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U.S. BKCY. APP. PANEL
OF THE NINTH CIRCUIT

NOT FOR PUBLICATION

UNITED STATES BANKRUPTCY APPELLATE PANEL
OF THE NINTH CIRCUIT

In re:) BAP No. CC-14-1333-KuDki
)
 JEANETTE DRYER,) Bk. No. 14-13018
)
 Debtor.)
)
)
 EARSEY GREENWOOD,)
)
 Appellant,)
)
 v.) **MEMORANDUM***
)
 UNITED STATES TRUSTEE;)
)
 JEANETTE DRYER; TIMOTHY J.)
)
 YOO, Chapter 7 Trustee,)
)
 Appellees.)

Argued and Submitted on February 19, 2015
at Los Angeles, California

Filed - February 27, 2015

Appeal from the United States Bankruptcy Court
for the Central District of California

Honorable Ernest M. Robles, Bankruptcy Judge, Presiding

Appearances: Appellant Earsey Greenwood argued pro se; Ron
Maroko argued for Appellee United States Trustee;
Appellee Jeanette Dryer, on brief, pro se.

Before: KURTZ, DUNN and KIRSCHER, Bankruptcy Judges.

*This disposition is not appropriate for publication.
Although it may be cited for whatever persuasive value it may
have (see Fed. R. App. P. 32.1), it has no precedential value.
See 9th Cir. BAP Rule 8024-1.

1 **INTRODUCTION**

2 Appellant Earsey Greenwood, who is not an attorney, admitted
3 to assisting debtor Jeanette Dryer in preparing the forms she
4 filed to commence her chapter 7¹ bankruptcy case. The bankruptcy
5 court fined Greenwood under § 110 for not complying with the
6 restrictions and requirements § 110 imposes on non-attorney
7 bankruptcy petition preparers.

8 Greenwood appealed the bankruptcy court's ruling. In both
9 the bankruptcy court and on appeal, Greenwood only has offered
10 one argument why he should not be fined under § 110. He has
11 argued that he was unaware of the statute's requirements and was
12 unaware that the statute applied to him. But § 110 does not
13 condition the imposition of fines on the non-attorney petition
14 preparer's knowledge of the statute or its applicability. In any
15 event, the bankruptcy court found Greenwood's claimed ignorance
16 of § 110 not credible, and we hold that this finding was not
17 clearly erroneous.

18 Accordingly, we AFFIRM.

19 **FACTS**

20 In February 2014, without the assistance of a licensed
21 attorney, Dryer commenced her bankruptcy case. Roughly one month
22 later, the United States Trustee convened the § 341(a) meeting of
23 creditors for Dryer's case, and Dryer duly appeared at the
24 creditor's meeting for examination pursuant to § 343. At that
25

26 ¹Unless specified otherwise, all chapter and section
27 references are to the Bankruptcy Code, 11 U.S.C. §§ 101-1532, and
28 all "Rule" references are to the Federal Rules of Bankruptcy
Procedure, Rules 1001-9037.

1 time, the United States Trustee's representative directed Dryer
2 to complete a standard form Declaration for Debtors Without
3 Attorney, which asks debtors whether and to what extent they were
4 assisted in filing their bankruptcy papers by someone other than
5 an attorney. In her declaration, Dryer disclosed that she paid
6 \$1,000 to Greenwood to assist her in preparing her bankruptcy
7 papers. Dryer further disclosed that Greenwood advised her:
8 (1) whether or not to file a bankruptcy petition; (2) the
9 difference between chapter 7, 11, 12 and 13 of the bankruptcy
10 code; (3) whether she would be able to retain her home, car or
11 other property after the bankruptcy filing; and (4) how her debts
12 should be listed in her bankruptcy schedules as either priority,
13 secured or unsecured debts.² Dryer subsequently provided the
14 United States Trustee with copies of two cancelled checks
15 totaling \$1,000 that she paid to Greenwood. The reverse side of
16 each check shows what appears to be Greenwood's signature as an
17 endorsement.

18 Based on Dryer's declaration and the contents of her
19 bankruptcy filings, the United States Trustee filed and served a
20 motion against Greenwood pursuant to § 110(h)(3) seeking
21 disgorgement of the \$1,000 in fees that Greenwood collected from
22 Dryer and seeking the imposition of fines against Greenwood based
23 on his violations of § 110. The United States Trustee pointed

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25 ²Greenwood included with his appeal papers a new declaration
26 signed by Dryer in which she recanted many of the statements she
27 had made in her Declaration for Debtors Without Attorney. This
28 new declaration, dated August 14, 2014, was not part of the
record before the bankruptcy court. Therefore, we will not
consider it. See Castro v. Terhune, 712 F.3d 1304, 1316 n.5 (9th
Cir. 2013).

1 out that Greenwood: (1) had not signed any of Dryer's bankruptcy
2 filings (in violation of § 110(b)(1)); (2) had not filed the
3 required Bankruptcy Petition Preparer's form declaration and
4 notice (Bankruptcy Official Form B19) regarding his fees and the
5 limited scope of non-attorney services he was permitted to
6 perform for debtors (in violation of § 110(b)(2) and (h)(2)); and
7 (3) had not placed his social security number on Dryer's
8 bankruptcy filings (in violation of § 110(c)).

9 Greenwood filed an opposition to the motion in which he
10 admitted that he helped prepare Dryer's bankruptcy papers by
11 inputting or typing in the relevant information into the forms,
12 but he claimed that he was unaware that he qualified as a
13 bankruptcy petition preparer or that he needed to comply with
14 § 110. The United States Trustee then filed a reply. In
15 relevant part, the United States Trustee countered Greenwood's
16 assertion that he did not know he qualified as a bankruptcy
17 petition preparer and did not know of § 110's requirements. The
18 United States Trustee presented evidence demonstrating that, in
19 2013, the bankruptcy court had fined Greenwood in another
20 bankruptcy case for violating § 110.

21 At the hearing on the United States Trustee's motion, the
22 bankruptcy court ruled in favor of the United States Trustee and
23 against Greenwood. The court found that Greenwood was a
24 bankruptcy petition preparer within the meaning of the statute.
25 The bankruptcy court also found that Greenwood committed four
26 separate violations of § 110(b)(1) by not signing Dryer's
27 petition, her schedules, her statement of financial affairs and
28 her statement of intention. The bankruptcy court further found

1 that Greenwood committed three separate violations of § 110(c)(1)
2 by not putting his social security number or other "identifying
3 number" on Dryer's petition, her schedules and her statement of
4 financial affairs. According to the court, Greenwood also
5 violated § 110(b)(2) by not filing the required form notice to
6 the debtor regarding the limitations and restrictions on his
7 services and violated § 110(h)(2) by not signing and filing a
8 declaration regarding the fees Dryer paid him.

9 Finally, the bankruptcy court found Greenwood was not
10 credible when he claimed he was not aware of the above-referenced
11 requirements. The court pointed out that Greenwood previously
12 had been fined for similar violations. The court additionally
13 pointed out that the petition Greenwood filled out for Dryer
14 contained a prominent signature block for non-attorney petition
15 preparers. In any event, the court reasoned, even if Greenwood
16 had not been aware of § 110's requirements, lack of knowledge of
17 the requirements is not a valid excuse for noncompliance.

18 On account of its findings, the court imposed \$4,000 in
19 fines based on eight separate violations of § 110 at \$500 per
20 violation (see § 110(1)(1)) and then trebled the \$4,000 in
21 accordance with § 110(1)(2)(D), thereby bringing the total fines
22 imposed to \$12,000. The court also ruled that Greenwood had
23 forfeited the \$1,000 in fees he collected from Dryer pursuant to
24 § 110(h)(3)(B) because of his violation of § 110's other
25 provisions. The court ordered Greenwood to reimburse the \$1,000
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1 to Dryer.³

2 On June 30, 2014, the bankruptcy court entered its order
3 imposing the \$12,000 in fines and directing Greenwood to disgorge
4 the \$1,000 in fees, and Greenwood timely appealed.

5 **JURISDICTION**

6 The bankruptcy court had jurisdiction pursuant to 28 U.S.C.
7 §§ 1334 and 157(b)(2)(A). We have jurisdiction under 28 U.S.C.
8 § 158.

9 **ISSUE**

10 Did the bankruptcy court err when it fined Greenwood for
11 violating § 110?

12 **STANDARDS OF REVIEW**

13 We review the bankruptcy court's imposition of fines under
14 § 110 for an abuse of discretion. See Frankfort Digital Servs.,
15 Ltd. v. U.S. Trustee (In re Reynoso), 315 B.R. 544, 550 (9th Cir.
16 BAP 2004), aff'd, 477 F.3d 1117 (9th Cir. 2007).

17 The abuse of discretion standard of review first requires us
18 to consider whether the bankruptcy court identified the correct
19 legal rule to apply. Berger v. Home Depot USA, Inc., 741 F.3d
20 1061, 1067 (9th Cir. 2014). And second, if the court identified
21 the correct legal rule to apply, we then must determine whether
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23 ³Greenwood claimed that he used a portion of the \$1,000 from
24 Dryer to pay Dryer's filing fees. The bankruptcy court found
25 that Greenwood's claim was not as credible as Dryer's statement
26 in her Declaration for Debtors Without Attorney that she
27 separately paid her bankruptcy filing fees. In any event, as the
28 court noted, § 110(g) prohibited Greenwood from collecting the
court fees from Dryer, and Greenwood's violation of this
prohibition served as a separate and independent basis for
Greenwood's forfeiture of the entire \$1,000.

1 the court's findings of fact, and its application of those
2 findings to the law, were illogical, implausible, or without
3 support in the record. Id.

4 **DISCUSSION**

5 Perceiving a need to curtail widespread fraud, abuse and the
6 unauthorized practice of law, Congress enacted legislation in
7 1994 seeking to restrict the activities of non-attorney
8 bankruptcy petition preparers. See Ferm v. U.S. Trustee
9 (In re Crawford), 194 F.3d 954, 957 (9th Cir. 1999). The
10 centerpiece of that legislation was § 110. Id. As indicated in
11 the facts section above, § 110 imposes a number of requirements
12 and restrictions on bankruptcy petition preparers and also
13 imposes fines for noncompliance. See In re Branch, 504 B.R. 634,
14 639 (Bankr. E.D. Cal. 2014) (explaining requirements, restrictions
15 and fines). In the 2005 amendments to the Bankruptcy Code,
16 Congress went even further and enhanced the restrictions, added
17 further requirements, and streamlined the procedures for imposing
18 fines for noncompliance. See H.R. Rep. No. 109-31 (Pt. 1), at 62,
19 as reprinted in 2005 U.S.C.C.A.N. 88, 132.

20 In the bankruptcy court and on appeal, Greenwood contends
21 that he did not know that he qualified as a bankruptcy petition
22 preparer. According to Greenwood, he should not have been fined
23 under § 110 when he was unaware that the statute applied to him
24 or of the statute's requirements. Interpreting Greenwood's pro
25 se contentions liberally as we must, see Keys v. 701 Mariposa
26 Project, LLC (In re 701 Mariposa Project, LLC), 514 B.R. 10, 12
27 (9th Cir. BAP 2014), we will first consider the bankruptcy
28 court's determination that Greenwood qualified as a bankruptcy

1 petition preparer, and then we will address Greenwood's argument
2 regarding his lack of knowledge.

3 The statute defines the term "bankruptcy petition preparer"
4 broadly, as follows:

5 (a) In this section -

6 (1) "bankruptcy petition preparer" means a person,
7 other than an attorney for the debtor or an employee of
8 such attorney under the direct supervision of such
9 attorney, who prepares for compensation a document for
10 filing; and

11 (2) "document for filing" means a petition or any other
12 document prepared for filing by a debtor in a United
13 States bankruptcy court or a United States district
14 court in connection with a case under this title.

15 11 U.S.C. § 110; see also In re Reynoso, 477 F.3d at 1123

16 (broadly construing § 110's definition of bankruptcy petition
17 preparers).

18 Under the statute's broad definition of the term "bankruptcy
19 petition preparer," the record here amply supports the bankruptcy
20 court's determination that Greenwood qualified as a bankruptcy
21 petition preparer. Greenwood admitted that Dryer compensated him
22 for inputting information into the relevant forms to assist Dryer
23 in filing her bankruptcy documents. Under these circumstances,
24 we perceive no error regarding the court's bankruptcy petition
25 preparer determination.

26 As for Greenwood's asserted lack of knowledge, § 110 does
27 not condition the imposition of fines for noncompliance on the
28 violator's state of mind. When it wants to do so, Congress knows
how to limit the consequences for noncompliance with the
Bankruptcy Code to violators who acted knowingly and/or wilfully.
See, e.g., §§ 111(g)(2), 362(k)(1), 363(n), 524(i),

1 1141(d)(6)(B)(ii). Congress included no such limitation in
2 § 110, and we know of no rationale that would permit us to read
3 into the statute such a limitation. See generally Lamie v. U.S.
4 Trustee, 540 U.S. 526, 534 (2004) (when interpreting statute that
5 is clear on its face, the court's only task is to apply the
6 statute in accordance with its non-absurd plain meaning). Our
7 reading of § 110 also is consistent with the general principle
8 that ignorance of the law is no excuse. See Antonio-Martinez v.
9 INS, 317 F.3d 1089, 1093 (9th Cir. 2003).

10 Furthermore, as the United States Trustee has pointed out,
11 § 110 previously contained language that directed the court to
12 excuse noncompliance when there was a "reasonable cause" for the
13 violator's noncompliance. However, when Congress amended the
14 bankruptcy code in 2005, it deleted the "reasonable cause"
15 language from § 110 and thereby removed it as an exception to the
16 imposition of fines under § 110. See In re Woodward, 314 B.R.
17 201, 205 (Bankr. N.D. Iowa 2004) (pre-2005 case explaining former
18 reasonable cause exception). Simply put, Congress' 2005 deletion
19 of the reasonable cause exception from § 110 bolsters our
20 conviction that there is no excuse available to Greenwood based
21 on his asserted ignorance of § 110.

22 Even if there existed some exception to § 110's fines based
23 on Greenwood's ignorance of the statute, the bankruptcy court
24 found that Greenwood's asserted ignorance was not credible. The
25 basis for the court's credibility determination was twofold.
26 First, the court pointed out that the bankruptcy forms Greenwood
27 filled out for Dryer contained conspicuous signature blocks for
28 bankruptcy petition preparers to complete. Given that Greenwood

1 was confronted with these signature blocks when he filled out the
2 forms for Dryer, the court reasoned that Greenwood's asserted
3 ignorance of § 110's requirements was feigned. Second, according
4 to the court, Greenwood previously was fined under § 110 in
5 another bankruptcy case, and thus the court could not accept
6 Greenwood's claim to have been unaware of § 110 and its
7 requirements.

8 Greenwood has not offered any explanation or argument why
9 the bankruptcy court's finding that he was aware of § 110 was
10 illogical, implausible or without support in the record. Nor is
11 any such deficiency evident to us. Accordingly, we have no
12 grounds to overturn the bankruptcy court's finding on this point.

13 Greenwood does not challenge or dispute any other aspect of
14 the bankruptcy court's decision. Moreover, having reviewed the
15 record, we cannot say that any of the bankruptcy court's other
16 findings were illogical, implausible or unsupported by the
17 record. Consequently, there are no grounds here that would
18 justify our reversing the bankruptcy court's decision.

19 **CONCLUSION**

20 For the reasons set forth above, we AFFIRM the bankruptcy
21 court's order against Greenwood based on his violation of § 110.
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