

**United States Bankruptcy Court  
Central District of California  
Riverside  
Magdalena Reyes Bordeaux, Presiding  
Courtroom 303 Calendar**

**Tuesday, January 10, 2023**

**Hearing Room 303**

11:00 AM

**6: -**

**Chapter 0**

**#0.00** Judge Reyes Bordeaux will hold hearings in person and remotely via Zoom.gov.

**In person Appearance Policies**

Parties may appear in person for hearings at United States Bankruptcy Court located at 3420 Twelfth Street, Riverside, CA 92501 in Courtroom 303. Parties appearing in person must wear face masks, practice social distancing, and comply with all applicable guidelines of the United States Bankruptcy Court, Central District of California, and any additional requirements required under California State Law at the time of the hearing. Please note that Judge Reyes Bordeaux will not be wearing a mask.

**Remote Appearance Policies**

Parties may also appear remotely for hearings using ZoomGov, which permits parties to appear by video or by telephone. Hearing participants and members of the public may use ZoomGov free of charge to connect to hearings before Judge Reyes Bordeaux. Video and audio connection information for hearing(s) on this calendar is listed below.

Individuals may use a personal computer (equipped with camera, microphone and speaker), or a mobile device (such as an iPhone) to appear by ZoomGov video and ZoomGov audio. Individuals may also use a telephone to appear by ZoomGov audio only (standard telephone charges may apply). A Zoom or ZoomGov account is not necessary to connect to the hearings and no pre-registration is required. The audio portion of each hearing will be recorded electronically by the Court and constitutes its official record.

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**CONT...**

**Chapter 0**

**Video/audio web address:** <https://cacb.zoomgov.com/j/1605518548>

**ZoomGov meeting number:** 160 551 8548

**Password:** 3032023

**Telephone conference lines:** 1 (669) 254 5252 or 1 (646) 828 7666

For more information on appearing before Judge Reyes Bordeaux by ZoomGov, please see the information entitled "Procedures for Video & Telephonic Appearances" on the Court's website at: <https://www.cacb.uscourts.gov/judges/honorable-magdalena-reyes-bordeaux> under the tab "Phone/Video Appearances."

Docket 0

**Tentative Ruling:**

- NONE LISTED -

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11:00 AM

**6:22-11328 Roy Lowell Johnson and Marlene Naomi Johnson**

**Chapter 7**

**#1.00 Notice of Trustee's Final Report and Applications for Compensation**

EH\_\_

Docket 24

**Tentative Ruling:**

1/10/2023

The Court's tentative ruling is to APPROVE Chapter 7 Trustee's ("Trustee") Application for Trustee Fees and Expenses for the reasons set forth below.

No opposition has been filed. This application for compensation has been set for hearing on the notice required by LBR 2016-1(c)(4). Pursuant to the Trustee's Final Report, the following administrative claims will be allowed:

Trustee's Fees:	<u>\$1,812.59</u>
Trustee's Expenses:	<u>\$118.24</u>

APPEARANCES WAIVED. The trustee shall prepare and upload a proposed order after the date and time of the hearing but no later than seven days thereafter. See LBR 9021-1(b)(1)(B). If oral or written opposition is presented at the hearing, the hearing may be continued.

If you wish to be heard on this matter, you can appear at the hearing in person or remotely. **For ZoomGov instructions, please see Page 1 of this week's Tentative Rulings.**

**Party Information**

**Debtor(s):**

Roy Lowell Johnson

Represented By  
Allison F Tilton

**Joint Debtor(s):**

Marlene Naomi Johnson

Represented By

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**CONT... Roy Lowell Johnson and Marlene Naomi Johnson**  
Allison F Tilton

**Chapter 7**

**Trustee(s):**

Robert Whitmore (TR)

Pro Se

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**6:22-12484 Jamain C Anderson, Sr and Debra D Anderson**

**Chapter 7**

**#2.00** CONT Motion for fine and/or disgorgement of fees against bankruptcy petition preparer

From: 12/13/22

EH\_\_

Docket 21

**Tentative Ruling:**

**1/10/2023**

The Court's tentative is to GRANT the United States Trustee's Motion for Assessment of Fines Against Bankruptcy Petition Preparer as set forth below.

**PROCEDURAL BACKGROUND:**

On June 30, 2022, Jamain C Anderson, Sr., and Debra D Anderson ("Debtors") filed a voluntary Chapter 7 petition. The case was closed on October 12, 2022. On November 17, 2022, the United States Trustee ("UST") filed a motion to reopen the case so that the UST could file a motion for violation of 11 U.S.C. § 110(e) and (g) against bankruptcy petition preparer Albert Knowles ("Mr. Knowles"). See Dkt. 18. On November 10, 2022, the UST's motion to reopen was granted. See Dkt. 19.

On November 22, 2022, the UST filed a motion for the entry of an order disgorging fees and imposing fines ("Motion") against Mr. Knowles. See Dkt. 21. The UST's Motion requested the following:

- 1) disgorgement of \$200, payable to Debtors;
- 2) statutory damages of \$2,000, payable to Debtors; and
- 3) statutory fines of \$1,000, payable to the UST.

According to the UST's Motion, Mr. Knowles violated 11 U.S.C. §110 (e)(2) by providing legal advice to Debtors, which included explaining the differences between

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**CONT... Jamain C Anderson, Sr and Debra D Anderson Chapter 7**

chapter 7 and chapter 13 bankruptcy, recommending that Debtors file under Chapter 7, selecting Debtors' statutory exemptions on Schedule C, and advising Debtors regarding the dischargeability of student loans and tax debts. Furthermore, the UST asserted that Mr. Knowles violated 11 U.S.C. §110 (g) by collecting court fees in connection with filing Debtors' petition.

To support the Motion, the UST provided declarations from the Debtors and a declaration from Mary Avalos, a UST Paralegal Specialist, with attached exhibits. The Debtors' declarations support the UST's Motion and include the following statements made under oath:

- (1) Mr. Knowles explained to Debtors the difference between chapter 7 and chapter 13 and recommended that they should file under chapter 7;
- (2) Mr. Knowles explained to Debtors how the bankruptcy discharge affects debts;
- (3) Mr. Knowles selected Debtors' exemptions on Schedule C; and
- (4) Debtors gave Mr. Knowles a "blank" postal money order in the amount of \$338.00 for court filing fee.

Moreover, the UST contends that Mr. Knowles told Debtors that he would take the documents to the bankruptcy court for filing. *See* Declaration of Jamain C Anderson, Sr, ¶¶ 6-9, and Declaration of Debra D Anderson, ¶¶ 6-9.

Prior to December 7, 2022, The UST received a document from Mr. Knowles ("Knowles Document") that was intended to be filed with the United States Bankruptcy Court. However, the Knowles Statement was inadvertently sent to the UST's office. On December 7, 2022, the UST filed the Knowles Document with the U.S. Bankruptcy Court. See Dkt. 25. In the Knowles Document, Mr. Knowles states the following:

"I am writing you to bring attention to the schedule of meetings of Sharon Denise Duffie and Jamain C Anderson, Sr., and Debra D Anderson both on the same day and the same time, same room, which I believe will bring about confusion to the court ..."

The UST contends that the Knowles Document does not appear to be a substantive

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**CONT... Jamain C Anderson, Sr and Debra D Anderson**

**Chapter 7**

defense to the motion. See Dkt. 25.

On December 8, 2022, Mr. Knowles then filed an objection ("Objection") to the Motion. Dkt. 26. Mr. Knowles contends that he never gave any legal advice to Debtors. Mr. Knowles further asserts that Debtors already knew which bankruptcy chapter they wanted to file before they met with him; and Mr. Knowles further contends that Debtors told him that they got the information on which bankruptcy chapter to file from their friend and internet. [Objection, pg. 5, line 21-24]. Mr. Knowles also asserts that he never discussed with Debtors information about taxes, student loans or legal terms, and that all legal terms are found in the contracts Mr. Knowles provided to Debtors. [Objection, pg. 6, lines 2-5.] To support this assertion, Mr. Knowles attached the following two contracts that Debtors signed in connection with Mr. Knowles's service:

1. The Bankruptcy Clinic Contract Between Assisted Person(s) and Debt Relief Agency ("Debt Relief Contract"), Exhibit B, and
2. Bankruptcy Petition Preparer Contract for Self-Help Services ("Self-Help Service Contract") which outlines the scope of service, e.g., line 7, Exhibit C.

Mr. Knowles contends that he provided Debtors with both contracts, including the notices of rules required under the bankruptcy code and that he held himself to the U.S. Trustee Bankruptcy Petition Preparer Guidelines and 11 U.S.C § 110. [Objection, pg. 6, line 13-15, and 19-20.] Further, Mr. Knowles contends that Debtors filed the bankruptcy petition papers by themselves with \$338.00 money order, and that information was provided to Debtors by their friend. [Objection, pg. 6, line 11-12.]

On December 13, 2022, a hearing was held on the Motion. Both parties presented arguments at the hearing. The Court continued the hearing to allow Mr. Knowles the opportunity to supplement admissible evidence to support the assertions he raised in the Objection and to give the UST time to file a reply to Mr. Knowles's response(s).

On January 3, 2023, Mr. Knowles filed a supplemental objection ("Supplemental Objection"). See Dkt. 32. In the Supplemental Objection, Mr. Knowles repeated the contentions already raised in the Objection that he had previously filed on December 8, 2022. Additionally, he re-emphasized that he provided the documents attached as Exhibit "A" and Exhibit "B" to the Supplemental Objection to the Debtors, and these

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**CONT... Jamain C Anderson, Sr and Debra D Anderson**

**Chapter 7**

documents were the source of information the Debtors used to make their own decisions regarding which bankruptcy chapter to file, selection of exemptions, and other related issues for the Debtors' bankruptcy petition. [Supplemental Objection, pages. 3-6.]

In Mr. Knowles' Supplemental Objection [Supplemental Objection, pg. 6, lines 15-17], he also contends that:

- 1) Debtors' friend explained to them the court fee and money order before the Debtors' meeting with Mr. Knowles;
- 2) Debtors purchased the money order for the court filing fee and mailed it to the court; and that he never saw the money order.

However, Mr. Knowles fails to provide any evidence to support the above assertions regarding how Debtors' decisions were only based on the documents Mr. Knowles provided them, or that Debtors obtained and mailed the money order to the court, e.g., declarations from the Debtors or the alleged friend of the Debtors.

On January 6, 2023, the UST filed a reply ("Reply") to the Debtor's Objection and Supplemental Objection. See Dkt. 33. The UST Motion's attached declarations from the Debtors and Mary Avalos, a UST Paralegal Specialist, with attached exhibits, provide specific and detailed evidence that Mr. Knowles provided legal advice and engaged in the unauthorized practice of law. Moreover, the UST contends that Mr. Knowles failed to rebut the evidence supporting their assertions that Mr. Knowles provided legal advice to Debtors and engaged in the unauthorized practice of law.

Accordingly, the UST requests that the Court find that Mr. Knowles violated 11 U.S.C. §110 by unlawfully providing legal advice to Debtors and engaging in the unauthorized practice of law, and for handling the Court's filing fee.

**LEGAL ANALYSIS**

**I. MR. KNOWLES IS A BANKRUPTCY PETITION PREPARER AS DEFINED UNDER 11 U.S.C. § 110(a)(1)**

11 U.S.C. § 110(a)(1) defines a "bankruptcy petition preparer" as "a person, other than an



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**CONT... Jamain C Anderson, Sr and Debra D Anderson Chapter 7**

attorney for the debtor or an employee of such attorney under the direct supervision of such attorney, who prepares for compensation a *document for filing*." (emphasis added) The term "Document for filing" is defined as "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. *Id.*

Here, the UST has provided the Debtors' declarations stating under oath that Mr. Knowles prepared a document for filing, and that Mr. Knowles was compensated for such preparation—a fact Mr. Knowles does not dispute. [See Objection, page 6, line 20.] Mr. Knowles has admitted that he is a bankruptcy petition preparer in his Objection. [See Objection, page 6, line 20.] Furthermore, there is no evidence that Mr. Knowles is an attorney, or that he works under the supervision of an attorney.

Based on the foregoing, the Court finds that Mr. Knowles is a bankruptcy petition preparer as defined under Section 110(a)(1). Accordingly, Mr. Knowles is subject to the requirements and limitations set forth under Section 110.

**II. MR. KNOWLES VIOLATED 11 U.S.C. §PROVIDING DEBTORS LEGAL ADVICE  
11 U.S.C. § 110(E) BY PROVIDING DEBTORS LEGAL ADVICE**

11 U.S.C. § 110(e)(2)(A) states: "[a] bankruptcy petition preparer may not offer a potential bankruptcy debtor any legal advice, including any legal advice described in subparagraph (B)." 11 U.S.C. § 110(e)(2)(B) identifies several common categories of advice that fit within the definition of legal advice in the context of § 110(e)(2).

Here, the UST's Motion contends that Mr. Knowles interpreted legal terms, e.g., including advising the Debtors whether to file their case under a specific bankruptcy chapter, by selecting the Debtors' statutory exemptions on Schedule C, and by advising the Debtors concerning the effects of the discharge on student loans and tax debts—acts prohibited under Section 110(e)(2). In support of UST's motion, the UST has provided the Court with properly executed and authenticated declarations of Debtors, in which Debtors testified under oath to the following facts: (1) Mr. Knowles explained the difference between chapter 7 and chapter 13 and recommended that they should file under chapter 7; (2) Mr. Knowles explained how the bankruptcy discharge affects debts; (3) they did not know the difference between the section 703 and section 704 exemptions, and Mr. Knowles selected exemptions on Schedule C;

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**CONT... Jamain C Anderson, Sr and Debra D Anderson**

**Chapter 7**

and (4) Debtors give Mr. Knowles a "blank" postal money order the amount of \$338.00 for court filing fee, and Mr. Knowles told Debtors that he would take the documents to the bankruptcy court for filing. *See* Declaration of Jamain C Anderson, Sr, ¶¶ 6-9, and Declaration of Debra D Anderson, ¶¶ 6-9. These acts are prohibited legal advice under 11 U.S.C. § 110(e)(2).

Although Mr. Knowles contends that he never gave legal advice to Debtors, he fails to provide sufficient evidence to substantiate this contention. First, Mr. Knowles asserts that Debtors got the information regarding bankruptcy chapters from their friend and internet and the documents he provided to Debtors. [Objection, pg. 5, line 21-24.] However, this argument is not substantiated by any evidence.

Second, Mr. Knowles asserts he never discussed with Debtors any of the following: taxes, student loans, legal terms, or any legal terms in contracts Mr. Knowles provided to Debtors. [Supplemental Objection, pages. 3-6.] These arguments are not persuasive. Debtors in their respective declarations specifically state under oath that Mr. Knowles explained the legal effect of discharge on tax debts and student loans, and that Mr. Knowles selected Debtors' exemptions in Schedule C for them. *See* Declaration of Jamain C Anderson, Sr, ¶¶ 7-8, and Declaration of Debra D Anderson, ¶¶ 7-8.

Finally, Mr. Knowles's mere contention that he has held himself to the U.S. Trustee Bankruptcy Petition Preparer Guidelines and 11 U.S.C § 110 is not sufficient to support a finding that he did not provide any legal advice to Debtors. *See* Objection, pg. 6, line 13-15, and 19-20.

Based on the foregoing, the Court finds that there is sufficient evidence to support that Mr. Knowles engaged in prohibited legal advice under 11 U.S.C. § 110(e)(2).

**III. MR. KNOWLES VIOLATED 11 U.S.C. § 110 (G) BY HANDLING THE COURT  
FILING FEE**

11 U.S.C. § 110(g) prohibits bankruptcy petition preparers from collecting or receiving any payments from debtors for the court fees in connection with filing petitions. 11 U.S.C. § 110(g). In fact, it bars the petition preparer even from acting as an intermediary in submitting to the court a check or money order for filing fees made

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**CONT... Jamain C Anderson, Sr and Debra D Anderson Chapter 7**

out to the clerk and signed by the debtor. *Scott v. Tighe (In re Buck)*, 307 B.R. 157 (C.D. Cal. 2004) (statute precluded transmitting cashier's check payable to bankruptcy court).

Here, Debtors' declarations state under oath that Debtors gave Mr. Knowles a "blank" postal money order in the amount of \$338.00 for the court filing. See Declaration of Jamain C Anderson, Sr, ¶ 9, and Declaration of Debra D Anderson, ¶ 9. Mr. Knowles' argument that Debtors filed the bankruptcy petition papers by themselves and got the related information from their friends is again not substantiated by any evidence. Therefore, the Court finds that there is sufficient evidence supporting a finding that Mr. Knowles handled the Court filing fee in violation of Section 110(g).

**IV. DAMAGES UNDER 11 U.S.C. §110(i)(1)**

11 U.S.C. §\_110(i)(1) sets forth that:

- (i)(1) If a bankruptcy petition preparer violates this section or commits any act that that the court finds to be fraudulent, unfair, or deceptive, on the motion of the debtor, trustee, United States trustee (or the bankruptcy administrator, if any), and after notice and a hearing, the court **shall order** the bankruptcy petition preparer to pay to the debtor-
- (A) the debtor's actual damages;
  - (B) the greater of—
    - (i) \$2,000; or
    - (ii) twice the amount paid by the debtor to the bankruptcy petition preparer for the preparer's services; and
  - (C) reasonable attorneys' fees and costs in moving for damages under this subsection.(emphasis added)

The use of the word 'shall' in § 110(i)(1) indicates the bankruptcy court has no discretion in deciding whether to impose statutory damages of \$2,000 once the court has found a violation of § 110.

First, however, the Court must determine that the BPP committed a "fraudulent, unfair, or deceptive" act. *See, e.g., In re Doser*, 412 F.3d 1056, 1064 (9<sup>th</sup> Cir. 1005); *see also In re Kangaroo*, 250 B.R. 115 (Bankr. C.D. Cal 2000). Engaging in the

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unauthorized practice of law has routinely been held to be a "fraudulent, unfair, or deceptive" act under the statute. *See, e.g., In re Monson*, 522 B.R. 340, 355 (Bankr. D. Utah 2014) ("Offering legal advice to debtors can constitute a fraudulent, unfair or deceptive act within the context of § 110(i)(1).") (collecting cases); *In re Bagley*, 433 B.R. 325, 334 (Bankr. D. Mont. 2010).

After a careful review of all the evidence filed with the court and presented before the Court, the Court finds that Mr. Knowles engaged in providing legal advice to Debtors that is prohibited under Section 110. Therefore, the Court finds that statutory damages of \$2,000, payable to Debtors, are appropriate.

Second, 11 U.S.C. § 110(h)(3)(B) provides for forfeiture of fees received if a bankruptcy petition preparer fails to comply with § 110(b)-(h). After a careful review of all the evidence presented before the Court, the Court deems forfeiture of the \$200 paid by Debtors to be appropriate in this case.

Third, 11 U.S.C. § 110(l)(1) provides for a fine of up to \$500 for each violation of § 110(b)-(h). Here, Mr. Knowles violated §§ 110(e) and (g). For the reasons discussed above, the Court finds an additional \$1,000 fine paid to the UST to be appropriate.

**TENTATIVE RULING**

The Court is inclined to GRANT the Motion and ordering as follows:

- (1) disgorgement of \$200, payable to Debtors,
- (2) statutory damages in the amount of \$2,000, payable to Debtors, and
- (3) statutory fines in the amount of \$1,000, payable to the UST.

**APPEARANCES REQUIRED.** You can appear at the hearing in person or remotely.  
**For ZoomGov instructions, please see Page 1 of this week's Tentative Rulings.**

<b>Party Information</b>
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**Debtor(s):**

Jamain C Anderson Sr	Pro Se
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**Joint Debtor(s):**

Debra D Anderson	Pro Se
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**CONT... Jamain C Anderson, Sr and Debra D Anderson**

**Chapter 7**

**Movant(s):**

United States Trustee (RS)

Represented By  
Cameron C Ridley

**Trustee(s):**

Howard B Grobstein (TR)

Pro Se

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**6:22-12701 Sharon Denise Duffie**

**Chapter 7**

**#3.00** CONT Motion of United States Trustee For an Order Requiring Albert Knowles to Pay Fines, Damages, and To Forfeit Fees Pursuant To 11 U.S.C. § 110

From: 12/13/22

EH\_\_

Docket 21

**Tentative Ruling:**

**1/10/2023**

The Court's tentative is to GRANT the United States Trustee's Motion for Assessment of Fines Against Bankruptcy Petition Preparer as set forth below.

**PROCEDURAL BACKGROUND:**

On July 18, 2022, Sharon Denise Duffie ("Debtor") filed a voluntary Chapter 7 petition. The case was closed on November 1, 2022. On November 8, 2022, the United States Trustee ("UST") filed a motion to reopen the case so that the UST could file a motion for violation of 11 U.S.C. § 110 against Albert Knowles ("Mr. Knowles"), a bankruptcy petition preparer ("BPP") as defined under Section 110(a)(1). See Dkt. 18. On November 10, 2022, the UST's motion to reopen was granted. See Dkt. 19.

On November 15, 2022, the UST filed a motion for the entry of an order disgorging fees and imposing fines ("Motion") against Mr. Knowles. The UST's Motion requested the following:

- 1) disgorgement of \$200, payable to Debtor;
- 2) statutory damages of \$2,000, payable to Debtor; and
- 3) statutory fines of \$500, payable to the UST.

According to the UST's Motion, Mr. Knowles violated Section 110 (e)(2) by

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**CONT... Sharon Denise Duffie**

**Chapter 7**

providing legal advice to Debtor, which included advising Debtor whether to file her case under a specific bankruptcy chapter, soliciting financial information from Debtor, and using that information to prepare her schedules.

To support the Motion, the UST provided a declaration from the Debtor and a declaration from Mary Avalos, a UST Paralegal Specialist, with attached exhibits. The Debtor's declaration supports the UST's motions and include the following assertions made by the Debtor under oath:

- (1) Mr. Knowles discussed the different chapters and told Debtor which one would be better for her to file;
- (2) Mr. Knowles selected Debtor's exemption in Schedule C and Debtor did not research any of the California statutes and does not know what they involve; and
- (3) Mr. Knowles checked the box "there is no presumption of abuse" on the Means Test and entered the 'median family income' amount on the Means Test and Debtor did not research this information. *See* Declaration of Sharon Denise Duffie, ¶¶ 4-5, and 7.

Prior to December 7, 2022, The UST received a document from Mr. Knowles ("Knowles Document") that was intended to be filed with the U.S. Bankruptcy Court, but that was inadvertently sent to the UST's office. On December 7, 2022, the UST filed a Knowles Document with the Bankruptcy Court. See Dkt. 24.

In the Knowles Document, Mr. Knowles states the following:

"I am writing you to bring attention to the schedule of meetings of Sharon Denise Duffie and Jamain C Anderson, Sr., and Debra D Anderson both on the same day and the same time, same room, which I believe will bring about confusion to the court ..."

The UST contends that the Knowles Document does not appear to be a substantive defense to the motion. See Dkt. 24.

On December 8, 2022, Mr. Knowles filed an objection ("Objection") to the Motion. See Dkt. 25. Mr. Knowles contends that he never gave any legal advice to Debtor. Mr.

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**CONT... Sharon Denise Duffie**

**Chapter 7**

Knowles asserts that Debtor already knew which bankruptcy chapter she wanted to file before meeting Mr. Knowles; and Mr. Knowles further contends that Debtor told Mr. Knowles that she got the information on which bankruptcy chapter to file from her daughter. [Objection, pg. 5, line 21-24.] To support this contention, Mr. Knowles attached an intake form from the Bankruptcy Clinic re Debtor's basic information as Exhibit B. Mr. Knowles also attached the following two contracts Debtor signed in connection with Mr. Knowles's service:

1. The Bankruptcy Clinic Contract Between Assisted Person(s) and Debt Relief Agency ("Debt Relief Contract"), Exhibit C, and
2. Bankruptcy Petition Preparer Contract for Self-Help Services ("Self-Help Service Contract"), Exhibit D.

Mr. Knowles asserts that he provided Debtor with both contracts, including the notices of rules required under the bankruptcy code. Further, Mr. Knowles included an unsigned declaration of Debtor in his Objection. Notably, Debtor's declaration lacks any signature from Debtor or from anyone else.

On December 13, 2022, a hearing was held on the Motion. Both parties presented arguments at the hearing. The Court continued the hearing to allow Mr. Knowles the opportunity to supplement admissible evidence to support his contentions raised in the Objection and to allow the UST to file a reply to Mr. Knowles's response(s).

On December 30, 2022, the UST filed a reply ("Reply") to the Objection filed by Mr. Knowles. In the Reply, the UST contends that Mr. Knowles failed to rebut the evidence establishing that he provided legal advice to Debtor and engaged in the unauthorized practice of law. The UST's Motion provides specific and detailed evidence that Mr. Knowles provided legal advice and engaged in the unauthorized practice of law, including declarations from the Debtor and a declaration from Mary Avalos, a UST Paralegal Specialist, with attached exhibits.

Mr. Knowles's Objection asserts a blanket denial of UST's assertions without any evidence that is admissible and in support thereof—evidence that includes an unsigned declaration of the Debtor.

On January 3, 2023, Mr. Knowles filed a supplemental objection ("Supplemental



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CONT... **Sharon Denise Duffie**

**Chapter 7**

Objection"). See Dkt. 32. In the Supplemental Objection, Mr. Knowles repeated the contentions already raised in the Objection that he had previously filed on December 8, 2022. Additionally, he re-emphasized that (1) he provided the Debt Relief Contract and the Self-Help Service Contract<sup>1</sup> to the Debtor; (2) the Debtor's friend explained to Debtor regarding bankruptcy filing before Debtor had the meeting with him; (3) Debtor answered a questionnaire without his assistance and drew her own decision from the information contained in the documents he provided to Debtor and the advice from the Debtor's friends; and (4) the questionnaire provided needed information for filing this bankruptcy, and he only used the information provided in the questionnaire and never engaged in unauthorized legal practice. *See* Supplemental Objection, pages 2-8.

Mr. Knowles also asserts that he holds himself to the Self-Help Service Contract and stays within the scope of service specified in the contract. *See* Supplemental Objection, pages. 3-4. However, this Supplemental Objection was not properly signed by Mr. Knowles. More importantly, Mr. Knowles fails to provide any evidence to substantiate these contentions regarding how the Debtor drew her own decision only based on her friend's advice and the documents Mr. Knowles provided to her, e.g., declarations from the Debtor or the alleged friend of the Debtor.

LEGAL ANALYSIS

**I. MR. KNOWLES IS A BANKRUPTCY PETITION PREPARER AS DEFINED UNDER 11 U.S.C. § 110(a)(1)**

11 U.S.C. § 110(a)(1) defines "bankruptcy petition preparer" as "a person, other than an attorney for the debtor or an employee of such attorney under the direct supervision of such attorney, who prepares for compensation a *document for filing*." (emphasis added) The term "Document for filing" is defined as "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. *Id.*

Here, the UST has provided the declaration of Debtor stating that Mr. Knowles prepared a document for filing and was compensated for such preparation—a fact Mr. Knowles does not dispute. Mr. Knowles has admitted that he is a bankruptcy petition preparer in his Objection. [Objection, page 5, lines 15-16.] Furthermore, there is no

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evidence that Mr. Knowles is an attorney, or works under the supervision of an attorney.

Based on the foregoing, the Court finds that Mr. Knowles is a bankruptcy petition preparer as defined under Section 110. As such, Mr. Knowles is subject to the requirements and limitations under Section 110.

**II. MR. KNOWLES VIOLATED 11 U.S.C. §PROVIDING DEBTORS LEGAL ADVICE  
11 U.S.C. § 110(E) BY PROVIDING DEBTORS LEGAL ADVICE**

11 U.S.C. § 110(e)(2)(A) states: "[a] bankruptcy petition preparer may not offer a potential bankruptcy debtor any legal advice, including any legal advice described in subparagraph (B)." 11 U.S.C. § 110(e)(2)(B) identifies several common categories of advice that fit within the definition of legal advice in the context of § 110(e)(2).

Here, the UST contends that Mr. Knowles interpreted legal terms for Debtor by designating and categorizing Debtor's debt as secured, nonpriority unsecured, defining Debtor's debts as "primarily consumer" debts in the Statement of Financial Affairs, calculating the "median family income" in the Means Test, and selecting Debtor's state law exemptions, which are actions prohibited under Section 110(e)(2). [Motion, pg. 7, lines 24-28].

Although Mr. Knowles contends that he never gave legal advice to Debtor, he fails to provide admissible evidence to support this assertion. First, the declaration of Debtor included in his Objection is not signed by the Debtor. As such, there is no executed declaration that is signed by the Debtor in support of Mr. Knowles Objection. Mr. Knowles also argues that Exhibit B of the Objection supports his contention that Debtor got the information on the different bankruptcy chapters from her daughter and already knew which bankruptcy chapter to file before meeting him [Objection, pg. 5, line 21-24.] Mr. Knowles further asserts that the Debtor drew her own decision only based on her friend's advice and the documents Mr. Knowles provided to her. *See* Supplemental Objection, pages 2-8. However, Exhibit B of the Objection merely demonstrates that Debtor's daughter referred Debtor to Mr. Knowles for debt relief services. No evidence demonstrates or supports Mr. Knowles' assertion that Debtor received the information on different bankruptcy chapters from her daughter or from someone other than Mr. Knowles. More importantly, Mr. Knowles again fails to

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provide any admissible evidence to substantiate these contentions.

Here, the UST has provided the Court with a properly executed and authenticated declaration from the Debtor, in which Debtor testifies that at her first in-person meeting with Mr. Knowles, Mr. Knowles talked about the different chapters and told her which one would be better for her to file. See Declaration of Sharon Denise Duffie, ¶¶ 4-5. Debtor also testified that Mr. Knowles selected her exemption in Schedule C and that she did not research any of the California statutes and that she does not know what they involve. See Declaration of Sharon Denise Duffie, ¶7. In addition, Debtor testified that Mr. Knowles also checked the box "there is no presumption of abuse" on the Means Test and entered the "median family income" amount on the Means Test and that she did not research this information. See Declaration of Sharon Denise Duffie, ¶7

Finally, Mr. Knowles's contention that he has stayed within the scope of services specified in the contract is not sufficient to support a finding that he did not provide any legal advice to Debtors. *See* Supplemental Objection, pages. 3-4.

Based on the foregoing, the Court finds that there is sufficient evidence to support that Mr. Knowles engaged in prohibited legal advice pursuant to 11 U.S.C. §110(e)(2).

**III. DAMAGES UNDER 11 U.S.C. §110(i)(1)**

11 U.S.C. § 110(i)(1) sets forth that:

- (i)(1) If a bankruptcy petition preparer violates this section or commits any act that that the court finds to be fraudulent, unfair, or deceptive, on the motion of the debtor, trustee, United States trustee (or the bankruptcy administrator, if any), and after notice and a hearing, the court *shall* order the bankruptcy petition preparer to pay to the debtor-
  - (A) the debtor's actual damages;
  - (B) the greater of—
    - (i) \$2,000; or
    - (ii) twice the amount paid by the debtor to the bankruptcy petition preparer for the preparer's services; and
  - (C) reasonable attorneys' fees and costs in moving for damages under

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this subsection.(emphasis added)

The use of the word 'shall' in § 110(i)(1) indicates that the bankruptcy court has no discretion in deciding whether to impose statutory damages of \$2,000 once it found a violation of § 110.

First, however, the Court must determine that the BPP committed a "fraudulent, unfair, or deceptive" act. *See, e.g., In re Doser*, 412 F.3d 1056, 1064 (9<sup>th</sup> Cir. 1005); *see also In re Kangaroo*, 250 B.R. 115 (Bankr. C.D. Cal 2000). Engaging in the unauthorized practice of law has routinely been held to be a "fraudulent, unfair, or deceptive" act under the statute. *See, e.g., In re Monson*, 522 B.R. 340, 355 (Bankr. D. Utah 2014) ("Offering legal advice to debtors can constitute a fraudulent, unfair or deceptive act within the context of § 110(i)(1).") (collecting cases); *In re Bagley*, 433 B.R. 325, 334 (Bankr. D. Mont. 2010). Here, as discussed above, Mr. Knowles engaged in authorized legal practice by providing prohibited legal advice to Debtor. Therefore, the Court finds that statutory damages of \$2,000 paid to Debtor are appropriate.

Second, 11 U.S.C. § 110(h)(3)(B) provides for forfeiture of fees received if a bankruptcy petition preparer fails to comply with § 110(b)-(h). For the reasons discussed above, the Court deems forfeiture of the \$200 paid by Debtor to be appropriate in this case.

Third, 11 U.S.C. § 110(l)(1) provides for a fine of up to \$500 for each violation of § 110(b)-(h). For the reasons discussed above, the Court finds an additional \$500 fine paid to the UST to be appropriate.

**TENTATIVE RULING**

The Court is inclined to GRANT the Motion and ordering as follows:

- (1) disgorgement of \$200, payable to Debtor,
- (2) statutory damages in the amount of \$2,000, payable to Debtor, and
- (3) statutory fines in the amount of \$500, payable to the UST.

**APPEARANCES REQUIRED.** You can appear at the hearing in person or remotely.  
**For ZoomGov instructions, please see Page 1 of this week's Tentative Rulings.**

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<b>Party Information</b>
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**Debtor(s):**

Sharon Denise Duffie

Pro Se

**Movant(s):**

United States Trustee (RS)

Represented By  
Everett L Green

**Trustee(s):**

Larry D Simons (TR)

Pro Se