UNITED STATES BANKRUPTCY COURT

DISTRICT OF NEW HAMPSHIRE

In re:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, Bk. No. \_\_\_\_\_\_\_\_-\_\_\_\_\_\_\_\_\_-\_\_\_\_\_\_\_

Debtor Chapter \_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_,

Movant

v.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_,

Respondent

**MOTION TO AVOID LIEN PURSUANT TO 11 U.S.C. § 522(f)(2**

NOW COMES \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_(“Debtor” and “Movant”) by and through his attorney, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, pursuant to 11 U.S.C. § 522(f) and Federal Rules of Bankruptcy Procedure 4003(d) and 9014 to request that this court enter an order avoiding the [JUDICIAL LIEN OR NONPOSSESSORY, NONPURCHASE-MONEY SECURITY INTEREST] held by \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (“Respondent”). In support of this motion, the Debtor states:

1. This court has jurisdiction in this matter pursuant to 28 U.S.C. § 1334(a). This matter is a core proceeding as provided by 28 U.S.C. § 157(b)(2)(K).

2. The Debtor filed a voluntary petition under chapter of the Bankruptcy Code on .

3. The Debtor’s interest in the property is subject to the following mortgages, judicial liens and/or nonpossessory, nonpurchase-money security interests:

Date Lien

Type and Amount of Lien Name of Lienholder Obtained

a.\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_

b.\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_ c.\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_ d.\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_

4. The Debtor is entitled to an exemption in the property in the amount of $\_\_\_\_\_\_\_\_\_\_ pursuant to \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (e.g., N.H. RSA 480:1, N.H. RSA 511:2(III)).

5. The Debtor’s interest in the property has a fair market value of $ \_\_\_\_\_\_\_\_\_\_\_\_. The basis of this value is \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

6. Section 522(f)(2)(A) of the Bankruptcy Code provides that “a lien shall be considered to impair an exemption to the extent that the sum of: (i) the lien; (ii) all other liens on the property; and (iii) the amount of the exemption that the debtor could claim if there were no liens on the property; exceeds the value that the debtor’s interest in the property would have in the absence of any liens.” Section 522(f)(2)(B) provides that “[i]n the case of a property subject to more than 1 lien, a lien that has been avoided shall not be considered in making the calculation under subparagraph (A) with respect to other liens.”

7. Following the formula set forth in 11 U.S.C. § 522(f)(2) for determining whether a lien impairs an exemption, the Debtor:

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a. Adds the lien being tested for avoidance (L1), all other liens (L2 + L3 + L4 . . . ) and the maximum exemption allowable in the absence of liens (E) to get a sum of (L1 + L2 + L3 + L4 . . . + E).

b. From the sum above, (L1 + L2 + L3 + L4 . . . + E), subtracts the value of the property in the absence of liens (V) and finds that the extent of the impairment is (I) (I = L1 + L2 + L3 + L4 . . . + E - V).

8. Since the extent of the impairment of the exemption, $(I), exceeds the entire value of the Respondent’s lien, $(L1), the entire lien is avoidable. **Or** Since the extent of impairment, $(I) is less than the entire value of the lien, $(L1), the Respondent’s lien can be avoided only to the extent of the impairment the exemption, $(I), and the rest remains as a lien in the amount of $(L1-I).

WHEREFORE, the Debtor respectfully requests that this court enter an order which:

A. Avoids the [JUDICIAL LIEN OR NONPOSSESSORY, NONPURCHASE-MONEY SECURITY INTEREST] held by \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

B. Grants such other relief as is fair and equitable.

Respectfully submitted,

Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Signature

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Print Name

Address\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Tel. No.\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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