

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
GENERAL ORDER 11-0031

The full Court met in executive session on Wednesday, November 16, 2011 and approved a proposal to amend Bankruptcy Court Local Rule 9029-4. The proposed amendment was published with comments due on September 9, 2011. No comments were received regarding Rule 9029-4.

The Rules Advisory Committee on Local Rules and Procedures discussed the proposal at its meeting on September 13, 2011. The Rules Advisory Committee recommended that the Court adopt the proposed amendment.

The Court's Rules Committee discussed the report at its meeting on October 13, 2011. The Rules Committee returned the proposal to the Bankruptcy Court with suggested modifications. At its meeting on November 10, 2011, the Rules Committee approved the modified proposal and recommended that the full Court adopt amended Bankruptcy Court Local Rule 9029-4.

The full Court considered the recommendation of the Rules Committee at its meeting on Wednesday, November 16, 2011 and agreed to adopt Bankruptcy Court Local Rule 9029-4; therefore,

By direction of the full Court, which met in executive session on Wednesday, November 16, 2011,

IT IS HEREBY ORDERED that the amendment to Local Bankruptcy Court Rule 9029-4 be adopted as follows (additions shown thus, deletions shown ~~thus~~).

RULE 9029-4A

RULES OF PROFESSIONAL CONDUCT

The *Rules of Professional Conduct for the Northern District of Illinois*, as amended from time to time, shall apply in all proceedings and matters before this court.

RULE 9029-4B

ATTORNEY DISCIPLINARY PROCEEDINGS

A. Disciplinary Proceedings Generally

(1) Definitions

The following definitions apply to the disciplinary Rules:

- (a) “Misconduct” means any act or omission by an attorney that violates the disciplinary rules of the district court. Such an act or omission constitutes misconduct regardless of
 - (1) whether the attorney performed the act or omission individually or in concert with any other person or persons, or
 - (2) whether the act or omission occurred in the course of an attorney-client relationship.
- (b) “Discipline” includes, but is not limited to, temporary or permanent suspension from practice before the bankruptcy court, reprimand, censure, or such other disciplinary action as the circumstances may warrant, including but not limited to restitution of funds, satisfactory completion of educational programs, compliance with treatment programs, and community service.

(2) Jurisdiction

Nothing in these Rules restricts the power of any judge over proceedings before that judge.

(3) Attorneys Subject to Discipline

By appearing in the bankruptcy court, an attorney, whether or not a member of the bar of the district court, submits to the disciplinary jurisdiction of the bankruptcy court for any alleged misconduct that the attorney commits.

(4) Confidentiality

- (a) Before a disciplinary proceeding is assigned to a judge pursuant to these Rules, the proceeding is confidential, except that the bankruptcy court may, on such terms as it deems appropriate, authorize the clerk of the court to disclose any information about the proceeding.
- (b) After a disciplinary proceeding is assigned to a judge pursuant to these Rules, the record and hearings in the proceeding are public, and all materials submitted to the chief judge before the disciplinary proceeding

was assigned must be filed with the clerk of the court, unless for good cause the judge to whom the disciplinary proceeding is assigned orders otherwise.

(c) A final order in a disciplinary proceeding is a public record.

B. Discipline of Attorneys for Misconduct

(1) Complaint of Misconduct

A disciplinary proceeding is commenced by submitting a complaint of misconduct to the chief judge of the bankruptcy court. The complaint may be in the form of a letter. The complaint must state with particularity the nature of the alleged misconduct and must identify the Local Rule of the district court that has been violated. The chief judge must refer the complaint of misconduct to the bankruptcy court for consideration and appropriate action.

(2) Request for a Response to a Complaint of Misconduct

On receipt of a complaint of misconduct, the bankruptcy court may forward a copy to the attorney and ask for a response within a set time. Any response must be submitted to the chief judge.

(3) Action by the Bankruptcy Court on a Complaint of Misconduct

On the basis of the complaint of misconduct and any response submitted, the bankruptcy court may, by a majority vote –

- (a) determine that the complaint merits no further action and provide notice of this determination to the complainant and the attorney;
- (b) direct that formal disciplinary proceedings be commenced; or
- (c) take other appropriate action.

(4) Statement of Charges

If the bankruptcy court determines, based on allegations in the complaint of misconduct and any response, that formal disciplinary proceedings should be initiated, the bankruptcy court must issue a statement of charges against the attorney. The statement of charges must set forth the alleged misconduct and must require the attorney to show cause, within 28 days after service, why the attorney should not be disciplined.

(5) Method of Service

The clerk of the court must mail two copies of the statement of charges to the last known address of the attorney. One copy must be mailed by certified mail restricted to addressee only, return receipt requested. The other copy must be mailed by first class mail. If the statement of charges is returned as undeliverable,

the clerk of the court must notify the chief judge. The bankruptcy court may direct that further, alternative attempts at service be made.

(6) Date of Service

For purposes of this rule, the date of service is

(a) the date of mailing, if service is by mail, or

(b) the date of delivery, if service is personal.

(7) Answer to Statement of Charges

Within 28 days after the date of service, the attorney who is the subject of the statement of charges must submit to the chief judge an answer to the statement of charges showing cause why the attorney should not be disciplined.

(8) Appointment of the United States Trustee

The bankruptcy court may appoint the United States Trustee for this region to investigate a complaint of misconduct and prosecute a statement of charges. The United States Trustee may decline the appointment and must notify the chief judge of that decision within 30 days. The bankruptcy court may then elect either to dismiss the proceeding or request that a member of the bar investigate the complaint of misconduct and prosecute the statement of charges.

(9) Assignment to Judge for Hearing

If, after the attorney has answered the statement of charges, the bankruptcy court determines by a majority vote that an evidentiary hearing is warranted, the chief judge will assign the disciplinary proceeding to a judge for hearing.

(10) Subpoenas

The United States Trustee or any other investigating or prosecuting attorney may cause subpoenas to be issued.

(11) Hearing

The Federal Rules of Evidence will apply in any hearing on a statement of charges. The burden is on the party prosecuting the complaint to demonstrate by a preponderance of the evidence that the attorney charged has committed misconduct.

(12) Decision

Upon completion of the hearing, the assigned judge must issue a written decision making findings of fact and conclusions of law, determining whether the attorney

charged has committed misconduct, and if so, imposing appropriate discipline. A separate order imposing discipline must be entered in accordance with the written decision.

(13) Appeal

Entry of an order imposing the discipline is a final order, appealable as of right to the Executive Committee of the district court. Part VIII of the Federal Rules of Bankruptcy Procedure governs all appeals from disciplinary orders of the bankruptcy court, except that Rule 8001(f) of the Federal Rules of Bankruptcy Procedure does not apply.

C. Indefinite Suspension on Consent

(1) Declaration of Consent

Any attorney who is the subject of a complaint of misconduct or a statement of charges may consent to indefinite suspension from practice before the bankruptcy court, but only by delivering to the chief judge a declaration stating that the attorney consents to indefinite suspension.

(2) Order on Consent

Upon receipt of the required declaration, the chief judge must enter an order indefinitely suspending the attorney. The order indefinitely suspending the attorney on consent is a matter of public record.

D. Reinstatement

(1) Reinstatement when Suspension is 90 Days or Fewer

An attorney suspended for 90 days or fewer is automatically reinstated at the end of the period of suspension.

(2) Reinstatement when Suspension is more than 90 Days

An attorney suspended for more than 90 days may not resume practice in the bankruptcy court until reinstated by order of the bankruptcy court in response to a petition for reinstatement. The attorney may petition for reinstatement at any time following the period of suspension.

(3) Reinstatement when Suspension is for an Indefinite Period

An attorney who is indefinitely suspended may not resume practice in the bankruptcy court until reinstatement by order of the bankruptcy court in response to a petition for reinstatement. The attorney may petition for reinstatement any time after five years from the effective date of the suspension.

(4) Presentation of Petition for Reinstatement

A petition for reinstatement must be filed with the clerk of the court. The clerk must present the petition to the bankruptcy court which, by a majority vote, must either grant or deny the petition without an evidentiary hearing, or else determine the matter requires an evidentiary hearing before a judge of the bankruptcy court assigned by the chief judge.

(5) Appointment of the United States Trustee

Following the filing of a petition for reinstatement, the bankruptcy court may appoint the United States Trustee for this region to investigate the petition and support or oppose reinstatement. The United States Trustee may decline the appointment and must notify the chief judge of that decision within 30 days. The bankruptcy court may then request that a member of the bar investigate the petition and oppose or support reinstatement.

(6) Hearing

The Federal Rules of Evidence will apply in any hearing on a petition for reinstatement. The burden is on the petitioner to demonstrate by clear and convincing evidence that the petitioner has the requisite character and fitness to practice law before the bankruptcy court and that the petitioner's resumption of practice before the bankruptcy court will not be detrimental to the administration of justice.

(7) Decision by Assigned Judge

Upon completion of the hearing, the assigned judge must issue a written decision making findings of fact and conclusions of law and determining whether the petitioner should be reinstated. A separate order must be entered.

(8) Conditions of Reinstatement

If the petitioner fails to demonstrate fitness to resume the practice of law before the bankruptcy court, the petition for reinstatement must be denied. If the petitioner is found fit to resume practice before the bankruptcy court, the petitioner must be reinstated, but reinstatement may be subject to conditions, including but not limited to partial or complete restitution to parties harmed by the conduct that led to the suspension.

(9) Appeal

Entry of an order granting or denying a petition for reinstatement is a final order appealable as of right to the Executive Committee of the district court. Part VIII of the Federal Rules of Bankruptcy Procedure governs all appeals from disciplinary orders of the bankruptcy court, except that Rule 8001(f) of the

Federal Rules of Bankruptcy Procedure does not apply.

(10) Limitation on Successive Petitions for Reinstatement

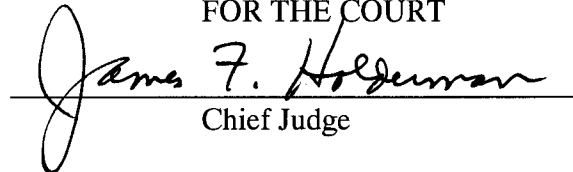
Following the denial of a petition for reinstatement, the petitioner may not file another petition for reinstatement until at least one year from the date of the order denying reinstatement.

E. Notice to Executive Committee and ARDC

Following

- (a) the entry of a final order imposing discipline or a final order granting or denying a petition for reinstatement, and
 - (b) the exhaustion of all appellate rights in connection with such an order,
- the clerk of the court must transmit a copy of the order to the Executive Committee of the District Court and to the Illinois Attorney Registration and Disciplinary Commission.

ENTER:
FOR THE COURT


Chief Judge

Dated at Chicago, Illinois this 22nd day of November, 2011