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STATE OF ILLINOIS JUDICIAL INQUIRY BOARD

NEWS RELEASE

FOR IMMEDIATE RELEASE
June 19, 2018

Contact: Attorney Kevin M. Fee
Sidley Austin LLP
(312) 853-7919

JUDICIAL INQUIRY BOARD FILES COMPLAINT AGAINST JESSICA ARONG O'BRIEN, JUDGE OF THE CIRCUIT COURT OF COOK COUNTY

On June 19, 2018, the Illinois Judicial Inquiry Board filed a Complaint with the Illinois Courts Commission against Jessica Arong O'Brien, Judge of the Circuit Court of Cook County, charging Respondent with conduct that is prejudicial to the administration of justice and that brings the judicial office into disrepute.

The Complaint alleges that on February 15, 2018, following a trial in the United States District Court for the Northern District of Illinois, a jury found Respondent guilty of mail fraud and bank fraud related to a scheme to defraud lenders and entities in connection with the purchase and financing of her investment properties. The Complaint also alleges that on April 26, 2018, the Illinois Supreme Court ruled on the Petition of the Illinois Attorney Registration and Disciplinary Commission ("ARDC") for Interim Suspension in light of this jury verdict and the conduct underlying it, suspending Respondent from the practice of law until further order of the Court. The Complaint alleges that although the Illinois Constitution requires all Illinois judges to be "licensed attorney[s]-at-law of this state," Respondent has continued since her suspension to hold the office and title of Circuit Court judge, continues to receive a judicial salary, and seeks

retention in the upcoming judicial elections. Further, the Complaint alleges that this undermines public confidence in the judicial system, is prejudicial to the administration of justice, and brings the judicial office into disrepute.

The Board's trial counsel, Attorney Kevin M. Fee, of Sidley Austin LLP, will prosecute the Complaint.

-ATTACHED IS A COPY OF THE COMPLAINT-

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COURTS COMMISSION OF THE
STATE OF ILLINOIS

FILED

JUN 19 2018

In re JESSICA ARONG O'BRIEN,
Judge of the Circuit Court of Cook County,
State of Illinois

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)
)
)

No. 18-CC-2

M. McNeil
Courts Commission Secretary

COMPLAINT

Pursuant to Section 15(c) of Article VI of the Constitution of the State of Illinois, the Illinois Judicial Inquiry Board ("Board") complains against Judge Jessica Arong O'Brien, Judge of the Circuit Court of Cook County, State of Illinois ("Respondent"), and charges Respondent with conduct that is prejudicial to the administration of justice and that brings the judicial office into disrepute.

SUMMARY OF ALLEGATIONS

1. On February 15, 2018, following a trial in the United States District Court for the Northern District of Illinois, a jury found Respondent guilty of mail fraud and bank fraud related to a scheme to defraud lenders and entities in connection with the purchase and financing of her investment properties. On April 26, 2018, the Illinois Supreme Court ruled on the Petition of the Illinois Attorney Registration and Disciplinary Commission ("ARDC") for Interim Suspension in light of this jury verdict and the conduct underlying it, suspending Respondent from the practice of law until further order of the Court. Although the Illinois Constitution requires all Illinois judges to be "licensed attorney[s]-at-law of this state," Respondent has continued since her suspension to hold the office and title of Circuit Court judge, continues to receive a judicial salary, and seeks retention in the upcoming judicial elections. This undermines public confidence in the judicial system, is prejudicial to the administration of justice, and brings the judicial office into disrepute.

STATEMENT OF FACTS

I. Background

2. Respondent is a Circuit Court Judge for the Circuit Court of Cook County, Illinois.

A. Judge O'Brien's Federal Criminal Indictment and Trial

3. On April 11, 2017, a federal grand jury returned a two-count indictment charging Respondent and a co-defendant with one count of mail fraud in violation of 18 U.S.C. § 1341, and charging Respondent with one count of bank fraud in violation of 18 U.S.C. § 1344, in the case of *United States v. Jessica Arong O'Brien and Maria Bartko*, No. 17-cr-239 (N.D. Ill.) before the Honorable Thomas M. Durkin (*U.S. v. O'Brien*). A copy of the indictment is attached hereto as Exhibit 1.

4. The indictment charged Respondent with participating in a scheme to defraud various entities by means of fraudulent representations and material omissions, including causing lenders to issue and refinance mortgage and commercial loans totaling at least \$1,400,000 by making false and fraudulent representations and concealing material facts in documents submitted to lenders. (*See Ex. 1, Count One*). Count One of the indictment charged that Respondent committed the offense of mail fraud when she fraudulently obtained mortgage loan proceeds to purchase an investment property located at 625 West 46th Street in Chicago, Illinois, then fraudulently refinanced mortgage loans on the same property and another investment property located at 823 West 54th Street in Chicago, Illinois, and fraudulently obtained a commercial line of credit that she used to maintain those properties before selling the properties to her co-defendant and a straw buyer she knew would be fraudulently qualified for mortgage

loans. (*Id.* at ¶ 4). Count Two of the indictment charged that Respondent committed the offense of bank fraud when she, as part of a scheme to defraud, caused Citibank, N.A. to fund a \$73,000 mortgage loan in connection with the straw buyer's purchase of the property located at 625 West 46th Street in Chicago, Illinois. (*Id.* at Count Two).

5. On April 26, 2017 Respondent was arraigned on the indictment, and entered a plea of not guilty on both counts.

6. Between February 5, 2018 and February 14, 2018, Respondent was tried before a jury in *U.S. v. O'Brien*. On February 15, 2018 the jury returned a guilty verdict against Respondent on both counts of the indictment. A certified copy of Judge Durkin's order reflecting the jury's verdict, denying Respondent's motion for a mistrial without prejudice, and setting a briefing schedule on her motion for acquittal is attached hereto as Exhibit 2.

7. On May 22, 2018 Respondent filed an additional post-trial motion, a Motion for a Judgment of Acquittal, or Alternatively, for a New Trial. As of the date of this Complaint that motion is not yet fully briefed and remains pending. Respondent's sentencing, originally scheduled for July 6, 2018, was postponed to October 5, 2018.

B. Respondent's Suspension from the Practice of Law

8. On February 23, 2018, the ARDC filed a Petition for Interim Suspension Pursuant to Supreme Court Rule 774(a)(1) with the Supreme Court of Illinois, in Commission No. 2018PR00010 ("Petition"). The Petition argued that the jury verdict in *U.S. v. O'Brien* constituted conclusive evidence of Respondent's guilt of offenses that involved moral turpitude and reflected adversely upon her fitness to practice law. The Petition requested that the Supreme Court suspend Respondent from the practice of law based upon the conduct charged and presented to the jury in *U.S. v. O'Brien*, and also enjoin Respondent from serving as a judge and

14. Respondent's suspension from the practice of law disqualifies her from performing her judicial obligations under the Illinois Constitution as well as the Code of Judicial Conduct.

15. Respondent's continued presence as a member of the Illinois judiciary, despite the Illinois Supreme Court's suspension of her license to practice law in response to a jury verdict of guilty on two federal criminal charges, is prohibited by the Illinois Constitution and undermines public confidence in the judicial system. As such, it is prejudicial to the administration of justice and has brought the judicial office into disrepute.

VIOLATIONS

COUNT I

16. The Board incorporates paragraphs 1-15 above.

17. By continuing to hold judicial office in light of the conduct and events described above, Respondent has violated the Code of Judicial Conduct, Illinois Supreme Court Rule 61, which provides:

A Judge Should Uphold the Integrity and Independence of the Judiciary

An independent and honorable judiciary is indispensable to justice in our society. A judge should participate in establishing, maintaining, and enforcing, and should personally observe, high standards of conduct so that the integrity and independence of the judiciary may be preserved. The provisions of this Code should be construed and applied to further that objective.

18. Through this conduct, Respondent also violated the Code of Judicial Conduct, Illinois Supreme Court Rule 62, Canon 2, which provides in pertinent part:

A Judge Should Avoid Impropriety and the Appearance of Impropriety in All of the Judge's Activities

(A) A judge should respect and comply with the law and should conduct himself or herself at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary.

from taking any actions as a judge – administrative or otherwise – until further order of the Illinois Supreme Court. (*See* Petition, attached hereto as Exhibit 3).

9. On April 3, 2018, Respondent answered the Petition. She argued, among other things, that the Illinois Supreme Court lacked authority to discipline a sitting judge, and that the authority to discipline a judge lies solely with the Illinois Courts Commission. Respondent conceded that the Court had the power to suspend an attorney’s license to practice law, “thereby depriving her of the law license qualification required to assume judicial office...” (*See* Respondent Jessica Arong O’Brien’s Answer to Rule to Show Cause, attached hereto as Exhibit 4, at 13, 16).

10. On April 26, 2018, the Illinois Supreme Court granted the ARDC’s Petition in part, ruling that Respondent was suspended from the practice of law effective immediately and until further order of the Court. The Court did not rule on the ARDC’s request that the Supreme Court enjoin Respondent from acting as a judge, instead referring the matter to the Judicial Inquiry Board. (*See* April 26, 2018 Order, attached hereto as Exhibit 5).

11. Article VI, Section 11 of the Illinois Constitution provides that “[n]o person shall be eligible to be a Judge or Associate Judge” unless they are “a licensed attorney-at-law of this State.”

12. Although Respondent has been suspended from hearing cases and is restricted to administrative duties, Respondent continues to hold the office and title of Cook County Circuit Court Judge, and continues to receive a judicial salary from the State of Illinois.

13. Shortly after the Illinois Supreme Court suspended her license to practice law, Respondent filed documents with the Illinois State Board of Elections to seek retention in the November 2018 judicial election.

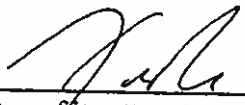
PRAYER FOR RELIEF

WHEREFORE, the Judicial Inquiry Board, charging that the above-described conduct of Judge Jessica Arong O'Brien constitutes conduct that is prejudicial to the administration of justice and that brings the judicial office into disrepute, prays that the Illinois Courts Commission, after notice of public hearing, issue an order suspending Judge O'Brien from her judicial position without pay until further order of the Commission, or make such other order in accordance with Section 15 of Article VI of the Illinois Constitution as the Commission may deem appropriate.

Dated: June 18, 2018

Respectfully submitted,

JUDICIAL INQUIRY BOARD
OF THE STATE OF ILLINOIS

By: 
One of its attorneys

Kevin M. Fee
SIDLEY AUSTIN LLP
One South Dearborn Street
Chicago, Illinois 60603
(312) 853-7000 (phone)
(312) 853-7160 (fax)

EXHIBIT 1

JUDGE DURKIN

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

MAGISTRATE JUDGE FINN WEGAN

UNITED STATES OF AMERICA)

No. **17CR 239**

v.)

Violations: Title 18, United States
Code, Sections 1341 and 1344

JESSICA ARONG O'BRIEN and)
MARIA BARTKO)

FILED

APR 11 2017

THOMAS G. BRUTON
CLERK, U.S. DISTRICT COURT

COUNT ONE

The SPECIAL DECEMBER 2016 GRAND JURY charges

1. At times material to this indictment:

a. Defendant JESSICA ARONG O'BRIEN was an attorney licensed to practice law in the State of Illinois, a licensed loan originator and licensed real estate broker in the State of Illinois, and the owner of O'Brien Realty LLC, a licensed Illinois real estate company. O'BRIEN was employed full-time as a Special Assistant Attorney General for the Illinois Department of Revenue in Chicago, Illinois, and part-time as a loan officer for Amronbanc Mortgage Corporation in Lincolnwood, Illinois.

b. Defendant MARIA BARTKO, a licensed loan originator in the State of Illinois, was employed as a loan officer for Amronbanc Mortgage Corporation in Lincolnwood, Illinois.

c. Citibank, N.A. and J.P. Morgan Chase Bank, N.A. were financial institutions, the deposits of which were insured by the Federal Deposit Insurance Corporation.

d. Citibank, N.A. owned Citibank Domestic Investment Corp., which owned CitiMortgage, Inc.

e. CitiMortgage, Inc. was in the mortgage-lending business.

f. Lenders, including Citibank, N.A., New Century Mortgage Corporation, and First Magnus Financial Corporation, required mortgage loan applicants to provide truthful information, including the applicant's financial condition, employment, income, liabilities, and intention to occupy the property, the buyer's identity, any payments made to the buyer for purchasing the property, and the sales price of the property, and lenders, including J.P. Morgan Chase Bank, N.A., required commercial loan applicants to provide truthful information, including the applicant's financial condition and income, all of which was material to lenders' approval, terms, and funding of loans.

g. Lenders often sold the mortgage loans to other lenders and institutions ("successors"). Lenders disclosed that the mortgage loans could be sold and the likelihood that the mortgage loans would be sold. The information provided in loan applications and supporting documents, including the sales price of the property, the borrower's financial condition, employment, and income, the buyer's identity, and money paid to the buyer for purchasing the

property, was material to the successors' decision to purchase the mortgage loans.

2. Beginning in or about 2004, and continuing until at least in or about 2007, at Chicago, in the Northern District of Illinois, Eastern Division, and elsewhere,

JESSICA ARONG O'BRIEN and
MARIA BARTKO,

defendants herein, along with others known and unknown to the grand jury, knowingly devised, intended to devise, and participated in a scheme to defraud lenders and successors and to obtain money and property from lenders by means of materially false and fraudulent pretenses, representations, and promises, and concealment of material facts, which scheme affected a financial institution and is further described below.

3. It was part of the scheme that defendants JESSICA ARONG O'BRIEN and MARIA BARTKO, along with others, fraudulently caused lenders to issue and to refinance mortgage and commercial loans in a total amount of at least approximately \$1,400,000, by making and causing to be made materially false representations and by concealing material facts in documents submitted to the lenders, including loan applications and supporting documents, real estate contracts, and HUD-1 settlement statements, concerning, among other things, the applicant's employment,

income, liabilities, and intention to occupy the properties, the buyer's identity, money paid to the buyer for purchasing the properties, and the sales price of the properties.

4. It was further part of the scheme that defendant JESSICA ARONG O'BRIEN fraudulently obtained mortgage loan proceeds to purchase an investment property located at 625 West 46th Street, Chicago, Illinois, then, using defendant MARIA BARTKO as the loan originator, fraudulently refinanced her mortgage loans on the 46th Street property and on a second investment property located at 823 West 54th Street, Chicago, Illinois. O'BRIEN then fraudulently obtained a commercial line of credit and used those loan proceeds to maintain the 46th Street and 54th Street properties, before selling the two properties to BARTKO and Buyer A, a straw buyer whom O'BRIEN and BARTKO knew would be fraudulently qualified for mortgage loans.

Purchase of 625 West 46th Street

5. It was further part of the scheme that in or about August 2004, defendant JESSICA ARONG O'BRIEN caused to be submitted to a lender loan documents for a mortgage loan to finance her purchase of the 46th Street property, knowing that the documents contained materially false information, including false statements regarding her income and liabilities.

6. It was further part of the scheme that defendant JESSICA ARONG O'BRIEN represented on the loan application that her income from the Illinois Department of Revenue was \$6,800 per month, knowing that the represented income was false.

7. It was further part of the scheme that defendant JESSICA ARONG O'BRIEN signed and caused to be submitted to the lender a Certification of Borrower Income that affirmed that O'BRIEN had provided truthful and accurate income information to the lender, knowing that the certification was false.

8. It was further part of the scheme that defendant JESSICA ARONG O'BRIEN represented to the lender that she had disclosed all of her liabilities, knowing that she had failed to disclose a mortgage loan liability in excess of \$260,000 that O'BRIEN and Individual A owed in connection with their ownership of Property A in Chicago.

**Refinancing of Loans for
625 West 46th Street and 823 West 54th Street**

9. It was further part of the scheme that in or about September 2005, defendant JESSICA ARONG O'BRIEN, who had purchased the 54th Street property in 2004 approximately one month after she purchased the 46th Street property, through defendant MARIA BARTKO as the loan originator, caused to be submitted to a lender loan applications to refinance O'BRIEN's mortgage

loans on the properties, knowing that both applications contained materially false statements regarding O'BRIEN's income and employment.

10. It was further part of the scheme that defendant JESSICA ARONG O'BRIEN falsely represented on the loan refinance applications that her only employer was O'Brien Realty, when she was working full-time as an attorney for the Illinois Department of Revenue.

11. It was further part of the scheme that defendant JESSICA ARONG O'BRIEN represented on the loan refinance applications that her income from O'Brien Realty was \$20,000 per month, knowing that the represented income was false.

12. It was further part of the scheme that defendant JESSICA ARONG O'BRIEN signed and caused to be submitted to the lender Borrower's Certifications for both loan refinance applications that included a certification that O'BRIEN did not make any misrepresentations or omit any pertinent information in the loan application materials, knowing that those certifications were false.

Commercial Line of Credit

13. It was further part of the scheme that, in or about November 2006, defendant JESSICA ARONG O'BRIEN caused to be submitted to a lender, J.P. Morgan Chase Bank, N.A., materially false information to obtain a commercial

line of credit for O'Brien Realty, and used those loan proceeds to pay expenses related to the 46th Street and 54th Street properties.

14. It was further part of the scheme that defendant JESSICA ARONG O'BRIEN, in applying for the line of credit, represented that O'Brien Realty's annual revenue was \$150,000 and annual profit was \$100,000, knowing that the represented revenue and profit information was false.

Sales of 625 West 46th Street and 823 West 54th Street

15. It was further part of the scheme that, in or about March 2007, defendants JESSICA ARONG O'BRIEN and MARIA BARTKO agreed that O'BRIEN would sell the 46th Street and 54th Street properties to BARTKO. However, because BARTKO did not have good enough credit to qualify for loans to purchase the properties, O'BRIEN and BARTKO agreed that BARTKO would recruit Buyer A to purchase the properties, on consecutive days in April 2007, both knowing that false information would be submitted to lenders, including Citibank, N.A., to qualify Buyer A for the mortgage loans.

16. It was further part of the scheme that defendant JESSICA ARONG O'BRIEN paid defendant MARIA BARTKO and Buyer A to purchase the two properties, knowing that these payments were concealed from the lenders funding the mortgage loans.

17. It was further part of the scheme that defendant JESSICA ARONG O'BRIEN and Buyer A signed and caused to be submitted to the lenders HUD-1 settlement statements that each included a certification by O'BRIEN and Buyer A that the HUD-1 was a true and accurate statement of all receipts and disbursements made by them in the transaction, knowing that such certifications were false.

18. It was further part of the scheme that defendants JESSICA ARONG O'BRIEN and MARIA BARTKO knowingly caused BARTKO's status as a buyer to be concealed from the lenders by knowingly omitting her from the loan documents, including the HUD-1 settlement statements, loan applications, and real estate contracts.

19. It was further part of the scheme that defendants JESSICA ARONG O'BRIEN and MARIA BARTKO caused to be submitted to the lenders real estate contracts, HUD-1 settlement statements, and loan applications, all of which O'BRIEN and BARTKO knew fraudulently inflated the sales price of the properties.

20. It was further part of the scheme that, as defendants JESSICA ARONG O'BRIEN and MARIA BARTKO knew, Buyer A's loan applications falsely represented that Buyer A intended to occupy as his primary residence the 46th Street property and the 54th Street property, respectively.

21. It was further part of the scheme that, as defendants JESSICA ARONG O'BRIEN and MARIA BARTKO knew, Buyer A's loan applications falsely overstated Buyer A's income.

22. It was further part of the scheme that defendants JESSICA ARONG O'BRIEN and MARIA BARTKO misrepresented, concealed, and hid, and caused to be misrepresented, concealed, and hidden, acts done in furtherance of the scheme and the purpose of those acts.

23. On or about April 16, 2007, at Chicago, in the Northern District of Illinois, Eastern Division, and elsewhere,

**JESSICA ARONG O'BRIEN and
MARIA BARTKO,**

defendants herein, for the purpose of executing the scheme to defraud, knowingly caused to be deposited, to be sent and delivered by United Parcel Service, a commercial interstate carrier, according to the directions thereon, an envelope containing a payoff check in the amount of approximately \$297,208.96, addressed to LSAMS1 Payoff Department OH4-7137, Chase Home Finance, 3415 Vision Drive, Columbus, OH 43219-6009, for payment relating to the purchase of the property located at 625 West 46th Street, Chicago, Illinois;

In violation of Title 18, United States Code, Section 1341.

COUNT TWO

The SPECIAL DECEMBER 2016 GRAND JURY further charges:

1. Paragraph 1 of Count One is incorporated here.
2. Beginning in or about 2004 and continuing until at least in or about 2007, in the Northern District of Illinois, Eastern Division, and elsewhere,

JESSICA ARONG O'BRIEN,

defendant herein, knowingly participated in a scheme to defraud and to obtain money and funds owned by and under the custody and control of a financial institution, by means of materially false and fraudulent pretenses, representations and promises, and concealment of material facts, which scheme is further described below.

3. Paragraphs 3 through 22 of Count One are incorporated here.
4. On or about April 16, 2007, at Chicago, in the Northern District of Illinois, Eastern Division, and elsewhere,

JESSICA ARONG O'BRIEN,

defendant herein, knowingly executed and attempted to execute the scheme to defraud by causing Citibank, N.A., a financial institution, to fund a mortgage loan in the amount of approximately \$73,000 for Buyer A's purchase of 625 West 46th Street, Chicago, Illinois;

In violation of Title 18, United States Code, Section 1344.

FORFEITURE ALLEGATION

The SPECIAL DECEMBER 2016 GRAND JURY further alleges:

1. The allegations of Counts One and Two are incorporated here for the purpose of alleging forfeiture to the United States pursuant to Title 18, United States Code, Section 982(a)(2).

2. As a result of their violations of Title 18, United States Code, Sections 1341 and 1344, as alleged in Counts One and Two of this indictment,

**JESSICA ARONG O'BRIEN and
MARIA BARTKO,**

defendants herein, shall forfeit to the United States, any and all right, title, and interest they may have in any property, real and personal, which constitutes and is derived from proceeds defendants JESSICA ARONG O'BRIEN and MARIA BARTKO obtained directly and indirectly as result of the offenses charged in Counts One and Two.

3. If any of the property subject to forfeiture and described above, as a result of any act or omission of defendants:

- a. Cannot be located upon the exercise of due diligence;
- b. Has been transferred or sold to, or deposited with, a third party;
- c. Has been placed beyond the jurisdiction of the court;
- d. Has been substantially diminished in value; or

- e. Has been commingled with other property which cannot be divided without difficult;

the United States of America shall be entitled to forfeiture of substitute property pursuant to the provisions of Title 21, United States Code, Section 853(p), as incorporated by Title 28, United States Code, Section 2461.

All pursuant to Title 18, United States Code, Section 982(a)(2).

A TRUE BILL:

FOREPERSON

ACTING UNITED STATES ATTORNEY

EXHIBIT 2

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF ILLINOIS

USA)	Case No: 17 CR 239
)	
v.)	
)	Judge: Thomas M. Durkin
)	
Jessica O'Brien)	
)	

ORDER

(:45)

Jury trial ends 2/15/2018. Defendant's oral motion for a mistrial is denied without prejudice. Jury returns a verdict of guilty as to counts one (1) and two (2). Defendant's motion for judgment of acquittal is to be filed by 3/1/2018. Government's response is due by 3/15/2018. Defendant's reply is due 3/22/2018. Case referred to the probation office for a presentence report. The probation office is directed to disclose its recommendations to both the government and defense counsel. Objections to the presentence report are due by 6/11/2018. Sentencing memorandums and responses to any objections are due by 6/18/2018. Sentencing is set for 7/6/2018 at 10:00 a.m. Defendant's current bond to stand.

Date: 2/15/2018

/s/ Thomas M. Durkin

2-22-18
 [Faint stamp and handwritten signature]

EXHIBIT 3

IN THE SUPREME COURT OF ILLINOIS

In the Matter of:

JESSICA ARONG O'BRIEN,
Attorney-Respondent,
No. 6255568.

Supreme Court No. M.R.

Commission No.

2018PR00010

NOTICE OF FILING

TO: Jessica Arong O'Brien
Attorney-Respondent
Richard J. Daley Center Courthouse
50 West Washington Blvd., Room 1301
Chicago, IL 60602-1305

PLEASE TAKE NOTICE that on February 23, 2018, electronic copies of the Administrator's PETITION FOR INTERIM SUSPENSION PURSUANT TO SUPREME COURT RULE 774(a)(1) and the PROOF OF PERSONAL SERVICE, were submitted to the Clerk of the Supreme Court for filing. On that same date, copies were served on Respondent, by causing said copies to be deposited in the U.S. Mailbox located at One Prudential Plaza, 130 East Randolph Drive, Chicago, Illinois, with first-class postage prepaid, at or before 4:00 p.m.

Respectfully submitted,

Jerome Larkin, Administrator
Attorney Registration and
Disciplinary Commission

By: /s/ Scott Renfroe
Scott Renfroe

Scott Renfroe
Counsel for Administrator
One Prudential Plaza
130 East Randolph Drive, #1500
Chicago, Illinois 60601-6219
Telephone: (312) 565-2600
srenfroe@iadc.org

FILED

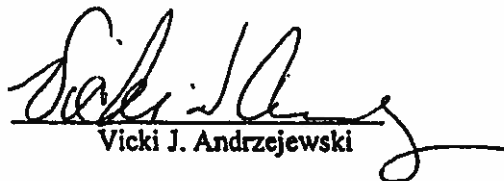
FEB 23 2018

ATTY REG & DISC COMM
CHICAGO

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Carolyn Taft Grosboll
SUPREME COURT CLERK

PROOF OF SERVICE

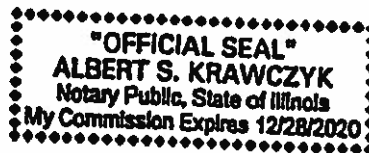
I, Vicki J. Andrzejewski, on oath state that I served copies of the Notice of Filing, Administrator's PETITION FOR INTERIM SUSPENSION PURSUANT TO SUPREME COURT RULE 774(a)(1) and the PROOF OF PERSONAL SERVICE, on the individual shown on the foregoing Notice of Filing, by regular mail, proper postage prepaid, by causing the same to be deposited in the U.S. Mailbox located at One Prudential Plaza, 130 East Randolph Drive, Suite 1500, Chicago, Illinois 60601 on February 23, 2018 at or before 4:00 p.m.


Vicki J. Andrzejewski

Subscribed and sworn to before
me this 23rd day of February, 2018.



NOTARY PUBLIC



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Carolyn Taft Grosboll
SUPREME COURT CLERK

IN THE SUPREME COURT OF ILLINOIS

In the Matter of:

JESSICA ARONG O'BRIEN,

Attorney-Respondent,

No. 6255568.

Supreme Court No. M.R.


Commission No. **2018PR00010**

PROOF OF PERSONAL SERVICE


I, Michael R. Hall, who is over the age of 18 and an agent of the Attorney Registration and Disciplinary Commission, on oath state that I served the Administrator's PETITION FOR INTERIM SUSPENSION PURSUANT TO SUPREME COURT RULE 774(a)(1) on Jessica Arong O'Brien as follows:

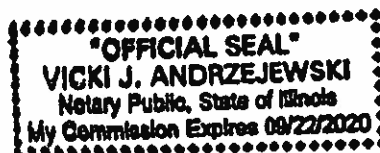
By personally serving such document on Jessica Arong O'Brien at the Richard J. Daley Center Courthouse located at 50 West Washington Blvd., Room 1301 on February 23, 2018, at or about 2:00 p.m.

I knew that this was Jessica O'Brien (who appeared to be a female Filipina of approximately 50 years of age) because she had arranged to accept service at this time and place and had confirmed her availability in an email message sent to my attention. Also, I recognized Ms. O'Brien from having seen photographs of her in newspaper stories relating to her criminal case.


Michael R. Hall

Subscribed and sworn to before me on this 23rd day of February, 2018.


NOTARY PUBLIC



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Carolyn Taft Grosboll
SUPREME COURT CLERK

FILED

FEB 23 2018

**ATTY REG & DISC COMM
CHICAGO**

IN THE SUPREME COURT OF ILLINOIS

In the Matter of:

JESSICA ARONG O'BRIEN,

Attorney-Respondent,

No. 6255568.

Supreme Court No. M.R.

Commission No. **2018PR00010**

**PETITION FOR INTERIM SUSPENSION
PURSUANT TO SUPREME COURT RULE 774(a)(1)**

Jerome Larkin, Administrator of the Attorney Registration and Disciplinary Commission, by his attorney, Scott Renfroe, pursuant to Supreme Court Rule 774(a)(1), respectfully requests that this Court issue a rule requiring Respondent, Jessica Arong O'Brien, to show cause why she should not be suspended from the practice of law until further order of the Court, effective immediately, having been found guilty of mail fraud and bank fraud following a jury trial before the Hon. Thomas M. Durkin in the Northern District of Illinois, in violation of Title 18, United States Code, Sections 1341 and 1344, and also that it enjoin her from continuing to hold the office of judge. In support, the Administrator states:

I. FACTUAL BACKGROUND

1. The Commission's registration records show that Respondent is 50 years old and that she was licensed to practice law in Illinois on November 5, 1998. Respondent registered for 2018 and identified herself as a judge in the Circuit Court of Cook County.

2. On April 11, 2017, a federal grand jury in the Northern District of Illinois charged Respondent and another defendant in a two-count criminal indictment with the offenses of mail fraud and bank fraud. The matter was captioned *United States of America v. Jessica Arong O'Brien and Maria Bartko*, docket number 17CR239, and assigned to the Hon. Thomas M. Durkin. A certified copy of the criminal indictment is attached as Exhibit One.

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SUPREME COURT CLERK

3. The indictment charged Respondent with participating in a scheme to defraud various lenders and entities who purchased mortgage loans (referred to in the indictment as "successors") by means of materially false and fraudulent pretenses, representations and promises, including causing lenders to issue and refinance mortgage and commercial loans totaling at least \$1,400,000 by making materially false representations and concealing material facts in documents submitted to the lenders. (Ex. One, Count I, ¶¶ 2-3) Count I of the indictment charged that Respondent committed the offense of mail fraud when she fraudulently obtained mortgage loan proceeds to purchase an investment property located at 625 West 46th Street in Chicago, then (using co-defendant Bartko as the loan originator) fraudulently refinanced mortgage loans on the 46th Street property and an investment property located at 823 West 54th Street in Chicago, and fraudulently obtained a commercial line of credit that she used to maintain those properties before selling the properties to Bartko and a straw buyer she knew would be fraudulently qualified for mortgage loans. (*Id.*, at ¶ 4) Count II of the indictment charged that Respondent committed the offense of bank fraud when she, as part of a scheme to defraud, caused Citibank, N.A. to fund a \$73,000 mortgage loan in connection with the straw buyer's purchase of the 46th Street property. (*Id.*, at Count II, ¶ 4)

4. On April 26, 2017, Respondent was arraigned on the indictment, and entered a plea of not guilty on all counts.

5. Between February 5 and 14, 2018, a jury trial was held in *U.S. v. O'Brien*. On February 15, 2018, the jury returned a guilty verdict against Respondent on both counts of the indictment. A certified copy of Judge Durkin's order reflecting the jury's verdict, denying Respondent's oral motion for a mistrial without prejudice, and setting a briefing schedule on her

motion for acquittal is attached as Exhibit Two. Respondent's sentencing hearing is currently scheduled for July 6, 2018. (Ex. Two)

6. The jury's findings concerning Respondent's guilt of the offenses of mail fraud and bank fraud reflect adversely upon her fitness to practice law and constitute persuasive evidence that Respondent was, in fact, guilty of that conduct. As a result, Respondent should be suspended on an interim basis from the practice of law pursuant to Supreme Court Rule 774(a)(1). She should also be enjoined from continuing to serve as a judge pursuant to this Court's inherent administrative authority over the judiciary.

II. SUMMARY OF CRIMINAL CHARGES

7. Count I of the indictment charged Respondent with committing the offense of mail fraud, in violation of Title 18, United States Code, Section 1341. More specifically, the indictment charged that in August 2004, Respondent caused loan documents requesting a mortgage loan to be submitted to a lender in order to finance her purchase of the 46th Street property, knowing that the documents contained materially false information, including false statements regarding Respondent's income and liabilities. (Ex. One, Count I, ¶ 5) Specifically, the indictment charged that Respondent falsely claimed that her monthly income from the Illinois Department of Revenue was \$6,800, that she falsely claimed that she had disclosed all of her liabilities despite knowing that she had not disclosed a \$260,000 mortgage obligation, and that she affirmed that the information she submitted to the lender was truthful and accurate, although she knew that it was not. (*Id.*, Count I, ¶¶ 6-8)

8. In September 2005, after she had also acquired an interest in the 54th Street property, Respondent submitted a loan application seeking to refinance a mortgage that falsely stated both her employment and her monthly income (claiming that she earned \$20,000 per

month from an entity referred to as "O'Brien Realty"), while falsely certifying that the application contained no misrepresentations or material omissions. (Ex. One, Count I, ¶¶ 9-12)

9. In November 2006, Respondent caused materially false information to be submitted to a lender, J.P. Morgan Chase Bank, N.A., to obtain a commercial line of credit for O'Brien Realty, then used the loan proceeds to pay expenses related to the 46th Street and 54th Street properties. (Ex. One, Count I, ¶ 13) In applying for the line of credit, Respondent falsely represented that O'Brien Realty's annual revenue and profit were \$150,000 and \$100,000, respectively. (*Id.*, Count I, ¶ 14)

10. In March 2007, Respondent and her co-defendant, Bartko, agreed that Respondent would sell the two properties to Bartko. (*Id.*, Count I, ¶ 15) Because Bartko's credit would not permit her to make the purchases, they agreed that Bartko would recruit a straw buyer to purchase the properties, knowing that false information would be submitted to lenders to obtain the funds needed for the purchases. (*Id.*) Respondent paid Bartko and the straw buyer undisclosed amounts in connection with the transactions and concealed information about those payments from the lenders. (*Id.*, Count I, ¶ 16) Respondent and the straw buyer then signed and submitted HUD-1 statements to lenders in which they knowingly falsely certified that the documents contained true and accurate information about receipts and disbursements made by them in the transaction. (*Id.*, Count I, ¶ 17) Respondent and Bartko also knowingly concealed Bartko's role as purchaser from the lenders, and submitted contracts, HUD-1 statements and applications that fraudulently inflated the sales price of the properties. (*Id.*, Count I, ¶¶ 18-19) Also, Respondent (and Bartko) knew that the straw purchaser's loan applications falsely represented that the lawyer intended to occupy the properties as his primary residence, and falsely overstated his income. (*Id.*, Count I, ¶¶ 20-21) Finally, Respondent and Bartko

"misrepresented, concealed and hid" unspecified acts done in furtherance of their scheme. (Ex. One, Count I, at ¶ 22) As part of that scheme, they caused a mortgage payoff check for approximately \$297,200 to be mailed to Chase Home Finance in Columbus, Ohio. (*Id.*, Count I, at ¶ 23)

11. Count II of the indictment charged that Respondent committed the offense of bank fraud, in violation of Title 18, United States Code, Section 1344, by engaging in the conduct described above.

III. EVIDENCE SUPPORTING THE CHARGES

12. Exhibit One is the criminal indictment in *U.S. v. O'Brien*. Exhibit Two is Judge Durkin's order showing the jury's verdict of guilty on both counts in the indictment and scheduling her sentencing hearing. The federal criminal indictment charging Respondent with mail fraud and bank fraud, and the jury's verdict finding Respondent guilty of both counts as charged in the indictment demonstrate that persuasive evidence exists to support the criminal charges.

IV. ARGUMENT

13. Supreme Court Rule 774(a)(1) provides that this Court may suspend an attorney from the practice of law until further order of Court, where the attorney has been formally charged with the commission of a crime that involves moral turpitude or reflects adversely upon his fitness to practice law, and there appears to be persuasive evidence to support the charge.

14. In this case, Respondent has been formally charged and found guilty of the federal offenses of mail fraud and bank fraud, crimes which involve moral turpitude and reflect adversely upon her fitness to practice law. The jury's verdict as to Respondent's conduct serves as conclusive evidence of her guilt of those offenses.

15. This Court has defined fraud as “anything calculated to deceive,” *In re Yamaguchi*, 118 Ill.2d 417, 426 (1987), and moral turpitude as “anything which an attorney does knowingly and which is contrary to justice, honesty, and good morals.” *In re Alschuler*, 388 Ill.2d 492, 503 (1944). This Court has also held that moral turpitude is shown following the conviction of a crime involving fraud or fraudulent conduct. *In re Tietelbaum*, 13 Ill.2d 586 (1958). In this case, Respondent was formally charged with, and was found guilty of, the federal offenses of mail fraud and bank fraud based on her involvement in a scheme to defraud various lenders, a scheme which involved multiple false statements, omissions and false certifications. Respondent’s conduct clearly meets this Court’s definition of moral turpitude, and establishes her lack of trustworthiness and fitness as a lawyer and as a judge.

16. This Court has also previously found that an attorney’s conviction for various types of fraudulent schemes have warranted their interim suspension or disbarment. *See, e.g., In re Budzik*, M.R. 28023, 2016PR00006 (May 18, 2016) (lawyer disbarred on consent for conviction of bank fraud in connection with his participation in a scheme to defraud lenders by making material fraudulent statements to obtain mortgage loans for recruited real estate purchasers); *In re Roth* M.R. 17316, 00 CH 96 (February 7, 2001) (lawyer suspended on an interim basis pursuant to Rule 761(b) following his conviction of mail fraud in connection with his participation in a land “flipping” scheme); and *In re Westerfield*, M.R. 22569, 08 CH 71 (September 23, 2008) (lawyer suspended on an interim basis pursuant to Rule 761(b) for conviction of wire fraud in connection with her participation in a scheme to cause individuals experiencing financial problems to sell their homes as part of a leaseback arrangement).

17. This Court recently issued and enforced a rule to show cause pursuant to Supreme Court Rule 774 under circumstances similar to the present matter, where an attorney was found

guilty at trial and was awaiting sentencing. In *In re Palladinetti*, M.R. 028969, 2017PR00102 (November 3, 2017), an attorney was found guilty of bank fraud in federal court following a stipulated bench trial. Prior to sentencing, the Administrator filed a petition for interim suspension pursuant to Supreme Court Rule 774(a)(1), and the Court issued a rule to show cause why the attorney should not be suspended from the practice of law immediately and until further order of the Court. The Court later enforced the rule to show cause. *See also, In re Schlyer*, M.R. 29619, 2017PR00118 (January 18, 2018) (issuance of rule to show pursuant to Rule 774(a)(1) cause following jury verdict finding attorney guilty of offenses of wire and bank fraud).

18. This Court has inherent and plenary authority over the regulation of the practice of law and the conduct of the judiciary in this State. In a recent case involving allegations of misconduct against a candidate for the position of judge in Cook County, this Court enjoined and restrained that attorney from taking the judicial oath of office or assuming the office of judge until further order of the Court should she be elected to that position. *In re Crawford*, M.R. 28341, 2016PR00115 (October 31, 2016) (enforcing rule to show cause issued pursuant to Rule 774).

19. Media accounts indicate that following her indictment, Respondent was reassigned from the First Municipal District to administrative duties. (*See, Chicago Daily Law Bulletin*, Thursday, February 15, 2018, at page one – “Circuit Judge Convicted on Fraud Counts”) Article VI, Section 11 of the Illinois Constitution requires that all judges must also be “licensed attorney[s]-at-law of this State.” In order to promote public confidence in the administration of justice, Respondent should not only be suspended from the practice of law based upon her fraudulent conduct, she should also be enjoined, based upon that same conduct, from serving as a judge and from taking any actions as a judge – administrative or otherwise.

20. The information set forth in the indictment, and Judge Durkin's February 15, 2018 order reflecting the jury's guilty verdict against Respondent, are conclusive evidence that Respondent committed the criminal offenses of mail fraud and bank fraud and committed crimes involving moral turpitude and reflecting adversely upon her fitness to practice law. Respondent's conduct is contrary to justice, honesty, good morals, and by its very nature, involves moral turpitude. Therefore, the imposition of an interim suspension until further order of the Court, as well as the entry of an order enjoining Respondent from performing the duties of judge, is warranted here.

V. CONCLUSION

21. Based on the information set forth above, the Administrator has established grounds for this Court to issue a rule to show cause in this matter, namely, criminal proceedings were initiated against Respondent in which she was formally charged with the commission of crimes involving moral turpitude, and she has been found guilty of all elements of those crimes which reflects adversely upon her fitness to practice law. Moreover, there clearly is persuasive evidence to support the charges, in light of the jury's verdict of guilt following a trial. Respondent's suspension until further order of the Court pursuant to Supreme Court Rule 774, and the entry of an order enjoining her from acting in the office of judge, is required for the purpose of protecting the public, the integrity of the legal profession and the judiciary, and the administration of justice.

WHEREFORE, the Administrator respectfully requests that the Court issue a rule to show cause as to why Respondent, Jessica Arong O'Brien, should not be suspended from the practice of law and enjoined from acting as a judge until further order of the Court, pursuant to Rule 774(a)(1) and this Court's inherent authority.

Respectfully submitted,

Jerome Larkin, Administrator
Attorney Registration and
Disciplinary Commission

By: /s/ Scott Renfroe
Scott Renfroe

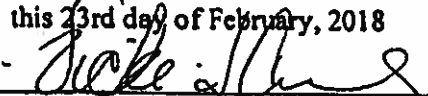
VERIFICATION

I, Scott Renfroe, an attorney, being first duly sworn, state that the allegations contained in the Administrator's Petition for Interim Suspension Pursuant to Supreme Court Rule 774(a)(1) are true and correct to the best of my knowledge and belief.

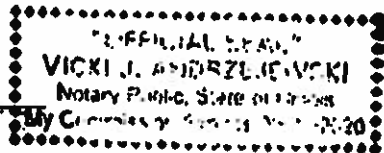


Scott Renfroe

Subscribed and sworn to before me
this 23rd day of February, 2018



NOTARY PUBLIC



Scott Renfroe
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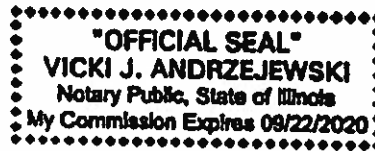


Exhibit 1

JK

JUDGE DURKIN

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

MAGISTRATE JUDGE FINNEGAN

UNITED STATES OF AMERICA)

No. **17CR 239**

v.)

Violations: Title 18, United States
Code, Sections 1341 and 1344

JESSICA ARONG O'BRIEN and)
MARIA BARTKO)

FILED

APR 11 2017

THOMAS G. BRUTON
CLERK, U.S. DISTRICT COURT

COUNT ONE

The SPECIAL DECEMBER 2016 GRAND JURY charges

1. At times material to this indictment:

a. Defendant JESSICA ARONG O'BRIEN was an attorney licensed to practice law in the State of Illinois, a licensed loan originator and licensed real estate broker in the State of Illinois, and the owner of O'Brien Realty LLC, a licensed Illinois real estate company. O'BRIEN was employed full-time as a Special Assistant Attorney General for the Illinois Department of Revenue in Chicago, Illinois, and part-time as a loan officer for Amronbanc Mortgage Corporation in Lincolnwood, Illinois.

b. Defendant MARIA BARTKO, a licensed loan originator in the State of Illinois, was employed as a loan officer for Amronbanc Mortgage Corporation in Lincolnwood, Illinois.

c. Citibank, N.A. and J.P. Morgan Chase Bank, N.A. were financial institutions, the deposits of which were insured by the Federal Deposit Insurance Corporation.

d. Citibank, N.A. owned Citibank Domestic Investment Corp., which owned CitiMortgage, Inc.

e. CitiMortgage, Inc. was in the mortgage-lending business.

f. Lenders, including Citibank, N.A., New Century Mortgage Corporation, and First Magnus Financial Corporation, required mortgage loan applicants to provide truthful information, including the applicant's financial condition, employment, income, liabilities, and intention to occupy the property, the buyer's identity, any payments made to the buyer for purchasing the property, and the sales price of the property, and lenders, including J.P. Morgan Chase Bank, N.A., required commercial loan applicants to provide truthful information, including the applicant's financial condition and income, all of which was material to lenders' approval, terms, and funding of loans.

g. Lenders often sold the mortgage loans to other lenders and institutions ("successors"). Lenders disclosed that the mortgage loans could be sold and the likelihood that the mortgage loans would be sold. The information provided in loan applications and supporting documents, including the sales price of the property, the borrower's financial condition, employment, and income, the buyer's identity, and money paid to the buyer for purchasing the

property, was material to the successors' decision to purchase the mortgage loans.

2. Beginning in or about 2004, and continuing until at least in or about 2007, at Chicago, in the Northern District of Illinois, Eastern Division, and elsewhere,

**JESSICA ARONG O'BRIEN and
MARIA BARTKO,**

defendants herein, along with others known and unknown to the grand jury, knowingly devised, intended to devise, and participated in a scheme to defraud lenders and successors and to obtain money and property from lenders by means of materially false and fraudulent pretenses, representations, and promises, and concealment of material facts, which scheme affected a financial institution and is further described below.

3. It was part of the scheme that defendants JESSICA ARONG O'BRIEN and MARIA BARTKO, along with others, fraudulently caused lenders to issue and to refinance mortgage and commercial loans in a total amount of at least approximately \$1,400,000, by making and causing to be made materially false representations and by concealing material facts in documents submitted to the lenders, including loan applications and supporting documents, real estate contracts, and HUD-1 settlement statements, concerning, among other things, the applicant's employment,

income, liabilities, and intention to occupy the properties, the buyer's identity, money paid to the buyer for purchasing the properties, and the sales price of the properties.

4. It was further part of the scheme that defendant JESSICA ARONG O'BRIEN fraudulently obtained mortgage loan proceeds to purchase an investment property located at 625 West 46th Street, Chicago, Illinois, then, using defendant MARIA BARTKO as the loan originator, fraudulently refinanced her mortgage loans on the 46th Street property and on a second investment property located at 823 West 54th Street, Chicago, Illinois. O'BRIEN then fraudulently obtained a commercial line of credit and used those loan proceeds to maintain the 46th Street and 54th Street properties, before selling the two properties to BARTKO and Buyer A, a straw buyer whom O'BRIEN and BARTKO knew would be fraudulently qualified for mortgage loans.

Purchase of 625 West 46th Street

5. It was further part of the scheme that in or about August 2004, defendant JESSICA ARONG O'BRIEN caused to be submitted to a lender loan documents for a mortgage loan to finance her purchase of the 46th Street property, knowing that the documents contained materially false information, including false statements regarding her income and liabilities.

6. It was further part of the scheme that defendant JESSICA ARONG O'BRIEN represented on the loan application that her income from the Illinois Department of Revenue was \$6,800 per month, knowing that the represented income was false.

7. It was further part of the scheme that defendant JESSICA ARONG O'BRIEN signed and caused to be submitted to the lender a Certification of Borrower Income that affirmed that O'BRIEN had provided truthful and accurate income information to the lender, knowing that the certification was false.

8. It was further part of the scheme that defendant JESSICA ARONG O'BRIEN represented to the lender that she had disclosed all of her liabilities, knowing that she had failed to disclose a mortgage loan liability in excess of \$260,000 that O'BRIEN and Individual A owed in connection with their ownership of Property A in Chicago.

**Refinancing of Loans for
625 West 46th Street and 823 West 54th Street**

9. It was further part of the scheme that in or about September 2005, defendant JESSICA ARONG O'BRIEN, who had purchased the 54th Street property in 2004 approximately one month after she purchased the 46th Street property, through defendant MARIA BARTKO as the loan originator, caused to be submitted to a lender loan applications to refinance O'BRIEN's mortgage

loans on the properties, knowing that both applications contained materially false statements regarding O'BRIEN's income and employment.

10. It was further part of the scheme that defendant JESSICA ARONG O'BRIEN falsely represented on the loan refinance applications that her only employer was O'Brien Realty, when she was working full-time as an attorney for the Illinois Department of Revenue.

11. It was further part of the scheme that defendant JESSICA ARONG O'BRIEN represented on the loan refinance applications that her income from O'Brien Realty was \$20,000 per month, knowing that the represented income was false.

12. It was further part of the scheme that defendant JESSICA ARONG O'BRIEN signed and caused to be submitted to the lender Borrower's Certifications for both loan refinance applications that included a certification that O'BRIEN did not make any misrepresentations or omit any pertinent information in the loan application materials, knowing that those certifications were false.

Commercial Line of Credit

13. It was further part of the scheme that, in or about November 2006, defendant JESSICA ARONG O'BRIEN caused to be submitted to a lender, J.P. Morgan Chase Bank, N.A., materially false information to obtain a commercial

line of credit for O'Brien Realty, and used those loan proceeds to pay expenses related to the 46th Street and 54th Street properties.

14. It was further part of the scheme that defendant JESSICA ARONG O'BRIEN, in applying for the line of credit, represented that O'Brien Realty's annual revenue was \$150,000 and annual profit was \$100,000, knowing that the represented revenue and profit information was false.

Sales of 625 West 46th Street and 823 West 54th Street

15. It was further part of the scheme that, in or about March 2007, defendants JESSICA ARONG O'BRIEN and MARIA BARTKO agreed that O'BRIEN would sell the 46th Street and 54th Street properties to BARTKO. However, because BARTKO did not have good enough credit to qualify for loans to purchase the properties, O'BRIEN and BARTKO agreed that BARTKO would recruit Buyer A to purchase the properties, on consecutive days in April 2007, both knowing that false information would be submitted to lenders, including Citibank, N.A., to qualify Buyer A for the mortgage loans.

16. It was further part of the scheme that defendant JESSICA ARONG O'BRIEN paid defendant MARIA BARTKO and Buyer A to purchase the two properties, knowing that these payments were concealed from the lenders funding the mortgage loans.

17. It was further part of the scheme that defendant JESSICA ARONG O'BRIEN and Buyer A signed and caused to be submitted to the lenders HUD-1 settlement statements that each included a certification by O'BRIEN and Buyer A that the HUD-1 was a true and accurate statement of all receipts and disbursements made by them in the transaction, knowing that such certifications were false.

18. It was further part of the scheme that defendants JESSICA ARONG O'BRIEN and MARIA BARTKO knowingly caused BARTKO's status as a buyer to be concealed from the lenders by knowingly omitting her from the loan documents, including the HUD-1 settlement statements, loan applications, and real estate contracts.

19. It was further part of the scheme that defendants JESSICA ARONG O'BRIEN and MARIA BARTKO caused to be submitted to the lenders real estate contracts, HUD-1 settlement statements, and loan applications, all of which O'BRIEN and BARTKO knew fraudulently inflated the sales price of the properties.

20. It was further part of the scheme that, as defendants JESSICA ARONG O'BRIEN and MARIA BARTKO knew, Buyer A's loan applications falsely represented that Buyer A intended to occupy as his primary residence the 46th Street property and the 54th Street property, respectively.

21. It was further part of the scheme that, as defendants JESSICA ARONG O'BRIEN and MARIA BARTKO knew, Buyer A's loan applications falsely overstated Buyer A's income.

22. It was further part of the scheme that defendants JESSICA ARONG O'BRIEN and MARIA BARTKO misrepresented, concealed, and hid, and caused to be misrepresented, concealed, and hidden, acts done in furtherance of the scheme and the purpose of those acts.

23. On or about April 16, 2007, at Chicago, in the Northern District of Illinois, Eastern Division, and elsewhere,

JESSICA ARONG O'BRIEN and
MARIA BARTKO,

defendants herein, for the purpose of executing the scheme to defraud, knowingly caused to be deposited, to be sent and delivered by United Parcel Service, a commercial interstate carrier, according to the directions thereon, an envelope containing a payoff check in the amount of approximately \$297,208.96, addressed to LSAMS1 Payoff Department OH4-7137, Chase Home Finance, 3415 Vision Drive, Columbus, OH 43219-6009, for payment relating to the purchase of the property located at 625 West 46th Street, Chicago, Illinois;

In violation of Title 18, United States Code, Section 1341.

COUNT TWO

The SPECIAL DECEMBER 2016 GRAND JURY further charges:

- 1. Paragraph 1 of Count One is incorporated here.**
- 2. Beginning in or about 2004 and continuing until at least in or about 2007, in the Northern District of Illinois, Eastern Division, and elsewhere,**

JESSICA ARONG O'BRIEN,

defendant herein, knowingly participated in a scheme to defraud and to obtain money and funds owned by and under the custody and control of a financial institution, by means of materially false and fraudulent pretenses, representations and promises, and concealment of material facts, which scheme is further described below.

- 3. Paragraphs 3 through 22 of Count One are incorporated here.**
- 4. On or about April 16, 2007, at Chicago, in the Northern District of Illinois, Eastern Division, and elsewhere,**

JESSICA ARONG O'BRIEN,

defendant herein, knowingly executed and attempted to execute the scheme to defraud by causing Citibank, N.A., a financial institution, to fund a mortgage loan in the amount of approximately \$73,000 for Buyer A's purchase of 625 West 46th Street, Chicago, Illinois;

In violation of Title 18, United States Code, Section 1344.

FORFEITURE ALLEGATION

The SPECIAL DECEMBER 2016 GRAND JURY further alleges:

1. The allegations of Counts One and Two are incorporated here for the purpose of alleging forfeiture to the United States pursuant to Title 18, United States Code, Section 982(a)(2).

2. As a result of their violations of Title 18, United States Code, Sections 1341 and 1344, as alleged in Counts One and Two of this indictment,

**JESSICA ARONG O'BRIEN and
MARIA BARTKO,**

defendants herein, shall forfeit to the United States, any and all right, title, and interest they may have in any property, real and personal, which constitutes and is derived from proceeds defendants JESSICA ARONG O'BRIEN and MARIA BARTKO obtained directly and indirectly as result of the offenses charged in Counts One and Two.

3. If any of the property subject to forfeiture and described above, as a result of any act or omission of defendants:

- a. Cannot be located upon the exercise of due diligence;
- b. Has been transferred or sold to, or deposited with, a third party;
- c. Has been placed beyond the jurisdiction of the court;
- d. Has been substantially diminished in value; or

- e. Has been commingled with other property which cannot be divided without difficult;

the United States of America shall be entitled to forfeiture of substitute property pursuant to the provisions of Title 21, United States Code, Section 853(p), as incorporated by Title 28, United States Code, Section 2461.

All pursuant to Title 18, United States Code, Section 982(a)(2).

A TRUE BILL:

FOREPERSON

ACTING UNITED STATES ATTORNEY

2-22-18
SEARCHED INDEXED SERIALIZED FILED
MAR 23 2018
FBI - NEW YORK
[Signature]

Exhibit 2

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF ILLINOIS

USA)	Case No: 17 CR 239
)	
v.)	Judge: Thomas M. Durkin
)	
Jessica O'Brien)	
)	

ORDER

(:45)

Jury trial ends 2/15/2018. Defendant's oral motion for a mistrial is denied without prejudice. Jury returns a verdict of guilty as to counts one (1) and two (2). Defendant's motion for judgment of acquittal is to be filed by 3/1/2018. Government's response is due by 3/15/2018. Defendant's reply is due 3/22/2018. Case referred to the probation office for a presentence report. The probation office is directed to disclose its recommendations to both the government and defense counsel. Objections to the presentence report are due by 6/11/2018. Sentencing memorandums and responses to any objections are due by 6/18/2018. Sentencing is set for 7/6/2018 at 10:00 a.m. Defendant's current bond to stand.

Date: 2/15/2018

/s/ Thomas M. Durkin

FILED
 2-22-18
 THOMAS M. DURKIN
 U.S. DISTRICT COURT
 NORTHERN DISTRICT OF ILLINOIS
 CHICAGO, ILLINOIS

EXHIBIT 4

M.R.029233

M.R. 029233
IN THE SUPREME COURT OF ILLINOIS

In the Matter of:

JESSICA ARONG O'BRIEN

Respondent No. 6255568,

}
} Supreme Court No. M.R. 029233
} Commission No. 18 PR0010

RESPONDENT JESSICA ARONG O'BRIEN'S
ANSWER TO RULE TO SHOW CAUSE

Respondent Jessica Arong O'Brien, by her attorneys, HINSHAW & CULBERTSON LLP, and in response to this Court's order to show cause why she should not be suspended from the practice of law until further order of the Court pursuant to Supreme Court Rule 774 and why she should not be enjoined from acting as a judge until further order of the Court, states as follows:

BACKGROUND

This Court has ordered Respondent to show cause why she should not be suspended from the practice of law, effective immediately and until further ordered pursuant to Supreme Court Rule 774, and why she should not be enjoined from acting as a judge until further order of the Court. Respondent was licensed by this Court to practice law on November 5, 1998. (Administrator's Petition for Interim Suspension "Pet." ¶ 1) Respondent also currently holds the office of Judge of the Circuit Court of Cook County, having been elected to that

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SUPREME COURT CLERK v1 1007761

office on November 6, 2012. Her current term expires in December 2018. At issue before this Court is the fact that Respondent has been found guilty by a jury in Federal Court of mail fraud and bank fraud.

On February 15, 2018, following a trial in the United States District Court for the Northern District of Illinois, a jury found Respondent guilty of bank fraud and mail fraud related to loans she had obtained between 2004 and 2006 for her investment properties, which she ultimately sold in 2007. (Pet., ¶¶ 3-5) Prior to this verdict, Respondent had entered a "not guilty" plea on all charges. (*Id.* ¶ 4) Following the close of the government's case on February 13, 2018, Respondent moved for acquittal pursuant to Federal Rule of Criminal Procedure ("FRCP") 29. The court took the motion under advisement and specifically deferred making his ruling until after the jury returned its verdict. To date, the judge's ruling is still pending, along with Respondent's motion for directed verdict made at the close of the defense's case in chief, which was renewed at the conclusion of the government's rebuttal arguments. The only motion that the court ruled on was the defense's oral motion for a mistrial, which the court denied without prejudice as it was made after the jury had begun deliberating. After the jury rendered its guilty verdict, Respondent's attorney also made an oral motion for judgment notwithstanding the verdict. The court then again took the motion

under advisement and deferred making its ruling, presumably until after written motions are filed.

The District Court has entered a briefing schedule giving Respondent until May 14, 2018, to file post-trial motions. (Minute order, Ex. A) Respondent intends to file a Motion for Judgment of Acquittal pursuant to FRCP 29(a) by that date. She is currently scheduled to be sentenced on July 6, 2018. (Pet. ¶ 5)

The Administrator's Petition for Interim Suspension ("Petition") asks this Court to suspend Respondent from the practice of law under Supreme Court Rule 774(a)(1) and enjoin her from serving as a judge "pursuant to this Court's inherent administrative authority over the judiciary." (Pet., ¶ 6) The Administrator argues that the guilty verdict "reflects adversely upon her fitness to practice law" and that an order enjoining her from acting as a judge "is required for the purpose of protecting the public, the integrity of the legal profession and the judiciary, and the administration of justice." (*Id.* ¶ 21)

Respondent recognizes that, under the circumstances, before the court of public opinion the Administrator's arguments seem compelling. But before this Court, Respondent respectfully requests this Court to deny the Administrator's Petition by adhering to the limits the Illinois Constitution places on this Court's ability to discipline members of the judiciary and the protection the due process clause provides to Respondent to challenge the charges against her.

ARGUMENT

There are three reasons why this Court should deny the Administrator's Petition.

First, as a judge, the Illinois Constitution already prohibits Respondent from the practice of law. As a result, the relief the Administrator requests under Rule 774(a)(1) would have no effect.

Second, this Court lacks the power to enjoin a sitting judge from office. While this Court has the authority to discipline an attorney from the practice of law, Article VI, Section 15 of the Illinois Constitution vests the sole authority for investigation and discipline of a judge with the Judicial Inquiry Board and the Illinois Courts Commission. Ill. Const. 1970, art. VI, § 15. By accepting the Administrator's argument, this Court would be claiming shared power to discipline a judge with the Courts Commission—a power the 1970 Constitutional Convention explicitly declined to give this Court.

Third, Respondent should be afforded the opportunity to exhaust her due process rights. Though she has been found guilty by a jury, she has not been convicted of the crimes with which she has been charged. The federal court proceedings have not yet concluded. Respondent still has the opportunity to be acquitted. This Court should not make a ruling related to Respondent's law

license or her ability to hold the office prior to the District Court's final determination.

I. Suspending Respondent under Rule 774 would serve no purpose as the Illinois Constitution already prohibits Respondent from the practice of law.

The Administrator's Petition first asks this Court to suspend Respondent from the practice of law until further order of the Court pursuant to Supreme Court Rule 774. (Pet. ¶ 21) Rule 774(a) states, relevant to the case here, that during a pendency of a criminal indictment, the Court, on the Administrator's petition for a rule to show cause, may suspend an attorney from the practice of law until further order of the Court. Ill. S. Ct. R. 774(a) (eff. Feb. 1, 2018). Rule 774(a)(1) states that the Administrator's petition shall allege that, "the attorney has been formally charged with the commission of a crime which involves moral turpitude or reflects adversely upon *[her] fitness to practice law*, and there appears to be persuasive evidence to support the charge[.]" *Id.* (emphasis added). Respondent does not contest she has been charged with the commission of a crime of moral turpitude, or that, under the Rule, the Administrator has submitted evidence supporting the criminal charges via the jury's verdict. This Court should deny the Administrator's request, however, because the Administrator cannot establish that the criminal charges against Respondent

reflect adversely upon her fitness to practice law. As a judge, the Illinois Constitution already prohibits her from practicing law.

Article VI, Section 13 of the Illinois Constitution establishes prohibited activities for Illinois Judges. It states as follows.

Judges and Associate Judges shall devote full time to judicial duties. They shall not practice law, hold a position of profit, hold office under the United States or this State or unit of local government or school district or in a political party. Service in the State militia or armed forces of the United States for periods of time permitted by rule of the Supreme Court shall not disqualify a person from serving as a Judge or Associate Judge.

Ill. Const. 1970, art. VI, § 13.

The first activity the Constitution prohibits a judge from doing is practicing law. Rule 774 provides the Administrator with a mechanism to ask this Court to "suspend an attorney *from the practice of law* until further order of the court." Ill. S. Ct. R. 774(a) (eff. Feb. 1, 2018) (emphasis added). Under the Constitution, however, Respondent is already prohibited from the practice of law. As a result, an interm suspension would be without substantive effect.

Furthermore, the purpose of Rule 774 is not implicated by the facts pertaining to Respondent. Rule 774(d) states that, this "[C]ourt may make such orders and impose such conditions of the interim suspension as it deems necessary to protect the interests of the public and the orderly administration of justice[.]" Ill. S. Ct. R. 774(d) (eff. Feb. 1, 2018). In this case, it is unnecessary to

suspend Respondent from the practice of law to protect the interest of the public because the Constitution already prohibits her from practicing law. Accordingly, this Court should deny the Administrator's request under Rule 774(a)(1).

II. This Court lacks the constitutional authority to enjoin Respondent from judicial office.

The real purpose behind the Administrator's Petition is not to suspend Respondent from the practice of law, but rather to have this Court issue an order enjoining Respondent from exercising her judicial office. The Administrator cites to Article VI, Section 11 of the Illinois Constitution, noting it requires all judges to be "licensed attorney[s]-at-law of this State" (Ill. Const. 1970, art. VI, § 11). (Pet. ¶ 19) The Administrator then argues, "[i]n order to promote public confidence in the administration of justice, Respondent should not only be suspended from the practice of law based upon her fraudulent conduct, she should also be enjoined, based upon that same conduct, from serving as a judge and from taking any action as a judge—administrative or otherwise." (*Id.*)

In asking this Court to enjoin Respondent from serving as a judge, the Administrator thus asks this Court to use its power to regulate attorney law licenses to deprive Respondent of a qualification of judicial office, thereby allowing this Court to enjoin Respondent from serving as a judge. In order to grant the relief the Administrator requests, this Court would have to assume

powers to discipline the judiciary that the Illinois Constitution does not provide to this Court.

The Constitution provides the process for disciplining judges in Article IV, Section 15. Ill. Const. 1970, art. VI, § 15. Section 15 creates the Judicial Inquiry Board and the Courts Commission. The Board is given the power to investigate conduct of Judges and Associate Judges and the power to file complaints against Judges and Associate Judges with the Courts Commission. Ill. Const. 1970, art. VI, § 15(c). The Constitution provides that, “[t]he Commission shall be convened permanently to hear complaints filed by the Judicial Inquiry Board” and it shall have the authority “to remove from office, suspend without pay, censure or reprimand a Judge or Associate Judge for willful misconduct in office, persistent failure to perform his or her duties, or other conduct that is prejudicial to the administration of justice or that brings the judicial office into disrepute[.]” Ill. Const. 1970, art. VI, § 15(e) (emphasis added).

The Administrator asks this Court to enjoin Respondent from judicial office for the “purpose of protecting the public, the integrity of the legal profession and the judiciary, and the administration of justice.” (Pet. ¶ 21) Article VI, Section 15, however, establishes that the Courts Commission, not this Court, is granted the power to discipline a judicial officer. In fact, the 1970

Constitutional Convention explicitly declined to give this Court the power to discipline judges.

a. **Judicial discipline prior to the 1970 Constitution.**

Under the 1870 Constitution, judicial discipline rested with the legislature. Frank Greenberg, *The Illinois Two-Tier Judicial Disciplinary System: Five Years and Counting*, 54 Chi. Kent. L. Rev. 69, 70 (1977). The legislature had the power to remove a judge from office through either the impeachment process or by concurrent resolution. Ill. Const 1870, art. IV, §§ 24, 30. Despite this power, the legislature had not sought removal of a judge through the impeachment process since 1832. William T. Braithwaite, *Judicial Misconduct and the Evolution of the Illinois Courts Commission 1964-1970*, 1969 U. Ill. L. F. 442, 450-51 (1969). The legislature never used the concurrent resolution process to remove a judge from office. *Id.* at 451.

In 1962, an amendment to the 1870 Constitution was adopted to modernize the judicial branch, including the process of judicial discipline. The 1962 judicial article created a Courts Commission to hear complaints against judges and determine the appropriate discipline. Greenburg, at 70. The commission was not a permanent body; it could only be called into action by the Chief Justice through order of the Court, or at the request of the Senate. *Id.*

In 1970, the system of judicial discipline fundamentally changed when the Constitutional Convention determined judicial discipline should be fully independent from the judiciary. Ruben Cohn, *The Illinois Judicial Department -- Changes Effected by Constitution of 1970*, 1971 U. Ill. L.F. 355, 384 ("The purpose of these proposed changes was to eliminate Supreme Court influence in the investigative and prosecuting functions of the commission.") The delegates of the Constitutional Convention believed an independent system for judicial discipline was necessary in the wake of a 1969 scandal that undermined the public trust in the judiciary.

b. The Scandal of 1969.

In June 1969, a motion was filed in this Court to investigate the integrity of its decision in *People v. Issacs*, 37 Ill. 2d 205 (1967). Braithwaite, at 458. The motion, filed by the chair of a group called "Citizens' Committee to Clean Up the Courts," alleged that Chief Justice Roy J. Solfsburg, Jr. and Justice Ray I. Klingbiel acted with "undue influence and appearance of impropriety" regarding the *Issacs* decision. *Id.* Most damning, the motion accused Justice Klingbiel of accepting 100 shares of stock from the defendant in *Issacs* through a third party while the decision was pending before the Court. *Id.* Both justices had voted to affirm the dismissal of the indictment against the defendant. *Id.*

Complicating the allegations was the fact that Justice Klingbiel was the chairman of the Courts Commission. *Id.* This led to the Court's decision to appoint an *ad hoc* body, named "The Special Commission in Relation to No. 39797" rather than convene the Courts Commission to investigate the allegations. *Id.*

In response to these allegations, the House of Representatives created a special committee to investigate the alleged misconduct as well. See generally, Kenneth A. Manaster, *Illinois Justice: The Scandal of 1969 and the Rise of John Paul Stevens*, The University of Chicago Press, Ltd. (2001). The House special committee, however, was halted after the Circuit Court of Cook County issued a permanent injunction against the committee on separation of powers grounds, a decision that was affirmed by this Court in *Cusack v. Howeltt*, 44 Ill. 2d 233 (1969). Cohn, *The Illinois Judicial Department – Changes Effected by Constitution of 1970*, 1971 U. Ill. L.F. 355, 381.

After an investigation, the Court's special commission recommended that Justice Klingbiel and Chief Justice Solfsburg resign from the bench. *Id.* The Justices ultimately resigned. *Id.* But the scandal, as well as the issues in *Cusack*, led to then Governor Ogilvie issuing a widely publicized address to the Illinois Judicial Conference on September 4, 1969, where he proclaimed a "crisis in confidence" in the court system. *Id.*

c. The 1970 Constitutional Convention.

Even though the Court's special commission thoroughly investigated the 1969 allegations and ultimately recommended the Justices resign, the scandal, which received national press coverage, made the issue of judicial discipline a surprising focus of the judicial article going into the 1970 Constitutional Convention. *Id.* To address the dissatisfaction with the current system, the Chicago Bar Association and the Illinois State Bar Association submitted a joint proposal to the 1970 Constitutional Convention that suggested the creation of an independent disciplinary commission consisting of four lawyers and three non-lawyers that would have the power to investigate charges, conduct hearings, and impose sanctions, totally without input from the judiciary. *Id.*

The Majority Report of the Committee on the Judiciary of the Constitutional Convention did not adopt all of the bar associations' recommendations, but did state that, "[p]ublic confidence in the honesty and integrity of the judicial system is a factor absolutely central to a free society... [T]here has been a serious erosion of public confidence in our courts...The restoration of that confidence is a categorical imperative." 6 Sixth Illinois Constitutional Convention, Report on Proceedings 860. The Majority issued a proposal that would become Article VI, Section 15. Cohn at 387.

Urging the Convention to reject the Majority Proposal, the members of this Court sought to refute a major premise of the proposal, namely that judges could not effectively judge judges. Cohn at 387. Justice Walter V. Schaefer issued a statement stating, “[t]he only rational justification for elaborate provisions concerning the policing of the judicial system is that judges are venal beyond other men, and for that reason they cannot be trusted to determine when disciplinary action should be taken[.]” *Id.* Despite Justice Schaefer’s objection, the Convention adopted the Majority Proposal. *Id.*

In this context, it is clear the framers of the 1970 Constitution granted the authority to discipline a judge solely with the Courts Commission. See, 6 Sixth Illinois Constitutional Convention, Report on Proceedings 1090 (Delegate Rachunas, “The proposed two-step procedure, which is innovative, accomplishes a desired balance between public assurance that there is an effective and responsible independent agency to investigate complaints about the judges and the assurance to the judges that they will not be prey for irresponsible charges and complaints and that fair hearings will be accorded to them.”). The delegates explicitly chose to place the system for judicial discipline in a commission that is fully independent from the judicial branch. See, 6 Sixth Illinois Constitutional Convention, Report on Proceedings 1091 (Delegate Linn, “While I personally have great confidence in the courts...[we] have indicated what position we take

and why we do on other grounds, of course, because we felt there should be a division.”).

While there is no question that this Court, today, could fairly determine discipline in this case, the issue before the Court is not whether it is capable of doing so, but whether it has the power to do so. As the above demonstrates, the Constitution was clearly designed to give the Courts Commission, not this Court, the power to discipline judges.

Until the Administrator filed his petition against Respondent, this was not a contested issue. Respondent has failed to find a case since the adoption of the 1970 Constitution where this Court has sought to assert the power to discipline a judge. The seminal case of this Court’s power *vis-a-vis* the Courts Commission was in *People ex. rel. Harrod v. Illinois Court Commission*, 69 Ill. 2d 445 (1977). In that case, this Court found it has the power to review interpretations of law made by the Courts Commission through the Court’s mandamus review, but it also found it could not review determinations of fact. 69 Ill. 2d 445 (1977). In *Harrod*, the Court acknowledged, “[t]he function of the Commission is one of fact finding” and that “this court is without authority to review the correctness of the Commission’s orders.” *Id.* at 473. However, it found a Commission’s order void because the Commission disciplined a judge for issuing usual orders in criminal matters by applying its own independent interpretation of what the law

permitted the judge to do. *Id.* The Court found the Commission lacks the power to interpret law, only to apply facts to law previously determined by Illinois Courts. *Id.* But nowhere in *Harrod* did this Court suggest it too had the authority to discipline a judge.

The Administrator has not cited to any authority to establish under the 1970 Constitution this Court may enjoin Respondent from judicial office. The most relevant precedent cited by the Administrator is not on point. The Administrator cites *In re Crawford* to support his contention that this Court can discipline a judge. (Pet. ¶ 18) In *Crawford*, however, the facts were quite different from this case. The respondent in that case was not a sitting judge, but a candidate for judge. While a candidate, and also a law clerk for the Circuit Court of Cook County, she donned a sitting judge's robes, took the bench, and heard cases on that judge's call. At the time, the respondent was unopposed on the ballot for election for judge. Prior to the respondent assuming office, this Court suspended her license under Rule 774 and enjoined her from taking the judicial oath of office or assuming office until further order of the Court. *In re Crawford*, M.R. 28341, 2016 PR 00115 (October 31, 2016).

Crawford demonstrates only that this Court has the power to prevent an attorney from taking judicial office, but it does not demonstrate the Court has the power to discipline a sitting judge. In *Crawford*, the respondent had not yet

assumed judicial office even though she was unopposed on the ballot. This Court has the power to suspend her license as an attorney, thereby depriving her of the law license qualification required to assume judicial office by Article VI, Section 13. This Court was thus well within its authority to impose the discipline in *Crawford*. In this case, however, Respondent is currently a sitting judge. *Crawford* is therefore not on point and does not support the Administrator's contention that this Court can enjoin Respondent from her judicial office.

Though not cited by the Administrator, this Court has found that it may discipline retired judges for misconduct that occurred while in office. In *In re Witt*, 145 Ill. 2d 380 (1991), this Court suspended a retired judge from the practice of law for six months for failing to properly disclose a loan on a Statement of Economic interest he submitted as a sitting judge. *Id.* at 403. In reaching its determination, this Court addressed the subject matter jurisdiction issues the respondent raised regarding whether the ARDC had authority to conduct a disciplinary proceeding on charges of misconduct by judges. *Id.* at 393. The Court found the ARDC did have the authority to proceed in *Witt*, in reliance on *In re McGarry*, 380 Ill. 359 (1942). *Id.* Citing to *McGarry*, the *Witt* Court stated, "[m]embers of the bar sitting as judges are, in the first instance, attorneys. *McGarry* teaches that judicial robes have no power to shield a judge

against discipline for conduct which falls outside of the scope of his or her duties in administering the law." *Id.* at 394.

In *McGarry*, this Court determined whether it could discipline a judge, as stated as follows:

From a review of the authorities in which a judge was a respondent in a proceeding to deprive him of his license as an attorney at law we find an application of the cases sustains the following principles: An attorney at law while holding the office of judge may be disciplined for acts of immorality, dishonesty, fraud or crime and his license taken away, and the fact of his holding a judicial office at the time does not render him immune from punishment, but on the other hand the weight of authority holds that the erroneous exercise of judicial discretion in the performance of a duty or executing a constitutional mandate may not, in the absence of showing such acts constitute fraud, crime or dishonesty, be made the basis of such a proceeding.

In re McGarry, 380 Ill. 359, 369-70 (1942).

Relying on *McGarry*, the Court in *Witt* found "[t]he mere fact that an attorney puts on the judicial robes does not immunize him from discipline for violations of the Rules of Professional Conduct." *In re Witt*, 145 Ill. 2d at 394.

Witt, however, did not state that this Court had the power to discipline a judge post 1970, only that it could discipline a retired judge for unethical conduct committed while sitting as a judge, because a judge is an attorney in the first instance. *McGarry* does suggest that prior to the adoption of the 1970 Constitution this Court may have had the power to discipline judges through their law licenses.

The 1970 Constitution, however, clearly provides that the Courts Commission, through a complaint filed by the Judicial Inquiry Board, has the sole power to suspend a judge. This Court may discipline a lawyer prior to becoming a judge; it may discipline a retired judge as an attorney for conduct committed as a judge; but the power to discipline a sitting judge rests with the Courts Commission.

The Administrator's request to "enjoin" Respondent is no different from a suspension. The Administrator asks this Court to ignore Article VI, Section 15, however, and to assume new powers. What would happen if this Court were to assume such power? In the future, does the Court enjoin a judge upon indictment, rather than a guilty finding? Does the Court enjoin a judge if accused of the appearance of impropriety without an indictment? Is this Court permitted to enjoin a judge upon a charge of poor temperament in order to protect "the public, the integrity of the legal profession and the judiciary, and the administration of justice"? (Pet. ¶ 21) Does the ARDC take over the role of the Judicial Inquiry Board and bring all claims about judges to this Court? What are the limits of this Court's ability to suspend or remove a judge from office if this Court were to grant the Administrator's Petition? Simply put, if the Constitutional limits are disregarded in this case, there are none.

III. This Court should afford Respondent the opportunity to exhaust her due process because she has a vested property right in her office.

Based on the reasons above, this Court should find it lacks the authority to enjoin Respondent from judicial office. Should the Court find it has the power to impose discipline on a judge, it should consider Respondent's fundamental due process rights. Notwithstanding the jury's verdict, Respondent maintains her innocence. She is on a briefing schedule to file motions that, if granted, would exonerate her of the alleged crimes.

Respondent has a vested property right in her office during the term she was elected to serve. This Court has found that, "an elected officer shall serve for a certain number of years and shall be removed only upon certain events are akin to circumstances that create property rights in public employment because they give rise to an understanding or an expectation that that person will serve for the given length of time and will be removed for only the stated reasons." *East St. Louis Fed'n of Teachers, Local 1220 v. East St. Louis Sch. Dist. No. 189 Fin. Oversight Panel*, 178 Ill. 2d 399, 418 (1997). Although the right to serve for a certain period of years is not absolute, the elected official must be afforded due process before he or she is deprived of their property interest in office for failure to adhere to the established expectations. *Id.*

In determining what process is due, the fundamental requirement of due process is that an individual is given the opportunity to be heard at a meaningful

time and in a meaningful manner. *Id.* at 419-20. This Court has found that school board members were entitled to notice and a pre-termination hearing before being removed from office because "such a hearing would minimize the risk of unfair or mistaken deprivation of their protected rights by enabling them to contest the State's basis for depriving them of those rights." *Id.*

Respondent was elected to office in 2012. Article VI, section 10 of the Illinois Constitution establishes that her term of office as a circuit judge shall be for six years. This constitutional expectation created a property right in her judicial office, and she must be afforded due process before she is deprived of this right.

Respondent is currently pursuing post-trial remedies in the federal court. The process she is due is clearly set forth in the Federal Rules of Criminal Procedure. At this time, there is no final judgment, and Respondent still has the opportunity to be found innocent under those Rules. See, *Berman v. United States*, 302 U.S. 211, 212 (1937) (holding, "[f]inal judgment in a criminal case means sentence. The sentence is the judgment.") This Court should allow Respondent to exhaust her due process rights before making any determinations related to her law license or judicial office. For this additional reason, the petition should be denied.

Conclusion

WHEREFORE, Respondent Jessica Arong O'Brien respectfully requests this Court deny the Administrator's Petition for Interim Suspension Pursuant to Rule 774.

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M.R.029233

M.R. 029233
IN THE SUPREME COURT OF ILLINOIS

In the Matter of:

JESSICA ARONG O'BRIEN

Respondent No. 6255568

}
Supreme Court No. M.R. 029233
Commission No. 18PR0010

CERTIFICATE OF SERVICE

I, Thomas P. McGarry, one of the attorneys for Respondent, Jessica Arong O'Brien, certify that I electronically filed the foregoing Respondent Jessica Arong O'Brien's Answer to Rule to Show Cause with the Clerk of the Supreme Court of Illinois, on the 3rd day of April, 2018.

In addition, I have served counsel of record by sending a copy thereof by email and/or hand delivery on the 3rd day of April, 2018, before 5:00 p.m., to all counsel of record listed below.

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Under penalties as provided by law pursuant to § 1-109 of the Code of Civil Procedure (735 ILCS 5/1-109), the undersigned certifies that the statements set forth in this instrument are true and correct.

BY: /s/Thomas P. McGarry
Thomas P. McGarry
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SUPREME COURT CLERK

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UNITED STATES DISTRICT COURT
FOR THE Northern District of Illinois – CM/ECF LIVE, Ver 6.2.1
Eastern Division

UNITED STATES OF AMERICA

Plaintiff,

v.

Case No.: 1:17-cr-00239

Honorable Thomas M. Durkin

Jessica Arong O'Brien, et al.

Defendant.

NOTIFICATION OF DOCKET ENTRY

This docket entry was made by the Clerk on Wednesday, March 14, 2018:

MINUTE entry before the Honorable Thomas M. Durkin: Defendant's motion for leave to file an appearance and for an extension of time to file post-trial motions [248] is granted as to Jessica Arong O'Brien. Attorney Steven Greenberg is granted leave to file an appearance on behalf of defendant O'Brien. Motion hearing held on 3/14/2018. Defendant's post-trial motions are to be filed by 5/14/2018. The government's response is due by 6/4/2018. Defendant's reply is due by 6/18/2018. The 3/15/2018 status date is vacated. Mailed notice (srn,)

ATTENTION: This notice is being sent pursuant to Rule 77(d) of the Federal Rules of Civil Procedure or Rule 49(c) of the Federal Rules of Criminal Procedure. It was generated by CM/ECF, the automated docketing system used to maintain the civil and criminal dockets of this District. If a minute order or other document is enclosed, please refer to it for additional information.

For scheduled events, motion practices, recent opinions and other information, visit our web site at www.ilnd.uscourts.gov.

Ex. A

EXHIBIT 5

STATE OF ILLINOIS
SUPREME COURT

At a Term of the Supreme Court, begun and held in Springfield, on Monday, the 12th day of March, 2018.

Present: Lloyd A. Karmeier, Chief Justice
Justice Charles E. Freeman
Justice Thomas L. Kilbride
Justice Anne M. Burke
Justice Robert R. Thomas
Justice Rita B. Garman
Justice Mary Jane Theis

On the 26th day of April, 2018, the Supreme Court entered the following judgment:

M.R.029233

In re:

Jessica Arong O'Brien.

Attorney
Registration &
Disciplinary
Commission

2018PR00010

The rule to show cause that issued to respondent Jessica Arong O'Brien pursuant to Supreme Court Rule 774 on February 27, 2018, is enforced in part. Respondent is suspended from the practice of law effective immediately and until further order of the Court, and this matter is hereby referred to the Judicial Inquiry Board.

Kilbride, J., took no part.

As Clerk of the Supreme Court of the State of Illinois and keeper of the records, files and Seal thereof, I certify that the foregoing is a true copy of the final order entered in this case.



IN TESTIMONY WHEREOF, I have set my hand and affixed the seal of said Supreme Court, in Springfield, in said State, this 26th day of April, 2018.

Carolyn Taft Gosbell Clerk,
Supreme Court of the State of Illinois