

**UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

05 MAR 23 AM 11:4  
FILED  
U.S. BANKRUPTCY COURT  
NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION

IN RE:	)	CASE NO. 04-56664
	)	
RANDY S. REEVES,	)	CHAPTER 13
	)	
DEBTOR(S)	)	JUDGE MARILYN SHEA-STONUM
	)	
	)	<b>ORDER</b>
	)	
	)	
	)	

On December 10, 2004, Randy Reeves (the "Debtor"), *pro se*, filed a chapter 13 bankruptcy petition with this Court and initiated the above-referenced bankruptcy case. On that same day, a Notice of Filing Deficiency was issued by the Court indicating that the following documents (which were not included with the petition) were to be filed within 15 days from the date of the notice: Schedules A - J; Summary of Schedules; Legal Description of all Real Property and Land Contracts; Statement of Financial Affairs and Chapter 13 Plan. An "Order Granting Application to Pay Filing Fees in Installments" was also entered on December 10, 2004.

A hearing in this case was held on February 3, 2005 to allow the Debtor to appear and show cause why this case should not be dismissed for his failure to file all required documents and pay the required filing fee. The Debtor, among others, received notice of the show cause hearing. The Debtor did not appear at the February 3, 2005 hearing and, to date, all required documents have not been filed and the balance of filing fees remains unpaid. Based upon debtor's failure to file all required documents, pay the balance of the filing fee and appear at the show cause hearing this case was dismissed [docket #15]. The Court retained jurisdiction in this case to address whether or not sanctions should be imposed upon the bankruptcy petition preparer who purportedly assisted the Debtor with the filing of this case.

On February 24, 2005, the Court entered an Order directing Wanda Sanchez-Gordon to appear on March 1, 2005 and show cause why:

- (1) she should not be required to disgorge the fee paid to her by debtor, and
- (2) she and anyone acting in concert with her should not be enjoined from offering bankruptcy petition preparer services to anyone residing in Summit, Medina and Portage counties (collectively, the "Sanctions")

Artrice Gordon, who identified himself as the owner of Homesavers USA, Inc., appeared at the hearing. According to Mr. Gordon, his wife and business associate Wanda Sanchez-Gordon was receiving medical treatment during the hearing and was unavailable to

attend the hearing. In addition, Andrew Vara, a staff attorney with the Office of the United States Trustee participated in the hearing telephonically. The Debtor did not appear at the hearing.

Upon a review of the file in this case the Court notes that the following individual (with the related information) is listed on the chapter 13 petition as the non-attorney petition preparer who assisted the Debtor in preparing the petition: "Wanda Sanchez-Gordon, SS# 032-56-8087, 383 Broadway, #203, Lorain, OH 44052." The petition was signed by "Wanda Sanchez-Gordon" above the line for "Signature of Bankruptcy Petition Preparer." On December 15, 2004 a "Disclosure of Compensation of Bankruptcy Petition Preparer" was filed setting forth that debtor paid \$200.00 for document preparation services. That disclosure was also signed by "Wanda Sanchez-Gordon."

As noted above, the Debtor in this case filed only a chapter 13 bankruptcy petition. Attached to that petition was a "Verification of Creditor Matrix" which was signed by the Debtor under penalty of perjury and which sets forth that "the attached Master Mailing List of creditors, consisting of 1 sheet(s) is complete, correct and consistent with the debtor's schedules . . . ." Wanda Sanchez-Gordon's name is typed next to a signature line on that document but there is no signature on that line. No creditor matrix was attached to the Debtor's petition or ever filed in this case.

On the Debtor's petition that was filed, the Debtor did not list any prior bankruptcy cases filed within the last 6 years. The Debtor has, however, filed at least 2 such bankruptcy cases. On April 21, 2003, the Debtor, with the assistance of counsel, filed a chapter 13 bankruptcy petition to initiate case #03-52008. That case was ultimately dismissed for the Debtor's failure to provide the chapter 13 trustee with income tax returns. On February 20, 2004, the Debtor, again with the assistance of counsel, filed another chapter 13 bankruptcy petition to initiate case #04-50824. That case was ultimately dismissed for the Debtor's failure to provide the chapter 13 trustee with tax returns, financial statements and a completed self-employment questionnaire.

At the March 1, 2005 hearing, Mr. Gordon indicated that the Debtor was likely contacted by Homesavers USA, Inc. by postcard, sent through the U.S. mails, indicating that Homesavers USA, Inc. could help the Debtor get his name removed from the foreclosure rolls. According to Mr. Gordon, the Debtor paid Homesavers USA, Inc. a fee of \$895, in two installments.

A "bankruptcy petition preparer" is defined by the Bankruptcy Code as "a person, other than an attorney or an employee of an attorney, who prepares for compensation a document for filing." 11 U.S.C. §110(a)(1). A "document for filing" is defined as "a petition or any other document prepared for filing by a debtor in a United States bankruptcy court or a United States district court in connection with a case under this title." 11 U.S.C. §110(a)(2). A bankruptcy petition preparer is prohibited from engaging in the unauthorized practice of law

and the services that a bankruptcy petition preparer may offer are limited to “providing forms, providing limited information such as court location and filing fees, typing documents from information provided by debtors, compiling them in proper order and providing duplication services.” 11 U.S.C. §110(k); *In re Alexander*, 284 B.R. 626 (Bankr. N.D. Ohio 2002); *In re Haney*, 284 B.R. 841, 851 (Bankr. N.D. Ohio 2002). *See also In re Bush*, 275 B.R. 69, 84 (Bankr. D. Idaho 2002) (bankruptcy petition preparer can only perform modest services for debtors such as transcribing or typing bankruptcy forms the debtor alone must prepare without assistance).

A bankruptcy petition preparer bears the burden of proving the reasonableness of any fees charged and received. *In re Alexander*, 284 B.R. 626, 634 (Bankr. N.D. Ohio 2002); *In re Bush*, 275 B.R. 69, 85 (Bankr. D. Idaho 2002). Section 110(h)(2) of the Bankruptcy Code provides that the court shall disallow any excessive fees paid to a bankruptcy petition preparer and to order the preparer to turnover such fees to the panel trustee. Any failure by the petition preparer to comply with a turnover order within 30 days will subject the preparer to further fines. 11 U.S.C. §110(h)(4).

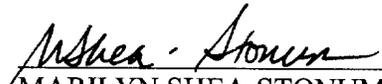
Section 105(a) of the Bankruptcy Code provides that “[t]he court may issue any order . . . that is necessary or appropriate to carry out the provisions of this title.” Local Bankruptcy Rule 2090-2(c) (effective April 15, 1997) provides that “when necessary to control or eliminate disruptive, abusive, or unprofessional practices or conduct, this Court, through its inherent powers, may after notice and hearing sanction any attorney or party.” Pursuant to these provisions and the inherent authority possessed by all federal courts, this Court may regulate the practice of individuals appearing before it to protect the public against unqualified practitioners and to prevent abuse of the bankruptcy process. *See, e.g., Brown v. Smith (In re Poole)*, 222 F.3d 618 (9<sup>th</sup> Cir. 2000); *In re Volpert*, 110 F.3d 494 (7<sup>th</sup> Cir. 1997); *In re Computer Dynamics, Inc.*, 253 B.R. 693 (Dist. E.D. Va. 2000); *In re MPM Enterprises, Inc.*, 231 B.R. 500 (Dist. E.D.N.Y. 1999). *See also In re DerryBerry, II*, 72 B.R. 874, 881 (Bankr. N.D. Ohio 1987) (and cases cited therein). To this end, this Court is imbued with broad discretion in fashioning an appropriate sanction. *In re Computer Dynamics, Inc.*, 253 B.R. 693, 698 (Dist. E.D. Va. 2000). *See also* 11 U.S.C. §110(j).

Based upon the foregoing, it is not clear to the Court what bankruptcy petition preparer services Wanda Sanchez-Gordon could have provided to the Debtor relative to this case in exchange for a fee of \$895.00. However, the Debtor failed to appear as directed at the March 1, 2005 hearing. Therefore, the Court will not order Homesavers USA, Inc. or Ms. Sanchez-Gordon to disgorge the money received from the Debtor.

However, it is clear to the Court that by providing services to debtors who file bankruptcy in this Court location, Homesavers USA, Inc. and its employees are engaging in a disruptive, abusive and/or unprofessional practice that, in order to protect the public against unqualified practitioners and to prevent abuse of the bankruptcy process, should be curtailed.

In order to curtail these practices, the Court hereby enjoins Wanda Sanchez Gordon, Artrice Gordon and Homesavers USA, Inc. and anyone acting in concert with them from soliciting business, through the U.S. Mail, from anyone residing in Summit, Portage and Medina counties who owns real property which is the subject of a foreclosure action and/or is slated for sheriff's sale.

**IT IS SO ORDERED.**

  
\_\_\_\_\_  
MARILYN SHEA-STONUM  
Bankruptcy Judge

