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WLF TESTIFIES BEFORE SPECIAL COMMISSION ON FOREIGN ASSET SEIZURES

The Washington Legal Foundation (WLF) testified today before a special commission Congress created to examine the impact U.S. government enforcement of foreign asset blocking laws has on innocent American citizens and businesses. WLF provided written and oral testimony at the request of the Chairman of the Judicial Review Commission on Foreign Asset Control through its *pro bono* counsel, international transactions law expert Stanley J. Marcuss of the law firm Bryan Cave LLP.

At issue in the Commission's review are at least twelve U.S. economic sanction and anti-drug trafficking laws which in broad, vague language provide federal officials with the authority to seize financial assets or property involved in a transaction in which a disfavored person or government has an "interest." The laws can have profound unintended consequences for innocent American citizens working for foreign companies and for U.S. businesses engaging in business overseas and those with foreign subsidiaries.

WLF's testimony examined how these laws can lead to serious breaches of innocent American citizens' civil liberties, and offered some reform guidelines the Commission may utilize in its report to Congress. The regulations sweep so broadly, WLF counsel Stanley Marcuss pointed out, that they prevent U.S. companies from approving transactions of their foreign subsidiaries with entities in sanctioned nations even if the transaction is permissible under U.S. law. Also, in effect, any U.S. company exporting products to and transacting services with a third country is at risk of prosecution if the buyer intends to do business with a person whose assets are blocked. Such blocking orders can catch U.S. businesses totally unaware, impairing their ability to fulfill their commitments and potentially ruining their reputations in a competitive international marketplace.

After offering a wide range of actual and hypothetical examples of how these sanction laws and their blocking orders can impact innocent U.S. citizens' civil liberties, WLF's testimony offered the Commission some general reform guidelines. Suggestions included limiting the applicability of blocking orders to property in which the target has a clear ownership interest and eliminating prohibitions on a U.S. person's facilitating otherwise prohibited foreign transactions where the transaction is permissible under U.S. law.

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Stanley Marcuss, who spoke on behalf of WLF before the Commission *pro bono*, is a partner in the Washington, D.C. office of Bryan Cave LLP. In that capacity, he has been representing clients on international trade, export finance, and international law matters for over twenty years. Prior to joining the firm, Mr. Marcuss was the Senior Deputy Assistant Secretary of Commerce for International Trade (1977-1980) and Counsel to the Senate International Finance Subcommittee (1973-1977).

Washington Legal Foundation is a national, non-profit public interest law and policy center. By utilizing a unique approach to forwarding its mission — publishing timely legal studies, engaging in innovative litigation, and communicating directly to the public — WLF has become the nation's most effective advocate of free enterprise.

Copies of WLF's testimony before the Judicial Review Commission on Foreign Asset Control are available upon request.