

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

IN RE:	:	CHAPTER 7
	:	
CHARLES RANDALL HAMBLLEN and	:	CASE NO. 05-95215-JB
JANET SMITH HAMBLLEN,	:	
	:	
Debtors.	:	

**ORDER WITH REGARD TO MOTION TO COMPEL DEBTORS
TO DELIVER PROPERTY TO THE TRUSTEE, TO COOPERATE
WITH THE TRUSTEE, AND TO VACATE THEIR RESIDENCE**

This Chapter 7 case came before the Court on August 10, 2006, on the Trustee's Motion to Compel Debtors to Deliver Property to the Trustee, to Cooperate with the Trustee, and to Vacate Their Residence (Docket Entry No. 232)(hereinafter referred to as the "Motion to Compel Turnover") and the Trustee's Objection to Debtors' Claims of Exemption and Request to Surcharge Claims of Exemption (Docket Entry No. 222), as amended on August 7, 2006 (Docket Entry No. 255)(hereinafter referred to as the "Objection to Exemptions"). The Debtors did not file any written response to either the Motion to Compel Turnover or the Objection to Exemptions. The Debtors appeared *pro se*, and appearances were made by A. Alexander Teel, counsel for the Trustee, Neil Gordon, counsel for Flag Bank, Scott Michalove, counsel for Mortgage Electronic Registration Systems, Inc., as Nominee for Wells Fargo Bank, Paul Reece Marr, representing himself, and Thomas W. Dworschak, counsel for the U.S. Trustee's Office. Greg Hays, the Chapter 7 Trustee, was also present, as was Daniel A. Caldwell, representing Mr. Dworschak in an adversary proceeding filed by the Hamblens.

The Court heard testimony from the Debtors, Janet Smith Hamblen and Charles Randall Hamblen, the Chapter 7 Trustee, S. Gregory Hays, and the Trustee's real estate agent, Don Latham. The Trustee and Flag Bank introduced exhibits labeled T-1 through T-14, all of which were admitted into evidence. At the conclusion of the evidence and arguments, the Court announced an oral ruling and gave specific direction to the parties. This written Order is entered pursuant to that oral ruling. This is a core proceeding under 28 U.S.C. § 157(b)(2), (A), (B) and (E).

With respect to the Trustee's motion to compel turnover and compliance with the debtor's duties under 11 U.S.C. § 521, it is **ORDERED**, as follows:

- (a) Debtors were ordered to turn over their 2003 BMW 330i and its keys to the Trustee or to his representative not later than Friday, August 11, 2006, at 5:00 p.m.;
- (b) Debtors were ordered to meet with the Trustee's personal property appraiser at 510 Pennroyal Lane, Alpharetta, Georgia, on Saturday, August 12, 2006, at 12:00 noon to permit the appraiser to view, photograph, and take any other reasonable action necessary to appraise any and all of Debtors' personal property, including, without limitation, their furniture, art and jewelry;
- (c) Debtors were ordered to meet with the Trustee's real estate agent on or before 5:00 p.m. on Monday August 14, 2006, at 510 Pennroyal Lane, Alpharetta, Georgia, to provide the agent with a key to the premises, to permit the agent to tour and preview the premises, and any other reasonable purpose the agent requires. Debtors were instructed to return the agent's "for sale" sign on or before that same deadline;
- (d) Debtors are ordered to vacate the property at 510 Pennroyal Lane, Alpharetta, Georgia, not later than 5:00 p.m. on August 31, 2006, and to turn over all keys to the premises, their garage door openers, all equipment or other manuals and files, and any other information

reasonably requested by the real estate agent and to leave the premises neat, broom clean, and free from damage;

- (e) Debtors are ordered to turn over to the Trustee copies of the following documents or information not later than 5:00 p.m. on August 30, 2006:

(1) the most recent account statements for the IRA accounts listed on bankruptcy schedules B and C, including, but not limited to, the Hartford 401(k) accounts, Merrill Lynch IRA accounts, Charles Schwab IRA accounts and AIM IRA accounts;

(2) the original Bill of Sale, original title, and any other documents relating to the purchase by Mr. Hamblen of a Chevrolet Avalanche for \$28,000.00 within ninety (90) days of filing bankruptcy, including the name, mailing address, phone number or other information for the person from whom the Avalanche was purchased;

(3) copies of all bank statements and cancelled checks for any and all accounts in the name of Intown Artisans, LLC;

(4) copies of all bank statements and cancelled checks from date of opening to date of closing of an account described by Janet Hamblen in her August 10, 2006 testimony and in Exhibit T-11 into which Debtors deposited \$200,000.00 in the name of Janet Hamblen's mother, Sarah Smith;

(5) any documents or statements relating to monies received and disbursed from the life insurance policy inside the Hamblen Family Irrevocable Trust in the amount of approximately \$27,000.00 as described in Exhibit T-11;

(6) a printed copy of the directory of the Debtors' personal computer(s); and

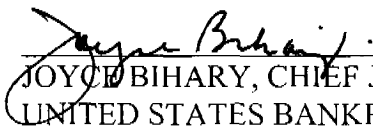
(7) the current mailing address and phone number for Randall Hamblen's parents, Jean and Charles Hamblen.

If Debtors cannot locate any of the documents or information set forth above, then both Debtors shall execute and file with the Clerk's Office not later than 5:00 p.m. on September 6, 2006, a notarized affidavit setting forth the relevant facts explaining such reason or reasons why such documents or information cannot be produced;

- (f) The Court will defer ruling on the Trustee's motion for a turnover or imaging of the Debtors' personal computer(s) until after the Trustee has received and reviewed the computer's directory. The Trustee shall file a status report relating thereto, including whether the Trustee seeks further information from the Debtors' personal computer(s) with a copy to Debtors and the United States Trustee, within ten (10) days of receipt of the computer's directory;
- (g) The Trustee's request for a finding that the Chevrolet Avalanche is property of the estate and to compel Mr. Hamblen to turnover the Chevrolet Avalanche to the Trustee is denied at this time without prejudice to the right of the Trustee to file additional pleadings with respect to whether the Chevrolet Avalanche is property of the estate and/or whether the Trustee may avoid the transfer of the Avalanche to Intown Artisan, LLC, may avoid Debtors' transfer of title in the Avalanche during the bankruptcy to Cherokee Coin & Pawn, and whether the Trustee can recover such transfer for the benefit of the estate under any of the Trustee's avoiding powers.

The Court will enter a separate Order with respect to the Trustee's Objections to Exemptions.

IT IS SO ORDERED, this 17th day of August, 2006.


JOYCE BIHARY, CHIEF JUDGE
UNITED STATES BANKRUPTCY COURT

DISTRIBUTION LIST

A copy of the foregoing Order mailed by United States Mail to the following:

Charles Randall Hamblen
Janet Smith Hamblen
510 Pennroyal Lane
Alpharetta, GA 30004

Paul Reece Marr, Esq.
Paul Reece Marr, PC
300 Galleria Parkway, NW
Suite 960
Atlanta, GA 30339

Alexander Teel, Esq.
Lamberth, Cifelli, Stokes & Stout
3343 Peachtree Road, NE, Suite 550
Atlanta, GA 30326-1022

S. Gregory Hays
Hays Financial Consulting LLC
3343 Peachtree Road, NE, Suite 200
Atlanta, GA 30326

Neil Gordon, Esq.
Arnall, Golden, Gregory, LLP
171 17th Street, NW, Suite 2100
Atlanta, GA 30363

James Cifelli, Esq.
Lamberth, Cifelli, Stokes & Stout
3343 Peachtree Road, NE, Suite 550
Atlanta, GA 30326-1022

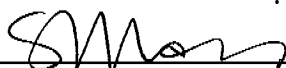
Thomas Dworschak, Esq.
Office of the U.S. Trustee
75 Spring Street, Room 362
Richard Russell Federal Building
Atlanta, GA 30303

Daniel A. Caldwell, Esq.
Assistant U.S. Attorney
Suite 600
75 Spring Street, SW
Atlanta, GA 30303

William L. Rothschild, Esq.
Ellenberg, Ogier & Rothschild
170 Mitchell Street, SW
Atlanta, GA 30303

Scott Michalove, Esq.
Raymond S. Martin, PC
One Lakeside Commons, Suite 800
990 Hammond Drive
Atlanta, GA 30328

Don Latham
RE/MAX Greater Atlanta
The Latham Group
Building 1300
5591 Chamblee-Dunwoody Road
Atlanta, GA 30338


Relief Courtroom Deputy
to Judge Bihary

Date: 8-17-06