

MISSISSIPPI SUPREME COURT

Mississippi Bar v. Labovitz

226 So. 3d 92 (Miss. 2016) · Decided May 11, 2016

SUMMARY

The Mississippi Supreme Court permanently disbarred Neal H. Labovitz for filing a bankruptcy petition and related documents without the debtor’s authorization, including misrepresentations concerning credit counseling and signatures. The court imposed reciprocal discipline based on the bankruptcy court’s permanent disbarment and Labovitz’s prior disciplinary history.

CASE DETAILS

COURT	Mississippi Supreme Court
WRITING FOR THE COURT	Michael K. Randolph, Presiding Justice; Michael K. Randolph; Coleman; Lamar
JURISDICTION	Mississippi
DECIDED	May 11, 2016
DISPOSITION	other
PROCEDURAL POSTURE	Attorney-discipline proceeding initiated by the Mississippi Bar seeking reciprocal discipline after Labovitz was permanently disbarred from practice in the United States Bankruptcy Court for the Northern District of Mississippi.
STANDARD OF REVIEW	The Mississippi Supreme Court independently determines whether the conduct violates Mississippi's professional-conduct and disciplinary rules, while generally deferring to another tribunal's factual findings absent an abuse of discretion. The court may impose a sanction more or less severe than that imposed by another jurisdiction.
PRECEDENTIAL VALUE	Published Mississippi Supreme Court disciplinary order; precedential on the court's independent disciplinary authority, ethical violations, and sanctioning principles stated in the opinion.
PARTIES	The Mississippi Bar v. Neal H. Labovitz

TOPICS

- bankruptcy
- sanctions
- remedies
- civil procedure

PRACTICE AREAS

legal ethics and attorney discipline

bankruptcy

professional misconduct

QUESTIONS PRESENTED

1. Whether Labovitz's conduct in filing a bankruptcy petition and related certificate without the debtor's authority and in making false or misleading representations violated the Mississippi Rules of Professional Conduct.
2. Whether reciprocal discipline was warranted and, if so, whether permanent disbarment was the appropriate sanction.
3. Whether Labovitz's motion to continue or stay the disciplinary proceedings should be granted while he sought to reopen the bankruptcy case.

HOLDINGS

1. The Mississippi Supreme Court retains the exclusive authority and obligation to make its own independent determination whether an attorney's conduct violates Mississippi's Rules of Professional Conduct and Rules of Discipline, although it may defer to factual findings made by another tribunal absent an abuse of discretion.
2. Knowingly and willfully filing a bankruptcy petition on another person's behalf without authority, and forging or presenting that person's signature on bankruptcy documents, violated Mississippi Rules of Professional Conduct 3.3(a), 8.4(c), and 8.4(d).
3. Permanent disbarment from the practice of law in Mississippi was warranted.

KEY QUOTATIONS

"Yet this Court should never abandon its obligation of reaching its own independent decision concerning the sanctioning of Mississippi attorneys." (95)

"Labovitz knowingly and willfully filed a bankruptcy petition on another individual's behalf despite a lack of authority to do so, and then forged that individual's signature on various documents presented to the bankruptcy court." (96)

FACTUAL BACKGROUND

Labovitz represented Jackey Dobbs in a prior Chapter 13 case that was dismissed after the debtors failed to file an amended plan. In 2015, Labovitz filed a new bankruptcy petition solely for Dobbs at the request of Dobbs's estranged wife, although Dobbs testified that he had not authorized the filing or signed the petition. Labovitz also permitted or arranged for the wife to complete the required credit-counseling course and filed a certificate representing that the debtor had completed it. The bankruptcy court found bad faith and permanently disbarred Labovitz from practice before that court.

PROCEDURAL HISTORY

The bankruptcy court found that Labovitz filed a Chapter 13 petition and related certificate without the debtor's authority, falsely represented that required credit counseling had occurred, and forged or caused the debtor's signature to be presented on bankruptcy documents. The bankruptcy court permanently disbarred Labovitz from practicing before it. The Mississippi Bar then filed a formal complaint in the Mississippi Supreme Court seeking reciprocal discipline. Labovitz filed no answer or responsive brief and moved to continue or stay the proceedings based on a motion to reopen the bankruptcy case; the Mississippi Supreme Court dismissed that motion as moot and permanently disbarred him from practicing law in Mississippi.

DISPOSITION

other

CASES CITED

- In re Dobbs, 535 B.R. 675, 682-83 (Bankr. N.D. Miss. 2015)
- Miss. Bar v. Ishee, 987 So. 2d 909, 911 (Miss. 2007)
- Miss. Bar v. Gardner, 730 So. 2d 546, 547 (Miss. 1998)
- Terrell v. Miss., 662 So. 2d 586, 589 (Miss. 1995)
- Miss. State Bar v. Strickland, 492 So. 2d 567, 571 (Miss. 1986)
- Miss. Bar v. Labovitz, Cause No. 2012-B-1233 (Miss. 2013)
- Miss. Bar v. Labovitz, Cause No. 2007-B-2163 (Miss. 2008)
- Rogers v. Miss. Bar, 731 So. 2d 1158, 1171 (Miss. 1999)
- Miss. Bar v. Felton, 699 So. 2d 949, 951 (Miss. 1997)
- Dorhauer, 38 So. 3d at 613
- Miss. Bar v. Strauss, 601 So. 2d 840, 844 (Miss. 1992)
- Miss. Bar v. Drungole, 913 So. 2d 963, 970 (Miss. 2005)