

**UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION**

In re:

DAVID RADES,

Debtor.

Case No. 6:10-bk-02736-ABB

Chapter 7

ORDER

This matter came before the Court for a status conference on April 5, 2010 at which the Debtor David Rades appeared *pro se*. The Court advised the Debtor the Court's records reflect he has filed seven bankruptcy cases in this Court since 2003. The Debtor expressed surprise and disputed the accuracy of the Court's records. He represented to the Court at the hearing:

- (i) He has filed only two bankruptcy cases and each was a Chapter 13 case, with the first case filed in 2003 with the assistance of attorney Richard Baker.
- (ii) He successfully completed the confirmed plan and received a discharge in 2003.
- (iii) He filed the second Chapter 13 case to address mortgage arrearages relating to his residence located at 13809 River Path Grove, Orlando, Florida 32826.¹
- (iv) He met with an attorney in 2009 and discussed filing a Chapter 7 bankruptcy case. He paid the attorney \$750.00, but did not authorize the attorney to file a petition on his behalf.
- (v) He has no knowledge of the filing of the above-captioned Chapter 7 case and did not authorize its filing.
- (vi) He suggested the filings, other than the two Chapter 13 filings, are possibly fraudulent filings and he may be the victim of identity theft.

¹ Court records reflect the second case filed in the name of David Rades (which was a Chapter 7 case) resulted in a discharge in 2006. Court records indicate the second Chapter 13 case filed in David Rades's name (which was the third case overall) was filed in 2008 and was dismissed for failure to provide financial information to the Chapter 13 Trustee.

The Court's CM/ECF system reflects the Debtor, from 2003 through 2010, filed the above-captioned Chapter 7 case, six prior individual bankruptcy cases, and instituted an adversary proceeding against the Internal Revenue Service. Each case: (i) was filed in the Debtor's name, David Rades or David Norman Rades; (ii) was filed using the same Social Security Number; and (iii) lists the same address of 13809 River Path Grove, Orlando, Florida 32826 (the "Property") as the Debtor's address of record.

The Debtor's seven bankruptcy cases are:

(1) **In re David Rades, Case No. 6:03-bk-04548-ABB, Chapter 13:**

- (i) Filed on April 24, 2003 through counsel Charles W. Price ("Price").
- (ii) The Petition includes the Debtor's distinctive signature.
- (iii) CitiMortgage, the holder of the first-priority mortgage encumbering the Property, filed a secured proof of claim for \$134,599.77 and sought relief from the automatic stay early in the case.
- (iv) The Chapter 13 plan was confirmed on November 25, 2003.
- (v) The Court dismissed the case on March 3, 2005 pursuant to the Debtor's *ore tenus* motion to dismiss the case. The case was closed on May 17, 2005.
- (vi) The Debtor did not receive a discharge.

(2) **In re David Rades, Case No. 6:05-bk-14992-ABB, Chapter 7:**

- (i) Filed on October 13, 2005 through Price.
- (ii) The Petition was signed by electronic signature.
- (iii) The Petition did not disclose the Debtor's previous Chapter 13 case.
- (iv) The Chapter 7 Trustee declared the case a no asset case.
- (v) The Debtor instituted an adversary proceeding, AP No. 6:05-ap-00339-ABB, against the Internal Revenue Service. The adversary proceeding sought to have the Debtor's unpaid federal income taxes from tax years

1998 through 2001 deemed dischargeable. The Court entered a Judgment in the Debtor's favor for the 1998 and 1999 taxes.

- (vi) The Debtor received a discharge on March 14, 2006 and the case was closed on April 3, 2007.

(3) **In re David Rades, Case No. 6:08-bk-3745-ABB, Chapter 13:**

- (i) Filed on May 8, 2008 through Price.
- (ii) The Petition was signed by electronic signature.
- (iii) The Petition disclosed the Debtor's prior Chapter 13 and Chapter 7 cases.
- (iv) The Court dismissed the case on August 13, 2008 for the Debtor's failure to provide financial information to the Chapter 13 Trustee. The case was closed on November 12, 2008.

(4) **In re David Rades, 6:08-bk-10143-ABB, Chapter 13:**

- (i) Filed *pro se* on October 30, 2008.
- (ii) The Petition contains the same distinctive signature as the Petition in the first case.
- (iii) The Petition listed two, not all three, of the Debtor's prior bankruptcy cases. It did not disclose the case names, case numbers, or filing dates of the two listed cases.
- (iv) Only a Petition and Social Security Number statement were filed. No other required papers were filed.
- (v) The Court entered an Order directing the Debtor to file the required bankruptcy papers by November 14, 2008. The Court also issued a Notice on November 17, 2008 advising the Debtor he was ineligible to receive a Chapter 13 discharge pursuant to 11 U.S.C. Section 1328(f) because he received a discharge in 2006 in Case No. 6:05-bk-14992-ABB.
- (vi) The Debtor did not abide by the Order directing him to file the requisite bankruptcy papers and the Court dismissed the case on November 20, 2008. The case was closed on March 5, 2009.

(5) **In re David Norman Rades, Case No. 6:09-bk-07852, Chapter 7:**

- (i) Filed *pro se* on June 5, 2009.
- (ii) The Debtor did not pay a filing fee. He filed an application to proceed *in forma pauperis*.
- (iii) The Petition contains the same distinctive signature as the first and fourth bankruptcy petitions.
- (iv) The Petition does not disclose any of the Debtor's prior bankruptcy cases.
- (v) No schedules or other required bankruptcy papers were filed.
- (vi) U.S. Bank, N.A., the holder of the first-priority mortgage on the Property, was granted relief from the automatic stay pursuant to the Order entered on August 10, 2009.
- (vii) The Court issued an Order to Show Cause instructing the Debtor to appear on October 5, 2009 and show cause why the case should not be dismissed pursuant to 11 U.S.C. Section 727(a)(8), which prohibits the Debtor from seeking a second discharge in a case commenced within eight years of the date a prior case was filed. The Debtor did not appear at the hearing.
- (viii) The case was dismissed on November 9, 2009 and was closed on November 23, 2009.

(6) **In re David Rades, 6:09-bk-16876-ABB, Chapter 7:**

- (i) Filed *pro se* on November 5, 2009. It was filed while the previous case, Case No. 6:09-bk-16876-ABB, was pending and on the same date the show cause hearing was held in the previous case.
- (ii) The Debtor did not pay a filing fee. He filed an application to proceed *in forma pauperis*.
- (iii) The Petition contains the same distinctive signature as the first, fourth, and fifth bankruptcy petitions.
- (iv) The Petition does not disclose any of the Debtor's prior bankruptcy cases.
- (v) No schedules or other required bankruptcy papers were filed. The Court issued a Notice of Deficient Filing. The Debtor did not comply with the Notice.

- (vi) The case was dismissed on November 24, 2009 and was closed on December 28, 2009.

(7) **In re David Rades, 6:10-bk-02736-ABB Chapter 7:**

- (i) The current case was filed *pro se* on February 24, 2010.
- (ii) The Debtor did not pay a filing fee. He submitted an application to proceed *in forma pauperis*.
- (iii) The Petition contains the same distinctive signature as the first, fourth, fifth, and sixth petitions.
- (iv) The Petition does not disclose any of the Debtor's prior bankruptcy cases.
- (v) No schedules or other required bankruptcy papers have been filed. The Court issued a Notice of Deficient Filing on February 25, 2010 (Doc. No. 5) requiring the Debtor to file the requisite documents within fourteen days of the Petition Date.
- (vi) The Debtor has not complied with the Notice.
- (vii) U.S. Bank has filed a Motion seeking relief from the automatic stay as to the Property.

Conclusion

The Debtor's representations were inconsistent with Court records. Seven bankruptcy cases and an adversary proceeding have been filed in this Court since 2003. These filings routinely failed to: (i) disclose prior bankruptcy cases in his petitions; (ii) file the requisite bankruptcy papers; and (iii) pay the requisite filing fees. The serial bankruptcy filings appear to have been made with the intent to thwart the first mortgage holder's attempts to foreclose on the Property.

The Debtor received a Chapter 7 discharge on March 14, 2006 in Case No. 6:05-bk-14992, which he filed on October 13, 2005. The above-captioned bankruptcy case was filed on February 24, 2010, which is within eight years of the petition date of Case No. 6:05-bk-14992.

The Debtor is not eligible for a discharge in the pending case pursuant to 11 U.S.C. Section 727(a)(8). This case is due to be dismissed for cause pursuant to 11 U.S.C. Sections 727(a)(8) and 707(a).

Accordingly, it is

ORDERED, ADJUDGED and DECREED that the Debtor's above-captioned case is hereby **DISMISSED**.

Dated this 19th day of April, 2010.

/s/ Arthur B. Briskman
ARTHUR B. BRISKMAN
United States Bankruptcy Judge