

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

CASE NO. 18-61017-CIV-ALTONAGA/Seltzer

FEDERAL TRADE COMMISSION,

Plaintiff,

v.

POINTBREAK MEDIA, LLC, et al.,

Defendants.

ORDER

THIS CAUSE came before the Court on Plaintiff’s Motion for Order to Show Cause Why [Defendant,] Dustin Pillonato’s Seized Cash and Watches Should Not Be Liquidated and Turned Over to the FTC [ECF No. 295], filed on July 20, 2021. The Motion pertains to the watches (the “Seized Watches”) turned over to the Receiver pursuant to the Court’s October 12, 2018 Order [ECF No. 190] and the funds (the “Seized Funds”) turned over to the Receiver pursuant to the Court’s November 5, 2018 Order [ECF No. 202]. After the Court entered an Order to Show Cause [ECF No. 296], Pillonato filed a Response [ECF No. 297], to which the Federal Trade Commission (“FTC”) filed a Reply [ECF No. 298].

Pillonato makes one argument as to why the Seized Watches and Seized Funds should not be turned over to the FTC: the Supreme Court’s recent holding in *AMG Capital Management, LLC v. Federal Trade Commission*, 141 S. Ct. 1341, 1344 (2021), forecloses equitable monetary relief under Section 13(b) of the Federal Trade Commission Act, 15 U.S.C. section 53(b). (*See generally* Resp.). As the FTC notes, however, the Final Order of Permanent Injunction and Monetary Judgment [ECF No. 266] against Pillonato, dated April 25, 2019, is not on direct review and has been final for over two years. (*See* Mot. 5 n.1). “When [the Supreme

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Court] applies a rule of federal law to the parties before it, that rule is the controlling interpretation of federal law and must be given full retroactive effect in all cases *still open on direct review* and as to all events, regardless of whether such events predate or postdate our announcement of the rule.” *Harper v. Va. Dep’t of Taxation*, 509 U.S. 86, 97 (1993) (alteration and emphasis added); *see also James B. Beam Distilling Co. v. Georgia*, 501 U.S. 529, 541 (1991) (“[R]etroactivity in civil cases must be limited by the need for finality . . . a new rule cannot reopen the door already closed.” (alterations added; citation omitted)). Pillonato fails to address this well-established case law.

Accordingly, it is

ORDERED AND ADJUDGED that the Receiver shall, as described below, turn over the Seized Funds to the FTC and liquidate the Seized Watches:

- a. After payment to the Receiver of any expenses is approved by the Court, all proceeds from the liquidation of the Seized Watches shall be paid to the FTC, in accordance with instructions provided by a representative of the FTC. The Receiver is excused from the requirements of 28 U.S.C. §§ 2001, 2004 in connection with any pending or contemplated sale by the Receiver.
- b. The Receiver shall transfer the Seized Funds to the FTC, in accordance with instructions provided by a representative of the FTC.

DONE AND ORDERED in Miami, Florida, this 23rd day of August, 2021.



CECILIA M. ALTONAGA
CHIEF UNITED STATES DISTRICT JUDGE

cc: counsel of record
Justin Ramsey (*pro se*)