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NCLA Asks D.C. Court to Block SEC’s Illegal “Rubber-Stamp” Enforcement Procedure

Reverend Father Emmanuel Lemelson v. Securities and Exchange Commission

Washington, DC (December 18, 2024) – The New Civil Liberties Alliance has filed an [Amended Complaint](#) and [asked](#) the U.S. District Court for the District of Columbia for a preliminary injunction to stop the Securities and Exchange Commission’s illegitimate “follow-on” enforcement proceeding against Rev. Fr. Emmanuel Lemelson. A Massachusetts federal jury in 2021 rejected nearly all of SEC’s baseless charges against Father Lemelson, an ordained Greek Orthodox priest and activist investor, including *all* of its incendiary allegations that he engaged in a scheme to defraud the market and even his own fund investors. Yet SEC is now threatening to bar or suspend him from the securities industry using its own “follow-on” administrative proceeding, in which SEC has appointed itself as the judge and jury.

SEC’s continuing campaign to punish Father Lemelson through an in-house tribunal overseen by an agency “Administrative Law Judge” (ALJ) purports to seize and relocate judicial power in violation of Article III of the Constitution. It also deprives Father Lemelson of the Fifth and Seventh Amendment rights to have his case adjudicated in an Article III court by a jury of his peers. NCLA’s Amended Complaint adds a new claim that the ALJ is unconstitutionally insulated from Presidential control because he enjoys multiple levels of tenure protection. Father Lemelson is especially likely to succeed on the merits of these constitutional claims. He deserves a preliminary injunction.

An injunction will stop SEC’s “follow-on” proceeding from inflicting irreparable harm on Father Lemelson. The harm he faces is materially identical to the consequences threatened against NCLA client Michelle Cochran before NCLA secured victory at the Supreme Court in [SEC v. Cochran](#). Father Lemelson’s SEC adjudicators are plainly biased against him and in favor of SEC’s own staff prosecutors, so they cannot provide a fair and impartial adjudication.

The balance of equities is on Father Lemelson’s side, and a preliminary injunction is in the public interest. His case is far from unique. SEC has prosecuted hundreds of other follow-on cases in recent decades. Unsurprisingly, according to academic research, the agency has ruled in its own favor in every single follow-on case of this kind. It is long past time to end this mockery of justice.

NCLA released the following statement:

“SEC has been an openly hostile adversary of Father Lemelson in federal court and the press for the past six years. A more obvious case of structural institutional bias is hard to imagine. That’s why the Constitution demands that such cases be tried in neutral federal courts with juries.”

— **Russ Ryan, Senior Litigation Counsel, NCLA**

For more information visit the case page [here](#).

ABOUT NCLA

[NCLA](#) is a nonpartisan, nonprofit civil rights group founded by prominent legal scholar [Philip Hamburger](#) to protect constitutional freedoms from violations by the Administrative State. NCLA's public-interest litigation and other pro bono advocacy strive to tame the unlawful power of state and federal agencies and to foster a new civil liberties movement that will help restore Americans' fundamental rights.

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