

The Growing Problem Of Petition Preparers

A petition preparer is defined by the Bankruptcy Code as "a person, other than an attorney or employee of an attorney who gets compensated for filing documents in a bankruptcy case." Although bankruptcy may not seem like an overly complicated field of law to the unaware, there are many requirements that must be met. First, debtors must fully disclose all of their assets, liabilities and financial dealings. Second, the debtor must propose a plan to deal with debts they are seeking to reorganize. Finally, a Chapter 13 case and plan must comply with various sections of the bankruptcy code. Therefore, it can be tricky to develop one successfully.

Section 110 of the code defines what a petition preparer can and cannot do in assisting a debtor in bankruptcy. The section was devised to limit how much assistance a non-attorney can provide in setting up a bankruptcy case. In developing section 110, Congress sought to address these heightened complications by limiting who could assist debtors. Congress was concerned about the increase in non-qualified persons taking advantage of desperate debtors by using the bankruptcy process.

Our experience has shown that some petition preparers often lack legal training and ethics and often prey upon the ignorance of unsophisticated debtors who are unaware of their rights both inside and outside the bankruptcy process. The Congressional Record Statements concerning section 110 also notes that most so-called typing mills or petition mills were "most prominent in major metropolitan areas with poor and minority communities." Bankruptcy debtors are people who find themselves in a financial bind and are desperate to save a home or a car. Unfortunately, many times petition preparers find them first and drain these unsuspecting people of their funds.



A petition preparer cannot give legal advice. A petition preparer must fully disclose any fee received. By definition, a petition preparer cannot adequately prepare a plan unless they cross the line into giving legal advice. There is now a developing body of case law on what role a petition preparer can take in the bankruptcy process. The best analogy derived by various courts is that a petition preparer can only avoid impropriety by being merely a typing service filling in the blanks specified by a debtor and NOTHING more. Accordingly, a fee for petition preparation is likened to a typing fee, no more than a fee of \$100 or so at the high end.

Experience has shown that any money paid to a petition preparer is usually money wasted. The debtor inevitably has to hire an attorney. We have yet to find a petition preparer who has fully complied with the section 110 requirement and has also not given legal advice to a debtor, therefore, engaging in the unauthorized practice of law.

If the requirements of the code were followed completely, a petition preparer could almost never fully comply with section 110 and still earn a profit. Section 110 prohibits petition preparers from taking filing fees, not disclosing their involvement, use of the word legal or a variation thereof in advertisements, and executing documents on behalf of debtors. In addition to the prohibitions, section 110 also places duties on a preparer, such as requiring a sworn fee disclosure from the preparer, requiring the preparer to give copies of documents to be filed to the debtor before filing, and imposing fines on the preparer if the case gets dismissed because of their actions.

The trusteeship has seen a distinct increase in petition preparer activity. We have seen two types of petition preparer

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The Growing Problem Of Petition Preparers

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ers surface – the disclosed and undisclosed preparers. The trusteeship closely reviews all pro se cases. So far we have been able to identify a list of petition preparers who have ventured into Chapter 13 for the quick buck. We strive to identify these abusers and seek appropriate sanctions that can include both monetary fines and disgorgement of fees or even injunctions against operating as a petition preparer.

Most disclosed preparers, once identified, quickly realize that we are on to them and leave the practice. However, a good portion of the preparers, once caught, simply go underground and continue their activities. We rely heavily on victim contact to pinpoint these hidden operations. Many times, serial cases are being filed without the victim's knowledge or consent. In these cases, the victim debtor may not even know his home was already foreclosed on and is being scammed over and over to stave off eviction when they think they can save their homes.

THE MARSHALL CHRONICLES	
The Editorial Staff: Kimberly Eisenberg, Cheryl Jones, Angela Hope-Davis, Joanne Coshonis, Kyle Issleb, Cheri Johnson, Robin Dirksen, HVB and Dave Latz	
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Newsletter Information:	
If you would like to contact us or submit ideas or articles for the newsletter, you can do so by:	
<ul style="list-style-type: none"> ✓ e-mailing us at newsletter@chi13.com ✓ dropping your submission or idea in the anonymous newsletter folder located in the mail room, or ✓ leaving them with Dave Latz 	
Please remember when making a submission to the newsletter, it must be:	
<ul style="list-style-type: none"> ✓ type-written and ✓ submitted by the 1st Wednesday of the month via e-mail, a Word document or an ASCII file. 	
We also ask that anyone who goes to a seminar please be prepared to furnish the committee with a detailed article on its subject.	
You may also view this edition of the Chronicle, as well as all the previously published issues, on the Chapter 13 Trustee website at http://www.chicago13.com/ .	

Another disturbing aspect in the bankruptcy community is the creation of so-called financial advice companies who engage in seeking out individuals to get them into bankruptcy, for a fee of course. The trusteeship, with the assistance of the U.S. Trustee's office, has uncovered a number of companies who try to skirt the requirements of section 110 and the disclosure laws by taking fees for what they purport is financial advice. Once these companies take the debtors funds for their fees, they then send the unsuspecting victims to either an attorney to be charged yet another fee, to an actual petition preparer, or a paralegal service to get the case on file.



"In this case, not knowing is not an excuse – it's an abuse!"
Quote from Managing Attorney Anthony Olivadoti, as argued in recent case.

In many of these schemes, the initial fee for the financial advice is not disclosed. Also, this advice is usually limited to telling the individual to file bankruptcy, almost a no-brainer considering they are searching the foreclosure records for their victims. One would think this is not necessarily bad advice until you look at the fees charged, from \$1,000 to \$3,000 per case to send them to someone to file a case with yet another fee tacked on.

This writer posits the conclusion that if a petition preparer was to follow all the requirements of section 110 and refrain from giving legal advice, no debtor would be willing to pay for their services. Accordingly, we review the petition preparer activity closely. We have pursued and will continue to aggressively pursue illegal petition preparer activities. The victims of these abuses are debtors, people who already have suffered financial loss or hardships. These debtors need help and that help should come in the form of advice and representation by competent legal counsel.

Recently the trustee pursued a financial company who crossed the line from financial consulting into the realm of petition preparation. The trustee was successful in stopping their illegal activities. The company sought out people facing foreclosure sales. According to testimony elicited, in all but one case, all clients were put into bankruptcy. This company grossed over \$1 million in a little over 16 months. According to the president of the company, based on our actions they have ceased doing business.

We welcome the guidance and support of the U.S. Trustee and his trial attorneys for their support in taking on this matter. Gretchen Silver and Richard Friedman were essential in assisting in the trial and their experience was very much appreciated. The trustee will continue to pursue wrong doings in Chapter 13 as she finds them. Our role in the process is not to merely administer cases but also to aid the U.S. Trustee in protecting the integrity of the bankruptcy system and process as a whole. *Anthony Olivadoti*

Trustee Matters

What Do You Do At The End Of The Season – White Sox, Cubs Or Trustee?



You've got to prepare for the next season. Luckily, the trustee has outside auditors to come in and give an assessment of FY 03. Hopefully, Jerry Manuel and Dusty Baker will have someone to do the same. Win, lose or draw, you don't want to make the same mistakes year after year. And if you are winning, you surely want to keep that record.

It's the 11th month of the fiscal year and it's time to respond to audit questionnaires and complete job matrixes. We received our audit packet from Tans & McAfee and mailed their first request for information back to them on September 8, 2003. The auditors will be in the office December 2 - 5, 2003. As the auditors scrutinize our operations, I am hoping that internal controls are in place to address any issues raised. If there are areas in which we need to improve, then, we will address those areas.

This is also the time when I reflect on the office accomplishments, successes, good times and the positive. There are no failures. If we have made any mistakes or fallen down, we have recovered. As soon as this fiscal year closes, I will look at the number of §341 meetings conducted, pro se debtors, petition preparers, serial filings, cases confirmed, cases denied confirmation, cases dismissed because of material defaults, receipts, disbursements, pay-offs requested, payoffs received, cases completed, and cases converted. I will compare this data to last year's data and formulate goals and objectives for next year.

I am focused on goals and objectives for the new fiscal year. I have already started to address the increase in the workload. This year we will work smarter in order to meet the needs of the bankruptcy community. We will offer continuing education to the bars in an effort to improve communication. We will not implement any policies or procedures relating to Electronic Case Filing until the Clerk's office starts accepting filings electronically. According to the clerk, this will take place in January, 2004.

I will share more of the office goals as the year begins. It is my intention to always make it to the playoffs. I have a team that is committed and focused on their responsibilities. Being a team player is essential to the success of the office. As everyone knows, I love to win and I love the game of baseball – three strikes and you are out!

Marilyn O. Marshall, Standing Trustee

INFORMATION SERVICES

New Leave Statements

Starting in June, our leave statements got a new look. In the upper right hand corner you see three different sections.

Accrual	Vacation	13.33 Hours	1.77 Days
	Sick	4.00 Hours	0.53 Days
SOM Bal	Vacation	77.14 Hours	10.28 Days
	Sick	8.50 Hours	1.13 Days
Balance	Vacation	63.97 Hours	8.52 Days
	Sick	12.50 Hours	1.66 Days

We are tracking all of our leave in hours and there is a separate "bank" for vacation and sick leave. As of June 1, each day is valued at 7.5 hours.

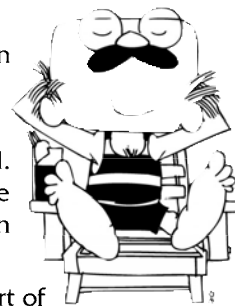
Each section displays the leave in hours. Days are calculated for your reference.

The top section displays your accrual. This is the number of hours of leave you accrue each month for vacation and sick leave.

The middle section displays your Start of Month (SOM) values for vacation and sick leave.

The lower section labeled "balance" contains your current balance of vacation and sick leave. To calculate this number, begin with your Start of Month values, add your accrual and subtract any leave you have taken over the past month.

Sandra Pillar



Inquiring Minds

QUESTION:

Will ECF (Electronic Case Filing) eliminate the need to load petitions and/or claims?

ANSWER:

No. ECF will allow documents to be filed electronically without paper. ECF however does not capture individual pieces of data – yet. The current ECF system operates by taking a document and condensing it into a type of electronic picture called a PDF file or "Portable Document Format" file. The PDF image is an exact picture of the document as if it were printed to paper. We will still have to take information off the image just as we do now off paper documents. The only difference is that from now on you will be reading a computer image off a screen... just no ink and paper.



CASE ADMINISTRATION

Plan-Based Claims Defined

A plan-based claim is a claim that is created in absence of a creditor claim. Plan-based claims are created once a month for any case that was recently confirmed and the secured creditor failed to submit a proof of claim. The information used to create the claim is based on what the attorney or the debtor listed on the schedules or plan such as the identity, account number and amount owed. Currently, we create about 90 to 100 plan-based claim records per month.

You can identify a plan-based claim from the creditor's claim by reviewing the docket or checking the account field for the letters STR (an abbreviation for Standing TRustee). Once the creditor submits the actual claim, the plan-based claim record is updated to match the information that was filed on the creditor claim.

The biggest issue we currently have with plan-based claims is the disbursement address. Checks are often returned because the address that was listed on the schedule was incorrect or no longer valid. Once the check is returned to the office the financial department makes every effort to find a valid address. If for some reason a valid address is not found, once the case no longer has an active status those funds will be turned over to the court as unclaimed funds. A motion to withdraw money must be filed with the bankruptcy court to claim funds.

Rosalind Lanier

October Anniversaries, Birthdays And Other Notable Events

National Cookie Month

Go on a Field Trip Month

Happy 8th Anniversary to **Tonya Larkin** on October 2nd!

All Staff Meeting on October 3rd.

Happy 4th Anniversary to **Joanne Coshonis** on October 4th!

Yom Kippur on October 6th.

Happy Birthday to **Denise Ashley** on October 7th!

Happy Birthday to **Mark Caffarini** on October 8th!

Leif Erikson Day on October 9th.

Happy 3rd Anniversary to **Kyle Issleb** on October 10th!

Happy Birthday to **Dave Latz** on October 13th!

Columbus Day on October 13th.

Happy 17th Anniversary to **Rita Saunders** on October 14th!

Sweetest Day on October 18th.

Happy Birthday to **Shanika Thomas** on October 21st!

Daylight Savings Time Ends on October 26th.

Happy Birthday to **Kenya Williams** on October 31st!

Halloween on October 31st!

National Knock-Knock Day on October 31st!



Helping Our Youth



Kids need positive adult role models more than you may realize. We know that children can be vulnerable to peer pressure, and be victims of emotional neglect or physical abuse. I want to share what I discovered last year.

The Director of the Family and Youth Services Bureau (from the county I live in) came to my church one Sunday and spoke about their mentoring program. They were in need of adult mentors. I contemplated the possibility that I could be a mentor. I thought how wonderful it would be if I could make a difference in some young girl's life.

I decided to do a little research on the Family and Youth Services Bureau (FYSB) to find out what they are all about. Their mission states: *The FYSB is to provide national leadership on youth issues and to assist individuals and organizations in providing effective, comprehensive services for youth in at-risk situations and their families.* The FYSB is a bureau within the Administration for Children and Families (ACF), part of the U.S. Department of Health and Human Services. Further inquiry led me specifically to the volunteer opportunities. Three areas the FYSB that need volunteer support from their local communities are:

1. **CASA** (Court Appointed Special Advocates) – CASA volunteers are trained and supervised by the FYSB and assigned a case involving alleged child abuse or neglect by the juvenile court judge.
2. **MENTOR** – The Mentoring Program seeks to match FYSB clients, as well as other children and youth from the community, ages 5-17 years, with positive adult role models.
3. **CHILD CARE WORKER** – The Nurturing Program provides education to parents who have been referred by Child Protective Services.

I can speak from experience about how rewarding it is to be involved with a volunteer program that is so important to youth development because I pursued becoming a mentor. The process took about eight months before the FYSB could complete their paperwork, background check, and find a young girl to match me up with. (They match you with someone who is the same gender).

I meet with my young friend weekly for an hour or bi-weekly for two hours depending on our schedules. We have done things such as going to the park to feed geese and going to the bookstore to pick out a book to buy. We also had a manicure together (Her favorite outing so far!), have gone bowling and played miniature golf. I have thoroughly enjoyed this experience.

If you want to enrich your life and contribute your time to a cause as important as our youth, please call your local Family and Youth Services Bureau and see how you can help.

Cheri Johnson

To Whom It May Concern:

Our office's answer to "Dear Abby" from the perspective of both female and male employees.

*Dear Whomever,
Should I look for love on the internet?*

From: Looking for love.

HER RESPONSE...

Dear Love Seeker,

The question that you are seeking advice on is: "Should I look for love on the internet? I have a couple of responses to this question. Some you might agree with and others you won't.

First, it is a dangerous game to date blindly where you have no idea of what you're going to get – not only physically, if that's what you're into, but mentally is the scary part. Didn't you see *Bringing Down The House*, the movie that starred Queen Latifa and Steve Martin, where she was in the background of the picture she sent him and he thought she was someone else in the picture? Instead he wound up with a wanted fugitive! Dating the old fashion way is bad enough, but dating on the Internet is opening the door for all the perverts, serial killers, psychos, and all other forms of nuts out there roaming around.

People are going to say that this can happen no matter what form of dating you choose – that it can happen to someone set up on and blind date by a friend, or to people who met in a bar, club or somewhere else. Hopefully, if you're set up by a friend, they won't set you up with someone that they hardly know, but with someone that they truly think that you're right for. Dating someone you meet in a bar is taking a chance, but you at least know what the package looks like. On the Internet people send you pictures of their sisters, brothers, cousins, everybody except themselves.

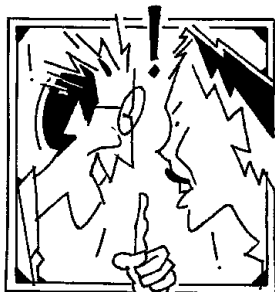
On the flip side, if you find someone that's right for you on the Internet, than you are truly one of the lucky ones, and good luck.

HIS RESPONSE...

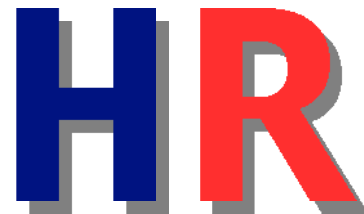
Dear Love Seeker,

Many people have an inherent distrust of all things Internet dating-related. The internet gives a person free reign to invent whatever personality they desire. If you're short and bald in real life, you can be Fabio online. Or, if you have the relative intelligence of a small rodent, you can have someone else write your responses for you. But what happens when it comes time to actually meet your new beau? People tend to notice if you are eight inches shorter than you described or have trouble reading the menu at McDonald's. There really isn't much future in lying, especially since it's the one trait people online won't tolerate.

And isn't that better than blind dates or the club/bar scene? Someone may look good in person but have the personality of a toad when you start talking to them. Or you might have a connection but you can't find common ground to stand on. Looking



Human Resources Keeping You Up-To-Date



Did You Know...

FACT: 30% of all business failures are due to employee theft and related forms of dishonesty.

FACT: The average award in a negligent hiring lawsuit is \$1 million dollars.

FACT: 51% of all resumes, applications, and references provided by applicants contain inaccurate information.

FACT: The direct and indirect average cost of employee turnover is 1.5 times the annual salary of that open position.

FACT: 7% of applicants have had a criminal record in the last seven years.

Courtesy of ADP

New Hire Reporting

Several states passed laws in the early 1990's requiring employers to report newly hired employees to the state child support agency or the state employment security agency. We've been providing this information to the state for years. Your name, address, social security number and hire date are reported. This new hire reporting is a way of notifying the state that a person who may or may not owe child support has either become employed or has changed jobs. The state can then use this information to serve a child support withholding order on the individual's employer and collect child support through the paycheck.

New hire reporting is also a method used to reduce fraud committed through unemployment compensation insurance claims.

I hope this reporting method will prove to be of great value to employers who are faced with an increase in unemployment insurance claims and expenses and all of the single parents raising children alone.

Robin Dirksen

online provides you with weeks or months of anonymous conversation before you commit to meeting someone. So, on the first date you already know what you have in common and don't have to go through all the mindless chatter that consumes most first dates.

If you watch television (or more specifically the filler material between shows), you may have caught the new eBay commercial. The spot is devoted to a squat little songstress strutting around singing the praises of eBay's incredible stock. Toward the end of the commercial, it is mentioned (probably tongue-in-cheek) that you can even buy a whole town. This is where the world stands today. As freelance technology writer Andrew Brown said, "The internet is so big, so powerful and pointless that for some people it is a complete substitute for life. Why should dating be different?"

DO YOU HAVE A PERSONAL QUESTION THAT YOU'D LIKE TO ASK? SUBMIT ONE TODAY IN OUR ANONYMOUS DROP BOX LOCATED IN THE MAIL ROOM.

EMPLOYEE BIO:
Agueda Bueno-Orozco

Birth date: July 23, 1976.
Birthplace: Puebla, Mexico.
Family: Of course, who doesn't?
Position: Mom, wife and employee.
Years with the Office: 5 years.
Favorite Food: Pasta & Enchiladas.
Favorite TV program: Anything that my daughters are watching.
Favorite Color: Gray, Burgundy and Black.



Favorite expression: Every day is a GOOD day!
Favorite Childhood memory: All of them.
If you could meet one person in the world, either dead or alive, who would it be? My Husband's Father.
What's most important in life? To have a life.
Is the glass half full or half empty? Makes no difference.
What's guaranteed to make you smile? My Two Daughters.
First thing you do in the morning when you wake? Get up to turn off the alarm.
My friends would describe me as: You would have to ask them.
A perfect day for me would be: Walking on the beach with my daughters and husband.
Proudest moment: Having my two princesses.
In 5 years I see myself: Enjoying life, just like I'm doing now.
Anything else you'd like to tell us? NO! But let me know if you have any other questions.

ERC Update

Your ERC (Employee Recognition Committee), along with the "T.V. (Tom Vaughn) Crew," worked long, hard hours on August 22, 2003 before, during, and after, to insure that the 2nd Annual Marshall/Vaughn Employees Office Picnic (or if you prefer outing) was a successful and bountiful event.



The menu was loaded with all of your picnic favorites such as barbecue ribs, chicken breasts, hamburgers, hot dogs, and polishes. There were more salads available than space in this article. Baked beans, spaghetti, grilled corn on the cob, cookies, cakes, pies, ice-cold watermelon and all the cold pop and bottled water you could drink filled each table.

Although we didn't get to compete in the 3rd annual softball game, all who attended had a great day. The children enjoyed a fun filled day of softball, soccer, running, jumping rope and playing catch, while the parents line-danced, played cards, read books or gathered in groups for small talk. The day ended with the "breaking of the piñata." Tons of candy was released as the children (and some adults) dashed to the ground to retrieve their favorites.

Both committees would like to thank Ms. Marshall and Mr. Vaughn, along with all of our co-workers and their families, for spending their day with us. A special thanks to everyone for their contributions of delicious food items, time and money that helped make this event a huge success.

Darlene Odom

Back To School

Last month I was scheduled to write a newsletter article on going back to school. I failed to meet my deadline. I could be honest and admit that I was preoccupied by nothing and more than a little lazy. But honesty's not my style. Instead, I will blatantly lie and blame my failure to submit the article on the horrors I encountered in returning to school.

Picture this: You are a banana. Not a giant man-size banana, but a small, crescent-shaped, rather mushy piece of fruit with no capacity for higher mathematics. Now you're the same banana being asked to figure out the final velocity at impact of a snail being flung off an overpass with the wind blowing 12 miles an hour south-southeast. And you're riding a unicycle. This is what it feels like to go back to college after summer vacation. Actually, this is what it feels like to be in college anyway, so maybe going back is more like being the snail after he's been tossed off the overpass.



For those who might wonder how one goes from a swaggering pillar of collegiate genius in May to a paragon of idiocy in September, I can answer in one word: summer. Anyone who's been out of school for more than two years might need a refresher course on College Summer 101:

1. Buy a bed. You'll be spending roughly 14 hours a day there so make sure it's of high quality. Or just stick a mattress on some milk crates.
2. Invest in the biggest box of cereal and the biggest bowl you can find. Cereal is not to have less than 16 grams of sugar per serving and bowl is not to equal less than 12 inches in diameter. Spoon is optional. So is milk.
3. Throw out any belts, ties, khakis, pumps, sports jackets, blouses, dress shirts, and trousers you own. All footwear must be open-toed; your feet are now more important than your hair. This includes sneakers. Underwear is to be worn on a case-by-case basis.
4. Add beer.

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08/22/03 – THE MARSHALL/VAUGHN COMPANY PICNIC – WHAT A GRAND DAY IT WAS!

Sweetest Trivia Quiz

Halloween brings lots of treats each year. Test your confectionary knowledge with this trivia quiz! (Answers are below.)

1. Which holiday has the largest candy sales: Easter, Valentine's Day, or Halloween?
2. How much candy does the average American eat in one year?
3. The people from which country eat the most candy?
4. How many calories are in one stick of regular chewing gum?
5. How many candy canes are sold each year in the four weeks before Christmas?
6. American candy manufacturers use what percentage of the almonds produced in the U.S.?

7. Which region of the U.S. has the highest consumption of candy: Midwest, Southwest or South?
8. In England, some people are employed as "lollipop people." What job do they do?
9. How many Dum Dum pops are made each day?
10. In 1875, Thomas Jefferson wrote to John Adams about a food that he believed was superior to tea or coffee for both health and nourishment. What was he referring to?



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Back To School

(continued from page 6)

The result of following these few simple steps should be the complete atrophy of all higher brain functions. Unfortunately, you can only stay in college for so long before they kick you out or you graduate. I'm still debating which is a better way to go. I hear unemployment is nice. Living off the government dole is mighty tempting; I'm starting to drool just thinking about the quality time my bed and I could rack up.

However, if I graduate, I have the perfect job lined up: teaching. It might require I don khakis and a reasonably unwrinkled shirt again and I have to return to school every year for the rest of my working life, but I'll get my summers off again. I'll get that three to four week break in December and January off again. I'll get that week in April off again. And isn't that what teaching is really all about?



Kyle Issleb

↓ These are the answers to the Sweetest Trivia Quiz above. ↓

Sweetest Trivia Answers

1. Halloween.
2. 25 pounds.
3. Denmark, with over 36 pounds per person per year.
4. 10 calories.
5. Almost 2 billion.
6. 40 percent.
7. Midwest.
8. They are crossing guards at schools, holding up a round stop sign on a pole.
9. 9 million.
10. Chocolate.