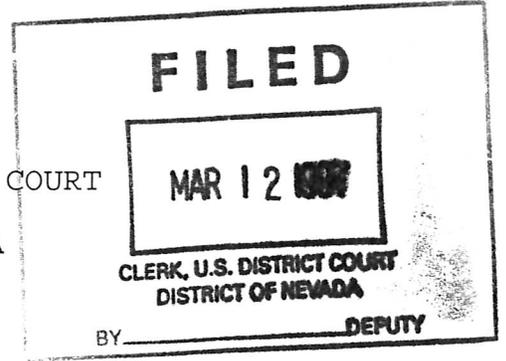


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CLERK, U.S. DISTRICT COURT  
DISTRICT OF NEVADA

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA



3 \_\_\_\_\_ DEPUTY  
4 IN THE MATTER OF )  
5 NON-LAWYER BANKRUPTCY )  
6 PETITION PREPARERS )  
7 \_\_\_\_\_ )

SPECIAL ORDER NO. 100

8 IT IS HEREBY ORDERED, that with respect to actions against  
9 non-lawyer bankruptcy petition preparers:

10 (a) Petition Preparers

11 (1) Fines for improper conduct of petition preparers.

12 When a non-lawyer petition preparer is alleged to be in  
13 violation of 11 U.S.C. §110(b) through (g), the Bankruptcy Court  
14 shall find the facts and impose the fines set forth in those  
15 provisions.

16 (2) Disallowance of Excess Fees, Turnover Orders and

17 Fines for Violating Such Orders. Where a non-lawyer petition  
18 preparer is alleged to be in violation of 11 U.S.C. §110(h), the  
19 Bankruptcy Court shall find the facts and order the disallowance  
20 of fees and turnover of such excess fees to the bankruptcy  
21 trustee.

22 (b) Injunctions against Petition Preparers under  
23 11 U.S.C. §110(j).

24 (1) Commencement of action. An action seeking an  
25 injunction under 11 U.S.C. §110(j) shall be commenced in the  
26 Bankruptcy Court.

1 (2) Issuance of injunction. The Bankruptcy Court  
2 shall find the facts and order an injunction.

3 (3) Attorney's fees and costs. The Bankruptcy  
4 Court shall award a successful plaintiff's fees and costs in  
5 bringing an action pursuant to 11 U.S.C. §110(j)(3).

6 (c) Certification of Facts to the District court under  
7 11 U.S.C. §110(i).

8 (1) Commencement of Certification of Facts  
9 Proceeding. A certification of facts proceeding under  
10 11 U.S.C. §110(i) is commenced in the Bankruptcy Court on a  
11 motion by the debtor, the trustee, a creditor or on the  
12 Bankruptcy Court's own motion. The Bankruptcy Court is required  
13 to:

- 14 and (i) give notice to the accused preparer;  
15 (ii) conduct a hearing prior to certifying  
16 facts to the District Court.

17 (2) Certification to the District Court. In  
18 certifying facts under 11 U.S.C. §110(i)(1) to the District  
19 Court, the Bankruptcy Court shall:

- 20 (i) include such findings of fact as were  
21 made during the bankruptcy proceeding;  
22 (ii) include the transcript and the record  
23 in the bankruptcy proceeding upon which the facts  
24 were found;  
25 (iii) include the Bankruptcy Court's finding  
26 as to the debtor's actual damages under  
11 U.S.C. §110(i)(1)(A);  
(iv) include the Bankruptcy Court's finding  
as to whether the \$2,000.00 penalty or twice the

1 amount paid by the debtor to the preparer is the  
2 greater sum for inclusion in the penalty under  
11 U.S.C. §110(i)(1)(B);

3 (v) include the Bankruptcy Court's finding  
4 as to the amount of the movant's reasonable  
attorney's fees and costs incurred in connection  
5 with the certification proceedings; and

6 (vi) advise the prevailing party in the  
7 bankruptcy proceeding that it should, following  
the issuance of the Bankruptcy Court's decision,  
8 file an appropriate motion in the District Court  
moving the imposition of further sanctions  
pursuant to 11 U.S.C. §110(i).

9 (3) District Court Procedure. When the certification  
10 of facts is before the District Court:

11 (i) No in-person hearing is required unless  
12 the court so directs.

13 (ii) At the hearing, no new evidence shall  
14 be received, and the hearing shall be on the  
record only.

15 (iii) Briefing shall only be allowed by those  
parties affected.

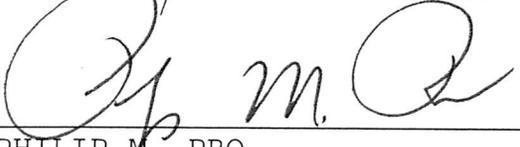
16 (iv) The Bankruptcy Court's findings of fact  
17 shall be reviewed under the abuse of discretion  
standard; and

18 (v) The Bankruptcy Court's conclusions of  
19 law shall be reviewed de novo.

20 DATED this 26<sup>th</sup> day of February, 1997.

21  
22   
23 LLOYD D. GEORGE, CHIEF  
UNITED STATES DISTRICT JUDGE

21  
22   
23 HOWARD D. MCKIBBEN  
UNITED STATES DISTRICT JUDGE

24  
25   
26 PHILIP M. PRO  
UNITED STATES DISTRICT JUDGE

24  
25   
26 DAVID W. HAGEN  
UNITED STATES DISTRICT JUDGE