

BEFORE THE HEARING BOARD  
OF THE  
ILLINOIS ATTORNEY REGISTRATION  
AND  
DISCIPLINARY COMMISSION

In the Matter of:

ROBERT MICHAEL KOWALSKI,  
  
Attorney-Respondent,  
  
No. 6204878.

Commission No. 2024PR00072

COMPLAINT

Lea S. Gutierrez, Administrator of the Attorney Registration and Disciplinary Commission, by her attorney, M. Katherine Boychuk, pursuant to Supreme Court Rule 761, complains of Respondent, Robert Michael Kowalski, who was licensed to practice law in the State of Illinois on November 8, 1990, and alleges that Respondent has engaged in the following conduct which subjects Respondent to discipline pursuant to Supreme Court Rule 770:

COUNT I

*(Conviction for Conspiracy, Embezzlement, Bankruptcy Fraud, and Tax Fraud)*

1. On March 10, 2019, Respondent was charged in a federal criminal complaint in the Northern District of Illinois with bankruptcy fraud, in violation of 18 U.S.C. § 157. On March 28, 2019, a federal grand jury returned a five-count indictment charging Respondent with bankruptcy fraud and making false representations during bankruptcy proceedings, in violation of 18 U.S.C. §§ 152 and 157. The case was captioned *United States of America v. Robert M. Kowalski and Jan R. Kowalski*, case number 19 CR 226, and assigned to Judge Virginia M. Kendall.

2. The grand jury later returned four superseding indictments. The fourth and final superseding indictment, returned on December 7, 2021, charged Respondent in fifteen of its thirty-seven counts with conspiracy, embezzlement, bankruptcy fraud, and tax fraud. The case was re-

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captioned *United States of America v. Robert M. Kowalski, Jan R. Kowalski, Rosallie C. Corvite, Jane V. Iriondo, fka Jane V. Tran, Alicia Mandujano, Cathy M. Torres, James R. Crotty, Boguslaw Kasprowicz, Miroslaw Krejza, Marek Matczuk, William M. Mahon, Janice M. Weston, George F. Kozdomba, and William A. Kowalski*, case number 19 CR 226, and remained assigned to Judge Kendall.

### *Conspiracy and Embezzlement*

3. Count One of the fourth superseding indictment charged that Washington Federal Bank for Savings (“Washington Federal”) was a savings association, located in Chicago, whose deposits had been insured by the Federal Deposit Insurance Corporation (the “FDIC”) since in or around 1989. In December 2017, the Office of the Comptroller of the Currency (the “OCC”) determined that Washington Federal was insolvent and closed the bank. The FDIC, as receiver, succeeded to all of Washington Federal’s interests. The FDIC provided approximately \$90 million to make account holders whole. (Count One, ¶ 1(a)) Respondent, an Illinois licensed attorney, engaged in the investment and construction, management, acquisition and sale of real property individually and through entities with which he was associated, including Indomitable LLC (“Indomitable”), Piorun Properties LLC (“Piorun”), Mountain Duck Properties LLC (“Mountain Duck”), and Grom Development LLC (“Grom”). (Count One, ¶ 1(k))

4. Count One charged that beginning in or around 2004 and continuing until in or around 2018, Respondent conspired with the president, chief executive officer, and chairman of the board of directors of Washington Federal (the “president”) and others to embezzle money and assets entrusted to the custody and care of Washington Federal, and to falsify records of Washington Federal with the intent to injure and defraud Washington Federal and to deceive the OCC and the FDIC, in violation of 18 U.S.C. § 371. (Count One, ¶¶ 1(g), 2)

5. Respondent, together with his co-conspirators, embezzled and concealed at least \$31 million of and in the custody of Washington Federal and distributed the money to and for the benefit of himself and his co-conspirators. (Count One, ¶ 3)

6. Respondent and his co-conspirators solicited and received embezzled money as the proceeds of purported Washington Federal loans. (Count One, ¶ 8) They solicited and received embezzled money in the form of checks drawn on, and wire transfers from, Washington Federal's operating and loan disbursement accounts, as well as in the form of credits to the accounts of LLCs which Respondent controlled. (Count One, ¶¶ 12, 14)

7. Respondent and his co-conspirators used approximately \$1.8 million in embezzled money for the benefit of the president, including the purchase of real estate and a Sea Ray 420 Sundancer boat named "Expelliarmus" (the "Sea Ray boat"), and payments on credit card accounts and other loans. (Count One, ¶ 16)

8. In or around October 2004, Respondent purchased thirteen lots in Chicago (the "Fulton Market lots") for \$6 million through a trust owned by Grom. (Count One, ¶ 17) The purchase was made with \$4.55 million from Washington Federal, acquired through the simultaneous resale of a portion of the Fulton Market lots to buyers, including LLCs associated with Respondent, who had received financing from Washington Federal. (Count One, ¶ 18) In or around 2008, Respondent caused Bank A to loan Grom approximately \$1.6 million, secured by the Fulton Market lots, which resulted in Respondent receiving \$500,000 in loan proceeds. (Count One, ¶ 19) In or around 2010, Respondent and the president embezzled approximately \$1.3 million in the form of payments to Bank A to honor letters of credit securing financing related to the Fulton Market lots. (Count One, ¶ 21) In or around 2011, Respondent and the president embezzled approximately \$400,000 from Washington Federal in the form of payments to Bank A to honor

letters of credit securing financing relating to certain Fulton Market lots. (Count One, ¶ 22) In or around 2011, Respondent and the president embezzled approximately \$330,000 from Washington Federal in the form of payments to Bank A to pay off financing related to a Fulton Market lot. (Count One, ¶ 23) In or around 2013, Respondent and the president used approximately \$560,000 embezzled from Washington Federal to make a nominee purchase of one of the Fulton Market lots from the bankruptcy trustee of the LLC which owned the lot, after successfully concealing from the bankruptcy trustee that the LLC also owned another of the Fulton Market lots and that Washington Federal was a creditor of the LLC. (Count One, ¶ 24)

9. In 2007, Respondent, the president, and another co-conspirator purchased the Sea Ray boat for \$450,000 using funds embezzled from Washington Federal and a loan from Bank B on which payments were made using funds embezzled from Washington Federal. (Count One, ¶ 25)

10. Respondent and the president embezzled \$655,000 from Washington Federal in order to pay an appeal bond posted by an insurance company on behalf of Respondent. (Count One, ¶ 28)

11. For the purpose of concealing the financial condition of Washington Federal, Respondent and the president concealed Washington Federal's nonperforming loans. To do so, they caused bank customers to enter into what they represented to be deed in lieu of foreclosure transactions with Washington Federal that would extinguish the bank customers' liability on their loans, when in reality, Respondent and the president caused the bank customers' property securing their loans as collateral to be transferred to entities controlled by Respondent, while the bank customers' nonperforming loans remained on Washington Federal's books. (Count One, ¶ 29)

12. Respondent and the president caused properties that were collateral for other bank customers' nonperforming loans to be transferred to entities controlled by Respondent and concealed the transfers. (Count One, ¶ 30)

13. Respondent and the president caused rental income, including Housing Choice Voucher Program payments, which was collateral for other bank customers' nonperforming loans, to be transferred to entities controlled by Respondent. (Count One, ¶ 31)

14. Count Seven of the fourth superseding indictment charged Respondent with aiding and abetting the embezzlement of more than \$8 million in money, funds, and credits of Washington Federal by a bank officer, director, agent, or employee, in violation of 18 U.S.C. §§ 656 and 2.

#### *Bankruptcy Fraud*

15. Counts Eleven through Sixteen of the fourth superseding indictment charged Respondent with bankruptcy fraud and concealment of assets in connection with a bankruptcy proceeding, in violation of 18 U.S.C. §§ 152 and 157.

16. Count Eleven charged that on March 29, 2018, Respondent filed a petition initiating a Chapter 11 bankruptcy case, *In Re Robert M. Kowalski*, No. 18-09130, in the Bankruptcy Court for the Northern District of Illinois (the "Kowalski Bankruptcy Case"). (Count Eleven, ¶ 1(m)) The largest creditor in the Kowalski Bankruptcy Case was the FDIC as receiver and successor in interest to Washington Federal. (Count Eleven, ¶ 1(n))

17. At the time of filing the petition, and during its pendency, Respondent concealed from creditors and the trustee of the bankruptcy estate (the "Trustee") at least \$364,600 in cash equivalents, Mountain Duck and five land trusts related to Mountain Duck, and a lawsuit relating to the ownership of Mountain Duck. (Count Eleven, ¶¶ 1(d), 1(e), 5)

18. On April 25, 2018, Respondent filed a Statement of Financial Affairs and a Schedule A/B in which he concealed at least \$364,600 in cash equivalents, Mountain Duck and five land trusts relating to Mountain Duck, and a lawsuit relating to the ownership of Mountain Duck, by omitting his interests. (Count Twelve)

19. Following the filing of bankruptcy petition in March 2018, Respondent continued to operate his real estate management business and opened a Debtor-in-Possession bank account. However, he did not deposit income from his business into the Debtor-in-Possession Account or file the required reports, thereby concealing a material amount of his income from his creditors and the Trustee. (Count Eleven, ¶ 7) From in or around March 2018 through March 2019, Respondent concealed \$78,800 in rent checks, which he deposited into the accounts of LLCs with which he was associated. (Count Eleven, ¶ 8) Respondent also concealed funds in the accounts of LLCs he controlled from his creditors by using approximately \$143,000 of those funds to purchase cashier's checks for his own benefit. (Count Eleven, ¶ 9)

20. On May 24, 2018, at a Meeting of Creditors, Respondent concealed his interest in Mountain Duck and the five related land trusts by falsely testifying under oath that he did not have an interest in the LLC. (Count Eleven, ¶ 10; Count Thirteen).

21. From August through October 2018, Respondent and his codefendant Jan R. Kowalski, who was an Illinois licensed attorney and Respondent's sister, concealed from his creditors and the Trustee approximately \$352,100 in cashier's checks for which Respondent was both the remitter and the payee, by depositing the checks into Jan Kowalski's attorney trust account. (Count Eleven, ¶¶ 1(b), 14) From September through October 2018, Respondent concealed from his creditors and the Trustee approximately \$3,400 in rent checks, by depositing the checks into Jan Kowalski's attorney trust account. (Count Eleven, ¶ 15)

22. In or around May 2018, Respondent prepared and filed individual and business federal income tax returns with the Internal Revenue Service. On June 12, 2018, Respondent provided federal income tax returns to the Trustee which were materially false. Specifically, Respondent provided individual tax returns for tax years 2015, 2016, and 2017 which overstated deductions and understated adjusted gross income. He also provided corporate tax returns for Piorun for tax years 2014 and 2015 which understated income, and which were not copies of the corporate returns which were filed with the IRS. (Count Eleven, ¶ 16; Count Sixteen).

23. Respondent used funds concealed in Jan Kowalski's attorney trust account to engage in transactions to conceal property of the bankruptcy estate from his creditors and the Trustee. Specifically, in June, July, and October 2018, Respondent and Jan Kowalski used approximately \$96,600 in funds concealed in the trust account to purchase a property in Oak Lawn, Illinois in a nominee's name. (Count Eleven, ¶¶ 17, 18, 19) On September 13, 2018, Respondent used \$2,500 in funds concealed in the attorney trust account as earnest money in an attempt to purchase a property on South Indiana Avenue in the name of a fictitious trust of which Respondent was beneficiary. (Count Eleven, ¶ 20) From September through October 2018, Respondent purchased approximately \$350,300 in cashier's checks payable to Respondent using funds that had been concealed in the attorney trust account, and then from October through December 2018, deposited \$325,900 of those cashier's checks into the attorney trust account. (Count Eleven, ¶¶ 21, 22) From October through December 2018, Respondent withdrew approximately \$241,800 in cash from the attorney trust account. (Count Eleven, ¶ 23).

24. From August 2018 through December 2021, Respondent obstructed the efforts of creditors and the Trustee to obtain records of property of the bankruptcy estate and to locate property of the estate. (Count Eleven, ¶ 24)

25. Count Fourteen of the fourth superseding indictment charged Respondent with filing a document in the Kowalski Bankruptcy Case, namely, a Combined Response to Trustee's Motion for Accounting and Turnover of Estate Funds against Jan Kowalski and Rule to Show Cause Against Jan Kowalski and Debtor, on January 9, 2019 for the purpose of executing and concealing the scheme to defraud. (Count Fourteen)

26. Count Fifteen charged Respondent with fraudulent concealment of property belonging to the bankruptcy estate, namely, \$567,200 and the Sea Ray boat. (Count Fifteen)

*Tax Fraud*

27. Counts Seventeen, Eighteen, Nineteen, Twenty, Twenty-One, Twenty-Two, and Twenty-Three charged Respondent with tax fraud. Specifically, Counts Seventeen and Nineteen charged Respondent with failure to file individual tax returns for tax years 2013 and 2014, in violation of 26 U.S.C. § 7203. Count Eighteen charged Respondent with filing a false tax return on behalf of Piorun for tax year 2014, for stating on the return that Piorun's total income was \$0, while knowing that its gross income exceeded that amount, in violation of 26 U.S.C. § 7206. Count Twenty charged Respondent with filing a false tax return on behalf of Piorun for tax year 2015, for stating on the return that the Piorun's gross rents totaled \$73,547, while knowing that its gross rents exceeded that amount, in violation of 26 U.S.C. § 7206. Counts Twenty-One, Twenty-Two, and Twenty-Three charged Respondent with filing a false individual tax return for tax years 2015, 2016, and 2017 respectively, for falsely reporting that each year he had paid \$252,000 in alimony and that his adjusted gross income was negative, while knowing that he had not paid any alimony and that his adjusted gross income exceeded the amount reported, in violation of 26 U.S.C. § 7206.

28. Respondent entered a plea of not guilty to the fourth superseding indictment on December 21, 2021.



29. A jury trial in Respondent's criminal case began on February 13, 2023 and was held on February 14, February 15, February 16, February 17, February 21, February 22, February 23, February 24, February 27, March 6, March 8, March 9, and March 10, 2023. Jury deliberations began and concluded on March 10, 2023. The jury found Respondent guilty on all counts.

30. On October 8, 2024, following a sentencing hearing, Judge Kendall sentenced Respondent to 300 months' incarceration as follows: 60 months as to Count One, 300 months as to Count Seven, 60 months as to Count Eleven, 60 months as to Count Twelve, 60 months as to Count 13, 60 months as to Count Fourteen, 60 months as to Count Fifteen, 60 months as to Count Sixteen, 12 months as to Count Seventeen, 36 months as to Count Eighteen, 12 months as to Count Nineteen, 36 months as to Count Twenty, 36 months as to County Twenty-One, 36 months as to Count Twenty-Two, and 26 months as to Count Twenty-Three, all counts to run concurrent. Judge Kendall also sentenced Respondent to three years' supervised release, an assessment of \$1,500, and ordered Respondent to pay \$7,241,935.20 in restitution to the Federal Deposit Insurance Corporation.

31. By reason of the conduct described above, Respondent engaged in the following misconduct:

- a. committing criminal acts that reflect adversely on his honesty, trustworthiness, or fitness as a lawyer in other respects, by conduct including his convictions for the criminal offenses of conspiracy, embezzlement, bankruptcy fraud, and tax fraud, in violation of Title 18, United States Code, Sections 371, 656, 157, and 152, Title 26, United States Code, Sections 7203 and 7206, and Rule 8.4(b) of the Illinois Rules of Professional Conduct (2010); and
- b. conduct involving dishonesty, fraud, deceit, or misrepresentation, by conduct including committing the criminal offenses of conspiracy, embezzlement, bankruptcy fraud, and tax fraud, in violation of Title 18, United States Code, Sections 371, 656, 157, and 152, Title 26, United

States Code, Sections 7203 and 7206, and Rule 8.4(c) of the Illinois Rules of Professional Conduct (2010).

WHEREFORE, the Administrator requests that this matter be assigned to a panel of the Hearing Board, that a hearing be held pursuant to Supreme Court Rule 761, and that the panel make findings of fact, conclusions of fact and law, and a recommendation for such discipline as is warranted.

Respectfully submitted,

Lea S. Gutierrez, Administrator  
Illinois Attorney Registration and  
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