

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF GEORGIA
SAVANNAH DIVISION

IN RE:) CHAPTER 7
) CASE NO. 01-51935-JDW
RICHARD H. GRANTHAM,)
VICKI JO GRANTHAM,)
) DEBTORS)

ORDER

This Chapter 7 Case was filed on December 3, 2001. Debtors' previous case, Chapter 13 Case No. 01-51198 was dismissed with prejudice on October 30, 2001. It appears this case was filed in violation of the Court's dismissal order of October 30, 2001. It appears further that the filing of this case may have been intended to prevent the foreclosure of a deed to secure debt by Sun Trust Bank of South Georgia, which creditor had previously requested and been granted the motion to dismiss with prejudice in the previous case.

The Court has been advised that the case was filed at 2:53 p.m. on Monday, December 3, 2001. The following day, Tuesday, December 4, 2001, Sun Trust without knowledge of the filing, exercised its foreclosure rights on real estate property owned by Debtors by offering the property for foreclosure in accordance with state law, which foreclosure was completed at 10:10 a.m. The Court is further advised that notification was given to counsel for Sun Trust by fax on the afternoon of December 4, 2001, after the foreclosure sale was consummated and the deed under power was recorded. The filing

of this case raises serious concerns as to the good faith of the Debtors and, further, as to the intentions of counsel for Debtors in failing to comply with the Court's order barring refiling of this case. The matrix shows that the attorney for the Debtors is Alan H. Swan, who lists his firm association as David Roy Hege & Associates, P.C. Counsel for Debtors in the case dismissed with prejudice was David Roy Hege.

The Court has been further advised that when Debtors presented themselves to file this case at the intake counter in the office of the Clerk of the Bankruptcy Court, they were advised that the case could not be filed due to the Court's order in the previous case barring refiling. Debtors then attempted some communication, presumably with their attorneys, and returned to the counter requesting that the case be filed.

All of these circumstances, if they are true, present to the Court a picture of a deeply disturbing transaction. The Court will convene a hearing on **Thursday, December 20, 2001, at 10:30 a.m.** in the United States Bankruptcy Court, U.S. Courtroom, 3rd Floor, Federal Building, Carswell Street, Waycross, Georgia, to determine whether this case should be dismissed for bad faith filing and whether counsel for Debtors should be sanctioned for having filed this case. The Court understands that the circumstances outlined above here may be erroneous or incomplete. Debtors and counsel for Debtors are advised of the circumstances outlined above so they might have an opportunity to clarify or correct the record as to

information supplied to the Court regarding this case.

Another related concern raised by the filing of this case is the apparent non-compliance of Debtors' attorney Alan H. Swan to be admitted as a member of the bar of the Federal Court for the Southern District of Georgia. The Court is advised by the Clerk of the Bankruptcy Court that a search of the records indicates that Mr. Swan has not been admitted to the bar of this Court. The requirement for show cause stated above will include the requirement that Mr. Swan show cause why he should not be sanctioned for having filed this case in this court without authority.

In entering this show cause order, the Court emphasizes that the appearance of the Debtors Richard H. Grantham and Vicki Jo Grantham are required along with the appearance of Debtors' counsel Alan H. Swan and Debtors' counsel in the former cases David Roy Hege. A failure of any one of the four persons named here to appear may result in the imposition of sanctions.

SO ORDERED, this 7th of December, 2001.

Hon. James D. Walker, Jr.
United States Bankruptcy Court

CERTIFICATE OF SERVICE

I, Cheryl L. Spilman, certify that the attached and foregoing have been served on the following:

Alan H. Swan
P. O. Box 1646
Tifton, GA 31793-1646

David Roy Hege
P. O. Box 1646
Tifton, GA 31793-1646

Richard H. Grantham
Vicki Jo Grantham
1207 St. Illa Church Road
Douglas, GA 31535

This 10th day of December, 2001.

Cheryl L. Spilman
Deputy Clerk
United States Bankruptcy Court