NOT FOR PUBLICATION

UNITED STATES BANKRUPTCY APPELLATE PANEL

OF THE NINTH CIRCUIT

In re:	BAP No. WW-08-1011-KuKJu
WILL KNEDLIK,	Bk. No. 07-15547
Debtor.	
ANNA GIOVANNINI; WILL KNEDLIK,	
Appellants,	
v.	**M E M O R A N D U M**[1]
SPARK NETWORKS LTD; UNITED STATES TRUSTEE,	
Appellees.	

Argued and Submitted on June 18, 2008
at Seattle, Washington

Filed - June 30, 2008

Appeal from the United States Bankruptcy Court
for the Western District of Washington

Honorable Karen A. Overstreet, Chief Bankruptcy Judge, Presiding

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Before: KURTZ,[2] KLEIN and JURY, Bankruptcy Judges.

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[1]This disposition is not appropriate for publication. Although it may be cited for whatever persuasive value it may have (see Fed. R. App. P. 32.1), it has no precedential value. See 9th Cir. BAP Rule 8013-1.

[2]Frank L. Kurtz, Bankruptcy Judge for the Eastern District of Washington, sitting by designation.

11 U.S.C. § 105(a) grants the court broad powers to prevent bankruptcy abuse, including collusive involuntary petitions. This is an appeal from a refusal to reconsider both a sua sponte order dismissing a collusive involuntary chapter 7 petition and a related order granting relief from stay. In this case, the purported debtor is barred from filing a voluntary petition without court permission, and the petitioning creditor, who filed the involuntary chapter 7 petition, is the debtor's mother. This filing is the fourth time that she has filed an involuntary petition against her son. The prior cases were either dismissed or converted. In response to the current filing, the court issued an order requiring the mother and son to show cause why the case was not an abuse of the bankruptcy system. After the hearing, the court dismissed the case and referred the matter to the U.S. Attorney for investigation.

The petitioning creditor and the purported debtor, mother and son, contend that the course of proceedings by the court effectively denied them their due process rights. Because the information before the court showed a sham or collusive filing, we conclude the court did not abuse its discretion by raising on its own initiative the issue of whether the involuntary petition was an abuse of the bankruptcy system. We further conclude that the procedures followed by the court did not deny them their due process rights. Accordingly we AFFIRM.

FACTS

Will Knedlik is a businessman and disbarred attorney. His business conduct generated lawsuits, resulting in large money

judgments being taken against him. This history includes Knedlik's act of filing an involuntary bankruptcy petition against MatchNet, PLC, on the eve of a public stock offering, as part of a negotiating strategy and in violation of a court injunction. As a result, MatchNet, PLC, now known as Spark Networks LTD, obtained a judgment against Knedlik in the amount of $29 million. In that litigation, the trial court characterized Knedlik's conduct as malicious and found "Knedlik's conduct is beyond the Court's comprehension, and the Court has never seen a more outrageous course of conduct in all the time that the Court has sat on the bench." Knedlik's conduct as an attorney led to his disbarment in January of 2000.

Anna Giovannini is Knedlik's 84 year old mother. In September of 1995, Knedlik executed a document purporting to transfer all of his current and future assets to his mother in consideration of her many loans to him. Approximately one year earlier, Giovannini filed the first of her four involuntary bankruptcy petitions against her son. The first involuntary chapter 11[3] was apparently precipitated by a judgment against Knedlik in the amount of $212,969.20 entered in July of 1994 by Skagit Valley Publishing. The involuntary petition was dismissed in October of 1995 for want of prosecution. During the pendency of the case, deeds of trust encumbering Knedlik's residence and

[3]Unless otherwise indicated, all chapter and section references are to the Bankruptcy Code, 11 U.S.C. §§ 101-1330 and to the Federal Rules of Bankruptcy Procedure, Rules 1001-9036,as enacted and promulgated prior to the effective date (October 17, 2005) of The Bankruptcy Abuse Prevention and Consumer Protection Act of 2005, Pub. L. 109-8, 119 Stat. 23(2005).

other property in favor of Giovannini were adjudicated to be fraudulent conveyances.

Two months later, Giovannini filed a second involuntary chapter 11 against Knedlik. The December 1995 petition followed the registration in King County Superior Court of a judgment for civil contempt and attorney fees against Knedlik, incurred as the result of his representation of a litigant in federal court. The involuntary bankruptcy petition was dismissed for failure to prosecute, in July of 1997.

Less than six months later, in December of 1997, Giovannini filed a third involuntary chapter 11 petition against Knedlik. This time, however, Judge Karen Overstreet granted a motion to convert the case to chapter 7. During that hearing, Judge Overstreet characterized Knedlik as a "serial filer" and Giovannini as a "so called creditor[.]" The judge observed that Knedlik was using his mother in order to obtain relief under the bankruptcy laws. She expressed her intention to advise the U.S. Trustee that Knedlik should be investigated for abuse of the bankruptcy system.

Approximately two years later, Knedlik filed a voluntary chapter 13 petition. In May, 2001, the court entered an order, dismissing Knedlik's case and barring him from filing any further bankruptcy petitions without first obtaining the prior written permission of the bankruptcy court. That order was not appealed.

In March of 2007, Giovannini filed a petition for chapter 13 relief. In her bankruptcy schedules, she listed "loans to son, Will Knedlik," along with the notation "debt assigned more than five years ago." She valued the debt at $0.00. The purpose of the filing appears to have been to address a judgment taken against

Giovannini which had resulted in a scheduled sheriff's sale of an asset. The case was voluntarily dismissed after an agreement was reached with the creditor.

For the fourth time in fourteen years, Giovannini filed an involuntary petition against her son. The involuntary chapter 7 case was filed on November 19, 2007, the day before a scheduled sheriff's sale. At the sheriff's sale, Spark intended to seize and sell Knedlik's § 1983 claim against Spark for violation of his civil rights, as stated in an unfiled lawsuit.

In response to the involuntary bankruptcy, Spark filed an emergency motion asking the court for *ex parte* relief so that it could proceed with the scheduled sheriff's sale. The court did not grant the *ex parte* relief from the automatic stay. Instead, the court ordered Giovannini and Knedlik to appear on November 30, ten days later, to show cause why Spark's motion should not be granted and why they should not be referred to the U.S. Attorney for investigation for prosecution of bankruptcy abuse. The show cause language was added by the court and was not part of the motion filed by Spark. Counsel for Spark was directed promptly to serve Knedlik and Giovannini with the show cause order, both by mail and personal service. Although the record does not indicate when service was accomplished, the notice was sufficient to enable the preparation of a five-page "Opposition to Relief from Stay and Response to Show Cause [Order]"prior to the November 30 hearing.

Knedlik and Giovannini appeared as ordered by the court, unrepresented. As a disbarred attorney, Knedlik could not represent Giovannini. At the beginning of the hearing, Giovannini explained that the attorney who represented her in her chapter 13

case had retired and she needed additional time to obtain counsel. The court did not grant her request for additional time. Thereafter Knedlik complained that his mother could not hear. At that point, the court continued the hearing until the end of the court's calendar, so that Ms. Giovannini's hearing difficulties could be accommodated. At the continued hearing, there were no additional complaints from either Giovannini or Knedlik regarding Giovannini's inability to hear what was transpiring at the show cause hearing.

At the hearing, the court considered a pleading entitled "Opposition to Relief from Stay and Response to Show Cause" signed by Giovannini. In that document, Giovannini characterized Spark as an "overly aggressive purported creditor," stated that her son had no assets that could be reached by creditors, and asserted an interest in her son's civil rights claim against Spark, which she believed to be quite meritorious. Additionally the court considered statements from Spark's attorney and Knedlik, testimony from Giovannini and a number of sworn declarations detailing Knedlik's and Giovannini's history as serial bankruptcy filers. Even though she expressed concern about Giovannini not having counsel present, the court asked her to take the stand and explain why the involuntary petition was filed. She testified that her son was ill and could not pay his debts. She seemed to deny that she filed the involuntary petition to collect debts owed to her by Knedlik.

Counsel for Spark was also allowed to examine her with regard to her status as a creditor. During her testimony Giovannini stated she did not want to testify without counsel. She

ultimately invoked her Fifth Amendment rights in response to a question. A short time later she stated she would not answer any more questions without an attorney being present and no further questions were asked of her. At that point, Spark's counsel continued his presentation, asking the court to take judicial notice of three exhibits involving Giovannini's prior bankruptcy petitions, including her voluntary chapter 13 case, the involuntary December 1997 petition, and the involuntary 2007 petition. The court took judicial notice of these pleadings.

At the conclusion of the hearing, the court dismissed Giovannini's involuntary petition with prejudice, characterizing it as "without substance" and "an abuse of the bankruptcy system[.]" The court further rendered an order barring Knedlik and Giovannini from filing any voluntary bankruptcy petitions on behalf of themselves and/or any involuntary bankruptcy petitions against each other for 180 days. After the 180 day period both Knedlik and Giovannini were prohibited from filing a voluntary or involuntary petition without first obtaining written authorization of a bankruptcy judge in the Western District of Washington. Finally, the order provided that Giovannini and Knedlik would be referred to the U.S. Attorney for criminal investigation of bankruptcy abuse.

Giovannini and Knedlik filed a motion for reconsideration. The motion was denied by the court because the moving parties had not demonstrated any manifest error committed by the court nor shown any new facts. Knedlik and Giovannini then filed this appeal.

JURISDICTION

The bankruptcy court had jurisdiction under 28 U.S.C. §§ (a), (b)(2)(A), and (G). The Bankruptcy Appellate Panel has jurisdiction under 28 U.S.C. § 158.

ISSUES

Giovannini and Knedlik assign "due process" error to the entire course of proceedings in the bankruptcy case."[4] Essentially, they challenge the fairness of the show cause hearing that resulted in the orders and want the bankruptcy case and the automatic stay reinstated. They assert the court abused its discretion by: (1) raising on its own initiative the issue of whether the involuntary petition was an abuse of the bankruptcy system, warranting a criminal investigation; (2) holding an expedited hearing that denied them their due process rights; and (3) denying their motion for reconsideration.

STANDARDS OF REVIEW

The panel reviews issues of statutory construction and conclusion of law, including interpretation of provisions of the Bankruptcy Code, de novo. Mendez v. Salven (In re Mendez), 367 B.R. 109, 113 (9th Cir. BAP 2007). Orders of dismissal are reviewed for an abuse of discretion. Guastella v. Hampton (In re Guastella), 341 B.R. 908, 915 (9th Cir. BAP 2006). Likewise,

[4]Although the Appellants' Opening Brief enumerates eight issues, they all reduce to a question of due process. Moreover, the presentation of the argument in that brief focuses entirely on due process; any other issues are waived.

orders granting relief from judgment and exercising equitable powers under § 105 (a) are reviewed for an abuse of discretion. Missoula Fed. Credit Union v. Reinertson (In re Reinertson), 241 B.R. 451, 454 (9th Cir. BAP 1999). An abuse of discretion may be based on an incorrect legal standard, or a clearly erroneous view of the facts, or a ruling that leaves the reviewing court with a definite and firm conviction that there has been a clear error of judgment. Ho v. Dowell (In re Ho), 274 B.R. 867, 871 (9th Cir. BAP 2002). Whether a particular procedure comports with basic requirements of due process is a question of law that the panel reviews de novo. Garner v. Shier (In re Garner), 246 B.R. 617, 619 (9th Cir. BAP 2000).

DISCUSSION

The central question before the court is whether Giovannini and Knedlik were afforded a fair hearing before the involuntary case was dismissed. Or, stated differently, whether they were denied their due process rights by the procedures followed by the court. First, their appeal challenges the relief granted by the court, when it ordered them to show cause why the involuntary petition was not an abuse of the bankruptcy system. Second, Giovannini and Knedlik complain because the show cause hearing was held on an expedited basis which they assert denied them sufficient opportunity to prepare and obtain counsel. Third, their appeal focuses on what occurred at the show cause hearing: because Giovannini's request for a continuance was denied, she could not obtain the assistance of counsel; despite being threatened with criminal prosecution, she was compelled to testify regarding the

involuntary petition; denied the assistance of counsel and threatened with criminal prosecution, she was forced to invoke her Fifth Amendment rights against self incrimination. In Giovannini's and Knedlik's view, the procedures followed by the court effectively denied them their opportunity to present their case. Finally, they assert the court should have granted their motion for reconsideration.

SHOW CAUSE ORDER

Giovannini and Knedlik object to the sua sponte action taken by the court in response to Spark's emergency motion. The court ordered them to appear and show cause why the involuntary petition was not an abuse of the bankruptcy system, which can be construed as a criminal act. The order did not refer to dismissal of the petition, although a filing that qualifies as a criminal act would merit dismissal. We construe the court's order setting the hearing as reflecting a sua sponte determination that the case was vulnerable to dismissal as a collusive, bad faith filing and a requirement that cause be shown why the case should not be dismissed and a report made pursuant to 18 U.S.C. § 3057. If our understanding is accurate, this analysis would explain procedures followed at the show cause hearing. When the court established that the current filing was like past filings and likely violated a court order, the court excused Giovannini from testifying and terminated the hearing.

Although the court did not reference § 105(a), this provision grants the bankruptcy court broad powers to enforce rules and prevent abuses of the bankruptcy system through sua sponte

action. Donald v. Curry (In re Donald), 328 B.R. 192, 198-99 (9th Cir. BAP 2005). Section 105(a) of the Bankruptcy Code permits a court to "issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of the [Bankruptcy Code]." § 105(a). It further states no provision of the Bankruptcy Code "providing for the raising of an issue by a party in interest shall be construed to preclude the court from, sua sponte, taking any action or making any determination necessary or appropriate to enforce or implement court orders or rules, or to prevent an abuse of process." Id. Despite § 105(a)'s expansive language, courts generally have held that the provision may not be used to circumvent other provisions of the Bankruptcy Code. For that reason, the court's exercise of its § 105 power should not conflict with the remaining provisions of the code. Eskanos & Adler v. Roman (In re Roman), 283 B.R. 1, 14 (9th Cir. BAP 2002). Moreover courts acting sua sponte should follow the procedural safeguards afforded litigants. Id.

Did the court's *ex parte* order circumvent § 303(j), the provision governing dismissal of an involuntary petition? In normal course, the court may dismiss an involuntary petition pursuant to § 303(j)- on the motion of a petitioner, on the consent of all petitioners and the debtor, or for want of prosecution, but only after notice to all creditors and a hearing. Rule 1017(a). The required notice by mail is not less than 20 days. Rule 2002. Notice to the U.S. Trustee is also required. Rules 1017(a), 2002(a). These procedures are designed to prevent collusive settlements by requiring notice to all creditors and the U.S. Trustee. In re Taub, 150 B.R. 96, 97-98 (Bkrtcy. D. Conn. 1993).

Here, the involuntary petition was dismissed sua sponte, without notice to creditors or the U.S. Trustee.

This court addressed a similar question in Tennant v. Rojas (In re Tennant), 318 B.R. 860 (9th Cir. BAP 2004). In Tennant, the debtor filed his chapter 13 petition, but failed to file a Statement of Financial Affairs within 15 days of the petition date. For that reason, the Clerk of the Court entered an "order to comply with Bankruptcy Rules 1007 and 3015(b) and Notice of Intent to Dismiss Case under 11 U.S.C. § 109(g)(1)," referred to as a comply order. The order stated that if the debtor did not comply by the deadline, the court would dismiss the case without further notice. Id. at 864. When the debtor did not file the Statement of Financial Affairs within in the requisite period of time, the Clerk of the Court issued an order dismissing the debtor's case without notice or hearing. Id. at 865. The debtor appealed and argued, among other things, that the court lacked the power to dismiss his case when the court's sua sponte order did not comply with the notice and hearing requirements of either § 1307(c)(9) or Rule 1017(c).

On appeal, this court stated "to enforce the comply order and Rule 1007(c), the court was authorized to dismiss debtor's case sua sponte. Section 105(a) makes 'crystal clear' the court's power to act sua sponte where no party in interest or the U.S. Trustee has filed a motion to dismiss a bankruptcy case." Tennant, 318 B.R. 869 (quoting In re Greene, 127 B.R. 805, 807 (Bankr. N.D. Ohio 1991)). The court further held that Rule 1017(c) does not govern a sua sponte dismissal made in accordance with § 105(a). Id. at 870.

In the context of chapter 13, this court has unequivocally stated "the court can dismiss a case sua sponte under § 105(a)." Tennant, 318 B.R. 869. Other courts have applied this analysis to involuntary chapter 11s. As explained in In re Mi La Sul, 380 B.R. 546, 554-55 (Bankr. C.D. Cal. 2007), "it is proper for the court to inquire to what extent the debtor is involved in the institution of an involuntary case and if it appears that there was collusion between the debtor and the petitioning creditors, and they fraudulently invoked the jurisdiction of the court, the court will not tolerate the maintenance of an involuntary petition." Citing In re Winn, 49 B.R. 237, 239 (Bankr. M.D. Fla 1985), quoted with approval in F.D.I.C. v. Cortez (In re Cortez), 96 F.3d 50,51 (2d Cir. 1996).

The case before this court bears some similarity to In re Grossinger, 268 B.R. 386 (Bankr. S.D. N.Y. 2001). In that case, a single creditor filed an involuntary chapter 11 petition against Grossinger. Id. at 388. The petition was not served upon the purported debtor and no additional action was taken by either the debtor or the creditor. Id. The petition stayed a mortgage foreclosure, until the secured creditor obtained relief from stay. Id. The relief from stay motion brought the case to the court's attention. The court ordered the petitioning creditor into court to show cause why the petition should not be dismissed. Id. The creditor's attorney explained that he represented a tenant who was trying to secure the return of a security deposit and he further explained that the petition was not served because the matter was settled. After emphasizing that using an involuntary petition as a negotiating tactic for a matter that should have been resolved in

state court was an impermissible use of chapter 11, the court dismissed the petition and sanctioned the petitioning creditor and his attorney. Id. at 389.

Like the judge in Grossinger, Judge Overstreet, on her own initiative, ordered the petitioning creditor and the purported debtor to show cause why the involuntary petition was not an abuse of the bankruptcy system. At that time, she had ample cause for her inquiry. First, she knew that this was the fourth involuntary petition filed by Giovannini against Knedlik. Second, she knew that the previous petitions had been either dismissed or converted. Third, like previous petitions, this involuntary petition had been filed on the eve of a sheriff's sale. Fourth, she had previously identified the mother and son as collusive serial filers. And lastly, she knew that Knedlik could not file a voluntary petition without first securing the permission of a bankruptcy judge in her court. The information before the judge strongly suggested a sham or collusive filing. For that reason, Judge Overstreet did not abuse her discretion by raising on her own initiative the issue of whether the involuntary petition was an abuse of the bankruptcy system.

THE HEARING

In its motion, Spark requested the court enter an *ex parte* relief from stay order. The court denied this request and ordered a hearing in ten days. The court also ordered counsel for Spark to promptly serve Knedlik and Giovannini with the show cause order, both by mail and personal service. Giovannini and Knedlik assert that the expedited nature of the hearing denied them their due

process rights. For bankruptcy cases, notice is governed by the Bankruptcy Code and the Federal Rules of Bankruptcy Procedure. What process is due is largely determined by reference to these sources. Baldwin v. Credit Based Asset Servicing and Securitization, 516 F.3d 734, 737 (8th Cir. 2008); Ruehle v. Educ. Credit Mgmt. Corp. (In re Ruehle), 412 F.3d 679, 684 (6th Cir. 2005); In re Hanson, 397 F.3d 482, 487 (7th Cir. 2005).

Bankruptcy courts hear requests for relief from the automatic stay pursuant to § 362 of the Bankruptcy Code and requests for dismissal of cases pursuant to § 1307 of the Bankruptcy Code. 11 U.S.C. §§ 362 & 1307. Relief from the automatic stay and/or dismissal may be ordered only after notice and hearing. §§ 362(d) & 1307(c). A motion for relief from the automatic stay and a motion to dismiss shall be made in accordance with Rule 9014. Rule 1017(f). A motion for dismissal may be ordered only after a hearing on notice to the debtor. Rule 1017(e). Rule 9014(a) requires "reasonable notice and an opportunity for a hearing" to be afforded to the party against whom relief is sought.

Bankruptcy courts hear motions for relief from automatic stay and dismissal on an emergency or expedited basis where cause exists to do so. Rule 9006(c). When a matter is heard on an expedited or emergency basis, the motion and notice of hearing must be served as expeditiously as possible upon opposing counsel or the opposing party if not represented by counsel. Due process requires "notice reasonably calculated, under all the circumstances, to appraise interested parties of the pendency of the action and afford them an opportunity to present their objections. Walthall

v. United States, 131 F.3d 1289, 1294 (9th Cir. 1997) (quoting Mullane v. Central Hanover Bank & Trust Co., 339 U.S. 306, 314, 70 S.Ct. 652, 94 L.Ed. 865 (1950)).

Giovannini and Knedlik maintain that the court's procedures denied them sufficient opportunity to prepare for the hearing. The show cause order directed a hearing in 10 days and required Spark's counsel promptly to serve Giovannini and Knedlik. They do not complain that Spark's counsel did not comply with the court's order. The ten day notice appears sufficient, given the circumstances of the case. This mother and son have filed themselves, or been the subject of, six bankruptcy cases in less than 15 years.

The conclusion that the notice is sufficient is supported by the pleading Giovannini submitted before the hearing. Written in the identical style of the appellate brief, it serves to confirm that the petition was filed in bad faith and as a litigation tactic. The pleading states that the purported debtor had no assets to pay creditors, except a civil claim against Spark, which Giovannini believed might have been conveyed to her. The only asset placed at risk by the sheriff's sale was this alleged claim against Spark. The pleading attempts to cast Knedlik as victim and Spark as a bad actor. All of these matters could have been addressed in state court. From this record, there is no reason to believe that additional time to prepare would have changed the substance of Knedlik's and Giovannini's case.

Giovannini argues that she was denied the assistance of counsel by the court's refusal to grant a continuance. This argument asks the court to accept the dubious premise that

Knedlik's 84 year old mother is more than a token player in this matter. On one hand, Knedlik seeks recognition of Giovannini as a real creditor, who petitions this court for involuntary relief against him. On the other hand, he wants the court to see her as an elderly and unsophisticated litigant, who requires special protection. As a petitioning creditor and debtor, Giovannini has been involved in five bankruptcy cases. Two of those cases were dismissed for lack of prosecution and one case was converted. She had sufficient time before the hearing to obtain the assistance of counsel. She elected to appear at the hearing without the assistance of counsel, undoubtedly relying upon her son to assist her. The court did not abuse its discretion by denying her request for a continuance.

Giovannini argues the show cause hearing was unfair and violated her due process rights by making her choose between testifying in support of the involuntary petition and self incrimination. The Fifth Amendment privilege against self incrimination protects an individual from being compelled to give testimony that may be incriminating. U.S. Const. amend. V; Hashagen v. United States, 283 F.2d 345, 348 (9th Cir. 1960). The privilege against self incrimination applies to bankruptcy proceedings. McCarthy v. Arndstein, 266 U.S. 34, 41, 45 S.Ct. 16, 69 L.Ed. 158 (1924).

Under the Fifth Amendment, a person has the right to remain silent without suffering any penalty for such silence, which means the imposition of any sanction that makes the assertion of the Fifth Amendment privilege "costly." Spevack v. Klein, 385 U.S. 511, 515 87 S.Ct. 625, 17 L.Ed.2d 574 (1967). Spevack involved a

New York state attorney who was disbarred because he refused to testify at the disciplinary proceeding. His sole defense was that his testimony would tend to incriminate him. The U.S. Supreme Court reversed his disbarment, holding that the Fifth Amendment "should not be watered down by imposing the dishonor of disbarment and the deprivation of a livelihood as a price for asserting it." Spevack, 385 U.S. at 514.

Here the question is whether Giovannini was denied her right to relief under the bankruptcy law by her invocation of her Fifth Amendment privilege. A debtor does not have a constitutional right to receive relief under the bankruptcy laws. In re Connelly, 59 B.R. 421, 448 (Bankr. N.D. Ill. 1986), citing United States v. Kras, 409 U.S. 434, 446 93 S.Ct. 631 34 L.Ed.2d 626 (1973). For example, if a debtor is faced with the possibility that continued assertion of the Fifth Amendment may contribute to dismissal of the debtor's bankruptcy petition, the debtor is not being required to "forfeit one constitutionally protected right as the price of exercising another." Id., citing Lefkowitz v. Cunningham, 431 U.S. 801, 807-808, 97 S.Ct. 2132 53 L.Ed.2d 1 (1977).

In this case, the court did not dismiss Giovannini's involuntary petition as a penalty for invoking her Fifth Amendment privilege. Before the show cause hearing was commenced, the court expressed its concern that Giovannini could incriminate herself by testifying. Whenever Giovannini invoked the privilege, her request was honored by the court. As soon as it became apparent to the court that Giovannini's testimony would not help her or persuade the court that the filing was not an abuse of the bankruptcy system, the court promptly terminated the hearing.

In conclusion, Giovannini sought relief under the bankruptcy laws by filing her involuntary petition. She submitted to the jurisdiction of the bankruptcy court. When she was ordered to show cause why her petition was not an abuse of the bankruptcy system, she responded by submitting a pleading that supported the measures of dismissal of the involuntary petition as a collusive, bad faith filing. There is no reason to believe that Giovannini's abbreviated testimony significantly influenced the court's decision. Nor can this panel conclude that the court penalized Giovannini for invoking her privilege against self incrimination.

MOTION FOR RECONSIDERATION

The reconsideration motion does not demonstrate any circumstances which would justify relief from the orders dismissing the case and granting relief from stay. The bankruptcy court did not abuse its discretion in denying the motion for reconsideration.

CONCLUSION

Since we are satisfied that the course of the judicial proceedings was conducted in a manner that did not offend due process, we AFFIRM.