

JUL 28 2005

UNITED STATES BANKRUPTCY COURT
 NORTHERN DISTRICT OF GEORGIA
 ATLANTA DIVISION

IN THE MATTER OF:	:	CASE NUMBER: 04-95667-PWB
	:	
LISA MICHALSKI,	:	CHAPTER 7
	:	
Debtor.	:	JUDGE BONAPFEL

**ORDER WITH REGARD TO VINCENT L. DIMMOCK AND
 CLOSING OF THIS CASE**

On July 27, 2004, Vincent L. Dimmock filed the instant Chapter 7 petition as the attorney for the Debtor. In his "Disclosure of Compensation of Attorney for Debtor," filed with the petition in accordance with FED. R. BANKR. P. 2016, Mr. Dimmock states that he had agreed to accept and had received \$399 prior to the filing of the statement for legal services for representing the Debtor. In paragraph 5 of the statement, Mr. Dimmock states that he has agreed "to render legal service for all aspects of the bankruptcy case" for this fee. Paragraph 6 states that there are no services excluded from the fee.

In orders entered on December 2, 2004, January 12, 2005, and March 18, 2005, the Court pointed out concerns about Mr. Dimmock's representation of the Debtor in this case that came to the Court's attention during a hearing on the U.S. Trustee's motion to extend the time to seek dismissal under 11 U.S.C. § 707(b). At the hearing (which the Debtor, but not Mr. Dimmock, attended), counsel for the U.S. Trustee expressed the view that the Debtor had received no legal assistance with regard to the U.S. Trustee's inquiries relevant to § 707(b) dismissal and that the Debtor had been required to "fend for herself."

In the January 12 and March 18, 2005 Orders, the Court directed that Mr. Dimmock disgorge the \$399 he said he had received from the Debtor and that he file a written statement as

to why the Court should not refer this matter to the State Bar of Georgia for appropriate investigation and discipline, if warranted.

Mr. Dimmock's response is disturbing. Referring to the Debtor as "Petitioner" and to the U.S. Trustee as "Trustee," Mr. Dimmock states in his affidavit:

Apparently, [the Court's Order] was drafted without knowledge that I was never asked to formally represent the petitioner. Petitioner asked only that I prepare the appropriate documents for her. Petitioner never requested nor was under the impression that I would represent her through discharge.

Mr. Dimmock's defense to disgorgement and to charges of failing to represent his client is that he never "formally" represented the Debtor or received any money from her. Mr. Dimmock seems indignant that the U.S. Trustee, and perhaps the Court, did not know these facts. Thus, he states:

Additionally, Trustee has failed to inform the Court that Petitioner told Trustee that I never abandoned Petitioner nor accepted any fees from Petitioner. Yet, Trustee referred said matter to this Court with full knowledge that there has been no abandonment or acceptance of any fees.

Mr. Dimmock has apparently neglected to review his own Rule 2016 Statement (which he has never amended) that affirmatively states that he has received \$399 in fees and that he agreed to represent the Debtor in this case. Mr. Dimmock apparently is not familiar with this Court's local rules. BLR 9010-1(a) provides that by signing the petition as counsel for the Debtor, he appeared in this case as her attorney. BLR 9010-2 provides that his representation continues in all matters until the Court permits his withdrawal. *In re Egwim*, 291 B.R. 559 (Bankr. N.D. Ga. 2003).

If Mr. Dimmock did not “formally” represent the Debtor, he had no business signing a bankruptcy petition and Rule 2016 Statement that say that he does. And if he did not receive any money for his services, he should not have made a representation that he had received \$399.

Mr. Dimmock's idea that he can partially represent a debtor in a bankruptcy case reflects a fundamental misunderstanding of his rights and responsibilities as set forth in *In re Egwim, supra*. Mr. Dimmock's contention in his Affidavit that he represented the Debtor only for limited purposes, without any attempt to address the issues that *Egwim* considers, leads the Court to believe that he has not bothered to read this case, which the Court cited in its December 2 Order.

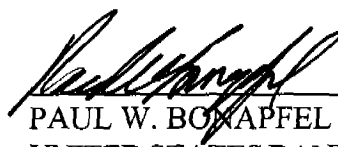
Mr. Dimmock's response to the Court's orders indicates a cavalier attitude about his professional responsibilities that is shocking to the Court. The Court admonishes Mr. Dimmock (as he should already know) that the question of fees paid by debtor's in bankruptcy cases is an important matter that must be taken seriously. The Court accepts Mr. Dimmock's sworn statement that he did not receive any fees from the Debtor and declines to take any further action with regard to the misrepresentation in his Rule 2016 Disclosure Statement to the contrary. But let there be no doubt: Mr. Dimmock failed to perform his professional obligations in this case and violated the Georgia Rules of Professional Responsibility.

The Court is giving Mr. Dimmock the benefit of the doubt. The Court will attribute his misrepresentations in this case and his failure to comply with the standards of professional responsibility as set forth in *Egwim* to carelessness and his lack of familiarity with the bankruptcy process. Although such errors, together with his other conduct in this case, demonstrate a clear failure to provide competent representation to his client, she has apparently suffered no adverse consequences. Thus, the Court will take no further action with regard to this matter and will not

refer the matter to the State Bar of Georgia. The Court expects that Mr. Dimmock will take appropriate remedial action so that he fully understands his professional responsibilities and the requirements of bankruptcy law and procedure before venturing into a bankruptcy court to represent a debtor in any future case.

In its March 18 Order, the Court reopened this case for the limited purpose of resolving these issues. Having done so, the Court directs the Clerk of the Court to proceed with the closing of this case.

IT IS SO ORDERED THIS 27 day of July, 2005.



PAUL W. BONAPFEL
UNITED STATES BANKRUPTCY JUDGE

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