

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF INDIANA  
HAMMOND DIVISION

IN RE: )  
 )  
GAIL MARIE PODOLSKI, ) CASE NO. 10-24068 JPK  
 ) Chapter 13  
Debtor. )

ORDER UNDER FED.R.BANKR.P. 3002.1(h)

On June 1, 2012, the debtor filed a motion pursuant to Fed.R.Bankr.P. 3002.1(h) to determine whether the debtor has cured the default and paid all required post-petition amounts with respect to a mortgage indebtedness owed to First Financial Bank. Said creditor had not responded pursuant to Fed.R.Bankr.P. 3002.1(g) to the Notice of Final Cure Payment filed/served by the Chapter 13 Trustee pursuant to Fed.R.Bankr.P. 3002.1(f). A hearing on the debtor's motion was held on July 16, 2012; the record establishes that proper notice of the hearing was provided to the creditor.

Fed.R.Bankr.P. 3002.1(f) and Fed.R.Bankr.P. 3002.1(h) make clear that the "default" referenced in those rules is the amount of the pre-petition default/arrearage established for payment by the Trustee, or by the debtor directly, pursuant to the terms of a Chapter 13 plan which elects to provide for a creditor's claim in the manner allowed by 11 U.S.C. § 1322(b)(5). The foregoing rules make clear that the "postpetition amounts" referenced therein concern only the periodic regular payments on the secured obligation, i.e., those payments commonly descriptively designated as "current mortgage payments". The "postpetition amounts" do not encompass any additional charges which may have accrued subsequent to the date of the petition, including default or delinquency charges, deferral charges, attorney's fees, unreimbursed escrow shortages, or other expenses which may be chargeable by the creditor to the debtor under the terms of the contractual arrangements between those parties with respect to the secured obligation. If the secured obligation in question is a debt of the nature of that

excepted from discharge by 11 U.S.C. § 1328(a)(1), the charges which may have accrued post-petition continue to be obligations of the debtor to the extent allowed by applicable non-bankruptcy law which will survive the discharge of the debtor. Any such charges are not within the scope of those to be determined by the court pursuant to Fed.R.Bankr.P. 3002.1(h).

The court finds that the debtor has paid in full the amount required to cure any default on the claim, and has paid all required postpetition amounts, within the scope of those payments as previously designated above.

IT IS ORDERED, pursuant to Fed.R.Bankr.P. 3002.1(h), that the court determines that the debtor has cured the default on the claim and has paid all required postpetition amounts, with respect to the treatment of the above-designated creditor's claim pursuant to 11 U.S.C. § 1322(b)(5).

Dated at Hammond, Indiana on July 26, 2012.

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

Distribution:

Debtor, Attorney for Debtor  
Trustee, US Trustee  
First Financial Bank, 300 High Street, Hamilton, OH 45011