

UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION

In re)
)
LAKISHA PARKER JORDAN,) Case No. 6:09-bk-13431-KSJ
) Chapter 7
Debtor.)
_____)

In re)
)
CHRISTOPHER V. SHIRLEY,) Case No. 6:09-bk-10467-KSJ
) Chapter 7
Debtor.)
_____)

In re)
)
DARLENE ADA BASKELL,) Case No. 6:09-bk-14558-KSJ
) Chapter 7
Debtor.)
_____)

**ORDER REPRIMANDING AND PLACING
ATTORNEY J. CHRISTOPHER RICH ON A ONE-YEAR PROBATION**

On November 10 and 20, 2009, the Court heard evidence on Orders to Show Cause issued in each of the referenced cases to a local attorney, J. Christopher Rich, asking him to explain questionable legal practices and to show cause why he should not be reprimanded or suspended, either temporarily or permanently, from practicing before the Court. Pursuant to Local Rule 2090-2(a) of the Local Rules for the United States Bankruptcy Court for the Middle District of Florida,¹ all attorneys practicing before this Court are deemed familiar with and shall

¹ On March 20, 2009, the United States Bankruptcy Court for the Middle District of Florida enacted the referenced amendments to Local Rule 2090-2 in Administrative Order FLMB-2009-3. The Administrative Order was entered in connection with the Court's desire to formalize *sua sponte* disciplinary procedures and to act upon the recommendation of the American Bar Association that "the Federal Rules of Bankruptcy Procedure...be amended...to clarify the authority of the bankruptcy courts to discipline attorneys...and require bankruptcy courts to adopt and enforce local disciplinary rules with respect to attorneys practicing before them." American Bar Association, Report and Recommendation 117 at 2 (adopted August, 2006).

be governed by the local rules and “subject to the disciplinary powers of the Court.” Subsection 2(b) further provides that “[a]ny attorney who appears in this Court...may, after hearing and for good cause shown, be reprimanded, suspended (temporarily or permanently) from practice before this Court, or subjected to such other discipline as a judge of this Court may deem proper.”

Although the Court has had numerous concerns with Rich’s representation over the last two years, and the specific facts of each individual case differ, the primary issue is the same—Rich fails to timely comply with court orders to the prejudice of his clients and unduly burdening court staff. Rich repeatedly fails to timely file documents required pursuant to Bankruptcy Code² Section 521(a)(1), in particular required payment advices or other evidence of the debtor’s income. 11 U.S.C. § 521(a)(1)(B)(iv). The Court’s usual practice is to provide notice to debtors and their attorneys of the deficiency and provide at least 10 days for the debtors to cure the problem. Rich rarely fixes the problem within the allowed time. As a result, his clients’ bankruptcy cases are dismissed. Rich then re-files new cases for his clients, usually with the same deficiencies. Once again, the Court issues notices of deficiencies, and the cycle continues.

In Ms. Jordan’s case, Rich filed a *third* bankruptcy³ case for her on September 10, 2009. He failed to timely file the required payment advices and declaration, and, on September 13, 2009, the Court issued Orders of Impending Dismissal, requiring compliance by September 24, 2009 (Doc. Nos. 4 and 5). Rich belatedly filed the declaration on September 27, 2009, but he failed to file any payment advices at that time.⁴ The Court entered an Order Dismissing Case on October 22, 2009 (Doc. No. 12), and later issued the Order to Show Cause (Doc. No. 14). In

² Unless otherwise stated, all references to the Bankruptcy Code herein refer to Title 11 of the United States Code.

³ Rich filed two prior bankruptcy cases on behalf of Ms. Jordan within the last year or so. On September 3, 2008, Rich filed the first case, 6:08-bk-7480-KSJ, but he failed to timely file payment advices. The first case was dismissed on September, 22, 2008. On November 24, 2008, Rich filed a second case for Ms. Jordan, 6:08-bk-11155-KSJ. Although Rich again failed to initially file payment advices as well as required declarations, he later complied. The second case was dismissed because Ms. Jordan failed to appear at the scheduled meeting of creditors with her Chapter 7 trustee.

⁴ Rich did file a Notice of Destroyed Payment Advices on September 27, 2009 (Doc. No. 11). In the notice, he stated that he would obtain and file duplicate advices. None were ever filed.

response, Rich filed a Motion to Reinstate Case (Doc. No. 16), and, finally, he filed the payment advices on November 8, 2009, two weeks after the case was dismissed (Doc. No. 17).

In reviewing all of the cases filed by Rich during 2008 and 2009, at least 28 cases were dismissed for failure to file documents. Two cases were dismissed for failing to file just the needed declarations. Seven cases were dismissed for failing to file payment advices. Nineteen cases were dismissed because both payment advices and declarations were not filed. Rather than fix his errors, Rich typically would file new cases for many of his clients, usually repeating the same deficiencies. Attached as Exhibit A is a chart that shows Rich's pattern of failing to file needed documents and his practice of refileing cases for his clients, never really fixing the problems or curing the deficiencies.⁵

Rich's lax legal practices have caused the Court, and particularly the Clerk's Office employees, unjustified extra work. Rich rarely files documents timely. In each deficient case, the Clerk must issue an order of deficiency or impending dismissal. Rather than fix the problem and timely comply with an order of the Court, Rich files a new bankruptcy case on behalf of his client requiring the Clerk to open and process the new case, again with the same or similar deficiencies. It often takes Rich three cases to obtain a simple discharge for a debtor in a routine Chapter 7 case. The extra burden placed on the Court and the Clerk is unacceptable.

Moreover, Rich's clients wait for months, sometimes years, to get routine discharges, which they desperately need to resume a normal financial life. They cannot get credit or move on to a brighter financial future because Rich repeatedly and routinely fails to process their cases timely or professionally. In addition, the Court suspects that these same clients may suffer future harm to their credit standing because they now have two or three bankruptcy filings on their

⁵ In addition to Ms. Jordan, Rich has filed three bankruptcy cases on behalf of Loyd Nowling and Tina Marie Chilson (6:08-bk-7843-ABB, 6:09-bk-791-ABB, and 6:09-bk-4257-ABB); Mark Anthony Marion (6:08-bk-7828-ABB, 6:08-bk-12105-ABB, and 6:09-bk-183-ABB); Steven and Ashlee Westbrook (6:07-bk-6863-ABB, 6:08-bk-787-ABB, and 6:08-bk-1781-ABB); and Bonnie Lee Melley (6:07-bk-2942-KSJ, 6:07-bk-4272-KSJ, and 6:08-bk-1629-KSJ).

credit report rather than the single filing they needed. Rich is harming his clients both directly, by making them wait for their discharges, and indirectly, by adding unneeded bankruptcies to their credit history.

The Court also was concerned that Rich was charging his clients extra legal fees and filing fees for each of the successive bankruptcies he filed on their behalf. In each of the repeat filings, Rich typically just re-files the disclosures of compensation he filed in the prior case or cases. For example, in Ms. Jordan's case, she incurred three separate \$299 filing fees, and was required to pay a total of \$897. In addition, Rich filed identical disclosures of compensation in each of her three cases indicating that he received \$676 per case, for a total of \$2,028. At the evidentiary hearing, Rich stated that he does not charge his clients for either additional legal fees or filing fees for successive cases. However, no client testimony confirmed this statement. In any event, Rich's disclosures are inaccurate and misleading.

In response to the Court's concerns, Rich indicated that some of these problems were attributable to health issues he faced after a violent attack outside his office early in 2009. He lost sight in one eye and was required to have at least two separate surgeries. Although the Court sympathizes with Rich about his injuries, they do not excuse his refusal to timely comply with Court orders beginning as early as 2007—long before the attack—and continuing unabated long after the attack. Moreover, the Court notes that Rich has filed over 60 new bankruptcy cases since March 24, 2009, all of which were filed after the attack. If the attack was debilitating and prevented Rich from competently representing his clients, he should never have filed these cases and certainly then cannot rely on his attack to excuse his behavior.

Rich repeatedly has failed to timely comply with orders of this Court to file pleadings needed to efficiently process his cases. He fails to correct the errors and files new cases containing similar mistakes. He creates extraordinary amounts of additional work for the Clerk.

More importantly, he has prejudiced his clients by delaying receipt of their discharge and by detrimentally affecting their future creditworthiness.

Rich has failed to show cause which justifies his lackadaisical conduct. Although everyone makes mistakes and occasionally misses deadlines, Rich has demonstrated a consistent pattern of routinely and intentionally ignoring orders. The practice must stop. His behavior is sanctionable.

The question then becomes what sanctions are appropriate? At a minimum, Rich is reprimanded for his conduct and is admonished to stop this fruitless and contemptuous behavior. From today forward, Rich is directed to timely comply with orders of this Court. If he receives an Order of Impending Dismissal directing him to file required pleadings within a specified time, he needs to timely file the requested information or a statement explaining the reason he cannot comply.

As to whether Rich should be allowed to continue practicing before the Court, full suspension, at this juncture, seems excessive. Rather, the Court will place Rich on a one-year probationary period to give him the opportunity to consistently demonstrate he can timely comply with orders of this Court and effectively represent his clients. In order to assess Rich's adherence to the Court's directives, the Court will schedule the following four status conferences: **March 2, 2010, at 11:00 a.m.; June 8, 2010, at 11:00 a.m.; September 14, 2010, at 11:00 a.m.; and December 7, 2010, at 11:00 a.m.** Prior to each status conference, the Clerk is directed to prepare a report indicating the status of each of Rich's open cases and whether he is timely complying with orders of the Court. Further, prior to dismissing any open case filed by Rich for failure to comply with an order, the Clerk is directed to inform the assigned judge of the problem to determine if Rich should disgorge any fees received and to otherwise protect the interest of the debtors.

The Court will restore Rich to full, non-probationary practice status in January 2011 if he demonstrates compliance. If, however, during the year, the Court continues to observe the same problems witnessed over the last two years, the Court will revoke Rich's probationary status and suspend him from further practice privileges. Rich has a choice—to comply with orders of the Court or to face the consequences.

Lastly, in an attempt to assist the debtors involved in the referenced cases, the Court will address their situations individually. In the case of Ms. Jordan, the Court, by separate order, will grant her Motion to Reinstate Case (Doc. No. 16). In the case of Mr. Shirley, the Court, by separate order, will conditionally deny the Chapter 7 trustee's Motion to Dismiss (Doc. No. 15) and direct both Rich and the debtor to attend a rescheduled meeting of creditors. In the case of Ms. Baskell, Rich has not yet filed the required declaration (Doc. No. 12). Rich is directed to file the needed declaration no later than January 29, 2010, to attend the rescheduled meeting of creditors with Ms. Baskell, and to otherwise assist his client in obtaining a discharge.

DONE AND ORDERED in Orlando, Florida, on January 14, 2010.

/s/Karen S. Jennemann

KAREN S. JENNEMANN
United States Bankruptcy Judge

Copies provided to:

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Debtor: Christopher V. Shirley, 1953 Laurel Avenue, Deltona, FL 32725

Debtor: Darlene Ada Baskell, 1104 Cobblestone Avenue, Deltona, FL 32725

Trustee: Robert E. Thomas, P.O. Box 5075, Winter Park, FL 32793-5075

Trustee: Leigh R. Meininger, POB 1946, Orlando, FL 32802-1946

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