

ORDERED.

Dated: August 05, 2016



Catherine Peek McEwen  
United States Bankruptcy Judge

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

IN RE:

CHAPTER 7

JOSE MIGUEL DUQUE,  
\_\_\_\_\_ /

CASE NO. 8:16-bk-00969-CPM

**ORDER DENYING MOTION TO EXPUNGE  
BANKRUPTCY RECORD DUE TO MISTAKE**

THIS CASE came on for consideration of the Debtor's motion asking the Court to expunge the Debtor's bankruptcy record due to mistake (the "Motion") (Doc. 24). Bankruptcy filings are public records and cannot be expunged or even redacted except in limited circumstances. Section 107 of the Bankruptcy Code states in part, "Except as provided in subsections (b) and (c) and subject to section 112, a paper filed in a case under this title and the dockets of a bankruptcy court are public records and open to examination by an entity at reasonable times without charge." 11 U.S.C. § 107(a). Under subsection (b) of § 107, at the request of a party in interest, the bankruptcy court may protect a trade secret or confidential research, development, or commercial information. Subsection (b) also provides for the protection of scandalous or defamatory matter contained in a paper filed in a bankruptcy case. Subsection (c) of § 107 authorizes the bankruptcy court to protect an individual, for cause, with respect to certain types of

information that might otherwise create an undue risk of identity theft or other unlawful injury to an individual or the individual's property. Similarly, Rule 9037, Federal Rules of Bankruptcy Procedure, authorizes the bankruptcy court to redact certain personal information from a bankruptcy record including a debtor's social security number, birthdate, and financial account numbers. *See also*, 11 U.S.C. § 112 (prohibiting disclosure of the names of minor children).

On February 5, 2016, the Debtor filed a Voluntary Petition under Chapter 7 of the United States Bankruptcy Code (Doc. 1). The Court Clerk subsequently filed a Notice of Incomplete and/or Deficient Filing (the "Notice") (Doc. 5), which described deficiencies with respect to the petition, schedules and/or other papers filed by the Debtor and gave the Debtor through February 19, 2016, to cure the deficiencies. On February 23, 2016, the Court entered an order (Doc. 8) dismissing this case without entry of a discharge for failure to comply with the Notice. In response to the dismissal, the Debtor filed a Motion for Reconsideration (Doc. 11), which the Court heard on April 11, 2016. Following the hearing, the Court entered an order (Doc. 22) denying reconsideration, and this case was closed on April 28, 2016. Nearly two months later, the Debtor filed the current Motion, which asks the Court to expunge the record of this bankruptcy case because the Debtor has realized that he filed the case by mistake. Neither §§ 107 or 112 nor Rule 9037 provides grounds for removing a bankruptcy filing from the public records or redacting those records in any way due to a debtor's strategic mistake.

In rare instances, a bankruptcy court may order a bankruptcy filing expunged where someone other than the debtor filed a petition on the debtor's behalf without the debtor's knowledge or consent. *See, e.g., In re John Copes*, Case No. 8:16-bk-01897-CPM (debtor's counsel filed case in error); *In re Michael Ferrera*, Case No. 8:13-bk-15976-CPM (debtor did

not sign or file the Petition, nor did he authorize anyone else to sign or file it on his behalf). By contrast, the record in the instant case demonstrates that the Debtor intentionally filed this case and even moved for reconsideration of its dismissal. The fact that the Debtor believes, in hind sight, that the filing was a strategic mistake on his part does not provide grounds to grant the requested relief. Accordingly, it is

**ORDERED** that the Motion is DENIED.

The Clerk is directed to serve a copy of this order on the Debtor and any interested non-CM/ECF filers.