



A handwritten signature in blue ink that reads "Neil P. Olack".

Judge Neil P. Olack
United States Bankruptcy Judge
Date Signed: June 21, 2016

The Order of the Court is set forth below. The docket reflects the date entered.

**UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF MISSISSIPPI**

IN RE:

**MONROE RICHMOND, JR. AND
CATHERINE V. RICHMOND,**

CASE NO. 16-10748-NPO

DEBTORS.

CHAPTER 13

**ORDER REGARDING ORDER TO SHOW
CAUSE AND STRIKING THE OBJECTION**

This matter came before the Court for hearing on June 16, 2016 (the "Hearing"), on the Objection of Paying Through Plan and Request Surrender of Automobiles (the "Objection") (Dkt. 25) filed by Earnest Conrod ("Conrod"), a creditor allegedly acting *pro se*, and the Order to Show Cause (the "Show Cause Order") (Dkt. 28) issued to Conrod in the above-styled chapter 13 bankruptcy case (the "Bankruptcy Case"). Conrod appeared at the Hearing, acting *pro se*, and Michael W. Boyd appeared on behalf of the debtors, Monroe Richmond, Jr. and Catherine V. Richmond (the "Debtors"). After fully considering the matter, the Court finds as follows:

Jurisdiction

The Court has jurisdiction over the subject matter of and the parties to the Bankruptcy Case pursuant to 28 U.S.C. § 1334. This is a core proceeding under 28 U.S.C. § 157(b)(2)(L). Notice of the Objection and the Show Cause Order was proper under the circumstances.

Facts

1. The Debtors initiated the Bankruptcy Case by filing a voluntary petition for relief pursuant to chapter 13 of the Bankruptcy Code on March 2, 2016. (Dkt. 1).

2. The Debtors filed their Chapter 13 Plan (the “Plan”) (Dkt. 9) on March 16, 2016. The Plan proposed to pay the two (2) secured claims of Conrod as follows: (a) the amount owed of \$2,400.00 for a 2006 Chrysler 300 at an interest rate of five percent (5%); and (b) the amount owed of \$1,250.00 for a 2004 Buick Rainier at an interest rate of five percent (5%).

3. Conrod filed Claim No. 2-1 (“Claim 2”) on April 8, 2016. Claim 2 provided that the Debtors owe \$1,250.00 for a “vehicles loan” on a 2004 Buick. (Cl. 2 at 2, 4). Conrod filed Claim No. 8-1 (“Claim 8”) on May 5, 2016. Claim 8 provided that the Debtors owe \$2,400.00 for a “vehicle loan” on a 2006 Chrysler. (Cl. 8 at 2, 4).

4. Conrod filed the Objection on May 16, 2016. In the Objection, Conrod argued that the Plan should not be confirmed because Conrod “affirmatively states that he is a small businessman and the payment of the two (2) debts through [the Plan] creates an undue hardship upon the business, in that, the creditor contracted with the Debtors in good faith.”¹ (Obj. at 2). According to Conrod, if he were to receive “such small amounts” through the Plan, it would “put his business in a dire financial situation possibly out of business.” (*Id.*). In the Objection, Conrod also argued that “the Debtors have two (2) of [Conrod’s] automobiles tied up and one automobile, the Debtors did not even make a down payment.” (*Id.*).

¹ The Court does not reach the merits of the Objection; however, “[i]n chapter 13 cases, distributions are made under a confirmed plan only to creditors whose claims have been allowed.” 4 COLLIER ON BANKRUPTCY ¶ 501.01[2][b] (16th ed. 2016). The length of the plan either may be three (3) years or not less than five (5) years if the current monthly income of the debtor or debtors meets the standard provided by § 1325(b)(4)(A)(ii)(I)-(III). See 11 U.S.C. § 1325(b)(4).

5. The Court entered the Show Cause Order on May 17, 2016, requiring Conrod to appear at the Hearing to “assist the Court in its investigation as to whether there has been any ‘ghostwriting’ of [the Objection], which you signed purportedly while acting *pro se* (without the assistance of counsel) in the [Bankruptcy Case].” (Show Cause Order at 1). The Court noted that the “contents of the Objection suggest ‘ghostwriting’ by an attorney or other legal professional.” (*Id.*).

6. At the Hearing, Conrod testified that a retired paralegal drafted the Objection for him.

Discussion

This Court has previously held that ghostwriting occurs when an attorney or other legal professional “prepares documents for filing for a party who would otherwise appear unrepresented in litigation.” *Lanier v. Futch (In re Futch)*, No. 09-00144-NPO, 2011 WL 1884187, at *2 (Bankr. S.D. Miss. May 18, 2011) (citing *In re Cash Media Sys., Inc.*, 326 B.R. 655, 673 (Bankr. S.D. Tex. 2005)). According to this Court, the practice of ghostwriting violates Federal Rule of Bankruptcy Procedure 9011 (“Rule 9011”) and the Mississippi Rules of Professional Conduct. *Id.* Litigants acting *pro se* undoubtedly have the right to represent themselves in civil actions pursuant to 28 U.S.C. § 1654,² but they do not have the right to representation by an unlicensed lay person practicing law. *Id.*, at *3 (citing *Guajardo v. Luna*, 432 F.2d 1324 (5th Cir. 1970)). In Mississippi, the preparation of motions, such as the Objection, “has been held to constitute the practice of law.” *Id.*, at *4 (citation omitted).

² “In all courts of the United States the parties may plead and conduct their own cases personally or by counsel as, by the rules of such courts, respectively, are permitted to manage and conduct causes therein.” 28 U.S.C. § 1654.

The bankruptcy court in *In re Cash Media Systems, Inc.* detailed the rationale behind courts' treatment of ghostwriting. 326 B.R. at 673. The bankruptcy court explained that Rule 9011 requires "documents filed in the court to be signed," and "[t]he required signature is a certification that according to the best of the signer's knowledge, information and belief, the pleading is not being presented for an improper purpose, its legal contentions are warranted by existing law, and the factual allegations have evidentiary support." *Id.* "The signature determines who is responsible for the accuracy of the allegations in the documents," and documents that are prepared by a person acting *pro se* are interpreted more liberally than documents prepared by an attorney. *Id.* (citing *Haines v. Kerner*, 404 U.S. 519, 520 (1972)). The bankruptcy court explained that when a pleading filed by a *pro se* litigant is ghostwritten, it "creates the impression that the client drafted the pleading." *Id.* (citation omitted).

At the Hearing, Conrod stated that a retired paralegal prepared the Objection for him. The Objection, however, does not indicate that it was prepared by anyone other than Conrod and is not signed by anyone other than Conrod. A person reviewing the Objection would be unable to ascertain that anyone other than Conrod, who claimed to be acting *pro se*, prepared the Objection. Accordingly, the Court finds that ghostwriting did occur in the preparation of the Objection. The Court further finds that the ghostwriting of the Objection by a retired paralegal apparently constituted the unauthorized practice of law.

As this Court found in *In re Futch*, "maintaining the integrity of the bankruptcy system requires that the [Objection] be stricken in its entirety." *Id.* The Court therefore finds that because the Objection was ghostwritten by someone apparently engaged in the unauthorized practice of law, the Objection must be stricken in its entirety. Conrod may represent himself *pro*

se in the Bankruptcy Case, or he may hire an attorney. He may not, however, continue to submit pleadings that have been drafted by a person apparently engaged in the unauthorized practice of law.

IT IS, THEREFORE, ORDERED that the Objection is hereby stricken.

##END OF ORDER##