

THIS OPINION IS NOT INTENDED
FOR PUBLICATION

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

FILED

03 MAR 28 AM 10:02

U.S. BANKRUPTCY COURT
NORTHERN DISTRICT OF OHIO
CLEVELAND

In re:) Case No. 01-13179
)
VENSENCI R. HORN,) Chapter 7
)
Debtor.) Judge Pat E. Morgenstern-Clarren
)
) **MEMORANDUM OF OPINION**

On January 23, 2003, this Court found Attorney Charles Hutchins and National Check Control to be in civil contempt of court for violating the Debtor's discharge injunction. As a sanction, the Court awarded the Debtor her attorney's fees. The Court directed Attorney Robert Berk to file an affidavit verifying his fees, with the contemnors then having the opportunity to request an evidentiary hearing on the amount of fees requested. (Docket 23, 24).

Attorney Berk filed an affidavit requesting \$2,090.00 in fees, with the activity, amount of time expended, and billing rate itemized. (Docket 25). In response, Attorney Hutchins requested an evidentiary hearing on his own behalf. (Docket 26). The Court set the hearing for March 27, 2003. (Docket 27). Despite the fact that Attorney Hutchins requested the hearing, he did not appear and did not file anything indicating that he was withdrawing his request.

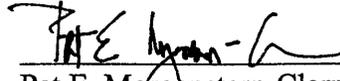
Attorney Berk appeared at the hearing and presented the Debtor's case through his own testimony and that of Edward Mamone, an attorney who devotes a substantial part of his practice to bankruptcy cases. Attorney Mamone, who had reviewed counsel's fee affidavit, testified that the hourly rate charged, the activities undertaken, and the amount of time expended was fair and reasonable. *See In re Boddy*, 950 F.2d 334 (6th Cir. 1991). There was ample evidence to support the fee request, which the Court finds to be fair and reasonable. The Debtor is, therefore,

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awarded \$2,090.00 as a sanction against Charles Hutchins and National Check Control, jointly and individually, for their contempt of court.

A separate order will be entered reflecting this decision.

Date: 28 March 2003



Pat E. Morgenstern-Clarren
United States Bankruptcy Judge

Served by mail on: Charles Hutchins, Esq.
Robert Berk, Esq.
National Check Control

By: Joyce L. Gordon, Secretary
Date: 3/28/03

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UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

FILED

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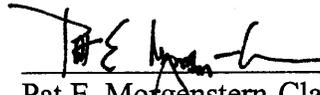
U.S. BANKRUPTCY COURT
NORTHERN DISTRICT OF OHIO
CLEVELAND

In re:) Case No. 01-13179
)
VENSENCI R. HORN,) Chapter 7
)
Debtor.) Judge Pat E. Morgenstern-Clarren
)
) **ORDER**

Attorney Charles Hutchins and National Check Control were previously found to be in civil contempt because they violated the Debtor's discharge injunction. For the reasons stated in the Memorandum of Opinion filed this same date, the Debtor is awarded her attorney fees in the amount of \$2,090.00 as a sanction against Charles Hutchins and National Check Control (jointly and individually) for their contempt of court.

IT IS SO ORDERED.

Date: 28 Mar 2003


Pat E. Morgenstern-Clarren
United States Bankruptcy Judge

Served by mail on: Charles Hutchins, Esq.
Robert Berk, Esq.
National Check Control

By: Joyce L. Gordon, Secretary
Date: 3/28/03