ST. JOHN'S UNIVERSITY
SCHOOL OF LAW

May a Bankruptcy Court May Permanently Disbar an Attorney from Practicing Before its District?

2016 Volume VIII No. 23

May a Bankruptcy Court May Permanently Disbar an Attorney from Practicing Before its District?

Maurice W. Sayeh, J.D. Candidate 2017

Cite as: *May a Bankruptcy Court May Permanently Disbar an Attorney from Practicing Before its District?*, 8 ST. JOHN'S BANKR. RESEARCH LIBR. NO. 23 (2016)

Introduction

In most matters, the local bar association governs attorney discipline.[1] Depending on the offense by the attorney, discipline can range from a private or public reprimand to a suspension or even disbarment. However, in special circumstances[2] and when the court believes it must protect the general public from attorneys it finds unfit to practice,[3] a bankruptcy court, as well as other courts, may permanently disbar an attorney from practicing before it.[4] However this exercise of authority requires cautious judicial discretion.[5]

Bankruptcy courts, in particular, may find the authority to discipline attorneys through multiple federal statutes,[6] the Federal Rules of Bankruptcy Procedure,[7] local bankruptcy court rules[8] and inherent power of federal courts.[9] This is best illustrated in the case *In re* Dobbs,[10]

---

[1] See *In re* Dobbs, 535 B.R. 675, 699 (N.D. Miss. 2015)
[2] *See id*. at 698-99.
[3] *See id.*
[4] *See id.* at 690-92, 699.
[5] *See id*. at 692.
[6] *See In re* Dobbs. 535 B.R. at 690 (citing 11 U.S.C. § 105; 11 U.S.C. 526(a)(2); and 11 U.S.C. 526 (a)(5)).
[7] *See id*. at 690 (citing FED R. of BANKR. P. 9011(c).
[8] *See* LBR 1001-1(g), Bankr. N.D. and S.D. Miss (stating, "All attorneys practicing before the bankruptcy courts for the Northern and Southern Districts of Mississippi shall acquaint

where a bankruptcy court in Mississippi ruled it had the authority derived from multiple sources to permanently disbar an attorney from practicing before its district.[11] These actions were taken by the court because of multiple offenses by the attorney[12] and the seriousness of his misconduct.[13] The *In re* Dobbs court found this as an instance where the only way to deter the future misconduct of the attorney was to disbar him.[14] Further the *In re* Dobbs court stated the purpose of the disbarment is not for punishment,[15] but instead to protect the general public.[16] Moreover, besides the court-issued disbarments by the *In re* Dobbs Court,[17] there have been other examples of this discipline, by bankruptcy[18] and non-bankruptcy courts.[19] Therefore, the authority to disbar an attorney from practicing before the court is not limited to the bankruptcy court.

---

themselves with the Local Rules. Attorneys shall be subject to appropriate sanctions for failure to comply with these sanctions for failure to comply with these Local Rules, Bankruptcy Code, the Federal Rules of Bankruptcy Procedure or other applicable law).

[9] *See id.* (citing *Chambers v. NASCO*, *Inc*. 501 U.S. 32, 43 (1991)(explaining, "[i]t has long been understood that '[c]ertain implied powers must necessarily results to our Courts of justice from the nature of their institution,' powers 'which cannot be dispensed within a Court, because they are necessary to exercise of all others."

[10] 535 B.R. 675 (N.D. Miss. 2015).

[11] *See id*. at 690.

[12] *See id*. at 693-697 (explaining the attorney had been reprimanded by the local bar association on at least three occasions yet the discipline had still not deterred the attorney's misconduct).

[13] *See id*. at 698-99. (holding the attorney had submitted falsified documents, declaring his former client wished to file bankruptcy without his client's knowledge or authorization).

[14] *See id*.

[15] See *In re* Dobbs, 535 B.R. 675 at 698-99.

[16] *See id*. at 698.

[17] *See id*. at 699.

[18] *See In re* Parker, 485 F. App'x 989 (11th Cir. 2012)(upholding a bankruptcy courts' ruling to disbar an attorney for repeated misconduct before the court).

[19] *See In re* Molty, 320 F. App'x 244 (5th Cir. 2009); *In Re* Smith, 76 F.3d 335 (10th Cir. 1996) (all holding the court has the authority and discretion to disbar an attorney from practicing before its district).

Again, bankruptcy courts as well as other courts have ruled it has the authority to disbar an attorney,[20] but the courts have stated it will only used this authority in the narrowest instances where the court believes it must protect the public from the attorneys it finds not to fit practice law instead of a general punishment.[21]

This article will examine how a bankruptcy court has the authority and discretion to permanently sanction an attorney from practicing before it. Part I discusses: (i) statutory powers granted to the court under the Bankruptcy Code; (ii) authority of the court derived from the Federal Rules of Bankruptcy Procedure as well as recognized Local Rules of the court; and (iii) establish inherent court powers. Part II discusses particular examples of when the bankruptcy courts as well as other courts have used its authority to disbar attorney. Finally, Part III discusses and analyzes the discretion the courts will use when administering the sanction of permanent disbarment.

I. Source of Judicial Authority and Discretion in Disciplining Attorneys

The bankruptcy courts as well as other courts have the discretion to use its authority to disbar an attorney from practicing before its district.[22] This authority or power derives from many established statutes,[23] rules,[24] and from inherent powers already recognized by the court.[25] When exercised together, the courts may find its authority and discretion to not only discipline attorneys that practice before it, but also disbar them as well.[26]

A. Section 105 Provides Authority for Courts to Regulate Appearances

[20] *See In re* Dobbs, 535 B.R. 675 at 699.
[21] *See id*. at 699.
[22] *See id*.
[23] *See* 11 U.S.C. § 105; 11 U.S.C. § 526(a)(2); and 11 U.S.C. 526 (a)(5).
[24] *See* FED R. of BANKR. P.9011(c).
[25] *See* supra note 7 and accompanying text and notes.
[26] *See In re* Dobbs, 535 B.R. 675 at 690, 699.

Section 105 of the Bankruptcy Code provides bankruptcy courts with broad powers to carry out the courts' duties.[27] The statute specifically states, "[a] bankruptcy court has statutory authority to issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of the Bankruptcy Code."[28] By the very language and word choice of the statute, Congress' intent was to give bankruptcy courts a general "catch all" provision so that the courts can regulate appearances before it.

According to the legislative history of section 105, Congress intended to formulate the statute to give bankruptcy courts broad administrating powers.[29] In 1978, when Congress enacted section 105, it codified this "implied power" into section 105(a) that by its very words broadcast a wide interpretation of authority and discretion.[30]

Further, bankruptcy courts have previously interpreted section 105(a) as granting the court with a broad range of authority and discretion in order to carry out its duties.[31] The court has specifically stated "[t]he clear language of 11 U.S.C. § 105(a) grants this [c]ourt significant equitable powers as well as latitude in framing the relief necessary to carry out both the specific provisions of the statute as well as its philosophical underpinnings."[32] Combining the court's previous interpretation of the section 105(a) with the legislative history, as well as the very words that are stated within the statute, a court can determine that section 105 is one source it can derive the authority and discretion to disbar an attorney from practicing before its district.

B. Section 526 Allows the Courts to Sanction Attorneys for Dishonesty

---

[27] *See* 11 U.S.C. § 105(a).
[28] *See id*.
[29] *See* COLLIER ON BANRUPTCY, ¶ 105.02 [1][b] (Alan Resnick & Henry J. Somme reds., 16th ed. 2009).
[30] *See id*.
[31] *See In re* Dobbs, 535 B.R. at 690.
[32] *See id.* (quoting *In re* Ludwick, 185 B.R. 238, 245 (Bankr. W.D. Mich. 1995).

Under section 526(a)(2) of the Bankruptcy Code, "a debt relief agency shall not make any statement, or counsel or advise any assisted person or prospective assisted person to make a statement in a document filed in a case or proceeding under this title, that is untrue or misleading, or that upon the exercise of reasonable care, should have been known by such agency to be untrue or misleading."[33] Section 526 (a)(2) can be interpreted as a general guideline, with rules, for attorneys who practice in front of the bankruptcy court. The statute specifically states that an attorney must exercise honesty in front of the court when preforming their duties. Additionally, if an attorney intentionally violates section 526(a)(2), the court can enforce sanctions and discipline against an attorney who intentionally violates the statute under section 526(a)(5)[34] which, "permits a bankruptcy court to 'impose an appropriate civil penalty' against an attorney who if finds intentionally violated [section] 526(a)(2)."[35] This statute gives the court the discretion to fashion suitable punishments for attorneys, who the court discovers and believes, demonstrated conduct that is not appropriate under 526(a)(2). Applied together, sections 526(a)(2) and 526(a)(5) can provide the court an additional source to derive its authority and discretion to disbar an attorney from practicing in its district.

C. The Court May Sanction Attorneys Who It Finds Violated Rule 9011 of the Federal Rules of Bankruptcy Procedures or the Local Bankruptcy Rules

The bankruptcy court can also derive its authority from the Federal Rules of Bankruptcy Procedures as well. Similar to section 526,[36] Federal Rules of Bankruptcy Procedure Rule 9011 serves as an administration guideline for attorneys that if violated, the courts may issue

[33] *See* 11 U.S.C. § 526 (a)(2).
[34] *See* 11 U.S.C. § 526 (a)(5).
[35] *See id*.
[36] *See* 11 U.S.C. § 526.

appropriate sanctions to enforce the guideline.[37] Rule 9011(b) states, "[b]y presenting to the court (whether by signing, filing, submitting, or later advocating) a petition, pleading, written motion, or other paper, an attorney or unrepresented party is certifying that to the best of the person's knowledge, information, and belief, formed after an inquiry reasonable under the circumstances,

> 1.) it is not being presented for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation;
>
> 2.) the claims, defenses, and other legal contentions therein are warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law;
>
> 3.) the allegations and other factual contentions have evidentiary support or, if specifically so identified, are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery; and
>
> 4.) the denials of factual contentions are warranted on the evidence or, if specifically so identified, are reasonably based on a lack of information or belief.[38]

Rule 9011(b) specifically states a general guideline for attorneys to adhere regarding proper practices when practicing in front of the court, which is similar to section 526(2).[39] Both Rule 9011(b)[40] and Section 526(a)(2)[41] outline what is appropriate behavior that the court expects litigators to observe in front of it. It also states what the court will not allow, specifically dishonesty. Further, Rule 9011 is similar to Section 526 because it has its own punishment, for

[37] *See* FED. R. of BANKR. P. 9011(c).
[38] *See* FED. R. of BANKR. P. 9011(b).
[39] *See* 11 U.S.C. § 526(a)(2).
[40] *See* FED R. of BANKR. P. 9011(b).
[41] *See* 11 U.S.C. § 526(a)(2).

the court to exercise, built into the rule.[42] Under Rule 9011(c) the court has the authority and discretion to administer appropriate punishments for violators of Rule 9011(b).[43] Rule 9011(c) states, "If, after notice and a reasonable opportunity to respond, the court determines that subdivision (b) has been violated, the court may, subject to the conditions stated below, impose an appropriate sanction upon the attorneys, law firms, or parties that have violated subdivision (b) or are responsible for the violation."[44] Again, similar to section 526(a)(5), Rule 9011(c) gives the court broad discretion to administer proper punishment for violators.[45]

Additionally, bankruptcy courts may have local rules that supplement the Federal Rules of Bankruptcy Procedure in stating that attorneys must abide by certain guidelines when practicing before the court or be subject to the court's authority.[46] For example, Mississippi Bankruptcy Local Rule 1001-1(g) states "[a]ll attorneys practicing before the bankruptcy courts for the Northern and Southern Districts of Mississippi shall acquaint themselves with these Local Rules. Attorneys shall be subject to appropriate sanctions for failure to comply with these Local Rules."[47] Similar to previous rules and federal statutes mentioned, the court again is left with board discretion and authority to administer over attorneys' conduct and fashion appropriate sanctions and disciplines when their conduct falls below the court prescribe guidelines.[48]

D. The Court May Also Derive its Authority from Established Inherent Court Powers

[42] *See* FED R. of BANKR. P. 9011; 11 U.S.C. § 526(a)(2) (explaining under both Rule 9011 and Section 526(a)(2), the court itself, may punish a violator of either Rule 9011 or Section 526(a)(2).
[43] *See* FED R. of BANKR. P. 9011(c).
[44] See *id.*
[45] See *id.*
[46] *See* LBR 1001-1(g), Bankr. N.D. and S.D. Miss.
[47] *See id.*
[48] *See id.*

The court can also look to its "implied or inherent power" that is vested in it, to control parties that practice in front of the court. For example, in *Chambers v. Nasco, Inc.*,[49] the court explained, "It long has been understood 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.'"[50] This language clearly states that the implied powers invested in the court can be used in preforming its duties, which includes controlling the parties practicing in front of it and sanctioning attorneys when necessary. The court further explained that its inherent powers gives the court the power to sanction attorneys appearing before the court as long as the court can show that the attorney or litigant acted in bad faith or was dishonest.[51] Therefore, the court can look to its implied or inherent power as well in deriving the authority to issue appropriate sanctions and disciplines that it sees fit against attorneys that practice before it.

II. Examples the Bankruptcy and Other Courts' Using its Authority to Issue Sanctions of Permanent Disbarment

A. *In re* Dobbs' Specific Illustration of the Bankruptcy Court's Authority to Disbar

Recently in *In re* Dobbs[52], a Mississippi bankruptcy court held that it had the authority derived from multiple sources,[53] to sanction and to permanently disbar an attorney from

[49] 501 U.S. 32 (1991).
[50] *See id.* at 43.
[51] *See In re* Yorkshire, LLC 540 F.3d. 328, 332 (5th Cir. 2008) (explaining, "It is well-settled that a federal court, acting under its inherent authority, may impose sanctions against litigants or lawyers appearing before the court so long as the court makes a specific finds that they engaged in bad faith conduct").
[52] 535 B.R. 675 (Bankr. N.D. Miss. 2015).
[53] *See* 11 U.S.C. § 105; 11 U.S.C. 526(a)(2); and 11 U.S.C. 526 (a)(5); FED R. of BANKR. P. 9011(c)2; and LBR 1001-1(g), Bankr. N.D. and S.D. Miss. (These multiple sources establish that the court has authority and discretion to fashion appropriate sanctions for attorneys that practicing before the court).

practicing in its district.[54] The court found that the sanction of permanent disbarment was appropriate because of the attorney's repeated acts of misconduct while practicing in front of the court, as well as the severity of his misconduct.[55] The court found that it had no choice but to permanently disbar the attorney from practicing in front of its district in order to protect the general public from the attorney's misconduct.[56]

In *In re* Dobbs, the attorney ("First Attorney") was hired to represent a debtor and his wife who filed a joint chapter 13 bankruptcy petition in 2013.[57] Following dismissal of the original 2013 case, the First Attorney filed a subsequent 2015 bankruptcy petition on behalf of the debtor but not the debtor's wife.[58] The 2015 bankruptcy petition was accompanied with a Certificate of Credit Counseling ("First Certificate") falsely reflecting that the debtor had attended a credit-counseling course on March 26, 2015,[59] as required by Section 109 of the United States Bankruptcy ("the Code").[60] The 2015 petition listed the First Attorney as the debtor's counsel and purportedly included the debtor's electronic signature debtor's electronic signature.[61] Following the court's approval of the First Attorney's request to withdraw as counsel, the debtor hired a new attorney ("Second Attorney").[62] The Second Attorney filed another Certificate of Credit Counseling ("Second Certificate") on behalf of the debtor, which indicated the debtor actually completed credit counseling on April 8, 2015.[63]

---

[54] *See In re* Dobbs 535 B.R. at 690, 699.
[55] *See id*. at 698, 699.
[56] *See id.*
[57] *See id.* at 680.
[58] *See id.*
[59] *See id.*
[60] See *In re* Dobbs, 535 B.R. at 680.
[61] *See id*.
[62] *See id*.
[63] *See id*.

Because of the discrepancy between the two certificates, the court entered an Order to Show Cause and scheduled a hearing in the debtor's case.[64] At the Show Cause Hearing, the debtor testified that he did not know the First Certificate was filed nor did he authorize his First Attorney to file the bankruptcy petition.[65] He further testified that he neither signed the petition nor completed pre-petition credit counseling for the 2015 case.[66] The debtor claimed not to be even aware of the 2015 case until after it was commenced.[67] The court then issued a Show Cause Order for the First Attorney because of the debtor's troubling testimony.[68] In response to the Show Cause Order, the First Attorney sent a letter to the court stating that he received a phone call from the debtor's wife describing how the debtor wanted him to file a new case to prevent the debtor from losing property belonging to his mother.[69] The First Attorney also stated that the debtor's wife completed the credit counseling class, and he knew that the debtor did not take class before he filed the certificate.[70] The First Attorney explained that he believed his actions were necessary to stay a pending foreclosure on the mobile home in which the debtor lived.[71]

The court, however, found the First Attorney did not explain why the decision to file should appropriately be made by the debtor's estranged wife, instead of the debtor.[72] Finding that the First Attorney had violated multiple statutes and rules and that this was also not his first deliberate act of misconduct, the court ruled it was necessary to permanently disbar the First

---

[64] See *id*. at 680-81.
[65] *See In re* Dobbs 535 B.R. at 681.
[66] *See id*.
[67] *See id*. (explaining debtor had not been in First Attorney's office since December 2014 or January 2015*)*.
[68] *See id.* at 682.
[69] *See id*.
[70] *See In re* Dobbs, 535 B.R. at 682.
[71] *See id.* at 683.
[72] *See id.*

Attorney from practicing in its district.[73] By assessing factors from both the American Bar Association ("ABA")[74] and local professional standards[75] and applying case law, the court concluded that it had discretion to "disbar an attorney only upon presentation of clear and convincing evidence sufficient to support the findings of one or more violations warranting this extreme sanction."[76] Finding sufficient evidence of repeated ethical violations, the court sanctioned and permanently disbarred the First Attorney.[77]

B. Examples of Other Courts Using Its Authority and Discretion to Disbar Attorneys

Additionally, *In re* Dobbs was not an exception or irregularly. Before the *In re* Dobbs Court disbarred an attorney from practicing before its district,[78] an Eleventh Circuit Court of Appeals upheld a bankruptcy court's decision to disbar an attorney.[79] In *In re* Parker, the Court of Appeals ruled that a bankruptcy court did not abuse its discretion when the bankruptcy court disbarred an attorney from practicing before.[80] Similar to the attorney in *In re* Dobbs,[81] the

[73] *See id.* at 683, 695-98, 699.
[74] *See In re* Dobbs, 535 B.R. at 697 (observing ABA "Standards for Imposing Sanction" four criteria: "(1) whether the duty violated was to a client, the public, the legal system, or the profession, (2) whether the attorney acted intentionally, knowingly, or negligently, (3) the seriousness of the actual or potential injury caused by the attorney's misconduct; and (4) the existence of aggravating and mitigating factors").
[75] *See id*. at 696–97 (assessing *Liebling* factors which are: (1) the nature of the [attorney]'s conduct, (2) the need to deter such conduct, (3) the preservation of dignity and reputation of the legal profession, (4) the need to protect the public, (5) sanctions imposed in similar cases, (6) the duty involved, (7) the lawyer's mental state, (8) actual and potential injury resulting from the misconduct, and (9) the existence of aggravating factors).
[76] *See In re* Dobbs, 535 B.R. at 699 (quoting *In re* Medrano, 956 F.2d 101, 102 (5th Cir. 1992) (stating court could "disbar an attorney only upon presentation of clear and convincing evidence sufficient to support the findings of one or more violations warranting this extreme sanction").
[77] *See id*. at 691.
[78] *See id*. at 699.
[79] *See In re* Parker, 485 F. App'x 989 (11th Cir. 2012).
[80] *See id.* at 992.
[81] *See In re* Dobbs, 535 at 683-90 (explaining that the lawyer committed multiple violations of the Bankruptcy Code, Federal Rules of Bankruptcy Procedure, and Local Rules).

attorney in *In re* Parker[82] committed multiple violations of the Bankruptcy Code, Federal Rules of Bankruptcy Procedure, and Local Rules.[83] In particular, the court found that the attorney had made multiple false statements to the court as well.[84] Therefore, the Court of Appeals upheld the bankruptcy court's decision to disbar the attorney from practicing before its district.[85]

Moreover, the Fifth Circuit Court of Appeals upheld a district courts ruling to disbar an attorney for a year. In *In re* Moity,[86] the court found that a one-year disbarment was appropriate in relations to the attorney's misconduct. There, the attorney committed misconduct over a phone conversation with a law clerk,[87] additional misconduct through legal documents submitted to the court,[88] and then made false statements regarding past disciplinary sanctions during a legal proceeding.[89] Because of these transgressions against the court, and a history of misconduct before the state court,[90] the Fifth Circuit upheld the federal court's ruling to disbar the attorney. [91]

Further, the Tenth Circuit Court of Appeals disbarred an attorney for violating the court's suspension order and practicing in its district without the courts authorization.[92] In *In Re*

---

[82] 485 F. App'x 989 (11th Cir. 2012).
[83] *See id* at 992.
[84] *See id.*
[85] *See id.*
[86] 320 F. App'x 244 (5th Cir. 2009).
[87] *See id*. at 245–46. (holding the phone conversation from the attorney to the law clerk, "displayed severe disrespect to the court by the anger and harsh tone shown to a representative of the magistrate judge").
[88] *See id*. at 247.(stating the attorney filed a length brief, which was highly critical of two district court judges, during his contempt hearing regarding his misconduct of the phone conversation with the law clerk.).
[89] *See id*. at 246 (explaining the attorney made a false statement that he had not been disciplined beyond the certain penalties he admitted, when in fact he had to be brought before the court for a second time for failure to comply with the administered original penalties).
[90] *See id*. at 249.
[91] *See In re* Molty, 320 F. App'x at 249.
[92] *See In re* Smith, 76 F.3d 335 (10th Cir. 1996).

Smith,[93] an attorney was disbarred by the Tenth Circuit because he was originally suspended for a year for filing frivolous claims and not paying sanction cost, but violated the court order suspension by continuing to practice law before the Tenth Circuit.[94] The court exercised its discretion to disbar the attorney because it found that the attorney, after multiple warnings by the court, failed to adhere to the order of the court, and therefore, disbarment was warranted.[95]

III. The Bankruptcy Court will Exercise Self-Impose Discretion When It Uses its Discretion to Disbar an Attorney

Moving forward, the bankruptcy court recognized it will use careful discretion in exercising its authority to sanction attorneys that come before it.[96] This self-impose discretion calls for the bankruptcy court to only use its authority to disbar attorneys in the most extreme cases of misbehavior demonstrated by an attorney.[97] Moreover, the court states that the authority to disbar an attorney is not for the sake of punishing the attorney,[98] but instead to protect the general public from these attorneys who warrant this extreme sanction.[99] Therefore, in exercising this discretion, the court will use different factors to analyze whether the authority to disbar an attorney should be exercise.[100]

In exercising its discretion to disbar an attorney, the court may look at certain factors that have been considered when fashioning appropriate sanctions.[101] Some of these factors can be found from case law.[102] For example, the *In re* Dobbs court looked at the case *Liebling v. The*

---

[93] 76 F.3d 335 (10th Cir. 1996).
[94] *See id.* at 335, 336.
[95] *See id.*
[96] *See In re* Dobbs, 535 B.R. at 698.
[97] *See id*. at 699.
[98] *See id*.
[99] *See id*.
[100] *See id*. at 696 (citing Liebling v. The Mississippi Bar, 929 So.2d 911, 918 (Miss. 2006).
[101] *See* Liebling, 929 So.2d at 918.
[102] *See id*.

Mississippi Bar.[103] There, a Complaint Tribunal considered nine factors in fashioning appropriate factors.[104] The nine factors the Complaint Tribune considered were: (1) the nature of the [attorney]'s conduct, (2) the need to deter such conduct, (3) the preservation of dignity and reputation of the legal profession, (4) the need to protect the public, (5) sanctions imposed in similar cases, (6) the duty involved, (7) the lawyer's mental state, (8) actual and potential injury resulting from the misconduct, and (9) the existence of aggravating factors.[105]

Additionally, the court can also look to the previously mentioned ABA Standards in Imposing Sanctions.[106] These factors are: (1) the duty violated, (2) the lawyer's violated, (3) the actual and potential injury resulting from the misconduct, and (4) the existence of aggravating or mitigating factors.[107] The court has in the past analyzed and assesses the ABA factors in fashioning appropriate sanctions previously in the case *In re Sealed* Appellant.[108] Taken together, the court can look to all of these factors mentioned as guidelines in assessing whether to fashion a sanction such as permanent disbarment.

IV. Conclusion

Based on findings that its ability is derived from federal statutes,[109] the Federal Rules of Bankruptcy,[110] local rules,[111] and inherent federal court powers,[112] the bankruptcy court does

---

[103] 929 So. 2d 911 (Miss. 2006).
[104] *See* id. at 918.
[105] *See id*.
[106] *See In re* Dobbs, 535 B.R. at 697.
[107] *See id*.
[108] 194 F.3d 666, 673 (5th Cir.1999) (explaining, "In imposing a sanction after a finding of misconduct, a court should consider the duty violated, the attorney's mental state, the actual or potential injury caused by the attorney's misconduct, and the existence of aggravating or mitigating factors").
[109] *See* 11 U.S.C. § 105; 11 U.S.C. 526(a)(2); and 11 U.S.C. 526 (a)(5).
[110] *See* FED R. of BANKR. P. 9011(c).
[111] *See* LBR 1001-1(g), Bankr. N.D. and S.D. Miss.
[112] *See* supra notes 8 and accompanying notes and text.

have the authority to it permanently disbar an attorney from practicing in its district, which is best illustrated in the case *In re* Dobbs.[113] In addition, this authority is not limited to the bankruptcy court.[114] However, in exercising the discretion to use its authority to permanently disbar an attorney, the court may look to applicable criteria and factors in analyzing when and why it would permanently disbar an attorney.[115]

[113] *See In re* Dobbs 535 at 690.
[114] *See* supra notes 18 and 19 and accompanying notes and text.
[115] *See* supra notes 70 and 71.