NO. _____

SUPREME COURT OF THE UNITED STATES

ROBERT L. SCHULZ,

Plaintiff-Appellant,

LEAD CASE:
District Court 1:08-CV-991
Circuit Court 08-4810-cv

-against-

UNITED STATES FEDERAL RESERVE SYSTEM, BEN S. BERNANKE, Chairman of the United States Federal Reserve System, UNITED STATES DEPARTMENT OF THE TREASURY, HENRY M. PAULSON, JR., Secretary of the United States Department of the Treasury, and the UNITED STATES

Defendants-Respondents

ROBERT L. SCHULZ,

Plaintiff-Appellant,

MEMBER CASE:
District Court 1:08-cv-1011
Circuit Court 08-4810-cv

-against-

UNITED STATES EXECUTIVE DEPARTMENT, GEORGE W. BUSH, President of the United States, HENRY M. PAULSON, JR., Secretary of the Treasury; UNITED STATES CONGRESS, NANCY PELOSI, Speaker of the House of Representatives, HARRY REID, Senate Majority Leader; UNITED STATES FEDERAL RESERVE SYSTEM, BEN S. BERNANKE, Chairman of the Board of the United States Federal Reserve System,

Defendants-Respondents

APPELLANT'S EMERGENCY MOTION FOR A STAY

TABLE OF AUTHORITIES

CONSTITUTION

RULES

OTHER REFERENCES

Plaintiff-Appellant Robert L. Schulz ("Schulz"), presenting this application under Rule 22 and 23 of the Rules of the Supreme Court of the United States, states as follows:

This application includes the following documents (copies attached), which were filed in the Court of Appeals: APPENDIX , SCHULZ DECLARATION dated September 30, 2008, and SCHULZ DECLARATION #2 dated October 4. This application is also supported by DECLARATION BY SCHULZ, dated October 14, 2008 (attached) .

RELIEF REQUESTED

This application is for an expedited proceeding and a stay of Defendants' (unconstitutional *and* Congressionally unauthorized) use of public, taxpayer money or credit to purchase or insure private assets or contracts belonging to A.I.G. (American International Group), pursuant to an agreement announced on or about September 16, 2008, and any amendments thereto, pending completion of the appeals process/petition for a writ of certiorari.

In addition, this application is for an expedited proceeding and a stay of Defendants' (unconstitutional) use of public, taxpayer money or credit to purchase or insure private assets belonging to any private entity pursuant to Sections 101 and 102 of the Emergency Economic Stabilization Act of 2008 (EESA), incorporated and made a part of H.R. 1424, which was signed into law by President Bush on Friday, October 3, 2008 -- the so-called $700 Billion Bailout Plan -- pending completion of the appeals process/petition for writ of certiorari.

RELIEF NOT AVAILABLE ELSEWHERE

By the Orders of the District Court on September 23 and 26, and the Order of the Court of Appeals on October 6, the lower courts denied emergency applications for similar relief. In effect, under the facts and circumstances of the case, the decisions by the lower courts amount to, and bear the practical effects, of a final order.

PROCEDURAL HISTORY

The Lead case, filed Thursday morning, September 18, 2008,[1] is a challenge to the giving or lending of public, taxpayer money or credit to a private company (American International Group – "A.I.G.") for a definitively private purpose, **without a grant of authority from the People to do so.**

The Member case, filed Wednesday, September 24, 2008,[2] is a challenge to the use of public, taxpayer money under the so-called $700 Billion Bailout Plan (the Emergency Economic Stabilization Act – "EESA"), to purchase or insure assets belonging to private entities for definitively private purposes, **without a grant of authority from the People to do so.**

Concurrent with the filing of each of the two Complaints, Schulz filed and timely served a Show Cause Order to expedite the proceedings, and for a TRO and a Preliminary Injunction to stay the transfer of taxpayer funds from the public treasury unless and until the Defendants provided evidence of their authority, under the Constitution of the United States of America, (and/or appropriate statutes) to engage in such conduct.

With respect to the A.I.G. case, the District Court failed to act on Schulz's emergency motion for five days, allowing the Treasury and/or Federal Reserve to transfer $61 Billion (of the initial $85 Billion) of taxpayer-backed funds to A.I.G. On September 23, the Court issued a Text Only Order denying the motion for a TRO on the (erroneous) ground that Schulz had not cited the Court's jurisdiction.[3]

---

[1] Two days after the public announcement of an agreement whereby the Treasury Department (without approval from Congress) would loan $85 Billion to A.I.G. in exchange for 79.9% ownership of A.I.G.

[2] Three days after the public release of a proposed law that would "authorize" the Treasury Department to use $700 Billion to purchase private assets for decidedly private purposes.

[3] The first paragraph of the Complaint is titled Jurisdiction and Venue and properly cites the jurisdiction of the Court under Article III, section 2 of the Constitution as well as under 28 U.S.C. 1331.

The District Court issued its Order without any response from the Defendants to the Complaint, much less a hearing.[4]

With respect to the $700 Billion Bailout case, the District Court failed to act on Schulz's emergency motion for two days. On Friday, September 26, the Court issued an Order denying the motion for a TRO and a Preliminary Injunction on the (erroneous) ground that Schulz had not cited the Court's jurisdiction.[5]

In addition, the District Court's September 26 Order consolidated the two cases and denied Schulz's motion for a Preliminary Injunction in the A.I.G. case.

On Tuesday, September 30, Schulz filed a Notice of Appeal from the District Court's Orders of September 23 and September 26, and an Emergency Motion at the Court of Appeals to expedite the proceedings and to stay the transfer of taxpayer funds from the public treasury under both programs unless and until the Defendants provided proof of their authority under the Constitution of the United States of America to engage in such conduct.

The Second Circuit did not act on Schulz's Emergency Motion for six days and did not notify Schulz of its decision for *another* four days. On Monday afternoon, October 6, without explanation and without any hearing or response from any of the Defendants, the Court of Appeals denied the emergency motion, allowing Defendants to transfer more of the $85 Billion to A.I.G. (and to entertain another request by A.I.G for an additional $37.8 Billion beyond the initial $85 Billion), and allowing Defendants to pursue the use of the $700 billion bailout fund.[6]

---

[4] As of today, other than a Notice of Appearance in the Lead Case, the Defendants in both the Lead and Member cases have not been heard from.

[5] Again, the first paragraph of the Complaint is titled Jurisdiction and Venue and properly cites the jurisdiction of the Court under Article III, section 2 of the Constitution as well as under 28 U.S.C. 1331.

[6] Schulz, who is pro-se, learned of the Court's decision on Thursday, October 9 when he received an email from a friend who had noticed the decision was posted on the Docket Sheet. Schulz telephoned the case manager at the Court, who confirmed the decision, and agreed to fax a copy to Schulz. Schulz received the fax late Friday afternoon October 10, 2008.

STATEMENT OF FACTS: A.I.G. CASE

The facts, presented in the Appendix at pages A 29-44, in Exhibit F to Schulz Declaration to the Court of Appeals, dated September 30, 2008, and in Exhibit A to Schulz Declaration #2 to the Court of Appeals, dated October 4, 2008 (copies attached), are included here by reference.

In sum, in violation of the Constitution and without obtaining the authorization of Congress, Defendants agreed to give or lend $85 billion in public, taxpayer money and credit to A.I.G. in exchange for 79.9 percent ownership of A.I.G., a private insurance company that had gambled and lost in the unregulated **gaming industry known as the credit default swaps market**.

For three reasons, the credit default swaps market is more akin to the gaming industry than to the insurance industry. First, credit default swaps do not include an "insurable interest" requirement.[7] Second, the Credit default swaps market does not include licensed underwriters, accumulated actuarial reserves or restrictive investment policy limits. Third, with credit default swaps, the insured has the ability to accelerate events of default by influencing the probability of loss by shorting company securities.

After giving most of the agreed upon $85 billion to A.I.G., Defendants recently announced they would be giving A.I.G. an additional $37.8 billion and might also use some of the money "authorized" by the $700 billion bailout plan to aid A.I.G.

[7] Normally, the person acquiring insurance against an identified risk must have something to lose if the event (default) happens. Insurance is intended to cover any actual loss, minus a deductible. The policy holder is not to profit from the loss. With credit default swaps, however, anyone could invest in swaps for a profit -- that is, speculate on losses. Purchasing a credit default swap for speculation is essentially a leverage bet on default. The exposure to credit default swaps has grown so large over the last ten years ($62 trillion) that it far exceeds the exposure of the underlying debts (total mortgage debt outstanding in the United States is $15 trillion).

STATEMENT OF FACTS: $700 BILLION BAILOUT CASE

The facts, presented in Appendix (A74 -76), Declaration dated September 30 (Exh. A-E, G), and Exhibits B and C to Declaration #2, dated October 4, 2008, are included here by reference.

Late relevant facts are presented in Exhibits A-B to Schulz Declaration dated October 14, 2008.

In sum, Defendants, with congressional approval (but not authorized by the Constitution) are expected to soon begin aggressively spending $700 Billion in public, taxpayer funds to purchase "troubled assets" from private entities for definitively private purposes. "Troubled assets" means:[8]

(A) residential or commercial mortgages and any securities, obligations, or other instruments that are based on or related to such mortgages …; and

(B) any other financial instrument ….

In fact, Defendants have announced that they will, within days, begin spending the $700 billion to purchase not only bad mortgage backed securities and investments (such as credit default swaps), but also an "equity stake" in various private banks.

ARGUMENT

A. THE JUDGMENT BY THE LOWER COURT IS A "FINAL ORDER" WITHIN THE MEANING OF 28 U.S.C. 2101(f)

Individual justices have jurisdiction and power to take such steps as are necessary to preserve rights of parties pending final determination of an applicant's cause, by virtue of 28 USCS § 2101(f) and former Supreme Court Rule 51. *Meredith v Fair* (1962, US) 9 L Ed 2d 43, 83 S Ct 10.

This application meets the statutory requirement (28 USCS § 2101(f)), being a case in which the final judgment is subject to review by the Supreme Court on writ of certiorari.

[8] Emergency Economic Stabilization Act, page 5, Section 3 Definitions, paragraph (9). See Schulz Declaration #2, dated October 4, 2008, Exhibit C, page 5.

Under the volatile and rapidly proceeding facts and circumstances of this controversy as well as the vast and irreparable harms being inflicted upon both Appellant and the People, by denying the motions for a TRO and a Preliminary Injunction, the District Court has, in effect, issued a final order, within the meaning of 28 U.S.C. 2101(f).

By denying the emergency applications for a TRO and a Preliminary Injunction the District Court has effectively decided the constitutional question in controversy and allowed Defendants to complete the very actions Schulz Petitioned the judiciary to prevent – i.e., the (unlawful) giving or lending of public, taxpayer funds and credit to A.I.G. for a definitively private purpose, and the (unlawful) use of public, taxpayer funds to purchase real and personal assets from private parties for definitively private purposes, **without a grant of authority from the People to do so** (harm, within the zone of interest to be protected by the letter and spirit of the Constitution).

Without the stay, Defendants' gift(s) of public money or credit (now $112 Billion, and climbing) to bail out A.I.G. will be completed in the very near future.

Without the stay, Defendants' transfer of $700 Billion in public, taxpayer funds to private entities for private purposes will commence in the very near future, if it hasn't already begun, given the language of (EESA) Section 101(a)(2) of the Act, to wit, " COMMENCEMENT OF PROGRAM.- Establishment of the policies and procedures and other similar administrative requirements imposed on the Secretary by this Act are not intended to delay the commencement of the [program]."[9]

The judgment of the District Court that it lacked jurisdiction adds to the "finality" of the judgment, even though the question of jurisdiction is technically on appeal.

A stay may be granted under 28 USCS § 2101(f) where, as in the instant case, there has been a final judgment of Federal District Court, although appeal of such judgment is still pending in the Court of Appeals, where the judgment of the District Court effectively decided the case/ remedy by denying a

[9] The program is defined in the Act as the Troubled Asset Relief Program ("TARP").

petition for a TRO and a Preliminary Injunction. The Supreme Court has the power to stay/reverse the execution of the District Court's judgment since the judgment was final and subject to review by the Supreme Court (prior to final judgment of the Court of Appeals) by reason of 28 USCS § 1254(1). *In re Johnson* (1952, US) 96 L Ed 1377, 72 S Ct 1028.[10]

Under the district court's judgment denying a stay for lack of jurisdiction, each passing day constitutes a separate infringement of Schulz's constitutional rights that is irreparable, and for purposes of 28 USCS §§ 2101(f), when the court of appeals delays action on an application by way of appeal to stay District Court's judgment, it has "finally" decided that the district court's denial of injunctive relief should remain in effect during period of delay, thereby establishing the jurisdiction of an individual justice of United States Supreme Court to consider this application for stay and to act upon the district court's decision especially, as here, if a reasonable time in which to review the district court's order finding lack of jurisdiction has passed. See *Nebraska Press Asso. v Stuart* (1975) 423 US 1327, 46 L Ed 2d 237, 96 S Ct 251.

The inability of Schulz to obtain timely substantive review by the lower courts of a serious constitutional issue, prior to incurring substantial injury, justifies a determination that Schulz has satisfied the jurisdictional requirements of § 2101(f), and thus an individual Justice has jurisdiction to grant the relief requested.

B. CONDITIONS FOR A STAY UNDER 2101(f) ARE MET

This application satisfies the three conditions that must be met before a stay may be issued under § 2101(f).

[10] § 1254. Courts of appeals; certiorari; certified questions. Cases in the courts of appeals may be reviewed by the Supreme Court by the following methods: (1) By writ of certiorari granted upon the petition of any party to any civil or criminal case, before or after rendition of judgment or decree;

First, there is a reasonable probability that certiorari would be granted by four of the Justices of the Supreme Court. Government Defendants are acting without a grant of authority from the People. A substantial and debatable federal question has been presented.

Second, there is a fair and significant prospect that a majority of the justices of the Supreme Court will conclude that the District Court's finding of lack of jurisdiction was demonstrably wrong and should be reversed as erroneous. Clearly the federal courts have jurisdiction under Article III, Section 2 of the Constitution and 28 U.S.C. 1331, and clearly Schulz properly and timely cited the Court's jurisdiction. Beyond this, jurisdiction for injunctive measures alleging "*a violation of the Constitution"* has been expressly provided in Section 119 of EESA. See Declaration #2, dated October 4, Exhibit C, page 58.

"Subject matter of complaint which plainly sets forth a case arising under Federal Constitution is within federal judicial power defined in Article III, § 2, of Federal Constitution, and so within power of Congress to assign to jurisdiction of District Courts." *Baker v Carr* (1962) 369 US 186, 7 L Ed 2d 663, 82 S Ct 691.

According to the Federal Rules of Civil Procedure, Rule 8 (A), **"**A pleading that states a claim for relief must contain: (1) a short and plain statement of the grounds for the court's jurisdiction, unless the court already has jurisdiction and the claim needs no new jurisdictional support." In fact, Schulz provided the district court with a statement of the grounds for the court's jurisdiction (notwithstanding the fact that the court already had jurisdiction).

The primary role of the judiciary is to exercise its jurisdiction to keep the other two branches in their constitutional places, regardless of the level of practical difficulty. "Existence of jurisdiction implied duty to exercise it, and that its exercise might be onerous did not militate against that implication." *Second Employers' Liability Cases* (1912) 223 US 1, 56 L Ed 327, 32 S Ct 169.

The fact that the merits of the instant cases would have, in effect, been decided on Schulz's emergency motions for injunctive relief did not deprive the lower court of jurisdiction. "Where jurisdiction of court is invoked on grounds which, if true, spell out existence of federal jurisdiction, cause must be entertained for purpose of fully determining merits **either by way of motion** or, by trial." *Dry Creek Lodge, Inc. v United States* (1975, CA10 Wyo) 515 F2d 926, 20 FR Serv 2d 940. (Emphasis by Schulz).

28 USCS § 1331 provides District Courts with jurisdiction over motions for injunctive relief and power to review decisions and actions of federal agencies. *Parkview Corp. v Department of Army, Corps of Engineers, etc*. (1980, ED Wis) 490 F Supp 1278, 14 Envt Rep Cas 2115.

Third, there is the likelihood of irreparable harm to Schulz (and the general public) if the stay does not issue. The loss of U.S. Constitutional freedoms, even for minimal periods of time, constitutes irreparable injury. Schulz has a fundamental, natural, unalienable, individual Right to government based on the consent of the People and to constitutional governance carried out in decency and good order. He has a fundamental, natural, unalienable, individual Right to a government that does not violate the Constitution. He has a fundamental, natural, unalienable, individual Right (guaranteed by the First Amendment) to hold the Government accountable to the Constitution. Impairment of *constitutional* Rights can undoubtedly constitute irreparable injury. *Elrod v. Burns, 427 U.S. 347, 373, 49 L. Ed. 2d 547, 96 S. Ct. 2673 (1976)* (plurality opinion). Violations of U.S. Constitutional Rights are commonly considered irreparable injuries for the purposes of preliminary injunctions. *Bery v. City of New York, 97 F.3d 689, (2d Cir., 1996).*

Schulz has standing to bring suit, even before the conspiracy has resulted in economic or tangible injury, as may be the situation with the Defendants' exercise of (alleged) "authority" under EESA. See *LeBlanc-Sternberg v. Fletcher, 67 F.3d 412 (2d Cir., 1995).*

Schulz has demonstrated that the stay applied for will prevent the feared continued deprivation of fundamental rights, and that he is thus entitled to the relief requested. See *Bennett v. Lucier, 2007 U.S. App. LEXIS 15937 (2d Cir., July 5, 2007).*

In addition, without the stay, Schulz, a federal taxpayer, will be irreparably injured by the two bailout projects by the addition of more than $820 billion to the national, taxpayer-guaranteed debt.

Without the stay, Schulz, a purchaser of basic necessities, will be irreparably injured by a rise in prices, the result of the addition of $85 billion and $37.8 billion (for A.I.G.), and $700 billion (for private banks and other financial institutions) to the national debt and the corresponding devaluation of the dollar resulting from the collusion of the Federal Reserve and Treasury to create the funds for such transactions. It is common knowledge and irrefutable that the value of the dollar is inversely proportional to the amount of dollars in circulation and to the national debt, and that the amount of dollars in circulation is directly proportional to the cost of goods and services, including the necessities of food, clothing and shelter.

C. BALANCING OF THE EQUITIES FAVORS PLAINTIFF

A balancing of the equities argues for the stay. Any suggestion of inconvenience or harm due to delay of the Defendant's use of public money and credit in aid of A.I.G., or in aid of other private undertakings under EESA, **has not been presented or raised by Defendants**.[11] Therefore, in the eyes of the Court, Defendants' harm is not a matter so great as to warrant a denial of Schulz's application for a stay. See *Barnes v E-Systems* (1991) 501 US 1301, 115 L Ed 2d 1087, 112 S Ct 1.

[11] The Court's attention is invited to two important facts: (1) Defendants did not seek or obtain the approval of Congress to enter into any agreement with AIG or appropriate public funds for such purpose, thus there is no public record of factual cause and effect, under oath or otherwise; and (2) Defendants did not conduct any public hearings on the proposed EESA legislation, nor does it appear there will be any opportunity for the People to provide any timely or meaningful input as implementing regulations are developed and adopted.

When irreparable injury to fundamental, republican interests is threatened by the district court's order denying a stay, and when it appears that there is significant possibility that the United States Supreme Court will grant plenary review and reverse the lower court's decision, a stay of the district court's judgment may be issued by an individual Justice of United States Supreme Court, as Circuit Justice. *United States v Powell* (1975) 423 US 87, 46 L Ed 2d 228, 96 S Ct 316.

D. THERE IS A STRONG LIKELIHOOD OF SUCCESS ON THE MERITS

With respect to the AIG case, the Executive Department is not authorized, with or without the approval of Congress (and Congress is **not** authorized to give approval), to *participate* in commerce by giving or lending public, taxpayer funds and credit to a private party for a definitively private purpose. This is true, regardless of any noble intent of the program. The Court's attention is invited to the fact that, even if Congress had such power under Article I, Section 8 of the Constitution (which it does not have) the Executive Branch **did not seek and has not obtained the approval of Congress** for the required appropriation of funds for such an expenditure.

With respect to the $700 Billion case, the Executive Department is not authorized by the Constitution, with or without the approval of Congress, to *participate* in commerce as a purchaser or insurer of real and personal property (mortgage related assets or other financial instruments) from private, for-profit entities for decidedly **private** purposes. This is true, regardless of any noble intent or perceived public benefit of such program. Large sums of public, taxpayer funds are to be used to purchase, insure, or otherwise indemnify the real and personal property, financial investments or contracts of private entities for decidedly **private** purposes.

Given the facts and circumstances of this case, particularly Plaintiff's irreparable harm and a balancing of the public interests and hardships, the lesser "serious questions" standard applies. Plaintiff has raised serious questions going to the merits to establish fair grounds for the relief requested.

The Constitution must be construed in its entirety.

There is no provision of the Constitution that permits or grants the Government of the United States of America the power to participate in commerce by giving or lending public funds and credit to a private party - even if such transaction results in an exchange for warrants, financial interest, and/or control of the private party, especially if such transaction is for a decidedly, definitively, **private** purpose.

Use of public taxpayer funds to prevent a corporate failure or to promote "Financial market stability" and /or "Stabilizing the credit markets" is a usurpation of the power of We the People; neither is an enumerated power.

Under Article I, Section 8 of the Constitution of the United States of America, the People have given Congress the power, **"To regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes,"**

Article I, Section 8 of the Constitution of the United States of America gives Congress the power to regulate commerce, not to *participate* in commerce, or to create markets or set market prices, as a giver or lender of public money and credit to private, for-profit entities.

The *First Amendment* to the Constitution of the United States of America reads in part, **"Congress shall make no law…abridging … the Right of the People peaceably to Assemble and to Petition the Government for Redress of Grievances."**

This case represents a Petition for Redress (remedy) of violations of the Constitution.

The *Fifth Amendment* to the Constitution of the United States of America reads in part,

"No person shall be deprived of …liberty, or property, without due process of law…."

The District Court's clearly erroneous denial of Plaintiff's application for a stay on the ground that Plaintiff did not cite the Court's jurisdiction is tantamount to a denial of Due Process Rights.

In addition, Plaintiff is a payer of federal taxes. The Right not to have his money taken from him for illicit purposes is an unalienable Property Right of the Plaintiff. The unauthorized – i.e., unlawful -- use of taxpayer funds infringes upon individual, unalienable Right to Liberty and Property.

Plaintiff's Liberty and Property depend upon his vigilance and ability to defend against any act or threat by Defendants to diminish the value of his or her Right to retain his money property.

The *Ninth Amendment* reads, **"The enumeration in the Constitution of certain Rights shall not be construed to deny or disparage others retained by the People."**

Plaintiff claims and is exercising his natural Right to challenge Defendants' violations of the Constitution. Plaintiff has a Right to a republican government in form and substance, to the Rule of Law rather than whim, to a Government that does not act without the consent of the governed, to a separation of the powers and to popular sovereignty.

The *Tenth Amendment* to the Constitution of the United States of America reads, **"The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the People."**

The power to give or lend A.I.G. or any other private entity public money and public credit is clearly reserved to the People, who have not expressly transferred that power to Defendants via the Constitution. The Agreement reached between Defendants and A.I.G., and the actions imminent under EESA are a usurpation of the inherent power and vital interests of the free People of the United States of America. Plaintiff's claims are aggravated further still by the potential of purchase or insuring of significant amounts of *foreign owned* impaired assets by the U.S. Treasury.

Plaintiff, as a citizen of the United States, is to enjoy the privilege and Right of knowing that no official of the United States is acting without constitutional authority.

The Supreme Court of the United States and the Founder's opinions are clear, no department of the Government can violate Fundamental Rights possessed by the People, not even Congress.

In *Carter v. Carter Coal Co.*, the Supreme Court said:

> "And the Constitution itself is in every real sense a law-the lawmakers being the people themselves, in whom under our system all political power and sovereignty primarily resides, and through whom such power and sovereignty primarily speaks. It is by that law, and not otherwise, that the legislative, executive, and judicial agencies which it created exercise such political authority as they have been permitted to possess. The Constitution speaks for itself in terms so plain that to misunderstand their import is not rationally possible. 'We the People of the United States,' it says, 'do ordain and establish this Constitution.' Ordain and establish! These are definite words of enactment, and without more would stamp what follows with the dignity and character of law. The framers of the Constitution, however, were not content to let the matter rest here, but provided explicitly-'This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; ... shall be the supreme Law of the Land.' (Const. art. 6, cl. 2.) The supremacy of the Constitution as law is thus declared without qualification. That supremacy is absolute; the supremacy of a statute enacted by Congress is not absolute but conditioned upon its being made in pursuance of the Constitution. And a judicial tribunal, clothed by that instrument with complete judicial power, and, therefore, by the very nature of the power, required to ascertain and apply the law to the facts in every case or proceeding properly brought for adjudication, must apply the supreme law and reject the inferior stat- [298 U.S. 238, 297] ute whenever the two conflict. In the discharge of that duty, the opinion of the lawmakers that a statute passed by them is valid must be given great weight, *Adkins v. Children's Hospital*, 261 U.S. 525, 544 , 43 S.Ct. 394, 24 A.L.R. 1238; but their opinion, or the court's opinion, that the statute will prove greatly or generally beneficial is wholly irrelevant to the inquiry. *Schechter Poultry Corp. v. United States*, 295 U.S. 495, 549 , 550 S., 55 S.Ct. 837, 97 A.L.R. 947." *Carter v. Carter Coal Co.*, 298 U.S. 238 (1936).

In *Miranda v Arizona*, the Supreme Court said:

> "Where rights secured by the Constitution are involved, there can be no rule making or legislation which would abrogate them". *Miranda v. Arizona*, 384 U.S. 436 (1966)

In Federalist 78, Hamilton wrote:

> "There is no position which depends on clearer principles, than that every act of a delegated authority, contrary to the tenor of the commission under which it is exercised, is void. No legislative act, therefore, contrary to the Constitution, can be valid. To deny this, would be to affirm, that the deputy is

> greater than his principal; that the servant is above his master; that the representatives of the people are superior to the people themselves; that men acting by virtue of powers, may do not only what their powers do not authorize, but what they forbid.
>
> "If it be said that the legislative body are themselves the constitutional judges of their own powers, and that the construction they put upon them is conclusive upon the other departments, it may be answered, that this cannot be the natural presumption, where it is not to be collected from any particular provisions in the Constitution. It is not otherwise to be supposed, that the Constitution could intend to enable the representatives of the people to substitute their WILL to that of their constituents. It is far more rational to suppose, that the courts were designed to be an intermediate body between the people and the legislature, in order, among other things, to keep the latter within the limits assigned to their authority. The interpretation of the laws is the proper and peculiar province of the courts. A constitution is, in fact, and must be regarded by the judges, as a fundamental law. It therefore belongs to them to ascertain its meaning, as well as the meaning of any particular act proceeding from the legislative body. If there should happen to be an irreconcilable variance between the two, that which has the superior obligation and validity ought, of course, to be preferred; or, in other words, the Constitution ought to be preferred to the statute, the intention of the people to the intention of their agents.
>
> "Nor does this conclusion by any means suppose a superiority of the judicial to the legislative power. It only supposes that the power of the people is superior to both; and that where the will of the legislature, declared in its statutes, stands in opposition to that of the people, declared in the Constitution, the judges ought to be governed by the latter rather than the former. They ought to regulate their decisions by the fundamental laws, rather than by those which are not fundamental." Hamilton, *Federalist No. 78*

Lacking any court ruling declaring the full contours of the meaning of the Petition Clause as it applies to ordinary natural citizens seeking Redress against their Government for constitutional torts, and taking into account the plain language of and the Framers' intent behind the words of the Petition Clause, as well as the 791 years of history documenting the evolution of Liberty from Runnymede to Philadelphia, and the complete absence of any case law in opposition to Plaintiff's interpretation of the Constitution, the ends of Justice and Liberty require that deference, and the presumption that those fundamental Rights exist as argued by Plaintiff must be secured for Plaintiff who, by this Petition, has claimed and is exercising those Rights.

The individual's Right, through the Petition Clause of the First Amendment, to hold any branch of the government accountable to the Constitution, is the "capstone" Right, the period at the end of the sentence on Liberty's evolution, for "law without it, is law without justice."

Let the Defendants come forth to present evidence of their Constitutional and statutory authority to engage in these transactions.

CONCLUSION

Based on the above, Plaintiff requests an order:

(a) granting this application for a stay of Defendants' use of public, taxpayer money or credit to purchase or insure private assets or contracts belonging to A.I.G. (American International Group), pursuant to an agreement announced on or about September 16, 2008, and any amendments thereto, pending completion of the appeals process/petition for a writ of certiorari, and

(b) granting this application for a stay of Defendants' use of public, taxpayer money or credit to purchase or insure private assets belonging to any private entity pursuant to Sections 101 and 102 of the Emergency Economic Stabilization Act of 2008 (EESA), incorporated and made a part of H.R. 1424, which was signed into law by President Bush on Friday, October 3, 2008 -- the so-called $700 Billion Bailout Plan -- pending completion of the appeals process/petition for writ of certiorari, and

(c) granting this application for an expedited proceeding, and

(d) granting such other and further relief as to the Court may seem just and proper.

Respectfully submitted,

Dated: October 13, 2008

ROBERT L. SCHULZ, pro se
2458 Ridge Road
Queensbury, NY 12804
Phone: (518) 656-3578