

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF INDIANA  
HAMMOND DIVISION

IN RE: )  
 )  
LILLIE BRANDFORD, ) CASE NO. 07-23261 JPK  
 ) Chapter 13  
Debtor. )

ORDER SCHEDULING HEARING REGARDING DISMISSAL OF CASE

This chapter 13 case was initiated by a petition filed on November 29, 2007, and the chapter 13 case thus initiated was assigned to the Honorable Kent Lindquist. On November 30, 2007, Judge Lindquist entered an order which noted that the debtor's chapter 13 case filed as case number 02-63138 – assigned to the undersigned – was still pending; this order assigned further matters regarding both case number 02-63138 and 07-23261 to the undersigned.

The record in case number 02-63138 does in fact establish that the case is still pending; that it has not been dismissed; and that the Trustee has not filed a final report in that case evidencing that the debtor has made all payments required under the plan and may be entitled to a discharge. Thus, as noted by Judge Lindquist's November 30, 2007 order, the debtor has filed a chapter 13 case as case number 07-23261 while she is still a debtor in an active Chapter 13 case, case number 02-63138.

Absent the debtor's counsel's citation to some definitive authority, it is the Court's view that the debtor cannot initiate a valid Chapter 13 case while she is still the debtor in a presently-pending Chapter 13 case. The Court also notes that if this observation is correct, any voluntary dismissal of case number 02-63138 will not remedy the problem, as the debtor's ability to initiate a case under Chapter 13 in case number 07-23261 will be judged as of the date of the filing of the petition in that case.

IT IS ORDERED that a hearing will be held concerning the circumstances outlined above on **January 14, 2008** at **2:00 P.M.**, and to determine whether the debtor's Chapter 13 petition in

case number 07-23261 should be dismissed.

Dated at Hammond, Indiana on December 17, 2007.

/s/ J. Philip Klingeberger  
J. Philip Klingeberger, Judge  
United States Bankruptcy Court

Distribution:  
Debtor, Attorney for Debtor  
Trustee, US Trustee