



IT IS ORDERED as set forth below:

Date: February 01, 2011

A handwritten signature in black ink, reading "Paul W. Bonapfel".

**Paul W. Bonapfel
U.S. Bankruptcy Court Judge**

**UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF GEORGIA
ROME DIVISION**

IN THE MATTER OF:	:	CASE NUMBER: 01-42676-PWB
	:	
FRANCENE McCLOUD,	:	CHAPTER 7
	:	
	:	JUDGE BONAPFEL
Debtor.	:	

ORDER

Francene McCloud filed this Chapter 7 bankruptcy case on December 5, 2001. She received a discharge on April 20, 2002. On November 18, 2010, she filed a Motion to Reopen the case. [Docket No. 5]. The Court scheduled a hearing on the Motion for January 12, 2011. Due to inclement weather, the hearing was rescheduled for, and held on, January 21, 2011.

The Debtor's Motion is premised on her allegation that her home mortgage lender has violated the discharge injunction of 11 U.S.C. § 524(a) by proceeding to exercise its rights as the holder of a deed to secure debt on real property that she owns. At the hearing, she identified only two actions that she contends violated the discharge injunction.

The first was the lender's sending of a letter, addressed to "Occupant," that provides

information about an imminent foreclosure and procedures for an occupant to apply to continue to live in the property. It does not seek to collect a debt. [Docket No. 5, Pages 39-40].

The other action she identified is the sending of a letter on August 24, 2010, addressed to her [Docket No. 5, Pages 53-54] that advises her that she is not eligible for the Home Affordable Modification Program because her personal liability for the debt was discharged. Nothing in that letter indicates that anyone is attempting to collect the debt from her as a personal liability and, indeed, the letter acknowledges that her personal liability on the debt was discharged.

The lien of a creditor on a debtor's property in a chapter 7 case is not affected by the discharge of the Debtor's personal liability. *E.g., Long v. Bullard*, 117 U.S. 617, 6 S. Ct. 917, 29 L. Ed. 1004 (1986); *Universal American Mortgage Company v. Bateman (In re Bateman)*, 331 F. 3d 821 (11th Cir. 2003). Contrary to the Debtor's assertions, therefore, her Chapter 7 discharge did not eliminate or affect in any way any interest that the lender had in the property under the deed to secure debt, including specifically the right to foreclose.

The Debtor also asserts that her bankruptcy case eliminated the note that is secured by the deed to secure debt, but this contention is not correct. A chapter 7 discharge does not eliminate a debt; rather, it only extinguishes the Debtor's personal liability. *See* 11 U.S.C. § 524(a). The note remained valid and enforceable to the extent of any collateral that secured it. Who holds the note and who is or was entitled to enforce it or to exercise foreclosure rights under the deed to secure debt that secures it are questions for other courts to resolve.

The Debtor has shown no colorable basis for the grant of any relief in her bankruptcy case if the Court reopened it. Consequently, for reasons stated herein, and for further reasons announced as part of the Court's ruling on the record at the hearing, her Motion to Reopen must be, and it hereby is, DENIED.

END OF DOCUMENT

DISTRIBUTION LIST

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