

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF INDIANA
HAMMOND DIVISION

IN RE:)
)
JASON S. LOWTHER,) CASE NO. 04-60261 JPK
) Chapter 13
Debtor.)

ORDER REGARDING AFFIDAVIT OF DEFAULT

On October 28, 2005, a two-page document entitled "Affidavit of Default" was filed and docketed as record entry #49. This document relates to an Agreed Order Modifying Stay approved by the Court on February 3, 2005, and seeks to implement the default provisions of that order. The Agreed Order does not specifically provide for service of the Affidavit of Default upon anyone, and rather states that the debtor shall have 14 days from the date of its filing in which to object to the Affidavit of Default [at least that is how the Court construes the 14-day period provided for in paragraph 4 of the February 3, 2005 order]. However, a meaningful period for an objection can only arise if the debtor and his counsel are made aware of the filing of the Affidavit of Default in a manner apart from the automatic electronic transmission of that document to the debtor's counsel. The Court thus deems it necessary that the Affidavit of Default be specially served upon the debtor, the debtor's counsel and the Chapter 13 Trustee, and that the 14-day objection period will only begin upon the service of that document upon those parties.

IT IS ORDERED that the automatic stay of 11 U.S.C. § 362(a) shall remain in effect with respect to Cuna Mutual Mortgage Corporation, and that any automatic lifting of the stay providing for by the Court's order of February 3, 2005 will not be effected until the record establishes that service of a copy of the Affidavit of Default has been made upon the debtor, debtor's counsel and the Chapter 13 Trustee and that 14 days have elapsed from the date of service without objection of record being filed by the debtor.

Dated at Hammond, Indiana on November 30, 2005.

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

Distribution:

Debtor, Attorney for Debtor, Trustee, US Trustee, Attorney for Creditor