

**UNITED STATES BANKRUPTCY COURT  
MIDDLE DISTRICT OF FLORIDA  
JACKSONVILLE DIVISION**

IN RE:           ARTURO ANCAYAN  
                  DANA ANCAYAN

CASE NO.: 3:09-bk-9376-PMG  
Chapter 11

Debtor(s).

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**ORDER GRANTING DEBTOR'S MOTION TO DETERMINE SECURED STATUS  
OF BANK OF NEW YORK MELLON AS SUCCESSOR IN INTEREST TO BAC HOME  
LOANS SERVICING AND TO STRIP LIEN EFFECTIVE UPON DISCHARGE  
(SECOND MORTGAGE ON 3869 HARTWOOD LANE, JACKSONVILLE, FL 32216)**

**THIS CASE** is before the Court on the Debtor's Motion to Determine Secured Status of Second Mortgage of Bank of New York Mellon and to Strip Lien Effective Upon Discharge (the "Motion"; Doc. #106) which was served upon Bank of New York Mellon on March 26, 2015 with Local Rule 2002-4 negative notice legend informing the parties of their opportunity to object within 30 days of the date of service. No party filed an objection within the time permitted. The Court therefore considers the matter to be unopposed. Accordingly, it is

**ORDERED:**

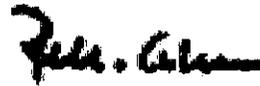
1. The Motion is **GRANTED**.
2. The claim of THE BANK OF NEW YORK MELLON FKA THE BANK OF NEW YORK AS TRUSTEE FOR THE BENEFIT OF THE CERTIFICATE HOLDERS OF THE CWHEQ INC., HOME EQUITY LOAN ASSET-BACKED CERTIFICATES, SERIES 2006-S5, as successor in interest to BAC Home Loans Servicing ("BONYM"), shall be treated as an unsecured claim in the Chapter 11 Case.
3. The real property (the "Real Property") that is subject of the Motion is located at 3869 Hartwood Lane, Jacksonville, FL-32216.

2. Creditor, Green Tree Servicing LLC junior lien (the "Lien") recorded in Official Record book 03320, Page 1491, Public Records of Marion County, Florida on the Debtors' real property located at 5707 SW 109<sup>th</sup> Street Road, Ocala, Florida (the "Property"), more particularly described as:  
  
Lot 26, Block 10 KINGSLAND COUNTRY ESTATES WHISPERING PINES, according to that plat thereof as recorded in Plat Book N, Page 86 through 96, Public Records of Marion County, Florida.
3. The junior lien held by Green Tree Servicing LLC. impairs the homestead exemption of the Debtor's homestead property and shall be treated as an unsecured claim in this case.
4. Creditor's Lien is void upon entry of a discharge, pursuant to 11 U.S.C. § 727, the Creditor's lien is avoided and extinguished automatically without further order of the Court, provided the Eleventh Circuit Court of Appeals or the Supreme Court has not, at the time of the discharge, vacated the opinion or otherwise overruled or limited the holding of *In re McNeal*, 477 Fed. Appx. 562 (11<sup>th</sup> Cir. 2012).

Attorney for Debtor, Frank P. Remsen is directed to serve a copy of this order on interested parties and file a proof of service within 3 days of entry of the order.

4. The second mortgage held by BONYM as recorded on October 17, 2006, at Book 13587, Page 86 of the official records of Duval County, Florida, and assigned to BONYM by virtue of the Assignment of Mortgage recorded on December 13, 2012, at Book 16181 Page 1823 of the official records of Duval County, Florida, shall be deemed void and shall be extinguished automatically, without further court order, upon entry of the Debtor's discharge in this Chapter 11 case. Further, if this case is converted to a case under Chapter 7, or if this Chapter 11 case is dismissed, the mortgage will no longer be considered void and shall be restored as a secured debt.

DONE and ORDERED in Jacksonville, Florida, this 19th day of May, 2015



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PAUL M. GLENN  
United States Bankruptcy Judge

Taylor J. King, Attorney for Debtor, is directed to serve a copy of this Order on interested parties and file a proof of service within three (3) days of entry of the Order.

RECORDED IN THE US BANKRUPTCY COURT  
FOR THE MIDDLE DISTRICT OF FLORIDA,  
JACKSONVILLE DIVISION  
J.B. VOL. 54 . NO. 8222