

**FILED**

at \_\_\_ O'clock & \_\_\_ min. \_\_\_ M

**APR - 8 2003**

**UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF SOUTH CAROLINA**

BRENDA K. ARGOE, CLERK  
United States Bankruptcy Court  
Columbia, South Carolina (37)

IN RE:

Wardell Martin, Jr. and Constance Martin,  
Debtors.

C/A No. 03-03551-W

**ORDER**

Chapter 7

**ENTERED**

**APR 8 2003**

**D. H. R.**

THIS MATTER comes before the Court pursuant to a Rule to Show Cause and Notice which required the appearance of Wardell Martin, Jr. and Constance Martin ("Debtors") and their attorney, M. Parker Vick ("Mr. Vick") to show cause why the case should not be dismissed and/or other sanctions imposed. At the time of the filing of this case on March 24, 2003, Debtors had pending a Chapter 13 case, Case No. 01-09997, in which a plan was confirmed on January 8, 2002 and relief from stay granted to Mortgage Lenders Network U.S.A. on September 25, 2002.

At the hearing, Debtors presented no testimony or other evidence. Mr. Vick stated that the filing of this case was in error and was no longer needed by Debtors. Furthermore, Mr. Vick advised the Court that this Chapter 7 case was not filed in an attempt to invoke a new automatic stay to delay any foreclosure or collection effort by a creditor who had received relief from the automatic stay in the Chapter 13 case. Debtors also desire to dismiss their Chapter 13 case and have submitted a separate motion seeking that dismissal.

Based upon the circumstances before the Court in this case, the Court dismisses this case with prejudice to bar the refiling of a bankruptcy petition under any chapter of the Bankruptcy Code for a period of one (1) year. Otherwise, the Rule is dissolved. However, counsel in this District are cautioned that the filing of a bankruptcy case while another is pending and after relief from stay has

been granted may be viewed as an attempt to circumvent the prohibitions of 11 U.S.C. §109(g) and this Court's Operating Order 02-01 entered February 4, 2002 and therefore may be considered an abuse of the Bankruptcy Code and Rules and subject parties and their counsel to sanctions.

**AND IT IS SO ORDERED.**

  
UNITED STATES BANKRUPTCY JUDGE

Columbia, South Carolina,  
April 8, 2003.