

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

ENTERED ON DOCKET
SEP 10 2009

IN RE:	:	CASE NO. A09-65834-REB
	:	
JACKSON MOWERY,	:	
	:	
Debtor.	:	
	:	
	:	CONTESTED MATTER
	:	
JACKSON MOWERY,	:	
	:	
Movant,	:	
	:	
v.	:	CHAPTER 13
	:	
COLUMBUS BANK & TRUST COMPANY,	:	
	:	
Respondent.	:	JUDGE BRIZENDINE
	:	

**ORDER GRANTING DEBTOR'S MOTION TO DETERMINE
SECURED STATUS OF CLAIM OF COLUMBUS BANK & TRUST COMPANY
AND AVOIDING LIEN EFFECTIVE UPON DISCHARGE**

Debtor-Movant named above commenced this contested matter by filing on June 23, 2009 a motion pursuant to 11 U.S.C. § 506(a) and (d) and Fed.R.Bankr.P. 3012 and 9014, as supplemented on August 24, 2009, to determine the secured status of the claim of Respondent Columbus Bank & Trust Company. Respondent asserts a security interest and/or lien in that certain residential real property of Debtor located at 3429 Parkview Place, Hapeville, Georgia 30354, based on a deed to secure debt filed on March 22, 2005 and recorded in Deed Book 39649, at Page No. 283, in the official records of the Clerk of the Superior Court of Fulton County, Georgia. This matter came on for hearing on July 16, 2009 and no opposition was announced at the call of the calendar. Upon review of the record, it is

ORDERED that Debtor-Movant's motion as supplemented be, and the same hereby is, **granted**;

and, it is

FURTHER ORDERED in accordance with 11 U.S.C. § 506(a) that Respondent's claim shall be treated as a general nonpriority unsecured claim in this Chapter 13 case; and, it is

FURTHER ORDERED that the security interest and/or lien of Respondent, which encumbers that certain real property of Debtor as described above, shall be deemed **void**, and shall be **extinguished automatically** without further court order, pursuant to 11 U.S.C. § 506(d) upon entry of the Debtor's discharge in this Chapter 13 case; **provided, however**, that the Court reserves jurisdiction to consider, if necessary, the avoidance of Respondent's security interest and/or lien prior to the entry of Debtor's discharge and further, if necessary, the entitlement to any excess proceeds above the amount needed to satisfy the claim of any security interest and/or lien senior to Respondent's lien that may be realized from the sale or foreclosure of the real property in question; and it is

FURTHER ORDERED that in the event of dismissal of this case or conversion of this case to a case under Chapter 7, the security interest and/or lien of Respondent shall not be affected by this Order in accordance with 11 U.S.C. § 349(b)(1)(C) or § 348(f)(1)(B), as applicable.

The Clerk is directed to serve a copy of this Order upon all parties on the distribution list as provided by Debtor's counsel and attached hereto, as well as all other creditors and parties in interest herein.

IT IS SO ORDERED.

At Atlanta, Georgia this 10th day of September, 2009.



ROBERT E. BRIZENDINE
UNITED STATES BANKRUPTCY JUDGE

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