

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF INDIANA
HAMMOND DIVISION

IN RE:)
)
SHIRLEY MCCRANEY,) CASE NO. 07-23199 JPK
) Chapter 13
Debtor.)

ORDER CONCERNING MOTION TO SHORTEN NOTICE/
NOTICE OF MOTION AND OPPORTUNITY TO OBJECT

On March 4, 2008, the debtor, by counsel, filed a Motion to Void Lien with respect to an alleged judicial lien held by Discover Bank, c/o Novus Services, Inc. Also on March 4, 2008, the debtor filed a Notice of Motion and Opportunity to Object with respect to this motion (docketed as record entry #30), which states that the notice has been served upon the judicial lienholder on March 4, 2008, and states a deadline for objection to the motion of March 14, 2008. Finally, on March 4, 2008, the debtor filed a Motion to Shorten Notice with respect to notice to be provided to the judicial lienholder pursuant to N.D.Ind.L.B.R. B-2002-2(a)(5), requesting that the notice period be shortened to 10 days instead of the 20 days otherwise required with respect to a motion of this nature under N.D.Ind.L.B.R. B-2002-2(b)(2).

The procedure employed by debtor's counsel evidences the pitfalls of assuming that the Court will shorten a notice period in advance of the Court's entering an order which does so. While in certain cases it may be appropriate to shorten the notice periods provided by Rule B-2002-2(b), the notice periods will be shortened only upon a showing of a relatively compelling reason to do so. It must be borne in mind that pursuant to Rule B-2002-2(b), "the time within which objections may be filed shall be measured from the date notice of the opportunity to object is mailed". This means that any deadline for response established by a notice must take into account the fact that the deadline necessarily includes the period of time required for delivery of notice and accompanying documents to the party receiving notice, a task usually performed by mail. In this case, the notice was appropriately served upon the lienholder by

means of service upon its registered agent, a necessary form of service in order for the Court to acquire personal jurisdiction over the lienholder. The resident agent is a "professional" registered agent, and delivery of the notice to the registered agent by the United States Postal Service does not instantaneously cause notice to be received by the lienholder itself. The avoidance of a judicial lien has potentially serious consequences with respect to a creditor's interests in a debtor's bankruptcy case, a fact evidenced by Rule B-2002-2(b)(2)'s requirement that 20 days notice is required for a motion to avoid judicial lien. As to any circumstances which might justify the shortening of notice, the motion by which that relief is requested states simply that "the debtor is awaiting confirmation and prior to needs to resolve the voidance of liens". This statement fails to establish cause for the shortening of notice, particularly in light of the fact that the initial confirmation hearing regarding any plan filed in this case was held on February 21, 2008; that an amended plan was filed on February 5, 2008 which had yet to be reviewed by the Chapter 13 Trustee at the confirmation hearing; and that the objection deadline for the amended plan doesn't even expire until March 6, 2008. A status conference on confirmation has been set has been set for March 17, 2008, and the Court perceives no immediacy as to the alleged need to have avoided judicial liens by that date.

IT IS ORDERED that the Motion to Shorten Notice is denied.

IT IS FURTHER ORDERED that the Notice of Motion and Opportunity to Object filed on March 4, 2008 as docket record entry #30 is ineffective for any purpose: if the debtor wishes to place the Motion to Void Lien (record entry #29) before the Court, notice pursuant to the requirements of Rule B-2002-2(a)(5) must be initiated again, this time with 20 days notice.

Dated at Hammond, Indiana on March 11, 2008.

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

Distribution:
Debtor, Attorney for Debtor, Trustee, US Trustee