

**UNITED STATES BANKRUPTCY COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA
_____ DIVISION**

IN RE:)	
)	
XXXXX XXXX XXXXXXXX,)	Bankruptcy Case No. XX-XXXXX
)	
DEBTOR.)	Chapter 13
)	
_____)	
)	
XXXXXXXXXX XXXXXXXXX,)	Adversary Proceeding No. XX-XXXX
)	
PLAINTIFF,)	
)	
vs.)	
)	
XXXXXXXXXXXXXXXXXXXXX,)	
)	
DEFENDANT.)	
_____)	

DEFAULT JUDGMENT

DEFAULT HAS BEEN ENTERED against the Defendant by the Clerk of Court pursuant to Federal Rule of Bankruptcy Procedure 7055(a), and this matter came before the Court upon Plaintiffs' Motion for entry of a default judgment against Defendant pursuant to Federal Rule of Bankruptcy Procedure 7055(b). Having considered the motion and other matters of record in this case, the Court finds and concludes:

1. This Court has jurisdiction over the above captioned adversary proceeding pursuant to 28 U.S.C. §§ 151, 157, and 1334, and this proceeding is a core proceeding pursuant to 28 U.S.C. §157(K) in which this Court may enter a final judgment.

2. Plaintiff filed a voluntary petition under Chapter 13 of the Bankruptcy Code commencing the above captioned bankruptcy case (“Bankruptcy Case”) on _____ (“Petition Date”).
3. Plaintiff filed a Complaint in this adversary proceeding to determine the validity and extent of a lien on certain real property owned by Plaintiff described as follows (collectively the “Real Property”): _____.
4. Defendant was duly served with the Summons and Complaint in this adversary proceeding and Defendant failed to answer the Complaint or otherwise defend this adversary proceeding. Default has been duly entered against Defendant and Plaintiff is entitled to default judgment.
5. The Real Property is encumbered by a first priority Deed of Trust on the Real Property for the benefit of _____ recorded on _____ at Book _____, Page _____, of the _____ County Registry, which secured indebtedness in the amount of _____ as of the Petition Date (“First Deed of Trust”).
6. The Real Property is further encumbered by a second priority Deed of Trust on the Real Property for the benefit of Defendant recorded on _____ at Book _____, Page _____, of the _____ County Registry, which secured indebtedness in the amount of _____ as of the Petition Date (“Second Deed of Trust”).
7. Based on the value of the Real Property stated in Plaintiff’s Schedules and in the Complaint, the value of the Real Property as of the Petition Date was not greater than \$_____.

The Court finds that there is sufficient cause to grant the relief requested in the Complaint since the Real Property had insufficient value as of the Petition Date to secure any portion of the Second Deed of Trust; therefore, it is

ORDERED that the rights of Defendant under the Second Deed of Trust are hereby modified pursuant to 11 U.S.C. §§ 506 and 1327 such that any claim held by Defendant, or its successors or assigns, in the Bankruptcy Case which is solely secured by the Second Deed of Trust shall be classified as an unsecured claim; and, it is further

ORDERED that upon the completion by Plaintiff of all payments under Plaintiff’s Chapter 13 plan and the entry of an Order of Discharge of Plaintiff in the Bankruptcy Case pursuant to 11 U.S.C. § 1328, the Second Deed of Trust shall no longer constitute a lien or encumbrance against the Real Property and Defendant, or its successors or assigns, shall promptly record a satisfaction of the Second Deed of Trust in the office of the Register of Deeds of _____ County, North Carolina; in the event Defendant, or its successors or assigns, shall fail to timely record a satisfaction of the Second Deed of Trust following the completion by Plaintiff of all payments under Plaintiff’s Chapter 13 plan and the entry of an Order of Discharge

of Plaintiff in the Bankruptcy Case, Plaintiff may record a certified copy of this Default Judgment together with a certified copy of the Order of Discharge of Plaintiff entered in the Bankruptcy Case in the office of the Register of Deeds of _____ County, North Carolina and such recordation shall constitute satisfaction of the Second Deed of Trust in full.

END OF DOCUMENT