

Paul Hudson, Esq.  
4411 Bee Ridge Rd #274  
Sarasota, FL 34233

Kenneth G. Varley, Esq.  
Donohue, Sabo, Varley & Armstrong, P.C.  
One Winners Circle  
P.O. Box 15056  
Albany, New York 12212

David M. Siegal, Esq.  
Siegal Law Offices, LLC  
16 Corporate Woods Blvd.  
Albany, NY 12211

Gregory G. Harris, Esq.  
*Chapter 7 Trustee*  
The Patroon Building  
5 Clinton Street  
Albany, New York 12207

*In Re: Paul S. Hudson - Chapter 7/Case No. 00-11683*  
*Washington 1993, Inc. v. Paul S. Hudson - Adv. No. 00-90091*

### **LETTER DECISION AND ORDER**

Currently before the court is the motion of Paul S. Hudson, pro se,<sup>1</sup> for an order extending his time to file an appeal pursuant to Federal Rule of Bankruptcy Procedure 8001(c), as well as a stay pending appeal pursuant to Federal Rule of Bankruptcy Procedure 8005.

The court assumes the parties' familiarity with the factual circumstances of this case. Mr. Hudson filed a letter requesting recusal (Hudson Letter, Aug. 7, 2007 (No. 190)), and later a motion for recusal (Mot. for Recusal/Disqualification and Vacatur (the "Recusal Motion") (No. 196)) based, in large part, on the allegation that the court altered the complaint filed in this adversary proceeding in violation of 18 U.S.C. § 1519 and/or New York Penal Law sections

---

<sup>1</sup>Although he is proceeding pro se, Mr. Hudson is an attorney.

175.2 and 195, thereby committing a crime. The court denied the Recusal Motion by order entered September 25, 2008 (No. 213), and issued a *sua sponte* order to show cause directing Mr. Hudson to appear and show cause as to why he should not be sanctioned pursuant to Rule 9011 and/or 11 U.S.C. § 105 including, but not limited to, an admonishment, a monetary sanction, and/or referral to the Committee on Professional Standards (No. 214). The court rendered an oral ruling on December 3, 2008 (OSC Hr'g Tr., Dec. 3, 2008 (No. 237)) and entered an order on December 11, 2008 (No. 234 (the "9011 Order")), finding that Mr. Hudson had violated Rule 9011(b)(1) and (3). The court did not impose a monetary sanction against Mr. Hudson, but it did direct that

[B]ased upon . . . this court's concern over the conduct, fitness, and character displayed by [Mr. Hudson], an attorney admitted to practice law in New York, in connection with his letter regarding recusal filed August 3, 2007 (DOC#188) and subsequent motion for recusal filed September 17, 2007 (DOC#196), this court is referring Mr. Hudson to the Committee on Professional Standards.

(No. 234.)

By order entered August 30, 2010, the court denied Mr. Hudson's motion seeking reconsideration, modification, or resettlement of the 9011 Order pursuant to Federal Rule of Bankruptcy Procedure 9024 and Federal Rule of Civil Procedure 60(b). (No. 264.) On September 10, 2010, Mr. Hudson filed a Notice of Appeal of the court's August 30, 2010 order denying his motion for reconsideration, the underlying 9011 Order, and the court's original Order to Show Cause as to why he should not be sanctioned. (No. 270.) As the Notice of Appeal was filed within fourteen days of the August 30, 2010 order denying his motion for reconsideration, the portion of Mr. Hudson's motion seeking an extension of his time to appeal the court's order denying his motion for reconsideration, the underlying 9011 Order, and the original Order to

Show Cause is moot.

Mr. Hudson argues that he should be granted a stay pending appeal because, in essence, he has satisfied the factors announced by the Second Circuit in *Hirschfeld v. Board of Elections*, 984 F.2d 35 (2d Cir.1993). More specifically, Mr. Hudson asserts he has demonstrated a substantial possibility, although less than a likelihood, of success on appeal; there is a risk of irreparable injury to him if the stay is not granted; there is a lack of substantial harm to anyone if the stay is granted; and the public interest may be affected if the stay is not granted.

The court need not examine and weigh the four factors announced in *Hirschfeld*, as there is nothing for the court to stay pending appeal. Federal Rule of Civil Procedure 62, applicable to bankruptcy proceedings by Federal Rule of Bankruptcy Procedure 7062, provides, in part:

(b) Stay Pending the Disposition of a Motion. On appropriate terms for the opposing party's security, the court may stay the execution of a judgment—or any proceedings to enforce it—pending disposition of any of the following motions:

....

(4) under Rule 60, for relief from a judgment or order.

Fed. R. Civ. P. 62(b)(4).

Mr. Hudson never sought a stay of execution of the 9011 Order pending his motion for reconsideration. As indicated, the court did not sanction Mr. Hudson monetarily nor direct that Mr. Hudson perform or refrain from some act, but it did conclude that it had a duty to refer Mr. Hudson to the Committee on Professional Standards for the Third Department<sup>2</sup> based upon a

---

<sup>2</sup>Canon 3(B)(5) of the Code of Conduct for United States Judges provides that a “a judge should take appropriate action upon learning of reliable evidence indicating the likelihood that . . . a lawyer violated applicable rules of professional conduct.

likelihood that Mr. Hudson violated Disciplinary Rule 1-102.<sup>3</sup> Thus, shortly after it issued the 9011 Order, the court forwarded a copy of the 9011 Order and the related pleadings to the Committee. The court made no specific finding of professional misconduct or a recommendation as to what, if any, disciplinary action should be taken. It merely referred the matter to the Committee for whatever further investigation and action it deems appropriate.

For the foregoing reasons, Mr. Hudson's motion for a stay pending appeal is denied, as moot.<sup>4</sup>

It is SO ORDERED.

/s/ Robert E. Littlefield, Jr.

Dated: September 30, 2010  
Albany, New York

---

Hon. Robert E. Littlefield, Jr.  
Chief United States Bankruptcy Judge

---

<sup>3</sup>Disciplinary Rule 1-102 states, in part, that a lawyer shall not "[e]ngage in conduct that is prejudicial to the administration of justice;" or "[e]ngage in any other conduct that adversely reflects on the lawyer's fitness as a lawyer." N.Y. Comp. Codes R. & Regs. tit. 22, § 1200.3 (2007), *repealed by* Rules of Professional Conduct, N.Y. Comp. Code R. & Regs. tit. 22 § 1200 (2009).

<sup>4</sup>As Mr. Hudson did not file a motion pursuant to Federal Rule of Civil Procedure 7062, the court need not address the issue of whether it would be appropriate for the court to stay a referral to the Committee on Professional Standards that it concluded it has a duty to report.