

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAI'I

M.P.I. LTD. TRUST; DAVID
DOUGLAS KROMER, TRUSTEE,

Appellants,

vs.

HOWARD M.S. HU, TRUSTEE, *et al.*,

Appellees.

CV. NO. 17-00460 DKW-KSC

Bankr. No. 17-00245

ORDER DISMISSING CASE

On September 13, 2017, one of the Appellants in this bankruptcy appeal, David Douglas Kromer, Trustee, purportedly on behalf of Appellant M.P.I. Ltd. Trust, filed in United States Bankruptcy Court, District of Hawaii: (1) a Notice of Appeal And Statement Of Election, and (2) an Application To Proceed In District Court Without Prepaying Fees Or Costs, seeking to proceed *in forma pauperis* on appeal ("IFP Application"). On September 19, 2017, the Court denied the IFP Application without prejudice and directed Kromer to file a fully executed IFP Application or pay the applicable filing fee by October 16, 2017. Dkt. No. 4 (9/19/2017 Order). The September 19, 2017 Order cautioned Kromer as follows:

If Kromer wishes to proceed with this appeal, he must either (1) re-submit a fully executed IFP Application or (2) remit the

appropriate filing fee by **October 16, 2017**. Failure to do so will result in the automatic dismissal of this action.

1. The Clerk of Court is DIRECTED to send Kromer a copy of this Order and the Court's Application to Proceed *in forma pauperis* with the accompanying information sheet.
2. Kromer is GRANTED until **October 16, 2017** to (a) pay the filing fee; or to (b) submit a completed and executed application to proceed *in forma pauperis* on the form provided by the court with this Order.
3. Failure to timely file an *in forma pauperis* application or to pay the applicable filing fee by **October 16, 2017** will result in AUTOMATIC DISMISSAL of this action.

9/19/2017 Order at 4–5.

On October 18, 2017, the Bankruptcy Court transmitted a Notice of Failure to Pay Filing Fee, notifying this Court that “the bankruptcy court has not received as of the date of this notice the required filing fee of \$298, nor a completed and executed IFP application, making the appeal ripe for dismissal by the district court.” Dkt. No. 6 (10/18/17 Notice). Despite the Court’s prior warning, Kromer did not timely file an IFP application or pay the applicable filing fee by October 16, 2017. Dismissal of this appeal without prejudice is therefore appropriate. *See In re Perrotton*, 958 F.2d 889, 890 (9th Cir. 1992) (affirming dismissal of pro se litigant’s appeal to the Bankruptcy Appellate Panel for failure to pay required filing fee). Because neither Kromer nor Appellant MPI Ltd. Trust has paid the proper filing fee, and because Kromer has not otherwise complied with the Court’s

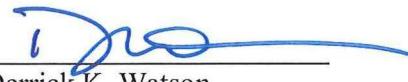
September 19, 2017 Order, the Court DISMISSES this action without prejudice.

The Clerk's Office is directed to close the case.

IT IS SO ORDERED.

DATED: October 19, 2017 at Honolulu, Hawai'i.





Derrick K. Watson
United States District Judge

M.P.I. Ltd. Trust et al. v. Hu et al.; CV 17-00460 DKW-KSC; **ORDER**
DISMISSING CASE