

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION



In re:) Case No. 15-10101
)
FRANK M. GRABLOVIC,) Chapter 13
)
Debtor.) Chief Judge Pat E. Morgenstern-Clarren
)
) **MEMORANDUM OF OPINION**
) **AND ORDER FINDING PETITION**
) **PREPARER NATASHA BASCUS IN**
) **CONTEMPT**

The court ordered Natasha Bascus to appear and show cause regarding her participation as a petition preparer in this case, including the fee charged. Ms. Bascus failed to appear. For the reasons stated below, she is found to be in civil contempt.

JURISDICTION

The court has jurisdiction under 28 U.S.C. § 1334 and General Order No. 2012-7 entered by the United States District Court for the Northern District of Ohio on April 4, 2012. This is a core proceeding under 28 U.S.C. § 157(b)(2), and it is within the court's constitutional authority as analyzed by the United States Supreme Court in *Stern v. Marshall*, 131 S.Ct. 2594 (2011) and *Executive Benefits Insur. Agency v. Arkison*, 133 S. Ct. 2880 (2014).

FACTS AND DISCUSSION

Debtor Frank Grablovic filed this case on his own behalf on January 12, 2015. Exhibit A¹ to the petition stated that Natasha Bascus helped him to prepare the bankruptcy schedules and

¹ Amended Administrative Order No. 07-1 required the debtor to file exhibit A at the time the petition was filed.


petition, and that he paid \$150.00 for her services. *See* docket 1 at 8-9. Bascus filed a disclosure of bankruptcy petition preparer stating the same fee, *see* docket 5, which fee exceeds the \$125.00 presumptive maximum fee for a petition preparer established by local rule. *See* LOCAL BANKRUPTCY RULE 2016-2(a). Additionally, the Honorable Kay Woods enjoined Bascus from providing bankruptcy petition preparer services for any debtor who files a bankruptcy petition in the Northern District of Ohio by an order entered January 8, 2015. *See In re Judy Lutz*, case no. 14-42527, docket 22. As a result, the court had questions regarding Bascus's participation in this case and the fee charged. The court entered an order requiring her to appear on February 10, 2015 to address the court's concerns (the Order). (Docket 7). Ms. Bascus did not appear. The court must, therefore, consider whether she is in contempt of the Order.

The court's contempt powers derive from "Bankruptcy Code § 105(a) and the inherent power of a court to enforce compliance with its lawful orders." *In re Walker*, 257 B.R. 493, 496 (Bankr. N.D. Ohio 2001) (citations omitted). Contempt must be shown by clear and convincing evidence that the alleged contemnor violated a definite and specific court order which required the performance or the nonperformance of an act with knowledge of that court order. *Id.* at 497. "Willfulness is not an element of civil contempt and intent to disobey the order is irrelevant." *Id.* The alleged contemnor may defend by showing an inability to comply with the order. *Id.* When a party is in contempt, the appropriate remedy is to impose sanctions rather than to award damages. *Chambers v. Greenpoint (In re Chambers)*, 324 B.R. 326, 329 (Bankr. N.D. Ohio 2005); *In re Walker*, 257 B.R. at 498. The court has broad discretion as to an appropriate sanction. *See In re Caravona*, 347 B.R. 259, 267 (Bankr. N.D. Ohio 2006).

The facts clearly and convincingly establish that Natasha Bascus is in contempt of the Order. Judge Woods's order of January 8, 2014 prohibited Ms. Bascus from serving as a petition preparer in this district. This court's Order specifically directed her to appear on February 10, 2015 to explain why she served as a petition preparer in this case and accepted a fee exceeding the presumptive maximum fee allowed for such services. The clerk's office served the Order on Bascus at the address she provided on her disclosure of compensation in this case, and yet Bascus failed to appear on February 10, 2015. These facts clearly and convincingly establish that Natasha Bascus is in contempt of court.

For the reasons stated, Natasha Bascus is found to be in civil contempt based on her failure to comply with the Order. The remaining issue is what sanction should be imposed. Because Ms. Bascus charged a fee of \$150.00 and did not appear to address the court's concerns regarding the value of her services, her fee is disallowed and she is required to return the \$150.00 to the debtor. **Additionally, Ms. Bascus is prohibited and enjoined from providing services as a petition preparer to any debtor who files a bankruptcy petition in the Northern District of Ohio, and the Clerk of the United States Bankruptcy Court is directed not to accept for filing any petition on which her name appears in that capacity.**

IT IS SO ORDERED.



Pat E. Morgenstern-Clarren
Chief Bankruptcy Judge

To be served by the clerk's office by regular U.S. mail on:
Ms. Natasha Bascus, 1528 Riverglen Drive, Loganville, GA 30052