



IT IS ORDERED as set forth below:

Date: January 22, 2016

**W. Homer Drake
U.S. Bankruptcy Court Judge**

**UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF GEORGIA
NEWNAN DIVISION**

IN THE MATTER OF:	:	CASE NUMBER
	:	
ERIK BRADLEY EIDSON,	:	15-10224-WHD
_____	:	
	:	
GUY G. GEBHARDT,	:	ADVERSARY PROCEEDING
ACTING UNITED STATES	:	NO. 15-1056-WHD
TRUSTEE,	:	
	:	
Plaintiff.	:	
	:	
v.	:	
	:	
NATASHA BASCUS,	:	IN PROCEEDINGS UNDER
	:	CHAPTER 7 OF THE
Defendant.	:	BANKRUPTCY CODE

ORDER

Before the Court is the Motion for Default Judgment filed by

Guy G. Gebhardt, Acting United States Trustee for Region 21 (hereinafter, the “U.S. Trustee”), in the above-captioned adversary proceeding. The U.S. Trustee seeks judgment by default against Natasha Bascus (hereinafter, the “Defendant”). This matter arises in connection with a complaint requesting that the Court enjoin the Defendant from acting as a bankruptcy petition preparer pursuant to 11 U.S.C. § 110(j)(2)(B). This matter constitutes a core proceeding over which this Court has subject matter jurisdiction. See 28 U.S.C. §§ 157(a) & (b)(2)(A), 1334.

The U.S. Trustee filed his complaint on October 15, 2015. The Defendant filed no responsive pleading. On December 31, 2015, after the Clerk’s entry of default, the U.S. Trustee filed the instant motion for default judgment on December 31, 2015.

In order to grant default judgment, the Court must first

determine that the U.S. Trustee's allegations of fact serve as a sufficient basis for entry of default judgment. See *Nishimatsu Constr. Co., Ltd. v. Houston Nat'l Bank*, 515 F.2d 1200, 1206 (5th Cir. 1975). In evaluating those allegations, the Court notes that "a defaulted defendant is deemed to have admitted the movant's well-pleaded allegations of fact, [but] she is not charged with having admitted 'facts that are not well-pleaded...or conclusions of law.'" *Perez v. Wells Fargo, N.A.*, 774 F.3d 1329, 1339 (11th Cir. 2014) (second alteration in original) (quoting *Cotton v. Mass. Mut. Life Ins. Co.*, 402 F.3d 1267, 1278 (11th Cir. 2005)).

Background

The U.S. Trustee's complaint alleges that the Defendant prepared one or more documents on behalf of Erik Bradley Eidson (hereinafter, the "Debtor") in Bankruptcy Case 15-10224-

WHD for a fee of \$150. On March 4, 2015, as part of that bankruptcy case, the U.S. Trustee filed a Motion for Disallowance of Fee and Imposition of Fines and Sanctions against the Defendant. The U.S. Trustee alleged numerous issues with the Defendant's service as a petition preparer in the case, including an allegation that the Defendant's fees were excessive.

On March 5, 2015, the Court issued an Order and Notice setting the deadline for filing objections to the U.S. Trustee's motion. A hearing was originally scheduled for April 9, 2015, but was rescheduled to June 4, 2015. Through discussions in May and June of 2015, the parties reached an agreement on the U.S. Trustee's motion and submitted a consent order. The Court entered that order on June 17, 2015. The Defendant was ordered to reduce her fee to \$25 and to refund the remaining \$125 to the

Debtor. The Defendant was directed to certify that she had paid the \$125 to the Debtor by August 31, 2015, by filing a report with the Court indicating the date, amount, manner of delivery, and method of payment. The order also contained a notice to the Defendant that failing to disgorge the fee as ordered could lead to an injunction against her.

The U.S. Trustee alleges that he has no information suggesting that the Defendant has refunded the \$125, and the Defendant has not filed any report with the Court certifying payment. For failing to comply with the Court's order, the Trustee requests that the Court enter an order enjoining the Defendant from acting as a bankruptcy petition preparer.

Discussion

A "bankruptcy petition preparer" is "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” in a bankruptcy case. 11 U.S.C. § 110(a). Section 110(j)(2)(B) empowers a court to enjoin a bankruptcy petition preparer from acting as a petition preparer as a consequence of failing to pay a penalty imposed under § 110 or failing to disgorge fees as ordered by the court. 11 U.S.C. § 110(j)(2)(B).

Here, the Defendant is a bankruptcy petition preparer because she prepared one or more documents for filing with the Court and received compensation of \$150. Thus, the Defendant is subject to the provisions of § 110. The Court’s June 17th Order explicitly directed the Defendant to disgorge \$125 of her fee back to the Debtor. The allegations in the complaint establish that the

Defendant has disregarded the Court's order by not refunding that portion of her fee. Therefore, an injunction pursuant to § 110(j)(2)(B) is warranted.

Conclusion

Having considered the allegations in the U.S. Trustee's complaint, it is hereby **ORDERED** that the U.S. Trustee's Motion for Default Judgment is **GRANTED**, and the Defendant is enjoined from acting as a bankruptcy petition preparer. Judgment will be entered for the U.S. Trustee in accordance with this Order.

The Clerk is **DIRECTED** to serve a copy of this Order on the U.S. Trustee, the Defendant, and respective counsel, if any.

END OF DOCUMENT