LBF 4003-2

UNITED STATES BANKRUPTCY COURT
FOR THE
DISTRICT OF NEW HAMPSHIRE

In re: Bk. No. _____-_____-_____
Chapter ____
_____,
Debtor

_____,
Movant
v.
_____,
Respondent

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

NOW COMES _____ ("Debtor" and "Movant") by and through Debtor's 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 lien 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 property is subject to the following liens (e.g., real estate taxes, mortgages, judicial liens and security interests):
   a. _____obtained by _____ on _____;
   b. _____obtained by _____ on _____;
   c. _____obtained by _____ on _____.

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 property has a fair market value of $_____.

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 section 522(f)(2) for determining whether a lien impairs an exemption, the Debtor:

   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 of 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 lien held by _____.
B. Grants such other relief as is fair and equitable.

Respectfully submitted,
Debtor

Dated: _____ By: _____