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## WLF Urges Supreme Court to Enforce Constitutional Limits on the Appointment of Federal Officers Cases

*(Financial Oversight and Management Bd. v. Aurelius Investment, LLC)*

**“When appointments to senior government posts do not comply with procedures set forth in the Constitution, important separation-of-powers principles are threatened. The courts can ensure compliance by providing meaningful relief to those who successfully challenge improper appointments.”**

—Richard Samp, WLF Chief Counsel

WASHINGTON, DC—Washington Legal Foundation (WLF) today urged the U.S. Supreme Court to take steps to ensure that “principal officers” of the United States are appointed in the manner prescribed by the Constitution: appointment by the President with the advice and consent of the U.S. Senate. WLF’s *amicus curiae* brief asks the Court to overturn an appeals court decision that upheld the actions of an unconstitutionally appointed federal board that is overseeing the restructuring of Puerto Rico’s debt.

In 2016, Congress adopted PROMESA, a statute designed to help ease Puerto Rico’s crushing debt burden. PROMESA established an unusual method for appointing members of the oversight Board: most of the members were selected by congressional leaders. The improperly appointed Board members initiated several debt-restructuring proceedings (akin to proceedings under federal bankruptcy law) in federal court. Several creditors objected to those proceedings, asserting that the Board lacked authority to act because its members had not been properly appointed.

The appeals court agreed that the method of appointment violated the Appointments Clause. But the court declined to provide the creditors with the relief they requested: dismissal of the debt-restructuring proceedings. It held that although Board members were never officially authorized to represent the United States, they were “*de facto* officers” whose actions could be upheld on that basis.

WLF argues that because Board Members have not been properly authorized to represent the federal government, they lack standing to maintain a court proceeding. WLF adds that by denying any relief to those who challenged the unconstitutional behavior, the appeals court improperly removed all incentives for challenging similar lawless behavior in the future.

*Celebrating its 42nd year as America’s premier public-interest law firm and policy center, WLF’s mission is to preserve and defend America’s free-enterprise system by litigating, educating, and advocating for free-market principles, a limited and accountable government, individual and business civil liberties, and the rule of law.*

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