

FILED

JUL 22 2014

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

**JUDICIAL COUNCIL
OF THE NINTH CIRCUIT**

**IN RE COMPLAINT OF
JUDICIAL MISCONDUCT**

Nos. 12-90048 and 12-90154

ORDER

KOZINSKI, Chief Judge:

Complainant alleges that a district judge created a “conflict of interest” by filing for bankruptcy in his own district. But the judge was required to file for bankruptcy in the district where he has his residence. See 28 U.S.C. § 1408. Any allegation regarding a failure to recuse would have been properly directed to the bankruptcy judge, and there is no reason to believe that the bankruptcy judge should have disqualified himself under Code of Conduct Canon 3(C). This claim is dismissed as unfounded. See 28 U.S.C. § 352(b)(1)(A)(iii); Judicial-Conduct Rule 11(c)(1)(D).

Complainant further alleges that the district judge may have influenced the United States Trustee to withdraw a presumption of abuse. Complainant claims that the withdrawal “appears to indicate that the statement of presumed above [sic] improvidently was discharged.” But complainant’s “vague insinuations do not provide the kind of objectively verifiable proof that we require.” In re Complaint

of Judicial Misconduct, 569 F.3d 1093, 1093 (9th Cir. 2009). This claim is dismissed as baseless.

Complainant also claims that it was judicial misconduct for the judge not to vacate his home in a timely manner when requested to do so by the trustee. But the judge did vacate his home when ordered to do so by the bankruptcy judge. It wasn't misconduct for the judge to await an order rather than vacating before he was ordered to do so. Judges have no greater obligations than other litigants when they participate in court proceedings. This claim must be dismissed because no misconduct is alleged. See Judicial-Conduct Rule 11(c)(1)(A); see also In re Complaint of Judicial Misconduct, 631 F.3d 961, 963 (9th Cir. Jud. Council 2011).

Finally, complainant's allegation that the district judge undervalued his home is dismissed because it is directly related to the merits of the bankruptcy proceedings. See 28 U.S.C. § 352(b)(1)(A)(ii); Judicial-Conduct Rule 11(c)(1)(B); In re Complaint of Judicial Misconduct, 632 F.3d 1287, 1288 (9th Cir. Jud. Council 2011).

DISMISSED.