BETTER MARKETS

Fact Sheet: Better Markets Goes to Court to Make Clear that AIG's Former Executives and Shareholders Don't Deserve Another Nickel from Taxpayers

Starr International Company is suing the United States for more than $30 billion based on the claim that the $182 billion bailout of AIG wasn't generous enough.

- Starr was the largest shareholder in AIG before the crash in 2008, and its chairman, Hank Greenberg, is the former CEO of AIG.
- After the Federal Court in the Southern District of New York threw out its claims, Starr filed a new case in the Federal Court of Claims. After a trial, the court found the government's actions an impermissible regulatory "exaction" because of the terms of the government's emergency loan that AIG voluntarily accepted to prevent it from filing bankruptcy.

The Court found that Starr suffered no economic loss because shares of AIG would have been worthless without government support.

- The court also found that, if the government had not rescued AIG, shareholders would have been wiped out in bankruptcy, left with no share value whatsoever.
- Therefore, the trial court awarded Starr no damages, which is why Starr is appealing.
- Although the emergency loan was the only offer available to AIG to prevent bankruptcy and the loan offer used reasonable terms previously proposed by the private sector, Starr argues that the bailout should have been significantly more generous, even though the government assumed unlimited liability for all of AIG's liabilities (the amount of which were unknown even to AIG at the time).
- Starr also asks for the "return" of its "property" but the government never touched Starr's shares of AIG, so this case is totally different from a traditional "exaction."

The appeal in the Federal Circuit presents important legal issues, and Better Markets is the only public interest organization to weigh in with an amicus brief.

- The trial court misconstrued the Federal Reserve Act, and Better Markets argues for not only a correct reading of those emergency powers, but also for appropriate judicial deference to reasonable decisions made in the midst of an historic collapse of the U.S. and global financial system. The trial court ignored the context of a cascading and metastasizing financial and economic calamity where information was rapidly changing, ambiguous and incomplete (an "economic fog of war"), but where policy makers nonetheless had to act, with the gravest consequences ever present.
- If the erroneous court decision is affirmed, not only will innocent taxpayers (already victims of AIG) have to hand billions of dollars more to undeserving former officers and shareholders of AIG, but U.S. officials in the future may be inhibited from taking necessary action in the next crisis.
- The trial court also made an egregious, irrelevant and erroneous factual finding: that AIG was less culpable but treated more harshly than other financial firms. Better Markets shows that is wrong by providing important historical context about AIG's reckless pursuit of profit.
- Better Markets also identifies pervasive bias in the lower court's language choices, which describe AIG as a passive victim of a predatory government. The facts show this sympathy to be woefully misplaced. AIG was a victim of its own recklessness and greed.

- Starr does not want the Federal Circuit to consider these important arguments in support of the public interest and has decided to oppose Better Markets' submission of an amicus brief.

It's vitally important for the appellate court to reject Starr's claims for many reasons:

- U.S. taxpayers and the country have already suffered from AIG's stunning recklessness. Not only did they have to repeatedly bail out AIG ultimately with $182 billion, but they also had to watch as AIG handed its executives millions of dollars in bonuses in 2009 at the same time tens of millions of Americans lost their jobs, homes, savings and so much more. Taxpayers should not be required to now spend even more billions on AIG and other financial institutions like AIG who will claim after-the-fact they were somehow legally wronged when they were saved from bankruptcy in the first place. And, this from the very institutions caused the financial crisis of 2008—which was the worst financial disaster since the Great Crash of 1929 and the worst recession since the Great Depression of the 1930s.
- Due to unlimited bailouts and no accountability on Wall Street, moral hazard is dangerously prevalent among the financial industry. These upside down incentives have created a pervasive sense among the too-big-to-fail banks and other large financial institutions that they can engage in reckless behavior to generate massive profits regardless of the consequences, since the taxpayer will always bail them out.
- Re-writing history contrary to the facts is improper for a court and especially when such imaginings relate to an historic and consequential financial crash. The appeal court must reject this to make sure that the country has an accurate understanding of what really happened during the 2008 financial crisis, not a distorted view of one judge baselessly casting the government as villain and Wall Street as victim.

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Better Markets is a non-profit, non-partisan, and independent organization founded in the wake of the 2008 financial crisis to promote the public interest in the financial markets, support the financial reform of Wall Street and make our financial system work for all Americans again. Better Markets works with allies – including many in finance – to promote pro-market, pro-business and pro-growth policies that help build a stronger, safer financial system that protects and promotes Americans' jobs, savings, retirements and more. To learn more, visit www.bettermarkets.com.