

# In the United States Court of Federal Claims

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<b>REVEN HOLDINGS, INC., et al.,</b>	*	
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<b>Plaintiffs,</b>	*	
	*	<b>No. 24-1353L</b>
<b>v.</b>	*	<b>Filed: September 27, 2025</b>
	*	
<b>UNITED STATES,</b>	*	
	*	
<b>Defendant.</b>	*	
	*	
* * * * *		

## ORDER

In response to plaintiffs' complaint filed in this court, defendant filed a motion to dismiss pursuant to Rule 12(b)(1) and Rule 12(b)(6) of the Rules of the United States Court of Federal Claims. After oral argument on the motion to dismiss, and after review of the filings, the court has identified a series of questions on which the court requests supplemental briefing to address the remaining issues.

Plaintiffs explain in their complaint filed in this court that, prior to the filing of their complaint in the United States Court of Federal Claims, "the SEC [United States Securities and Exchange Commission] filed under seal a suit against Reven, together with an ex parte motion for a temporary restraining order freezing all of Reven's corporate assets" in the United States District Court for the District of Colorado. (alteration added). Plaintiffs allege that "the SEC obtained its requested temporary restraining order based only on the SEC's allegations, which were made under seal and not revealed to Reven, without giving Reven any notice or hearing." In their complaint in the United States Court of Federal Claims, plaintiffs state that "Reven has appealed this order, and that appeal is pending in the U.S. Circuit Court of Appeals for the Tenth Circuit."

In the Tenth Circuit, plaintiffs presented the following issues on appeal:

1. The SEC sought a preliminary injunction and asset freeze upending the status quo – a historically disfavored remedy – based on alleged intentional "misappropriation" and purported material misstatements or omissions in violation of the federal securities laws. To obtain its requested injunction and asset freeze, the SEC was required, *inter alia*, not only to make a "clear showing" of a violation of the federal securities laws, but also a "substantial showing" that the alleged violation would likely occur again. The SEC was further required to demonstrate a favorable balance of harms resulting from the requested relief – including the continuation of the asset freeze – and to show that the requested relief is not adverse to the public interest.

***Did the district court abuse its discretion in granting the requested preliminary injunction and asset freeze – without a hearing and without live testimony – in the face of (1) uncontroverted expert forensic accounting evidence demonstrating that no actual “misappropriation” occurred, (2) undisputed evidence that the asset freeze had already harmed, and would in time destroy, Reven’s assets – not preserve them – while also likely preventing RJX from ever getting to market, and (3) no evidence that any purported misstatements or omissions, even if otherwise actionable under the federal securities laws (and they are not), were made with the requisite scienter that would allow the court to conclude that such purported violations would reoccur?*** See App. Vol. 14 at 2414–16, 2420–26, 2428–30, 2432– 33.

2. The ostensible purpose of an asset freeze is to ensure that any funds that may become due can be collected. The district court maintained the SEC’s requested asset freeze – with only minimal modifications – despite evidence that the freeze was destroying Reven’s most valuable asset (its intellectual property) and would likely put Reven out of business if not lifted. ***Did the district court abuse its discretion when it granted the SEC’s request to continue the asset freeze and thereafter refused Reven’s request to lift the asset freeze in its entirety?*** See App. Vol. 15 at 2562–63.

3. Where, as here, material facts are bitterly contested and credibility determinations must be made to decide whether injunctive relief should issue, district courts are required to hold an evidentiary hearing. ***Did the district court err in not permitting an evidentiary hearing on the SEC’s motion for a preliminary injunction?*** See App. Vol. 10 at 1473–74; App. Vol. 15 at 2734.

United States Sec. & Exch. Comm’n v. Reven Holdings, Inc., No. 24-1235, ECF 37, at 17-18 (10th Cir. Oct. 21, 2024) (emphasis in original footnote omitted).

In its response to the appeal, the defendant presented the following issues:

1. Whether the district court acted within its discretion in issuing a preliminary, asset-freezing injunction.
2. Whether the district court acted within its discretion in modifying, rather than lifting, the freeze.
3. Whether the district court acted within its discretion in issuing the preliminary, asset-freezing injunction on the basis of documentary evidence.

United States Sec. & Exch. Comm’n v. Reven Holdings, Inc., No. 24-1235, ECF 54, at 5 (10th Cir. Dec. 20, 2024).

In order to join the issues presented to the United States Court of Federal Claims, the parties shall address how the ongoing appeal of the District Court injunction before the Tenth Circuit will impact the current case in the United States Court of Federal Claims

and whether the takings claim before this court could constitute a judicial taking. In its motion to dismiss that this court lacks jurisdiction in part because “Reven has not accepted the validity of the district court’s injunction” given the plaintiffs’ appeal to the Tenth Circuit. (citation omitted). In plaintiffs’ response to the motion to dismiss, plaintiffs argued that “[t]here is no requirement in takings law that Reven must concede that every action taken by the SEC in its enforcement action was valid and correct in all respects.” (alteration added). Later, plaintiffs also stated that they concede that the injunction imposing the asset freeze was “lawful, valid, and legitimate for purposes of its taking claim in this Court.” Therefore, the parties shall address the extent to which plaintiffs have conceded the validity of the government action for the purpose of pursuing a takings claim in the above captioned case, including whether the ongoing appeal of the injunction in the Tenth Circuit demonstrates that plaintiffs have or have not to date conceded the validity of the government action and/or whether or not a decision by the Tenth Circuit in favor of either party would resolve the issue of validity of the government action or solely resolve whether the injunction was properly imposed by the District Court. At the oral argument in this court, when asked about the possible impact a reversal by the Tenth Circuit would have on the case in the United States Court of Federal Claims, plaintiffs responded, if the asset freeze is lifted plaintiffs “would go back and look at the impact on the property rights. I suspect what we would do is want to amend our complaint and let – and allege a temporary taking.” (alteration added). Therefore, the parties also shall address whether plaintiffs as articulated in their complaint meet the standard for either a permanent or temporary taking. Additionally, does it matter that the injunction, as described by plaintiffs, “encompasses the personal bank accounts of Reven’s principals and officers (and all corporate funds)” rather than directly interfering with, for example, plaintiffs’ patents, patent families, or patent applications?

In addition to arguing that this court lacks jurisdiction over plaintiffs’ claims, defendant argues the court should dismiss plaintiffs’ complaint for failure to state a claim because “Reven voluntarily entered into a highly regulated industry.” Plaintiffs responded by stating that “[t]he SEC has no statutory authority to regulate the pharmaceutical industry, and so Reven never entered into the industry that the Securities and Exchange Commission regulates—i.e., the securities industry.” (alteration added). Another issue for the parties to address is at what point did plaintiffs avail themselves of being subject to SEC enforcement? The defendant asserted during the oral argument that the “trip point” is when Reven began soliciting investors, but this assertion was not supported and the facts and consequences should be further discussed by the parties.

The parties shall further develop their arguments regarding when does government action, civil or criminal, amount to an exercise of police power, including particularly whether an SEC enforcement action is considered an exercise of law enforcement authority and how does the fact that the currently imposed SEC action involved a civil violation impact the applicability of the police powers exception raised by the defendant. During oral argument, plaintiffs defined the police power as “the power of the government to enact and enforce laws to protect the public health, safety, morals and welfare.” How does defendant respond to this definition and does the government action involved in plaintiffs’ current takings claim in this court satisfy this definition? The parties appear to agree that, at the time of the commencement of the enforcement action, Reven was not

yet a publicly offered company. Does this fact, or other facts alleged in plaintiffs' complaint impact the assertion of the police power exception to plaintiffs' takings claim?

On or before **Tuesday, October 21, 2025**, plaintiffs shall file a supplemental brief addressing the issues outlined above. On or before **Tuesday, November 11, 2025**, defendant shall file a response.

**IT IS SO ORDERED.**

s/Marian Blank Horn  
**MARIAN BLANK HORN**  
Judge