



## U.S. Department of Justice

### *Executive Office for United States Trustees*

*Office of Research and Planning*

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## **PRESS RELEASE**

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### **BANKRUPTCY PETITION PREPARER ARRAIGNED ON CHARGES OF CRIMINAL CONTEMPT**

PHOENIX, ARIZ.--Bankruptcy petition preparer Richard S. Berry of Tempe, Ariz., was arraigned June 8 on charges of criminal contempt for allegedly violating court orders that limited his fees for preparing consumers' bankruptcy papers, United States Trustee Brenda Moody Whinery announced today. The United States Trustee Program is a component of the Justice Department that supervises the administration of bankruptcy cases nationwide.

Berry pleaded not guilty to the criminal contempt charges, which were filed under 18 USC 401(3). Chief District Judge Robert C. Broomfield scheduled an August 11, 1998, trial on the matter. Berry could face up to six months in federal prison if he is found guilty.

Since January 1997, various court orders have addressed Berry's violations of the federal bankruptcy laws that regulate "bankruptcy petition preparers"--non-attorneys who assist consumer debtors in preparing their bankruptcy papers.

Bankruptcy petition preparers may not provide, or represent that they provide, legal services. Typically, they are restricted to typing documents for consumer debtors to file with the bankruptcy court.

Bankruptcy courts have the authority to set a reasonable fee for a bankruptcy petition preparer's services. On Jan. 24, 1997, Chief Bankruptcy Judge George B. Nielsen Jr. of the District of Arizona found that Berry was charging excessive fees. Nielsen fined Berry \$500 and ruled that he could not charge more than \$200 per Chapter 13 case for his services unless he applied for court permission.

On Aug. 14, 1997, Judge Nielsen found that Berry had continued to charge more than \$200 per Chapter 13 case, and had received more than \$172,000 in excess fees since the prior order. Nielsen ordered Berry to pay back all the excess fees and to pay a \$100,000 fine for civil contempt of court.

Subsequently, based on evidence that Berry had violated the Jan. 24, 1997, order limiting fees, the Bankruptcy Fraud Task Force for the District of Arizona sought criminal contempt charges against Berry. The task force is composed of representatives from the United States Attorney's Office, the United States Trustee's Office, the Federal Bureau of Investigation, and other law enforcement agencies. The United States Trustee referred the Berry case to the United States Attorney for prosecution on the criminal contempt charges.

Meanwhile, on May 23, 1997, United States Bankruptcy Judge Redfield T. Baum of the District of Arizona permanently barred Berry, and two corporations he controls, from acting as bankruptcy petition preparers in the District of Arizona. When Berry violated that order, the United States Trustee moved to have Berry held in civil contempt of court.

On March 6, 1998, Judge Baum imposed fines of \$1 million each against Berry and the two corporations for willfully violating the orders barring them from preparing bankruptcy documents and advertising for bankruptcy business in the District of Arizona. Baum also held Berry and the corporations in civil contempt and barred them from soliciting customers for bankruptcy document preparation or providing any bankruptcy preparation services.

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