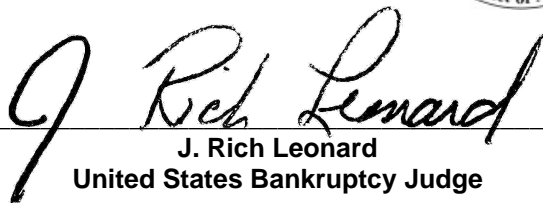




SO ORDERED.

SIGNED this 13 day of June, 2012.


J. Rich Leonard
United States Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NORTH CAROLINA
RALEIGH DIVISION

IN RE:

MELANIE P. MANGUM,

DEBTOR.

CASE NO. 11-04505-8-JRL
CHAPTER 13

ORDER

This matter arose from the court's concern that two bankruptcy filings in Melanie P. Mangum's name were made without her knowledge or authority. The court instructed the Chapter 13 Trustee ("trustee") and the Bankruptcy Administrator ("BA") to undertake a thorough investigation of the circumstances surrounding the filings. Following the investigation, the court held a hearing on June 6, 2012 in Raleigh, North Carolina to consider the trustee's report and recommendations. The BA also filed a motion for sanctions against Donald Mangum.

BACKGROUND

The facts of this case are both extensive and bizarre.¹ The present matter concerns two chapter 13 petitions that were filed in 2011, naming Melanie P. Mangum ("Ms. Mangum") as the

¹ For a complete statement of the facts, the court adopts the Amended Trustee's Report and Recommendation. See Amended Trustee's Report and Recommendations, In re Mangum, No. 11-04505-8-JRL (Bankr. E.D.N.C. June 8, 2012) (docket entry 97).

debtor.² A joint investigation by the BA and the trustee determined that Donald Mangum (“Mr. Mangum”), the debtor’s husband, filed the petitions in her name without her authorization as part of an outrageous pattern of conduct and an abuse of this court’s jurisdiction.

At the November 10, 2011 hearing on the trustee’s motion to convert or dismiss the second bankruptcy filing at which neither Mr. nor Ms. Mangum appeared, the trustee raised several concerns with the court. First, he had never seen a copy of the power of attorney under which Mr. Mangum was acting when he retained The Law Offices of Dye & Weatherly, PLLC (“Dye & Weatherly”) to represent his wife. Second, both Mr. and Ms. Mangum had multiple previous bankruptcy filings. Third, the trustee believed Ms. Mangum held unscheduled, unencumbered real property at Carolina Beach after viewing her Facebook page, which stated one of her favorite activities was spending time at her beach house. The trustee admitted into evidence a copy of the deed to the Carolina Beach property that was in Ms. Mangum’s sole name.

The court expressed its reservations that Ms. Mangum had never appeared before the court. Mr. Mangum had previously testified in his own bankruptcy case before Judge Small two years earlier.³ In that case, he claimed that his wife was terminally ill with only days to live. Rather than allowing the trustee’s motion to convert this case to chapter 7, the court asked the trustee to search the public records for Ms. Mangum’s power of attorney and investigate whether Mr. Mangum had the authority to file the case on her behalf.

² In re Mangum, 11-01474-8-JRL (Bankr. E.D.N.C. filed Feb. 28, 2011; dismissed Apr. 15, 2011); In re Mangum, 11-04505-8-JRL (Bankr. E.D.N.C. filed June 10, 2011).

³ In re Mangum, 09-02088-8-ATS (Bankr. E.D.N.C. filed Mar. 16, 2009; dismissed July 20, 2009).

After searching the Wake County Registry, the trustee filed an affidavit showing that on March 17, 1995, Ms. Mangum filed a revocation of all previous powers of attorney, thus revoking one naming her husband as attorney-in-fact. In the same document, she named her sister, Melinda Penny Canady, as her new attorney-in-fact.

With this information, the BA mailed subpoenas to Mr. and Ms. Mangum on November 23, 2011, directing them to appear at the BA's office on December 2, 2011. The trustee received a handwritten letter on November 30, 2011. The words "John Logan Only" appear on the outside of the envelope.⁴ The letter bears the handwritten signature of "Donald Mangum." Mr. Mangum requested a meeting with the trustee to discuss "terrible mistakes" made in the chapter 13 cases filed on behalf of his wife. The trustee responded that he would only meet with Mr. Mangum after he complied with the subpoenas issued by the BA.

The BA and trustee held separate Rule 2004 examinations of both Mr. and Ms. Mangum in January 2012. Ms. Mangum testified under oath that she did not file or authorize the filing of either bankruptcy petition. Furthermore, she was unaware of either case until she received the trustee's motion to dismiss in September. Her husband held a valid, unrecorded power of attorney that would become effective if she became incapacitated or incompetent. Nevertheless, at no point since the execution of the power of attorney had she become incapacitated or incompetent. Ms. Mangum also testified that she had never communicated with Dye & Weatherly about the bankruptcy case.

During the course of his testimony, Mr. Mangum was represented by counsel, who advised him about his Fifth Amendment rights in response to the BA and trustee's questions. He

⁴ Mr. Logan is a Chapter 13 Trustee for the Eastern District of North Carolina.

admitted to completing the February and June 2011 petitions and signing his wife's name without her permission. He stated that he collected all the mail so that Ms. Mangum would not receive anything regarding her bankruptcy cases. Moreover, in contrast to representations previously made to the trustee and Judge Small, Mr. Mangum testified that his wife had never been incompetent, incapacitated, or terminally ill. To prevent Dye & Weatherly from speaking to his wife, Mr. Mangum had another woman call and impersonate his wife. The caller requested that her husband handle the bankruptcy case. Mr. Mangum stated that he filed both bankruptcy petitions in his wife's name without her knowledge to stop foreclosure proceedings against the Mangums' residence in Fuquay-Varina, North Carolina.

TRUSTEE'S REPORT AND RECOMMENDATION

The trustee recommends that the court dismiss the two bankruptcy filings *ab initio* pursuant to its authority under 11 U.S.C. §§ 105(a) and 107(b)(2). The trustee further recommends that the filings be expunged from the court's records, keeping the record under seal for the purposes of any criminal investigation by the United States Attorney. The trustee also requests the court to order all credit reporting agencies to expunge the two cases from their records.

BANKRUPTCY ADMINISTRATOR'S MOTION FOR SANCTIONS

In response to Mr. Mangum's conduct, the BA requests the following sanctions: (1) a ten-year ban from filing a petition for relief in any bankruptcy court in the United States; (2) a permanent injunction prohibiting Mr. Mangum from preparing a bankruptcy filing on another individual's behalf; and (3) a fine of \$2,500.00. The BA requests the order granting sanctions, if issued by the court, to be made public.

CONCLUSION

Based on the record before the court, the trustee's recommendations and the BA's motion for sanctions are **ALLOWED**. Ms. Mangum's cases will be dismissed *ab initio*.⁵ The court will expunge the records (other than this order) except to the extent necessary for future investigation. The credit reporting agencies, Experian, Equifax, and TransUnion, are directed to expunge the two cases (see footnote 2) from their records. Mr. Mangum will be barred for filing for bankruptcy for ten years and is permanently enjoined from assisting another individual with a bankruptcy filing. Mr. Mangum is further ordered to pay \$2,500.00 to the court within five months. The court directs the BA and trustee to make a joint referral of this matter to the United States Attorney for further investigation.

“END OF DOCUMENT”

⁵ No party filed a motion before the court regarding the actions of Dye & Weatherly. Regardless, by dismissing the cases *ab initio*, the court loses any jurisdiction it may have to investigate the conduct of Dye & Weatherly pursuant to B.R. 9011.