

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF INDIANA
HAMMOND DIVISION

IN RE:)
)
DWAYNE CHARLES NEISWINGER, JR., and) CASE NO. 12-21799 JPK
GINA NEISWINGER,) Chapter 13
Debtors.)

ORDER FOR HEARING CONCERNING MOTION FOR
ORDER AUTHORIZING SALE OF REAL PROPERTY ["MOTION"]

The Motion was filed as Record No. 58 on April 23, 2014. The Motion recites that the debtor/the debtor's bankruptcy estate has a one-third undivided interest in real property as a result of an inheritance from the debtor's deceased mother. The Motion requests that the court authorize sale of the entirety of the real property, free and clear of liens and interests other than the estate.

The only interest over which the court has jurisdiction is the one-third undivided interest of the debtor, and therefore it is only that interest which the court may authorize to be sold free and clear of liens and interests other than the estate. While a Trustee may utilize 11 U.S.C. § 363(h) in relation to a sale involving co-owners other than the debtor, in the court's view an action under that section must be pursued by the Trustee, not by the debtor. Additionally, that section requires the fulfillment of certain requirements which the record at this time does not demonstrate have been fulfilled.

IT IS ORDERED that a hearing on the Motion will be held on **June 16, 2014, at 1:00 P.M.**

Dated at Hammond, Indiana on May 28, 2014.

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

Distribution:
Debtor, Attorney for Debtor
Trustee, US Trustee