**NOT FOR PUBLICATION**

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW JERSEY

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In re: Syed M. Hussain,

Debtor.

Chapter 7
Case No. 99-62058 (RTL)

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**MEMORANDUM OPINION**

**APPEARANCES:**

Syed M. Hussain,
Debtor *Pro Se*

Carol L. Knowlton, Esq.
Teich Groh
Attorneys for Trustee

**RAYMOND T. LYONS, U.S.B.J.**

## INTRODUCTION

The Debtor in this long running chapter 7 bankruptcy case seeks an order requiring the trustee to satisfy the balance due on a student loan. Despite the trustee having paid all claims in full plus post-petition interest, including the claims filed by the student loan creditor, there remained a balance due on the student loan. Because (1) the court previously granted the trustee's motion to close this case; (2) the trustee's accounting and amended accountings were presented to the court on notice to all parties and the Debtor has not raised this issue previously; and (3) the trustee properly paid the claims in full plus interest as allowed under the Bankruptcy Code, the Debtor's motion is denied.

The trustee has cross moved to bar the Debtor from filing any further pleadings in this case. Because the Debtor has engaged in a practice of filing meritless pleadings in a vexatious manner that have burdened not only the trustee, but the United States Trustee, this court and the district court, the trustee's cross motion is granted. The Debtor is barred from filing further pleadings regarding the administration of this bankruptcy case.

## JURISDICTION

This court has jurisdiction of this proceeding under 28 U.S.C. § 1334(a) and (b), 28 U.S.C. § 157(a) and the Standing Order of Reference by the United States District Court for the District of New Jersey dated July 23, 1984, as amended by Order dated September 18, 2012, referring all cases and proceedings arising under Title 11 of the United States Code to the bankruptcy court. This is a core proceeding within the meaning of 28 U.S.C. § 157(b)(2)(A) concerning the administration of the estate.

## BACKGROUND

Debtor, Syed M. Hussain, is, understandably, unhappy with the outcome of his bankruptcy case. Before filing bankruptcy he had a good-paying job, owned his own home, and had acquired a number of investment properties. Now he is sick, unemployed, and has lost all of his assets. First, his attempt to reorganize his investments failed. Then his hope that the liquidation of the investment properties and settlement of a law suit would pay all his creditors in full and allow him to save his home was not realized. These events have devastated Mr. Hussain and his family and he has vented his dissatisfaction on the trustee and his professionals. All of his complaints have been thoroughly reviewed by the court and found wanting. The trustee and his professionals have had to respond to each of the Debtor's motions even though all assets have been distributed to

creditors long ago and the trustee has been discharged. It is time to close this case.

The Debtor filed a petition (Dkt. Entry No. 1) and plan (Dkt. Entry No. 2 ) under Chapter 13 of the Bankruptcy Code on October 25, 1999. According to the Debtor's bankruptcy schedules, he owned a one-half interest with his non-filing spouse in various parcels of real property. One piece of property was the Debtor's residence, while the other five were investment properties. The court denied confirmation of the Debtor's proposed plan and first modified plan on July 17, 2000. (Dkt. Entry No.89 ). *In re Hussain*, 250 B.R. 502 (Bankr. D.N.J. 2000). A second modified plan (Dkt. Entry No. 74) was proposed but then withdrawn (Dkt. Entry No. 77). On July 20, 2000, the Chapter 13 trustee moved to convert the case (Dkt. Entry No. 90). On July 31, 2000, a third modified plan (Dkt. Entry No. 95) was filed. On August 15, 2000, the Chapter 13 trustee's motion to convert was granted and the case was converted to Chapter 7 (Dkt. Entry No. 100). The Chapter 7 trustee, Barry Frost, was appointed on August 22, 2000 (Dkt. Entry No. 109). The Debtor moved for reconsideration of the order converting the case (Dkt. Entry No. 106), which was denied (Dkt. Entry No. 120). The Debtor received a discharge on November 27, 2000 (Dkt. Entry No. 140).

The trustee administered the estate by selling all of the real estate and settling litigation. Among the proofs of claim was Claim No. 7 filed by AFSA Data Corp in the amount of $14,488.40 for a student loan. On April 17, 2007, the trustee filed his final report stating that all property of the estate had been inventoried, collected, and liquidated or exempted, all claims had been reviewed, and that all adversary proceedings had been closed. The United States Trustee filed a Statement of Review (Dkt. Entry No. 376) indicating that she had reviewed, and had no objection to, the trustee's final report, accounting, proposed distribution and application for

compensation. The estate had gross receipts of $1,665,792.08, disbursements of $1,296,300.28, leaving the balance of $369,491.80. Details of all receipts and disbursements were included. The report came with a detailed proposed distribution table for the remaining $369,491.80. This table proposed to pay AFSA Data Corp.'s student loan claim in full $14,488.40 (Claim No. 7), plus $6,024.74 in interest.

The court scheduled the final meeting for May 24, 2007 (Dkt. Entry No. 377). The clerk of the court filed a certificate of service (Dkt. Entry No. 378) indicating that all parties in interest, including the Debtor, were served by first class mail on April 20, 2007, with notice of the Final Meeting.[1] The notice provided, in part: "Any objection to the trustee's Final Report and Account must be filed (7) seven days prior to the above date [May 24, 2007] and will be heard at that time of the final meeting." No one, including the Debtor, objected to the final report, and the trustee's commission in the amount of $72,146.97 was allowed on May 30, 2007 (Dkt. Entry No. 379). The trustee initially reported that he was ready to make disbursement to creditors in accordance with his final report (Dkt. Entry No. 382) but subsequently reported that distribution was delayed to process a request for abatement of penalties and interest with the IRS (Dkt. Entry No. 383).

On June 3, 2008, a full year after the trustee's final report was filed, the Debtor wrote a letter to the court (Dkt. Entry No. 385) arguing that a certain malpractice action which the trustee had settled was not an asset of the estate because the malpractice case was filed after the bankruptcy commenced. He further argued that before paying taxes to the IRS, the Chapter 7 trustee had to deduct all expenses of estate administration first. Further, he requested that the

[1] Notice to the Debtor was mailed to his residence; however, that property had been sold and he no longer lived there. Since the Debtor had not filed a statement of change of address as required by Rule 4002(a)(5), the clerk used the last known address.

court appoint counsel for him as he could not afford to hire counsel himself. On June 10, 2008, this correspondence was resubmitted as a motion (Dkt. Entry No. 387) and a hearing was scheduled for October 20, 2008. After numerous responsive pleadings between the parties and one adjournment, the court heard and denied the motion on November 17, 2008 (Dkt. Entry No. 404). The court issued a written opinion explaining its rationale on December 5, 2008 (Dkt. Entry No. 412). *In re Hussain*, 397 B.R. 730 (Bankr. D.N.J. 2008).

On October 29, 2008, the trustee filed an amended final report (Dkt. Entry No. 398). Again the United States Trustee stated that she had reviewed the amended report and had no objection (Dkt. Entry No. 398). The primary modification was a change to the amount to be distributed to the IRS. The notice of hearing (Dkt. Entry No. 399) regarding the amended final report was sent out in a similar fashion to the initial final report and it provided, in part: "Any objection to the trustee's Final Report and Account must be filed (7) seven days prior to the above date [December 1, 2008] and will be heard at that time of the final meeting." A Certificate of Service (Dkt. Entry No. 400) was filed by the clerk showing that notice was mailed to the Debtor at his new address in Dubai.

On November 21, 2008, the Debtor's spouse filed an objection to the amended final report (Dkt. Entry No. 406). That objection demanded that her portion of the bankruptcy estate be paid to her immediately. On the date of hearing, the spouse's objection was overruled because she had expressly waived her rights in a Consent Order entered October 15, 2004 (Dkt. Entry No. 285).

On December 4, 2008, the Chapter 7 trustee filed the second amended accounting (Dkt. Entry No. 409). Relevant here, the claims of the unsecured creditors were again to be paid in full including interest. Thus, the proposed distribution provided that AFSA Data Corp. would still be

paid in full plus interest of $6,024.74 as in the trustee's initial proposal from April 17, 2007. On December 5, 2008, the Debtor filed a late objection to the first amended final report (Dkt. Entry No. 410). He objected on the grounds that the trustee had not yet paid his non-debtor spouse's share of the bankruptcy estate and that the trustee had been using the wrong address. The spouse's objection had been previously overruled. On December 5, 2008, the court approved the amended trustee's fees (Dkt. Entry No. 411).

On December 18, 2008, the Debtor filed a motion for reconsideration (Dkt. Entry No. 415). He argued:

1) That the trustee miscalculated the payment of taxes by failing to deduct administrative expenses;
2) that the accountant's fee be denied;
3) that the fees payable to the trustee's special counsel for handling the malpractice action were not in accordance with the agreement the debtor and the attorney had when the debtor initially retained the attorney;
4) that the settlement of the malpractice claim was inadequate;
5) that the trustee's "disregard for [the] estate and justice" mandated that his requested compensation be denied; and
6) that certain proposed payments to unsecured creditors should not be made, although it was unclear why.

The trustee opposed the motion for reconsideration and advised the court that he had distributed all funds pursuant to his Amended Final Report; thus, there were no funds remaining in the estate (Dkt. Entry No. 417). The court heard the motion on January 26, 2009 and overruled the majority of the issues but did adjourn the tax issue (Dkt. Entry No. 420).

On May 12, 2009, the trustee filed a statement showing disbursements in accordance with his final accounting. AFSA Data Corp.'s student loan claim of $14,488.40 plus interest of $6,024.74 were paid in full, a combined $20,513.14 on December 16, 2008. The United States

Trustee stated that she agreed that the estate had been fully administered and was ready to close (Dkt. Entry No. 434). On May 14, 2009, the Bankruptcy Court issued its final decree declaring that the case had been fully administered and discharging the trustee (Dkt. Entry No. 435). The case was then closed for the first time on the same date, but was reopened because a tax issue remained unresolved. Deduction of administration expenses from taxable income that had been questioned by the Debtor was actually handled properly by the trustee and the court overruled the Debtor's objection. The court actually questioned some aspects of the tax obligation of the estate that had not been raised by the Debtor.

After a fair amount of correspondence between the parties and the court and an August 28, 2009 evidentiary hearing, the court *sua sponte* issued an Order to Show Cause related to the tax issue on December 21, 2009 (Dkt. Entry No. 446). On March 3, 2010, the court ruled against the Chapter 7 trustee on the tax issue that the court had raised (Dkt. Entry No. 458). The trustee appealed this order and on December 7, 2010, the District Court affirmed (Dkt. Entry No. 501).

On January 20, 2010, the Debtor filed a motion (Dkt. Entry No. 449) requesting that "all Unclaimed funds from all distributions by the Trustee be refunded to the Debtor." The motion was denied after hearing on March 3, 2010 (Dkt. Entry No. 460).

On February 5, 2010, the Debtor filed a motion (Dkt. Entry No. 454) requesting that the court charge the Chapter 7 trustee's accountant with perjury, obstruction of justice, and contempt of court. This motion was also denied after hearing on March 3, 2010 (Dkt. Entry No. 459).

A short time later, on March 12, 2010, the Debtor filed a motion to reconsider (Dkt. Entry No. 464) the court's March 3, 2010 order that was on appeal to the District Court. This motion was heard and denied on April 5, 2010 (Dkt. Entry No. 474).

On April 21, 2010, the Debtor filed a motion (Dkt. Entry No. 478) titled: "Abundance of facts that the Trustee committed CRIMES" (use of upper-case in original). This motion purported to subpoena the Debtor's three previous attorneys. The motion was heard and denied on June 7, 2010 (Dkt. Entry No. 487). On June 15, 2010, the Debtor appealed this order to the District Court (Dkt. Entry No. 489). The appeal was dismissed by way of the Chapter 7 trustee's motion on December 7, 2010 (Dkt. Entry No. 500).

A year after his previous motion, on April 8, 2011, the Debtor filed a motion regarding an alleged missing $31,068.10 (Dkt. Entry No. 502). This amount was paid to his former attorney and the Debtor felt that it should be returned to him. A cross motion seeking denial of the Debtor's motion and closing of the case was filed by the Chapter 7 trustee on May 2, 2011 (Dkt. Entry No. 503). The matters were heard on May 9, 2011, and the court denied the Debtor's motion and granted the cross motion to close the case (Dkt. Entry No. 510). A second Final Decree discharging the trustee was entered on May 13, 2011 (Dkt. Entry No. 511). The case was then closed for the second time on May 13, 2011. On May 26, 2011, the case was reopened by the clerk administratively because the Debtor filed another appeal to the District Court. On August 26, 2011, the District Court denied the Debtor's appeal and affirmed the order of the Bankruptcy Court (Dkt. Entry No. 525). The Debtor appealed to the Third Circuit (Dkt. Entry No. 530) which later dismissed his appeal (Dkt. Entry No. 535).

After the Bankruptcy Court had ordered this case closed, but while the Debtor's appeal remained pending in the District Court, on July 7, 2011, the Debtor filed the instant pleading (Dkt. Entry No. 523). This pleading is titled: "Notice of Motion. Student's Loan is Now Deducted from My Social Security Retirement Benefits." According to the Debtor, the Chapter 7 trustee's

$20,513.14 payment to AFSA Data Corp. did not pay the loan in full. Rather, the Debtor asserts, the balance was $29,493.62 and the Chapter 7 trustee's failure to pay the entire balance was in error. The Debtor asserts that the Department of Education is now deducting $160 per month from his Social Security benefits in order to pay off the $9,483.62. Because the Bankruptcy Court had ordered this case closed, this pleading was docketed as correspondence and no hearing was ever scheduled to address it. On October 24, 2011, the Debtor appealed to the District Court (Dkt. Entry No. 527) arguing that his pleading should be treated as a motion and heard as such.

The District Court remanded the matter to the Bankruptcy Court so that it would either address the motion or explain why it had been filed as correspondence (Dkt. Entry No. 553). The District Court explained that under 28 U.S.C. § 158(a), the District Court may hear appeals from the Bankruptcy Court of final judgments, orders, and decrees; and specified interlocutory orders and decrees. In this matter, as there was no final or interlocutory order from which to appeal, the District Court lacked subject matter jurisdiction.

Following remand, the Bankruptcy Court scheduled the July 7, 2011 motion for hearing. The Chapter 7 trustee has cross-moved (Dkt. Entry No. 557) seeking to prohibit the Debtor from filing any further motions or pleadings against the trustee and objecting to the Debtor's motion. Following a hearing on October 22, 2012, this court reserved decision.

Further, on September 14, 2011, the Debtor filed a "Request for investigation, inquiry of the chapter 7 trustee." (Dkt. Entry No. 526). This pleading was marked as correspondence and docketed as such. No hearing was ever schedule and no parties ever submitted any follow up filings addressing it.

On March 1, 2012, the Debtor filed a motion (Dkt. Entry No. 536) to compel the chapter 7

trustee to account for and turn over rents collected during the administration of the estate. The motion was heard and denied on April 9, 2012 (Dkt. Entry No. 540). This denial was appealed to the District Court on May 3, 2012 (Dkt. Entry No. 544). This appeal has not yet been decided.

On September 6, 2012, the Debtor filed a "Request for Documents, Rental Income Accounting and for Bank Accounts." (Dkt. Entry No. 556). This pleading asserted that the Chapter 7 trustee had not submitted these documents, which the Debtor asserted was required by the United States Trustee. This pleading was docketed as correspondence and no hearing has been scheduled and no parties have submitted any filings addressing it.

## DISCUSSION

This long and complex procedural history was recited to demonstrate that the Debtor has had more than ample time and opportunity to raise the issue regarding the trustee's payment of the student loan and failed to do so. The case was closed on several occasions and would have remained closed, but for the pendency of appeals by the Debtor, all of which were denied.

There are three issues in this case. First, the Debtor's self-styled "motion" was considered correspondence because the court considered the estate fully administered and ordered the case closed as requested by the trustee. The Final Decree discharged the trustee. The Debtor was only able to file this pleading after the case was administratively reopened because of the Debtor's May 26, 2011 appeal of an unrelated order. As such, the court saw no reason to address the pleading. Finality is an important goal in bankruptcy proceedings. *Branchburg Plaza Assoc., L.P. v. Fesq* (*In re Fesq*), 153 F. 3d 113, 119 (3d Cir. 1998). This case, having been ordered closed, should have remained closed and the Debtor's July 7, 2011 filing need not have been addressed unless the court granted a motion to reopen under section 350 of the Bankruptcy Code.

The court also found it relevant that these issues had never been raised before, which leads to the second issue. Ordinarily, where no objection has been filed to a trustee's final report, the trustee is discharged and the case closed. As the Bankruptcy Appellate Panel of the First Circuit explained:

> The responsibility to review the accuracy and correctness of a trustee's final report lies with the U.S. Trustee, see *28 U.S.C. § 586*, and the bankruptcy court intervenes only when an objection is filed. *Fed. R. Bankr. P. 5009*. There being no objection in this case, all that was left for the bankruptcy court to do was to ministerially enter its order closing the case, and that is what happened.

*In re Koza*, 375 B.R. 711, 718 (1st Cir. BAP 2007). In this case, no one filed a timely objection to the trustee's final account or amended final account. The debtor has slept on his rights regarding the student loan for too long and the doctrine of laches now bars his claim. Laches is an equitable remedy that may be applied when the defending party can demonstrate: "(1) lack of diligence by party against whom the defense is asserted and (2) prejudice to the party asserting the defense." *U.S. v. Koreh*, 59 F.3d 431, 445 (3d Cir. 1995). The burden of proof rests with the party asserting the defense. *Id.* at 445-46; *In re Levy*, 256 B.R. 563, 566 (Bankr. D.N.J. 2000). To establish prejudice, the trustee must demonstrate that he changed position during the delay and that undoing the change will cause him harm. *Phares v. PNC Bank, N.A.*, (*In re Phares*), No. 04-33251-JAD, 2011 WL 7109329, at *2 (Bankr. W.D. Pa. Apr. 28, 2011).

Several cases help demonstrate why the Debtor's late argument is barred. Judge Stripp in *In re Levy* explained that laches barred a debtor from seeking to avoid a lien four years after the petition was filed and six months after the case was closed. 256 B.R. at 567. Likewise, Judge Deller in *Phares v. PNC Bank, N.A.* held that laches barred a motion by the debtors to avoid a

judicial lien made six years after the petition date and five years after the case was closed. 2011 WL 7109329, at *3-4. The Bankruptcy Appellate Panel of the First Circuit also held that the doctrine of laches barred granting a movant's request to strike an order closing a chapter 7 case when the movant knew of an alleged error in the closing of the case for more than four years. *Eresian v. Koza*, (*In re Koza*), 375 B.R. 711, 718-19 (B.A.P. 1st Cir. 2007).

In the case at bar, the Debtor did not object to the April 17, 2007 original final report despite having ample time to do so. In fact, the Debtor's next filing was more than a year later, on June 3, 2008, when he wrote a letter to the court arguing that a malpractice action was not an asset of the estate. Likewise, the Debtor failed to timely object to the October 29, 2008 amended final report. However, on December 5 and December 18, 2008, the Debtor filed motions contesting various aspects of the trustee's report, but even those never raised the AFSA student loan claim issue. The Debtor was clearly informed of the treatment that the trustee proposed for the AFSA student loan claim and did not object to it. He has not provided any explanation for his delay. Further, the trustee distributed funds to AFSA on December 16, 2008, just as he proposed to do, which paid the student loan claim in full plus interest. The trustee changed his position in that he distributed all funds of the estate and he would clearly be prejudiced by revisiting this issue at such a late date. The Debtor cannot now complain about what the trustee has done nor complain that he was unaware of what was happening. The time for such complaints has long passed.

The third issue is that, even if the court were to consider the Debtor's challenge to the trustee's handling of the student loan claim, the Debtor has not demonstrated that the trustee committed any error. The student loan claim was paid in full plus interest in the same manner as other general unsecured claims. Post-petition interest on general unsecured claims is not paid at

the contract rate, but at the bankruptcy rate so that all creditors are treated alike. *In re Wash. Mut., Inc.*, 461 B.R. 200, 242 (Bankr. D. Del. 2011) (*vacated in part* as to other issues by *In re Wash. Mut., Inc.*, No. 08-12229 (MFW), 2012 Bankr. LEXIS 895 (Bankr. D. Del., Feb. 23, 2012). The Debtor has not adduced any evidence demonstrating that AFSA was not paid at the proper interest rate nor has the Debtor presented any case law suggesting that AFSA should have been paid more than it was, much less in full.

***Trustee's Cross-Motion***

Despite the procedural awkwardness of a cross-motion being filed in response to correspondence, the court will consider the trustee's pleading as a cross-motion of which the Debtor had notice and sufficient time to respond. The trustee has cross-moved seeking an order limiting the Debtor's ability to file future motions. The All Writs Act permits the "Supreme Court and all courts established by Act of Congress [to] issue all writs necessary or appropriate in aid of their respective jurisdictions and agreeable to the usages and principles of law." 28 U.S.C. § 1651(a) (2012). A similar power exists under the Bankruptcy Code. *See* 11 U.S.C. § 105(a) (2012). These powers permit, in certain circumstances, federal courts to issue injunctions curtailing a particular litigant's ability to file new actions or motions. The Third Circuit has recently explained:

> Orders restricting the filing of documents from certain litigants are within a district court's power under the All Writs Act . . . . A "district court has authority to require court permission for all subsequent filings once a pattern of vexatious litigation transcends a particular dispute." . . . [However], we have explained that "the District Court must give notice to the litigant to show cause why the proposed injunctive relief should not issue."

*Telfair v. Office of US Attorney*, 443 Fed. Appx. 674, 677 (3d Cir. 2011) (internal citations omitted). *see also Chipps v. United States Dist. Ct. for the Middle Dist. Of Pa.*, 882 F.2d 72, 73 (3d Cir. 1989).

Further, in *In re Oliver*, a case where a litigious *pro se* prisoner appealed a district court order which enjoined the clerk of the court from accepting any filing from the prisoner without a specific order from the court, the Third Circuit provided:

> In appropriate circumstances, courts have gone beyond prohibitions against relitigation and enjoined persons from filing any further claims of any sort without the permission of the court. In *Rudnicki v. McCormack*, 210 F.Supp. 905 (D.Mass.1962), the court entered such an injunction after it found that, in the absence of a court-ordered proscription, a plaintiff who had "repeatedly filed groundless actions" against various state and federal officers will continue to institute groundless and purely vexatious litigation both against these defendants and against other judges and public officials, the effect of which will be to cause further harassment of these officials, further expense to the governments which they represent, and further burden upon the offices of the clerks of the courts in which such proceedings are initiated.
> *Id.* at 911. . . . Of course, any such order is an extreme remedy, and should be used only in exigent circumstances. The First Circuit, in affirming the imposition of a proscription against a litigious plaintiff, emphasized that such injunctions should "remain very much the exception to the general rule of free access to the courts," and that "the use of such measures against a pro se plaintiff should be approached with particular caution." *Pavilonis v. King*, 626 F.2d 1075, 1079 (1st Cir. 1980), *cert. denied*, 449 U.S. 829, (1980).
> . . .
> We agree with the First and District of Columbia Circuits, however, that a continuous pattern of groundless and vexatious litigation can, at some point, support an order against further filings of complaints without the permission of the court.

682 F.2d 443, 445-46 (3d Cir. 1982).

The Third Circuit has also cautioned that the use of the All Writs Act to enjoin further filings is an extreme remedy that "should be narrowly tailored and sparingly used." *In re Packer Avenue Associates*, 884 F.2d 745, 747 (3d Cir. 1989). These principles can be distilled into three requirements that a court must comply with in issuing such an injunction: 1) exigent circumstances must exist, such as a litigant's abuse of the judicial process by filing repetitive and meritless actions; 2) the court must provide the litigant an opportunity to show cause why injunctive relief should not be granted; and 3) the injunction must be narrowly tailored to fit the circumstances of the case. *U.S. Bank N.A. v. Gunn*, 2012 U.S. Dist. LEXIS 36113, 5-6 (D. Del. Mar. 16, 2012).

In this case, the Debtor has filed numerous motions over the past five years, all of which have been denied. Many of the issues raised were meritless and accused the trustee of manifold errors and wrongdoings: perjury, obstruction of justice, contempt of court, erroneously paying the Debtor's previous Chapter 13 attorney, and failing to turn over collected rents to the Debtor. Essentially, the Debtor continues to file motions and subpoenas seeking to further scrutinize the administration of a case which has been administered, reviewed by the U.S. Trustee, reviewed again upon late objection by the Debtor, closed, reopened, closed again, and reopened again. As explained, the time for objections to the administration has long since passed and the Debtor appears to be engaging in harassing litigation tactics. Indeed, since the last hearing on October 22, 2012, the Debtor has issued subpoenas to the trustee and the U.S. Trustee demanding documents pertaining to collected rents and has also filed a motion demanding costs and expenses in the amount of $150,000.

In light of the age of this case, its lengthy and largely unnecessary litigation history, and the apparent continued abuse of the judicial process by the Debtor, the Debtor is hereby enjoined from

filing any new motions, pleadings, or correspondence, excluding responsive pleadings to contested matters already commenced, in his bankruptcy case, No. 99-62058, without prior approval of the court. Any such proposed filing must be accompanied by a brief statement, no more than one page in length, which sets forth how such proposed filing does not seek to challenge the administration of the bankruptcy case. At this time, the court feels that this a narrowly drawn restriction that should leave the Debtor's legitimate right to access the federal court system intact while simultaneously putting to rest any questions regarding the administration of the estate.

Although this court has not issued an order to show cause, the Debtor has had an opportunity to be heard on this issue. On October 12, 2012, the trustee filed a motion seeking to prohibit the Debtor from filing any further motions or pleadings against the trustee. On October 17, 2012, the Debtor responded and argued that the issue of the payment of the student loan was never dealt with before. The Debtor is only partially correct when he states that the issue of the payment to the student loan was never dealt with before. The student loan distribution, as a stand-alone issue was never raised by the Debtor, which is the basis for the doctrine of laches applying to deny the Debtor's requested relief. However, the administration of the case, which inherently included the distribution to the student loan, has been addressed on numerous occasions, which is the basis of concluding that the case has been fully administered and the time for objection has passed. Regardless, the Debtor's response evinces that the Debtor has had ample opportunity to respond to the trustee's request that the Debtor be prohibited from any future filings. The court feels that this satisfies the notice requirement before an injunction of this nature may issue in this circuit.

## CONCLUSION

The filing that the Debtor made on July 7, 2011, was not treated as a motion because the Bankruptcy Court had ordered this case closed. The clerk kept the case open administratively only because of the pending appeal in the District Court. The Debtor's challenge to the trustee's handling of the student loan claim comes too late since the trustee had filed his final accounting and amended accounting several years ago, the Debtor filed objections to the amended accounting, all of which were overruled, and the Debtor never raised the issue of the student loan claim. Lastly, the trustee handled the student loan claim properly by paying the claim in full plus interest on the same basis as all other creditors. Motion denied.

The Debtor has engaged in meritless and vexatious litigation. The trustee's cross motion to bar further pleadings by the Debtor without prior court approval is granted.

Dated: January 4, 2013

***/S/ Raymond T. Lyons***
United States Bankruptcy Judge