

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF INDIANA  
HAMMOND DIVISION

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

ORDER DENYING MOTION

On November 5, 2008, the debtor, by counsel, filed a Motion for Substitution of Collateral or Authority to Use Cash Collateral. On December 11, 2008, the court entered an order with respect to the foregoing motion. This order, in absolutely clear terms, stated that there was no provision in any rule or law for the use of a “drop dead” notice with respect to a motion of this nature. That order also noted that no certificate of service had been filed which established service of the motion upon the necessary parties.

In response to the December 11, 2008 order, counsel for the debtor again filed a form of “drop dead” notice, in absolute contravention of the court’s December 11, 2008 order. This form of notice states that a copy of the motion accompanied the notice, and a certificate of service was attached to the notice itself. However, what the court’s December 11, 2008 order clearly contemplated was that a certificate of service be filed which established service of the motion itself, separately from any other document, upon the parties necessary to the court’s determination of the motion.

The debtor’s counsel has failed to comply with the December 11, 2008 order, and the motion is therefore denied for that reason.

The court also notes the following. The motion essentially requests use of cash collateral in the manner provided by 11 U.S.C. § 363(c)(2). A motion of this nature initiates a contested matter pursuant to Fed.R.Bankr.P. 9014, which invokes the service of process rules of Fed.R.Bankr.P. 7004 by operation of Rule 9014(b). The entities apparently deemed by the

debtor to be necessary for determination of the motion are Triad Financial and an insurance company not mentioned in the motion itself. These entities must be served in strict compliance with Fed.R.Bankr.P. 7004(b)(3), which has not been accomplished here.

IT IS ORDERED that the foregoing Motion is denied, without prejudice to the filing of a subsequent motion which seeks relief in accordance with applicable law, which motion is served upon Triad Financial and whatever insurance company may be involved in this matter, in strict compliance with Fed.R.Bankr.P. 7004(b)(3), i.e., by specifically directing service "to the attention of an officer, a managing or general agent, or to any other agent authorized by appointment or by law to receive service of process".

Dated at Hammond, Indiana on January 9, 2009.

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

Distribution:  
Debtor, Attorney for Debtor  
Trustee, US Trustee