

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION



In re:) Case No. 07-10774
)
ALEXANDER GREENSPAN and) Chapter 7
FRIDA GREENSPAN,)
) Judge Pat E. Morgenstern-Clarren
Debtors.)
) **MEMORANDUM OF OPINION**

This memorandum resolves the issue of the sanction to be imposed on attorney George Badovick for violating the discharge injunction by filing two state court lawsuits against debtors Alexander and Frida Greenspan in an attempt to collect a discharged debt. Having found Mr. Badovick in contempt for his actions and held that the appropriate sanction is an award of attorney fees, the court directed debtors' counsel, Mary Ann Rabin, to file a detailed fee statement verifying those fees and gave Mr. Badovick the opportunity to object. (Docket 126). Ms. Rabin's statement seeks fees in the amount of \$13,230.00 and expenses in the amount of \$675.86. (Docket 128).¹ Mr. Badovick objects that the fee amount is unreasonable given the routine nature of the services performed and because it includes time spent representing non-debtor Igor Lantsberg. (Docket 131). The objection has merit, in part.

The fee statement does include fees incurred by Igor Lantsberg related to the state court action, with the caption of the filing stating that as well. Dr. Lantsberg is not a debtor and is not

¹ Although Ms. Rabin styled her filing as an application for fees, the purpose of the filing was to establish the amount of the sanction to be imposed for Mr. Badovick's violation of the discharge injunction. See *Nicole Energy Mktg., Inc. v. McClatchey (In re Nicole Energy Servs., Inc.)*, No. 06-8028, 356 B.R. 786, at * 4-5 (B.A.P. 6th Cir. Feb. 1, 2007) (noting that § 330 is not implicated and that the Sixth Circuit has not imposed the load star method for calculating contempt sanctions in the form of attorney fees).

protected by the discharge injunction under the circumstances of this case. 11 U.S.C. § 524(e). Therefore, the time which counsel spent defending Dr. Lantsberg is not a proper component of the contempt sanction. Similarly, fees incurred by non-debtor FGAG, which also appear on counsel's statement but are not cited by Mr. Badovick, are not a proper component of the contempt sanction. The court finds that these time entries relate to the defense of the non-debtor entities: September 25, 2009, October 8, 2009, November 4, 2009 (both entries), November 22, 2009, February 22, 2010 (all entries); and February 24, 2010. The fees for those services which total \$720.00 will not be included as part of the sanction.

Excluding the time discussed above, counsel expended 41.7 hours of time at the hourly rate of \$300.00 (\$12,510.00) and incurred expenses of \$675.86 representing the debtors. Mr. Badovick objects that this is an unreasonable amount of time given the routine nature of the services which counsel performed. This time was spent reviewing and responding to the second state court lawsuit, reopening the chapter 7 case, removing the pending state court lawsuit, and prosecuting the contempt proceeding, all services which clearly relate to Mr. Badovick's violation of the discharge injunction and the debtors' efforts to obtain his compliance. Although these matters were not particularly complex, the services were necessary given Mr. Badovick's persistence in pursuing the state court litigation, his opposition to the motion to reopen, his opposition to the debtors' request for a show cause order, and his position that the dispute be resolved through an evidentiary hearing. *See McMahan & Co. v. Po Folks, Inc.*, 206 F.3d 627, 634 (6th Cir. 2000) (noting that an award of significant attorney fees as a sanction for contempt was warranted where the contemnor's conduct made the undertaking "arduous").

Based on the above, the court finds that the debtors incurred fees for counsel's services in the amount of \$12,510.00 and expenses of \$675.86 which are attributable to Mr. Badovick's contempt and which are appropriately awarded as a sanction.

A separate order will be entered reflecting this decision.



Pat E. Morgenstern-Clarren
United States Bankruptcy Judge

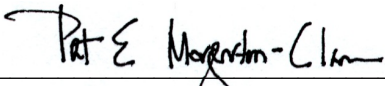
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Debtors.)
) **ORDER**

The court previously found George Badovick in contempt because he violated the discharge injunction in this case. (Docket 126). For the reasons stated in the memorandum of opinion filed this same date, the debtors Alexander and Frida Greenspan are awarded their attorney fees in the amount of \$12,510.00 and their expenses in the amount \$675.86 as a sanction against Mr. Badovick for his contempt of the discharge injunction.

IT IS SO ORDERED.



Pat E. Morgenstern-Clarren
United States Bankruptcy Judge