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viable claim of ownership. When asked why he decided to deny the motion rather than to continue it, Judge Real testified, "That may be a personality thing with me. I don't continue things if I can help it." [FN3] Hearing, Transcript, August 24, 2006, p. 99, l. 3-4.

\*9 About a month before this hearing, sometime in May 2001, Judge Real had spoken with District Judge David O. Carter of the United States District Court, Central District of California in Santa Ana, to ascertain Judge Carter's availability and willingness to take over the Canter bankruptcy. That conversation is described *infra* at Section IV.A.2. Judge Real thought of Judge Carter because Judge Carter had recently presided over the Anna Nicole Smith bankruptcy, and thus had expertise in the area. On July 9, 2001, about three weeks after the June 18 hearing, Judge Real *sua sponte*, and without any form of notice or explanation to the parties, transferred the bankruptcy case-- both the bankruptcy petition and the adversary action--to Judge Carter. Judge Real did not, however, vacate the stay order, which remained in place by virtue of his June 18 denial of the motion to vacate.

On July 23, 2001, Judge Carter accepted the transfer, and the parties were notified. On September 21, 2001, Judge Carter granted the trust's motion to re-refer case to the bankruptcy court, stating that "none of the factors justifying withdrawal are present." On December 10, 2001, Bankruptcy Judge Alan Ahart, who once again had the bankruptcy proceeding in his court, granted the trust's motion to dismiss the amended complaint Ms. Canter had filed in the adversary action on June 26, 2001, based on the judgment of the state court that Ms. Canter had no ownership interest in the house. On April 24, 2002, the bankruptcy case was closed.

Meanwhile, on July 17, 2001, the trust filed a notice of appeal of the denial of its motion to vacate the stay order. As the parties had been given an explanation neither for the imposition of the stay order nor for the denial of either of the two motions to vacate it, both counsel for the trust and counsel for the debtor considered the matter to be properly presented to the appellate court and thus no longer before either Judge Carter or the bankruptcy judge. The appeal was argued on March 7, 2002. The Ninth Circuit issued its decision on August 15, 2002, finding that the matter was properly before the court of appeals, that Judge Real had erred when he withdrew the reference of the bankruptcy petition to the bankruptcy court without

showing cause, and that he had abused his discretion when he issued the stay order. [FN4] *In re Canter*, 299 F.3d 1150, 1152, 1155-56 (9th Cir.2002).

## 2. 2003 Complaint Investigation

In the 2003 complaint, Complainant Stephen Yagman, who was not involved in any way in any of the Canter cases, alleged that Judge Real had acted for inappropriate personal reasons in placing Deborah Canter, a "comely" female criminal defendant, on probation "to himself, personally," and in withdrawing the reference in the bankruptcy proceeding in order to "benefit an attractive female." The chief judge investigated the allegations and dismissed the complaint on the basis of the complainant's failure "to include any objectively verifiable proof supporting the allegations of misconduct." Additionally, the chief judge found that Judge Real's decisions pertaining to the bankruptcy case had been reviewed and reversed by the court of appeals, and "a judicial misconduct complaint will generally be dismissed if it is directly related to the merits of a judge's ruling or decision in the underlying case."

\*10 The complainant petitioned the Judicial Council for review of the dismissal. Concluding that additional information was needed, on September 10, 2003, the Judicial Council wrote to Judge Real asking him to explain why he had withdrawn the bankruptcy reference; how the bankruptcy case had been assigned to him following the withdrawal of the reference; why he had imposed the stay order; and whether, during his supervision of Ms. Canter's probation, he had had any communications with her regarding the bankruptcy matter, the unlawful detainer action, the lifting of the automatic bankruptcy stay, the possibility of withdrawing the reference of the bankruptcy case, or any other matter concerning the bankruptcy. Judge Real responded to each of the Judicial Council's inquiries in an unsigned memorandum dated October 9, 2003. Judge Real acknowledged to this Committee that this response was inaccurate in material respects. *See infra* at Section IV.

After considering Judge Real's submission and conducting its own further inquiry, the Judicial Council vacated the dismissal and remanded the complaint to the chief judge for further investigation. The chief judge had not participated in the Judicial Council's inquiry or deliberations, due to council procedures that were in effect at the time.