

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

IN THE MATTER OF:)
)
WAYNE LOUIS STEELE) CASE NO. 04-40221
TINA MARIE STEELE)
)
Debtors)

DECISION

At Fort Wayne, Indiana, on July 15, 2008.

Debtors filed a petition for relief under chapter 13 on March 1, 2004. Their proposed plan was confirmed on May 18 of that year. On April 4, 2008, the chapter 13 trustee filed a motion indicating that the debtors had completed all of the payments required by their confirmed plan and asked that a discharge be entered. See, 11 U.S.C. § 1328(a).¹ The trustee's motion was the subject of a hearing held on notice to all creditors and parties in interest, giving them an opportunity to object to the issuance of a discharge. There were no objections, the motion was granted, and the debtors were issued a discharge on May 12, 2008. On June 19, 2008, the debtors filed a motion asking the court to modify their confirmed plan. In accordance with the local rules of this court, see, N.D.Ind. L.B.R. B-2002-2(a), they served a notice of this motion and the opportunity to object thereto upon all creditors and parties in interest. The chapter 13 trustee has objected to the debtors' motion arguing that it is too late to modify their plan. The issues raised by the debtors' motion and the trustee's objection thereto are presently before the court for a decision.

In most instances the court would schedule a motion and objection such as the one before it for some type of hearing, be it a trial, a scheduling conference, or simply to receive arguments.

¹This case is governed by the law prior to the effective date of the BAPCPA reforms which, among other things, imposed additional requirements for a chapter 13 discharge.

In this instance, however, the issues are so clearly defined and the governing law so explicit that a hearing would serve no purpose. Accordingly, the court is able to rule upon the issues raised by the debtors' motion and the trustee's objection without the need for further proceedings.

Although a plan may be modified after it has been confirmed, § 1329(a) sets a deadline by which this must be done. The modification must be made "before the completion of payments under [the] plan . . ." 11 U.S.C. § 1328(a). This case does not present a situation in which one can quibble about precisely when a debtor's payments are completed. The fact that the court has issued a discharge, following a hearing on notice to all creditors and parties in interest, puts the issue beyond debate. Once a discharge has been issued it is too late to modify a confirmed plan. See, 11 U.S.C. §§ 1328, 1329(a) The trustee's objection is sustained and the debtors' motion will be denied. An appropriate order will be entered.

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