

UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF NORTH CAROLINA
GREENSBORO DIVISION

ENTERED

JUN 07 2004

U.S. BANKRUPTCY COURT
MDNC - MEL

IN RE:

John Brice Singleton and
Lisa Miller Singleton,

Debtors.

Case No. 03-14003C-7G

MEMORANDUM OPINION

This case came before the court on March 16, 2004, pursuant to a show cause order directed to Misty Weaver-Ostinato issued on January 30, 2004, at the request of the Bankruptcy Administrator. Robyn C. Whitman appeared on behalf of the Bankruptcy Administrator and Misty Weaver-Ostinato appeared pro se.

PROCEDURAL BACKGROUND

This Chapter 7 case was filed on December 3, 2003. The petition was signed by the Debtors and does not contain the signature of an attorney or a petition preparer. On December 19, 2003, the Debtors filed Schedules A through J and a Statement of Financial Affairs which contained the signatures of the Debtors and the signature of Misty Weaver-Ostinato who signed as petition preparer. The motion that initiated this proceeding was filed by the Bankruptcy Administrator on January 22, 2004, and requests that the court order a hearing regarding Ms. Weaver-Ostinato's activities and fee as a petition preparer. In response to the Bankruptcy Administrator's motion, an order was entered on January 30, 2004, directing that Ms. Weaver-Ostinato appear before

the court for a determination of whether she had violated any of the provisions of § 110 of the Bankruptcy Code, whether she had engaged in fraudulent, unfair or deceptive acts within the meaning of § 110(i), including the unauthorized practice of law, and whether any fee or compensation received by her was excessive. Following a continuance of the hearing as originally scheduled, a hearing was held on March 16, 2004, and the evidence was received. The following are the findings and conclusions from the hearing.

JURISDICTION

The court has jurisdiction over the subject matter of this proceeding pursuant to 28 U.S.C. §§ 151, 157, and 1334, and the General Order of Reference entered by the United States District Court for the Middle District of North Carolina on August 15, 1984. This is a core proceeding within the meaning of 28 U.S.C. § 157(b)(2)(A) which this court may hear and determine except for any matters that should be certified to the district court pursuant to 11 U.S.C. § 110(i)(1).

FACTS

Faced with a foreclosure proceeding involving their residence, the Debtors filed this case on December 3, 2003. The initial filing consisted of only a petition which the Debtors prepared by hand and a partial listing of their creditors. On December 3, 2003, the Clerk's office mailed a notice to the Debtors informing them that they had fifteen days within which to file their

Schedules A through J. Because the female Debtor was unable to prepare the schedules herself, she decided to seek assistance. Following an internet search, the female Debtor selected Motherhood Media, a business operated by Misty Weaver-Ostinato, which was advertised as being a bankruptcy petition preparer. The female Debtor paid \$250.00 by credit card to Ms. Weaver-Ostinato and was furnished forms and instructions electronically from the Motherhood Media website. On December 10, 2003, the female Debtor received an e-mail receipt for her \$250.00 payments which included the following:

"Thank you for choosing us to help you complete your Bankruptcy Petition. COMPLETE the client intake forms here:

[Http://www.bankruptcyformprocessing.com/bform.shtml](http://www.bankruptcyformprocessing.com/bform.shtml)"

The instructions which the Debtors received from Ms. Weaver-Ostinato directed the Debtors to download and print the client intake forms and to complete the forms and return them by e-mail or regular mail to Motherhood Media, 407 Masters Drive, Cross Junction, VA 22625. After downloading the client intake forms, the female Debtor completed the forms by inserting by hand the information requested in the forms. The client intake forms did not consist of copies of the official bankruptcy forms but called for information which could be used by Ms. Weaver-Ostinato in preparing schedules and statement of financial affairs on the official forms. On December 12, 2003, after completing the forms,

the female Debtor faxed a copy of the forms to Ms. Weaver-Ostinato with a cover letter which stated:

Please see all client intake forms attached. Before ordering your services I emailed the contact email to explain that we already actually filed Chapter 13, but need assistance with the necessary forms, schedules, etc.

After receiving the fax from the Debtors, Ms. Weaver-Ostinato prepared Schedules A through J and a statement of financial affairs for the Debtors using a computer program that used the information from the client intake forms to generate the official bankruptcy forms for the schedules and statement of financial affairs. Ms. Weaver-Ostinato then attempted to transmit the completed forms to the Debtors electronically on December 14, 2003. Her electronic cover letter stated:

The voluntary petition and creditor matrix is attached even though I believe you already filed these with the court. So you may not need them when you file the rest. Please sign all the papers that request a signature, in BLUE ink, and also sign for me on the pages that request the preparer signature. I will also send you a copy in the mail so you have it.¹

Technical problems were encountered, however, and the forms were not received electronically and so alternative arrangements were

¹Had the electronic transmission been successful and the Debtors had signed for Ms. Weaver-Ostinato as requested in her e-mail, a violation of § 110(b) would have occurred. However, when the electronic transmission failed, Ms. Weaver-Ostinato apparently signed the hard copy of the schedules and statement of financial affairs that she subsequently mailed to the Debtors.

made to mail a copy of the completed forms to the Debtors. The documents prepared by Ms. Weaver-Ostinato were finally received by the Debtors on December 19, 2003. After reviewing the documents, the female Debtor had questions regarding Schedule I as prepared by Ms. Weaver-Ostinato. A series of telephone calls and e-mails were exchanged on December 19 between the female Debtor and Ms. Weaver-Ostinato regarding these questions. As a result of these communications, changes were made in Schedule I and the revised Schedule I was e-mailed by Ms. Weaver-Ostinato to the female Debtor that day. The schedules and statement of financial affairs prepared by Ms. Weaver-Ostinato were signed by the Debtors and filed later in the day on December 19, 2003.

DISCUSSION

The issues to be resolved in this proceeding arise under § 110 of the Bankruptcy Code which regulates the conduct of bankruptcy petition preparers. Congress enacted § 110 to "address the growing problem of bankruptcy [petition] preparers who abuse the system in the course of preparing documents for debtors to file." 2 COLLIER ON BANKRUPTCY, ¶ 110.LH (15th ed. rev. 2003) (citing S.Rep. No. 103-168, 103rd Cong., 1st Sess 51 (1993)). The enactment of § 110 was intended as a consumer protection measure to protect individuals from unfair or deceptive conduct on the part of petition preparers not employed by or supervised by an attorney. Section 110 requires petition preparers to take certain actions and proscribes other

conduct on their part, while adding sanctions for noncompliance and mechanisms for court oversight.

A. Is Ms. Weaver-Ostinato subject to the provisions of § 110?

Section 110(a)(1) defines a petition preparer as "a person, other than an attorney or an employee of an attorney, who prepares for compensation a document for filing." Under Section 110(a)(2), a document for filing means "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." It is undisputed that the Debtors paid Ms. Weaver-Ostinato to have the schedules and statement of financial affairs that were filed in their case prepared and that Ms. Weaver-Ostinato arranged to have such documents typed on forms supplied by her. These facts establish that Ms. Weaver-Ostinato "prepared" documents for filing in a bankruptcy case and that she, therefore, is a "bankruptcy petition preparer" for purposes of § 110 since she is neither an attorney nor an employee of an attorney. This conclusion is confirmed by Ms. Weaver-Ostinato's certification, which is contained in the portion of the schedules where she signed, stating that "I am a petition preparer as defined in 11 U.S.C. § 110 [and] I prepared this document for compensation"

According to her certification, the amount of the compensation that she received from the Debtors was \$250.00. Whether this

amount of compensation is appropriate and may be retained by Ms. Weaver-Ostinato is controlled by subparagraph (h) of § 110. Section 110(h) (2) provides that the court "shall disallow and order the immediate turnover to the bankruptcy trustee of any fee referred to in paragraph (1) found to be in excess of the value of services rendered for the documents prepared." Under § 110(h) (3), the debtor, the trustee, a creditor or the Bankruptcy Administrator "may file a motion for an order under paragraph (2)." The motion for show cause order filed by the Bankruptcy Administrator in this case is such a motion² and the court therefore is called upon to make a determination as to whether the \$250.00 charged by Ms. Weaver-Ostinato in this case exceeds the value of the services provided by her as petition preparer.

B. Did Ms. Weaver-Ostinato Charge a Fee in Excess
Of the Reasonable Value of the Services
Rendered?

At the outset, it should be noted that the services for which a petition preparer may be compensated are limited to authorized services which, in fact, are performed by the petition preparer. In order for services to be authorized and hence compensable, the

²Among other things, the motion requests that the court determine whether Ms. Weaver-Ostinato "has . . . been overcompensated for the services rendered as petition preparer in this case." Under the show cause order entered in response to the motion, the matters to be determined by the court include "to determine whether Misty Weaver-Ostinato has received any fee or compensation from or on behalf of the Debtors in excess of the value of any petition preparer services rendered by her in this case. . . ."

services must be services which the petition preparer can lawfully perform. An important consideration in determining whether the services that were performed by a petition preparer were lawful and authorized is whether the petition preparer has engaged in activities that constitute the unauthorized practice of law. As to the activities or services that do constitute the unauthorized practice of law, no compensation should or will be awarded.

In determining whether the petition preparer is seeking compensation for activities or services that constitute the unauthorized practice of law, it is appropriate for the court to look to applicable state law regarding the unauthorized practice of law. See In re Boettcher, 262 B.R. 94, 96 (Bankr. N.D. Cal. 2001) ("While a federal court has inherent authority to regulate the conduct of all who practice in it, state law is properly considered in determining whether the unauthorized practice of law has occurred in a bankruptcy court."); In re Bachman, 113 B.R. 769, 772-74 (Bankr. S.D. Fla. 1990). This is consistent with § 110(k) which provides that "[n]othing 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." Since this case is pending in a bankruptcy court sitting in North Carolina, the court in the present case may consider applicable North Carolina law pertaining to the unauthorized practice of law in deciding what constitutes reasonable

compensation for Ms. Weaver-Ostinato.³

In North Carolina only licensed attorneys may engage in the practice of law. N.C.G.S. § 84-4 prohibits any person who is not admitted and licensed by the North Carolina State Bar as an attorney-at-law from engaging in the practice of law in North Carolina. Under N.C.G.S. § 84-2.1, the practice of law is defined to include "performing any legal service for any other person . . . with or without compensation, specifically including . . . the preparation and filing of petitions for use in any court, including administrative tribunals and other judicial or quasi-judicial bodies" Although the North Carolina courts apparently have not addressed the issue, most courts have concluded that although a non-attorney may not create a document for another person or advise on how the document should be prepared, merely typing or "scrivening" a petition or legal document for another person does not constitute the practice of law. This distinction has been made in dealing with petition preparers under § 110. For example, in In re Landry, 268 B.R. 301, 304 (Bankr. M.D. Fla. 2001), the court stated as follows:

³The court's consideration of State law pertaining to the unauthorized practice of law is not limited to determinations regarding compensation. It also is appropriate for the court to consider whether a petition preparer has given legal advice or otherwise engaged in the unauthorized practice of law in determining whether there has been a "fraudulent, unfair, or deceptive act" on the part of the petition preparer in deciding whether to make a certification to the district court pursuant to § 110(i) or whether to grant injunctive relief pursuant to § 110(j).

The type of compensable services that a bankruptcy petition preparer can render are extremely limited. Petition preparers, who by definition are not attorneys, cannot give legal advice or otherwise engage in the unauthorized practice of law Clearly, as recognized by the District Court, a bankruptcy petition preparer cannot assist the debtor in completing forms, provide legal advice that would assist a prospective debtor in making determinations as to which type of bankruptcy to file or which exemptions to take, or direct clients to particular legal publications or specific pages so that they can attempt to find legal answers on their own. The very act of directing a prospective debtor to review a particular section of a legal book in and of itself constitutes legal advice. By focusing on one answer and excluding others, the bankruptcy petition preparer steps over the line. As stated by the District Court, "Legal advice is legal advice, whether it comes directly from the petition preparer or indirectly via, for example, a bankruptcy treatise being recited by that preparer."

In accord, In re Schneider, 271 B.R. 761, 764 (Bankr. D. Vt. 2002) ("[T]he BPP moves at his or her peril when performing any service beyond that of simply typing the information provided by a prospective debtor on approved bankruptcy forms."); In re Guttierrez, 248 B.R. 287, 297 (Bankr. W.D. Tex. 2000) ("Section 110 itself proscribes virtually all conduct falling into the category of guidance or advice, effectively restricting 'petition preparers' to rendering only 'scrivening/typing' services. Anything else-be it suggesting bankruptcy as an available remedy for a debtor's financial problems, merely explaining how to fill out the schedules, or answering questions about exemptions or whether a

claim is or is not secured will invariably contravene either state laws proscribing the unauthorized practice of law or other more specific provisions of § 110."). Further, the fact that individuals have the right to represent themselves in a bankruptcy case and chose to do so does not result in an expansion of the type of services which can be provided by an unlicensed petition preparer:

Each citizen has the right to represent himself or herself. Pro se debtors may succeed or fail by their own lights. Debtors who seek expertise or guidance, if they are to have a fair chance at succeeding, must be guided by informed counselors for whom effective standards of practice and ethics are in place. A petition preparer may be the do-it-yourself debtor's scrivener-nothing more.

In re Moore, 232 B.R. 1, 15 (Bankr. D. Me. 1999).

To summarize, a bankruptcy petition preparer can meet a prospective debtor, provide blank bankruptcy forms for the debtor to complete without any assistance from the petition preparer, type the information on the applicable bankruptcy forms without change or alteration, copy the documents prepared for the prospective debtor and deliver the original and at least one copy of the documents to the prospective debtor. To the extent that the petition preparer performs these scrivener-type services, the petition preparer is entitled to receive reasonable compensation. See Landry, 268 B.R. at 304 ("a bankruptcy petition preparer can expect to receive compensation only for secretarial-type services").

In a proceeding under § 110, the burden of proving the reasonableness of a fee collected by a bankruptcy petition preparer rests upon the petition preparer. See In re Froehlich, 23 Fed. Appx. 572, 574, 2001 WL 1530594 (7th Cir. 2001) (petition preparer, as the party seeking fees, "has the burden of establishing that he or she is entitled to them once a question regarding their reasonableness has been raised."); In re Haney, 284 B.R. 841, 850-51 (Bankr. N.D. Ohio 2002); In re Doser, 281 B.R. 292, 313 (Bankr. D. Idaho 2002); In re Bush, 275 B.R. 69, 85-86 (Bankr. D. Idaho 2002). In the present case, the Bankruptcy Administrator has shown that Ms. Weaver-Ostinato acted as a petition preparer and that she collected a fee from the Debtors and has raised a question regarding the reasonableness of the fee. The ultimate burden of proof regarding the reasonableness of the fee then shifted to and rested with Ms. Weaver-Ostinato. Ms. Weaver-Ostinato failed to offer any credible evidence regarding the reasonableness of her fee and therefore failed to show by a preponderance of the evidence that the fee that she charged in this case was reasonable compensation for her services as a petition preparer.

In determining what the compensation for a petition preparer should be, the court concludes that the proper analogy is what professional typists or word processors would charge because their services are most comparable to what a petition preparer is authorized to do. See In re Moore, 283 B.R. 852, 859 (Bankr.

E.D.N.C. 2002); Bush, 275 B.R. at 85 n. 29 (rejecting consideration of rates charged by paralegals because "BPP's are prohibited from providing paralegal services"). The record in this case includes a copy of an order entered in another case in this district in which it was determined that the value of Ms. Weaver-Ostinato's services as a petition preparer did not exceed \$100.00 and that she was required to refund \$100.00 of a \$200.00 fee that she had collected in that case. Having weighed and evaluated the evidence in this case, including such order, the court finds that the reasonable value of the services provided by Ms. Weaver-Ostinato in the present case does not exceed the sum of \$100.00. In arriving at this finding, the court has taken into account that in the present case, the Debtors prepared their own petition before consulting Ms. Weaver-Ostinato and that she therefore prepared only a portion of the documents filed by the Debtors. Having found that the reasonable value of the services provided by Ms. Weaver-Ostinato does not exceed \$100.00, the court further finds that the \$250.00 fee that was charged by Ms. Weaver-Ostinato in this case is excessive to the extent of \$150.00 and concludes that \$150.00 of the fee therefore should be disallowed and that Ms. Weaver-Ostinato should be ordered to turn over \$150.00 to the Chapter 13 Trustee in this case.

C. Ms. Weaver-Ostinato violated subparagraph (i)
of § 110.

The Bankruptcy Administrator contends that Ms. Weaver-Ostinato

engaged in the unauthorized practice of law in her dealings with the Debtors and thereby engaged in fraudulent, unfair or deceptive conduct within the meaning of § 110(i). For the reasons that follow, the court has concluded that the evidence substantiated this contention.

It is a violation of subsection (i) for a petition preparer to engage in any fraudulent, unfair or deceptive act and the bankruptcy court is directed by § 110(i) to make a certification to the district court if such conduct occurs. Section 110 does not contain a definition of a "fraudulent, unfair or deceptive act". However, the courts have concluded that if a petition preparer engages in the unauthorized practice of law in dealing with bankruptcy debtors, the petition preparer thereby commits an act that is fraudulent, unfair and deceptive for purposes of § 110(i). See In re Doser, 292 B.R. 652, 659 (D. Idaho 2003); Bush, 275 B.R. at 83; In re Dunkle, 272 B.R. 450, 456 (Bankr. W.D. Pa. 2002); In re Moffett, 263 B.R. 805, 813 (Bankr. W.D. Ky. 2001).

The documents that were supplied to the Debtors by Ms. Weaver-Ostinato included so-called client intake forms and a set of instructions. Upon paying the \$250.00 fee, the Debtors were instructed electronically to download and print the forms and instructions, which the Debtors did. These documents apparently were intended by Ms. Weaver-Ostinato to elicit information required for the preparation of the official forms for the petition,

schedules and statement of financial affairs. However, the forms supplied to the Debtors were not copies of the official forms with blanks for the Debtors to fill in. In fact, the format of the client intake forms is entirely different from the format of the official forms. Hence, the service provided by Ms. Weaver-Ostinato did not consist of merely converting handwritten documents into typed documents as a scrivener would do. Instead, Ms. Weaver-Ostinato elicited information in the format called for under her client intake forms and utilized a computer program that used such information to generate documents that are entirely different than the documents that the Debtors sent to Ms. Weaver-Ostinato. The preparation of documents in this manner involves more than merely acting as a scrivener and constitutes the unauthorized practice of law under N.C.G.S. § 84-4. See Moore, 283 B.R. at 863.

A further example that Ms. Weaver-Ostinato did not function merely as a scrivener in preparing the documents that she supplied to the Debtors involves the Schedule C that was prepared by her and supplied to the Debtors. The client intake forms as completed by the Debtors did not pertain to Debtors claiming exemptions. Nevertheless, the computer program utilized by Ms. Weaver-Ostinato generated a Schedule C which purported to list property being claimed as exempt by the Debtors. According to Ms. Weaver-Ostinato, the way that Schedule C was created was that her computer program automatically transfers all property listed in Schedules A

and B, i.e., all of the debtors' property, to Schedule C as exempt property. Thus, under the Schedule C prepared by Ms. Weaver-Ostinato and filed by the Debtors in this case, the Debtors, without having supplied any input regarding exemptions, claim all of the assets listed in Schedules A and B as exempt property. The preparation of Schedule C thus clearly did not involve mere scrivener services.

A review of the documents supplied by Ms. Weaver-Ostinato reveals that they include specific legal advice in further violation of the prohibition against the unauthorized practice of law. For example, the instructions supplied by Ms. Weaver-Ostinato pose the question "Will The Court Take My Stuff?" The instructions then purport to answer that question as follows:

When you are filling out the forms, do not be afraid to list items simply because you are afraid the court will take that item away from you. This is a common fear most people have; however, a bankruptcy petition is a complete overview of your current financial situation. If you are in danger of losing any items, we will point these out to you before completing your petition. Although we do not provide legal advice, the software program we use to prepare your petition will single out items not covered by exemptions and we will provide you with this information beforehand so there should be no surprises.

Contrary to the statement that "we do not provide legal advice", the foregoing statement clearly reflects Ms. Weaver-Ostinato does provide legal advice. Pointing out property that is not exempt and explaining to a lay person whether the court will "take" property

when a bankruptcy case is filed certainly amounts to legal advice. In another paragraph, the instructions provide legal advice regarding the effect of a customer failing to list a particular creditor. In that regard, the instructions provide the following advice to customers:

In other words, you may have to pay the bill simply because you did not provide the court with an address to mail a notice to - which then did not allow that company an opportunity to response. In some instances, it can even be considered a 'fraud' because some people filing bankruptcy may want to intentionally disallow a creditor the right to file a Proof of Claim or Motion for Relief from Stay, which is against the law to deny them their creditor's rights.

In another paragraph of the instructions, customers are advised that failing to list the name and address of a customer may mean that "the company you owe money to cannot be properly notified by the court and the debt may not be eligible for discharge." Legal advice likewise is provided in the client intake forms. For example, customers are advised that in filling out the forms, "motor vehicles include cars, trucks, SUV's, motorcycles, mobile homes, boats, trailers, campers, etc. that are titled in you (or your spouse's name)." Regarding the listing of their debts, customers are provided the following legal advice regarding the listing of creditors: "Do not just list debts you want to include - but every debt you owe, even loans from relatives." Regarding their "home based businesses" customers are advised that "If you have operated a business inside your home, or owned a small business that does

not qualify for filing under Chapter 11 of the Bankruptcy Code, an Exhibit will be prepared for the Trustee overseeing your case." Customers are advised that many of the questions contained in the Statement of Affairs "will be asked you again by the Trustee when you attend your first hearing." Providing legal advice in connection with the preparation of a document to be filed with a court clearly falls within N.C.G.S. § 84-3.1 which defines the practice of law as including "performing any legal service for any other person . . . with or without compensation, specifically including . . . the preparation and filing of petitions for use in any court" Hence, in providing the client intake forms and instructions, Ms. Weaver-Ostinato dispensed unauthorized legal advice.

Unauthorized legal advice also was supplied by Ms. Weaver-Ostinato in e-mails and telephone conversations. The evidence showed that the Debtors had questions regarding the amount they should insert in Schedule I as their proposed plan payment as well as questions regarding the length that should be proposed for their plan. The evidence further showed that the female Debtor conferred with Ms. Weaver-Ostinato by e-mail and telephone concerning these legal issues and that Ms. Weaver-Ostinato provided advice to the female Debtor regarding the amount of the plan payment and the length of the plan that should be proposed by the Debtors. The female Debtor also sought advice from Ms. Weaver-Ostinato regarding

whether she could use credit cards while in Chapter 13 ("when someone travels for business what is done about credit cards?"). In what clearly constitutes legal advice, Ms. Weaver-Ostinato advised: "Credit cards for business, do you mean charging something while you are in the plan? The trustee has to approve all charges, they just have forms that you fill out when you need to charge something."

D. Appropriateness of Injunctive Relief.

Under § 110(j), the debtor, a trustee, a creditor or the Bankruptcy Administrator "may bring a civil action to enjoin a bankruptcy petition preparer from engaging in any conduct in violation of this section or from further acting as a bankruptcy petition preparer." Pursuant to this provision, the parties specified in subparagraph (j) may bring an adversary proceeding in the bankruptcy court in order to enjoin a petition preparer who is violating § 110 or engaging in fraudulent, unfair or deceptive conduct and the bankruptcy court has the authority to grant such relief in an appropriate case. However, the fact that Congress has granted statutory standing to debtors, creditors, trustees and the Bankruptcy Administrator to seek injunctive relief does not preclude the bankruptcy court from raising the issue of injunctive relief by means of an order to show cause. See In re Graves, 279 B.R. 266, 273 (9th Cir. B.A.P. 2002). But, if injunctive relief is pursued through a show cause order rather than an adversary proceeding, principles of due process mandate that the petition

preparer be afforded the procedural protections that inhere in an adversary proceeding. Id. at 274. An essential procedural protection that must be afforded is notice to the petition preparer that injunctive relief is to be considered. Id. at 276.

This proceeding was initiated by means of a motion for show cause order and the issuance of a show cause order in response to the motion. The show cause order sets forth with specificity the matters that are to be considered at the hearing and deals specifically with injunctive relief. In that regard the order provides that one of the matters to be considered is "whether Misty Weaver-Ostinato should be enjoined from engaging in conduct which is in violation of § 110 or from further acting as a bankruptcy petition preparer in this district." The court concludes that service of the show cause order upon Ms. Weaver-Ostinato provided the requisite notice regarding injunctive relief and that there is no procedural impediment to the court granting such relief at this time. See Moore, 290 B.R. at 292-93. The court further concludes that injunctive relief is appropriate at this time under which Ms. Weaver-Ostinato and her corporation, Motherhood Media, Inc., should be permanently enjoined from providing the client intake forms and instructions involved in this case or any similar documents in connection with the preparation of bankruptcy petitions, schedules, statements of financial affairs or related documents for filing with the United States Bankruptcy Court for

the Middle District of North Carolina and from providing any services other acting solely as a scrivener and typing such documents without providing any services that are prohibited by N.C.G.S. § 84-4.

CONCLUSION

Based upon the foregoing findings and conclusions, an order shall be entered in this case contemporaneously with the filing of this memorandum opinion granting the following relief:

(1) \$150.00 of the fee charged by Ms. Weaver-Ostinato in this case shall be disallowed and Ms. Weaver-Ostinato shall be ordered to disgorge and turnover \$150.00 to the Chapter 13 Trustee pursuant to § 110(h)(2) of the Bankruptcy Code;

(2) The fact of the above-described fraudulent, unfair or deceptive acts shall be certified to the United States District Court for the Middle District of North Carolina pursuant to § 110(i)(1) of the Bankruptcy Code; and

(3) Ms. Weaver-Ostinato and Motherhood Media, Inc. shall be enjoined as described above.

This 2nd day of June, 2004.

William L. Stocks

WILLIAM L. STOCKS
United States Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF NORTH CAROLINA
GREENSBORO DIVISION

ENTERED

JUN 07 2004

U.S. BANKRUPTCY COURT
MDNC - MEL

IN RE:)
)
John Brice Singleton and)
Lisa Miller Singleton,) Case No. 03-14003C-7G
)
Debtors.)

ORDER

In accordance with the memorandum opinion filed contemporaneously with the entry of this order, it is ORDERED, ADJUDGED AND DECREED as follows:

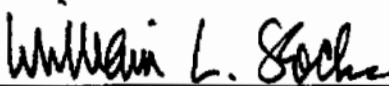
(1) the court hereby disallows \$150.00 of the \$250.00 fee received by Misty Weaver-Ostinato from the Debtors in this case and Misty Weaver-Ostinato is hereby ordered to disgorge and immediately turnover \$150.00 to the Chapter 13 Trustee in this case pursuant to § 110(h)(2) of the Bankruptcy Code and shall not perform any services as a petition preparer in any case filed in this district until such sum has been paid to the Chapter 13 Trustee in this case;

(2) Misty Weaver-Ostinato and Motherhood Media, Inc. are hereby permanently enjoined and prohibited: (a) from providing the client intake forms and instructions involved in this case or any similar documents to any customers or potential customers in connection with the preparation of bankruptcy petitions, schedules, statements of financial affairs or related documents for filing with the United States Bankruptcy Court for the Middle District of North Carolina; (b) from providing any services involving or

related to the preparation of bankruptcy petitions, schedules, statements of financial affairs and related documents for filing with the United States Bankruptcy Court for the Middle District of North Carolina other than acting solely as a scrivener and typing such documents; and (c) from providing any services or engaging in any conduct that constitutes the practice of law as defined in N.C.G.S. § 84-2.1; and

(3) The fact of the fraudulent, unfair or deceptive acts on the part of Misty Weaver-Ostinato which are described in such memorandum opinion are hereby certified to the United States District Court for the Middle District of North Carolina through the transmission of a copy of this order and a copy of the memorandum opinion to the District Court in accordance with § 110(i)(1) of the Bankruptcy Code.

This 2nd day of June, 2004.



WILLIAM L. STOCKS
United States Bankruptcy Judge