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Media Inquiries: [Joe Martyak](#), 703-403-1111

NCLA Seeks Dismissal of Tainted SEC Enforcement Proceeding After Unauthorized Staff Actions

In the Matter of Rev. Fr. Emmanuel Lemelson and Secs. and Exchange Comm'n v. Rev. Fr. Emmanuel Lemelson

Washington, DC (June 4, 2025) – The New Civil Liberties Alliance has filed a [motion](#) to dismiss a three-year-old administrative enforcement proceeding the Securities and Exchange Commission has been prosecuting against its client, the Reverend Father Emmanuel Lemelson, a Greek Orthodox priest and activist investor. The proceeding has been irreparably tainted twice over, first by the filing of an *ultra vires* federal lawsuit purportedly on behalf of SEC but that the Commissioners never authorized. Then a recently disclosed SEC internal control failure further tainted the proceeding. These irregularities, the latest twists in the Commission's longstanding and publicly adversarial relationship with Fr. Lemelson, negate any plausible appearance that the Commission can now fairly and impartially adjudicate its related administrative enforcement prosecution against him.

The SEC enforcement division's pursuit of Fr. Lemelson began more than a decade ago and has continued ever since. On April 30, 2025, the Division of Enforcement filed the latest federal lawsuit, purportedly on SEC's behalf, seeking judicial enforcement of a belated administrative subpoena issued earlier this year by one of SEC's administrative law judges (ALJs). But the Division subsequently admitted that it filed the lawsuit without first consulting with or getting approval from the presidentially appointed and Senate-confirmed SEC Commissioners, erroneously asserting that it possessed "delegated authority" to file the suit. NCLA challenged the legitimacy of that purported delegated authority. Only a week after the Court ordered the parties to brief the matter (and only a month after launching the lawsuit), SEC abruptly withdrew the lawsuit on May 30 instead of defending itself.

While the lawsuit was pending, the Division of Enforcement also admitted that, purportedly due to yet another internal control failure at SEC, an unspecified number of internal Division emails were sent to an unnamed former Division of Enforcement staff member who had transferred to the Office of the SEC Chairman to serve as counsel to the Chairman in early April 2025, *including emails related to the litigation against Fr. Lemelson*. This SEC internal control failure is separate from the control failure that caused SEC to dismiss 42 pending administrative enforcement proceedings *en masse*—two years ago, almost to the day—because enforcement staff had improper access to ALJs' files, including those then pending against NCLA clients [Michelle Cochran](#) and [Marian Young](#).

In conjunction with its motion to dismiss the SEC administrative proceeding, NCLA has also asked the SEC ALJ to issue a subpoena to the Division of Enforcement to produce documents relevant to the recent breaches of SEC protocol and internal controls. Last week, the U.S. Court of Appeals for the First Circuit separately [agreed](#) with NCLA that a Massachusetts district court improperly denied Fr. Lemelson's claim for attorney's fees under the Equal Access to Justice Act in a related case SEC pursued against him from 2018 through 2022. And days later, NCLA filed a notice of appeal seeking review by the U.S. Court of Appeals for the D.C. Circuit of a recent district court [decision](#) dismissing Lemelson's amended complaint that sought declaratory and injunctive relief to stop SEC's ongoing administrative enforcement proceeding against him on constitutional and other legal grounds.

NCLA released the following statements:

“In administrative adjudications, the agency is supposed to be the neutral and impartial final judge of the dispute in both fact and appearance, but that cannot happen if the agency is simultaneously locked in longstanding adversarial litigation against the same respondent in federal court. This case exemplifies what can go wrong when Congress assigns important responsibilities to unelected agency heads who then further diffuse political accountability by subdelegating those responsibilities to agency staff.”

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

“It is utterly outrageous that SEC’s enforcement division filed a lawsuit without permission from the appointed officials at the top of the Commission. Kudos to SEC for yanking the lawsuit late last month. Hopefully that means there is a new sheriff in town willing to ride herd on what has been an agency running amok since at least 2017.”

— **Mark Chenoweth, President, NCLA**

For more information visit the case pages [here](#) and [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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