$80 Million In Damages To Minority Consumers “Harmed By Ally’s Discriminatory Auto Loan Pricing,” As Well As A “\$18 Million In Civil Money Penalties.” “The CFPB ordered Ally Financial Inc. and Ally Bank to pay \$80 million in damages to African-American, Hispanic, and Asian and Pacific Islander consumers harmed by Ally’s discriminatory auto loan pricing, and \$18 million in civil money penalties.” [[Press Release,](#) Consumer Financial Protection Bureau, 12/20/13]

- **Ally Bank Is A Member Of The Consumer Bankers Association.** [[“Corporate Membership List,”](#) Consumers Bankers Association, accessed 01/08/20]

The U.S. Chamber Of Commerce, “The World’s Largest Business Organization” Argued In Its Amicus Brief That The Bureau’s “Unprecedented Structure” “Plainly Violates The Constitution.”

In Its Amicus Brief, The U.S. Chamber Of Commerce, “The World’s Largest Business Organization,” Argued The CFPB’s “Unprecedented Structure” “Plainly Violates The Constitution.”

In Its Amicus Brief, The U.S. Chamber Of Commerce Stated The CFPB’s “Unprecedented Structure” Violates The Constitution’s Separation Of Powers. “The Bureau’s unprecedented structure violates the Constitution’s structural protections of individual liberty embodied in its separation of powers.” [[Brief Of Amici Curiae Chamber of Commerce](#), Seila Law LLC v. CFPB, December 2019]

The U.S. Chamber Of Commerce Went On To State The CFPB’s Leadership Structure “Plainly Violates The Constitution.” “Even if the legality of the CFPB’s structure is viewed solely through the lens of the constitutional limits upon the President’s authority to remove officers of the United States, it plainly violates the Constitution. The Bureau finds no support in history or in the Court’s precedents, and presents an even greater intrusion on presidential authority—and substantially greater threat to individual liberty—than the independent agency structures previously upheld by this Court.” [[Brief Of Amici Curiae Chamber of Commerce](#), Seila Law LLC v. CFPB, December 2019]

The U.S. Chamber Of Commerce “Is The World’s Largest Business Organization,” With Membership That Includes “Leading Industry Associations And Large Corporations.” “The U.S. Chamber of Commerce is the world’s largest business organization representing the interests of more than 3 million businesses of all sizes, sectors, and regions. Our members range from mom-and-pop shops and local chambers to leading industry associations and large corporations.” [[“About the U.S. Chamber of Commerce,”](#) U.S. Chamber of Commerce, accessed 01/10/20]

The U.S. Chamber Of Commerce Has “Long Argued” Against The CFPB’s Leadership Structure.

The U.S. Chamber Of Commerce Has “Long Argued” Against The CFPB’s Leadership Structure And Supports A “Bipartisan Commission” Instead Of A “Single, All-Powerful Director.” “The Chamber has long argued that the CFPB’s structure does not allow for appropriate checks and balances. The succession battle makes it clear that this agency should be led by a bipartisan commission—not a single, all-powerful director who isn’t subject to congressional oversight or funding authority—consistent with other banking and consumer protection agencies.” [Thomas J. Donohue, “[CFPB Drama Underscores Need for Greater Accountability](#),” *U.S. Chamber Of Commerce*, 12/11/17]

In 2009, The U.S. Chamber Of Commerce Opposed The Original Legislation To Create The CFPB, Arguing It Would “Would Create Considerable New Risks To Lenders Of Regulatory Fines And Litigation.”

In September 2009, The U.S. Chamber Of Commerce, “The World’s Largest Business Organization,” Issued A Statement In Strong Opposition To H.R. 3126, The Legislation To Create The Consumer Financial Protection Bureau. “We oppose H.R. 3126, the Consumer Financial Protection Agency Act of 2009, because we believe it is the wrong way to enhance consumer protections and will have significant and harmful unintended consequences for consumers, for the business community, and for the overall economy.” [[Statement on “The Proposed Consumer Financial Protection Agency \(CFPA\),”](#) The U.S. Chamber of Commerce, 09/23/09]

- **H.R. 3126 Was Folded Into The Wall Street Reform And Consumer Protection Act Of 2009.** “Following House committee markups on various bills addressing specific issues, then-Chairman Barney Frank of the House Committee on Financial Services introduced the Wall Street Reform and Consumer Protection Act of 2009 (H.R. 4173), incorporating elements of numerous previous bills. [...] Initially incorporated bills included H.R. 2609, H.R. 3126, H.R. 3269, H.R. 3817, H.R. 3818, H.R. 3890, and H.R. 3996.” [Baird Webel, “[The Dodd-Frank Wall Street Reform and Consumer Protection Act: Background and Summary,](#)” 04/21/17]

The U.S. Chamber Argued The Legislation “Would Create Considerable New Risks To Lenders Of Regulatory Fines And Litigation From Extending Credit.” “Taken together, Durkin concludes that the CFPA would create considerable new risks to lenders of regulatory fines and litigation from extending credit. This would increase the cost to lenders of making credit available, and create pressure for lenders to raise prices on consumer credit products. Durkin also concludes that the CFPA would cause lenders to withdraw some credit products from the market.” [[Statement on “The Proposed Consumer Financial Protection Agency \(CFPA\),”](#) The U.S. Chamber of Commerce, 09/23/09]

The Credit Union National Association (CUNA)—Which Raised Doubts About A CFPB Order Against A Credit Union Demanding \$5.5 Million In Fines And \$23 Million In Consumer Redress—Argued Against The CFPB’s Independent Single-Director Structure Since The Bureau’s Creation And Asked The Supreme Court To Declare The Section Of Law That Created The CFPB As Unconstitutional.

In Its Amicus Brief, The Credit Union National Association Asked The Supreme Court To Rule Against The Section Of Dodd-Frank Financial Reform That Created The CFPB As Unconstitutional, Undo The Bureau’s Enforcement Action Against Seila Law, And Allow “The Political Branches” To Replace The CFPB’s Leadership Structure.

The Credit Union National Association Submitted An Amicus Brief Arguing The Supreme Court Should Invalidate The Section Of Dodd-Frank Financial Reform That Created The CFPB, Invalidate The Bureau’s Enforcement Action Against Seila Law, And Issue A Stay To Allow For “The Political Branches” To Create A Commission-Based Structure For The Bureau. “The Court should hold all of Title X of the Dodd- Frank Act unconstitutional and vacate the lower court’s enforcement of the Bureau’s CID petition. The Court should also stay its mandate to allow the political branches time to react to its decision and to enact a commission structure to lead the Bureau.” [[Brief Of Amici Curiae Credit Union National Association, Inc.](#), Seila Law LLC v. CFPB, 12/16/19]

- “Title X of the Dodd-Frank Act (aka: ‘Consumer Financial Protection Act of 2010’), created the Consumer Financial Protection Bureau (‘CFPB’ or ‘Bureau’) as an independent agency within the Board of Governors of the Federal Reserve System (‘Federal Reserve’).” [[Dodd-Frank: Title X - Bureau of Consumer Financial Protection](#),” Cornell Law School Legal Information Institute, accessed 01/13/20]

In 2016, After The CFPB Fined Navy Federal Credit Union \$5.5 Million And Ordered It To Pay \$23 Million In Redress To Victims For “Making False Threats About Debt Collection To Its Members,” The Credit Union National Association Raised Doubts About The Validity Of The CFPB’s Order.

In October 2016, The CFPB Ordered Navy Federal Credit Union To “Give Approximately \$23 Million In Redress To Victims, And Pay A \$5.5 Million Civil Money Penalty.” “Today the Consumer Financial Protection Bureau (CFPB) took action against Navy Federal Credit Union for making false threats about debt collection to its members, which include active-duty military, retired servicemembers, and their families. [...] Navy Federal Credit Union will correct its debt collection practices, give approximately \$23 million in redress to victims, and pay a \$5.5 million civil money penalty.” [[Press Release](#), Consumer Financial Protection Bureau, 10/11/16]

Following The CFPB’s Action, The Credit Union National Association Raised Doubts That The CFPB’s Order Was Legitimate, Arguing It Wasn’t Clear If Credit Unions Were Subject To The Fair Debt Collection Practices Act. “While there are some questionable debt collection practices alleged in the Order, there are also many questions surrounding whether aspects of the Order actually violated the FDCPA [Fair Debt Collection Practices Act], and whether credit unions are required to comply with the FDCPA, since Congress has never required this and did not include such a directive in the Dodd-Frank Act. For example, it is not clear whether Navy Federal’s practice of including information about potential legal actions in its letters to consumers would have been acceptable to the CFPB if they actually took legal action against more consumers.” [[Navy Federal Enforcement Action Brings to Light Concerns about Lack of Clarity Surrounding Use of UDAAP](#),” Credit Union National Association, 10/13/16]

CUNA Has Been “A Strong Proponent” Of Replacing The CFPB’s Independent Single-Director Structure Since The Bureau’s Creation.

CUNA Has Been “A Strong Proponent Of Replacing The Single Director With A Bipartisan, Multi-Member Commission” Since The Bureau’s Creation. “Since the CFPB’s creation CUNA has been a strong proponent of replacing the single director with a bipartisan, multi-member commission. CUNA has noted that, to ensure that consumers enjoy strong and consistent protections and to prevent leadership changes from causing economic disruptions, the stability and diverse perspectives brought by a commission are essential.” [[To preserve consumer protection, CFPB must be led by commission](#),” Credit Union National Association, 12/16/19]

Politicians

The 27 Republican Congressmembers Who Filed An Amicus Brief Arguing The CFPB Was An “Unprecedented Threat To The Separation Of Powers And To The Democratic Legitimacy Of The Federal Government” Have Received Nearly \$68 Million In Campaign Contributions From CFPB Regulated Industries.

In Their Amicus Brief, 27 Republican Congressmembers, Including “A Majority” Of House Financial Services Committee Republicans, Argue That The CFPB Is An “Unprecedented Threat To The Separation Of Powers And To The Democratic Legitimacy Of The Federal Government.”

In Their Amicus Brief, 27 Republican Congressmembers – Including “A Majority” Of The Republican Members Of The House Financial Services Committee And Its Ranking Member, Patrick McHenry (R-NC)– Argued That The CFPB Was An “Unprecedented Threat To The Separation Of Powers And To The Democratic Legitimacy Of The Federal Government.” “The Consumer Financial Protection Bureau is an unprecedented threat to the separation of powers and to the democratic legitimacy of the federal government. By design, it is one of the nation’s most powerful executive agencies. It has vast power to regulate the national economy by setting consumer protection policy and enforcing federal law. Under the Constitution, this agency cannot be allowed to operate as a Platonic guardian without any popular control. It must be accountable to the President, who is directly accountable to the American people.” [[Brief Of Amici Curiae Of Twenty-Seven Members Of The U.S. House Of Representatives, Seila Law LLC v. CFPB](#), 12/16/19]

- **“A Majority Of The Republican Members Of The House Financial Services Committee, Led By Ranking Member Patrick McHenry,” Signed The Amicus Brief, In Addition To House Minority Leader Kevin McCarthy And Minority Whip Steve Scalise.** “House Minority Leader Kevin McCarthy (CA-23), Minority Whip Steve Scalise (LA-1), and a majority of the Republican members of the House Financial Services Committee, led by Ranking Member Patrick McHenry (NC-10) filed an amicus brief to

assist the Supreme Court as it considers the constitutionality of the Consumer Financial Protection Bureau (CFPB).” [[Press Release](#), House Financial Services Committee, 12/19/20]

The 27 Republican Congressmembers Who Signed Onto This Amicus Brief Have Received Over \$67.9 Million In Campaign Contributions From The Finance, Insurance, And Real Estate Industries, Which Are Largely Overseen By The CFPB.

Name	Career Contributions From The Finance, Insurance, And Real Estate Industries
Rep. Kevin McCarthy	\$9,516,957
Rep. Patrick McHenry	\$6,428,019
Rep. Steve Stivers	\$6,260,502
Rep. Blaine Luetkemeyer	\$4,420,217
Rep. Andy Barr	\$4,254,252
Rep. Steve Scalise	\$4,201,402
Rep. Ann Wagner	\$3,774,186
Rep. Peter T. King	\$3,330,557
Rep. Bill Huizenga	\$3,326,046
Rep. French Hill	\$3,104,357
Rep. Lee M. Zeldin	\$2,877,334
Rep. Roger Williams	\$2,818,832
Rep. Frank D. Lucas	\$2,626,627
Rep. Scott Tipton	\$1,966,789
Rep. Tom Emmer	\$1,696,023
Rep. Bill Posey	\$1,412,888
Rep. Alexander X. Mooney	\$1,055,393
Rep. Ted Budd	\$986,250
Rep. Trey Hollingsworth	\$976,100
Rep. Barry Loudermilk	\$742,634
Rep. Warren Davidson	\$536,039
Rep. Bryan Steil	\$451,358
Rep. Anthony Gonzalez	\$368,650
Rep. Lance Gooden	\$335,100
Rep. Denver Riggleman	\$249,050
Rep. John Rose	\$164,300
Rep. William Timmons	\$95,900
Total	\$67,975,762

The 3 Republican Senators Who Submitted An Amicus Brief Suggesting That The Court Invalidate The CFPB’s Action Against Seila Law Have Received Nearly \$5 Million In Campaign Contributions From CFPB Regulated Industries And Have Attacked The Bureau.

In Their Amicus Brief, Senators Mike Lee (R-UT), James Lankford (R-OK), And Mike Rounds (R-SD) Suggested The Court Should Invalidate The CFPB’s Action Against Seila Law And “Leave The Broader Remedial Questions To Congress.”

In Their Amicus Brief, Senators Mike Lee (R-UT), James Lankford (R-OK), And Mike Rounds (R-SD) Suggested The Supreme Court Should Invalidate The Entirety Of The CFPB As It’s Not In Their Authority To Merely Sever An Unconstitutional Provision. “The Constitution tasks Congress, not the Judicial Branch, with making the law. Yet this Court’s severability caselaw improperly requires it to attempt to divine legislative intent in determining whether to sever an unconstitutional provision or to find the entire statute (or section of a statute) unconstitutional.” [[Brief Of Amici Curiae Senator Mike Lee et. al.](#), Seila Law LLC v. CFPB, 12/16/19]

- **“‘Severing’ An Unconstitutional Provision From A Broader Statute Or Section Is Necessarily A Legislative Act.”** [[Brief Of Amici Curiae Senator Mike Lee et. al.](#), Seila Law LLC v. CFPB, 12/16/19]

The Brief Argued, **“The Court Should Craft A Remedy That Is Narrow Enough To Resolve The Controversy Between The Parties In This Case, And Leave The Broader Remedial Questions To Congress.”** “If this Court determines that the CFPB is unconstitutionally structured, it should *not* conduct a severability analysis to determine whether the for-cause removal provision of the Dodd-Frank Act can be severed from the rest of Title X. Instead, the Court should craft a remedy that is narrow enough to resolve the controversy between the parties in this case, and leave the broader remedial questions to Congress, at least in the first instance.” [[Brief Of Amici Curiae Senator Mike Lee et. al.](#), Seila Law LLC v. CFPB, 12/16/19]

The Amicus Brief Suggested The **“Narrowest Remedy”** The Court Could Issue Would Be To **“Decline To Give ‘Legal Force And Effect’ To The Civil Investigative Demand,”** Which It Said Would **“Help Preserve Our System Of Separated Powers.”** “The narrowest remedy available here would be to decline to give ‘legal force and effect’ to the civil investigative demand, just as this Court did in *Synar*. That narrow remedy would help preserve our system of separated powers and reinforce the importance of a clearly defined chain of command in our constitutional order.” [[Brief Of Amici Curiae Senator Mike Lee et. al.](#), Seila Law LLC v. CFPB, 12/16/19]

The Senators’ Amicus Brief Argued **“It Would Be Intruding On Congressional Turf If The Justices Were To Rewrite Dodd-Frank By Severing The Provision Protecting The CFPB Director.”** “Republican lawmakers from the House and Senate told the Supreme Court that it

would be intruding on Congressional turf if the justices were to rewrite Dodd-Frank by severing the provision protecting the CFPB director. ‘Severing a statute is necessarily a legislative act, and the process of severance, therefore, necessarily intrudes into Congress’ Article I authority,’ wrote Gene Schaerr of Schaerr Jaffe, who represents Republican Senators Mike Lee of Utah, James Lankford of Oklahoma and Michael Rounds of South Dakota. ‘The end result is always a law that Congress did not pass and that the president did not sign.’ [Alison Frankel, “[At SCOTUS, business groups and lawmakers cast doubt on DOJ’s proposed easy fix for CFPB,](#)” *Reuters*, 12/17/19]

The 3 Republican Senators Who Signed Onto This Amicus Brief Have Received Nearly \$5 Million In Campaign Contributions From The Finance, Insurance, And Real Estate Industries, Which Are Largely Regulated By The CFPB.

Name	Career Contributions From The Finance, Insurance, And Real Estate Industries
Senator Mike Lee	\$1,690,775
Senator James Lankford	\$1,375,518
Senator Mike Rounds	\$1,921,856
Total	\$4,988,149

A Group Of Republican State Attorneys General—5 Of Whom Have Joined A Trump-CFPB-Led Network To Confront “The Burden On Innovation” In State Regulations—Argued The CFPB’s Structure Is Unconstitutional And That The Supreme Court Should Dismiss The Bureau’s Action Against Seila Law.

The Republican State Attorneys General Of 13 States Argued In An Amicus Brief That The “CFPB’s Structure Violates The Constitution,” But That Its “For-Cause Removal Protections Cannot, Consistent With Congressional Design, Be Severed.”

In Their Amicus Brief, The State Attorneys General Argued That The “CFPB’s Structure Violates The Constitution,” But That Its “For-Cause Removal Protections Cannot, Consistent With Congressional Design, Be Severed.” “For the reasons set out below, the CFPB’s structure violates the Constitution. Moreover, the CFPB’s for-cause removal protections cannot, consistent with congressional design, be severed from the provisions empowering the CFPB to oversee vast swaths of federal economic regulation.” [[Brief Of Amici Curiae State of Texas et. al.](#), *Seila Law LLC v. CFPB*, December 2019]

The Attorney Generals' Brief Concluded That The Supreme Court Should Dismiss The CFPB's Enforcement Action Against Seila Law.

The Attorney Generals' Brief Concluded That The CFPB's Enforcement Action Against Seila Law Should Be Dismissed. The amicus brief concluded, "The judgment of the court of appeals should be reversed, and the enforcement action against Seila Law dismissed." [[Brief Of Amici Curiae State of Texas et. al.](#), Seila Law LLC v. CFPB, December 2019]

5 Of The 13 Attorney General Offices That Signed On To This Amicus Brief Have Joined A Trump-CFPB Network That Is Expected To Confront The Supposed "Burden On Innovation" Posed By Conflicts Between State And Federal Regulations.

The American Consumer Financial Innovation Network (ACFIN) Is A "Network Of Federal And State Officials And Regulators" Tasked With "Assisting Federal And State Officials Coordinate Efforts To Facilitate Innovation And Further Shared Objectives." "The American Consumer Financial Innovation Network (ACFIN) is a network of Federal and State officials and regulators seeking to facilitate consumer-beneficial innovation through coordination. Launched in September 2019, ACFIN benefits consumers by assisting Federal and State officials coordinate efforts to facilitate innovation and further shared objectives such as competition, consumer access, and financial inclusion." [["American Consumer Financial Innovation Network,"](#) Consumer Financial Protection Bureau, accessed 01/13/20]

- **"This Enhanced Federal-State Collaboration Also Promotes Consistency In The Regulation Of Consumer Financial Products And Services, Benefiting Consumers And Enhancing Competition."** [["American Consumer Financial Innovation Network,"](#) Consumer Financial Protection Bureau, accessed 01/13/20]

When It Was Announced, ACFIN Was Expected To Address "The Burden On Innovation" Due To Differences Between Federal And State Regulations. "The creation of ACFIN addresses, among other things, the burden on innovation arising from a lack of coordination between the federal and state governments." [["CFPB Announces Launch of American Consumer Financial Innovation Network,"](#) *JD Supra*, 10/14/19]

The Attorneys General Of Alabama, Georgia, Indiana, South Carolina, And Utah Are Members Of The American Consumer Financial Innovation Network. [["American Consumer Financial Innovation Network,"](#) Consumer Financial Protection Bureau, accessed 01/13/20]

The Attorneys General For Alabama, Georgia, Indiana, South Carolina, And Utah Were Among Those Who Submitted The Amicus Brief. [[Brief Of Amici Curiae State of Texas et. al.](#), Seila Law LLC v. CFPB, December 2019]