

## Syllabus

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**SUPREME COURT OF THE UNITED STATES**

## Syllabus

**BULLOCK v. BANKCHAMPAIGN, N. A.****CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR  
THE ELEVENTH CIRCUIT**

No. 11–1518. Argued March 18, 2013—Decided May 13, 2013

Petitioner’s father established a trust for the benefit of petitioner and his siblings, and made petitioner the (nonprofessional) trustee. The trust’s sole asset was the father’s life insurance policy. Petitioner borrowed funds from the trust three times; all borrowed funds were repaid with interest. His siblings obtained a judgment against him in state court for breach of fiduciary duty, though the court found no apparent malicious motive. The court imposed constructive trusts on certain of petitioner’s interests—including his interest in the original trust—in order to secure petitioner’s payment of the judgment, with respondent serving as trustee for all of the trusts. Petitioner filed for bankruptcy. Respondent opposed discharge of petitioner’s state-court-imposed debts to the trust, and the Bankruptcy Court granted respondent summary judgment, holding that petitioner’s debts were not dischargeable pursuant to 11 U. S. C. §523(a)(4), which provides that an individual cannot obtain a bankruptcy discharge from a debt “for fraud or defalcation while acting in a fiduciary capacity, embezzlement, or larceny.” The Federal District Court and the Eleventh Circuit affirmed. The latter court reasoned that “defalcation requires a known breach of fiduciary duty, such that the conduct can be characterized as objectively reckless.”

*Held:* The term “defalcation” in the Bankruptcy Code includes a culpable state of mind requirement involving knowledge of, or gross recklessness in respect to, the improper nature of the fiduciary behavior. Pp. 4–9.

(a) While “defalcation” has been an exception to discharge in a bankruptcy statute since 1867, legal authorities have long disagreed about its meaning. Broad definitions of the term in modern and older dictionaries are unhelpful, and courts of appeals have disagreed

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about what mental state must accompany defalcation's definition. Pp. 4–5.

(b) In *Neal v. Clark*, 95 U. S. 704, this Court interpreted the term “fraud” in the Bankruptcy Code’s exceptions to discharge to mean “positive fraud, or fraud in fact, involving moral turpitude or intentional wrong, as does embezzlement; and not implied fraud, or fraud in law, which may exist without the imputation of bad faith or immorality.” *Id.*, at 709. The term “defalcation” should be treated similarly. Thus, where the conduct at issue does not involve bad faith, moral turpitude, or other immoral conduct, “defalcation” requires an intentional wrong. An intentional wrong includes not only conduct that the fiduciary knows is improper but also reckless conduct of the kind that the criminal law often treats as the equivalent. Where actual knowledge of wrongdoing is lacking, conduct is considered as equivalent if, as set forth in the Model Penal Code, the fiduciary “consciously disregards,” or is willfully blind to, “a substantial and unjustifiable risk” that his conduct will violate a fiduciary duty. Pp. 5–7.

(c) Several considerations support this interpretation. First, statutory context strongly favors it. The canon *noscitur a sociis* argues for interpreting “defalcation” as similar to its linguistic neighbors “embezzlement,” “larceny,” and “fraud,” which all require a showing of wrongful or felonious intent. See, e.g., *Neal, supra*, at 709. Second, the interpretation does not make the word identical to its statutory neighbors. “Embezzlement” requires conversion, “larceny” requires taking and carrying away another’s property, and “fraud” typically requires a false statement or omission; while “defalcation” can encompass a breach of fiduciary obligation that involves neither conversion, nor taking and carrying away another’s property, nor falsity. Third, the interpretation is consistent with the longstanding principle that “exceptions to discharge ‘should be confined to those plainly expressed.’” *Kawaauhau v. Geiger*, 523 U. S. 57, 62. It is also consistent with statutory exceptions to discharge that Congress normally confines to circumstances where strong, special policy considerations, such as the presence of fault, argue for preserving the debt, thereby benefiting, for example, a typically more honest creditor. See, e.g., 11 U. S. C. §523(a)(2)(A). Fourth, some Circuits have interpreted the statute similarly for many years without administrative or other difficulties. Finally, it is important to have a uniform interpretation of federal law, the choices are limited, and neither the parties nor the Government has presented strong considerations favoring a different interpretation. Pp. 7–9.

670 F. 3d 1160, vacated and remanded.

BREYER, J., delivered the opinion for a unanimous Court.

Opinion of the Court

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**SUPREME COURT OF THE UNITED STATES**

No. 11–1518

**RANDY CURTIS BULLOCK, PETITIONER *v.*  
BANKCHAMPAIGN, N. A.**

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

[May 13, 2013]

JUSTICE BREYER delivered the opinion of the Court.

Section 523(a)(4) of the Federal Bankruptcy Code provides that an individual cannot obtain a bankruptcy discharge from a debt “for fraud or defalcation while acting in a fiduciary capacity, embezzlement, or larceny.” 11 U. S. C. §523(a)(4). We here consider the scope of the term “defalcation.” We hold that it includes a culpable state of mind requirement akin to that which accompanies application of the other terms in the same statutory phrase. We describe that state of mind as one involving knowledge of, or gross recklessness in respect to, the improper nature of the relevant fiduciary behavior.

I

In 1978, the father of petitioner Randy Bullock established a trust for the benefit of his five children. He made petitioner the (nonprofessional) trustee; and he transferred to the trust a single asset, an insurance policy on his life. 670 F. 3d 1160, 1162 (CA11 2012); App. to Pet. for Cert. 33a. The trust instrument permitted the trustee to borrow funds from the insurer against the policy’s value (which, in practice, was available at an insurance-

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company-determined 6% interest rate). *Id.*, at 17a, 34a, 50a.

In 1981, petitioner, at his father's request, borrowed money from the trust, paying the funds to his mother who used them to repay a debt to the father's business. In 1984, petitioner again borrowed funds from the trust, this time using the funds to pay for certificates of deposit, which he and his mother used to buy a mill. In 1990, petitioner once again borrowed funds, this time using the money to buy real property for himself and his mother. 670 F. 3d, at 1162. Petitioner saw that all of the borrowed funds were repaid to the trust along with 6% interest. App. to Pet. for Cert. 17a, 45a, 50a; Brief for Petitioner 3; Brief for Respondent 2.

In 1999, petitioner's brothers sued petitioner in Illinois state court. The state court held that petitioner had committed a breach of fiduciary duty. It explained that petitioner "does not appear to have had a malicious motive in borrowing funds from the trust" but nonetheless "was clearly involved in self-dealing." App. to Pet. for Cert. 45a, 52a. It ordered petitioner to pay the trust "the benefits he received from his breaches" (along with costs and attorney's fees). *Id.*, at 47a. The court imposed constructive trusts on petitioner's interests in the mill and the original trust, in order to secure petitioner's payment of its judgment, with respondent BankChampaign serving as trustee for all of the trusts. 670 F. 3d, at 1162; App. to Pet. for Cert. 47a–48a. After petitioner tried unsuccessfully to liquidate his interests in the mill and other constructive trust assets to obtain funds to make the court-ordered payment, petitioner filed for bankruptcy in federal court. *Id.*, at 27a, 30a.

BankChampaign opposed petitioner's efforts to obtain a bankruptcy discharge of his state-court-imposed debts to the trust. And the Bankruptcy Court granted summary judgment in the bank's favor. It held that the debts fell

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within §523(a)(4)'s exception "as a debt for defalcation while acting in a fiduciary capacity." *Id.*, at 40a–41a. Hence, they were not dischargeable.

The Federal District Court reviewed the Bankruptcy Court's determination. It said that it was "convinced" that BankChampaign was "abusing its position of trust by failing to liquidate the assets," but it nonetheless affirmed the Bankruptcy Court's decision. *Id.*, at 27a–28a.

In turn, the Court of Appeals affirmed the District Court. It wrote that "defalcation requires a known breach of a fiduciary duty, such that the conduct can be characterized as objectively reckless." 670 F. 3d, at 1166. And it found that petitioner's conduct satisfied this standard. *Ibid.*

Petitioner sought certiorari. In effect he has asked us to decide whether the bankruptcy term "defalcation" applies "in the absence of any specific finding of ill intent or evidence of an ultimate loss of trust principal." Brief for United States as *Amicus Curiae* 1. See also Pet. for Cert. i. The lower courts have long disagreed about whether "defalcation" includes a scienter requirement and, if so, what kind of scienter it requires. Compare *In re Sherman*, 658 F. 3d 1009, 1017 (CA9 2011) ("defalcation" includes "even innocent acts of failure to fully account for money received in trust" (internal quotation marks and brackets omitted)), with *In re Uwimana*, 274 F. 3d 806, 811 (CA4 2001) (defalcation occurs when "negligence or even an innocent mistake . . . results in misappropriation"), with 670 F. 3d, at 1166 ("defalcation requires . . . conduct [that] can be characterized as objectively reckless"), and with *In re Baylis*, 313 F. 3d 9, 20 (CA1 2002) ("defalcation requires something close to a showing of extreme recklessness"). In light of that disagreement, we granted the petition.

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