

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF INDIANA  
HAMMOND DIVISION

IN RE: )  
)  
PATRICIA MC GHEE, ) CASE NO. 07-22248 JPK  
) Chapter 13  
Debtor. )

ORDER REGARDING MOTION FOR SUBSTITUTION OF COLLATERAL  
OR AUTHORITY TO USE CASH COLLATERAL ("MOTION")

The Motion, filed on November 5, 2008, seeks to utilize casualty insurance proceeds arising from a collision involving a motor vehicle in which Triad Financial holds a security interest. The Motion requests that the debtor be authorized to use those proceeds to purchase a replacement vehicle and to place the security interest of Triad Financial on the certificate of title of that vehicle. A form of "drop dead" notice in the nature of that addressed by N.D.Ind.L.B.R. B-2002-2 was utilized.

First, the Motion essentially requests use of cash collateral, as defined by 11 U.S.C. § 363(a), in the manner provided for by 11 U.S.C. § 363(c)(2) and requests that a form of adequate protection be allowed in the nature of that described in 11 U.S.C. § 361(2). No provision of any rule, including N.D.Ind.L.B.R. B-2002-2, authorizes the use of a "drop dead" procedure to obtain the forms of relief requested by the Motion.

No certificate of service has been separately provided with respect to the Motion itself. The certificate of service with respect to the Notice of Motion and Opportunity to Object – which we have seen is totally ineffective – fails entirely to conform to the requirements of N.D.Ind.L.B.R. B-9013-4(a): there is no statement of any address at which service was supposedly made.

IT IS ORDERED that the Notice of Motion and Opportunity to Object is ineffective for any purpose.

IT IS FURTHER ORDERED that the Motion itself will be denied unless a certificate of

service in the form required by applicable law is filed within 10 days of the date of entry of this order establishing that proper service of the Motion was made upon necessary parties. If such a certificate is filed, the court will schedule the Motion for a hearing.

Dated at Hammond, Indiana on December 11, 2008.

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

Distribution:  
Debtor, Attorney for Debtor  
Trustee, US Trustee