

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

IN RE:)
)
ITCHAK GEFEN,)
d/b/a Amigo Mini Mall,)
d/b/a Amigo Furniture,)
d/b/a Italy Furnitures,)
)
Debtor.)
-----)
)
HILSWEPOW, LLC,)
)
)
Movant,)
v.)
)
)
ITCHAK GEFEN,)
d/b/a Amigo Mini Mall,)
d/b/a Amigo Furniture,)
d/b/a Italy Furnitures,)
)
)
Respondent.)

CHAPTER 7
CASE NO. 11-86027 - MHM
CONTESTED MATTER

DISMISSAL ORDER AND AWARD OF ATTORNEYS FEES

Hearing was held February 29, 2012, on the *Motion to Dismiss Bankruptcy Case With Prejudice and Motion For Sanctions* filed by Hilswepow, LLC (Doc. No. 11) (the “Sanctions Motion”), together with Debtor’s *Request to Dismiss Case* (Doc. No.18).¹ Present at the hearing were counsel for Movant, Debtor and attorney for Debtor. The documentary evidence, testimony of witnesses, the record in this case, and argument of counsel show the following:

¹ Debtor also filed a *Request to Convert Case* (Doc. No. 21), but that motion was *not* scheduled for hearing February 29, 2012.

Debtor has filed four previous individual bankruptcy cases in this District: Chapter 7 Case No. 06-95040-JEM, Chapter 7 Case No. 07-74800-JEM, Chapter 13 Case No. 10-87519-MHM, and Chapter 7 Case No. 11-67994-MHM. Debtor received a discharge in Chapter 7 Case No. 06-95040-JEM, but in the other prior cases, Debtor failed to file schedules, statements of financial affairs, and other documents required by law,² and failed to attend meetings of creditors. Debtor made material misrepresentations and omitted material information in filed documents signed under penalty of perjury in this bankruptcy case and in previous cases. The instant case and Chapter 7 Case No. 11-67994-MHM were commenced when Debtor filed his voluntary petitions *pro se* on the eve of dispossession hearings scheduled in the Magistrate Court of Cobb County to delay the issuance of writs of possession to Movant. Under 11 U.S.C. §727(a)(8), because Debtor received a discharge in Chapter 7 Case No. 06-95040-JEM, Debtor is ineligible to receive a Chapter 7 discharge in the instant case. The facts presented at the hearing also show Debtor is not capable of complying with the provisions of Chapter 13 of the Bankruptcy Code, as his income is insufficient; hence, no purpose would be served by converting the case to pursue a futile Chapter 13 Plan.

² Section 521(a) and Bankruptcy Rule 1007(b) require a debtor to file schedules of assets and liabilities, a schedule of current income and expenditures, a schedule of executory contracts and unexpired leases, and a statement of financial affairs (the "Schedules"). Section 521(a) also requires the filing of Debtor's pay advices. When the bankruptcy petition is not accompanied by the Schedules, it is termed a "skeletal" petition.

BLR 5005-1(j) also requires the filing of a creditor mailing matrix at the time of filing the petition. If no mailing matrix is filed, creditors do not receive notice of the filing of Debtor's petition. Failure to provide notice to creditors is grounds for dismissal.

Debtor's conduct of filing serial bankruptcy petitions in which he could not receive a discharge on the eve of dispossessory proceedings, together with his failure to perform his duties under §521 and §341, support a conclusion that those cases and the instant case were filed in bad faith for an improper purpose: to cause unnecessary delay and to needlessly increase the cost of litigation; accordingly, it is hereby

ORDERED that this Chapter 7 is *dismissed*: Debtor is prohibited from filing a voluntary petition for relief under any chapter of the Bankruptcy Code, 11 U.S.C. §101, et seq., for a period of nine months from the date of entry of the Order. It is further

ORDERED that, within 14 days of the date of entry of this order, Debtor shall pay Movant the sum of \$3,623.91 for costs and attorneys fees incurred by Movant in this Case.

IT IS SO ORDERED this the 5th day of March, 2012.



MARGARET H. MURPHY
UNITED STATES BANKRUPTCY JUDGE

Draft prepared and submitted by:

 /s/
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