



**IT IS ORDERED as set forth below:**

**Date: August 21, 2008**

A handwritten signature in black ink, reading "Paul W. Bonapfel", is written over a horizontal line.

**Paul W. Bonapfel  
U.S. Bankruptcy Court Judge**

**UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION**

IN THE MATTER OF:	:	CASE NUMBER: 07-63364-PWB
	:	
MARVIN B. BROOKS, II	:	CHAPTER 13
	:	
	:	JUDGE BONAPFEL
Debtor.	:	

**ORDER TO ATTORNEY SHONTERRIA RENЕК MARTIN TO APPEAR AT  
HEARING WITH REGARD TO REPRESENTATION OF DEBTOR AND TO SHOW  
CAUSE WHY FEES SHOULD NOT BE DISALLOWED AND DISGORGED AND  
WHY SANCTIONS SHOULD NOT BE IMPOSED**

This case came before the Court for a hearing on August 6, 2008, on a motion for relief from stay filed by Bank of New York, as Trustee for certain entities. Present at the hearing were Brandi Kirkland, attorney for the Chapter 13 Trustee; the Debtor; and Maria Tsargaris, attorney for the creditor. Shonterria Renek Martin, the attorney for the Debtor, was not there.

Ms. Tsargaris reported that the Debtor's attorney had advised her that the Debtor would attend the hearing but that the attorney would not oppose the motion.

The Debtor stated that he felt he had been underrepresented in the case and that he had

experienced difficulty in negotiations with the lender because the lender required communications through counsel and his counsel was not responsive. The Debtor expressed frustration that he had been unable to speak with anyone with the lender because his attorney did not communicate with the lender and because the lender did not want to communicate with him because he had an attorney.

The Debtor also stated that, prior to confirmation, he advised his attorney that he would not be able to make mortgage payments because of adjustments that increased their amount, and that she advised him “not to include” some expenditures in order to get the plan confirmed. The Debtor further stated that the attorney had, in response to his inquiry, told him that they could later adjust the plan to deal with the expenditures. The Debtor said that he had not been able to get his attorney to do anything on his behalf since confirmation.

The Debtor’s statements raise questions about whether his plan was in fact ever feasible and, indeed, whether he should have sought chapter 13 relief after his previous Chapter 7 case. The Court is also concerned that the Debtor has appeared to have received little, if any, counseling with regard to his interests in this case and what he should do. The Court notes that, following the hearing, the Debtor on August 7 personally requested a termination of payroll deductions and dismissal of this case.

The report of Ms. Tsargaris and the statements of the Debtor at the hearing indicate that Ms. Martin decided that the Debtor could appropriately attend a proceeding before this Court without representation of counsel. The Debtor’s statements raise a serious question as to whether the plan should have ever been confirmed and whether he has received proper representation in this case. The Court questions whether the Debtor has received legal services with a value equal to the fees he has paid. Of course, because Ms. Martin was not at the hearing, the Court has heard no

explanation for any of the foregoing.

The facts as recited here do not reflect an appearance by a represented client without his lawyer due to an oversight or a misunderstanding as to whether the client must appear; rather, if true, they show a conscious decision by Ms. Martin not to appear and to permit a client to go to court without the representation for which the client retained her. Moreover, it is not apparent to the Court that Ms. Martin counseled with her client and represented him when things did not go as planned. The Court is concerned therefore, as to whether, if the facts are as indicated above, Ms. Martin fully understands and takes seriously the fundamental professional responsibility of a lawyer to represent her client.

Ms. Martin's failure to attend the hearing and the circumstances described above raise questions concerning whether she is providing competent representation to the Debtor, whether all or a part of her fee should be disallowed and disgorged, whether she is in contempt of court, and whether sanctions should be imposed.

In accordance with the foregoing, it is hereby **ORDERED and ADJUDGED** that **Shonterria Renet Martin**, attorney for the Debtor, **shall personally be and appear at a hearing** to be held in connection with the Debtor's request for dismissal of this case at **2:00 p.m. on September 10, 2008 in Courtroom 1401, U.S. Courthouse, 75 Spring Street, S.W., Atlanta, Georgia**. At such hearing, Ms. Martin shall show cause as to why she is not in contempt of court and why the Court should not enter an Order or Orders disallowing and requiring disgorgement of Ms. Martin's attorney's fees due to failure to provide adequate representation to the Debtor.

The Clerk is directed to mail a copy of this Order to the Chapter 13 Trustee, the Debtor, the United States Trustee, and Ms. Martin.

END OF DOCUMENT

DISTRIBUTION LIST

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