

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

IN THE MATTER OF:)
)
JEFFREY RICHARD GRUPP) CASE NO. 08-40940
)
Debtor)

DECISION AND ORDER

At Fort Wayne, Indiana, on April 6, 2009.

There is a split of authority on how a chapter 13 debtor can deal with a lien on property which has no value to support it. Some say that the lien can be stripped through confirmation of the chapter 13 plan.¹ See e.g., In re King, 290 B.R. 641 (Bankr. C.D. Ill. 2003); In re Hill, 304 B.R. 800, 805 (Bankr. S.D. Ohio 2003); In re Wolf, 162 B.R. 98, 106 (Bankr. D. N.J. 1993); In re Beard, 112 B.R. 951, 955-56 (Bankr. N.D. Ind. 1990). See also, In re Black, 2002 WL 31719957 (Bankr. N.D. Ind.). Others say an adversary proceeding is required. See e.g., In re Pierce, 282 B.R. 26, 28 (Bankr. D. Utah 2002); In re Kressler, 252 B.R. 632, 634-35 (Bankr. E.D. Pa. 2000). One way it cannot be done, however, is through a motion to avoid the lien. See, In re Indvik, 118 B.R. 993, 1006-07 (Bankr. N.D. Iowa 1990). Debtor's motion to avoid the lien held by CitiResidential Lending, Inc. is therefore DENIED.²

SO ORDERED.

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

¹The court notes that trial of the issues raised by confirmation and the objection filed by CitiResidential is scheduled for May 12, 2009.

²Local bankruptcy rule B-2002-2(a)(5) regarding motions to avoid liens on exempt property applies only to motions based on § 522(f) of the Bankruptcy Code.