Press Release

Washington Legal Foundation
Advocate for Freedom and Justice®
2009 Massachusetts Avenue, NW
Washington, DC 20036
202.588.0302 wlf.org

FOR IMMEDIATE RELEASE November 13, 2017

Media Contact: Glenn Lammi | glammi@wlf.org | 202-588-0302

WLF Asks Supreme Court to Grant Standing to Shareholders Subjected to "Illegal Exactions"

(Starr Int'l Co. v. United States)

"The federal government imposed an unprecedented multi-billion exaction on AIG shareholders, requiring loan terms that it has never before or since demanded of any borrower. The shareholders contend that those terms were illegal. Given that no one disputes the shareholders' massive losses and that their claims fall within the jurisdiction of the federal courts, the courts may not refuse to hear those claims based on 'prudential' considerations."
—Richard Samp, WLF Chief Counsel

WASHINGTON, DC—Washington Legal Foundation today urged the U.S. Supreme Court to eliminate alleged "prudential" limits on standing and thereby permit shareholders of American International Group (AIG) to seek compensation from the federal government for the government's confiscation of 80% of their AIG stock. In a brief filed in *Starr Int'l Co. v. United States*, WLF urged the Court to review (and ultimately overturn) an appeals court decision that denied prudential standing to AIG shareholders, thereby barring the courthouse door to their claims (which exceed $25 billion).

At the height of the 2008 financial crisis, the Federal Reserve Bank of New York (FRBNY) granted large loans to most of the nation's major financial companies, including AIG. But alone among the borrowers, AIG was required in return for its loan to grant the United States (at no cost) an 80% equity share in the company. AIG repaid the loan in full with interest, but the U.S. retained its equity share, ultimately selling its stock for $20 billion. The AIG shareholders as of November 2008 (led by Starr International, its largest single shareholder) filed suit against the Government, contending that they never agreed to a deal whose practical effect was to require them to transfer 80% of their common stock to the U.S.

The Court of Federal Claims agreed with the shareholders that federal law did not authorize the FRBNY to demand an equity share as the price of loans granted to private corporations, and thus that the loan condition constituted an "illegal exaction" in violation of the shareholders' due process rights. The U.S. Court of Appeals for the Federal Circuit reversed, ruling that the shareholders lacked prudential standing to sue. While conceding that the shareholders possessed Article III standing (*i.e.*, they had suffered an injury directly traceable to the Government's alleged misconduct), the appeals court held that they lacked "prudential" standing because the rights they were asserting allegedly belonged (under Delaware law) to a third party—in this case, the corporation (AIG).

In urging the Supreme Court to grant review, WLF argued that the Court has largely abandoned the prudential standing doctrine and that the appeals court's decision conflicts with the "unflagging obligation" of federal courts to hear cases that fall within their Article III jurisdiction.

Celebrating its 40th year, WLF is America's premier public-interest law firm and policy center advocating for free-market principles, limited government, individual liberty, and the rule of law.

###