

Chapter 7 Case involving a petition preparer who was a former attorney

**Case involving a petitioner preparer:** *Facts:* A petition preparer and former attorney assisted debtors in filing a Chapter 7 bankruptcy case, thereby charging the debtors a fee of \$750.00 for this assistance. The United States Trustee's Office ("UST" herein) filed its Motion to Recover Excessive Fees from said Petition Preparer along with a request for injunctive relief thereby prohibiting the Petition Preparer from ever acting in that capacity again. The Petition Preparer filed a response essentially agreeing to the relief as sought by the UST. The Court set the matter for hearing wherein the Petition Preparer and the UST were in attendance. The Debtors were also present as well as my Staff Attorney and myself as observers of the hearing. Although the Petition Preparer confirmed that he did not object to the relief being requested by the UST, the Court requested that the UST present evidence at the hearing for the record to support the relief as requested.

*Evidence Presented:* The UST called the Petition Preparer as the only witness, wherein the Petitioner Preparer basically acknowledged that he had failed to comply with the notice requirements as set forth in 11 U.S.C. 110 and that he appeared to have violated all of the prohibitions imposed upon the Petitioner Preparer by said statute. The Petition Preparer attempted to set up a defense that he may not have actually violated such prohibitions because the Debtors allegedly knew all of the purported legal advice as given to them by the Petitioner Preparer due to the Debtors' knowledge about bankruptcy as obtained by the Debtors when a bankruptcy was filed by a relative of the Debtors. The Petition Preparer argued that this distinction somehow created a thin line on whether he did in fact violate the provisions of 11 U.S.C. 110 by advising the Debtors of legal matters that they already knew.

*Ruling:* The Court rejected this defense, thereby finding that the Petition Preparer not only violated the provisions of 11 U.S.C. 110 but also violated Texas state law concerning the prohibition of practicing law without a license. The Court ordered the Petition Preparer to refund back to the Debtors the \$750.00 previously paid to him but also, after confirming on the record that the Petition Preparer had no objection to the imposition of such, permanently enjoined the Petition Preparer of ever acting in the capacity of a petition preparer in any future case. The Court further ordered the UST to obtain a copy of the transcript of the hearing and forward such to the Texas State Bar Association for further investigation and action if needed.