

**IN THE UNITED STATES BANKRUPTCY COURT
EASTERN AND WESTERN DISTRICTS OF ARKANSAS
LITTLE ROCK DIVISION**

IN RE: WILLIAM M. RISBY, Petitioner

4:08-mp-101 E

**ORDER DIRECTING CLERK OF COURT TO REJECT CURRENT
AND FUTURE INVOLUNTARY PETITIONS
SUBMITTED BY WILLIAM M. RISBY**

On December 21, 2007, the Clerk of the Bankruptcy Court in Arkansas (the “**Clerk**”) received by mail 74 involuntary petitions and other miscellaneous documents from William M. Risby (the “**Petitioner**”), who is acting *pro se*. Filing fees for these involuntary petitions total over \$22,000, however Petitioner tendered only one Chapter 7 In Forma Pauperis, Official Form B-3B (the “**IFP Form**”) and no fees. In light of the large amount of fees due, the Clerk requested guidance as to whether to accept these proffered involuntary petitions for filing.

FACTS

Petitioner is currently incarcerated in a federal correctional institution in Texas.¹ The proffered involuntary petitions name miscellaneous individuals, certain federal officials (including judges and prosecutors) and federal entities (including a federal district court, *in toto* and a federal appeals court, *in toto*), as well as certain television channels and a school district in Texas, as involuntary debtors.² On Part C of the IFP Form, Petitioner states that he has over \$102 billion on deposit with the Department of the Treasury, but that he does not have the “proper forms” to access his account. He also claims that the Federal Bureau of

¹ Petitioner states on his IFP Form that he is a federal prisoner.

² The Court declines to list the specific individuals named in the proffered involuntary petitions for the reasons explained in this Order.

Prisons and the United States Department of State owe him a combined total of over \$3 billion.

Submissions³ by Petitioner include a number of financial documents, including UCC Financing Statements, some of which were filed with the Arkansas Secretary of State.⁴ Based on the Acknowledgment Notices generated by the Arkansas Secretary of State's Office included in his submissions, Petitioner has filed some type of financial document against most, if not all, of the individuals and/or entities named in the proffered involuntary petitions. Petitioner's motivations for filing these financial documents are evident from his statements contained in a UCC Financing Statement Amendment ("UCC Amendment"), filed with the Arkansas Secretary of State's Office on August 9, 2007 against the "United States Fifth Circuit Court of Appeals." In Block 13 of the UCC Amendment, Petitioner claims that the appellate court, along with the U.S. District Court for the Northern District of Texas, violated numerous federal laws "and the participants thereof have chosen to purposefully violated [sic] Law, Public Policy, and the Constitution to keep William M. Risby falsely imprisoned. Therefore Mr. Risby the Secured Party creditor holder in due course now files this Commercial Lien, True Bill in Commerce against these Courts and their participants"

Since Petitioner has proffered these involuntary petitions as a group, the Court considers and analyzes each one's merits in the context of the totality of submissions by Petitioner. Accordingly, the following discussion applies with equal force to each of the proffered involuntary petitions.

³ The term "submissions" is used in this Order to mean the involuntary petitions and all other accompanying documents sent to this Court by Petitioner.

⁴ In some of these Financing Statements, Petitioner indicates that he is a "transmitting utility."

LAW AND ANALYSIS

Section 303(b) of the Bankruptcy Code⁵ governs the requirements for commencement of an involuntary bankruptcy case and states as follows:

An involuntary case against a person is commenced by the filing with the bankruptcy court of a petition under chapter 7 or 11 of this title--

(1) by three or more entities, each of which is either a holder of a claim against such person that is not contingent as to liability or the subject of a bona fide dispute as to liability or amount, or an indenture trustee representing such a holder, if such noncontingent, undisputed claims aggregate at least \$13,475 more than the value of any lien on property of the debtor securing such claims held by the holders of such claims;

(2) if there are fewer than 12 such holders, excluding any employee or insider of such person and any transferee of a transfer that is voidable under section 544, 545, 547, 548, 549, or 724(a) of this title, by one or more of such holders that hold in the aggregate at least \$13,475 of such claims;

11 U.S.C. § 303(b)(1) & (2).

28 U.S.C. § 1408 governs venue for cases under the Bankruptcy Code and provides that venue is proper in the district court for the district

(1) in which the domicile, residence, principal place of business in the United States, or principal assets in the United States, of the person or entity that is the subject of such case have been located for the one hundred and eighty days immediately preceding such commencement, or for a longer portion of such one-hundred-and-eighty-day period than the domicile, residence, or principal place of business, in the United States, or principal assets in the United States, of such person were located in any other district; or

(2) in which there is pending a case under title 11 concerning such person's affiliate, general partner, or partnership.

28 U.S.C. § 1408(1) & (2).

⁵ All references to code sections herein are to the Bankruptcy Code, title 11 of the U.S. Code, unless otherwise noted.

The Court has reviewed all of the 74 proffered involuntary petitions and all accompanying documents. The Court's first inquiry in reviewing the proffered petitions is whether there is support for filing them in Arkansas. Although Petitioner checked the box in the "Venue" section on all submitted Official Form 5s⁶ indicating that venue is proper in this district, none of the addresses for entities or individuals listed on the Official Form 5s are in Arkansas. Nor does Petitioner provide any evidence that he or any other entity or individuals listed in his submissions have had in the past or currently have any connection to Arkansas under 28 U.S.C. § 1408, as required for proper venue. The only apparent connections to Arkansas stated in Petitioner's submissions are certain UCC Financing Statements which he filed in the Arkansas Secretary of State's Office. These UCC filings are facially inadequate and provide no rational basis to support Petitioner's assertion that venue is proper in Arkansas. Based on the foregoing, the Court therefore finds that venue in Arkansas is improper for the proffered involuntary petitions.

Even assuming *arguendo* that venue in this district is proper, Petitioner is not eligible under § 303(b) to file involuntary petitions against the entities/individuals named in his submissions. Read as a whole, § 303(b) "permits an entity holding a claim against a debtor to file an involuntary petition as the sole petitioning creditor where (I) the debtor has fewer than twelve creditors; (ii) the filing creditor holds the aggregate of at least [\$13,475.00] of the claims; and (iii) the claims held by the filing creditor are not contingent as to liability or the subject of a 'bona fide dispute as to liability or amount'" *In re Knight*, -- B.R. --, 2007 WL 4354527, at *4 (Bankr. M.D. Fla. 2007) (citing § 303(b)(1) & (2)); *see also In re Green*, 2007 WL 1093791, at *3 (Bankr. W.D. Tex. April 9, 2007) (citation omitted) (discussing interrelationship between § 303(b)(1) and (2)).

⁶ Official Form 5 (or B 5) is the standard petition used to initiate an involuntary bankruptcy case. This form is available on the website maintained by the federal judiciary at www.uscourts.gov.

In the matters before the Court, it is evident from the face of Petitioner's submissions that his alleged claims are, at a minimum, "subject to a bona fide dispute as to liability and amount." *In re United States of America, et. al.*, 2006 WL 2346467, at *2 (Bankr. M.D. Fla. June 1, 2006). After all, the amounts of the claims alleged to be held by Petitioner range from \$500,000,000.00 to \$2,615,000,000.00. Although Petitioner states in his submissions that these claims are based on commercial lien judgments, he fails to include even one copy of a judgment from an actual court of record. The only supporting documents are miscellaneous financial documents, most of which are nonsensical, and none of which substantiate his assertions that he has any valid claim against the individuals or entities referenced in his submissions. In fact, Petitioner's own statement in his UCC Amendment clearly demonstrates that he has no claims at all against the individuals or entities listed in his submissions. As the Court noted previously in this Order, Petitioner himself admits that financial documents were filed with the Arkansas Secretary of State in response to his alleged false imprisonment by certain federal courts, not in response to any actual claims. This admission in Petitioner's UCC Amendment provides insight into why he has attempted to file the proffered involuntary petitions against the individuals and entities named therein and supports a finding that these petitions are frivolous and were filed simply for the sake of harassment, without any basis in law or fact. Accordingly, considering Petitioner's submissions as a whole, the Court finds that the sheer number of involuntary petitions (74) at issue, coupled with the governmental nature of many entities listed as debtors, along with the unsupported, impossibly large commercial lien judgment amounts listed, clearly demonstrate, on the face of the documents themselves, the frivolous, abusive nature of Petitioner's proffered involuntary petitions.

This is not Petitioner's first attempt at abuse of the judicial process. The Court takes judicial notice of the Orders of the U.S. District Court for the North District of Texas in Civ. Case No. 3:04-CV-1414 H which struck certain documents filed by Petitioner in that case and noted that "continued filing of frivolous 'Republic of Texas'- style of documents,

particularly those with implied threats of filing ‘commercial liens’ against officers of the court, will subject him to sanctions” *William Morris Risby v. United States, Order of Dismissal*, Civ. No. 3:04-CV-1414-H, at 1 n. 1 (N.D. Tex. Nov. 21, 2006); *William Morris Risby v. United States, Order Striking Documents*, No. 3:04-CV-1414-H (N.D. Tex. Nov. 28, 2006).

On a broader note, the Court declines to file the proffered involuntary petitions of Petitioner as separate cases, but rather decides to address his submissions by opening the above-captioned miscellaneous proceeding and entering this Order. This decision was not made lightly. In general, a bankruptcy court’s docket and any papers filed with the bankruptcy court are public records. *See* 11 U.S.C. § 107(a). Thus, the Clerk must ordinarily accept any bankruptcy petition submitted for filing, and, if there are substantive deficiencies, that petition can be subsequently dismissed by judicial order and the filing party can be sanctioned, if warranted. *In re President of the United States*, 88 B.R. 1, 2 (Bankr. D. D.C. 1985); *see also* Fed. R. Bankr. P. 9011; 11 U.S.C. § 303(I). However, § 107(c) of the Bankruptcy Code, as added by the Bankruptcy Abuse and Consumer Protection Act of 2005, Pub.L. 109-8, 119 Stat. 23 (2005) (“**BAPCPA**”), provides a specific exception to the public availability requirement and states:

The bankruptcy court, for cause, may protect an individual, with respect to the following types of information to the extent the court finds that disclosure of such information would create undue risk of identity theft or other unlawful injury to the individual or the individual's property:

(A) Any means of identification (as defined in section 1028(d) of title 18) contained in a paper filed, or to be filed, in a case under this title.

(B) Other information contained in a paper described in subparagraph (A).

The phrase “any means of identification” is defined as information that “may be used, alone or in conjunction with any other information, to identify a specific individual,” and includes the individual’s name itself. 18 U.S.C. § 1028(d)(7)(A).

Even before the BAPCPA amendment providing explicit authority to withhold such information, in exceptional circumstances, courts have rejected abusive involuntary petitions or have crafted rules curtailing automatic public availability of *pro se* involuntary petitions. *See In re President of the United States*, 88 B.R. at 2-3 (discussing circumstances where it is proper to direct clerk of court to reject involuntary petition); *In re Walsh*, 306 B.R. 738, 742-43 (Bankr.W.D.N.Y. 2004) (discussing impact of abusive involuntary petitions in light of electronic availability of documents and directing that, pursuant to § 107(b)(2) of the Bankruptcy Code, *pro se* involuntary petitions be withheld from public availability until so ordered by judge).

In the matters now before the Court, the extraordinary action of rejecting Petitioner's abusive submissions and not placing them on the public docket is warranted. First, the financial harm and unlawful injury that could be caused merely by docketing these abusive petitions is significant. *See Walsh*, 306 B.R. at 741 (involuntary debtor's credit card cancelled when credit card company discovered filing of involuntary petition by *pro se* individual, even though no Order for Relief entered and such petition ultimately found abusive). Under the Court's Case Management/Electronic Filing System ("CM/ECF"), Petitioner's proffered abusive petitions, if docketed, would have been instantaneously available to anyone over the internet who was willing to pay a fee. Furthermore, Petitioner's status as a convict representing himself effectively renders the usual penalties of monetary sanctions and dismissal of the proffered involuntary petitions meaningless, since his goal of harassment would be complete as soon as such petitions are electronically filed and made public. He can therefore attempt to file such frivolous matters unfettered by the usual constraints that would apply to an attorney, or indeed, to any other non-incarcerated private citizen acting *pro se*. The Court recognizes § 303 of the Bankruptcy Code, as amended by § 1234 of BAPCPA now provides that a court may, *et. al.*, dismiss an involuntary petition containing false information, seal the records, and prohibit consumer reporting agencies from using information contained in such a petition. 11 U.S.C. § 303(l). However, under the

unique circumstances presented here, the remedies provided by this section are inadequate. While the principle of open access to court proceedings and records is tremendously important, to have merely accepted and docketed Petitioner's submissions in this age of electronic filing and instant public availability would certainly have subjected scores of individuals to gratuitous abuse at Petitioner's hands.

Having reviewed the proffered involuntary petitions, the Court adopts the reasoning in the cases cited herein and finds that in the matters now before it, to docket or otherwise make Petitioner's submissions publically available would, in and of itself, cause unnecessary harm to the individuals referenced therein. The Court further finds there is cause under § 107(c) of the Bankruptcy Code to withhold public disclosure of the names listed in Petitioner's proffered involuntary petitions, since to do otherwise would create undue risk of unlawful injury to those individuals. The Court must therefore craft appropriate sanctions for Petitioner in accordance with its authority under § 105(a) of the Bankruptcy Code and its inherent authority in order to maintain the integrity of the judicial system. *See* 11 U.S.C. 105(a); *In re Boost*, 341 B.R. 666, 689 (Bankr. E.D. Ark. 2006) (citations omitted) (finding that court has inherent authority and authority under § 105(a) of the Code to sanction persons appearing before it); *In re Hill*, 377 B.R. 8, 26 (Bankr. D. Conn. 2007) (finding that court has inherent authority to curtail abusive litigation practices). It is evident from the totality of Petitioner's submissions that appropriate sanctions for Petitioner are ones that will curb his current abuse of the judicial system and effectively curtail potential future abuse by Petitioner. Since monetary sanctions against Petitioner are futile and would not halt further misuse of judicial resources, the Court concludes that appropriate sanctions for Petitioner are (1) rejection of his current submissions to the Court, (2) prohibition on filing any additional involuntary petitions, and (3) referral to the U.S. Attorney's Office for the Northern District of Texas for possible investigation.

Accordingly, it is hereby

ORDERED that the Clerk is directed to reject and not docket any aforementioned submissions by Petitioner; it is further

ORDERED that Petitioner is prohibited from filing any involuntary petitions in the United States Bankruptcy Court for the Eastern and Western Districts of Arkansas, unless pre-approved by a Judge of this Court; it is further

ORDERED that the Clerk is directed to mail the original aforementioned submissions to the U.S. Attorney's Office for the Northern District of Texas to determine whether further investigation of the Petitioner's activities is warranted.

IT IS SO ORDERED.



HONORABLE AUDREY R. EVANS
UNITED STATES BANKRUPTCY JUDGE

DATE: January 7, 2008

cc: Petitioner

U.S. District Court for the Northern District of Texas

U.S. Bankruptcy Court for the Northern District of Texas

U.S. Attorney for the Northern District of Texas

U.S. Trustee, Arkansas

U.S. Trustee, Texas