

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF INDIANA
FORT WAYNE DIVISION

IN THE MATTER OF:)
)
EDDIE P. SLONE, SR.) CASE NO. 03-15595
CONNIE J. SLONE)
)
Debtor)

DECISION AND ORDER DENYING MOTION TO APPROVE

At Fort Wayne, Indiana on December 15, 2006

This matter is presently before the court on debtors' motion to approve, without notice or hearing, what they characterize as an immaterial modification to their confirmed plan. This modification was apparently filed in an effort to resolve, or compromise, the trustee's motion to dismiss this case which was heard on July 11, 2006. As such, it requires notice to all creditors, without regard to the procedures associated with post-confirmation modification. See, Fed. R. Bankr. P. Rule 9019(a). Furthermore, the docket entry made following the hearing on the trustee's motion to dismiss specifically indicated that the debtors' motion for post-confirmation modification would be considered following notice to creditors. Docket Entry dated July 12, 2006. Consequently, it appears that the determination of whether notice can be dispensed with has already been made.

Debtors' motion to approve a post-confirmation modification without notice or hearing, filed on December 7, 2006, is DENIED, without prejudice to a further motion to approve. See, In re Minton, 2006 WL 533352 (Bankr. N.D. Ind. 2006). The court notes, however, that it is now nearly five months since the debtors were directed to file a motion for post-confirmation modification for consideration following notice to creditors, and the debtors have yet to comply. If they fail to do so within fourteen (14) days of this date – by filing another motion to approve, serving all creditors with

notice of the motion and the opportunity to object thereto, and filing due proof thereof – the trustee’s motion to dismiss may be granted without further notice or hearing.

/s/ Robert E. Grant
Judge, United States Bankruptcy Court