

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

IN RE:	*	CHAPTER 13 CASE NO.
	*	
JAMES MILLER, REGINA MCDONOUGH,	*	11-05733-JAF
	*	
DEBTORS.	*	
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	*	
JAMES MILLER, REGINA MCDONOUGH,	*	ADVERSARY
	*	
PLAINTIFFS,	*	PROCEEDING NO.
	*	
VS.	*	11-AP-00814-JAF
	*	
	*	
BANK OF AMERICA, N.A.,	*	
	*	
DEFENDANT.	*	

JUDGMENT

The above-styled adversary proceeding having come before the Court, upon the pleadings and affidavits filed therein, and pursuant to Federal Rule of Bankruptcy Procedure 7012, it is

ADJUDGED:

1. The Court finds that the Plaintiff's real property has no equity to secure the second mortgage. The property is encumbered by a valid first mortgage, held by Bank of America, N.A., in the amount of \$335,000.00 at the time of filing the petition. The Defendant holds a second mortgage that is wholly unsecured.

2. Claim No. 6-1 filed by Bank of America, N.A. shall be treated as an unsecured claim in the Chapter 13 case.

3. The real property (the "Real Property") that is subject of the proceeding is located at 226-A S. Roscoe Blvd., Ponte Vedra Beach, FL 32082, and more particular described as follows:

THE LAND SITUATED IN ST. JOHNS COUNTY, FLORIDA:

A PORTION OF TRACT 17, AS SHOWN ON MAP OF PALM VALLEY GARDENS, UNIT TWO, AS RECORDED IN MAP BOOK 5, PAGE 65 OF THE PUBLIC RECORDS OF ST. JOHNS COUNTY, FLORIDA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

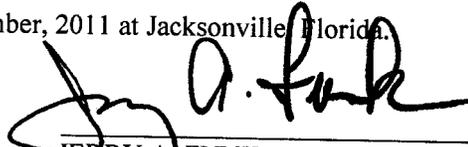
FOR A POINT OF REFERENCE, COMMENCE AT THE NORTHWESTERLY CORNER OF SAID TRACT 17, SAID POINT BEING SITUATE IN THE NORTHEASTERLY RIGHT OF WAY LINE OF ROSCOE BOULEVARD SOUTH, (A 60 FOOT RIGHT OF WAY AT THIS POINT); THENCE SOUTH 24°39'00" EAST, ALONG SAID NORTHEASTERLY RIGHT OF WAY LINE, A DISTANCE OF 185.00 FEET; THENCE NORTH 65°21'00" EAST, DEPARTING SAID NORTHEASTERLY RIGHT OF WAY LINE, A DISTANCE OF 320.63 FEET TO THE POINT OF THE BEGINNING. FROM THE POINT OF BEGINNING THUS DESCRIBED: THENCE CONTINUE NORTH 65°21'00" EAST, A DISTANCE OF 105.00 FEET; THENCE SOUTH 24°39'00" EAST A DISTANCE OF 80.00 FEET; THENCE SOUTH 65°21'00" WEST, A DISTANCE OF 40.00 FEET; THENCE NORTH 24°39'00" EAST, A DISTANCE OF 68.00; THENCE SOUTH 65°21'00" WEST, A DISTANCE OF 65.00 FEET; THENCE NORTH 24°39'00" WEST, A DISTANCE OF 12.00 FEET TO THE POINT OF BEGINNING. ABOVE DESCRIBED PARCEL CONTAINS 3,980 SQUARE FEET, MORE OR LESS.

4. The mortgage held by Bank of America, N.A. recorded on March 9, 2006, at Book 2658, Page 834, Instrument No. 200617851 of the official records of St. Johns 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 reserves jurisdiction to consider, if appropriate, the avoidance of Bank of America, N.A.'s lien prior to the entry of the Debtor's discharge.

5. Further, if this case is converted to a case under Chapter 7, or if this Chapter 13 case is dismissed, the mortgage will no longer be considered void and shall be restored as a secured debt.

Dated this 15 day of December, 2011 at Jacksonville, Florida.



JERRY A. FUNK
United States Bankruptcy Judge

Copies to:
King & Dolaghan, P.A., Attorney for Plaintiff
Bank of America, N.A., Defendant
Douglas W. Neway, Trustee
U.S. Trustee

RECORDED IN THE US BANKRUPTCY COURT
FOR THE MIDDLE DISTRICT OF FLORIDA,
JACKSONVILLE DIVISION
J.B. VOL. 54 . NO. 7464