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Judges, U.S. Court of Appeals for the D.C. Circuit
E. Barrett Prettyman U.S. Courthouse
333 Constitution Avenue, N.W.
Washington, D.C. 20001

RE: Fraud on the court

Members of the Court:

On September 29, 2015, I copied each of you on a letter concerning misconduct by Judge Ellen S. Huvelle, as well as a related fraud on the U.S. Court of Appeals for the D.C. Circuit and several other courts.¹ I would note that the members of the Court incurred a duty to inquire *sua sponte* about the fraud as soon as they became aware of it:

This Court has inherent authority, and indeed a duty, to consider whether there has been a fraud on the court, and if so, to order an appropriate remedy, whenever such a fraud comes to the Court's attention. This is so regardless of who brings it to the Court's attention, and whether the party alleging fraud on the court has clean hands or not.

In re M.T.G., Inc., 366 B.R. 730, 754-55 (Bankr. E.D. Mich. 2007) *aff'd*, 400 B.R. 558 (E.D. Mich. 2009), citing *Martina Theatre Corp. v. Schine Chain Theatres, Inc.*, 278 F.2d 798, 801 (2d Cir.1960) and *Hazel-Atlas Glass Co. v. Hartford-Empire Co.*, 322 U.S. 238, 64 S.Ct. 997, 88 L.Ed. 1250 (1944).

Further, “the inherent power of a court to set aside its judgment if procured by fraud upon the court is not dependent on the filing of a motion by a party; the court may assert this power *sua sponte*.” *United States v. Buck*, 281 F.3d 1336, 1342 (10th Cir.2002) citing 11 Wright and Miller § 2865, at 380. Moreover, not only does this court possess the inherent authority to consider such fraud, the court “has a duty to consider whether there has been a fraud on the court, and if so, to order an appropriate remedy, whenever such fraud comes to the Court's attention.” *In Re M.T.G., Inc.*, 366 B.R. 730, 754 (E.D.Mich. 2007).

¹ Evidence of the fraud can be found on one of my websites, *i.e.*, DirtyRottenJudges.com. A recent *Wall Street Journal* blog post referred to that site and included a link to it. In an October 26, 2015 blog post (<http://lawflog.com/?p=988>), I noted that it appeared Judge Huvelle's colleagues were trying to cover up her misconduct.

United States v. Williams, No. 97-CR-171-JHP, 2012 WL 640020, at *5 (N.D. Okla. Feb. 27, 2012).

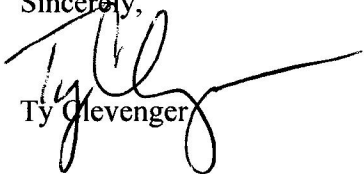
A court may exercise its equitable power to set aside a fraudulent judgment “to maintain the integrity of the courts and safeguard the public.” *United States v. Smiley*, 553 F.3d 1137, 1142 (8th Cir.2009). If there is fraud on a court, that court may *sua sponte* take action to set aside any judgment entered. *See Martina Theatre Corp. v. Schine Chain Theatres, Inc.*, 278 F.2d 798, 801 (2d Cir.1960). Moreover, the court can take such action even upon the suggestion of an entity with unclean hands. *Id.* (citing *Hazel-Atlas Glass Co. v. Hartford-Empire Co.*, 322 U.S. 238, 64 S.Ct. 997, 88 L.Ed. 1250 (1944), *overruled on other grounds by Standard Oil Co. of Cal. v. United States*, 429 U.S. 17, 97 S.Ct. 31, 50 L.Ed.2d 21 (1976)). Further, a court may conduct its own investigation to determine if it has been defrauded. *See Smiley*, 553 F.3d at 1142.

In re Old Carco LLC, 423 B.R. 40, 51 (Bankr. S.D.N.Y. 2010) *aff'd*, No. 10 CIV.2493 (AKH), 2010 WL 3566908 (S.D.N.Y. Sept. 14, 2010) *aff'd sub nom. Mauro Motors Inc. v. Old Carco LLC*, 420 F. App'x 89 (2d Cir. 2011); *see also State ex rel. Nebraska State Bar Ass'n v. Bremers*, 200 Neb. 481, 485, 264 N.W.2d 194, 197 (1978) (“A duty rests on the courts to maintain the integrity of the legal profession by disbarring or suspending attorneys who indulge in practices constituting a fraud on the courts, or which tend to corrupt and defeat the administration of justice.”).

Nearly four months after I sent the September 29, 2015 letter, the Court has made no inquiry whatsoever. Furthermore, my judicial misconduct complaint against Judge Huvelle remains in limbo nearly a year after I filed it. According to Canon 3(A)(5) of the Code of Conduct for U.S. Judges, “A judge should dispose promptly of the business of the court.” I ask that you attend to these matters immediately.

Thank you in advance for your consideration.

Sincerely,


Ty Cleveland