Real Estate Scams Now Impacting Those Filing for Bankruptcy

June 18, 2012 - Federal law allows those filing for bankruptcy to hire an attorney for their filing or they can do it themselves; a process known as pro se. And for those electing to do their own filings, the law also allows them to hire a non-lawyer assistant. Now there is a new report published by the federal court system that shows that complaints against non-attorney's that assist pro se filers have increased dramatically in recent years. And the report is pointing a finger at the same people who have been involved in real estate scams that target people threatened with foreclosure.

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U.S. Bankruptcy Judge Maureen Tighe for the federal bankruptcy court in the Central District of California said, "We have seen an increase in abuse." She went on to say, "The increase in 'foreclosure rescue' and 'loan modification' services seems to be the source in the past three years. The homeowners are desperate and take advice from the most questionable sources. There is a wide range of BPPs (bankruptcy petition preparers), from those who are well-meaning but still are giving legal advice, to out-and-out fraud perpetratorsâ€”and the down-and-out consumer debtor doesn't know the difference most of the time."

Most of the scams lure filers into paying up-front fees to the BPP's involved. While most BPPs do offer reasonable and honorable service, there have been a growing number of cases in which the BPP's primary focus is fraud.

As the courts catch serial BPP filers that are breaking the rules, they are punishing them. But their success has been limited. For instance, there have been a number of cases in which BPP's have been banned from filing any further petitions. This can happen for a number of reasons including providing legal advice without a law license. Since BPP's are required by law to sign the bankruptcy petitions they file with the court, there really shouldn't be a problem. But some of these scam artists are simply filing out the petition even after they have been banned, without signing it and then

handing it back to the person who is filing for bankruptcy; telling them to file the petition with the court themselves.

When these types of violators are caught, the court is punishing them with fines and criminal prosecutions. But catching them can be difficult. In order to address this problem, bankruptcy courts around the country have implemented a pro se help desk. Among other things, the help desk can direct filers to legitimate BPPs.

Anyone considering filing for bankruptcy using the pro se method of filing would be well served to call the help desk for their court before they hire anyone to assist them. The US Trustee Program also provides a list of frequently asked questions for those considering bankruptcy that is available from the federal court website. This is an excellent starting point for anyone exploring financial options that may include bankruptcy.

byJim Malmberg
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