

UNITED STATES BANKRUPTCY COURT  
MIDDLE DISTRICT OF FLORIDA  
TAMPA DIVISION

In re:

Case No. 8:12-bk-4328-KRM  
Chapter 13

Noel Richard Puckett, Jr. and  
Hilda Puckett,

Debtors.

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**ORDER GRANTING MOTION TO DETERMINE SECURED STATUS OF  
SUNTRUST BANK AND TO STRIP LIEN EFFECTIVE UPON DISCHARGE  
AND AWARD ATTORNEY'S FEES OF \$275.00**

THIS CASE came on for consideration of the Debtors' Motion to Determine Secured Status of SunTrust Bank and to Strip Lien Effective upon Discharge and Award Attorney's Fees of \$275.00 (Doc. No. 74) pursuant to the negative notice provisions of Local Rule 2002-4. The real property that is the subject of the Motion is located at 4835 Bradburn Court, Sarasota, Florida, and is more particularly described as follows:

Lot 24, Wellington Chase Unit 1, According  
to the Plat Thereof as Recorded in Plat Book  
37, Pages 43 and 43A through 43D, of the  
Public Records of Sarasota County, Florida.

The Court, considering the Motion and the absence of any record objection to the relief requested in the Motion by any party in interest, deems the Motion to be uncontested. Accordingly, it is

**ORDERED:**

1. That the Debtors' Motion is GRANTED.
2. That SunTrust's second mortgage known as **Account No.: xxx2365** as evidenced by a second mortgage recorded against said property as Instrument No.

2006153673 in the Public Records of Sarasota County, Florida, shall be treated as an unsecured claim in this case.

3. The real property (the “Real Property”) that is the subject of the Motion is located at **4835 Bradburn Court, Sarasota, Florida**, and more particularly described as follows:

**Lot 24, Wellington Chase Unit 1,  
According to the Plat Thereof as  
Recorded in Plat Book 37, Pages 43 and  
43A through 43D, of the Public Records  
of Sarasota County, Florida.**

4. The mortgage held by SunTrust Bank and recorded as Instrument No. 2006153673 in the Public Records of Sarasota County, Florida, shall be deemed void, and shall be extinguished automatically, without further court order, upon entry of the Debtors’ discharge in this Chapter 13 case; provided, however, that the Court reserves jurisdiction to consider, if appropriate, the avoidance of SunTrust Bank’s mortgage lien prior to the entry of the Debtors’ discharge.

5. That the mortgage holder, SunTrust Bank, was properly served in this matter on or about July 31, 2012, as evidenced by the certificate of service on the Motion to Determine Secured Status of SunTrust and to Strip Lien Effective upon Discharge (Doc. No. 74).

6. That the president and CEO of SunTrust Bank, James Wells, was properly served in this matter on or about July 31, 2012, as evidenced by the certificate of service on the Motion to Determine Secured Status of SunTrust and to Strip Lien Effective upon Discharge (Doc. No. 74).

7. That for purposes of distribution under Debtors' Chapter 13 Plan, any claim(s) filed by the SunTrust Bank in relation to said physical property will be allowed as and funded as general, unsecured, non-priority Claim(s).

8. That in the event the Debtors' Chapter 13 Case is dismissed or converted to a Chapter 7, SunTrust Bank's Lien and security interest shall not be affected by this Order in accordance with 11 U.S.C. §§ 349(1)(C) or 348(f)(1)(B), as applicable.

9. This order does not prohibit SunTrust Bank from asserting, at any time prior to the time when the lien is avoided by this order upon entry of the Debtors' discharge, any rights it may have as a defendant in any foreclosure proceeding brought by a senior mortgagee, including the right to claim excess proceeds from any foreclosure sale.

10. That the attorney for the Debtor, R. John Cole, II, is hereby awarded an additional fee of \$275.00 for the bringing of the motion involving this matter, which amount shall be paid through the Debtor's Chapter 13 Plan in addition to any other fee sought and allowed for the bringing of the Chapter 13 case generally.

**DONE** and **ORDERED** in Chambers at Tampa, Florida, on \_\_\_\_\_.

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K. Rodney May  
United States Bankruptcy Judge

cc:

R. John Cole, II, Esq., 46 N. Washington Blvd., Ste. 24, Sarasota, FL 34236

The Office of the U.S. Trustee, Timberlake Annex, 501 East Polk Street, Suite 1200, Tampa, Florida 33602

James Wells, President, SunTrust Bank, 303 Peachtree St., NE, Atlanta, GA 30308

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