

UNITED STATES BANKRUPTCY COURT

DISTRICT OF IDAHO

IN RE)	
)	Case No. 13-02590-TLM
CHADLEY THOMAS PRINGLE)	
and DIANA CLAIRE PRINGLE,)	
)	Chapter 13
Debtors.)	
_____)	

SUMMARY ORDER

On December 31, 2013, Chadley and Diana Pringle (“Debtors”) filed a joint voluntary chapter 13 petition commencing this case.¹ Debtors’ counsel is John Avery of Idaho Falls, Idaho.

The petition avers that Debtors’ street address is 225 Hillview Drive, Boise, Idaho and their “County of Residence” is Ada County. Doc. No. 1 at 1.² They show their mailing address, however, as P.O. Box 1112, Sun Valley, Idaho. *Id.*

Debtors’ schedule A (real property) lists a “home” at 101 Sheep Trail Lane, Hailey, Idaho, and a “home” at 225 Hillview Drive in Boise. *Id.* at 10. Their schedule C (exemptions) claims an Idaho homestead exemption in the property in

¹ Unless indicated otherwise, all statutory references are to the Bankruptcy Code, Title 11 U.S. Code §§ 101-1532, and all rule references are to the Federal Rules of Bankruptcy Procedure.

² The Court takes judicial notice of the filings and records in this case, Fed. R. Evid. 201, and recognizes that Debtors’ sworn assertions have evidentiary effect. *See, e.g., In re Jordan*, 392 B.R. 428, 444 n. 32 (Bankr. D. Idaho 2008).

Hailey, Idaho. *Id.* at 16. Debtors' household goods, clothing and other similar personal property is shown on schedule B as located at the Hailey property, *id.* at 11-13, and is claimed as exempt, *id.* at 16-17. The same is true of Debtors' vehicles. *Id.* at 14, 17.

Debtors' schedule I (income) indicates they are employed by an entity ("Principal Recruiter") and the employer's address is at Debtors' Hailey, Idaho property. *Id.* at 31. Schedule B indicates Debtors are the 100% owners of Principal Recruiter. *Id.* at 13.

Further, in an amended statement of financial affairs ("SOFA"), Debtors disclosed receipt of substantial "rental income" from 2011 to 2014. Doc. No. 27 at 2. They did not amend schedule G or otherwise indicate the source of such income. However, the February 5, 2014, confirmation recommendations of the chapter 13 trustee, Kathleen McCallister ("Trustee"), assert this is income from the Boise real property, and that Debtors, in addition to the problems with schedule G and the SOFA, also fail to address such income in their schedule I and Form 22C. Doc. No. 29 at 1-2.

All of the foregoing – especially the assertion of a homestead exemption in the property in Hailey, Idaho – impeaches the sworn assertion in the petition that Debtors reside in Ada County, Idaho.

On February 14, Debtors filed an "amended" voluntary petition. Doc. No.

31. It shows the Hailey, Blaine County, Idaho, address as Debtors' residence. *Id.* at 1.

A confirmation hearing on Debtors' proposed plan was held four days later on February 18, 2014. Debtors' counsel and Trustee's counsel appeared, and confirmation was denied. Following discussion, the Court indicated the instant Summary Order would be entered.

The assertion in the original petition of an Ada County residence was, as Trustee's recommendations suggest and as Debtors' counsel confirmed at the February 18 hearing, an attempt to avoid notoriety in the Sun Valley area regarding the bankruptcy.³ But the justification proffered is inadequate and ineffective. Debtors make assertions in their petitions, schedules and SOFA as being true and correct to the best of their knowledge, and they swear to the same under penalty of perjury. The assertion of a Boise residence was simply not true. In addition to the problems false assertions create under the Code, Debtors' assertions raise an issue about their conduct given Rule 9011(b).⁴ Because Debtors' counsel signed the petition, and filed and presented the petition and other documents, a Rule 9011(b) issue exists as to him as well. Later "amendment" does

³ Trustee's recommendations contended that the misidentified residence required Debtors to amend their schedules. *See* Doc. No. 29 at 1. The Court views the matter as requiring something more and, thus, enters this Summary Order.

⁴ Rule 9011(b) requires, and the signer and filer certifies, that factual assertions "have evidentiary support" and legal contentions are warranted.

not excuse or erase the effect of the earlier filings.

The county of Debtors' residence has import. In this District, the intra-District "venue" of the case is driven by debtors' residence. *In re Ricks*, 2012 WL 4017952 at *2 (Bankr. D. Idaho Sept. 12, 2012) (discussing General Order 145 and LBR 5005.1). In addition, this venue will determine, in many parts of the District, the assigned judge. *Id.* Parties may not seek to vary the assignments of the presiding judge by request, *see Ricks* at *2-4. And, while nothing presented to the Court in the instant case indicates the false representation of residency by Debtors and their counsel was designed to "judge shop," it has that effect. Manipulation cannot be tolerated, even if the reason is relatively benign. And false statements, whatever the attempted justification, cannot be tolerated.

Therefore, the Court will require the Clerk to assign this case a new case number consistent with the numbering protocol identifying cases in the south-central area encompassing Blaine County. Further, this case will be assigned to Bankruptcy Judge Jim D. Pappas.⁵ Since Trustee handles chapter 13 cases in both areas, there will be no change in Trustee assignment. Nor will this Order alter the date of filing, the date of the § 341(a) meeting, or the bar dates for claims and dischargeability complaints. This Order simply instructs the Clerk to assign a

⁵ Since the Court did not provide notice of an intent to consider Rule 9011 issues at the February 18 hearing, it will leave all such issues and any other ramifications from Debtors' false assertion of residence, to the discretion of Judge Pappas.

different case number, assign a different judge, and designate the correct venue for future hearings. The Clerk shall also issue a notice to creditors clarifying the same.

IT IS SO ORDERED.

DATED: February 19, 2014



A handwritten signature in black ink, reading "Terry L. Myers".

TERRY L. MYERS
CHIEF U. S. BANKRUPTCY JUDGE