

CONFIDENTIAL
BEFORE THE CHIEF JUDGE
OF THE ELEVENTH JUDICIAL CIRCUIT

Judicial Complaint No. 11-15-90083

IN THE MATTER OF A COMPLAINT FILED BY _____

IN RE: The Complaint of _____ against _____, U.S. Bankruptcy Judge for the U.S. Bankruptcy Court for the _____ District of _____, under the Judicial Conduct and Disability Act of 1980, Chapter 16 of Title 28 U.S.C. §§ 351-364.

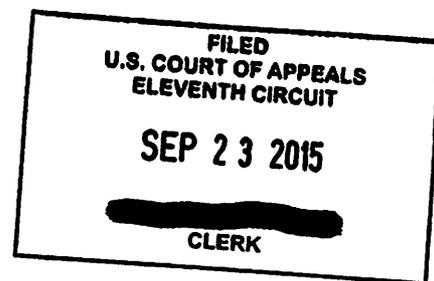
ORDER

_____ (“Complainant”) has filed this Complaint against United States Bankruptcy Judge _____ (the “Subject Judge”), pursuant to Chapter 16 of Title 28 U.S.C. § 351(a) and the Rules for Judicial-Conduct and Judicial-Disability Proceedings of the Judicial Conference of the United States (“JCDR”).

Background

The record shows that in July 2011, Complainant filed a voluntary petition for Chapter 13 bankruptcy. In November 2013 the case was converted to a Chapter 7 case, and _____ was appointed Chapter 7 Trustee. After that, _____ was approved to be the attorney for the Trustee. In January 2014 the case was reassigned to the Subject Judge as the presiding bankruptcy judge.

In November 2014 Complainant filed a “Claim, Counterclaim, Crossclaim to Remove Chapter 7 Trustee, _____ for Fraud upon the Debtor,” alleging that the Trustee and her counsel had engaged in fraud upon Complainant and the court and had threatened to deny Complainant a discharge. Complainant later filed an amended “Claim, Counterclaim, Crossclaim to Remove Chapter 7 Trustee” The Trustee filed a response arguing that the motions should be dismissed because Complainant did not comply with the “Barton Doctrine” and denied because none of the allegations provided a basis for a cause of action or removal of the Trustee. On January 13, 2015, Complainant filed a reply in which he generally took issue with the statements made in the Trustee’s response and requested that the court remove the Trustee, her counsel, and another individual from the case. After a hearing, the Subject Judge denied with prejudice the initial and the amended “Claim, Counterclaim, Crossclaim to Remove Chapter 7 Trustee.”



In March 2015 the Trustee filed a “Motion to Approve Compromise of Controversy” asking the court to approve a settlement that the Trustee had negotiated with an individual whom Complainant had filed a lawsuit against in state court before he filed for bankruptcy. The next month, the Trustee filed a “Motion for Entry of Order Granting Motion to Approve Compromise.” Complainant filed objections to the motion, arguing that the court lacked subject matter jurisdiction over the matter. On June 2, 2015, the Subject Judge held a hearing on the Trustee’s motions pertaining to the compromise of controversy. The Subject Judge later entered an order granting the Trustee’s motions to approve compromise of controversy for the reasons stated at the hearing. Complainant filed a motion for reconsideration, which the Subject Judge denied.

Complaint

Complainant’s Complaint of Judicial Misconduct or Disability consists of three “Witness Affidavits” and the January 13, 2015 reply that he filed in the bankruptcy case. An affidavit from _____ states that on June 2, 2015, he witnessed the Subject Judge “blurting out the fact of knowledge that the Chapter 7 Trustee, _____ is ‘broke’ (using the exact word ‘broke’).” _____ states: “The statement of facts submitted in this case are true, I have witnessed all of it and more including false actions by the Trustee and her attorney claiming that” Complainant perjured himself and that _____ lied in connection with a certain loan. _____ also states that the “judge refus[ed] to grant a protective order concerning my banking information that was on checks that provided proof that my son had not perjured himself and that I had repaid all the funds to the estate prior.” Finally, _____ states, “The name calling and attacking of myself and my son in these situations by the Trustee _____, and her attorney _____ in Federal record is uncalled for and unprofessional prior to them dismissing the action.”

Affidavits from _____ and _____ state that on June 2, 2015, they witnessed the Subject Judge “blurting out the fact of knowledge that the Chapter 7 Trustee, _____ is ‘broke.’” Complainant’s January 13, 2015 reply that was filed in the bankruptcy case generally takes issue with the Trustee’s response to his initial and amended Claim, Counterclaim, Crossclaim to Remove Chapter 7 Trustee and requests that the Trustee, her counsel, and another individual be removed from the case.

Discussion

Complainant’s only allegation that concerns the Subject Judge’s actions is that the Subject Judge stated at a hearing that the Trustee was “broke.” Even if true, that does not constitute misconduct.

The Complaint “alleges conduct that, even if true, is not prejudicial to the effective and expeditious administration of the business of the courts,” JCDR 11(c)(1)(A). For that reason, pursuant to Chapter 16 of Title 28 U.S.C. § 352(b)(1)(A)(iii) and

Rule 11(c)(1)(A) of the Rules for Judicial-Conduct and Judicial-Disability Proceedings of the Judicial Conference of the United States, this Complaint is **DISMISSED**.

A handwritten signature in black ink, appearing to read "S. Lane", is written above a horizontal line.

Chief Judge