

NOT INTENDED FOR PUBLICATION
UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

IN RE:) CHAPTER 7
)
TODD RANDALL HICKMAN) CASE NO. 04-93236-MHM
)
Debtor)

)
TODD RANDALL HICKMAN)
) **CONTESTED MATTER**
Movant)
v.)
)
GEORGIA DEPARTMENT)
OF REVENUE)
)
Respondent)

ORDER DENYING MOTION TO AVOID TAX LIEN

On May 28, 2004, Debtor filed a motion to avoid lien pursuant to 11 U.S.C. §522(f) and Bankruptcy Rule 4003(d). Respondent failed to file a response. Debtor seeks to avoid a tax lien held by the Georgia Department of Revenue ("GDR").

Pursuant to 11 U.S.C. §522(f), if the lien impairs an exemption to which Debtor would have been entitled, Debtor may avoid either of two types of liens: (1) a judicial lien; or (2) a nonpossessory, nonpurchase-money security interest. Pursuant to 11 U.S.C. §101(36), "judicial lien" means "lien obtained by judgment, levy, sequestration, or other legal or equitable process or proceeding[.]" A tax lien is a statutory lien within the meaning of §101(53). *See In re Miller*, 98 B.R. 110 (Bankr. N.D. Ga. 1989). *See also*, O.C.G.A. 48-3-1. 26 U.S.C. §§ 6321 and 6322. Section 101(51) defines "security interest" to mean "lien

created by an agreement[.]" Respondent's tax lien was not obtained by agreement with Debtor. Therefore, the tax lien which Debtor herein seeks to avoid is not a lien avoidable pursuant to 11 U.S.C. §522(f). Accordingly, it is hereby

ORDERED that Debtor's motion to avoid lien is DENIED.

IT IS SO ORDERED, this the ____ day of July, 2004.

MARGARET H. MURPHY
UNITED STATES BANKRUPTCY JUDGE