

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

IN RE:
DARRELL AND ANGELA SMITH
Debtor(s)

CASE NO.: 10-11026
CHAPTER 13

**ORDER GRANTING DEBTOR'S FOURTH AMENDED VERIFIED MOTION TO
DETERMINE SECURED STATUS OF OLD FLORIDA NATIONAL BANK (CLAIM #9)
AND TO STRIP LIEN EFFECTIVE UPON DISCHARGE AND REQUEST FOR
ATTORNEYS FEES**

THIS MATTER came on for consideration at a hearing on September 14, 2011 at 9:00 A.M. on the Debtor's Fourth Motion to Determine Secured Status of Old Florida National and to Strip Lien Effective Upon Discharge with Request for Attorney's Fees (the "Motion") (Docket # 71) pursuant to the negative notice provisions of Local Rule 2002-4. 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.

The real property (the "Real Property") that is the subject of the Motion is located at 22 Locust Loop Dr., Ocala, FL 34472 and more particularly described as follows:

PARCEL IDENTIFICATION NUMBER: 9033-1078-14
**SORT LEGAL DESCRIPTION: NEIGHBORHOOD 2033 - SILVER SPRINGS SHORES
UNIT 33**
TAX FOLIO NUMBER: R9033-1078-14

Accordingly, it is hereby

ORDERED as follows:

1. That the Debtors' Motion is hereby GRANTED.
2. Claim No. 9 filed by Old Florida National Bank shall be treated as an unsecured claim in this Chapter 13 case.
3. The mortgage on the real property (the "Real Property"), located at 22 Locust Loop Dr., Ocala, FL 34472, subject to a third mortgage security instrument held by Old Florida National Bank Account # XXXX6004; and said mortgage having been recorded in Official Records Book April 27, 2007 in Official Records Book 04776 at Page 1960-1972 in Public Records of Marion 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 13 case, provided however, that the Court reserved jurisdiction to consider, if appropriate, the avoidance of Old Florida National Bank's mortgage lien prior to the entry of the Debtor's discharge.

AND

4. The mortgage on the real property (the "Real Property"), located at 22 Locust Loop Dr., Ocala, FL 34472 ("Property") subject to a fourth mortgage security instrument held by Old Florida National Bank Account # XXXX8918; and said mortgage having been recorded in Official Records Book April 27, 2007 in Official Records Book 04776 at Page 1973-1985 in Public Records of Marion 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 13 case, provided however, that the Court reserved jurisdiction to consider, if appropriate, the avoidance of Old Florida National Bank's mortgage lien prior to the entry of the Debtor's discharge.

5. This order does not prohibit Old Florida National Bank from asserting, at any time prior to the time when the lien is avoided by this order upon entry of the Debtor's 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.

5. Attorneys fees shall be granted to Stamatakis + Thalji, P.L. in the amount of \$350.00.

DONE AND ORDERED in Ocala, Florida on December 7, 2011



PAUL GLENN
Chief United States Bankruptcy Judge

Copies provided to Affected Parties:

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RECORDED IN THE US BANKRUPTCY COURT
FOR THE MIDDLE DISTRICT OF FLORIDA,
JACKSONVILLE DIVISION
J.B. VOL. 54 NO. 7462