UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF INDIANA
HAMMOND DIVISION AT LAFAYETTE

IN THE MATTER OF:	)	
	)	
RONALD L. ALBRECHT, JR.	)	CASE NO. 06-40371
NANCY C. ALBRECHT	)	
	)	
Debtors	)	

DECISION AND ORDER DENYING CONFIRMATION

At Fort Wayne, Indiana, on May 4, 2007.

On March 14, 2007, the court held a hearing with regard to confirmation of the debtors' proposed chapter 13 plan and the trustee's objections thereto. At that time the court was advised that the issues had been resolved through a material modification which had been filed the previous day. The court indicated that it would consider approving that modification following twenty (20) days notice to creditors, which debtors were responsible for providing in accordance with the court's local rules. An order to this effect was issued on March 15, 2007.

The debtors did not properly serve creditors with notice of the material modification and, on April 11, 2007, the court issued an order to amend. This order explained the deficiency in the debtors' notice to creditors and directed that an amended notice be prepared and served upon creditors within fourteen (14) days. Rather than complying with the court's order debtors' counsel filed a response to the court's order. The response indicated that further changes to the plan the court had originally considered were required and that an amended material modification was being filed on that same date.

Based upon the debtors' filing several things are clear. Debtors' counsel has not complied with the court's order of April 11, 2007, which directed the preparation and service of an amended notice to creditors concerning the modification filed on March 13, 2007. Secondly, it is clear that

the debtors no longer want the court to consider confirming the plan as it existed at the time the court last took up the issue of confirmation. Instead, the debtors want to change that plan in ways that adversely affect creditors. Finally, at the present time, there is no mechanism to consider approval of the amended material modification. Debtors' counsel may have served a notice of that modification upon creditors, but that notice was not authorized by the local rules of this court, see, N.D.Ind.L.B.R. B-2002-2, or by any order of the court, and the debtors have not requested such an order. See, N.D. Ind. L.B.R. B-2002-2(e). Although the court's order of March 15 did, pursuant to local rule B-2002-2(e), authorize a notice and opportunity to object procedure with regard to the modification filed on March 13, that authorization applied only to the modification of March 13 and does not authorize a notice and opportunity to object procedure with regard to any other pre-confirmation modification, including the amended modification of April 25, 2007.[1] Since the notice of the amended modification was not authorized by the Federal Rules of Bankruptcy Procedure, the court's local rules or an order from the court, it is ineffective and can be completely disregarded, not only by the court but also by the trustee and creditors. As a result, there is no reason to wait until counsel's unauthorized objection deadline of May 22, 2007 passes in order to address the situation.

Confirmation of the debtors' currently proposed chapter 13 plan is DENIED. Debtors shall file any further plan within fourteen (14) days of this date.

SO ORDERED.

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

[1]Undoubtedly, this is the reason the notice of the amended modification was not accompanied by a copy of the court's order authorizing the procedure, as required by local rule B-2002-2(e). There is no such order.