

Can the Trump Administration Arbitrarily Take Money from Anyone's Bank Account? Federal Government's Mugging of New York City for FEMA Funds Suggests Yes

## Notes on the Crises

[www.crisisnotes.com/can-the-trump-administration-arbitrarily-take-money-from-anyones-bank-account/](http://www.crisisnotes.com/can-the-trump-administration-arbitrarily-take-money-from-anyones-bank-account/)

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By Nathan Tankus



**NOTES  
ON THE  
CRISES**

Day Forty Two of the Trump-Musk  
Payments Crisis of 2025:

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Administration Arbitrarily  
Take Money from Anyone's  
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Federal Government's Mugging of New  
York City for FEMA Funds Suggests Yes

**Nathan Tankus**

♪ BUT BABY IT AIN'T  
OVER 'TIL IT'S OVER ♪

Notes on the Crises pivoted on February 1st into around the clock coverage of the Trump-Musk Treasury Payments Crisis of 2025. Today is Day Forty Two.

A version of this article is [simultaneously appearing in Rolling Stone](#).

Read [Part 0](#), [Part 1](#), [Part 2](#), [Part 3](#), [Part 4](#), [Part 5](#), [Part 6](#), [Part 7](#), [Part 8](#), [Part 9](#), [Part 10](#), [Part 11](#), [Part 12](#), [Part 13](#) & [Part 14](#)

The extensive "Notes on the Crises Investigative Journalism Source Wish List" [can be found here](#). All listed items are important to me. As always, Sources can contact me [over email](#) or over signal (a secure and encrypted text messaging app) — [linked here](#). My Signal username is "NathanTankus.01" and you can find me by searching for my username. I will

**speak to sources on whatever terms they require (i.e. off the record, Deep Background, on Background etc.)**

*This is a free piece of Notes on the Crises. I will not be paywalling any coverage of this crisis for as long as it persists, so please [take out a paid subscription](#) to facilitate performing that public service. You can also [leave a “tip” if you want to support my work](#) but **hate emails cluttering your inbox or recurring payments**. If you're rich, take out the [Trump-Musk Treasury Payments Crisis of 2025 Platinum Tier](#) subscription.*

**Note to Readers:** I am on [bluesky](#), *an alternative to twitter*. I have also started an instagram for Notes on the Crises [which is currently being populated with my articles](#).

*Finally, I'm known as a crypto skeptic, and I am, but that doesn't mean I won't accept people giving away bitcoin to me. Here's my address: [bc1qegxarzsfga9ycesfa7wm77sqmuqqv7083c6ss6](#)*

In my [last column in Rolling Stone](#) 37 days ago, I explained that the constitutional crisis that Elon Musk and Donald Trump set off by refusing to spend what Congress ordered the executive branch to spend — a process known legally as “impoundment” — had taken an “inconceivably more dangerous” turn. Today I am again publishing a [Rolling Stone article](#), alongside this more technical Notes on the Crises article, to finally reveal [the results](#) of two and a half weeks of exhaustive reporting on a different aspect of the ongoing Trump-Musk Treasury Payments Crisis. Indeed, as a result of my reporting today, we can now simply call it the “Trump-Musk Payments Crisis.”

On February 11, 2025, the Federal Emergency Management Agency (FEMA), an agency housed in the Department of Homeland Security, removed \$80.5 million from [New York City's main bank account, which is an account with Citibank](#). Well, that's not exactly accurate. They “debited”, the financial way of referring to “subtracting”, New York City's “central treasury account” for 80.5 million dollars. According to [public statements by Brad Lander](#), New York City's comptroller, this could only be covered by a line of credit facility to the tune of 79.5 million dollars. In short they, in essence, sent New York City's main bank account to [negative 79.5 million dollars](#). Citibank kindly agreed to forgive the overdraft fee.

On February 18th a FEMA branded letter authored by Cameron Hamilton, a person described in the letter as a “Senior Official Performing the Duties of the [FEMA] Administrator”, [was sent to the New York City Office of Management and Budget](#). The letter explained that the money was “clawed back” because of a range of claims about illegal activity which the New York Post alleged took place in the hotels the city paid to put Venezuelan refugees in. I can't really communicate to readers what this letter reads like, so I will simply quote an important paragraph to provide the “flavor”:

The Department of Homeland Security has significant concerns that SSP funding is going to entities engaged in or facilitating illegal activities. For example, a substantial portion of your

award goes to funding alien housing at the Roosevelt Hotel in New York City. According to media reports, the vicious Venezuelan gang Tren De Aragua has taken over the hotel and is using it as a recruiting center and base of operations to plan a variety of crimes. According to these same reports, these crimes include gun and drug sales as well as sex trafficking, which can reasonably be presumed to be conducted in the hotel itself. One of the groups responsible for these activities refer to themselves as “diablos de la 42,” which means the devils of 42nd St., a street near where the Roosevelt Hotel is located. DHS/FEMA has a responsibility to ensure that it does not make payments that fund criminal activity.

This justification for denying congressionally appropriated funds is extremely legally dubious. This justification for “reversing” the disbursement of already disbursed funds is far beyond legally dubious. It brings up profound and basic issues about the functioning of our society which I will unpack throughout the rest of this article.



In a number of ways, the most important element of this story is that it was clearly instigated by Elon Musk. At 5 am the day before the FEMA payments were “clawed back” by FEMA, Elon Musk tweeted:

The @DOGE team just discovered that FEMA sent \$59M LAST WEEK to luxury hotels in New York City to house illegal migrants.

Sending this money violated the law and is in gross insubordination to the President's executive order.

That money is meant for American disaster relief and instead is being spent on high end hotels for illegals!

A clawback demand will be made today to recoup those funds.

It does not take much of a leap in logic to draw a direct line between [this "clawback"](#) to Elon Musk. I must, however, leave this more political element to future reporting and stick to unraveling [labyrinthine technical details](#).

One month ago, on February 12th, I emailed the New York City Comptroller's office. I was very busy and I thought, since New York City Comptroller Brad Lander followed me on twitter, it was likely I would get contacted in response to my email (and associated phone call). For whatever reason, my email fell through the cracks as they were flooded by media requests after their press releases on this matter. I was busy, so I forgot about it. I, however, knew as soon as I saw the story that it was extremely important. On February 24th, I [published an article written with](#) the benefit of high level financial sources regarding technical banking system signs to look for impoundment- Presidential refusal to spend money congress has ordered spent- happening at scale. With that article published, I turned back to this topic and began investigating.

I devoted so much time to this story because of the full implications it immediately brings to mind to [any payments system expert](#). This is not simply about FEMA's actions towards the city of New York's bank accounts or even about large scale [payments system level impoundment](#). This story is about the truly electrifying and terrifying question: can the Trump administration arbitrarily take money from anyone for any reason using control of the payments system? If it can't, what exactly are the current limits to what the Trump administration can do and [how easy is it to break those limits?](#)

To understand why this case brings up such [dramatic and mind-boggling questions](#) readers must understand some things about the payments system they use every day without thinking about it. If you have ever gotten a direct deposit of pay, or really anything else, you have used a system called the Automatic Clearing House system or "ACH". Social security payments are ACH payments, as are payments to medical providers. For older readers, if you look at your checkbook you will see an "ACH number" on your checks. Really, it would be easier to list what **aren't** ACH payments than what are.

When you make a credit card payment, technically speaking what you are doing is authorizing the credit card company to send an ACH "debit" to your bank account. This debit subtracts the money and when the payment clears, the credit card company "credits" your credit card account and lowers

your credit card balance (which is a type of debt). In other words, what is subtracted from your credit card debt is what they subtracted from your bank account. Your assets and liabilities go down by the same amount (except for interest payments and fees of course).

The first Automated Clearing House in the United States was organized by the “Special Committee on Paperless Entries” (SCOPE), which was an association of California bankers, over the course of 1968 to 1972. The 30,000 pages of Federal Reserve Board Minutes I got through FOIA last year has some interesting previously unreleased material on the early formation of the first ACH network, whose day to day operation was technically run by the Federal Reserve Bank of San Francisco. SCOPE was renamed “California Automated Clearing House Association” (CACHA) and similar regional banker associations popped up across the country to form regional automated clearing houses. This led to the 1974 formation of the “National Automated Clearing House Association” (NACHA, now “Nacha”) which determines the rules for Automated Clearing Houses. The actual payments infrastructure is run by the 12 Federal Reserve Banks along with “The Clearing House”, a clearinghouse originally set up by large New York banks all the way back in 1853.

That is all a long and exhaustive way of saying that the Automated Clearing House (ACH) payment system is one of the foundational building blocks of all payments made in our society. Nearly every payment you make is either an ACH payment or it relies indirectly on accurate and timely ACH payments. Furthermore, any institution you rely on directly or indirectly relies on accurate and timely ACH payments to function properly. If the reliability of Automatic Clearing House payments were to be permanently or indefinitely degraded in a crucial manner, it would fundamentally threaten your access to basic social services, and even privately produced and distributed goods and services. To explain why, we have to understand a fundamental, yet neglected, area of law called “payment finality”.

The idea of “payment finality” is deceptively basic. What it refers to is the point at which a transaction is concluded by full and satisfactory payment. Contracts, for example, are a relationship between two parties. Those parties have a contract relationship for as long as the contract is outstanding. If I hire you to build me a cabinet, we are in a contractual relationship until you deliver a finished cabinet and I deliver your payment in full. If we meet at a street intersection and you deliver me the cabinet, once you receive final payment the transaction is complete.

But what is the “final payment”? For many centuries physical money was a dominant mode of “arm's length” payment so final payment was when physical money was handed over and safely in the possession of the recipient or “payee”. In fact, as York University law professor Benjamin Geva points out in his 2011 book “The Payment Order of Antiquity and the Middle Ages: A Legal History”, this is a common *definition* of money in legal history. The landmark English case *Moss v Hancock* defines money, in part, as “that which passes freely from hand to hand throughout the community in final discharge of debts”. In a very real sense then, money is that object, or system, that you can make final payment with.

Consequently what defined physical objects as “currency” was that they could be universally proffered as final payment. Being a “legal tender” meant that you could provide them in final payment for an obligation. You could “legally tender” those objects. The idea of final payment is easier with “bearer instruments” like cash. A “bearer instrument” is just a type of financial instrument that is owned outright by whoever possesses it. A dollar bill is the only “bearer instrument” the vast majority of ordinary people interact with. The concept of final payment feels intuitive and straightforward with physical items that you hand over, which then become property of the recipient once you hand it over. We no longer live in the world of cash. We live in the world of accounts.

In the world of accounts, a disturbing question hangs over us: when is a payment truly final? Or as famous New York philosophers Yogi Berra and [Lenny Kravitz might say](#) "It ain't over till it's over". If, in theory, my account can always be subtracted from- if my account can always be “debited”- is a transaction ever really final? When there is an “operational” possibility the government, or any key actor in the payments system, can simply debit accounts payment, “finality” always has a hanging thread of doubt. Under [our current technological and administrative arrangements](#), the only protection against this possibility is a layer of laws and norms which constrain — even asphyxiate — this distressing prospect.

In other words, we socially and legally construct payment finality as “truth”. Yet the fabric of these social and legal constructions are far more fragile than most people imagine. Proposals, such as my colleague Rohan Grey’s proposal for a [congressionally-issued digital fiat currency](#), are important because they aim to undergird payment finality with new technological and administrative arrangements that will provide much stronger protections against this kind of abuse, along with impoundment itself. But we can’t wait for what does not yet exist. We have to deal with what is happening now.



## Notes on the Crises Legal Memorandum No. 1

From: Ashley Burke  
To: Nathan Tankus  
Re: Federal Government Use of the Automated Clearing House System  
Date: March 13, 2025

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### *1. Overview of the Automated Clearing House System*

The Automated Clearing House (ACH) system is a [network](#) through which banks send each other batches of electronic credit and debit transfers. Federal government agencies also use the ACH system to make payments, intermediated through the Department of Treasury (“Treasury”) Bureau of Fiscal Service (“BFS”). *See* BFS Green Book at 1. The ACH system is made up of two operators, FedACH—which is run by the Federal Reserve Banks—and the Electronic Payment Network (“EPN”)—which is run by The Clearing House, a private entity.

Which brings me back to ACH. Given the complexity, and relative obscurity, of this area of law and the immense amount of reporting and research I already had to do for this story, I decided to commission [a full length legal memo](#)- similar to the legal memos a staff attorney at a financial regulatory agency or white shoe law firm might produce- on the “Federal Government Use of the Automated Clearing House System”. The attorney I commissioned, Ashley Burke, did an excellent job and I have uploaded [“Notes on the Crises Legal Memorandum No. 1”](#) to my website to make it widely available and free to anyone who is in need of [detailed legal analysis](#) in this suddenly crucial area of law. Ashley is, of course, not responsible for any of the claims I make in this article and can’t attest to the accuracy or reliability of my reporting. Nor can her memo be construed as legal advice.

Recognizing the importance of payment finality, the National Automated Clearing House Association has promulgated rules in this area. Meanwhile, the laws congress has passed about ACH payments are broad and vague. However, as Ashley lays out [in her legal memo](#), Nacha rules can and are currently superseded in a variety of ways by what is called “agency rulemaking”. Generally speaking, when congress passes laws that are subject to varying interpretations- and when is law not subject to varying interpretations?- administrative agencies engage in the “rulemaking” process to “interpret” the law for practical use by government, businesses, civil society and the world at large.

This “agency discretion” over interpreting the law is [the core of the “administrative state” that right wing think tanks say they are aiming to destroy](#). Yet in this situation, they may begin to use discretion in interpreting payments law to fundamentally undermine the reliability of payment finality and capriciously “take back” or even “take” from groups and people they disfavor. Thus, there is nothing in payments law that provides a clear or unambiguous check on the Trump administration’s actions if they decide to reinterpret payment statutes in order to weaponize the Federal Government’s legal authority over the ACH system.

It is hard to explain how explosive degrading- let alone destroying- the legal reliability of payment finality is. [Mark Flood, a research scholar](#) at the Center for Financial Policy at University of Maryland with two decades of financial regulatory & policy experience in Federal Government [tells me](#):

Uncertainty about payment finality has the potential to degrade insidiously the performance of the financial system. If there is generally a nonzero chance that even settled payments might be reversed, then the most liquid of assets (cash balances) could lose reliability and therefore value: \$1 of 'cash in the bank' may no longer be regarded as worth \$1.

Along similar lines, A former Federal Reserve Lawyer tells me:

Our monetary system depends on a strong concept of payment finality. Exceptions must be reserved for only truly extraordinary cases. From what I understand of the facts of this case this is not an extraordinary situation. Reversing of final payments, in a stable financial system, should never be in the ordinary course of business”

These quotes may read as subtle to many lay readers. I can tell you that to payment experts- hell, as a payments expert- these quotes make our eyes widen with alarm. Part of what I have been trying to accomplish with my reporting these past six weeks is to serve as a translator for the panic many experts truly feel, but do not feel at liberty to express openly.

So if the bank-based payment system or payments law is not a constraint, are there others? At first glance, it might seem like there are. Administrative agencies can't just decide to debit accounts. They have to get payment reversals or separate debit transactions certified at a central point. Readers of [Notes on the Crises](#) or [my previous Rolling Stone article](#) are already dreading what they correctly suspect is coming next. The body that certifies debit transactions is... the Bureau of the Fiscal Service. With DOGE's [Thomas Krause as Fiscal Assistant Secretary](#), it is unlikely, [to say the least](#), that the Bureau of the Fiscal Service will be blocking such requests from agencies (If you are a current or former Bureau of the Fiscal service employee familiar with the situation, [please get into contact](#)). A current Bureau of the Fiscal Service employee when told about the circumstances in this case replied "who makes the decision [at BFS] to reverse [ACH payments] probably just bows to the king [Trump]".

A former BFS employee tells me:

The circumstances you describe from the FEMA-New York situation sound highly unusual. Payment finality except in extraordinary and clearly-defined circumstances are critical to a functioning and credible payment system. Once a payment is finalized, agencies would normally need to use legal remedies outside the disbursement process to seek recovery of improper payments.

That last sentence is a key point. The objection here is not to using any legal mechanism to retrieve an “improper” payment. Of course it is, to say the least, very open to question that the Trump administration accurately identifies improper payments rather than disfavored payments. The objection informed observers have is to improperly using the payments system to recover payments which were settled because they contradict the current administration's policies. The Trump



administration's, and Elon Musk's, repeated misrepresentation and expanded definitions of "improper payments" fundamentally obscure this crucial distinction.

Public reporting already suggests that the New York City government is generally resistant to pursuing this issue in the manner required by its eye-popping seriousness. Over the course of reporting this article I have, on multiple occasions, encountered circumstances, circumstances that I'm not at liberty to discuss in more specific terms for reasons of journalistic ethics, which have reinforced that impression. Reasons for this could include fear of a larger confrontation with the Trump administration or specific fear that the Trump administration would revive Biden-era federal corruption charges against Mayor Adams that Trump's Justice Department [caused a firestorm by dropping](#), but with the possibility of refiling. Legal expert and former solicitor general under George W. Bush Paul Clement has advised federal district judge Dale E. Ho in Adams' case that he should permanently dismiss the charges so they do not hang over Mayor Adams like "the proverbial Sword of Damocles".

It is thus very important to these circumstances that the New York City Comptroller Brad Lander is an independently elected official who can advocate for the city's interests, as well as the American people's interests more generally, separately from Mayor Eric Adams. Brad Lander has put out public statements in the last month openly stating that his advocacy has compelled "reversals" of New York City government's decisions in this matter. On February 14th, for example, the comptroller office published an official Brad Lander statement [saying](#):

I was relieved to receive a reply from Corporation Counsel Muriel Goode-Trufant this afternoon, agreeing to commence legal action, no later than one week from today. I am grateful that our urgent insistence pushed the Law Department to pursue litigation, even at this precarious moment. I look forward to doing everything in my power to help the City recoup the FEMA funds stolen by President Trump and holding accountable those intent on working against the best interests of New Yorkers.

It is important in this context to explain that the NYC comptroller office deals with accounting. Managerial accounting is only interested in payments insofar as payment reconciliation is important for accurate accounting with adequate internal controls.

In response to a request for comment Chloe Chik, spokesperson for the New York City Comptroller, says:

While we cannot comment on the specifics due to ongoing litigation, as the City's Chief Financial Officer, the Comptroller's office has accounting oversight of the city's ledgers, including City bank account activities. Because of our role in monitoring the City's cash balances, the Comptroller's office was able to uncover the overdraft associated with the \$80.5m clawback

This is important because the lawsuit in this area is a New York City lawsuit which the Comptroller's office and its legal counsel are involved in, but do not have the final say over. The phrase

“accounting oversight” is key because it means that the details of what went on, and goes on, on the ACH payments side is not in their purview. That is the New York City Finance department, which as of this writing could not be reached for comment. The intragovernmental conflict over this case in New York City concerns me because I worry that the most foundational legal issues may not be resolved, or even seriously litigated, in New York City’s lawsuit over this matter.

One of the reasons this story has been so difficult to report and has taken as long as it has is that it has been extremely difficult to find sources willing to be quoted, or really even vaguely characterized. To understand why, think of this topic from the point of view of a financial or payment expert (whether among lawyers or in other fields). Imagine you were such a person and you believed that the Trump administration was in the process of successfully claiming for itself the power to arbitrarily reverse any government payment or even, in the worst case scenarios, arbitrarily confiscate the funds in any person’s bank account without due process of law. Would you be willing to risk being targeted for giving a quote saying so publicly? Even anonymously? I have not found a source familiar with the situation who is even willing to have their views characterized and cited as from a “Government employee from an undisclosed level of government or a banker at a major financial institution”

The experts I have quoted in this article are unfamiliar with the New York City-FEMA situation and do not have familiarity with the “state of play” at Nacha or BFS. Their quotes are based on their own informed view relying on public sources, my reporting as I have communicated it to them alongside the legal research and [resulting legal memo](#) that I commissioned from attorney Ashley Burke. That [memo is now itself a public document](#) as of the publication of this article. I have never encountered the kind of alarm and panic regarding personal safety that I have in reporting this story. My February 3rd articles in [Rolling Stone](#) and [in this newsletter](#) invoked a great deal of alarm but because of the policy implications rather than people’s personal safety. Former and current Bureau of the Fiscal Service employees were willing to give many anonymous quotes that I published that week. The circle of people who truly understand these issues is smaller, more prominent, more risk-averse and have far greater informed alarm.

Payments law is a kind of “source code” for all other parts of law. As we’ve seen in the tidal wave of litigation over the first 51 days of the second Trump administration, the Trump administration’s actions have [violated a multitude of laws](#) and generated a [gigantic constitutional crisis](#) over the seizure of Congress’s power of the purse by the presidency. Yet, this crisis remains unresolved because court injunctions move far slower than a [fast moving and imperial presidency](#). Courts can’t “unspill” spilled milk. Injunctive relief is okay at stopping things, it’s far, far worse at stopping things before they happen. Using the Treasury’s intragovernmental payments system to do impoundment creates an extremely dangerous crisis and opens up the possibility of using the payments system to [subordinate the Judiciary](#).

The possibilities I've laid out in this article are somehow even more dangerous than using the payments system to impound congressionally appropriated spending. As I was finalizing this article yesterday afternoon, the news broke that Citibank- in a separate case- had made a court filing providing evidence that the FBI had demanded that it freeze bank accounts associated with an Environmental Protection Administration grant program. These bank accounts included a New York state government bank account. The pattern across my previous reporting, my current reporting, the reporting of others and this late-breaking FBI-EPA-Citibank situation suggest that the Trump administration is testing the waters in order to gain far greater control of the United States entire payments infrastructure- control great enough to bend Donald Trump and Elon Musk's enemies to their will at a speed far faster than courts could ever conceivably contain. We are entering waters beyond the scale of constitutional crises and nearly every expert in this shallow pool feels ill-equipped to speak about it publicly for a variety of reasons. I'm having trouble imagining circumstances more dangerous.