UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF INDIANA
HAMMOND DIVISION

IN RE:	)	
	)	
ROBIN D PORTER,	)	CASE NO. 13-20128 jpk
	)	Chapter 13
Debtor.	)	

ORDER CONCERNING FURTHER
PROCEEDINGS IN RELATION TO PLAN CONFIRMATION

On July 1, 2013, a status conference concerning confirmation of the Chapter 13 plan was held; the debtor appeared by attorney Miguel F. Martinez, and the Chapter 13 Trustee appeared by attorney Amy Godshalk. According to attorney Martinez, an interesting, relatively novel and potentially very difficult issue is presented in this case: creditors who have judicial liens against property of the bankruptcy estate have filed claims solely as unsecured claims. If the claims were paid as filed, the liens, albeit reduced in amount, would remain viable at the conclusion of the plan. If the liens are dealt with as secured claims in the plan, the creditors' prerogative to file claims as they see fit may be violated. 11 U.S.C. § 522(f) provides a mechanism for perhaps at least partially avoiding the judicial liens: the debtor has the right to utilize this provision regardless of a creditor's designation of its claim. At the status conference, the case was left in the status that attorney Martinez would "do the math" required by Section 522(f) and report to the court at the next status conference as to the result. To the extent that a lien or liens cannot be totally avoided under Section 522(f), the issue as to how the debtor will be able to provide for the liens in a manner which allows their satisfaction under the terms of a Chapter 13 plan will then be presented. Without in any manner indicating any decision whatsoever, perhaps legal research would disclose that a creditor who files a claim as unsecured in a circumstance in which the claim is actually secured waives the assertion of the lien subsequent to the completion of a Chapter 13 plan if the debtor satisfies the unsecured claim in the manner required by applicable law and obtains a discharge in the case – perhaps

not. Perhaps creating a special class of the liens to the extent that they are viable after application of Section 522(f) can be provided by the plan without violating 11 U.S.C. § 1322(b)(1), in view of the fact that although designated as unsecured claims, the viable portion of the claims secured by a lien is in fact a different form of obligation than is a general unsecured claim.

All of the foregoing is convoluted and further discussion will be held at the next status conference, to be held on **August 12, 2013, at 1:00 P.M.**

Dated at Hammond, Indiana on July 17, 2013.

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

Distribution:
Debtor, Attorney for Debtor
Trustee, US Trustee