

The Parable of the Golden Parachute

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In 2006, Anthony Pizel was hired to serve as the Chief Financial Office of the Federal Home Loan Mortgage Corporation (Freddie Mac). Prior to joining Freddie Mac, Pizel accrued \$8.1 million in unpaid compensation from his former employer. As an incentive to take the position at Freddie Mac and to forego his unpaid compensation, the Government promised to provide him with a lump sum cash payment and stock if he was terminated from his job without cause during the first four years of his employment. During the midst of the economic turmoil in the financial industry, Freddie Mac was placed into a conservatorship and Pizel was terminated in 2008 without cause. The Government paid him 19,735 of the 78,940 stock units he was promised, but refused to pay him the rest of the severance compensation he had been promised.

Pizel sued in the U.S. Court of Federal Claims in 2014, seeking just compensation for taking his property rights (severance compensation). He alternatively alleged that his property had been illegally exacted in violation of the Housing and Economic Recovery Act and the Due Process Clause. The Government moved to dismiss, arguing that the Court lacked jurisdiction over the claim and that facts alleged failed to state a legally cognizable claim for relief.

The Court granted the Government's motion on both grounds. Although recognizing the property for purposes of the Fifth Amendment includes contract rights, the Court concluded that Pizel had not stated an illegal exaction claim because he had paid no money over the government directly. The Court described an illegal exaction claim as one in which the government requires a plaintiff to make a payment on its behalf to a third-party or the government exacts property from a plaintiff that it later sells and receives money for. The Court concluded that neither had occurred here.

The Court also rejected Pizel's taking claim, explaining that Pizel had no cognizable property interest in his severance compensation called for under his employment agreement, "[g]iven the regulatory environment at the time he entered into his employment agreement, and the authority that federal regulators had to prohibit executive compensation. . . ." The Court also rejected Pizel's taking claim on the ground that he had not alleged facts to support a categorical taking because he had received a portion of the compensation he was entitled to. Finally, the Court rejected Pizel's regulatory taking claim, explaining that the regulatory scheme governing Freddie Mac meant that Pizel "could not have had a reasonable, investment-backed expectation to receive the severance compensation under his employment agreement."

Read full decision [here](#).