

MAY 17 2022

David J. Smith
Clerk

CONFIDENTIAL

Before the Chief Judge of the
Eleventh Judicial Circuit

Judicial Complaint No. 11-22-90047

IN THE MATTER OF A COMPLAINT FILED BY:

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

ORDER

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

Background

The record shows that in December 2013 three creditors filed an involuntary petition for Chapter 7 bankruptcy against an individual (“the Debtor”). In March 2014 the Subject Judge issued an order granting relief under Chapter 7, and a Chapter 7 trustee was appointed the next month. After various proceedings, in March 2015 the trustee filed a Motion to Compromise Controversy, seeking an order approving a settlement the trustee had reached with the Debtor and another individual.

On April 13, 2015, _____, Complainant’s father and a secured creditor, filed an opposition to the trustee’s motion, contending he and other creditors were owed money from loans made to an entity controlled by the Debtor and alleging the Debtor had made misrepresentations and engaged in fraud. On April 15, 2015, _____ filed an amended opposition, and the document was restricted “per chambers.” In November 2017 the trustee filed an objection to _____ claim, and the next month, the Subject Judge entered an order sustaining the objecting and allowing the claim as a late-filed general unsecured claim. After additional proceedings, in May 2019 the Subject Judge entered an order granting the Debtor a discharge.

Complaint

Complainant asserts the Debtor in the above-described case engaged in criminal conduct “before, during, and after” the case, and that the “criminal conduct is clearly evidenced in records

appearing in the public domain, including legal documents filed in this matter.” Complainant states the Debtor and his associates perpetrated a fraudulent scheme and used the bankruptcy system to conceal their criminal conduct, and that “officers of a federal court” breached their oaths of office, “shirked their legal duties to perform adequate due diligence,” and “seemingly placed their own pecuniary interest and other personal interests above their respect for the rule of law.”

Complainant then states he has a “reasonable belief” that the Subject Judge failed to comply with 18 U.S.C. § 3057(a)¹ and he “reasonably believe[s]” the Subject Judge violated “the letter and spirit” of 18 U.S.C. § 4.² Complainant states he also believes the

¹ That provision states:

Any judge . . . having reasonable grounds for believing that any violation under chapter 9 of this title or other laws of the United States relating to insolvent debtors, receiverships or reorganization plans has been committed, or that an investigation should be had in connection therewith, shall report to the appropriate United States attorney all the facts and circumstances of the case, the names of the witnesses and the offense or offenses believed to have been committed. Where one of such officers has made such report, the others need not do so.

² That provision states:

Whoever, having knowledge of the actual commission of a felony cognizable by a court of the United States, conceals and does not as soon as possible make known the same to some judge or other person in civil or military authority under the

Subject Judge “failed to perform additional adjudicative and administrative responsibilities of office necessary to fairly, impartially and diligently perform her legal duties.” He asserts her “bias stems from breaching the judicial standards” in multiple “judicial canons.”

Complainant contends that the U.S. Trustee and its representative had access to documentation of the Debtor’s illicit conduct, and that the documents gave or should have given the Subject Judge reasonable cause to suspect that the Debtor engaged in criminal activity before and during the bankruptcy case. He states that, “for unknown reasons,” the Subject Judge failed to take appropriate steps to address the Debtor’s “overt professional misconduct,” and failed to address that the Debtor engaged in conduct that raised a substantial question as to his honesty, trustworthiness, and fitness as a lawyer. He contends the Subject Judge’s “double standard” suggests impropriety and the appearance of impropriety.

Complainant then states that his elderly father was one of many “Ponzi scheme victims” who were defrauded by the Debtor, and he indicates that he filed the April 14, 2015, amended opposition on behalf of his father. Complainant states that, “without any meaningful deliberation,” the Subject Judge rejected the filing without mentioning his father’s right to be heard or encouraging Complainant to hire an attorney, and that the Subject Judge did not ask any probative questions about the facts included in the

United States, shall be fined under this title or imprisoned not more than three years, or both.

opposition. He also states the Subject Judge “went out of her way to make a deliberate veiled threat to report” him to the state bar for the unauthorized practice of law. He asserts the Subject Judge’s decision to restrict his opposition motion “to chambers is inconsistent with the common law right to inspect and copy judicial records” Complainant also takes issue with the actions of individuals other than the Subject Judge, and he states he hopes an error in the service matrix which caused him not to receive notice of a creditor’s meeting will be “more fully explored.”

Discussion

Judicial-Conduct Rule 4(b)(1) provides in part that “[c]ognizable misconduct does not include an allegation that calls into question the correctness of a judge’s ruling, including a failure to recuse.” The Commentary on Rule 4 explains the rationale for this rule as follows:

Rule 4(b)(1) tracks the Act, 28 U.S.C. § 352(b)(1)(A)(ii), in excluding from the definition of misconduct allegations “[d]irectly related to the merits of a decision or procedural ruling.” This exclusion preserves the independence of judges in the exercise of judicial authority by ensuring that the complaint procedure is not used to collaterally call into question the substance of a judge’s decision or procedural ruling. Any allegation that calls into question the correctness of an official decision or procedural ruling of a judge — without more — is merits-related.

To the extent Complainant's allegations concern the substance of the Subject Judge's official actions, findings, rulings, and orders in the above-described case, the allegations are directly related to the merits of the Subject Judge's decisions or procedural rulings. Complainant's remaining claims are based on allegations lacking sufficient evidence to raise an inference that the Subject Judge acted with an illicit or improper motive, violated her oath of office, committed a crime, was biased, or otherwise engaged in misconduct.

The allegations of this Complaint are "directly related to the merits of a decision or procedural ruling," under Judicial-Conduct Rule 11(c)(1)(B), and the Complaint "is based on allegations lacking sufficient evidence to raise an inference that misconduct has occurred or that a disability exists," under Judicial-Conduct Rule 11(c)(1)(D). For those reasons, this Complaint is **DISMISSED**.

/s/ William H. Pryor Jr.
Chief Judge