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OCT 25 2006

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION

IN RE:	:	CASE NO. 06-65216
	:	
MARY PARKER,	:	CHAPTER 7
	:	
Debtor.	:	JUDGE BIHARY

**ORDER**

This Chapter 7 case came before the Court on October 11, 2006 on a pleading filed by debtor styled as "Debtor's Opposition to Trustee's Employment of Real Estate Agent" filed September 27, 2006 (Docket #28). Debtor seeks reconsideration of the Court's September 7, 2006 Order granting the Chapter 7 Trustee's application to employ a real estate agent to sell real property located at 219 Little Street, S.E., Atlanta, GA 30315 ("the Property"). This is a core proceeding under 28 U.S.C. § 157(b)(2)(A) and (O).

The Chapter 7 Trustee Martha Miller, the debtor Mary Parker, and the debtor's counsel Wendell S. Henry were present. Counsel for the debtor argued that sale of the Property would leave the debtor without a residence and would be unconscionable. The Property is unencumbered and valued at \$125,000.00 on debtor's Schedule A. Debtor's schedules list three unsecured consumer debts totaling \$24,500.00. Debtor's only other asset of substantial value is an automobile valued at \$6,500.00 on debtor's Schedule B. Debtor's sources of income are social security disability payments of \$783.00 per month and some assistance from her daughter. Debtor's counsel requested that debtor's home not be sold to pay creditors, but counsel but did not offer any case law supporting the request, nor did counsel propose any alternative arrangement to pay the creditors.

The Bankruptcy Code provides that the trustee "shall collect and reduce to money the property of the estate for which such trustee serves." 11 U.S.C. § 704 (2006). That money is then distributed to creditors and, if any money is remaining after all creditors have been paid, the remaining money is paid to the debtor. 11 U.S.C. § 726 (2006). The Property is property of the estate pursuant to 11 U.S.C. § 541(a)(1) and must be sold to pay creditors. The Court has no authority to allow the debtor to keep the unencumbered Property valued at approximately \$125,000.00 while unsecured creditors remain unpaid.

Accordingly, debtor's objection to the employment of a real estate agent is hereby overruled. However, debtor has thirty (30) days to explore any alternatives that may allow her to keep the Property and still pay creditors before the Trustee takes any action to liquidate the Property.

IT IS SO ORDERED, this 23<sup>rd</sup> day of October, 2006.

  
JOYCE BIHARY  
UNITED STATES BANKRUPTCY JUDGE

## DISTRIBUTION LIST

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