IN THE UNITED STATES BANKRUPTCY COURT

FOR THE DISTRICT OF IDAHO

IN RE	)	
	)	
MARK DOUGLAS BOATMAN,	)	**Case No. 05-21333-TLM**
M.E. Boatman, fdba Lewis-Clark	)	
Dairy, and ELLEN MARIE	)	**MEMORANDUM OF**
BOATMAN, M.E. Boatman, fdba	)	**DECISION**
Lewis-Clark Dairy, husband and	)	
wife,	)	
	)	
Debtors.	)	
_____	)	

I.   BACKGROUND

Creditor[1] Ramon Smith, a.k.a. Grey Cloud ("Smith"), filed a *pro se* motion.

See Doc. No. 36. He thereafter filed a "brief" in support of that motion. *See* Doc.

No. 38.[2] Given the content and form of these pleadings, and because Doc. No. 38

suggests relief in addition to that sought in Doc. No. 36, the Court will treat them

collectively as the "Motions."

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[1] In prior proceedings in this chapter 7 case, the Court sustained Debtors' objections to Smith's asserted secured and priority unsecured claims, and held that he had a nonpriority unsecured claim in an unliquidated amount, based on certain litigation pending in state court. The Court also lifted the automatic stay of § 362(a) allowing Smith to proceed with such suit but only as against any available insurance coverage, and specifically prohibiting his pursuit of the Debtors or their property. *See* Doc. Nos. 26-29, 32-33. Even though his claim is unliquidated, Smith is still a creditor. *See* §§ 101(a)(5), (a)(10).

[2] After the motion, Doc. No. 36, was filed, the Court entered a scheduling order requiring a brief from Smith, and allowing for responsive briefs thereafter. *See* Doc. No. 37. Smith filed his brief. Doc. No. 38. Debtors filed a response. Doc. No. 39. While there is still time available for other parties to file briefs responding to Smith, the Court deems the matter sufficiently explained and presented, and will proceed to address and resolve it at this time.

In the Motions, Smith asks the Court to "prosecute" Mark and Ellen

Boatman ("Debtors"), Debtors' attorney Ken Anderson ("Anderson") and Unigard

Insurance Group ("Unigard") for perjury under 18 U.S.C. § 1621 and state law.

Smith also asks this Court to disbar Anderson, revoke Unigard's license to sell

insurance, and levy various fines and penalties, not to mention prison time, upon

them all.

II.   DISCUSSION

A.   Motion to "prosecute" for perjury

Smith provides no authority, and no cogent argument for the proposition

that this Court may "prosecute" anyone for perjury. Courts do not prosecute, they

adjudicate disputes. Prosecution of suspected crimes is a function of the state or

federal prosecutors. The request to this Court is fundamentally misplaced and

flawed.

This Court does have the ability to make a "report" to the United States

Attorney if it has "reasonable grounds for believing" someone committed a

violation of chapter 9 of Title 18, U.S.C. or other laws of the United States relating

to insolvent debtors. 18 U.S.C. § 3057(a). However, Smith's mere allegations do

not give this Court "reasonable grounds" to believe Debtors, Anderson, or Unigard

have violated those referenced provisions of federal law.

Smith's Motions asking this Court to "prosecute" will be denied, and any

implicit request that the Court make a report or referral will also be denied.

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B.   Motion to disbar Anderson

The power to remove, suspend or reprimand an attorney is vested in Idaho's Supreme Court and its district courts. *See* Idaho Code §§ 3-301, 3-408. This Bankruptcy Court cannot "disbar" Anderson from practicing law in the State of Idaho. Smith's Motions seeking such relief must be denied.

Federal courts, including this Bankruptcy Court, do have their own rules and procedures regulating the conduct of lawyers admitted as members of the federal bar, independent of the state court system. *See, e.g.,* L.B.R. 9010.1. After reviewing Smith's Motions and the record in light of this authority, the Court concludes there is no cause or justification for any further hearing, much less any relief, under the local rules governing attorney conduct. Smith's Motions will also be denied in this regard.

C.   Motion to revoke Unigard's license to sell insurance

The regulation of the "business of insurance" is subject to the laws of the several states, including Idaho. 15 U.S.C. §§ 1012(a), 1015. As such, "[n]o Act of Congress shall be construed to invalidate, impair, or supercede any law enacted by any State for the purpose of regulating the business of insurance. . . unless such Act specifically relates to the business of insurance." 15 U.S.C. § 1012(b). The phrase "business of insurance" includes the licensing of companies and their agents. *SEC v. Nat'l Sec., Inc.*, 393 U.S. 453, 460 (1969).

Congress has not empowered this Court to revoke Unigard's license to sell

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insurance in Idaho or anywhere else. The State of Idaho grants no such authority

to this Court either. Smith's Motions asking for such relief will be denied.

D.   Other requests

The balance of Smith's Motions have been reviewed and evaluated, in large

part to determine what (if any) other relief is sought. These pleadings are hard to

follow, but do not appear to ask for any relief other than that noted above. To the

extent Smith intended by the Motions to seek other relief, the Court finds the

pleadings are inadequate, legally or factually, to support action by the Court.

Smith's Motions will therefore be denied in all aspects.

III.   CONCLUSION

Based on the foregoing, Smith's Motions, Doc. Nos. 36 and 38, will be

denied in their entirety. An appropriate order will be entered.

DATED: May 11, 2006

TERRY L. MYERS
CHIEF U. S. BANKRUPTCY JUDGE

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