

**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF IDAHO**

In re:

	) Case No. 17-40179-JDP
	) Chapter 7
TYSON EDWARD HIRSCH and	)
ANNETTE HIRSCH,	)
	)
Debtors.	)
_____	)

**ORDER ON STIPULATION FOR ENTRY OF AN ORDER  
CANCELLING AGREEMENTS AND DIRECTING AVERY LAW AND JOHN O.  
AVERY TO RETURN FEES**

Hearings were held on August 22, 2017 and September 19, 2017, on the Acting United States Trustee's Motion for Entry of an Order Cancelling Agreements with Avery Law and Directing John O. Avery to Return Fees (Doc. 27), the Stipulation for Entry of an Order Cancelling Agreements and Directing Avery Law and John O. Avery to Return Fees (Doc. 52), and Counsel's Response to Court Order of 8/31/17 (Doc. 59). For the reasons stated on the record and good cause appearing:

**IT IS HEREBY ORDERED:**

1. John O. Avery and Avery Law are prohibited from factoring their accounts receivable arising from representing debtors in bankruptcy cases unless they first obtain leave of court.

This prohibition is effective immediately upon the entry of this order.

2. John O. Avery shall promptly request a formal ethics opinion from the Idaho State Bar concerning the propriety of bankruptcy debtors' counsel factoring accounts receivable when they represent a debtor in a bankruptcy case, including when a portion of the fees to be factored may be discharged in the bankruptcy case and whether the debtor-client of bankruptcy counsel can

give fully informed consent to such an arrangement. United States Trustee Program Trial Attorney Mary P. Kimmel is to assist John O. Avery draft the statement of facts to be included in the request for a formal ethics opinion.

3. John O. Avery shall file an update with the Court every 60 days after entry of this order until the Idaho State Bar either renders a final ethics opinion or declines to render a final ethics opinion.

4. Any agreements for attorney compensation between John O. Avery or Avery Law, and Debtors Tyson Edward Hirsch and Annette Hirsch, including the Rights And Responsibilities Agreement Between Chapter 7 Debtors And Their Attorneys, and the Avery Law ACH Authorization for Direct Payment are hereby cancelled.

5. John O. Avery and Avery Law, jointly and severally, shall return to the Debtors all compensation, including fees and costs paid by Debtors to Avery Law or John O. Avery or BK Billing or some other person acting on behalf of Avery Law or John O. Avery, but excluding any portion of the court filing fee actually paid to the court by John O. Avery and Avery Law, and file proof of compliance with the Court no later than 30 days after entry of this order.

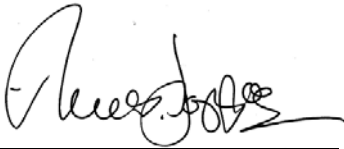
6. John O. Avery and Avery Law shall cancel their contract with BK Billing with respect to this case regarding Debtors and file proof of compliance with the Court no later than 30 days after entry of this order.

7. John O. Avery and Avery Law shall require their attorneys practicing law before the Bankruptcy Court for the District of Idaho, to, not later than 30 days after entry of this order, read *De Luca v. Seare (In re Seare)*, 515 B.R. 599 (9th Cir. BAP 2014), and *Law Offices of Nicholas A. Franke v. Tiffany (In re Lewis)*, 113 F.3d 1040, 1045 (9th Cir. 1997).

8. This order shall in no way preclude the Court, Debtors Tyson Edward Hirsch and Annett Hirsch, the Chapter 7 Trustee, the United States Trustee, and other parties from taking any action against Avery Law and /or John O. Avery in relation to this or any other case or the issues addressed by this order or the Stipulation For Entry Of An Order Cancelling Agreements And Directing Avery Law and John O. Avery To Return Fees.

/// End of Text ///

Dated: October 2, 2017



Honorable Jim D. Pappas  
United States Bankruptcy Judge



Approved:

/s/ John O. Avery (approval by email)  
JOHN O. AVERY  
Individually and on behalf of Avery Law

Submitted by Mary P. Kimmel  
Attorney for the United States Trustee