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CATHY A. CATTERSON, CLERK
U.S COURT OF APPEALS

JUDICIAL COUNCIL

OF THE NINTH CIRCUIT

IN RE COMPLAINT OF JUDICIAL MISCONDUCT	No. 07-89001 ORDER

Before: KOZINSKI, Chief Judge, THOMPSON, GRABER, MCKEOWN, and BERZON, Circuit Judges, and GONZALEZ, HATTER, LASNIK, MOLLOY, and STOTLER, District Judges.

Pursuant to Chapter III of the Rules of the Judicial Council Governing Complaints of Judicial Misconduct or Disability under 28 U.S.C. § 352(c), complainant has filed a petition for review of the order of the former Chief Judge entered on September 13, 2007, dismissing the complaint against a district judge. After carefully reviewing the record and the authorities cited by the former Chief Judge in her order of dismissal, we find no basis for overturning that order.

To the extent that the complaint challenges the judge's criticism of the actions of lawyers in pending litigation, the complaint relates directly to the judge's findings. We dismiss that portion of the complaint for the reasons stated by the former Chief Judge.

To the extent that the complaint alleges anti-Semitic bias, we conclude that dismissal is warranted as well. The complaint alleges that the judge's

reference to "shysterism" in an order was anti-Semitic. But the term "shyster" derives from a German word for "contemptible fellow," which in turn originated from the German word for "defecator," see Webster's Third New International Dictionary Unabridged 2110 (1993). "Shyster" commonly refers to a lawyer who uses unscrupulous tactics. See, e.g., Old Dominion Branch No. 496 v. Austin, 418 U.S. 264, 297 (1974) (Powell, J., dissenting); Hackin v. Arizona, 389 U.S. 143, 151-52 (1967) (per curiam) (Douglas, J., dissenting). The similarity in sound between "shyster" and "Shylock" causes some people to believe, incorrectly, that the two words are related, but similarity in sound is not similarity of meaning or origin. Even if in some circumstances "shyster" could be construed to carry an anti-Semitic connotation, in the context of the order filed in this case the term cannot reasonably be so construed. Complainant did not provide, and a limited inquiry did not reveal, any evidence of anti-Semitic behavior or speech on the part of the judge. A charge that is unsupported, as here, will be dismissed. 28 U.S.C. § 352(b)(1)(A)(iii); Misconduct Rule 4(c)(3).

Accordingly, we affirm the former Chief Judge's dismissal of the complaint.