



IT IS ORDERED as set forth below:

Date: April 29, 2009

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

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

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

IN RE:	:	
	:	Chapter 13
MAVERICK GLOVER,	:	
	:	Case No. 07-95002-PWB
	:	
Debtor.	:	

ORDER

Maverick Glover, the debtor in this closed Chapter 13 case, asserts that the case was filed without his authorization. Mr. Glover has filed a *pro se* motion¹ requesting that the Court order the a credit reporting company to delete the unauthorized bankruptcy filing from his personal and business credit reports.

The Court conducted a hearing on the motion on January 27, 2009. According to Mr. Glover's testimony and records of the Clerk's office, at least two persons were involved in the

¹Mr. Glover submitted a letter that the court construed as a motion for the relief requested in the letter. [Docket 19].

filing of Mr. Glover's case. One of the other persons was Mr. Michael Voytek, an attorney admitted to practice in the State of Georgia according to the website of the State Bar of Georgia, but not in this Court. Mr. Glover testified that Mr. Voytek filed the petition without his authority. The other person was Ms. Jamie Charmaine Leonard, who is not an attorney but who presented the petition for filing on June 18, 2007.²

On March 10, 2009, the Court entered an Order (the "March 10 Order") directing the Chapter 13 Trustee, Mr. Voytek, and Ms. Leonard to provide further information. The Chapter 13 Trustee filed a report as directed; Mr. Voytek and Ms. Leonard did not.

In the March 10 Order, the Court summarized Mr. Glover's testimony at the January 27 hearing. According to that testimony, Mr. Glover in June 2007 hired Mr. Voytek with regard to the recovery of repossessed trucks and met with Mr. Voytek and an assistant named C.J. Leonard. Mr. Glover did not authorize Mr. Voytek or anyone else to file a petition on his behalf. The testimony concerning Mr. Yotek's representation is consistent with the retention agreement Mr. Glover signed.³

The petition and other papers filed in this case, purportedly on behalf of Mr. Glover,

²As set forth in the Court's March 10 Order, when a person other than an attorney or an individual filing his or her own bankruptcy case presents a bankruptcy petition for filing at the intake desk of the Bankruptcy Court Clerk's office, the deputy clerk accepting the petition obtains identification from the person presenting the petition and makes a copy of it. The copy of the identification obtained in this case (a Georgia driver's license) shows that the person who presented the petition is Jamie Charmaine Leonard. A notation on the copy states that she was presenting it for James Leonard.

³Attached to Mr. Glover's letter initiating this proceeding [Docket No. 10] is a copy of a retention agreement between him and Mr. Voytek dated June 3, 2007. The scope of the representation is described as a "dispute with BB & T with respect to the trucks that they repossessed and the related disruption of your business and all matters in connection therewith." It does not mention bankruptcy.

show several signatures for Mr. Glover. Mr. Glover testified that some, but not all, of the signatures are his, but credibly maintained that he did not know he had signed papers with regard to a bankruptcy filing. The petition and papers do not indicate that anyone, such as a lawyer or bankruptcy petition preparer, filed this case on Mr. Glover's behalf or prepared any of it.

The Chapter 13 Trustee's report states that the meeting of creditors pursuant to 11 U.S.C. § 341(a) was scheduled for July 26, 2007, and was conducted in Room 357 of the Richard B. Russell Federal Building (the United States Courthouse in Atlanta) by one of the Trustee's staff attorneys, Sonya M. Buckley. Her notes from that meeting indicate that "a male individual purporting to be Maverick Glover appeared at the hearing and informed Ms. Buckley that he had obtained new counsel, Clark & Washington."⁴ The meeting was reset to August 2, 2007, at the same place, when another staff attorney, K. Edward Safir, conducted the meetings. According to his notes, no one appeared at the reset hearing.⁵

The information reported by the Trustee is consistent with Mr. Glover's testimony. He testified that he did not know anything about a bankruptcy filing until he received a notice in the mail, that he attended one meeting in the Courthouse and spoke to someone at the meeting, and that he had not otherwise been to the Courthouse except for the hearing on that day. Mr. Glover did not testify about his statement that he was going to hire the law firm of Clark & Washington and did not explain why he did nothing further with regard to the bankruptcy filing until he filed his motion on December 30, 2008.

⁴"Chapter 13 Trustee's Report Pursuant to the Court's Order Entered March 10, 2009" ["Trustee's Report"] [Docket No. 25] ¶¶ 2-4.

⁵Trustee's Report ¶¶ 5-7.

The record reflects that a copy of the March 10 Order was mailed to Mr. Voytek at his address shown on both the retention agreement and the website of the State Bar of Georgia and to Ms. Leonard at her address as shown on the driver's license she presented when she delivered the petition to the Clerk's Office. The Order required Mr. Voytek to file a statement "setting forth the dates that Mr. Voytek met with Mr. Glover, the amount of any compensation received from Mr. Glover; a description of any documents signed by Mr. Glover; the names of any assistants who may have communicated with Mr. Glover; and any information relating to the filing of a bankruptcy case on behalf of Mr. Glover." March 10 Order at 2, ¶ 2. Similarly, the Order directed Ms. Leonard to file a statement "describing any communicates she had with any person with regard to her presentation of the petition and papers initiating this case, the name and address of any person who gave her instructions about the delivery of such papers to the Clerk's office, the amount of any compensation she received for such delivery, and the name and address of any person who paid her for filing the petition." March 10 Order at 2-3, ¶3.

Neither Mr. Voytek nor Ms. Leonard filed anything in response to the March 10 Order. Their failure to comply with the Order could constitute willful contempt of the Court. Mr. Voytek's failure is particularly troublesome. The Court would expect that any member of the State Bar of Georgia would fully and promptly respond to an Order of any Court, especially when the implications of the Order are that the attorney has committed fraud. Although the failure of Mr. Voytek and Ms. Leonard to respond to the Court's March 10 Order could subject each of them to sanctions for willful contempt of the Court, Mr. Glover has not requested that the Court take any further action with regard to their conduct or grant any relief against them. Instead, he has renewed his request that the Court remedy the unauthorized filing and order that

his credit record be corrected.⁶ Rather than order further proceedings with regard to compliance with the March 10 Order, therefore, the Court will instead infer that Mr. Voytek and Ms. Leonard, by their silence, have admitted Mr. Glover's claims and that the facts as stated in his testimony summarized in the March 10 Order are true. In particular, the Court finds that Mr. Voytek, at the least, participated in the unauthorized filing of a Chapter 13 bankruptcy petition on Mr. Glover's behalf. Further, the Court finds that Mr. Voytek or Ms. Leonard or both of them participated in the forging of one or more signatures of Mr. Glover on papers that Ms. Leonard filed in this Court.

The fact that Mr. Glover signed at least one page of the bankruptcy filings is troublesome to the Court. Nevertheless, the Court finds Mr. Glover's testimony credible and concludes that he did not know that he had signed papers that could result in the filing of a bankruptcy petition on his behalf, that Mr. Glover did not retain Mr. Voytek or anyone else to file or prepare a bankruptcy petition on his behalf, and that he did not intend to file a bankruptcy case.

The fact that Mr. Glover did not take earlier action to resolve this problem is also troublesome. In the absence of further explanation from Mr. Voytek or Ms. Leonard, however, the Court cannot conclude that Mr. Glover's failure to take prompt action with regard to the unauthorized filing should prevent relief at this time. Nothing indicates that Mr. Glover did not take earlier action for any improper reason or that he intended to or did attempt to misuse or take advantage of the bankruptcy process.

A client ordinarily is bound by the acts of his or her attorney and the consequences thereof. Nevertheless, the particular circumstances of this case demonstrate that Mr. Glover did

⁶Letter dated March 4, 2009, filed April 7, 2009. [Docket No. 26].

not authorize the filing of the bankruptcy petition in this case. Because the Court concludes that the bankruptcy filing on his behalf was not authorized, the Court will declare the filing to be void and of no effect. Consequently, the Court will vacate the Order dismissing the case that was entered on August 9, 2007 [Docket No. 12] and will dismiss the petition as a fraudulent and unauthorized filing for which Mr. Glover is not responsible. *See In re Buppelmann*, 269 B.R. 341 (Bankr. M.D. Pa. 2001).

The Court cannot, however, direct any credit reporting entity to change its records. The Court cannot rewrite the history of what happened in the case or expunge the record. *See In re Buppelmann, supra*. Of course, any credit reporting entity is authorized to report that the petition filed in this case on Mr. Glover's behalf was filed fraudulently and without his authorization, as the Court has found.

The facts of this case indicate the possibilities of fraudulent, criminal, or otherwise wrongful conduct on the part of Mr. Voytek and Ms. Leonard in filing an unauthorized petition on Mr. Glover's behalf that contained forged signatures. Accordingly, the Court will direct Chambers staff to mail copies of this Order to the State Bar of Georgia, the United States Trustee, and the United States Attorney for such further investigation and action as they deem appropriate.

This Order is entered without prejudice to any claims that Mr. Glover may have against Mr. Voytek, Ms. Leonard, or any other party.

Based on the foregoing, it is hereby **ORDERED and ADJUDGED** as follows:

1. The Order dismissing this case entered on August 9, 2007 is hereby **VACATED**.
2. This case is hereby **DISMISSED** as being initiated by a petition that was not

authorized and as, consequently, being **void ab initio**.

3. Chambers Staff is directed to mail copies of this Order to the State Bar of Georgia, the United States Trustee, and the United States Attorney for such further investigation and action as they deem appropriate.

End of Order
[Not intended for Publication]

Distribution List

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