

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

In re:

MF GLOBAL HOLDINGS LTD., *et al.*,

Debtors.

Case No. 11-15059 (MG)

**ORDER VACATING AWARD OF SANCTIONS AGAINST MICHELLE Y. COE,
ORDERING MICHELLE Y. COE TO SHOW CAUSE WHY SANCTIONS SHOULD
NOT BE ORDERED, BUT IN ALL OTHER RESPECTS OVERRULING MOTION “TO
REMAND ORDER EXPUNGING CLAIM 1836”**

**MARTIN GLENN
UNITED STATES BANKRUPTCY JUDGE**

Pending before the Court is the “*Motion to Remand Order Expunging Claim 1836 With Sanctions,*” filed by *pro se* litigant Michelle Y. Coe on April 19, 2013 (“Motion,” ECF Doc. # 1347). The Motion was filed less than one day after the Court entered its *Memorandum Opinion and Order Sustaining Objection, Expunging Claim No. 1836 and Imposing Sanctions* (“Coe Opinion,” ECF Doc. # 1338). The Court concluded in the Coe Opinion that her claim for an administrative expense was frivolous. Therefore, the Court expunged Claim No. 1836. Those reasons remain valid and will not be repeated here. Coe had previously filed an unsecured claim in this case, asserting the same basis for that claim that she did for the administrative expense claim that was expunged in the Memorandum Opinion. The Court expunged Ms. Coe’s unsecured claim on November 13, 2012 in a *Memorandum Opinion and Order Sustaining the Objections of the Chapter 11 Trustee and the SIPA Trustee to the Claims of Michelle Y. Coe* (“Memorandum Opinion,” ECF Doc. # 907). The unsecured claim and the administrative claim in this case were both retreads of Coe’s unsuccessful claim in the Refco bankruptcy. In the

Memorandum Opinion, the Court also stated that “any future frivolous filings by Coe in these cases will result in the imposition of sanctions.”

Coe was undeterred by that warning and filed the administrative expense claim which the Court rejected in the Coe Opinion. In the Coe Opinion, in imposing sanctions in the amount of \$250, the Court explained:

Ms. Coe was expressly warned by the Court in the Memorandum Opinion of the consequences of continuing to file frivolous pleadings in the MF Global cases. Coe’s Administrative Claim is frivolous. This is not a trifling matter. Frivolous claims such as the pending Administrative Claim require an objection by a trustee and decision by the Court, increasing the administrative costs in the case, diminishing recoveries by legitimate creditors of the estate. Ms. Coe raised and lost essentially the same arguments raised now in the bankruptcy court, district court and court of appeals in the earlier Refco case, and she again raised essentially the same arguments at an earlier stage of this case resulting in the Memorandum Opinion. Ms. Coe was warned that sanctions would be imposed if she did it again. The Court is mindful that Ms. Coe appears in this case *pro se*, but that cannot excuse repeated frivolous conduct. Therefore, the Court imposes a monetary sanction requiring Michelle Y. Coe to pay the sum of \$250 to the Clerk of the United States Bankruptcy Court for the Southern District of New York within fourteen (14) days from the date of this Order. Any further frivolous filings by Ms. Coe will result in the imposition of substantially increased sanctions.

Everything the Court stated in the Coe Opinion remains true today. But the Court vacates the sanctions because the Chapter 11 Trustee requested that the Court impose sanctions in the pleading filed objecting to the administrative expense claim. Bankruptcy Rule 9011(c)(1)(A) requires that a motion for sanctions under the rule “shall be made separately from other motions . . .” That was not done here. Under Bankruptcy Rule 9011(c)(1)(B), the Court may impose sanctions “On its own initiative,” but the Court must first enter an order describing the conduct that appears to violate the Rule. While I provided a warning in the Memorandum Opinion that sanctions would be imposed if Coe made further frivolous filings, the Court doubts that the

warning is sufficient in the circumstances. The Court may also impose sanctions pursuant to its inherent power, but absent conduct that occurs in the presence of the Court, an order to show cause should be entered giving the sanctions respondent an opportunity to respond and appear at a hearing in court before sanctions are imposed.

Upon these grounds, it is hereby

ORDERED that the sanctions issued in the Coe Opinion are vacated; and

IT IS FURTHERMORE ORDERED that Coe appear before this Court on May 16, 2013 at 11:00 a.m. to explain why she should not be sanctioned for making a frivolous administrative expense filing after being warned that any future frivolous filings would result in sanctions. Coe *shall* appear in person at the hearing on May 16, 2013. Any written response to this Order to Show Cause by Coe shall be limited to the issue of whether sanctions should be imposed and shall be filed on or before 5:00 p.m., May 8, 2013. The Chapter 11 Trustee may file a pleading in support of sanctions on or before 5:00 p.m., May 13, 2013. Coe may *not* file any further reply.

Dated: April 29, 2013
New York, New York.

/s/Martin Glenn
MARTIN GLENN
United States Bankruptcy Judge