

JUN 06 2006

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

IN RE:	:	CHAPTER 7
	:	
CHARLES RANDALL HAMBLLEN and	:	CASE NO. 05-95215-JB
JANET SMITH HAMBLLEN, BROOKSTONE	:	CASE NO. 05-95216-JB
FINE WOOD PRODUCTS, INC., CLOSET	:	CASE NO. 05-95217-JB
& STORAGE SOLUTIONS, LLC,	:	
	:	Jointly Administered Under
	:	CASE NO. 05-95215-JB
Debtors.	:	

ORDER

This matter came before the Court on May 31, 2006, on a *pro se* motion filed by Charles Randall Hamblen and Janet Smith Hamblen on April 24, 2006 (#130) and later amended on May 30, 2006 (#180), requesting that the Court dismiss these three jointly administered Chapter 7 cases without prejudice. The debtors, Charles R. Hamblen and Janet S. Hamblen both appeared at the hearing as did the Chapter 7 Trustee, S. Gregory Hays and the Chapter 7 Trustee's appointed counsel, James C. Cifelli and A. Alexander Teel, of the law firm Lamberth, Cifelli, Stokes & Stout, P.A. Counsel for a number of creditors also appeared at the hearing: Neil C. Gordon as counsel for Flag Bank (f/k/a First Capital Bank), Robert P. Hoyt as counsel for Samuel Snipes, a priority unsecured creditor, Samuel D. Hicks as counsel for creditor Holden Industries, and Scott H. Michalove and William L. Rothschild as counsel for creditors Luca F. Gianturco, Kathleen G. Gianturco, and Mortgage Electronic Registration Systems, Inc. ("MERS"). Thomas W. Dworschak appeared on

behalf of the United State Trustee. In addition, Paul R. Marr, former counsel for the debtors was present as was William Gwaltney, an individual who filed a pleading identifying himself as a creditor on May 30, 2006 (#176). After hearing the statements of counsel, and the statements and testimony of Mr. and Mrs. Hamblen and William Gwaltney, the Court concluded that the Hamblens' motion to dismiss these cases without prejudice must be denied.

These cases were commenced on August 15, 2005, through counsel Paul R. Marr, as cases filed under Chapter 11 of the Bankruptcy Code. Flag Bank filed a motion to appoint a Chapter 11 Trustee on January 13, 2006, and the motion was subsequently granted on February 22, 2006. On March 2, 2006, the Chapter 11 Trustee, S. Gregory Hays filed a motion to convert these Chapter 11 cases to cases under Chapter 7, and the motion to convert was granted on May 3, 2006. In the meantime, Mr. Marr had filed a motion to withdraw as counsel for the debtors, and that motion was granted on April 4, 2006. Mr. and Mrs. Hamblen now seek to have these cases dismissed.

At the hearing on May 31, 2006, counsel for creditors Flag Bank, the Gianturcos, MERS, and Samuel Snipes, all opposed the debtors' voluntary dismissal of these cases. The Chapter 7 Trustee and the United States Trustee also opposed the dismissal of these cases. On May 30, 2006, William Gwaltney filed a pleading expressing support for the Hamblens' motion to dismiss, identifying himself as a creditor and "an interested *pro se* party" who had "recently purchased some outstanding debt owed by the estate." However, Mr. Gwaltney appeared and testified at the May 31, 2006 hearing that he is not

a creditor of these estates and has not consummated a purchase of any debt or claims against these estates. Grant K. Gibson filed several pleadings on May 30, 2006 in support of the Hamblens' motion, but Mr. Gibson did not attend the hearing. It is unclear what Mr. Gibson's relationship is to these debtors, but Mr. Gwaltney testified that he introduced Mr. Gibson to Mrs. Hamblen during the pendency of these bankruptcy cases and that Mr. Gibson is now a trustee of land trusts which are acting as either sellers or possibly purchasers of real property in which the estates may claim an interest. The transactions referred to by Mr. Gwaltney raise many questions, and none of these transactions have been approved by the Bankruptcy Court. The Trustee has rescheduled the §341 meeting of creditors for June 13, 2006.

In conclusion, the Hamblens have not provided cause under 11 U.S.C. §707(a) to dismiss these cases. The creditors' objections to any dismissal are compelling, and the Court does not find that the creditors are more likely to be paid by the Hamblens if the cases are dismissed. The Chapter 7 Trustee is directed to liquidate the assets of these estates as expeditiously as possible in order to ensure that the creditors are paid, and the debtors are ordered to cooperate fully with the Chapter 7 Trustee and his counsel.

IT IS SO ORDERED, this 5th day of June, 2006.


JOYCE BIHARY
UNITED STATES BANKRUPTCY JUDGE

DISTRIBUTION LIST

Janet Smith Hamblen

510 Pennroyal Lane
Alpharetta, GA 30004

Charles Randall Hamblen

510 Pennroyal Lane
Alpharetta, GA 30004

S. Gregory Hays

Hays Financial Consulting, LLC
Suite 200
3343 Peachtree Road, NE
Atlanta, GA 30326-1420

Paul Reece Marr

Paul Reece Marr, P.C.
300 Galleria Parkway, N.W.
Suite 960
Atlanta, GA 30339

A. Alexander Teel

Lamberth, Cifelli, Stokes & Stout, PA
East Tower, Suite 550
3343 Peachtree Road, NE
Atlanta, GA 30326-1022

James Cifelli

Lamberth, Cifelli, Stokes & Stout, PA
East Tower, Suite 550
3343 Peachtree Road, NE
Atlanta, GA 30326-1022

Thomas Wayne Dworschak

Office of the U. S. Trustee
Room 362
75 Spring Street, SW
Atlanta, GA 30303

Samuel D. Hicks

Hicks, Casey & Foster, P.C.
136 North Fairground Street
Suite 100
Marietta, GA 30060

William L. Rothschild

Ellenberg, Ogier & Rothschild, P.C.
170 Mitchell Street S.W.
Atlanta, Georgia 30303

Scott H. Michalove

Raymond S. Martin, P.C.
Suite 800, One Lakeside Commons
900 Hammond Drive
Atlanta, GA 30328

Neil C. Gordon

Arnall Golden Gregory LLP
Suite 2100
171 17th Street, NW Atlanta, GA 30363

Robert P. Hoyt

Deming & Hoyt PC
2450 Atlanta Highway, Suite 1201
Cumming, GA 30040-1253

Grant K. Gibson

P.O. Box 767488
Roswell, GA 30076

William Gwaltney

P.O. Box 4525
Alpharetta, GA 30023