

**IN THE UNITED STATES BANKRUPTCY COURT
EASTERN AND WESTERN DISTRICTS OF ARKANSAS**

IN RE: MARY BOST, Debtor	4:05-bk-28537 E CHAPTER 7
IN RE: LISA ELLIS, Debtor	4:05-bk-28569 E CHAPTER 7
IN RE: DANIELLE FREEMAN, Debtor	4:05-bk-28274 E CHAPTER 7
IN RE: LINDSEY HANBRICK, Debtor	4:05-bk-28500 E CHAPTER 7
IN RE: KRISTEN HARDCASTLE, Debtor	4:05-bk-28229 E CHAPTER 7
IN RE: KARRY DEAN KELLEY and DEANNA CAROL KELLEY, Debtors	4:05-bk-28435 E CHAPTER 7
IN RE: MYREON SLATER, Debtor	4:05-bk-28451 E CHAPTER 7
IN RE: JANICE TITTLE, Debtor	4:05-bk-18863 E CHAPTER 7
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IN RE: LISA D. BINNS, Debtor	4:05-bk-28497 M CHAPTER 7
IN RE: JIMMY LYNN BURRIS, Debtor	4:05-bk-28503 M CHAPTER 13
IN RE: DIONNE ERSERY, Debtor	6:05-bk-81139 M CHAPTER 7
IN RE: JOHNNY F. HARRIS, Debtor	4:05-bk-18066 E CHAPTER 7
IN RE: BETTY J. JOHNSON, Debtor	4:05-bk-10327 E

CHAPTER 13

IN RE: MARK K. McNUTT and
RAMONA L. McNUTT, Debtors

4:05-bk-40280 M
CHAPTER 13

IN RE: KERRY ANDREW PIERCE and
KERRIE PIERCE, Debtors

4:05-bk-28538 E
CHAPTER 7

DISCOVER BANK

PLAINTIFF

4:06-ap-01039 E

KERRIE PIERCE

DEFENDANT

**ORDER TO SHOW CAUSE WHY COUNSEL SHOULD NOT
BE SUSPENDED FROM PRACTICE BEFORE THIS COURT**

On April 26, 2006, the Court entered a *Memorandum Opinion and Order Imposing Sanctions on Debtor's Counsel* sanctioning attorney Norman Angeleri (the “**April 26, 2006 Opinion**”). In the April 26, 2006 Opinion, the Court stated that it would forward its opinion to the Arkansas Supreme Court’s Committee on Professional Conduct as a complaint, which it did on April 28, 2006. Also in the April 26, 2006 Opinion, the Court stated that it would subsequently issue an Order to Show Cause why Mr. Angeleri should not be suspended from practicing law in the Arkansas Bankruptcy Courts in accordance with Local Rule 2090-2 until the Committee on Professional Conduct reaches a decision on the Court’s complaint. In accordance with its prior ruling, the Court is now issuing this Order to Show Cause so that Mr. Angeleri may have an opportunity to show cause why he should not be suspended from practicing law in the Arkansas Bankruptcy Courts for the reasons set forth in the April 26, 2006 Opinion. Additionally, because Mr. Angeleri is in jeopardy of being suspended from

practicing in all of the Arkansas Bankruptcy Courts, this Court has expanded its inquiry to a review of any cases currently pending on which Mr. Angeleri is counsel of record, and those cases for which Mr. Angeleri has been referred to the Committee on Professional Conduct. The Court's inquiry is limited to the records of those cases, which are outlined below.

(1) **Lisa D. Binns, 4:05-bk-28497.** On April 21, 2006, Judge James G. Mixon held a hearing on an Order directing Mr. Angeleri to appear and show cause why he should not be sanctioned for falsely representing that the Debtor was unable to pay the filing fee in a case, when the Debtor had already paid the filing fee to Mr. Angeleri prior to the bankruptcy petition being filed. At the hearing held on April 21, 2006, before Judge Mixon, the Debtor testified that she never saw nor signed an *Application to Pay Filing Fee in Installments* which was filed by Mr. Angeleri and electronically signed by both the Debtor and Mr. Angeleri. This application stated that the Debtor had paid no attorney fees and did not have the funds to pay the required filing fee. The Debtor further testified that she had paid Mr. Angeleri \$559 on October 13, 2005, for both his services and the required filing fee for filing bankruptcy. She submitted documentary proof of this. On June 19, 2006, Judge Mixon entered an Order referring Mr. Angeleri to the Committee on Professional Conduct for submitting a false document to the Court. Copies of the April 21, 2006 Transcript and June 19, 2006 Order are attached.

(2) **Jimmy Lynn Burris, 4:05-bk-28503.** This Debtor has a pending chapter 13 case; his plan has been confirmed, and there are no current motions or other matters pending.

However, Mr. Angeleri remains counsel of record in the case.

(3) **Dionne Ersery, 6:05-bk-81139.** Although this case has been closed and the Debtor has obtained new counsel, Judge Mixon referred Mr. Angeleri to the Committee on Professional Conduct after a hearing held April 12, 2006, and a hearing held on May 8, 2006. At the May 8, 2006 hearing, Mr. Angeleri was unable to adequately respond to the Court's inquiries because he failed to bring his client's files or a trust account ledger. Copies of the April 12, 2006 Transcript and the May 8, 2006 Transcript are attached.

(4) **Johnny F. Harris, 4:05-bk-18066.** This Debtor has a pending appeal which it appears the Debtor is prosecuting *pro se*; nevertheless, Mr. Angeleri remains counsel of record in his case.

(5) **Betty J. Johnson, 4:06-bk-10327.** This Debtor's case was dismissed on March 1, 2006; the *Motion to Reinstate* filed by Mr. Angeleri on March 11, 2006, was accompanied by an unsigned *Notice of Opportunity to Object*. Mr. Angeleri has failed to respond to the Court's *Memorandum of Document Deficiency* regarding the unsigned pleading. Accordingly, the Motion to Reinstate is scheduled for hearing on July 25, 2006. Mr. Angeleri remains counsel of record on this case.

(6) **Kerry Andrew Pierce and Kerrie Pierce, 4:05-bk-28538.** These Debtors have been sued in adversary proceeding **4:06-ap-1039, Discover Bank v. Kerrie Pierce**. Mr. Angeleri filed an answer, and thus is counsel of record in the case. Trial in that adversary proceeding is scheduled for August 22, 2006.

As illustrated above, Mr. Angeleri remains counsel of record on several pending cases,

some of which have ongoing litigation. However, in the April 21, 2006 and May 8, 2006 hearings before Judge Mixon, Mr. Angeleri made statements to the Court indicating that he had transferred pending case files to new counsel.¹ Accordingly, Mr. Angeleri should be prepared to address his failure to withdraw as counsel for the above referenced Debtors (with the exception of Dionne Ersery who has hired new counsel, and Lisa Binns, whose case was previously closed and then reopened by the Court) despite his statements to the Court that all his pending cases would be transferred to other attorneys. Based on the records in the above cases in addition to those outlined in the April 26, 2006 Opinion, Mr. Angeleri is hereby required to show cause why he should not be suspended from practicing law in the Arkansas Bankruptcy Courts in accordance with Local Rule 2090-2 until the Committee on Professional Conduct reaches a decision on the Court's complaint.

For these reasons stated herein, it is hereby

ORDERED that Mr. Angeleri shall file a response to this Order on or before July 31, 2006. If Mr. Angeleri agrees to the limited suspension proposed in this Order, he must affirm this agreement in his filed response, and the Court will enter an Order suspending him from practicing law in the Arkansas Bankruptcy Courts in accordance with Local Rule 2090-2 until the Committee on Professional Conduct reaches a decision on the Court's Complaint

¹At the April 21, 2006 hearing before Judge Mixon, Mr. Angeleri stated that he was going to "slow down or get out of the bankruptcy arena altogether." (Binns April 21, 2006 Transcript, p. 19, lines 8-10). Mr. Angeleri also stated that he made arrangements with another attorney to take over his cases. (Binns April 21, 2006 Transcript, p. 19, lines 10-11). Additionally, during the May 8, 2006 hearing before Judge Mixon in the *Ersery* case, Mr. Angeleri testified that all of his clients except two had either gotten a discharge or had other counsel, and that in the remaining two cases, he was ready to give their files over to another attorney. (Ersery May 8, 2006 Transcript, p. 11, lines 6-25; p. 12, lines 1-2).

(arising from the April 26, 2006 Opinion and Judge Mixon's referrals in the Binns and Ersery cases). If Mr. Angeleri wishes to be heard regarding this limited suspension, he must request a hearing in his response to this Order to Show Cause, and describe his position in response to this Order in such response. The Court will then set this Order to Show Cause for hearing by subsequent notice.

IT IS SO ORDERED.



HONORABLE AUDREY R. EVANS
UNITED STATES BANKRUPTCY JUDGE

DATE: July 11, 2006

cc: Norman Angeleri, attorney for the Debtors
Mr. Keith Coker, attorney for Mr. Angeleri
each Debtor listed above
Judge James G. Mixon
Judge Richard D. Taylor
Jean Rolfs, Clerk of Court
Chuck Tucker, U.S. Trustee's Office
Arkansas Committee on Professional Conduct
Bud Cummins, U.S. Attorney's Office