

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

IN RE:)	
)	
XXXXXX XXXX XXXXXXXX,)	CASE NO. XX-XXXXXX
)	
Debtor.)	
)	

ORDER AVOIDING JUDICIAL LIEN OF _____

This matter is before the Court on a motion to avoid a judicial lien held by _____ (“Respondent”) under 11 U.S.C. § 522(f) and Federal Rules of Bankruptcy Procedure 4003(d) and 9014. Having considered the motion and other matters of record in this case, the Court finds and concludes as follows:

1. All parties in interest have received due notice of the motion, and no party has timely objected to the relief requested in the motion.

2. Respondent holds a judicial lien that impairs an exemption to which the Debtor would have been entitled under 11 U.S.C. § 522(b) with respect to the following property:
_____ (“Property”).

3. The Property is encumbered by the following liens in order of priority:

- a. (*Deed of trust/judicial lien*) held by _____, which secures indebtedness with an unpaid balance of \$_____ as of the petition date;
- b. (*Deed of trust/judicial lien*) held by _____, which secures indebtedness with an unpaid balance of \$_____ as of the petition date;

- c. (*Deed of trust/judicial lien*) held by _____, which secures indebtedness with an unpaid balance of \$ _____ as of the petition date; and a
- d. Judicial lien held by Respondent (“Respondent’s Judicial Lien”) in the amount of \$ _____, including attorney’s fees, costs, and interest of \$ _____ as of the petition date, pursuant to a judgment or transcript of judgment that was recorded in the office of the Clerk of Superior Court of _____ County on _____ and is identified as _____ (identify judgment by Book/Page or other identifying reference) _____.

4. Under _____ (*basis for exemption- e.g., 11 U.S.C. § 522(b) and N.C.G.S. § 1C-1601(a) (1-9)*), the Debtor would be entitled to claim an exemption of \$ _____ in the Property if there were no liens on the Property.

5. As of the petition date, the total value of the Property was \$ _____, and the value that the Debtor’s interest in the Property would have had in the absence of any liens was \$ _____.

6. The sum of Respondent’s Judicial Lien, all other liens on the Property, and the amount of the exemption that the Debtor would be entitled to claim if there were no liens on the Property exceeds the value that the Debtor’s interest in the Property would have had in the absence of any liens by an amount equal to or greater than the amount of Respondent’s Judicial Lien. Therefore, Respondent’s Judicial Lien fully impairs the exemption and may be completely avoided under 11 U.S.C. § 522(f)(1).

OR

6. The sum of Respondent’s Judicial Lien, all other liens on the Property, and the amount of the exemption that the Debtor would be entitled to claim if there were no liens on the Property exceeds the value that the Debtor’s interest in the Property would have had in the absence of any liens, but the extent of impairment is less than the amount of Respondent’s Judicial Lien. Under 11 U.S.C. § 522(f)(1), Respondent’s Judicial Lien may only be avoided to the extent of \$ _____ (Amount from Line E in Form Motion), and the remaining balance of Respondent’s Judicial Lien continues in effect.

Therefore, it is

ORDERED that Respondent’s Judicial Lien is hereby AVOIDED AND CANCELLED as to the Property; it is further

ORDERED that Respondent’s Judicial Lien has no further force or effect as to the Property unless the case is dismissed and Respondent’s Judicial Lien is reinstated under 11 U.S.C. § 349(b)(1); it is further

ORDERED that this this order may not be recorded until such time as the Debtor has received a discharge or a final decree has been entered, but, absent further order of the Court, in no event may this order be recorded if the case is dismissed; and, it is further

ORDERED that the Clerk of Superior Court for _____ County, North Carolina, is authorized to record in the office of said clerk a copy of this order and the order of discharge or final decree upon being presented with certified copies thereof.

OR

ORDERED that Respondent's Judicial Lien is hereby AVOIDED IN PART, to the extent that \$_____ of Respondent's Judicial Lien has no further force and effect against the Property unless the case is dismissed and Respondent's Judicial Lien is reinstated under 11 U.S.C. § 349(b)(1); it is further

ORDERED that the balance of Respondent's Judicial Lien remains as a lien against the Property to the extent enforceable under state law; it is further

ORDERED that this order may not be recorded until such time as the Debtor has received a discharge or a final decree has been entered, but, absent further order of the Court, in no event may this order be recorded if the case is dismissed; and, it is further

ORDERED that the Clerk of Superior Court for _____ County, North Carolina, is authorized to record in the office of said clerk a copy of this order and the order of discharge or final decree upon being presented with certified copies thereof.

END OF DOCUMENT