Dated: July 16, 2014
The following is ORDERED:

Jennie D. Latta
UNITED STATES BANKRUPTCY JUDGE

UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION

In re EARL BENARD BLASINGAME and MARGARET GOOCH BLASINGAME, Debtors.	Case No. 08-28289-L Chapter 7

CHURCH JOINT VENTURE, a Limited Parthership; and FARMERS & MERCHANTS BANK, Adamsville, Tennessee; and EDWARD L. MONTEDONICO, Chapter 7 Trustee; Plaintiffs, v. EARL BENARD BLASINGAME and MARGARET GOOCH BLASINGAME, Debtors/Defendants.	Adv. Proc. No. 09-00482

ORDER GRANTING MOTION FOR SANCTIONS

BEFORE THE COURT is the Motion for Sanctions Against Tommy L. Fullen and Martin A. Grusin filed by the Plaintiffs Church Joint Venture and Farmers and Merchants Bank

(collectively "Church Joint Venture") on March 31, 2014 (Adv. Proc. Dkt. No. 477). Responses were filed by Grusin (Adv. Proc. Dkt. No. 490) and Fullen (Adv. Proc. Dkt. No. 491). A Reply was filed by Church Joint Venture (Adv. Proc. Dkt. No. 503). Supplemental Responses were filed by Grusin (Adv. Proc. Dkt. No. 508) and Fullen (Adv. Proc. Dkt. No. 509). A hearing was conducted on May 21, 2014, and the court set a deadline of July 2, 2014, for supplemental filings. All papers have now been filed and the motion is ready for decision.

I. BACKGROUND FACTS AND PROCEDURAL HISTORY

Earl Benard Blasingame and Margaret Gooch Blasingame (collectively, the "Debtors") filed a voluntary petition for relief under Chapter 7 of the Bankruptcy Code on August 15, 2008 (Bankr. Dkt. No. 1). The attorney of record for the Debtors was Thomas L. Fullen, an experienced bankruptcy attorney who, by his own admission, has represented thousands of bankruptcy debtors. Fullen was introduced to the Debtors by attorney Martin A. Grusin, also a highly experienced attorney, but one who does not routinely file bankruptcy petitions on behalf of his clients. After extensive discovery, a number of material omissions were identified with respect to the Debtors' bankruptcy schedules and statement of financial affairs. On September 29, 2009, the Plaintiffs Edward L Montedonico, Chapter 7 Trustee, and Church Joint Venture commenced adversary proceeding number 09-00482, by filing a complaint that sought, among other things, denial of the Debtors' general discharge pursuant to 11 U.S.C. sections 727(a)(2)(A) and (B), (a)(4)(A), and (a)(5). After extensive proceedings, I granted the motion for partial summary judgment filed by the Plaintiffs resulting in the denial of the Debtors' discharge pursuant to section 727(a)(4)(A), and, in addition, Mr. Blasingame's discharge pursuant to section 727(a)(5) (Adv. Proc. Dkt. No. 117). The

Debtors relied heavily in their unsuccessful defense of that motion upon the "advice of counsel" defense, but failed to provide any evidentiary support for it.

Subsequently, the Debtors filed a motion to alter or amend the judgment in which they asked that the summary judgment be set aside. This motion was supported by the affidavits of Fullen and Grusin, both of which state: "The Debtors' omission of the assets and sources of income from the Trusts and Corporations were omitted from the bankruptcy application upon advice given by both myself and [Mr. Grusin/Mr. Fullen]. Most , if not all, of the omissions cited by the Court stem from the advice given by myself and [Mr. Grusin/Mr. Fullen] regarding the preparation of the bankruptcy application." (Fullen Affidavit, para. 8; Grusin Affidavit, para. 12; exhibits to Adv. Proc. Dkt. No. 126). While the motion to alter or amend was pending, Church Joint Venture filed a motion to disqualify counsel for the Debtors on the basis of their affidavits which made them fact witnesses in the adversary proceeding (Adv. Proc. Dkt. No. 142). I denied the motion to alter or amend and granted the motion to disqualify counsel (Adv. Proc. Dkt. Nos. 154 and 187).

The Debtors engaged substitute counsel, Mr. David J. Cocke, who filed a second motion for relief from judgment, which was premised in large part upon the failure of Fullen and Grusin to properly advise their clients or to present evidence that would have adequately supported the reliance on advice of counsel defense (Adv. Proc. Dkt. No. 240). I conducted an evidentiary hearing on this motion and ultimately granted the motion over the objections of the Plaintiffs, finding that: (1) the Debtors had provided information to Mr. Fullen that was not included in their bankruptcy schedules and financial affairs; (2) there was some rush to sign and/or file the bankruptcy papers for reasons that the Debtors thought were related to Mr. Fullen's military service; and (3) that the Debtors were never given copies of the blank forms to review before completion of their schedules

and thus had no opportunity to see for themselves what information needed to be included. In my opinion, I noted that ordinary attorney negligence and/or malpractice generally does not provide a basis for relief from judgment under Federal Rule of Civil Procedure 60(b), but that in rare cases, in which the attorney hid his or her own misfeasance from the client and the client was in no way implicated in the granting of the adverse judgment, attorney misconduct may give rise to a claim for relief under Rule 60(b)(6). Focusing solely on the Motion for Partial Summary Judgment, not on the filing of the original schedules and statement of financial affairs, I concluded that the motion would not have been granted adversely to the Blasingames but for the failure of their attorneys to discuss the advice of counsel defense with them and to advise them to consult and/or engage other counsel to assist them in evaluating that defense (Adv. Proc. Dkt. No. 356).

As the result of setting aside the order granting summary judgment, the question of the eligibility of the Debtors for discharge is again before the court and is in the midst of being tried. In addition, Church Joint Venture was permitted to file a complaint for attorney malpractice on behalf of the bankruptcy estate against Fullen and Grusin which at this time is also pending before the bankruptcy court (Adv. Proc. No. 12-00454).

While these matters were pending–the trial on denial of discharge and the complaint against Fullen and Grusin for malpractice–the parties engaged in extensive settlement discussions with the aid of Bankruptcy Judge Paulette J. Delk. While these discussions were ongoing, Church Joint Venture filed the Motion for Sanctions which is the subject of this opinion (Adv. Proc. Dkt. No. 477). Notwithstanding this motion, the Trustee, the Debtors, and Fullen and Grusin entered into a proposed settlement which was contingent upon "either a voluntary dismissal or a dismissal by the court of the Motion for Sanctions" (Bankr. Dkt. No. 492). Church Joint Venture objected to the

Motion to Approve Compromise and Settlement because of this condition. Because I found the tying of the proposed settlement to a certain outcome with respect to the Motion for Sanctions to be offensive to public policy and the dignity of the court, I denied the Motion to Approve the Compromise and Settlement (Bankr. Dkt. No. 517).

II. The Motion for Sanctions

Church Joint Venture seeks sanctions against Fullen and Grusin on the basis of three theories: (1) Rule 9011 of the Federal Rules of Bankruptcy Procedure; (2) Section 1927 of title 28 of the United States Code; and (3) the inherent power of the federal courts to impose sanctions for an abuse of the litigation process. I will consider each of these in turn.

A. Rule 9011 of the Federal Rules of Bankruptcy Procedure

Rule 9011 of the Federal Rules of Bankruptcy Procedure provides for the possibility of imposition of sanctions upon an attorney who presents to the court a petition, pleading, written motion, or other paper for an improper purpose, or that contains claims that are not warranted by existing law, that contains allegations or factual contentions that have no evidentiary support, or that contains denials of factual contentions that have no evidentiary support. Fed. R. Bankr. P. 9011(c). The presentation to the court may consist in signing, filing, submitting, or later advocating the petition, pleading, motion, or other paper, and the presentation constitutes a certification by the attorney to the best of that person's knowledge, information, and belief, formed after an inquiry reasonable under the circumstances, that the presentation complies with the requirements of subsection (b). Fed. R. Bankr. P. 9011(b). Rule 9011 contains a safe harbor, however. It requires that before a motion for sanctions is presented to the court, the target of the motion be given 21 days to withdraw or correct the challenged paper, claim, defense, contention, allegation, or denial. Fed.

R. Bankr. P. 9011(c)(1)(A). This safe harbor applies to all papers or pleadings except the filing of the initial bankruptcy petition. Fed. R. Bankr. P. 9011(c)(1)(A).

Church Joint Venture did not provide a period for withdrawal of any of the papers or pleadings filed by Fullen in this case, thus the only papers that may be considered are the initial petition together with its schedules and statements. The petitions, schedules, and statements were prepared and filed by Fullen who, admittedly, made no inquiry into the factual contentions made in the schedules and statements which contained material false statements and omissions. Mr. Fullen candidly admits that he relied upon information provided by Mr. Grusin to the effect that, "everything was in a trust, there was nothing in their names." (Fullen Testimony, Adv. Proc. Dkt. No. 447, at 14:22-23; *see generally* Fullen Testimony, Adv. Proc. Dkt. No. 447, 14-18). Mr. Fullen admits that he did not discuss this with the Debtors; that he did not review the actual trust instruments; that he did not provide the Debtors with a copy of the form for the schedules or the items required to be included in the schedules prior to completing them; and that he omitted information about personal assets that was provided to him by the Debtors (Fullen Testimony, Adv. Proc. Dkt. No. 447, 79-80). In addition, Mr. Fullen took the legal position that the trusts for which the Debtors serve as trustees did not have to be disclosed in the Debtors' schedules or statement of financial affairs (Fullen Testimony, Adv. Proc. Dkt. No. 447, 18). This position was not warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal or exiting law (*see* Memorandum of Plaintiffs' Motion for Partial Summary Judgment on Discharge Claims, Adv. Proc. Dkt. No. 75).

Mr. Grusin defends the motion as to him by attempting to shift all responsibility for the strategic decisions made in filing the bankruptcy petition to Mr. Fullen. He states that he had

nothing to do with the completion of the Debtors' bankruptcy petition or any supporting documents. He says that he told the Debtors that he was not qualified to handle their bankruptcy, and that he was never asked to review the petition and supporting documents before they were filed. He claims that:

> When reviewed in clear light, Grusin did what he was ethically and professionally obligated to do. He deferred to Fullen who was more qualified. He disclosed what he knew and his opinions to Fullen, and he did not participate in something he had insufficient capacity to handle.

Response to Verified Supplement to Motion for Sanctions, Adv. Proc. Dkt. No. 524, p.3.

The record in this case reveals a very different relationship between Mr. Fullen and Mr. Grusin. The record reveals that the first meeting between Mr. Blasingame and Mr. Fullen occurred in Mr. Grusin's office, not Mr. Fullen's. The record reveals that Mr. Grusin was engaged to represent Margaret Blasingame on August 8, 2008, one week prior to the filing of the bankruptcy petition in exchange for an assignment of Mrs. Blasingame's interest in funds held by the Clerk of the McNairy County Circuit Court. Pl. Ex. 29. This is the only written engagement of Mr. Grusin in the record. In it, Mr. Grusin undertakes to represent Mrs. Blasingame in connection with the matter of "*Church Joint Venture et al. v. Aqua Air Aviation, et. al.*, and any other related issues arising therefrom." This agreement was not disclosed in the Debtors' schedule of financial affairs signed on August 14, 2008. Mr. Grusin sent a fax of some 35 pages to Mr. Fullen and Mr. Shackelford just prior to the bankruptcy petition being filed. Def. Ex. 22.

Mr. Grusin continued to be actively involved in all facets of the bankruptcy case, and Mr. Fullen routinely deferred to him and sought his advice. For example, on September 29, 2008, Mr. Fullen wrote to the Debtors about discovery requests that he had received. He says, "We may also object to the request as being onerous. I am forwarding this to Marty as well and will get his thoughts concerning same." Pl. Ex. 42. On October 6, 2008, Mr. Fullen wrote to the Blasingames

asking them to get information to him concerning tax liens, and the next day, he wrote again, with a copy to Mr. Grusin, pleading for Mrs. Blasingame to "remind Benard to send me a copy of the tax lien as soon as possible." Pl. Exs. 43 and 44. On November 21, 2008, Mr. Fullen dictated a letter to the Debtors in which he advised them that "failure to non-disclose a material debt may be detrimental to your bankruptcy," but "I will leave it up to you and await your reply." Pl. Ex. 45. This letter contains a note in Mrs. Fullen's handwriting that says, "Mr. Blasingame: Subsequent to this dictation Tommy spoke to Marty & the statement of affairs will be amended to include Hardin Bank." This letter was copied to Mr. Grusin. The record contains a copy of a related email from Mr. Grusin to Mr. Blasingame, which states: "After doing more research and other consideration I now concede that both Tommy [Fullen] and Hank [Shackelford] are correct in that the law requires that the Hardin County Bank guaranty MUST be included on Schedule F. You can notify the bank in writing that while they are listed you voluntarily at this time agree that regardless of the filing you will honor their guaranty. This is the best that can be done in this situation."[1] Pl. Ex. 46. On November 25, 2008, Mr. Fullen wrote to Mr. Grusin again, saying, "In review of all of the documents received, I found other information that should have been listed in Benard's bankruptcy petition. Item 17 indicates this is all in Margaret's name and I do not have these assets listed. Please advise as to why we did not list those in the petition as well....I need this information immediately. I cannot keep amending this petition piecemeal." Pl. Ex. 47. On February 9, 2009, Mr. Fullen wrote to Mr. Grusin, Mr. Shackelford, and Mr. Blasingame, saying: "Enclosed please find a copy of the original filed bankruptcy petition along with amendments to the petition and motions to add

[1] Mr. Grusin's advice, of course, is not consistent with the Bankruptcy Code's provision for the reaffirmation of debts.

creditors filed to date. We are coming to a crucial point now and I want everyone to review the petition and amendments to make sure that we have all the various amendments we discussed. I cannot understate the gravity of the situation of where we are because it is obvious they are making accusations and allegations that there has not been a full disclosure. I understand Marty's response that we have given everything that needs to be disclosed. Now it is time to make sure that this is all included in the bankruptcy petition." Pl. Ex. 49. On March 18 there is an email exchange between Mr. Fullen, Mr. Grusin, Mr. Shackelford, and Mr Blasingame. Mr. Fullen states: "Please find attached the amendments to Schedules B and C and the Statement of Affairs. Marty please look at #9 in the statement of affairs[2] and give me an approximate date of payment. I have amended these schedules with no input so please let me know if there are changes." Mr. Blasingame responds with: "Hello All, Do we have any case that the CD and annuity is not property of Margaret/Court? By making these amendments are we conceding?" Pl. Ex. 52. There is an email exchange between Mr. Blasingame, Mr. Fullen, Mr. Grusin, with a copy to Mr. Joe Townsend, Mr. George Donaldson, and Mr. Shackelford, dated November 2, 2009, in which Mr. Blasingame states that his and his wife's paychecks were deposited to the "Blasingame Clearing Account" after August 2006. Mr. Grusin replies: "Benard, the issue is what of her checks went into the trust either direct or indirect through the clearing account that were used to buy the $90,000 CD after August 2006." Pl. Ex. 53.

These excerpts reveal that Mr. Fullen looked to Mr. Grusin for information needed to supplement the filings and for his approval of amendments to the schedules and statement of

[2] Payments related to debt counseling, etc. What was eventually disclosed was that Mr. Grusin had received the assignment of funds belonging to Mrs. Blasingame held in the registry of the McNairy County Circuit Court within days before the filing of the bankruptcy petition.

financial affairs. They also reveal that the question of *what* to disclose in the schedules was discussed by and among Mr. Fullen, Mr. Blasingame, and Mr. Grusin.

The impression that it was Mr. Grusin rather than Mr. Fullen who acted as lead counsel in representing the Blasingames is reinforced by Mr. Grusin's activities in Adversary Proceeding 09-00482. For example, the answer filed on behalf of Mr. and Mrs. Blasingame was signed by Mr. Joseph T. Townsend, as attorney for the Debtors,[3] and by Mr. Grusin, as attorney for "Margaret Blasingame" and "Blasingame Trusts" (Adv. Proc. Dkt. No. 33). In that answer, which responds to allegations in the complaint that the Debtors failed to disclose assets including three trusts and five corporations in their schedules and statement of financial affairs, the response is made that "[t]he averments appear to be based upon the assumption that the three (3) Trusts and five (5) corporations are not excluded from the bankruptcy estate under 11 U.S.C. § 541(c)(2), even though the three (3) Trusts are Spend Thrift Trusts and the Debtors do not own any stock of the five (5) corporations." The answer is consistent with Mr. Grusin's position that the assets of the trusts and corporations were excluded from the bankruptcy estate, but fails completely to address the question of disclosure. In other words, it is consistent with Mr. Grusin's conflation of these separate issues.

Mr. Grusin prepared the so-called "Joint Affidavit in Support of Amended Motion to Dismiss Aqua Dynamics Group Corporation, Flozone Services, Inc., Fiberzone Technologies, Inc., G.F. Corporation, Blasingame Farms, Inc., the Blasingame Family Business Investment Trust, the Blasingame Family Development Generation Skipping Trust, the Blasingame Residence Trust, the

[3] Mr. Townsend is associated with Mr. Fullen but is not named as a target of the Motion for Sanctions. Mr. Fullen did not appear for the Debtors in the adversary proceeding.

Blasingame Trust, Katherine Blasingame Church and Earl Benard Blasingame, Jr. as Defendants in Adversary Action Number 09-000482" (Adv. Proc. Dkt. No. 73). When asked about the Joint Affidavit, Mr. Townsend responded that he assumed that Marty Grusin prepared it (Townsend Testimony, Adv. Proc. Dkt. No. 453, p. 700). Mr. Townsend explained that he worked a lot with Mr. Grusin; that he would go to Mr. Grusin's office to work on the Blasigname case; and that Mr. Grusin prepared the bulk of the affidavit (Townsend Testimony, Adv. Proc. Dkt. No. 453, p. 700).

The affidavit is virtually identical to the answer filed on behalf of the Blasingames and it was relied upon in support of the "Defendants' Response to Plaintiffs' Motion for Partial Summary Judgment on Discharge Claims" (Adv. Proc. Dkt. No. 99), which also appears to have been prepared by Mr. Grusin or his office even though his clients were not the targets of the motion. Mr. Townsend signed as attorney for the Debtors and Mr. Grusin signed the pleading as "Attorney for 'Corporations,' Attorney for 'Trusts,' Attorney for Katherine Blasingame Church and Earl Benard Blasingame, Jr." even though none of these defendants was the subject of the Motion for Partial Summary Judgment directed solely to the question of discharge. The affidavit was the subject of a successful motion to strike because it was not made on personal knowledge; it did not evidence the competency of the multiple affiants; it contained legal conclusions based on inadmissible evidence; and it contained the testimony of multiple affiants (Order Granting in Part and Denying in Part Motion for Partial Summary Judgment, Adv. Proc. Dkt. No. 117, pp. 7-8). Mr. Grusin attempted to remedy these defects by filing separate affidavits which incorporated portions of the prior joint affidavit. Even as amended, the affidavits contained significant portions that were conclusory and outside the personal knowledge of the affiant (Order Granting in Part and Denying in Part Motion for Partial Summary Judgment, Adv. Proc. Dkt. No. 117, p. 8).

After the Motion for Partial Summary Judgment was granted adversely to the Debtors, Mr. Grusin prepared his own affidavit and provided the form of the affidavit submitted by Mr. Fullen in support of the "Motion to Alter or Amend Judgment Pursuant to Federal Rules of Civil Procedure 59(e) and Federal Rules of Bankruptcy Rule 9023 and for Relief from Judgment or Order Entered on February 23, 2011 and Pursuant to Federal Rules of Civil Procedure 60(b)(6) and Federal Rules of Bankruptcy 9024" (Adv. Proc. Dkt. No. 126). Mr. Grusin admits that he prepared this affidavit and Mr. Townsend confirms this. The related motion is signed only by Mr. Townsend, one of only two documents in the adversary proceeding that were signed by Mr. Townsend alone.

What becomes clear from a review of the documents filed in the adversary proceeding prior to the disqualification of Mr. Grusin is that Mr. Grusin was involved in the preparation of virtually all the pleadings filed on behalf of the Defendants, both those filed on behalf of the Non-Debtor Defendants (the Defendants Mr. Grusin admits he represented), and those filed on behalf of the Debtor-Defendants (who were ostensibly represented by Mr. Townsend). Mr. Grusin's preparation of pleadings on behalf of the Debtor-Defendants is inconsistent with the notion that Mr. Fullen acted as lead counsel in the bankruptcy case. Mr. Townsend described conferring with Mr. Grusin, but not with Mr. Fullen, concerning the representation of the Debtors in the adversary proceeding. Conversely, it is clear that Mr. Grusin relied upon Mr. Townsend to file pleadings on behalf of his Non-Debtor Defendant clients, thereby avoiding the requirement that he obtain authorization to file pleadings with the bankruptcy court. These pleadings always bear Mr. Townsend's signature, even when his clients were not parties to the pleadings, and are filed by Mr. Townsend's office, not Mr. Grusin's. All of this supports the view that Mr. Grusin, rather than Mr. Fullen, acted as lead counsel for the Blasingames.

The language of Mr. Grusin's affidavit further reinforces this view and the conclusion that, despite his protestations to the contrary, Mr. Grusin was actively involved in the decision to withhold information from the bankruptcy schedules and statement of financial affairs. In pertinent part, Mr. Grusin states:

> 8. Based upon my knowledge of the formation of the Trusts and the ownership of the Corporations, upon my advice, in my opinion, I advised there was no need for the Debtors to add those Trusts and/or Corporations nor the benefits they received from those Trusts and/or Corporations, on their Petition for Bankruptcy.
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> ***
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> 11. As to the issue regarding Margaret Blasingame's interest in a Judgment in the McNairy County Circuit Court, as payment of my fee, Mrs. Blasingame's interest whatever it may have been, was assigned to me in a non-refundable, non-contingent classic retainer, as defined as being "outside the estate and purview of §330 because they are earned entirely on receipt..." in *Barron v. Countryman, 432 F.3d 590, 595-96 (5th Cir. 2005)(citing In re McDonald Bros. Constr., Inc., 114 B.R. 989, 996-98 (Bankr. W.D. Ill. 1990),* prior to the filing of the bankruptcy petition by the Debtors in consideration for engaging me to represent her in a matter styled *Church Joint Venture et al vs. Aqua Air Aviation, et al* filed in the McNairy County Chancery Court, Case Number 6892, by the Plaintiffs. Therefore, I did not consider that to be part of the bankruptcy estate nor necessary for disclosure since it was compensation for my services, but at the first deposition in this cause I disclosed this assignment to the Trustee's attorney, Mr. David Blaylock.
>
> 12. The Debtors' omission of assets and sources of income from the Trusts and Corporations were omitted from the bankruptcy application upon advice given by both myself and Mr. Fullen. Most, if not all, of the omissions cited by the Court stem from the advice given by myself and Mr. Fullen regarding the preparation of the bankruptcy application.
>
> 13. Unlike the case cited by the Court, *Taras,* 2005 WL 6487202 at *4, where the debtor was unrepresented, these Debtors sought competent legal representation and were fully honest in disclosing their assets. Based upon the opinions of both me and Mr. Fullen most, if not all, of the assets listed as omitted by the Court stemmed from our advice and the clients' reliance thereon.

14. Included in the Debtors' Response to the Plaintiffs' pleadings was the statement that any omissions by the Debtors as to the Corporations and/or Trusts was based on reliance of counsel. This was, in fact, a true statement. These assets were omitted from the application solely based upon advice of counsel after counsel was made aware of the Debtors' interests in the Trusts and/or Corporations.

This affidavit was signed March 4, 2011. Even though the affidavits were made grounds for the later motion to disqualify Mr. Grusin and Mr. Fullen, it was not until November 6, 2013, in connection with the trial of the objection to discharge, that Mr. Grusin claimed that statements in his affidavit were not true. At that time, Mr. Grusin asserted that:

A. [T]he Blasingames got confused. I think they got confused between these are assets of the estate, could or could not be assets of the estate and these are what's on the schedules. I had nothing to do with the schedules.

Grusin Testimony, Bankr. Dkt. No. 487, p. 393.

Q. Did [Mr. Fullen] ever ask you whether or to what extent the Blasingames in your opinion were required to disclose any certain assets or any certain liabilities in their bankruptcy?

A. No.

Grusin Testimony, Bankr. Dkt. No. 487, p. 394.

Q. And Mr. Fullen, did he ever ask you to what extent any asset or liability needed to be disclosed in the bankruptcy?

A. No, sir.

Grusin Testimony, Bankr. Dkt. No. 487, p. 397.

Q. So did you at any time instruct the Blasingames that they would not have to disclose any interest they had in any specific corporations in their bankruptcy?

A. No, sir, I didn't tell them anything about disclosure, period, because they had nothing they were hiding....

Q. So if Mr. and Mrs. Blasingame contend that you advised them that they wouldn't need to list any trusts in their bankruptcy, that would be incorrect?

A. Yes. I would not have told them and did not tell them not to list those. In fact, had I seen the petition and known it was not on there, I would have told them to put it on there.

Grusin Testimony, Bankr. Dkt. No. 487, p. 403-04.

Q. And similarly, if the Blasingames had read their schedules and statement of financial affairs, they would have realized that, as well?

A. I don't know. I never to this date have never seen the schedules or even the form that they would fill out.

Grusin Testimony, Bankr. Dkt. No. 487, p. 404.

Q. And again your testimony is that you have never told Mr. Fullen that it was your opinion that there was anything that didn't need to be disclosed in bankruptcy?

A. I never discussed with Mr. Fullen, or anybody else, what was to be disclosed and not disclosed. I wouldn't know.

Grusin Testimony, Bankr. Dkt. No. 487, p. 406.

These statements and others like them directly contradict statements made by Mr. Grusin in his affidavit. When asked about these discrepancies, Mr. Grusin says:

A. As to paragraph five where it says, "Having met with Mr. Fullen and the debtors in their initial meetings and helping Mr. Fullen prepare the petition for bankruptcy." I would qualify that to say it was the initial meeting. I did not prepare the petition for bankruptcy. It was at the initial meeting were I told him my opinions and what I thought was included in the assets of the estate was not included. I did not talk about what would be – I did not prepare the petition is what I am saying.

Grusin Testimony, Bankr. Dkt. No. 487, pp. 428-29.

A. And number twelve, again I understand – what I am saying there, that these were not part of their assets, and that's why I think the confusion started. Like I said, I didn't know what was going to be disclosed on the returns – on the petition or not petition. (Inaudible).

Grusin Testimony, Bankr. Dkt. No. 487, pp. 429.

In response to this and related testimony, I asked Mr. Grusin who prepared his affidavit. He responded:

> A. I think this affidavit was prepared by my office. I am not sure who wrote it. I am sure that I participated in doing it, and I will take responsibility for it. It may have been that I outlined it for my paralegal and she did it but I reviewed it before it was signed.

Grusin Testimony, Bankr. Dkt. No. 487, p. 429. I was concerned that Mr. Grusin was trying to shift responsibility for the preparation of his affidavit (and thus for the "mistakes" in it) to a member of his staff, but in response to further questions, Mr. Grusin affirmed that his paralegal was not present for any of the meetings with the Blasingames and could only have received her information from himself.

In response to questions from Mr. Barry Ward, attorney for the Chapter 7 Trustee, Mr. Grusin had this to say:

> Q. You told us, I believe, that paragraph number eight was not correct.
>
> A. It is not correct in the fact that, on their petition for bankruptcy–what I meant there–maybe it's worded badly–I can see how they thought that they–how they could have thought they were not to be disclosed but certainly they disclosed to me. I was aware of those.
>
> Q. Well, you state: "I advised there was no need for the debtors to add those trusts and/or corporations, nor the benefits they received from those trusts and/or corporations on their petition for bankruptcy."
>
> A. That is what I am saying. That is an incorrect–I did not advise them.
>
> Q. You didn't do that?
>
> A. I did not do that, and I don't think that anybody involved in this would tell you I did.
>
> Q. This is your affidavit, isn't it?

A. That's my affidavit and I said it is maybe badly worded but what I was addressing was the court's statement that the Blasingames had failed to disclose these things to the lawyers and the lawyers weren't aware of it. The lawyers were–I know Tommy was aware of it because I had told him about it.

Grusin Testimony, Bankr. Dkt. No. 487, pp. 454-56.

With respect to paragraph 12 of the affidavit, Mr. Grusin states:

A. It is not true in the sense that what I am saying is misunderstood that they told us about this. How they could have misunderstood–and that is what I am saying–how they could have misunderstood that they did not have to disclose those since they weren't part of the assets but I never told them not to disclose, to include or not to include anything. I wasn't involved in filling out the petition.

Q. But this is your own affidavit.

A. I have explained that to you, Mr. Ward, as best I can. I can tell you it may be that I have misworded it, but I was trying to express to the court that these people, in my opinion, had done everything that I think they should have done to be allowed a discharge.

Grusin Testimony, Bankr. Dkt. No. 487, pp. 456-57.

Mr. Grusin's testimony that paragraphs in his affidavit resulted from "mistake" is simply not credible. Mr. Grusin was very clear that it was he who prepared the affidavit–"I dictated the outline with the language, like I do....[Ms. Dills] handed me the affidavit back; I read the affidavit and I signed it" (Grusin Testimony, Bankr. Dkt. No. 487, p. 459). It is simply not credible that Mr. Grusin could have dictated: "Based upon my knowledge of the formation of the Trusts and the ownership of the Corporations, upon my advice, in my opinion, I advised there was no need for the Debtors to add those Trusts and/or Corporations nor the benefits they received from those Trusts and/or Corporations, on their Petition for Bankruptcy," when what he meant was that he never discussed disclosure of the trusts and corporations with his clients. At the time that the affidavit was dictated,

Mr. Grusin's focus was on saving his clients from denial of discharge. He apparently gave no thought to his own responsibility for decisions made on their behalf. That is why the statements in the affidavit are more likely to be true than statements made later when Mr. Grusin's own activities were brought under scrutiny.

The Debtors' recollection of Mr. Grusin's involvement in decisions concerning the bankruptcy schedules is consistent with his affidavit. For example, Mr. Blasingame testified:

> Q. So it came out during the post bankruptcy discovery that you owned an interest in a limited partnership called Heritage Apartments Limited, correct?
>
> A. That fact was known a long time ago but–
>
> Q. Known to you?
>
> A. Known to me, known to Marty, known to Fullen. In fact, it was an investment that Marty Grusin had me invested in and six others, former Aqua Glass and it was –
>
> Q. But it wasn't listed in your initial schedules?
>
> A. It wasn't listed because we assumed that it no longer existed or, at least, it would have been a liability.
>
> Q. Who assumed?
>
> A. Marty Grusin.
>
> Q. Did you assume?
>
> A. I was just following whatever his advice was.
>
> Q. Are you saying that Marty Grusin told you that you didn't have to list that interest in your bankruptcy?
>
> A. Yes.

E. Blasingame Testimony, Bankr. Dkt. No. 457, p. 117.

Similarly, Mrs. Blasingame testified:

Q. Did you look at Mr. Grusin as providing advice to you and Mr. Blasingame during your bankruptcy matters.

A. Yes, sir.

M. Blasingame Testimony, Bankr. Dkt. No. 471, pp. 795-96.

Q. And were the trusts discussed at that meeting [on July 7, 2008], too?

A. The trusts were discussed.

Q. Subsequent to that did Mr. –

A. And Mr. Grusin said they were not to be included, this was personal and the trusts were not to be included.

M. Blasingame Testimony, Bankr. Dkt. No. 471, p. 801.

There are other examples of questionable testimony by Mr. Grusin, calling his credibility into further doubt. For example, twice he disclaimed having ever even seen bankruptcy forms.

A. To this date, I have never seen the schedules or seen the first thing you file in bankruptcy"

Grusin Testimony, Bankr. Dkt. No. 487, pp. 393-94.

Q. And similarly, if the Blasingames had read their schedules and statement of financial affairs, they would have realized that, as well?

A. I don't know. I never to this date have never seen the schedules or even the form that they would fill out.

Grusin Testimony, Bankr. Dkt. No. 487, p. 404. These statements are contradicted by his presence at the 2004 examinations that occurred early in the bankruptcy case as well as the emails sent to him by Mr. Fullen asking him to carefully review proposed amendments and discussing the content of proposed amendments. They are further contradicted by Mr. Grusin's later testimony in response to questions posed by Mr. Ward:

Q. So what did you do to educate yourself prior to the bankruptcy filing of what should be disclosed?

A. Nothing.

Q. And what did you do prior to November 21, 2008, to educate yourself as to what the Blasingames should disclose in their bankruptcy petition?

A. The specific question to me was these guaranties had been brought up during the 2004. Mr. Shackelford and Mr. Fullen asked me, "Do these need to be disclosed? We think they do." I said, "I don't know." I went and looked it up and sent this reply back.

Q. I'm confused, Mr. Grusin. Why are they asking you if you have no bankruptcy expertise in this matter and Mr. Fullen does?

A. I can't answer why they asked. I am sitting there with them.

Q. All right. Did you do any other research to educate yourself as to the requirements of the bankruptcy petition with regard to disclosure other than that, that is referenced in this letter of November 21, 2008?

A. Not prior to the filing of the bankruptcy. During the 2004 hearings that these came up, they would ask me my opinion of what I thought about it and I would answer. For example, when I discovered that the trusts were not included in the petition, the question was should the trusts be included. I said yes.

Q. What research did you do to acquaint yourself with the requirements of the bankruptcy petition and disclosure?

A. Well, on this particular one involving the guaranty, I looked at the form. I looked at the instructions and, from my reading of the instructions, you know, it said you have to list all of your potential liabilities.

Grusin Testimony, Bankr. Dkt. No. 487, pp. 451-52.

Mr. Grusin's involvement and advocacy of the positions taken by Mr. Fullen in the bankruptcy schedules and statement of financial affairs is further revealed by his presence at the 2004 examinations which occurred within the first few months after the petition was filed. Mr. Grusin revealed that it was in that context that he was asked his opinion concerning the

disclosure of the Hardin County Bank guaranty by Mr. Fullen and Mr. Shackelford. I asked why he was present. He said he was there representing the non-debtors, including Katherine and Ben Blasingame. This, of course, was well in advance of the filing of the adversary proceeding naming the non-debtors as defendants. When Mr. Grusin realized that he could not have known at that point that Katherine and Ben Blasingame would be sued, he next said that he was there because there already had been allegations that they were trying to say that the trust assets and Flozone were assets of the Debtors. Mr. Grusin conceded, however, that he had no employment contract with Katherine or Ben Blasingame, or any of the other non-debtor defendants at that time. Grusin Testimony, Bankr. Dkt. No. 487, pp. 471-73.

Rule 9011 includes in the examples of "presentation" to the court signing, filing, submitting, or *later advocating* a petition, pleading, written motion, or other paper. There is no question that Mr. Grusin was a later advocate of the positions taken by Mr. Fullen in the bankruptcy schedules and statement of financial affairs. Moreover, I find that the record is clear that Mr. Grusin was a person responsible for the positions taken in the bankruptcy schedules and statement of financial affairs from the very beginning. Therefore, he, together with Mr. Fullen, is a person who may be sanctioned for violation of subsection (b) with respect to presenting to the court the bankruptcy schedules and statement of financial affairs.

B. Section 1927 of Title 28 of the United States Code

Section 1927 of Title 28 of the United States Code provides:

> Any attorney or other person admitted to conduct cases in any court of the United States or any Territory thereof who so multiplies the proceedings in any case unreasonably and vexatiously may be required by the court to satisfy personally the excess costs, expenses, and attorneys' fees reasonably incurred because of such conduct.

The Court of Appeals for the Sixth Circuit has established an objective standard for determining whether sanctions are appropriate. Section 1927 "authorizes a court to assess fees against an attorney for 'unreasonable and vexatious' multiplication of litigation despite the absence of any conscious impropriety." *Ridder v. City of Springfield*, 109 F.3d 288, 298 (6th Cir. 1997), quoting *Jones v. Continental Corp.*, 789 F.2d 1225, 1230 (6th Cir. 1986). Under section 1927, fees may be assessed without a finding of bad faith, "at least when an attorney knows or reasonably should know that a claim pursued is frivolous, or that his or her litigation tactics needlessly obstruct the litigation of nonfrivolous claims." *Id.* The court of appeals explains further:

> [S]imple inadvertence or negligence that frustrates the trial judge will not support a sanction under section 1927. There must be some conduct on the part of the subject attorney that trial judges, applying the collective wisdom of their experience on the bench, could agree falls short of the obligations owed by a member of the bar to the court and which, as a result, causes additional expense to the opposing party.

Id. quoting *In re Ruben*, 825 F.2d 977, 981-82 (6th Cir. 1987). The court explains that "[u]nder this formulation, the mere finding that an attorney failed to undertake a reasonable inquiry into the basis for a claim does not automatically imply that the proceedings were intentionally or unreasonably multiplied. *Id.*

Mr. Fullen's conduct in this case was straightforward and simple. He prepared the bankruptcy petition, schedules, and statement of financial affairs, attended the meeting of creditors, and some of the 2004 examinations. Mr. Fullen has accepted full responsibility for the errors and omissions in the filing of the initial papers. The record is clear that Mr. Fullen did everything in his power, after the petition was filed, to obtain required information and file necessary amendments to the schedules and statements. Mr. Fullen was not involved in the adversary proceeding.

Mr. Grusin, on the other hand, was the mastermind behind the entire endeavor and has yet to accept full responsibility for his actions. There is no question that had Mr. Grusin not been involved, Mr. Fullen would have provided his customary representation for his clients, or would have referred the case to another lawyer who handles more complex bankruptcy cases. Mr. Grusin's shadow representation of the Debtors in the bankruptcy case and in the adversary proceeding vexatiously and unreasonably multiplied the proceedings resulting in excess cost to the Trustee and to Church Joint Venture. As the result of the positions taken by Mr. Grusin, numerous 2004 examinations were required to sort out the true state of the Debtors' assets and interests. As the result of the wholly inadequate pleadings and affidavits filed in the adversary proceeding, the Plaintiffs and the court were put to unnecessary effort and expense to sort out what the positions of the Debtors were and whether they were supported by the record. Substitute counsel, Mr. Cocke for the Debtor Defendants, and Mr. Coury for the Non-Debtor Defendants, began literally from scratch, clawing their way back to a position in which the defenses of their respective clients could be presented and decided.

Mr. Grusin's conduct is only exacerbated by his repeated disclaimer of bankruptcy knowledge and competency (facts that were established by his conduct and work product). Although thorny issues are raised by the Debtors' complex financial affairs, they were needlessly compounded by the positions propounded by Mr. Grusin and the work product produced by him. The Debtors' best hope for a discharge in bankruptcy was full and complete disclosure of their financial affairs. The trial on the question of discharge is not yet complete, but there is no question that the activities of Mr. Grusin placed the Debtors' hope for discharge in serious jeopardy. Litigation involving the Non-Debtor Defendants could reasonably have been anticipated given the

prior business practices of the Debtors, but litigation concerning the Debtors' discharge was made necessary as the direct result of the errors and omissions in the Debtors' schedules and statement of financial affairs. And, that litigation was needlessly prolonged as the result of the attempts of Mr. Grusin to defend it.

C. The Inherent Power of the Court to Sanction Abuses of Litigation Process

The parties agree that a bankruptcy judge has inherent authority to award sanctions against an attorney in an appropriate case. A bankruptcy judge is a judicial officer of the district court. 28 U.S.C. § 151. The bankruptcy judges in a judicial district constitute a unit of the district court known as the bankruptcy court for that district. The bankruptcy judges exercise the authority conferred upon them in the United States Code, and, in addition, the authority that is inherent to any court of justice.

The United States Supreme Court has made clear that "'[c]ertain implied powers must necessarily result to our Courts of justice from the nature of their institution,' powers 'which cannot be dispensed with in a court, because they are necessary to the exercise of all others.'" *Chambers v. Nasco, Inc.*, 501 U.S. 32, 43, 111 S. Ct. 2123, 2132 (1991), quoting *United States v. Hudson*, 7 Cranch 32, 34, 3 L. Ed. 259 (1812). Among a court's inherent powers is the power "'to impose silence, respect, and decorum, in their presence, and submission to their lawful mandates.'" *Chambers*, 501 U.S. at 43, quoting *Anderson v. Dunn*, 6 Wheat 204, 227, 5 L. Ed. 242 (1821). In addition, a federal court has the power to control admission to its bar and to discipline attorneys who appear before it. *Id..*, citing *Ex parte Burr*, 9 Wheat 529, 531, 6 L. Ed. 152 (1824). This power, the Court cautions, is to be exercised with great care. Nevertheless, the Court has said that "[t]here are ample grounds for recognizing ...that in narrowly defined circumstances federal courts have inherent

power to assess attorney's fees against counsel." *Roadway Exp., Inc. v. Piper,* 447 U.S. 752, 765-66, 100 S. Ct. 2455, 2463-64 (1980) (Powell, J.) ("If a court may tax counsel fees against a party who has litigated in bad faith, it certainly may assess those expenses against counsel who willfully abuse judicial process."). Bad faith may be found not only in the actions that led to a lawsuit, but also to the conduct of the litigation. *Roadway Express,* 447 U.S. at 766, 100 S. Ct. at 2464 (citations omitted). The inherent power of a court may be invoked even if procedural rules exist which sanction the same conduct. *Chambers*, 501 U.S. at 49, 111 S. Ct. at 2135. The Court of Appeals for the Sixth Circuit has explicitly recognized that "[b]ankruptcy courts, like Article III courts, enjoy inherent power to sanction parties for improper conduct" and to "sanction attorneys for breaches of fiduciary obligations." *Mapother & Mapother, P.S.C. v. Cooper (In re Downs)*, 103 F.3d 472, 477 (6th Cir. 1996) (citing *In re Rainbow Magazine, Inc.*, 77 F.3d 278, 283-84 (9th Cir. 1996).

Section 1927 permits the shifting of attorney fees to opposing counsel based upon an objective standard. The *Roadway Express* 'inherent powers' standard permits the shifting of attorney fees upon a finding of subjective bad faith. It thus provides an exception to the American Rule which generally requires a party to pay its own attorney fees. *Alyeska Pipeline Serv. Co. v Wilderness Society,* 421 U.S. 240, 258-59, 95 S. Ct. 1612, 1622 (1975) (An exception to the American Rule is made when the opposing party (or attorney) has acted "in bad faith, vexatiously, wantonly or for oppressive reasons"), quoting *F.D. Rich Co., Inc. v. U.S. for Use of Indus. Lumber Co., Inc.*, 417 U.S. 116, 129, 94 S. Ct. 2157, 2165 (1974); *see also Big Yank Corp. v. Liberty Mut. Fire Ins. Co.*, 125 F.3d 308, 313-14 (6th Cir. 1997). Proof of bad faith requires proof that "'the claims advanced were meritless, that counsel knew or should have known this, and that the motive for filing the suit was for an improper purpose such as harassment.'" *Big Yank Corp.*, 125 F.3d at

313, quoting *Smith v. Detroit Federation of Teachers,* 829 F.2d 1370, 1375 (6th Cir. 1987). *See also Jones v. Continental Corp.,* 789 F.2d 1225, 1230 (6th Cir. 1986) (recognizing distinction in standards when court is exercising its "inherent powers" versus that provided by section 1927).

I am persuaded that Mr. Fullen neither acted in bad faith nor acted unreasonably to multiply proceedings in the Debtors' bankruptcy case. Mr. Fullen filed the bankruptcy petition, schedules, and statements that were admittedly inadequate, but he took immediate steps to obtain information to supply these inadequacies and acted responsibly in trying to correct his errors. Mr. Fullen looked to Mr. Grusin to determine when and whether subsequent disclosures would be made. Mr. Fullen's conduct falls far short of subjective bad faith.

Mr. Grusin, on the other hand, clearly did unreasonably and vexatiously multiply the proceedings by his actions in the conduct of the adversary proceeding, as I have previously found. His conduct falls short of subjective bad faith, however. I do not find any indication that Mr. Grusin stepped beyond the role of a zealous, if misguided, advocate. He was not competent to provide advice to the Debtors concerning their bankruptcy case, and he certainly should not have attempted to represent them "from the shadows" by using Mr. Townsend to sign and file pleadings for him, but I do not find that his actions were motivated by any purpose other than to try to obtain relief for his clients.

D. Sanctions

Mr. Fullen's preparation and filing of the bankruptcy petition, schedules, and statement of financial affairs violated Rule 9011(b)(2) and (3). Mr. Fullen's actions did not, however, unreasonably or vexatiously multiply the proceedings in the bankruptcy case in violation of 28 U.S.C. § 1927. Mr. Fullen acted in good faith.

When the court finds that there has been a violation of Rule 9011(b), it may impose an appropriate sanction upon the responsible attorney. Sanctions for violation of Rule 9011 are to be limited to those that are necessary to deter repetition of such conduct or comparable conduct by others similarly situated. Mr. Fullen has accepted responsibility for his actions and has indicated his willingness to perform pro bono bankruptcy work as well as to attend continuing legal education on complex bankruptcy matters. I find it highly unlikely that Mr. Fullen will engage in similar activity in the future, but do not believe that Mr. Fullen should retain the compensation paid to him for representing the Debtors. Therefore, Mr. Fullen shall disgorge the fee paid to him by the Debtors, returning $5,000 to the bankruptcy estate.

Mr. Grusin is a person responsible for the preparation and filing of the bankruptcy petition, schedules, and statement of financial affairs, which were filed in violation of Federal Rule of Bankruptcy Procedure 9011(b). Mr. Grusin also is an attorney who unreasonably and vexatiously multiplied the proceedings in adversary proceeding 09-00482 in violation of 28 U.S.C § 1927. Mr. Grusin also filed an affidavit with the court that he later repudiated in testimony that was not credible. Every court relies upon absolute candor from the attorneys that appear before it. As the result of Mr. Grusin's activities, Church Joint Venture and the Chapter 7 Trustee incurred needless attorney fees and expenses that are not completely subsumed by the pending complaint for malpractice. The complaint for malpractice seeks recovery for damages to the clients, in this case the Debtors, that resulted from the negligence of their attorneys. The Motion for Sanctions has a different purpose: to prevent abuse of the litigation process. Whether and what amount of damages the Debtors ultimately are found to have suffered is independent of the need to prevent abuse.

As an initial matter, I find that it is not appropriate for Grusin to retain funds paid to him in connection with his representation of the Debtors, their children, and related trusts and corporations. A review of the docket shows that those funds were authorized to be withdrawn from the Circuit Court of McNairy County and paid into the trust account of attorney David Blaylock, then attorney for the Chapter 7 Trustee (Bankr. Dkt. No. 232). The Debtors later sold their interest in this and other funds to the Trustee. The Trustee agreed not to litigate Mr. Grusin's entitlement to these funds (Bankr. Dkt. No. 280). Under the circumstances and as a sanction, the court finds that these funds should be disgorged and returned to the bankruptcy estate.

In addition, the court asked the Trustee and Church Joint Venture to quantify the amount of excess fees that it claims were incurred as the result of the actions of Fullen and Grusin. Church Joint Venture filed a Verified Supplement to Motion for Sanctions (Adv. Proc. Dkt. No. 518). Mr. Bruce Akerly, attorney for Church Joint Venture, seeks reimbursement on behalf of his clients and the Trustee for fees and expenses falling into two categories: (1) for review of the documents produced in connection with and at the Rule 2004 examinations; and (2) for activities from and after the date of the filing of Debtors' first motion for reconsideration of judgment in adversary proceeding number 09-00482.

I do not find that the activities related to the 2004 examinations were the fruit of vexatious and unreasonable multiplication of proceedings by Mr. Grusin. Given the complexity of the Debtors' financial affairs, there is little doubt that Church Joint Venture and the Trustee would have taken the opportunity to question the Debtors and related parties and to review source documents even if the schedules and statement of financial affairs had been perfectly completed. This by no means should be taken as a condonation of Mr. Grusin's conduct.

I do find that the proceedings in adversary proceeding number 09-00482 were vexatiously and unreasonably multiplied by the activities of Mr. Grusin. Given the complexity of the Debtors' financial affairs, litigation concerning the related companies, trusts, and even the propriety of their discharge would be expected. The proceeding was protracted, however, due to the pleadings prepared or overseen by Mr. Grusin with respect to the discharge. Specifically, I find that the Response to the Motion for Partial Summary Judgment (Adv. Proc. Dkt. No. 99, June 30, 2010), which incorporated the so-called "Joint Affidavit," and the Motion to Alter or Amend Judgment (Adv. Proc. Dkt. No. 126, March 8, 2011), which was supported by the Affidavits of Mr. Grusin and Mr. Fullen prepared by Mr. Grusin, vexatiously and unreasonably prolonged the proceedings and caused Church Joint Venture and the bankruptcy estate to incur additional attorney fees and expenses that they should not have borne. They should not have been filed. In addition, the Motion for Relief from Judgment, filed by Mr. Cocke (Adv. Proc. Dkt. No. 240, February 22, 2012), was the fruit of and was necessitated by the prior named pleadings. Attorney fees and expenses incurred in responding to that motion should not be borne by Church Joint Venture and the bankruptcy estate. In short, attorney fees and expenses incurred by the estate and Church Joint Venture in relation to the adversary proceeding from the filing of the first unfortunate Response to the Motion for Partial Summary Judgment until the granting of Mr. Cocke's Motion for Relief from Judgment (Adv. Proc. Dkt. No. 356, February 1, 2013), but excluding the motion to disqualify, should properly be shifted to Mr. Grusin. Unfortunately, Mr. Akerly did not break out the fees and expenses related to these discreet matters and I will not make an attempt to do so without further input from counsel. Mr. Akerly and Mr. Ward are directed to supplement the record accordingly.

III. Conclusion

The Motion for Sanctions is **GRANTED** and sanctions are imposed as follows:

1. Mr. Fullen is ordered to pay $5,000 to the Trustee on or before August 29, 2014. In addition, Mr. Fullen is ordered to complete six (6) hours of continuing legal education relating to professional responsibility/ethics to be completed within one (1) year of the entry of this order and provide proof to the court of completion.

2. Mr. Grusin is ordered to pay $20,000 to the Trustee on or before August 29, 2014. In addition, Mr. Grusin is ordered to complete fifteen (15) hours of continuing legal education relating to professional responsibility/ethics to be completed within one (1) year of the entry of this order and provide proof to the court of completion.

3. The Court will enter an additional order directing Mr. Grusin to pay to Church Joint Venture and the Trustee additional amounts based upon the break out of fees and expenses that has been requested from Mr. Akerly and Mr. Ward.

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