

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF INDIANA  
HAMMOND DIVISION

IN RE: )  
 )  
CHRISTOPHER A. GONZALEZ and ) CASE NO. 11-24867 JPK  
KATHY M. GONZALEZ, ) Chapter 13  
Debtors. )

ORDER FOR HEARING ON MOTION FOR ORDER PROHIBITING OR  
CONDITIONING USE OF PROPERTY AND FOR ADEQUATE PROTECTION ["MOTION"]

The Motion was filed by Centier Bank, by counsel Adam Decker, on February 15, 2013. As evidenced by docket record No. 101, the Motion was accompanied by a form of "drop-dead" notice, in the form of that provided for by N.D.Ind.L.B.R. B-2002-2.

First, the Motion can be read as violating N.D.Ind.L.B.R. B-9013-1(b), in that it requests an order prohibiting the debtors' use of cash collateral, and in addition requests adequate protection. The court will let this transgression slide, however, in that the court does not deem a motion seeking to preclude the use of cash collateral, as an affirmative matter, to state a claim for relief. 11 U.S.C. § 363(c)(2) precludes the use of cash collateral as a matter of law unless the entity having an interest in the cash collateral has consented, or the court has held a hearing at which the use of cash collateral is then authorized by order the court. The court views motions of this nature to be essentially a statement by the creditor that it has not given consent to use of its cash collateral, a statement which then requires the debtor to file a motion with the court if the debtor is to use cash collateral. As a result, the contested matter presented to the court by the Motion is a request for adequate protection only.

We next come to the use of the "drop-dead" notice procedure. There is no provision in applicable law, including Rule B-2002-2(a), which authorizes the use of this procedure with respect to a motion for adequate protection. The use of this procedure when it is not authorized may constitute a violation of Fed.R.Bankr.P. 9011(b).

IT IS ORDERED as follows:

1. A preliminary pretrial conference concerning the motion's request for adequate protection will be held on **March 18, 2013, at 3:00 P.M.**

2. At the foregoing hearing, attorney Adam Decker shall personally appear before the court to show cause, if any he has, why his utilization of the record No. 103 notice does not constitute a violation of Fed.R.Bankr.P. 9011(b).

3. The record No. 103 notice is void.

Dated at Hammond, Indiana on March 8, 2013.

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

Distribution:  
Debtor, Attorney for Debtor  
Trustee, US Trustee  
Attorney Adam Decker