

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE
SOUTHERN DISTRICT OF GEORGIA
Brunswick Division

IN RE:) Chapter 13 Case
) Number 88-20284
HENRY PAT SANDERS)
MARY SANDERS)
1 Kelly Lane)
Brunswick, Georgia 31520) FILED
SS# 260-64-3076) at 3 O'clock & 26 min. P.M.
SS# 260-60-9556) Date: 9-1-89
)
Debtors)
)
BARNETT RECOVERY CORPORATION)
)
Movant)
)
vs.)
)
HENRY PAT SANDERS)
MARY SANDERS AND)
SYLVIA FORD DRAYTON, TRUSTEE)
)
Respondents)

ORDER

The motion of Barnett Recovery Corporation for dismissal of this Chapter 13 proceeding or in the alternative modification of the automatic stay was heard pursuant to notice August 15, 1989. Movant based its motion upon 11 U.S.C. 1307(c)(6) contending that the debtors have materially defaulted with respect to the terms of the confirmed plan in that the debtors are in

substantial arrears in their payments the Chapter 13 trustee.

Debtor, Henry Pat

Sanders appeared with counsel of record at the hearing.

Co-debtor, Mary Sanders did not appear. In response to the allegations of a default in payments to the Chapter 13 trustee, the debtor stated that since the calculation of the arrearage made by the-trustee, the co-debtor had sent three additional payments and presented receipts for money orders made payable to the Chapter 13 trustee representing these three additional payments all purportedly dated August, 1989. It appeared from the receipts presented that the month had been altered. Additionally, the day, year, money order number and amounts all corresponded to previous money orders delivered to the Chapter 13 trustee in May, 1989 only the apparently altered numerical designation for the month was different. I conclude that the receipts presented have been altered to reflect an August date when in fact they are receipts representing payments made in May, 1989. While I cannot conclude that a violation of 18 U.S.C. §152 has occurred, I am convinced that dismissal is appropriate under 11 U.S.C. §1307(c)(6) and that under the provisions of 11 U.S.C. §105 in order to prevent an abuse of process the dismissal must be With prejudice preventing the refiling of a petition for relief under Title 11 of the United States Code by these debtors for a period

of 180 days from the date of this order.

SO ORDERED this 1st day of September, 1989.

JOHN S. DALIS
UNITED STATES BANKRUPTCY JUDGE