ORIGINAL

FILED
JUN 01 2026
OFFICE OF THE CLERK
SUPREME COURT, U.S.

No. 25-1403

In the Supreme Court of the United States

JAMES D. NOLAND, JR., ET AL.,
Petitioners,

v.

FEDERAL TRADE COMMISSION,
Respondent.

ON PETITION FOR WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

PETITION FOR WRIT OF CERTIORARI

Scott A. Harris
jlst.filing@protonmail.com
James D. Noland Jr.
jdntouch@protonmail.com
Lina Noland
Linanoland26@protonmail.com
Thomas Sacca
saccat@protonmail.com
515 Moats Ln
Bowling Green, KY 42103
(270) 709-7091

Pro Se Petitioners

JUNE MMXXVI

United States Commercial Printing Company • www.uscpc.us • (202) 866-8558

QUESTIONS PRESENTED

1. Whether, after *AMG Capital Management, LLC* v. *FTC* and *Loper Bright Enterprises* v. *Raimondo*, the Federal Trade Commission may preserve an ex parte Section 13(b) asset freeze and receivership and obtain a revenue-based, multi-million-dollar monetary judgment through civil contempt where the judgment functions as restitution or disgorgement, is not tied to identified sustained losses, and the only rule-violation damages awarded under Section 19 were $6,829.

2. Whether the Seventh Amendment and due process permit a federal agency to obtain a $7,306,873.14 revenue-based monetary sanction, labeled civil compensatory contempt, through a bench proceeding where the sanction operates as a legal money judgment rather than compensation for proven individualized losses and where the ex parte freeze impaired Petitioners' ability to fund and preserve a jury defense.

PARTIES TO THE PROCEEDINGS

Petitioners, and defendants-counterclaimants-appellants below are James D. Noland, Jr., Lina Noland, Scott A. Harris, and Thomas G. Sacca.

Respondent, and plaintiff-appellee below is the Federal Trade Commission.

Other parties below are Success By Media Holdings Inc.; Success By Media, LLC; Enhanced Capital; Carol Magda; Travelnu International Inc.; Rinpark SA; Netforce Seminars; Richard Slaback; Darin Epps; Edward Lamont; Evan R. Mendelson; Jonathan Wesley Ware; Seena Greesin; and Kimberly Friday, and they are not parties to this petition.

Success By Health affiliates sought to intervene and filed amicus submissions in the district court proceedings. They are not petitioners here, but their asserted property interests and evidence bear directly on the due-process issues discussed below.

RELATED PROCEEDINGS

United States District Court (D. Ariz.):

Federal Trade Commission v. *John D. Noland, Jr., et al.*, No. 2:20-cv-00047-DWL (May 11, 2023) (findings of fact and conclusions of law)

Federal Trade Commission v. *John D. Noland, Jr., et al.*, No. 2:20-cv-00047-DWL (Sep. 18, 2023) (final judgments)

Federal Trade Commission v. *John D. Noland, Jr., et al.*, No. 2:20-cv-0002260-DWL (contempt proceedings arising from 2002 permanent injunction consolidated into lead action in No. 2:20-cv-00047-DWL)

United States Court of Appeals (CA9):

Federal Trade Commission v. *Success By Media Holdings Inc., et al.*, No. 23-3757 (Nov. 24, 2025) (district court affirmed)

Federal Trade Commission v. *Success By Media Holdings Inc., et al.*, No. 23-3757 (Jan. 2, 2026) (rehearing denied)

Supreme Court of the United States:

Scott A. Harris, Individually and as an Officer of Success by Media LLC, et al. v. *Federal Trade Commission*, No. 25A1124 (Apr. 13, 2026) (time to petition for certiorari extended to Jun. 1, 2026)

TABLE OF CONTENTS

Appendix

TABLE OF AUTHORITIES

Cases

Constitutional Provisions, Statutes, and Rules

OPINIONS BELOW

The Ninth Circuit's opinion is reported at 159 F. 4th 1159, and is reproduced in the Appendix at App. 1–21. The district court's findings of facts and conclusions of law is reproduced in the Appendix at App. 85–265. The district court's final judgments are reproduced in the Appendix at App. 22–84.

JURISDICTION

The Ninth Circuit's decision was entered on November 24, 2025. The Ninth Circuit denied rehearing on January 2, 2026. Justice Kagan extended the time to petition for certiorari to June 1, 2026. This Court has jurisdiction under 28 U. S. C. § 1254(1).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

The Fifth Amendment of the United States Constitution provides in relevant part: "No person shall be . . . deprived of life, liberty, or property, without due process of law."

The Seventh Amendment of the United States Constitution provides:

> In Suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury, shall be otherwise re-examined in any Court of the United States, than according to the rules of the common law.

Relevant portions of the Federal Trade Commission Act, 15 U.S.C. §§ 45, 53(b), and 57b, and the relevant

FTC rules, are reproduced in the Appendix at App. 290–294.

STATEMENT OF THE CASE

This case presents an important and recurring question about the practical force of this Court's recent decisions limiting federal agency power. In *AMG Capital Management, LLC* v. *FTC*, this Court held that Section 13(b) of the Federal Trade Commission Act "does not authorize the Commission to seek, or a court to award, equitable monetary relief such as restitution or disgorgement." 593 U. S. 67, 70 (2021).

The enforcement machinery used here began with the very model *AMG* rejected: an ex parte Section 13(b) asset freeze and receivership that seized Petitioners' businesses, bank accounts, inventory, and practical ability to fund a defense before final adjudication.

Petitioners James D. Noland, Jr., Lina Noland, Scott A. Harris, and Thomas G. Sacca operated Success By Health and VOZ Travel. The FTC filed this action in January 2020. The district court swiftly granted an ex parte temporary restraining order, froze assets, and imposed a receivership over Success By Health, VOZ Travel, and related entities. The Ninth Circuit described those preliminary orders as freezing Individual Appellants' assets and imposing a receivership to assume control over the businesses. App. A.

The FTC also pursued contempt based on a 2002 permanent injunction entered in an earlier case involving James Noland. The district court later consolidated the contempt action with the lead enforcement action. The 2002 injunction prohibited James Noland

and persons acting in concert with him from operating prohibited marketing schemes and from making false or misleading statements in connection with multilevel marketing. App. A. The 2002 injunction was entered by stipulation, without any admission of wrongdoing.

Fifteen months after the freeze and receivership, this Court decided *AMG*. The FTC then shifted its remedial theory. It relied on Section 19 for rule-based monetary relief and on civil contempt for the far larger monetary award. The district court maintained the receivership and asset restraints while the case proceeded to final judgment. The final judgment entered September 18, 2023, imposed a civil compensatory sanction of $7,306,873.14 against James Noland, Scott Harris, and Thomas Sacca, and awarded $6,829 in monetary damages for Merchandise Rule violations. App. A; App. B.

The disparity is the core of this petition. The district court found that the specific rule-violation refund damages amounted to $6,829. Yet the final judgment imposed a $7,306,873.14 contempt sanction—approximately 1,070 times that documented rule-violation amount. The entire difference rests on a civil contempt theory that used revenues as a proxy for consumer loss rather than identifying individualized sustained losses.

The Ninth Circuit acknowledged that Petitioners challenged the $7,306,873.14 sanction as a "massive compensatory sanction that never identified the sustained losses or purported to redress any wronged party for any sustained losses." App. A. It nevertheless affirmed because the district court calculated the sanction from the net revenues of SBH and VOZ Travel, less affiliate commissions. App. A.

This case also involves third-party property interests and consumer evidence.

More than 1,000 Success By Health affiliates and consumers sought intervention under Federal Rule of Civil Procedure 24 or otherwise tried to be heard, contending that the FTC's enforcement action harmed the very consumers it claimed to protect.

The record reflects motions to intervene, amicus submissions by affiliates, and orders denying intervention. Those affiliates maintained that earned commissions, product credits, and inventory value were lost because of the freeze and receivership, and that they should be heard before relief was entered in their name.

Petitioners appealed. The Ninth Circuit affirmed in all respects relevant here. It held that challenges to the preliminary injunction, receivership, and asset freeze were moot because the permanent injunction superseded the preliminary injunction. App. A. It affirmed the civil compensatory sanction. App. A. It affirmed $6,829 in Section 19 money damages and held that the FTC was not required to conduct administrative proceedings and obtain a cease-and-desist order before suing for rule violations under Section 19(a)(1). App. A. It also affirmed the permanent injunction barring Petitioners from participating in multi-level marketing programs. App. A.

The resulting judgment combines features that call for review: the post-*AMG* preservation of coercive Section 13(b) restraints; a monetary sanction exceeding the specific rule-violation damages by more than one thousand times; a bench proceeding in which frozen assets impaired Petitioners' ability to litigate jury and due-process defenses; and the exclusion of the consumers whose asserted interests were invoked as the basis for redress. This case is a suitable vehicle to clarify whether *AMG*, *Jarkesy*, *Loper Bright*, and due process meaningfully constrain FTC enforcement when an agency shifts remedial labels after the fact.

REASONS FOR GRANTING THE PETITION

I. Review is Warranted to Decide What Limits Apply When the FTC Uses Civil Contempt as the Post-*AMG* Substitute for Revenue-Based Monetary Relief.

This petition does not ask the Court to correct case-specific factual findings. It asks whether the remedial limits this Court announced in *AMG*, reinforced by *Jarkesy* and *Loper Bright*, can be avoided through post hoc remedial relabeling. That question affects FTC enforcement nationwide because emergency Section 13(b) freezes and receiverships often determine the practical outcome of enforcement actions before final judgment.

AMG was not a technical pleading decision. It was a structural decision about Congress's allocation of FTC remedies. The Court held that Section 13(b) "does not authorize the Commission to seek, or a court to award, equitable monetary relief such as restitution or disgorgement." 593 U. S. at 70. The Court explained that the "language and structure of Section 13(b), taken as a whole, indicate that the words 'permanent injunction' have a limited purpose– a purpose that does not extend to the grant of monetary relief." *Id.* at 75.

This case tests that limitation in practice. The FTC began by obtaining the most severe pretrial restraints available: an ex parte freeze and receivership. Those restraints did more than preserve money. They seized business operations, controlled inventory, displaced management, and made ordinary defense funding impossible.

After *AMG*, the FTC did not start over under a pathway Congress specifically designed for monetary relief. Instead, the case continued on the same foundation, with the agency invoking Section 19 for a $6,829 rule-damages award and contempt for the $7,306,873.14 monetary sanction.

The Ninth Circuit treated the preliminary freeze and receivership as moot because they merged into the final judgment. That doctrine may be appropriate where a preliminary injunction merely preserves the status quo and no longer matters. It is not adequate where the preliminary orders were the event that shaped the case: they deprived Petitioners of business control, revenue, records, inventory, and resources needed to fund counsel. By deeming the orders moot, the court insulated from review the mechanism that allowed the FTC to maintain litigation leverage after *AMG*.

Under the Ninth Circuit' approach, a Section 13(b) enforcement structure–including an ex parte asset freeze and receivership–can never be reviewed on appeal so long as it is eventually subsumed by a final judgment. This means the very mechanism that determines the practical outcome of the case is permanently insulated from appellate scrutiny.

Nor does civil contempt answer the statutory problem. Petitioners do not ask this Court to hold that

AMG eliminates civil contempt authority. The question is what constitutional and statutory limits apply when contempt is used as the post-*AMG* substitute for the same revenue-based monetary relief *AMG* held Section 13(b) does not authorize.

Civil contempt is remedial only within limits. In United Mine Workers and *Bagwell*, this Court recognized that a contempt fine is civil and remedial only if it coerces compliance or compensates the complainant for losses sustained. See *United States* v. *United Mine Workers of Am.*, 330 U. S. 258, 303-04 (1947); *International Union, United Mine Workers of Am.* v. *Bagwell*, 512 U. S. 821, 829 (1994). The sanction here was not coercive and purgeable. It was imposed after trial as a fixed money judgment. And it was calculated from revenues, not identified losses sustained by the FTC or by particular consumers.

The circuits have recognized that *AMG* does not eliminate contempt power altogether. See *FTC* v. *Pukke*, 53 F. 4th 80, 102–03 (CA4 2022); *FTC* v. *National Urological Group, Inc.*, 80 F. 4th 1236, 1244 (CA11 2023). But they have not answered the question this case squarely presents: whether a revenue-based contempt sanction that exceeds documented rule-violation damages by a factor of more than 1,000 transforms compensatory contempt into the functional equivalent of the disgorgement or restitution *AMG* prohibited under Section 13(b).

Congress imposed separate procedures and limits in Sections 5, 13(b), and 19.

Section 13(b) is forward-looking. Section 19 authorizes redress for rule violations and certain unfair or deceptive acts, but only as Congress specified. Contempt enforces court orders; it does not enlarge the

FTC Act. Review is needed to prevent the remedial boundaries recognized in *AMG* from being nullified by relabeling.

II. The Seventh Amendment and Due Process Questions are Important After Jarkesy Because the Sanction Functions as a Legal Money Judgment.

This Court's decision in *SEC* v. *Jarkesy*, 144 S. Ct. 2117 (2024), confirms that labels do not control the Seventh Amendment analysis. *Jarkesy* held that when the SEC seeks civil penalties for securities fraud, the Seventh Amendment entitles the defendant to a jury trial. The Court looked to substance: whether the cause of action resembles a common-law cause and whether the remedy is one traditionally obtained in a court of law. Of those factors, *Jarkesy* explained, the remedy is the more important.

That principle matters here. The government obtained a $7,306,873.14 monetary judgment. The sanction was imposed after a bench trial in an enforcement action brought by a federal agency. It was calculated from revenues and designed to strip Petitioners of the economic proceeds of alleged wrongdoing. Although labeled compensatory contempt, the award does not track the $6,829 in rule-violation damages awarded under Section 19 and does not identify individualized sustained losses. It therefore operates more like a legal money judgment than a narrowly compensatory contempt award.

This Court has repeatedly held that monetary remedies are legal when they resemble damages or penalties. In *Tull* v. *United States*, this Court held that "[a] civil penalty was a type of remedy at common law that could only be enforced in courts of law." 481 U. S. 412, 422 (1987). *Jarkesy* reaffirmed that monetary relief is legal when it is designed to punish or deter rather than solely to restore the status quo. 144 S. Ct. at 2129.

The same concern exists here. A fixed sanction that uses revenues as the measure, exceeds the specific documented rule damages by approximately 1,070 to 1, and is imposed without a jury has the practical attributes of a legal monetary remedy.

If *Jarkesy* means that courts must look beyond labels to the substance of an agency's requested monetary relief, then the question presented here is unavoidable: when does a contempt sanction labeled compensatory, but calculated from revenues rather than proven losses, cross the line into a legal monetary remedy requiring Seventh Amendment protection? Where the government's Own enforcement mechanism deprived Petitioners of the practical ability to retain counsel and assert their constitutional rights, it cannot invoke forfeiture to preclude review of those rights on appeal.

The proportionality problem reinforces the need for review. The analogy is not exact because the judgment was labeled compensatory contempt. But the constitutional concern is the same: when a monetary award vastly exceeds identified harm, the label cannot end the due-process inquiry. In *BMW of North America, Inc.* v. *Gore*, this Court identified the ratio between an award and actual harm as a central guidepost of constitutional excessiveness. 517 U. S. 559, 580-83 (1996). In *State Farm Mutual Automobile Insurance Co.* v. *Campbell*, the Court observed that "[s]ingle-digit multipliers are more likely to comport with due process" than extreme ratios. 538 U. S. 408, 425 (2003). The judgment here presents a ratio far beyond the ratios that triggered constitutional concern in those cases.

The government may respond that civil contempt has historically been equitable and that no jury demand was filed. This case presents why that answer is insufficient.

Jarkesy was decided on June 27, 2024, after Petitioners' opening brief in the Ninth Circuit was filed on June 24, 2024, and long after the January 2023 bench trial.

Petitioners could not have preserved a *Jarkesy* argument at trial, and supplemental authority brought the new decision to the panel's attention while the appeal was pending.

More fundamentally, the ex parte asset freeze made ordinary preservation rules inequitable. Petitioners were forced to litigate under severe financial restraint after the government froze assets and displaced business control. Waiver of a constitutional right requires an "intentional relinquishment or abandonment of a known right or privilege." *Johnson* v. *Zerbst*, 304 U. S. 458, 464 (1938). Where the government's own enforcement mechanism deprived Petitioners of the resources to identify and assert constitutional rights in a timely fashion, forfeiture rules should not bar review of those rights.

At minimum, this Court should grant review to clarify when a revenue-based contempt sanction sought by a federal agency crosses the line from equitable enforcement into a legal monetary remedy requiring a jury. Without guidance, agencies may avoid *Jarkesy* by styling large revenue-based monetary judgments as equitable or contempt relief.

III. *Loper Bright* Requires Independent Judicial Judgment About the FTC'S Remedial Authority.

Loper Bright held that the Administrative Procedure Act, 5 U. S. C. § 706, requires courts to exercise independent judgment in deciding whether an agency has acted within its statutory authority, and that courts may not defer to an agency interpretation of law simply because a statute is ambiguous. 144 S. Ct. 2244, 2261-63 (2024). That rule applies with particular force when an agency claims power to freeze assets, seize businesses, install a receiver, and obtain a multi-million-dollar monetary judgment.

The specific statutory question *Loper Bright* requires courts to answer is whether the FTC Act, read independently rather than through the lens of decades of agency practice, authorizes the combined remedial structure imposed here: (a) a receivership and asset freeze that survives *AMG*; (b) the conversion of a Section 13(b) enforcement structure into a Section 19 and contempt hybrid; and (c) a revenue-based monetary award where the specific rule-violation damages were $6,829.

The lower courts did not squarely answer that question. The district court maintained a receivership and asset freeze after *AMG* based on the view that those remedies served ongoing protection and could be sustained notwithstanding *AMG*. The Ninth Circuit then resolved the preliminary-relief challenge through mootness and affirmed Section 19 damages and contempt sanctions under existing remedial frameworks.

But neither court independently identified where the FTC Act authorizes the combined regime imposed here after *AMG*.

That question cannot be answered by agency preference or enforcement tradition. *AMG* rejected decades of FTC practice under Section 13(b). *Loper Bright* now requires courts to say what the statute means using independent judgment. The Court should grant review to ensure that the FTC's remedial authority is determined by Congress's text, not by post-hoc agency characterization. The lower courts effectively accepted the FTC's characterization of its own remedial authority—treating the receivership and contempt sanctions as permissible because the FTC had historically used such tools—rather than independently examining whether Congress authorized the specific combination of remedies imposed here. That is precisely the form of judicial deference to agency practice that *Loper Bright* prohibits.

IV. Due Process Does Not Permit Consumer Redress without Consumer Voices.

The FTC claimed to act for consumers. But the affiliates and consumers whose interests were directly affected sought intervention under Federal Rule of Civil Procedure 24 and otherwise sought to be heard. They asserted that the receivership withheld earned commissions and credits, destroyed or devalued inventory, and harmed the very group the FTC invoked to justify relief. The district court denied intervention, while the final judgment authorized consumer redress and monetary recovery in the government's name.

These are not anonymous consumers. The SBH affiliates have a documented history of participation in this litigation and before this Court. In *AMG Capital Management, LLC* v. *FTC*, Nos. 19-508 and 19-825, 271 SBH affiliates - through counsel - filed one of eight amicus curiae briefs urging this Court to curtail the FTC's unauthorized use of Section 13(b). This Court unanimously agreed. Yet the very enforcement structure that *AMG* repudiated continued to operate against these same individuals.

When over 1,000 affiliates sought to intervene in the district court proceedings, they asserted that they were not harmed by SBH and were instead harmed by the FTC. They were denied participation twice. When they filed a pro se amicus brief in the Ninth Circuit, it was not recognized. The individuals this Court's *AMG* decision was meant to protect have been systematically excluded from every proceeding that determined their rights.

Due process requires a meaningful opportunity to be heard before protected property interests are extinguished. *Mathews* v. *Eldridge* directs courts to consider the private interest affected, the risk of erroneous deprivation through the procedures used, and the government's interest. 424 U. S. 319, 333 (1976). Here, each factor supports review. The private interests included commissions, credits, business relationships, and evidence bearing on the scope of harm. The risk of error was substantial because the court heard the agency's theory of consumer injury while excluding affected consumers who wished to offer contrary evidence. The government's interest in efficient enforcement does not justify silencing the persons whose welfare supplies the asserted basis for relief.

The problem is not limited to this case. Federal agencies frequently sue in the name of the public or consumers while affected third parties bear the direct economic consequences. When those persons seek to show that the agency's remedy will injure rather than help them, due process requires more than exclusion. This Court should clarify the constitutional floor for participation where federal enforcement relief purports to redress injuries to a defined group, but members of that group contend the remedy itself is the injury.

V. This Case is a Suitable Vehicle.

The issues are preserved in substance and cleanly presented by the judgment below. The Ninth Circuit expressly identified the challenged relief: the asset freeze and receivership, the $7,306,873.14 civil compensatory sanction, the $6,829 Section 19 damages award, and the permanent MLM injunction. App. A. The court affirmed each relevant component. The opinion also cites post-*AMG* contempt decisions from other circuits, confirming that the issue is recurring.

The government may point to forfeiture or briefing defects. But the questions presented are legal, structural, and fully reflected in the record. The Seventh Amendment issue arose because *Jarkesy* was decided while the appeal was pending.

The statutory-authority issue arises from *AMG* and *Loper Bright*, which altered the legal landscape while the case moved through judgment and appeal. The due-process issue arises from the undisputed procedural posture: the FTC proceeded in the name of consumers while consumers and affiliates sought to be heard and were denied participation.

The judgment below is final. The petition does not require further factual development. The appendix materials include the operative opinion, final judgments, findings and conclusions, and receivership order. The question is whether the FTC Act and the Constitution permit the remedial structure affirmed below.

CONCLUSION

This Court should grant certiorari.

Scott A. Harris
jlst.filing@protonmail.com
(270) 709-7091
James D. Noland Jr.
jdntouch@protonmail.com
(760) 815-3532
Lina Noland
Linanoland26@protonmail.com
(760) 814-0959
Thomas Sacca
saccat@protonmail.com
(859) 221-3784
515 Moats Ln
Bowling Green, KY 42103

JUNE 2026 *Pro Se Petitioners*