

Out-of-state counsel was held in contempt and sanctioned because counsel, who was neither licensed to practice law in Maryland nor admitted *pro hac vice* in the case, represented a purportedly *pro se* creditor and engaged in “ghostwriting” on the creditor’s behalf.¹

***In re Dreamplay, Inc.*, 2015 Bankr. Lexis 2453 (Bankr. D. Md. July 24, 2015).**

Summary by Bradley J. Swallow, Funk & Bolton, P.A.

Dreamplay, Inc. (the “Debtor”) operated an adult entertainment club named “The Oasis” and located in an area of downtown Baltimore known as “The Block.” When the Debtor filed its Chapter 11 petition, the most valuable assets listed on the Debtor’s Schedules were its liquor and adult entertainment licenses. John J. DeLuca (“DeLuca”) was an unsecured creditor of the Debtor who purported to represent himself *pro se*. Unbeknownst to the Court, DeLuca received advice and counsel from an out-of-state attorney, John D. Raynor (“Raynor”), who was neither licensed to practice law in Maryland nor admitted *pro hac vice* in the case. Acting on Raynor’s advice, DeLuca and his Maryland creditors’ rights counsel wrongly concluded that the Debtor’s liquor license (which was issued in the names of certain individuals in their capacities as the Debtor’s owners or officers) was not property of the Debtor’s estate, obtained judgments against the individual licensees, and levied upon the licenses. Consequently, on the Debtor’s motion, the Court imposed sanctions against DeLuca and his Maryland counsel for violating the automatic stay.

The sanctions proceedings spawned a wave of filings by DeLuca. Among other things, DeLuca sought reconsideration of the sanctions award. In its Order denying the motion for reconsideration, the Court noted that the Debtor’s papers were “drafted with the guidance of legal counsel or entirely ghostwritten, although no attorney assistance is disclosed[,]” and warned DeLuca that “appropriate action, including an evidentiary hearing to investigate, shall be taken” if the Court suspected further occurrences of ghostwriting. *Dreamplay* at *14-15. In response, Raynor filed a Complaint for Judicial Misconduct or Disability against the Court with the Judicial Council of the Fourth Circuit, in which Raynor admitted that he represented DeLuca under a “limited engagement” and asserted that the Court’s threatened evidentiary hearing sought improperly to deprive DeLuca of Raynor’s limited representation. *Id.* After Raynor’s Complaint was dismissed, the Court issued an Order to show cause why Raynor should not be held in contempt for practicing as a “ghost” attorney.

Raynor declined to attend the hearing on the show cause Order but attached to his written response an engagement agreement which demonstrated that he represented DeLuca throughout the Debtor’s case. On that basis, the Court rejected as “arrogant nonsense” Raynor’s contention that the Court lacked personal jurisdiction over him. *Id.*, *30. The Court further determined that Raynor’s ghostwriting violated Fed. R. Bankr. P. 9011, which requires that every paper filed in a bankruptcy case on behalf of a represented party be “signed by at least one attorney of record” so as to insure accountability for statements made with the advice of counsel. Ghostwriting “violates an attorney’s duty of candor and circumvents Rule 9011 . . . [and attorneys who do so] may be subject to sanctions, suspension or disbarment.” *Id.*, *33-34 (citing *In re Mungo*,

¹ Although not addressed in this summary, the Court in *Dreamplay* also denied DeLuca’s application for an administrative expense based on his alleged “substantial contribution” to the case and ruled on debtor’s counsel’s fee application.

305 B.R. 762, 767 (Bankr. D. S.C. 2003)). The Court further concluded that Raynor engaged in the unauthorized practice of law by representing DeLuca without becoming admitted to practice in Maryland or *pro hac vice* in the case. As sanctions, the Court (i) reprimanded Raynor for violating Rule 9011 and engaging in the unauthorized practice of law; (ii) forever barred Raynor from practicing before the Court; (iii) ordered Raynor to submit the Court's opinion to the Nebraska Supreme Court Counsel for Discipline; and (iv) directed that all papers filed on DeLuca's behalf that Raynor assisted in preparing be stricken.