

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

IN RE:	)	CASE NO. 06-60056
	)	
	)	CHAPTER 7
	)	
DOROTHY J. DOWNEY,	)	JUDGE RUSS KENDIG
	)	
Debtor.	)	
	)	<b>ORDER</b>
	)	
	)	

This matter comes before the court upon a disclosure of compensation of the bankruptcy petition preparer in the above-captioned matter. Due to the reasons that follow, the total compensation to which the petition preparer is entitled is \$125.00.

When determining the amount of compensation owed to a petition preparer for services rendered, two factors are compelling: the nature of services provided and the reasonable value of these services.

**I. The Nature of the Services Provided**

The services provided by a bankruptcy petition preparer in a given case are necessarily limited due to the fact that a petition preparer may not engage in the unauthorized practice of law. 11 U.S.C. § 110(k) states "Nothing in this section shall be construed to permit activities that are otherwise prohibited by law, including rules and laws that prohibit the unauthorized practice of law." 11 U.S.C. § 110(k). In order to determine what services constitute the unauthorized practice of law, bankruptcy courts look to state law. See e.g. *In re Guttieriz*, 248 B.R. 287, 294 (Bankr. W.D. Tex. 2000); *In re Stacy*, 193 B.R. 31, 38 (Bankr. D. Ore. 1996).

The Ohio Constitution gives the Ohio Supreme Court exclusive jurisdiction over all matters relating to the practice of law. Ohio Const. Art. IV, § 2(B)(1)(g). In Ohio, "[t]he unauthorized practice of law is the rendering of legal services for another person by any person not admitted to practice in Ohio under Rule I and not granted active status under Rule VI, or certified under Rule II, Rule IX, or Rule XI of the Supreme Court Rules for the Government of the Bar of Ohio." Gov. Bar. R. VII(2)(A). The practice of law has been defined by the Ohio Supreme Court as follows:

The practice of law is not limited to the conduct of cases in courts. It embraces the preparation of pleadings and other papers incident to actions and special proceedings and the management of such actions and proceedings on behalf of clients before judges and courts, and in addition conveyancing, the preparation of legal instruments of all kinds, and in general all advice to clients and all action taken for them in matters connected with the law.

Land Title Abstract & Trust Co. v. Dworken, 129 Ohio St. 23, 28 (1934) (quoting People v. Alfani, 125 N.E. 671 (N.Y. 1919)).

Using the above standard, the court is impelled to conclude that typing is the *only* service that can legally be provided by petition preparers. Any advice or explanation given, no matter how small, regarding bankruptcy matters or other legal issues is the practice of law. Thus, when filling out a petition, the petition preparer may only be compensated for the act of typing since any input into what to include in the petition, where to place it or how to phrase the inclusion is the practice of law. The petition preparer cannot select the forms, suggest the chapter, or explain or instruct as to the forms or any bankruptcy or non-bankruptcy legal concept. The petition is a legal instrument and its preparation, other than the menial task of typing, requires knowledge of the principles of bankruptcy and state property law. See In re Guttierrez, 248 B.R. 287 (Bankr. W.D. Tex. 2000); In re McDaniel, 232 B.R. 674, 679 (Bankr. N.D. Tex. 1999) (finding that applying knowledge gained from bankruptcy court decisions, statutes and rules to the facts of a particular debtor was the practice of law). Thus, petition preparers are limited to providing services that are physical labor. They may haul lumber and leave it where directed but may not lift a hammer or saw or even select the board to be used. In other words— they may type as instructed. This is the view taken by courts that have considered the issue. See In re Haney, 284 B.R. 841, 851 (Bankr. N.D. Ohio 2002); In re Bush, 275 B.R. 69, 78 (Bankr. D. Idaho 2002) (finding that petition preparers may only type forms— anything more violates §110 and constitutes the unauthorized practice of law); In re Landry, 268 B.R. 301 (Bankr. M.D. Fla. 2001) (“a bankruptcy petition preparer can expect to receive compensation only for secretarial-type services.”); In re Gabrielson, 217 B.R. 819, 826-27 (Bankr. D. Ariz. 1998). The bottom line is this: a petition preparer can only charge for physical labor.

An examination of the legislative history of 11 U.S.C. § 110 further buttresses the court’s conclusion that a petition preparer’s services are limited to typing. The House Judiciary Committee Report states: “Bankruptcy petition preparers not employed or supervised by any attorney have proliferated across the country. While it is permissible for a petition preparer to provide services solely limited to typing, far too many of them also attempt to provide legal advice and legal services to debtors.” HR Rep. 103-834, 103<sup>rd</sup> Cong., 2<sup>nd</sup> Sess 40-41 (Oct. 4, 1994) (emphasis added).

Having concluded that a petition preparer is only entitled to compensation for typing services, the court must now fix a value for these services.

## II. The Reasonable Amount of Compensation for the Services Provided

Given the limited services provided by petition preparers, courts that have considered the issue find that a limited fee is appropriate. Some courts have found it appropriate to set a maximum hourly rate and base the total compensation off of this figure. See In re Bonarrigo, 282 B.R. 101, 106 (D Mass. 2002) (upholding bankruptcy court's decision that \$20.00 per hour was reasonable petition preparer fee); In re Hartman, 208 B.R. 768, 780 (Bankr. D. Mass. 1997) (allowing an hourly rate of \$20); In re Kassa, 198 B.R. 790, 792 (Bankr. D. Ariz. 1996) (allowing compensation based on the hourly rate for a legal secretary, \$16.82 in this case). Some courts, on the other hand, set a maximum allowable fee regardless of the time a petition preparer claims to have spent typing a particular petition. See In re Bush, 275 B.R. 69 (Bankr. D. Idaho 2002) (holding that a presumptive fee of \$50 to \$60 would be reasonable given the limited services provided); In re Gutierrez, 248 B.R. 287, 299 (Bankr. W.D. Tex. 2000) (finding that a reasonable fee for petition preparer cannot exceed \$50); In re Landry, 250 B.R. 441, 446 (Bankr. M.D. Fla. 2000) (finding that \$50 is a reasonable fee for the services of a petition preparer); In re Ali, 230 B.R. 477, 484 (Bankr. E.D. N.Y. 1999) (awarding a fee of \$25 for "shoddy" typing services); In re Wagner, 241 B.R. 112, 122 (Bankr. E.D. Penn. 1999) ("The fair value of [the petition preparer's] services as a mere typist and copier . . . is no more than \$50.00."); In re Agyekum, 225 B.R. 695, 701 (B.A.P. 9<sup>th</sup> Cir. 1998) (upholding bankruptcy court decision limiting fee to the maximum allowed in the Northern District of California of \$125); In re Cordero, 185 B.R. 882, 886 (Bankr. M.D. Fla. 1995) (limiting petition preparer's fee to \$50.)

This court follows those cases that fix a maximum allowable fee for a petition preparer's typing services. Although a given petition may require more or less typing, depending on the debtor's circumstances, the overall work should not vary so significantly that a fixed fee would be inappropriate. Considering the limited nature of the services provided, the court concludes that a petition preparer's compensation is limited to a maximum of \$125.00. This finding is in accordance with applicable case law and basic economic principles. Petition preparers are only permitted to provide a service for which little skill is required, and the compensation received must be in accordance. To allow a petition preparer to receive more would mean that they are either receiving something for nothing or that they are providing services unlawfully.

Therefore, it is hereby **ORDERED** that the petition preparer's compensation in this matter be reduced to \$125.00. If a sum greater than this has already been received by the petition preparer, it must immediately be disgorged to the debtor.

It is further **ORDERED** that the petition preparer shall provide proof of repayment of fees to the court within thirty (30) days of such remittance.

To contest this order, a petition preparer must file an objection within fourteen (14) days from the entry of the order and attend an evidentiary hearing that will be scheduled upon the filing of the objection.

It is so Ordered.

/s/ Russ Kendig

RUSS KENDIG

JAN 30 2006

UNITED STATES BANKRUPTCY JUDGE

**Service List**

Dorothy J. Downey  
235 25<sup>th</sup> St. NW  
Canton, OH 44647

Felix O. Jackson  
1375 Elmside St.  
Alliance, OH 44601

Anne Piero Silagy  
220 Market Ave. S.  
#300  
Canton, OH 44702