

PRESENTED AT

15th Annual Consumer Bankruptcy Practice

July 25-26, 2019

Houston, TX

**DISCOVERY, INVESTIGATION, AND RECOVERY OF
FUNDS FROM UNKNOWN, UNDISCLOSED, AND
UNLICENSED PREPARERS**

Ray Hendren

UT LAW CLE 2019 CONSUMER BANKRUPTCY PRACTICE

**DISCOVERY, INVESTIGATION, AND RECOVERY OF FUNDS FROM
UNKNOWN, UNDISCLOSED, AND UNLICENSED PREPARERS**

BANKRUPTCY CODE AUTHORITY

- | | |
|-------------------|---|
| 1. 11 U.S.C. §110 | 1 |
|-------------------|---|

COURT IMPLEMENTATION OF BANKRUPTCY CODE AUTHORITY

- | | |
|--|---|
| 1. WEBSITE INFO - WWW.TXWB.USCOURTS.GOV/FILING-WITHOUT-ATTORNEY | 6 |
| 2. FILING REQUIREMENTS | 7 |
| • FORM 2000 | 8 |
| 3. PRO SE FILING QUESTIONNAIRE | 9 |

PROCEDURE AND FORM

- | | |
|--|----|
| 1. COMPLETED PRO SE FILING QUESTIONNAIRE | 10 |
| 2. COURT SHOW CAUSE – PRO SE FILER | 11 |
| 3. ORDER FROM THE COURT REGARDING SHOW CAUSE | 13 |
| 4. TRUSTEE’S REQUEST FOR ADDITIONAL RELIEF – UNLICENSED PREPARER | 15 |
| 5. COURT SHOW CAUSE – UNLICENSED PREPARER | 17 |
| 6. ORDER FROM THE COURT REGARDING SHOW CAUSE/TRUSTEE RELIEF | 18 |

11 USC § 110. Penalty for persons who negligently or fraudulently prepare bankruptcy petitions

(a) In this section—

(1) "bankruptcy petition preparer" means 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; and

(2) "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.

(b)

(1) A bankruptcy petition preparer who prepares a document for filing shall sign the document and print on the document the preparer's name and address. If a bankruptcy petition preparer is not an individual, then an officer, principal, responsible person, or partner of the bankruptcy petition preparer shall be required to--

(A) sign the document for filing; and

(B) print on the document the name and address of that officer, principal, responsible person, or partner.

(2)

(A) Before preparing any document for filing or accepting any fees from a debtor, the bankruptcy petition preparer shall provide to the debtor a written notice which shall be on an official form prescribed by the Judicial Conference of the United States in accordance with [rule 9009](#) of the Federal Rules of Bankruptcy Procedure.

(B) The notice under subparagraph (A)--

(i) shall inform the debtor in simple language that a bankruptcy petition preparer is not an attorney and may not practice law or give legal advice;

(ii) may contain a description of examples of legal advice that a bankruptcy petition preparer is not authorized to give, in addition to any advice that the preparer may not give by reason of [subsection \(e\)\(2\)](#); and

(iii) shall--

(I) be signed by the debtor and, under penalty of perjury, by the bankruptcy petition preparer; and

(II) be filed with any document for filing.

(c)

(1) A bankruptcy petition preparer who prepares a document for filing shall place on the document, after the preparer's signature, an identifying number that identifies individuals who prepared the document.

Question 16 and the Disclosure of Compensation of Attorney reflect that the debtor paid \$1,750.00 to the attorney prior to filing this case. [all filed as part of Doc#1]

8. The attorney also filed Case Number 19-60040 for a different debtor in the Eastern District of Texas (Tyler) despite venue being proper in the Western District of Texas (Waco). The Eastern District Court transferred said case to this Court; the case was subsequently dismissed by order entered 2/12/2019 [Doc#21] for failure to file the declaration for electronic filing.

9. The Trustee queried the licensing section of the Texas State Bar website which reflects that the attorney is licensed in the EDTX and State of TX. Because the attorney does not show to be licensed in the WDTX the Trustee requests that the Court consider transferring the case back to the EDTX because the attorney is licensed in the EDTX or issue a Show Cause Order to require the debtor and his counsel to appear before this Court and testify as to how the attorney is able to properly prosecute the WDTX (Waco) case and why the attorney did not appear on the prior case that was dismissed. The Trustee further requests that the Court consider imposing sanctions against the attorney for the reasons cited herein, requesting the State Bar of Texas to investigate the attorney regarding fitness to practice, barring the attorney from filing cases in the WDTX Bankruptcy Court and prohibiting cases filed by this attorney from being transferred to the WDTX from the EDTX since the attorney is not licensed in the WDTX, as well as any other monetary and other sanctions plus Order disgorgement of attorney fees and damages to the debtor if the debtor has been the victim of a scheme or fraudulent act.

February 28, 2019

Respectfully Submitted,

/s/ Ray Hendren

Chapter 13 Trustee

4505 Spicewood Springs Rd. #205

Austin, TX 78759

Phone 512-474-6309; Fax 512-482-8424

CERTIFICATE OF SERVICE

I, Ray Hendren, Chapter 13 Trustee, certify that a true and correct copy of the foregoing was served upon the parties listed on the attached matrix by First Class U.S. Mail prepaid or electronic notice as reflected on the Court's ECF record on February 28, 2019.

/s/ Ray Hendren, Chapter 13 Trustee

Find the full text of this and thousands of other resources from leading experts in dozens of legal practice areas in the [UT Law CLE eLibrary \(utcle.org/elibrary\)](http://utcle.org/elibrary)

Title search: Discovery, Investigation, and Recovery of Funds from Unknown, Undisclosed, and Unlicensed Preparers

Also available as part of the eCourse

[Chapter 7 and Chapter 13 Trustee Updates](#)

First appeared as part of the conference materials for the
15th Annual Consumer Bankruptcy Practice session
"Chapter 13 Trustee Panel"