

SUPREME COURT OF THE UNITED STATES

John C. Nock, Petitioner

v.

United States, Respondent

No. 25-6158

SUPPLEMENTAL BRIEF FOR PETITIONER UNDER RULE 15.8

Petitioner John C. Nock, proceeding pro se, respectfully submits this supplemental brief under Supreme Court Rule 15.8 to bring to the Court's attention intervening matter not available at the time of petitioner's last filing, and restricted to that new matter and its constitutional consequences.

STATEMENT OF INTERVENING MATTER (RULE 15.8)

After the completion of direct review, petitioner conducted an exhaustive, transaction-by-transaction, page-by-page reconstruction of the full trial exhibit record against the governing transaction instruments the government itself introduced. Only through that post-conviction review did the full scope of a systemic omission become apparent and verifiable from the record as a whole: across every charged transaction examined, the government introduced Strategic Agreements that expressly incorporate a client compliance package ("Exhibit-E") as the genesis document defining authorization, risk allocation, non-solicitation, sophistication, and intent, yet the compliance packages themselves were omitted, blank, or replaced with non-client substitutes in the exhibits shown to the jury.

This is not a dispute about "helpful" background exhibits. It is newly recognized record-based proof of a repeating omission pattern that explains how the prosecution's theory of criminal intent was made viable only because the jury never saw—and never adjudicated—the very documents the agreements incorporate as the foundation of the parties' relationship. That intervening matter materially alters the constitutional posture of the case because it demonstrates: (1) conviction by narrative substitution rather than proof of intent; (2) suppression/functional nullification of exculpatory, intent-defining evidence; (3) a collapsed adversarial process; and (4) sentencing driven by loss attributions that disregard known third-party causation.

CORE CONSTITUTIONAL QUESTION OF NATIONAL IMPORTANCE

This case presents an issue of exceptional national importance:

May a citizen be convicted of criminal fraud based on inferred loss and narrative alone, when written agreements and client-submitted compliance packages expressly authorize the challenged conduct, disclaim guarantees, allocate risk and performance to third parties, negate solicitation, and negate criminal intent—and those transaction-genesis documents are omitted from meaningful jury adjudication?

If the answer is yes, the constitutional boundary between civil loss and criminal fraud collapses. Written contracts—America's primary mechanism for allocating risk in commerce—become constitutionally irrelevant in criminal prosecutions so long as the government can omit the controlling "genesis" documents and replace them with storytelling.

I. THE SYSTEMIC OMISSION OF EXHIBIT E COMPLIANCE PACKAGES DESTROYED
RELIABLE FACT-FINDING ON INTENT

Fraud is not a "bad outcome" offense. It requires proof beyond a reasonable doubt of a scheme to defraud and the specific intent to defraud. See, e.g., *Morissette v. United States*, 342 U.S.



246 (1952) (mens rea is the rule, not the exception); *In re Winship*, 397 U.S. 358 (1970) (due process requires proof beyond a reasonable doubt of every element).

Here, the government introduced agreements that, on their face, incorporate client compliance packages as Exhibit E—documents that establish the parties' starting point: client sophistication, informed risk acceptance, non-solicitation, authorization, and the allocation of responsibilities to third-party structured finance entities. The newly recognized intervening matter is that, across multiple charged transactions (including WID, Dev Luther, and Ken Murer), Exhibit E was not meaningfully presented to the jury: it was missing, blank, or substituted. As a result, the jury was deprived of the very documents the agreements identify as defining intent and authorization.

That omission is constitutionally material. Under *Brady v. Maryland*, 373 U.S. 83 (1963), due process is violated when favorable evidence material to guilt or punishment is suppressed. *Kyles v. Whitley*, 514 U.S. 419 (1995), makes clear materiality is assessed by whether confidence in the verdict is undermined when suppressed evidence is considered collectively. These Exhibit E compliance packages are not marginal impeachment; they are transaction- genesis documents that go to the heart of intent, inducement, authorization, and risk allocation—precisely the issues the government had to prove beyond a reasonable doubt rather than narrate.

II. THE TRIAL PROCEEDED BY “NARRATIVE SUBSTITUTION”: LOSS AND STORY REPLACED THE ELEMENT OF INTENT

With the Exhibit E genesis documents missing from meaningful adjudication, the prosecution was able to present a simplified and prejudicial narrative: that petitioner and The Brittingham Group solicited funds, “performed” the investments, and misappropriated client money through a web of international accounts. But petitioner's role, as reflected in the governing Strategic Agreements and MOUs, was intermediary and administrative—authorized to engage third-party structured finance entities on a best-efforts basis, without guarantee, and without responsibility for third-party performance. The omitted compliance packages were designed to confirm client sophistication, risk acceptance, non-solicitation, and the authorized structure.

The record-based consequence of the omission was a trial in which a law-enforcement narrator could supply conclusions about intent, reliance, “lulling,” and causation untethered from the controlling transaction architecture. This becomes constitutionally intolerable when the government's “proof” is not evidence of deception but a story about outcomes.

The problem was compounded by the government's use of unrelated “dead deals”—transactions with no relationship to the charged clients and that never passed internal compliance—as sensational props to imply fraudulent propensity. These “dead deals” included alleged bank materials (including purported Royal Bank of Scotland documents and other banking references) that, on petitioner's record-based account, were never used to induce any charged client, were not part of the clients' compliance packages, and were not the basis of any client testimony that they were enticed or induced by such materials. Instead, the insinuation came from prosecutorial narrative and a lay investigator's interpretation. That is precisely the kind of unfair, propensity-driven storytelling that overwhelms the element-by-element discipline the Constitution requires in criminal adjudication. The Due Process Clause does not permit conviction where the government substitutes dramatic but unrelated collateral narratives for proof of the charged mens rea.

III. THE COURT'S JURY-INSTRUCTION HANDLING OF "INTENT" MAGNIFIED THE CONSTITUTIONAL BREAKDOWN

This intervening matter also reframes—and magnifies—the jury-instruction problem petitioner has identified. Fraud requires intent; a jury must find it beyond a reasonable doubt. If an instruction omits an element, constitutional error follows, and it can be harmless only in the narrow circumstance where the omitted element was uncontested and supported by overwhelming evidence. *Neder v. United States*, 527 U.S. 1 (1999). Here, intent was not uncontested; it was the central issue. And the omitted Exhibit E compliance packages and related contractual provisions were the very materials that would have negated fraudulent intent as a matter of law and fact.

Thus, where defense counsel sought to emphasize intent and the court declined to require a clear intent finding—while the trial simultaneously proceeded without the intent-defining genesis documents—this case presents a compounded due process failure: the jury was invited to equate loss with fraud, while being deprived of both (a) the documents that negate fraudulent intent and (b) a clear instruction requiring intent as the decisive element. This is not ordinary “instructional nuance.” It is a pathway to criminal liability without the constitutionally required *mens rea* determination.

IV. SIXTH AMENDMENT: A NONFUNCTIONING ADVOCATE AND THE ABSENCE OF ADVERSARIAL TESTING

The newly recognized omission pattern also bears directly on the Sixth Amendment breakdown. The Sixth Amendment guarantees the effective assistance of counsel. *Strickland v. Washington*, 466 U.S. 668 (1984). In circumstances where counsel fails to function as an advocate and the adversarial process itself collapses, prejudice may be presumed. *United States v. Cronin*, 466 U.S. 648 (1984).

Petitioner repeatedly warned the court before trial that counsel was not investigating and not preparing to present the documents that governed authorization and intent. Yet the trial proceeded without meaningful presentation or litigation of the Exhibit E genesis documents and related contractual provisions, and without effective challenges to narrative substitution, dead-deal sensationalism, lay-opinion testimony, or the “unindicted co-conspirator” proof-by-labeling dynamic. When the defense fails to force element-by-element adjudication anchored in the controlling documents—especially where those documents negate criminal intent—the trial cannot be considered a reliable adversarial determination of guilt.

V. DUE PROCESS AT SENTENCING: LOSS ATTRIBUTION RESTED ON MATERIALLY FALSE OR DISTORTED PREMISES

The constitutional harm did not end at the verdict. Sentencing in fraud cases commonly turns on loss. Due process forbids sentencing based on materially false assumptions or misinformation. *Townsend v. Burke*, 334 U.S. 736 (1948); *United States v. Tucker*, 404 U.S. 443 (1972).

Most critically, petitioner has consistently identified a \$5 million amount tied to the Dragon Lotus chain that was stolen by a third party. Petitioner further asserts that Hong Kong authorities fully adjusted/resolved that theft due to petitioner’s actions and cooperation with authorities, culminating in accountability abroad—yet the U.S. loss narrative still attributed that \$5 million to petitioner as “loss caused by fraud.” Where a sentencing court adopts a loss premise that imputes third-party theft to the defendant, the sentence rests on a due process defect of the kind condemned in *Townsend* and *Tucker*. And because the Exhibit E omission pattern

distorted the underlying findings on intent, solicitation, and authorized conduct, the Guidelines posture—loss, number of victims, and related enhancements—was infected by the same constitutional unreliability.

VI. WHY THIS IS CERTWORTHY AND OF NATIONAL IMPORTANCE

This is not an invitation to error-correct on a fact-bound record. It is a case about a recurring failure mode in complex commercial prosecutions: conviction by story where the controlling documents allocate risk, negate solicitation, and define authorization—yet the jury is never allowed to adjudicate those documents because the genesis materials are omitted or nullified. If permitted to stand, the decision below effectively authorizes a dangerous rule: prosecutors may convert civil disputes, delayed transactions, or third-party failures into federal felonies by (1) omitting the client compliance/genesis documents incorporated into the governing agreements; (2) substituting law-enforcement narration for proof of intent; (3) amplifying prejudice with unrelated “dead deal” theatrics and bank-document insinuations; and (4) anchoring sentencing on loss attributions that disregard third-party theft and causation. That rule endangers every citizen engaged in sophisticated commerce. It threatens reliance on written risk allocation, undermines due process, and dilutes the mens rea discipline that separates crime from breach, negligence, or business failure. The Constitution exists to prevent exactly this result: liberty cannot be taken by narrative substitution, by omission of foundational exculpatory documents, or by sentencing on false premises.

CONCLUSION

The intervening matter presented here—newly recognized, record-based proof of systemic omission of the transaction-genesis Exhibit E compliance packages—materially alters the constitutional posture of the case. It explains how the prosecution’s theory of intent was made viable only through the absence of documents that negated intent, how the trial devolved into narrative substitution reinforced by unrelated “dead deal” sensationalism, and how sentencing rested on distorted loss premises including third-party theft. Under Brady, Kyles, Napue, Winship, Neder, Strickland, Cronic, and Townsend, the conviction and sentence cannot coexist with due process.

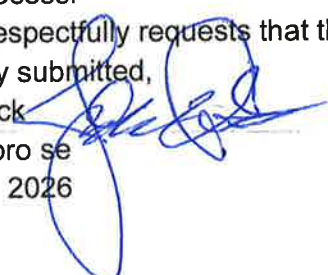
Petitioner respectfully requests that the Court grant the petition for writ of certiorari.

Respectfully submitted,

John C. Nock

Petitioner, pro se

February 9, 2026



ONE-PAGE "CLERK'S LENS" SUMMARY

Why this conviction cannot coexist with Due Process

Case in one sentence: John C. Nock—now wrongfully incarcerated, a first-time offender never previously accused of a crime—was convicted of "fraud" through a process that replaced element-by-element proof of intent with narrative, while omitting the very transaction-genesis documents that defined authorization, non-solicitation, risk allocation, and intent.

1) The intervening matter that changes the case

After direct review, petitioner performed an exhaustive reconstruction of the government's exhibit set against the Strategic Agreements the government introduced. That post-conviction review revealed a systemic pattern across multiple charged transactions: the Strategic Agreements expressly incorporate client compliance packages ("Exhibit E")—the genesis documents defining authorization, risk allocation, non-solicitation, sophistication, and intent—yet Exhibit E was missing, blank, or replaced with non-client substitutes in the exhibits the jury saw. Bottom line: the jury never adjudicated the documents that define whether the conduct was authorized and whether intent to defraud existed.

2) Due Process failure: conviction by narrative substitution, not proof of intent

Fraud requires intent. The government's theory invited the jury to equate loss, delay, and complex money movement with fraudulent intent—while the controlling "genesis" compliance documents that negate solicitation and define authorized conduct were not meaningfully presented. That is not reliable fact-finding; it is storytelling.

3) Prejudice amplified by sensational "dead deal" theatrics

The prosecution used unrelated "dead deals"—transactions not tied to the charged clients and never passing internal compliance—to create sensational impressions, including alleged bank materials (e.g., Royal Bank of Scotland references). Charged clients did not testify they were induced by those "dead deal" items; the insinuation came from prosecutorial narrative and a lay investigator's interpretation. This is classic conviction-by-propensity atmosphere that overwhelms mens rea analysis.

4) Sixth Amendment collapse: no functioning adversary

Petitioner repeatedly warned the court that counsel was not prepared to litigate the controlling agreements and missing genesis documents. The trial nonetheless proceeded without meaningful adversarial testing of intent, authorization, third-party responsibility, and the government's narrative framing. Where the defense does not function as an advocate, the verdict cannot be trusted as an adversarial determination of guilt.

5) Sentencing reliability failure: loss attribution included third-party theft

Loss drove sentencing. Petitioner identifies a \$5 million amount stolen by a third party in the Dragon Lotus chain; Hong Kong proceedings fully adjusted/resolved that theft due to petitioner's actions and cooperation with authorities. Yet U.S. loss calculations treated it as loss caused by petitioner. Sentencing on materially false premises is a due process violation.

Why the Court should care (national stakes)

If this conviction stands, the practical rule is: a citizen can be convicted of fraud despite acting as authorized by written agreements, so long as prosecutors can omit the intent-defining genesis documents and replace them with narrative. That threatens commercial contracting nationwide and collapses the line between civil loss and federal felony.

Request: Grant certiorari to restore the constitutional baseline: guilt must be proven—especially intent—by evidence the jury actually adjudicates, not by omission and story.