

**FILED**

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**APR - 7 2003**

BRENDA K. ARGOE, CLERK  
United States Bankruptcy Court  
Columbia, South Carolina (4)

UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF SOUTH CAROLINA

IN RE:

Jackie Steadman, Jr.,

Debtor.

C/A No. 03-02362-W

**ORDER**

Chapter 13

**ENTERED**

**APR - 7 2003**

THIS MATTER comes before the Court upon a Rule to Show Cause and Notice directed to Jackie Steadman, Jr. ("Debtor") and M. Parker Vick ("Mr. Vick") to appear and show cause regarding the possible dismissal of this case and sanctions.

**B. B. M.**

Debtor has filed two Chapter 13 cases in this District prior to this case. In all three cases, M. Parker Vick represented Debtor. On May 2, 2001, Debtor filed his first case, C/A No. 01-04570. After Debtor defaulted in making plan payments and failed to cure the default to the Chapter 13 Trustee, the case was dismissed on February 5, 2002. On February 20, 2002, Debtor filed a second case, C/A No. 02-02033. In a Consent Order entered April 25, 2002, Debtor agreed that any dismissal in that case would be with prejudice to bar a refile of another Chapter 13 case for a period of 180 days from the date of the dismissal. Debtor's plan was thereafter confirmed on May 23, 2002. Again, Debtor fell behind in payments to the Trustee and was given a further opportunity to catch up the default by the Order entered on January 21, 2003. Upon further default, the Trustee filed a Motion to Dismiss with Prejudice on February 25, 2003. The Court entered an Order dismissing the case with prejudice for 180 days on March 5, 2003.

On February 26, 2003, one day after the Trustee moved for dismissal with prejudice, Debtor, again with Mr. Vick as his attorney, filed this Chapter 13 case. In this case, the schedules and

statement of affairs indicate that Debtor paid Mr. Vick \$685.00 on February 24, 2002 as partial payment for services in the third case.

An examination of the three cases filed by Debtor demonstrates that the schedules and statement of affairs are essentially identical and that, with each filing, Debtor's secured creditors, particularly Countrywide Home Loans, Inc., were forced to repeatedly file motions for relief from the automatic stay and from the co-debtor stay.

At the hearing, Debtor offered no testimony or other evidence. Mr. Vick admitted that the motive for this third filing was to preserve Debtor's marital home and that Debtor's employment had not been stable over the years. Debtor failed to demonstrate good faith, a change of circumstances, or other grounds so as to warrant a refiling, much less than a refiling when a Chapter 13 case is already pending and on the eve of dismissal with prejudice pursuant to an Order previously agreed upon by Debtor.

It is not credible that Debtor or his attorney filed this third case without knowledge that Debtor's second case had failed and was in the process of being dismissed with prejudice. It appears that Debtor filed his third case before the entry of the order of dismissal with prejudice in a mistaken belief that the third filing within this narrow window may not be barred. To accept this position would elevate form over substance, and it is clear that Debtor previously agreed that, upon the failure of his second case, he would be barred from having another Chapter 13 case for 180 days. Moreover, Debtor has been given multiple opportunities to address his debts in a Chapter 13 case, even to the point of confirming a plan in his second case, and it is unfortunate that his efforts have failed. However, it is clear that Debtor's filing of this case was in bad faith and in an effort to further unreasonably delay his creditors. Debtor's agreement to dismiss the second case with prejudice and

his failure to present adequate grounds to reconsider the order of dismissal with prejudice preclude his actions to circumvent the dismissal with prejudice. Based upon the circumstances of this case and Debtor's prior cases, the Court finds Debtor's actions sanctionable. For these reasons, the Court dismisses this case with prejudice to bar Debtor from filing a bankruptcy petition under any chapter of the Bankruptcy Code, except Chapter 7, for a period of one year from the date of the entry of this Order. The Court reserves jurisdiction to enforce this Order in all respects.

In all of Debtor's cases, he has been represented by Mr. Vick. Mr. Vick is one of the leading filers of Chapter 13 cases in this District and is, or should be, aware of the requirements and procedures employed in Chapter 13 cases in this District, and, in particular, this Court's admonitions regarding the serial filing of cases. The Court has addressed this issue in its Operating Order 02-01 filed on February 4, 2002 as well as in case law, including In re Garner, C/A No. 02-02058-W, slip op. (Bankr. D. S.C. Mar. 11, 2002), In re Brown, C/A No. 02-00089-W, slip op. (Bankr. D. S.C. Jan. 31, 2002), and In re Diaz, C/A No. 01-11798-W, slip op. (Bankr. D. S.C. Dec. 12, 2001).

In this case, the Court cannot accept Mr. Vick's explanations. Even when counsel are motivated by genuine compassion for their clients, this Court has made it clear that counsel bear responsibility for violating Court orders and filing cases serially that abuse the Bankruptcy Code and burden the Court, Trustees, and the case administration system. Under the circumstances of this case, Mr. Vick's conduct is sanctionable. The Court sanctions Mr. Vick in the amount of \$785.00 representing the amount of attorney's fees paid to him in this unwarranted case plus the sum of \$100.00. Mr. Vick shall pay the sanction to the Clerk of the United States Bankruptcy Court for the District of South Carolina or the South Carolina Bar Pro Bono Program within ten days of the entry

of this Order.<sup>1</sup>

The Court reaches the determination of sanctions against Debtor and Mr. Vick based upon a consideration of the totality of the circumstances, including consideration of the lowest amount necessary to deter future abuses, and upon the authority provided in 11 U.S.C. §1307, 11 U.S.C. §105, 28 U.S.C. §1927, Federal Rule of Bankruptcy Procedure 9011, and the Court's inherent authority to regulate litigants before it and to address improper conduct as recognized by the Fourth Circuit Court of Appeals in In re Weiss, 111 F.3d 1159 (4<sup>th</sup> Cir. 1997).

**AND IT IS SO ORDERED.**

Columbia, South Carolina,  
April 7, 2003.

  
UNITED STATES BANKRUPTCY JUDGE

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<sup>1</sup> Upon a decision to pay the sanction to the South Carolina Bar Pro Bono Program, Mr. Vick should provide a copy of this Order to the Program to ensure the Program is aware the payment is in the nature of a sanction and to ensure that Mr. Vick is prohibited from taking a charitable deduction for such payment. Mr. Vick should also provide proof of such payment to the Clerk of this Court.