In the

United States Court of Appeals

For the Seventh Circuit

No. 22-2501

IN RE: JELENA DORDEVIC,

Debtor.

JELENA DORDEVIC and ANTHONY J. PERAICA,

Plaintiffs-Appellants,

v.

PATRICK S. LAYNG, United States Trustee

Defendant-Appellee.

Appeal from the United States District Court for the
Northern District of Illinois, Eastern Division.
No. 21-cv-6338 — **Gary Feinerman**, *Judge*.

ARGUED JANUARY 19, 2023 — DECIDED MARCH 9, 2023

Before BRENNAN, SCUDDER, and KIRSCH, *Circuit Judges*.

SCUDDER, *Circuit Judge*. The U.S. Trustee admonished debtor's counsel to file a corrected financial disclosure form with the bankruptcy court after learning that counsel's original filing underreported his compensation. Many times over

counsel disregarded the direction, prompting the Trustee to file a motion for disgorgement. The bankruptcy court did not find the question close: counsel's failure to update his disclosure form constituted a flagrant violation of the Bankruptcy Code warranting complete disgorgement of all past fees received by counsel. The district court agreed with the bankruptcy court's decision. And so do we.

I

Anthony Peraica represented Jelena Dordevic in her Chapter 7 bankruptcy proceeding. Alongside filing the bankruptcy petition, Peraica submitted a form disclosing his fee compensation (known in bankruptcy parlance as a Rule 2016 disclosure) in which he reported that Dordevic had paid him a total of $5,000 for his services. But Peraica's disclosure was incomplete. As the Trustee learned during discovery, Dordevic had actually paid Peraica $21,500.

The U.S. Trustee contacted Peraica to inform him that he needed to file an updated Rule 2016 fee disclosure with the bankruptcy court. Rather than heed this advice, Peraica instead sent the Trustee an informal accounting document listing $21,500 in fees. Recognizing this would not suffice, the Trustee responded: "The Rule 2016 disclosures actually need to be filed with the Court" by submitting "an official form." But Peraica again ignored his obligation and continued to do so even after receiving a third reminder from the Trustee a few weeks later.

In time the Trustee sought the bankruptcy court's intervention. The Trustee filed a motion under 11 U.S.C. § 329 to examine the fees. After Peraica failed to respond, the Trustee supplemented its motion with a request that all fees be

forfeited. The bankruptcy court granted the motion. Beyond Peraica's brazen disregard of the Trustee's advice, the bankruptcy court found Peraica's proffered explanation for not updating his fee disclosure lacking, if not downright false. Peraica claimed that he lacked bankruptcy experience and thus was not familiar with his Rule 2016 disclosure requirements. But a search of the federal judiciary's docket management system showed that Peraica had been involved in more than 350 bankruptcy cases in the Northern District of Illinois alone. The bankruptcy court ordered Peraica to disgorge all past fees as a penalty for his blatant lack of compliance with his obligations under Section 329 of the Bankruptcy Code.

On appeal, the district court did not hesitate in affirming the bankruptcy court's disgorgement order. Peraica now seeks our review.

II

The obligation Congress imposed in Section 329 on any attorney representing a debtor is clear. Counsel must "file with the court a statement of the compensation paid or agreed to be paid, if such payment or agreement was made after one year before the date of the filing of the petition, for services rendered or to be rendered in contemplation of or in connection with the case by such attorney." 11 U.S.C. § 329(a).

The Federal Rules of Bankruptcy Procedure implement this obligation by requiring counsel to file the fee disclosure within 14 days of the petition. Fed. R. Bankr. P. 2016(b). In no uncertain terms, Rule 2016 also specifies that counsel should file a supplemental statement "within 14 days after any payment or agreement not previously disclosed." *Id.* Nothing in this framework provides leeway for partial or incomplete

disclosure. Plain and simple, attorneys must inform the bankruptcy court of their compensation and promptly update the filing if their fees change.

The bankruptcy court found that Peraica failed to comply with this obligation. He only disclosed $5,000 of the $21,500 Dordevic paid him for his representation and, despite the Trustee's repeated admonishments to update his Rule 2016 disclosure, never did so. Just as concerning, Peraica then doubled down and told the bankruptcy court that he was not familiar with his obligation even though he had been involved in hundreds of prior bankruptcy proceedings.

The bankruptcy court found Peraica's behavior inexcusable. We do too. Whether or the degree to which the estate sustained harm—Peraica's focus on appeal—is beside the point. The fee disclosure obligations are mandatory, not optional. See *Kravit, Gass & Weber, S.C. v. Michel* (*In re Crivello*), 134 F.3d 831, 836 (7th Cir. 1998) ("[C]ounsel who fail to disclose timely and completely … proceed at their own risk because failure to disclose is sufficient grounds to … deny compensation."). The bankruptcy court exercised its sound discretion in sanctioning Peraica with complete disgorgement.

III

It would be a mistake to read our opinion as straightforward affirmance of the bankruptcy court's decision. The Bankruptcy Code's disclosure requirements are "central to the integrity of the bankruptcy process." 3 Collier on Bankruptcy ¶ 329.01 (16th ed. 2022). And disclosure is mandatory for good reason: it protects both debtors from overreaching lawyers and creditors from losing their fair share of the estate. See *SE Prop. Holdings, LLC v. Stewart* (*In re Stewart*), 970 F.3d

1255, 1259 (10th Cir. 2020) (discussing these two justifications). Indeed, given Congress's directive, bankruptcy courts have an inescapable statutory duty to review fee arrangements. See *Bethea v. Robert J. Adams & Assocs.*, 352 F.3d 1125, 1127 (7th Cir. 2003) (explaining that Section 329 "requires bankruptcy judges" to review compensation). So the bigger picture takeaway should be clear: counsel for debtors in bankruptcy proceedings should recognize that failures to disclose will not be taken lightly.

With these closing observations, we AFFIRM.