

FILED

MAY 26 2021

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

**JUDICIAL COUNCIL
OF THE NINTH CIRCUIT**

**IN RE COMPLAINT OF
JUDICIAL MISCONDUCT**

No. 20-90160

ORDER

THOMAS, Chief Judge:

A complaint of judicial misconduct has been filed against a bankruptcy judge. Review of this complaint is governed by the Rules for Judicial Conduct and Judicial-Disability Proceedings (“Judicial-Conduct Rules”), the federal statutes addressing judicial conduct and disability, 28 U.S.C. § 351 et seq., and relevant prior decisions of the Ninth Circuit Judicial Council. In accordance with these authorities, the names of complainant and the subject judge[s] shall not be disclosed in this order. See Judicial-Conduct Rule 11(g)(2).

The Judicial Conduct and Disability Act provides a remedy if a federal judge “has engaged in conduct prejudicial to the effective and expeditious administration of the business of the courts.” 28 U.S.C. § 351(a). A chief judge may dismiss a complaint if, following review, he or she finds it is not cognizable under the statute, is directly related to the merits of a decision or procedural ruling, or is frivolous or lacks sufficient evidence to raise an inference of misconduct.

See 28 U.S.C. § 352(b)(1)(A)(i)-(iii). Judicial misconduct proceedings are not a substitute for the normal appellate review process, and may not be used to seek reversal of a judge's decision, to obtain a new trial, or to request reassignment to a different judge.

This misconduct complaint arises from a bankruptcy case in which complainant is a creditor. After filing numerous documents, including notices of appearance in which complainant misrepresented himself as a special agent appearing on behalf of various state and government agencies, the bankruptcy judge imposed sanctions against complainant for filing frivolous and misleading documents. Complainant alleges that he submitted letters of credit to pay for the sanctions amount, but the court did not issue a receipt or return the letters. A review of the record reveals that this letter was another frivolous and misleading document. In the letter, complainant states he is an authorized representative of the United States, and the United States Administrative Office established the letter of credit for the sanctions amount. This allegation is dismissed as non-cognizable and for failure to allege misconduct. See 28 U.S.C. § 352(b)(1)(A)(iii); In re Complaint of Judicial Misconduct, 647 F.3d 1181, 1182 (9th Cir. Jud. Council 2011) (“Because complainant doesn’t allege conduct ‘prejudicial to the effective and expeditious administration of the business of the courts,’ her

charges must be dismissed”); Judicial-Conduct Rules 11(c)(1)(A).

Next, complainant alleges that the judge breached his fiduciary duty and censored complainant with his sanctions order. To the extent complainant challenges the sanctions order, this allegation must be dismissed as it relates to the merits of the case. See 28 U.S.C. § 352(b)(1)(A)(ii); In re Complaint of Judicial Misconduct, 579 F.3d 1062, 1064 (9th Cir. Jud. Council 2009); Judicial-Conduct Rule 11(c)(1)(B).

Finally, complainant alleges that the court clerks joined the judge’s breach of fiduciary duty. To the extent complainant raises allegations against court staff, such allegations are dismissed because this misconduct complaint procedure applies only to federal judges. See In re Complaint of Judicial Misconduct, 632 F.3d 1287, 1288 (9th Cir. Jud. Council 2011); Judicial-Conduct Rule 4.

DISMISSED.