

UNITED STATES BANKRUPTCY COURT FOR THE  
MIDDLE DISTRICT OF FLORIDA  
TAMPA DIVISION

IN RE:

**RAUL F. GARCIA**  
**CHRISTINE GARCIA**

Case No. 12-bk-05915 KRM

Chapter 13

Debtors.

**ORDER GRANTING DEBTOR'S MOTION  
TO DETERMINE SECURED STATUS OF GREEN TREE SERVICING, LLC  
AND TO STRIP LIEN EFFECTIVE UPON DISCHARGE**

**THIS CASE** came on for consideration on September 5, 2012 on the Debtors' Motion To Determine Secured Status of **GREEN TREE SERVICING LLC** and to Strip Lien ("Motion") pursuant to the negative notice provisions of Local Rule 2002-4. **GREEN TREE SERVICING, LLC** filed a response on July 17, 2012.

The real property ("the "Real Property") that is the subject of the Motion is located at 20058 Nob Oak Avenue, Tampa, Florida 33647 ("Property") and more particularly described as follows:

Lot 21, Block 6, Live Oak Preserve Phase 1B,  
Villages 2/7 according to the plat thereof as  
recorded in Plat Book 96, Page 37 of the Public  
Records of Hillsborough County, Florida.

Parcel No. U-06-27-20-695-000006-21.0

Folio No. 059228-0392

Accordingly, it is hereby,

**ORDERED:**

1. The Motion is GRANTED.
2. **GREEN TREE SERVICING LLC's** timely filed proof of claim (4-1), shall be treated as an unsecured claim in this Chapter 13 case.
3. The second mortgage on the Real Property held by **GREEN TREE SERVICING LLC** recorded on December 7, 2005, Instrument # 2005570142 at O.R. Book 15854, Pages 115-119, of the Public Records of Hillsborough County, Florida is void and automatically extinguished pursuant to 11 USC § 506d upon

entry of an Order of Discharge pursuant to 11 USC § 727 (Chapter 7), 11 USC § 1141 (Chapter 11), or 11 USC § 1328 (Chapter 13). However, the Court reserves jurisdiction to consider, if appropriate, the avoidance of **GREEN TREE SERVICING LLC's** mortgage lien prior to entry of the Debtors' discharge.

4. This Order does not prohibit **GREEN TREE SERVICING LLC** from asserting at any time prior 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.

**DONE AND ORDERED** in Chambers in Tampa, Hillsborough County, Florida, on \_\_\_\_\_, 2012.

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**HONORABLE K. RODNEY MAY**  
**UNITED STATES BANKRUPTCY JUDGE**

Copies furnished to:

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