IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF TENNESSEE

In re TAYLOR & ASSOCIATES, L.P., Debtor.	No. 95-33024 Involuntary Chapter 7

M E M O R A N D U M

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MARCIA PHILLIPS PARSONS
UNITED STATES BANKRUPTCY JUDGE

Pending before this court is Dudley W. Taylor's motion seeking (1) costs and attorney's fees against the petitioning creditors pursuant to 11 U.S.C. § 303(i); and (2) disgorgement of compensation and expenses previously paid to the attorneys for the petitioning creditors. Also pending before the court is the petitioning creditors' request that the court deny both aspects of Mr. Taylor's motion as a matter of law. For the reasons discussed below, the court will grant the petitioning creditors' request and deny Mr. Taylor's motion in all respects. This is a core proceeding. *See* 28 U.S.C. § 157(b)(2)(A) and (O).[1]

I.

This involuntary chapter 7 case was commenced against the alleged debtor, Taylor & Associates, L.P., on November 13, 1995. The procedural history of the legal battles fought between the parties since that time are for the most part documented in a series of reported opinions from the bankruptcy and district

[1]Although this case was dismissed by order entered April 3, 1998, the court retains jurisdiction to consider the pending motion. *See Bradner v. Cooper School of Art, Inc. (In re Cooper School of Art, Inc.)*, 709 F.2d 1104, 1106 (6th Cir. 1983)(upon dismissal of involuntary case, bankruptcy court retains jurisdiction for purpose of determining awards under 11 U.S.C. § 303(i)); *Post v. Ewing*, 119 B.R. 566, 568-69 (S.D. Ohio 1989)(bankruptcy court which dismissed case retained jurisdiction to order disgorgement of fee to debtor).

courts and in an unpublished opinion from the Sixth Circuit Court of Appeals. When initially presented with Dudley W. Taylor's motion to dismiss the involuntary petition, the bankruptcy court treated the motion as one for summary judgment and concluded that the alleged debtor was a limited partnership under Tennessee law and therefore qualified to be a debtor under the Bankruptcy Code.[2] *In re Taylor & Associates, L.P.*, 191 B.R. 374, 384-91 (Bankr. E.D. Tenn. 1996). Subsequently, the bankruptcy court conducted an evidentiary hearing on the contested petition which hearing led to entry of an order for relief on March 8, 1996. *In re Taylor & Associates, L.P.*, 193 B.R. 465, 482-83 (Bankr. E.D. Tenn. 1996).

Upon Dudley W. Taylor's appeal to the district court of the bankruptcy court's order for relief, the district court concluded that material questions of fact existed as to whether the debtor was a partnership which questions prevented the bankruptcy court from summarily determining that the debtor was a "person" eligible for bankruptcy relief. *Taylor v. Bush (In*

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[2]Dudley W. Taylor vigorously denied that he was or ever had been a general or limited partner in Taylor & Associates, L.P. However, since one of the petitioning creditors contended that he was a general partner, the court determined that Dudley W. Taylor had standing to contest the petition under Fed. R. Bankr. P. 1011(a). *In re Taylor & Associates, L.P.*, 191 B.R. 374, 379-81 (Bankr. E.D. Tenn. 1996).

re Taylor & Associates, L.P.), 249 B.R. 431, 446-47 (E.D. Tenn. 1997). Thereafter, on March 28, 1997, the district court vacated the order for relief and remanded the case for an evidentiary hearing on the issue of whether the alleged debtor was a partnership such that it was eligible for bankruptcy relief. *Id.* Upon conducting that hearing, the bankruptcy court dismissed the involuntary petition, finding the evidence insufficient to establish that the debtor was either a limited or general partnership. *In re Taylor & Associates, L.P.*, 249 B.R. 448, 473 (Bankr. E.D. Tenn. 1998). That decision was affirmed first by the district court, *Bush v. Taylor (In re Taylor & Associates, L.P.)*, 249 B.R. 474, 481 (E.D. Tenn. 1998); and then ultimately by the Sixth Circuit Court of Appeals. 211 F.3d 1270, 2000 WL 554179 (6th Cir., April 24, 2000).

During the year when the order for relief was in effect, the respective counsel for the petitioning creditors filed applications pursuant to 11 U.S.C. § 503(b)(4) for allowance of compensation and expenses incurred in connection with the filing and prosecution of the involuntary petition. No objections were raised to those applications and after a hearing, the court on September 23, 1996, entered orders granting the firm of Egerton, McAfee, Armistead and Davis, P.C. compensation and expenses totaling $94,457.18 and the firm of McCord, Troutman & Irwin,

P.C. compensation in the amount of $5,318.75 and $316.78 in expenses. These amounts were paid as administrative expenses from interest earned on funds the chapter 7 trustee had collected in the course of administering the estate but later returned when this case was dismissed.[3]

On April 24, 1998, after the order for relief was vacated, Dudley W. Taylor filed the pending motion seeking disgorgement of those awards and requesting a judgment against the petitioning creditors for his costs and fees. The stated grounds for the request as set forth in the motion are as follows:

> As a result of this Court's April 3, 1998 Order dismissing this case, the compensation and expenses allowed the Egerton Firm and the McCord Firm should be disgorged pursuant to 11 U.S.C. §§ 105, 349 and 503.
>
> Moreover, pursuant to 11 U.S.C. § 303(i), this Court should grant an award against the Petitioning Creditors and in favor of D. Taylor for costs and reasonable attorney's fees incurred by D. Taylor.

Because the decision vacating the order for relief and dismissing this case was on appeal, this court entered an order on May 28, 1998, deferring consideration of Mr. Taylor's motion pending resolution of the appeal. Thereafter, on August 11,

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[3]The court file which contains an interim report from the chapter 7 trustee for the period ending March 31, 1998, reflects that approximately $1.1 million in total interest had been earned on estate funds received in settlement of potential preference actions.

2000, after the appeals had run their course, a status conference was held regarding Mr. Taylor's motion. At that conference, the court asked Mr. Taylor which paragraph of § 303(i) he was proceeding under since the motion did not specify a particular paragraph. Mr. Taylor responded that he could not answer the court's inquiry at that time and would need to consult with bankruptcy counsel. Mr. Taylor asked the court to grant him a period of time to amend his motion and to possibly file other motions regarding disgorgement of other administrative expenses paid in this case. Based on this request, the scheduling order entered by the court on August 18, 2000, directed Mr. Taylor to "file an amendment to his pending motion specifying the precise relief being sought under 11 U.S.C. § 303(i) and any additional motions on or before August 25, 2000." Because the petitioning creditors had indicated at the status conference that they intended to request that Mr. Taylor's motion be denied on legal grounds, the August 18, 2000 order also provided that:

> Any legal issue which may be dispositive of the pending motion or any other motion which movant may file shall raised by any respondent in a separate request for such summary relief and respondent shall file a brief in support of that request. Such requests and briefs shall be filed by October 13, 2000. Movant shall file a brief in response by November 3, 2000. Failure to respond within the time allowed may be deemed an admission that the request is well taken and should be granted.

Notwithstanding the August 25, 2000 deadline to file an amendment to his motion, no amendment has been filed by Mr. Taylor. Mr. Taylor did file on August 25, 2000, an "AFFIDAVIT OF DUDLEY W. TAYLOR AS TO ATTORNEY FEES AND EXPENSES" wherein he states that in opposing the involuntary petition, his law firm expended $518,571 for services and $19,680.65 in costs. No reference is made in the affidavit to the merits of his motion for costs and fees, nor does the affidavit in any way address the court's directive that Mr. Taylor clarify the precise relief requested under 11 U.S.C. § 303(i).

On September 25, 2000, the petitioning creditors filed a response to Mr. Taylor's motion, wherein they request that the motion be denied as a matter of law, and a brief in support of that request. Although the scheduling order directed Mr. Taylor to file a brief in response to the petitioning creditors' request by November 3, 2000, and indicated that failure to do so could be deemed an admission that the petitioning creditors' request was well taken, Mr. Taylor has not filed a brief or otherwise responded to the petitioning creditors' request that his motion be denied. Because the time for Mr. Taylor to respond to the petitioning creditors' request that his motion be denied as a matter of law has expired, the court will proceed

with consideration of the petitioning creditors' request.[4]

II.

The petitioning creditors assert that Mr. Taylor has cited no authority in support of his motion for disgorgement of fees and expenses and that none in fact exists. They observe that the motion "consisted of only a single sentence citing nothing more than three general sections of [title] 11 of the U.S. Code." As noted previously, this single sentence was that "[a]s a result of this Court's April 3, 1998 Order dismissing this case, the compensation and expenses allowed the Egerton Firm and the McCord Firm should be disgorged pursuant to 11 U.S.C. §§ 105, 349 and 503." A general review of these three Code sections, however, provides no basis for Mr. Taylor's assertion that the law firms should be required to disgorge

[4]The petitioning creditors' first contention is that Mr. Taylor's motion should be denied on procedural grounds because he did not file an amendment to his motion as directed by the court and because he has not filed a brief in support of his motion. They note that absent a brief, they and the court must assume "the burden of finding and discussing the applicable facts and law to support the motion. If D. Taylor cannot find any law or facts to support his motion, or if the issue is not important enough to D. Taylor to take the time to research and brief the issues, then this Court should summarily deny the motions accordingly." While the petitioning creditors are generally correct in this assessment, it is not necessary for the court to base its ruling solely on these grounds, the court agreeing with the petitioning creditors that Mr. Taylor's motion should be denied as a matter of law as discussed hereafter.

their fees simply because the involuntary petition filed by them on behalf of their clients was dismissed.

Section 503 of the Bankruptcy Code, one of the sections cited by Mr. Taylor, deals generally with allowance of administrative expenses. As noted previously, the attorneys for the petitioning creditors were allowed compensation and reimbursement of expenses pursuant to 11 U.S.C. § 503(b)(4). This subsection, along with related subsection 503(b)(3), provide in pertinent part as follows:

> After notice and a hearing, there shall be allowed administrative expenses ... including—
>
> ....
>
> (3) the actual, necessary expenses, other than compensation and reimbursement of expenses specified in paragraph (4) of this subsection, incurred by—
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> (A) a creditor that files a petition under section 303 of this title;
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> ....
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> (4) reasonable compensation for professional services rendered by an attorney or an accountant of an entity whose expense is allowable under paragraph (3) of this subsection, ... and reimbursement for actual, necessary expenses incurred by such attorney or accountant.

11 U.S.C. § 503(b). Simply stated, § 503(b)(3)(A) and (4) permits a creditor who "files" an involuntary petition to be awarded its actual, necessary expenses, along with reasonable compensation and reimbursement of expenses for its attorney or

accountant. By their terms, neither provision requires that the creditor successfully prosecute an involuntary petition. Although it is generally contemplated that an order for relief will result from the involuntary filing and that a creditor will be awarded its expenses not only for the filing of the petition, but also its preparation and adjudication, *see In re Crazy Eddie, Inc.*, 120 B.R. 273, 278 (Bankr. S.D.N.Y. 1990); the statute itself contains no such requirement. It has been recognized that the absence of an order for relief based on the involuntary petition does not preclude compensation under § 503(b)(3)(A) and (4). *Id.* at 276-77. Furthermore, there is no directive in § 503 mandating the disgorgement of fees paid to attorneys for petitioning creditors if the petition is dismissed[5] and the court has not located any case authority which has construed § 503 as requiring disgorgement under this circumstance. Accordingly, Mr. Taylor's mere invocation of § 503 provides no basis for relief.

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[5]Interestingly, § 503 makes no reference to disgorgement of fees once allowed unlike §§ 329 and 330, the two statutes governing compensation for professionals employed by the estate and the debtor, both of which contain express provisions for ordering disgorgement. *See* 11 U.S.C. § 329(b)(if compensation to debtor's attorney exceeds reasonable value of services, court may order return of excess) and 11 U.S.C. § 330(a)(5)(if amount of interim compensation to estate professionals exceeds amount of compensation awarded, court may order return of difference).

Section 349 of the Bankruptcy Code which addresses the effect of dismissal of a case also fails to provide any basis for disgorgement. Subsection (b)(2) states that "a dismissal of a case ... vacates any order, judgment, or transfer ordered, under section 522(i)(1), 542, 550, or 553 of this title." 11 U.S.C. § 349(b)(2). "The proper reading of § 349(b) is to restrict its operation to the sections of the Bankruptcy Code which it specifically refers to." *Matter of Depew*, 115 B.R. 965, 971 (Bankr. N.D. Ind. 1989). Section 522(i)(1) deals with a debtor's right to exempt property, § 542 addresses turnover of property to the estate, § 550 concerns liabilities of transferees of avoided transfers, and § 553 pertains to setoff. None of these Code sections address an award of administrative expenses under § 503 or more specifically, the award of fees to counsel for petitioning creditors under § 503(b)(4). Therefore, it can be said by negative implication that pursuant to § 349(b)(2), § 503(b)(4) orders are not vacated by the dismissal of a bankruptcy case. *See In re Searles*, 70 B.R. 266, 270 (D.R.I. 1987)(consent order resolving automatic stay motion not vacated by dismissal because such order does not fall within the four enumerated sections of § 349(b)(2)). As noted by the court in the *Matter of Depew*, a case cited by the petitioning creditors in their brief:

> What § 349(b) does not say is as significant as what it says. If Congress had truly intended for dismissal to completely undo the bankruptcy, as though it had never existed, it would have been simple enough to have said so explicitly. Section 349(b)(2) could then have read simply that dismissal vacates any order or judgment ever entered in the case.... Yet, Congress did not write this part of the Bankruptcy Code so broadly. Instead, it chose to carefully identify and refer to orders and judgments based upon specific sections of the Bankruptcy Code.... Had Congress meant to undo everything that had taken place in the case, these specific references would serve no purpose and would represent useless verbiage.

Matter of Depew, 115 B.R. at 970-71. *See also Derrick v. Richard L. Grafe Commodities, Inc. (In re Derrick)*, 190 B.R. 346, 352 (Bankr. W.D. Wis. 1995) ("[A]lthough § 349 enumerates numerous sections of the code which are affected by a dismissal, it does not expressly reverse everything.").

The only other provision of section 349 which is possibly relevant to Mr. Taylor's disgorgement request is subsection (b)(3) which provides that "dismissal of a case ... revests the property of the estate in the entity in which such property was vested immediately before the commencement of the case." However, "property of the estate" that revests in its prior owners after dismissal under this section includes only the property left in the estate at the time of dismissal. *Matter of Depew*, 115 B.R. at 971. Prepetition property rights cannot be restored when estate property has been distributed to third

parties. *In re Shea & Gould*, 214 B.R. 739, 750 (Bankr. S.D.N.Y. 1997). Accordingly, based on the forgoing, § 349 of the Bankruptcy Code provides no support for Mr. Taylor's argument that fees paid pursuant to § 503(b)(4) must be disgorged upon the dismissal of the case.

The other remaining statute relied upon by Mr. Taylor for disgorgement is 11 U.S.C. § 105 pertaining to the power of the bankruptcy court. The first sentence of subsection (a) of this section provides that "[t]he court may issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of this title." Arguably, this statute grants sufficient equitable powers for a court to order disgorgement of any administrative expense, although the court has been unable to locate any reported decision wherein administrative expenses awarded under § 503(b)(4) were ordered disgorged pursuant to the court's authority under § 105, or any other provision for that matter. In the context of attorney fees awarded pursuant to §§ 330 and 331 of the Code, it has been noted that the decision whether to order the disgorgement of these fees is a matter within the sound discretion of the bankruptcy court. *U.S. v. Schottenstein (In re Unitcast, Inc.)*, 219 B.R. 741, 744 (B.A.P. 6th Cir. 1998). In addition, the bankruptcy appellate panel for the Sixth Circuit has cautioned that "disgorgement is a harsh

remedy, one that should be applied only when mandated by the equities of a case." *Id*. at 753 (quoting *In re Anolik*, 207 B.R. 34, 39 (Bankr. D. Mass. 1997)).

The only consideration raised by Mr. Taylor in his motion as a basis for disgorgement is that this case was subsequently dismissed after the administrative expenses were paid. In response, the petitioning creditors note that only the administrative expenses paid to their attorneys have been singled out for disgorgement by Mr. Taylor even though numerous other administrative expenses were paid in this case. In light of this apparent inequity and the admonishment that disgorgement should be ordered only where mandated by the equities, the court concludes that the sole fact that this case was dismissed is an insufficient basis as a matter of law for this court to exercise its equitable powers to order disgorgement.[6]

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[6]The petitioning creditors also assert that the orders allowing their administrative expenses have become final and otherwise that Dudley W. Taylor lacks standing to contest the same because he "did not pay any money to the Bankruptcy Trustee in settlement of a claim [and] none of the money out of which the fees were paid belonged to D. Taylor." Negating this latter contention is the trustee's interim report filed on April 14, 1998, which indicates that Dudley W. Taylor did deliver to the trustee the sum of $125,500.86 pursuant to an order approving compromise entered by the court on February 28, 1997. As for whether the administrative expense orders are final and not subject to reconsideration even on equitable grounds, it is unnecessary to reach this issue in light of the denial of Mr. Taylor's motion on other grounds.

III.

The other aspect of Dudley W. Taylor's motion is that "pursuant to 11 U.S.C. § 303(i), this Court should grant an award against the Petitioning Creditors and in favor of D. Taylor for costs and reasonable attorney's fees incurred by D. Taylor." Section 303(i) of the Bankruptcy Code provides that:

> If the court dismisses a petition under this section other than on consent of all petitioners and the debtor, and if the debtor does not waive the right to judgment under this subsection, the court may grant judgment—
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> (1) against the petitioners and in favor of the debtor for—
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> (A) costs; or
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> (B) a reasonable attorney's fee;
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> (2) against any petitioner that filed the petition in bad faith, for—
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> (A) any damages proximately caused by such filing; or
>
> (B) punitive damages.

11 U.S.C. § 303(i).

As stated previously, the court questioned Mr. Taylor at the August 11, 2000 status conference as to whether he was seeking only costs and attorney's fees under paragraph (1) of 303(i) or whether he was also requesting damages under paragraph (2). The inquiry is critical because the plain language of paragraph (1) suggests that only the debtor may be awarded costs and attorney fees, and while paragraph (2) has no similar seemingly restrictive language, it does require a finding that the petitioning creditor filed the petition in bad faith. Due to

Mr. Taylor's failure to file an amendment to his motion as directed by the court in its August 18, 2000 order, the court must assume that Mr. Taylor is proceeding solely under paragraph (1). This assumption is based on the fact that Mr. Taylor's motion requests only an award of costs and reasonable attorney fees, language which mirrors the judgment awarded under paragraph (1). The motion contains no allegation of bad faith or even that damages were proximately caused and suffered by Mr. Taylor as a result of the involuntary filing. Bad faith may not be presumed; to the contrary, a presumption of good faith exists in favor of the petitioning creditors. *See In re Race Horses, Inc.*, 207 B.R. 229, 232 (Bankr. E.D. Okla. 1997).

The petitioning creditors assert that Dudley W. Taylor has no standing under § 303(i)(1) to request an award of costs and attorney's fees because he is not the debtor. As noted, the plain language of § 303(i)(1) does specify that the court may grant judgment "in favor of the debtor," certainly suggesting that judgment may be awarded in favor of the debtor only. *See In re Ed Jansen's Patio, Inc.*, 183 B.R. 643, 644 (Bankr. M.D. Fla. 1995)("Even a cursory reading of this statute reveals that the relief set forth in § 303(i) is available only to the debtor."). This court has been able to locate only two decisions which have addressed the issue of standing under §

303(i)(1). In the case of *In re Ed Jansen's Patio, Inc.*, prior to the filing of an involuntary petition against the debtor, the debtor filed an assignment for the benefit of creditors in state court, resulting in the appointment of an accountant to serve as the Assignee for Benefit of Creditors. *Id*. Thereafter, certain creditors filed an involuntary petition for relief under chapter 11 against the debtor. Upon dismissal of the petition, the debtor requested costs and fees under § 303(i). The petitioning creditors opposed the motion, arguing that because the debtor was defunct and no longer in business, it suffered no damages. The creditors also asserted that the Assignee had no standing under § 303(i) to seek its fees because it was not the debtor. Although acknowledging the plain language of § 303(i), the court granted the motion because the debtor's assets were utilized in defense of the involuntary petition. *Id.* ("[T]o the extent that the assets of the estate were reduced by the expenditure of fees in defense of the involuntary petition, these costs should be recoverable from the petitioning creditors.... [P]etitioning creditors should be required to pay the costs of the Debtor and Assignee for Benefit of Creditors, as these costs will ultimately be borne by the general body of creditors.")

In the case of *In re Fox Island Square Partnership*, 106 B.R. 962 (Bankr. N.D. Ill. 1989), certain general partners of a

partnership filed an involuntary chapter 11 petition against the partnership, which petition was defended by another general partner of the partnership. After the involuntary petition was denied and the case dismissed, the defending general partner filed an application for costs and expenses pursuant to § 303(i)(1). *Id*. at 966. The court rejected the argument that the general partner was not entitled to fees because he was not the debtor, concluding that for all intents and purposes, the partner represented the alleged debtor, the partnership. *Id*. at 967.

Ed Jansen's Patio and *Fox Island Square Partnership* are the only reported decisions wherein an entity other than the debtor was awarded fees and costs under paragraph (1) of § 303(i). The courts in both cases recognized the restrictive language of this provision, but allowed an exception where the movant was representing the debtor "for all intents and purposes" or an award of fees under § 303(i) would replenish the debtor's assets expended in defending the involuntary.

No such exceptions exist in this case. There is no indication that Dudley W. Taylor contested this involuntary petition in an attempt to represent the alleged debtor or that the assets of the alleged debtor were utilized to defend the involuntary petition. To the contrary, Mr. Taylor has

consistently denied that he ever was a partner in the alleged partnership, Taylor & Associates, L.P., or that he has ever acted as a partner in any capacity and his affidavit indicates that his law firm expended the sums utilized in contesting the involuntary petition.

In light of the plain language of § 303(i) and the restrictive application of this provision by the courts, this court can only conclude that Congress purposely limited recovery under paragraph (1) of § 303(i) to the debtor or its alter egos, while giving any party a right under paragraph (2) to recover damages proximately caused by an involuntary filing if the petition was filed in bad faith. "The Supreme Court has repeatedly held that the Bankruptcy Code should be interpreted in accordance with its plain language." *Glannon v. Carpenter (In re Glannon)*, 245 B.R. 882, 892 (D. Kan. 2000) (citing *Taylor v. Freeland & Kronz*, 503 U.S. 638, 112 S. Ct. 1644 (1992); *U.S. v. Ron Pair Enter., Inc.*, 489 U.S. 235, 109 S. Ct. 1026 (1989)). In *Ron Pair*, the Supreme Court stated that "[t]he plain meaning of legislation should be conclusive, except in the rare cases in which the literal application of a statute will produce a result demonstrably at odds with the intentions of its drafters." 489 U.S. at 242, 109 S. Ct. at 1031. "As long as the statutory scheme is coherent and consistent, there generally is no need

for a court to inquire beyond the plain language of the statute." *Id.*

In the case of *In re Glannon*, the district court was presented with the issue of whether attorneys for petitioning creditors could be held liable under § 303(i) even though the plain language of § 303(i) provides that the court may grant judgment "against the petitioners." *In re Glannon*, 245 B.R. at 892 (citing 11 U.S.C. § 303(i)). After consideration of the Supreme Court's directives in *Ron Pair* quoted above, the *Glannon* court stated the following:

> The court has found no section of the Bankruptcy code inconsistent with § 303(i). As a result, the court need not inquire beyond the plain language of the section to interpret its meaning. The language of § 303(i) allows courts to issue judgments against offending petitioners; it makes no mention of their counsel. The court therefore finds that the bankruptcy court properly ruled that § 303(i) does not subject appellees to liability.

Id. at 892-93.

Similarly, this court finds no section of the Bankruptcy Code inconsistent with § 303(i). Nor is there any indication from a review of the legislative history to § 303(i) that limiting recovery under paragraph (1) would produce a result demonstrably at odds with the intent of Congress. To the contrary, "Congress' focus was on the well-being of the debtor." *Susman v. Schmid (In re Reid)*, 854 F.2d 156, 160 (7th Cir.

1988). "[T]he legislative history of § 303(i) demonstrates that it was enacted in recognition of the serious harm inflicted upon alleged debtors when involuntary petitions are wrongfully filed." *Id*. at 159. Thus, limiting recovery under § 303(i)(1) to debtors not only complies with the plain language of the provision, but also appears to be consistent with Congressional intent. Because Dudley W. Taylor is not the debtor, his request for costs and attorney fees under § 303(i)(1) must be denied.[7]

IV.

Contemporaneously with the filing of this memorandum opinion, an order will be entered denying the motion of Dudley W. Taylor.

FILED: November 27, 2000

BY THE COURT

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MARCIA PHILLIPS PARSONS
UNITED STATES BANKRUPTCY JUDGE

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[7]It must be observed that even if Dudley W. Taylor were the alleged debtor, § 303(i) does not require, but simply permits, the court to grant judgment for costs and attorney fees in the event an involuntary bankruptcy petition is dismissed. *In re Camelot, Inc.*, 25 B.R. 861, 864 (Bankr. E.D. Tenn. 1982). "Each request for an award of fees and costs invokes the court's discretion, informed by such factors as the reasonableness of the petitioners' actions, their motivation and objectives, and the merits of their view that the petition was proper and sustainable." *In re K.P. Enterprise*, 135 B.R. 174, 177 (Bankr. D. Me. 1992) (citing *In re Reid*, 854 F.2d at 160)).