

JUL - 1 2009

UNITED STATES BANKRUPTCY COURT
 NORTHERN DISTRICT OF GEORGIA
 ATLANTA DIVISION

IN RE:	:	CASE NO. 08-85401 - JB
	:	
SHAWNA BROOKS,	:	
	:	
Debtor.	:	
_____	:	CHAPTER 13
	:	
SHAWNA BROOKS,	:	
	:	
Movant,	:	CONTESTED MATTER
	:	
v.	:	
	:	
ERIC K. FREMPONG,	:	
	:	
Respondent.	:	

ORDER

This case came before the Court for a hearing on April 28, 2009 on debtor's objection to the priority claim of creditor Eric K. Frempong (Docket No. 43). Anthony Maselli appeared for the debtor, and Mr. Frempong appeared *pro se*. After carefully examining the pleadings and hearing argument from counsel and Mr. Frempong, the Court sustained debtor's objection. Mr. Frempong's judgment claim is not allowed as a priority claim.

Mr. Frempong filed a proof of claim for \$10,324.96 based on a January 19, 2007 judgment entered in his favor against the debtor by the Magistrate Court of Dekalb County.¹ In the claim, Mr. Frempong checked the box indicating that his claim was a

¹ The Court previously entered an order on February 27, 2009 granting debtor's motion to avoid Mr. Frempong's lien on debtor's exempt property. Mr. Frempong filed a *pro se* motion to reconsider the Court's order, and the Court entered an order denying the motion to reconsider on April 9, 2009. On May 1, 2009 Mr. Frempong filed an adversary proceeding objecting to the dischargeability of his claim (A.P. No. 09-09027 - jb).

priority wage or commission claim earned within 180 days of the bankruptcy filing or the cessation of debtor's business. Mr. Frempong's state court judgment is based on debtor's failure to pay sales commissions earned in 2006. Section 507(a)(4) of the Bankruptcy Code allows priority claims for commissions earned within 180 days before the date of the filing of the petition, or the date of the cessation of the debtor's business, whichever occurs first. Mr. Frempong stated at the hearing that debtor's business ceased operations on October 1, 2008, and debtor filed this case on December 10, 2008. Accordingly, as Mr. Frempong's commissions were earned in 2006, more than 180 days before the cessation of debtor's business, debtor's objection to the claim as a priority claim is sustained. The claim is allowed as an unsecured claim.

IT IS SO ORDERED, this 30th day of June, 2009.



JOYCE BIHARY
UNITED STATES BANKRUPTCY JUDGE

Distribution List

Shawna Brooks

2139 Cumberland Creek Trail
Marietta, GA 30064

Marsha D. King

King & King, P.C.
215 Pryor Street, SW
Atlanta, GA 30303-3748

Eric K. Frempong

855 Pine Ridge Bend
Stone Mountain, GA 30087

Mary Ida Townson

Chapter 13 Trustee
Suite 2700 Equitable Bldg.
100 Peachtree Street, NW
Atlanta, GA 30303