

**United States Bankruptcy Court
District of New Mexico**

Document Verification

Case Title: Robert B. Pawley and Francine I. Pawley
Case Number: 04-15395
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Reference Number: 13 - 04-15395 - SA

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Description: Order Denying [45-1] Motion For Relief From Order Confirming the Plan by T.I.E., Inc. .

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 3c 9a fa 65 55 07 43 06 7d b6 06 c1 ca 38 5b 96 d6 4a 0a 7a e0 0e 98 e1 1b 1e a6 d3 55 22 9c bb 52 e2 73
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Filer Information

Submitted By: James E Burke

Comments: Order Denying Motion for Relief from Order (doc 45)

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UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF NEW MEXICO

In re:
Robert B. Pawley and
Francine I. Pawley,
Debtors.

No. 13 - 04-15395 - SA

ORDER DENYING MOTION FOR RELIEF FROM ORDER (doc 45)

This matter came before the Court for hearing on creditor T.I.E., Inc.'s ("Creditor") Motion for Relief from Order (doc 45) and the Debtors' response thereto (doc 46). Creditor seeks relief from the Order of Confirmation in this case under Fed.R.Civ.P. 60(b)(1) and/or (6)¹, incorporated by Fed.R.Bankr.P. 9024. This is a core proceeding. 28 U.S.C. § 157(b)(2)(L).

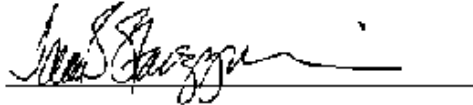
Creditor's Motion must be denied. Bankruptcy Code Section 1330(a)² is the exclusive way to revoke an order of confirmation for a Chapter 13 plan, and one element required is fraud. Mason v. Young (In re Young), 237 B.R. 791, 803 (10th Cir. B.A.P. 1999); Branchburg Plaza Assoc., L.P. v. Fesq (In re Fesq), 153

¹Rule 60(b) provides, in relevant part:
On motion and upon such terms as are just, the court may relieve a party or a party's legal representative from a final judgment, order, or proceeding for the following reasons: (1) mistake, inadvertence, surprise, or excusable neglect; ... or (6) any other reason justifying relief from the operation of the judgment.

²Section 1330(a) provides:
On request of a party in interest at any time within 180 days of the entry of an order of confirmation under section 1325 of this title, and after notice and a hearing, the court may revoke such order if such order was procured by fraud.

F.3d 113, 120 (3rd Cir. 1998). Creditor does not allege fraud in this case, so the motion will be denied.

IT IS ORDERED that T.I.E., Inc.'s Motion for Relief from Order (doc 45) is denied.



Honorable James S. Starzynski
United States Bankruptcy Judge

I hereby certify that on May 25, 2006, a true and correct copy of the foregoing was electronically transmitted, faxed, delivered, or mailed to the listed counsel and/or parties.

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