

UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE DIVISION

IN RE:

CASE NO: 3:11-BK-01520-JAF

CLIFFORD HARDING BENJAMIN, JR.

Chapter 13

Debtor.

ORDER GRANTING DEBTORS' VERIFIED AMENDED MOTION FOR AN ORDER STRIPPING SECOND MORTGAGE LIEN IN FAVOR OF COMPASS BANK, N.A., INC., OR ITS SUCCESSORS AND/OR ASSIGNS, AND FOR A DETERMINATION THAT ANY MORTGAGE CLAIM IN THIS CASE, AS RELATED TO THE SECOND MORTGAGE ON THE DEBTORS' REAL PROPERTY, IS WHOLLY UNSECURED

(Docket Number 322)

THIS CAUSE having come before the Court without a hearing upon the Debtors' Verified Amended Motion for an Order Stripping Second Mortgage Lien in Favor of Compass Bank N.A., Inc., or its Successors and/or Assigns, and for a Determination that any Mortgage Claim in this Case, as Related to the Second Mortgage on the Debtors' Real Property, is Wholly Unsecured (Docket No. 322); the Court having reviewed the subject Motion and the Court file, and, the Court having noted that:

1. The Motion was served upon all interested parties with the Local Rule 2002-4 negative notice legend informing the party of its opportunity to object within thirty (30) days of the date of service.
2. No party filed an Objection or Response to the Motion within the time permitted; and

IT IS THEREFORE,

ORDERED AND ADJUDGED:

1. That the Debtors' Verified Amended Motion for an Order Stripping Second Mortgage Lien in Favor of Compass Bank N.A., Inc., or its Successors and/or Assigns, and for a Determination that any Mortgage Claim in this Case, as Related to the Second Mortgage on the Debtors' Real Property, is Wholly Unsecured (Docket Number 322) is **GRANTED**.
2. That the mortgage lien of Compass Bank N.A., Inc., or its successors and/or assigns, as an encumbrance upon the real property located at 4491 State Road 11, DeLeon Springs, FL 32130-3856 , legally described as:

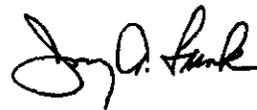
SEE ATTACHED EXHIBIT "A"

and having been recorded in the Public Records of Volusia County, Florida on or about July 13, 2007 in OR Book 6093, Page(s) 4939 through 4947, is hereby stripped in accordance with *In re Tanner, 217 F.3d 1357 (11th Cir. 2000)*.

3. That any claim filed in this case by Compass Bank, N.A., Inc., or its successors and/or assigns, shall be treated as a general unsecured claim.

4. That, upon entry of the Discharge, the subject lien is avoided and extinguished automatically without further Order, provided, however, that if the Debtor fails to make all required payments and no Discharge is entered, the Lien shall survive and remain fully enforceable.

DONE and ORDERED in Jacksonville, Florida, this 16th day of September, 2014



Jerry A. Funk
United States Bankruptcy Judge

Copies furnished to:

“Attorney Ronald Cuter, 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”

RECORDED IN THE US BANKRUPTCY COURT
FOR THE MIDDLE DISTRICT OF FLORIDA,
JACKSONVILLE DIVISION
J.E. VOL. 54, NO. 8044

EXHIBIT A

THE FOLLOWING REAL PROPERTY SITUATE IN COUNTY OF VOLUSIA AND STATE OF FLORIDA, DESCRIBED AS FOLLOWS:

A PARCEL OF LAND LYING LOT 4-D AND LOT 35 OF THE CORRECTED SUBDIVISION OF MOSES E. LEVY GRANT, ACCORDING TO MAP IN BOOK 3, PAGE 154, PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT A CONCRETE MONUMENT AT THE NORTHEAST CORNER OF LOT 36, OF SAID SUBDIVISION OF MOSES E. LEVY GRANT, RUN THENCE S 23 DEGREES 54 MINUTES 29 SECONDS E ALONG THE EASTERLY LINE OF SAID LOT 36, A DISTANCE OF 786.37 FEET TO THE NORTHEAST CORNER OF SAID LOT 35, RUN THENCE S 66 DEGREES 20 MINUTES 01 SECONDS W ALONG THE NORTHERLY LINE OF SAID LOT 35 A DISTANCE OF 530.0 FEET TO THE POINT OF BEGINNING. RUN THENCE S 23 DEGREES 54 MINUTES 29 SECONDS E A DISTANCE OF 152.10 FEET; RUN THENCE S 66 DEGREES 54 MINUTES 29 SECONDS W A DISTANCE OF 500.00 FEET; RUN THENCE S 41 DEGREES 48 MINUTES 20 SECONDS W A DISTANCE OF 351.07 FEET; RUN THENCE S 23 DEGREES 54 MINUTES 29 SECONDS E A DISTANCE OF 670.43 FEET TO THE SOUTHERLY LINE OF SAID LOT 4-D; RUN THENCE S 66 DEGREES 17 MINUTES 22 SECONDS W AND ALONG SAID SOUTHERLY LINE A DISTANCE OF 296.99 FEET; RUN THENCE N 23 DEGREES 54 MINUTES 29 SECONDS W A DISTANCE OF 968.50 FEET TO THE NORTHERLY LINE OF SAID LOT 35; RUN THENCE N 6 DEGREES 20 MINUTES 01 SECONDS E AND ALONG SAID NORTHERLY LINE A DISTANCE OF 1117.0 FEET TO THE POINT OF BEGINNING. BEING SUBJECT TO ANY EASEMENT AND RIGHT OF WAY OF RECORD.

TOGETHER WITH A 30.0 FOOT EASEMENT FOR INGRESS, EGRESS AND UTILITIES DESCRIBED AS FOLLOWS: A PARCEL OF LAND LYING IN LOT 1 AND 35 OF THE CORRECTED SUBDIVISION OF MOSES E. LEVY GRANT, ACCORDING TO MAP IN BOOK 3, PAGE 154, PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT A CONCRETE MONUMENT LOCATED AT THE NORTHEAST CORNER OF LOT 36, OF SAID SUBDIVISION OF MOSES E. LEVY GRANT, RUN THENCE S 23 DEGREES 54 MINUTES 29 SECONDS E ALONG THE EASTERLY LINE OF SAID LOT 36, A DISTANCE OF 786.37 FEET TO THE NORTHEAST CORNER OF SAID LOT 35, RUN THENCE S 66 DEGREES 20 MINUTES 01 SECONDS W ALONG THE NORTHERLY LINE OF SAID LOT 35 A DISTANCE OF 1647.0 FEET TO THE POINT OF BEGINNING; CONTINUING THENCE S 66 DEGREES 20 MINUTES 01 SECONDS W ALONG SAID NORTHERLY LINE A DISTANCE OF 305.0 FEET TO THE NORTHWEST CORNER OF SAID LOT 35; SAID POINT BEING ON THE NORTHWEST CORNER OF SAID LOT 35 SAID POINT BEING ON THE EASTERLY LINE OF SAID LOT 1; RUN THENCE N 23 DEGREES 54 MINUTES 20 SECONDS W AND ALONG SAID EASTERLY LINE OF LOT 1 A DISTANCE OF 460.05 FEET TO EASTERLY RIGHT OF WAY OF STATE HIGHWAY NUMBER 11 AS NOW ESTABLISHED, RUN THENCE S 04 DEGREES 50 MINUTES 47 SECONDS W AND ALONG SAID RIGHT OF WAY A DISTANCE OF 62.36 FEET; RUN THENCE S 23 DEGREES 54 MINUTES 28 SECONDS E A DISTANCE OF 435.25 FEET; RUN THENCE N 6 DEGREES 20 MINUTES 01 SECONDS E A DISTANCE OF 335.0 FEET; RUN THENCE N 23 DEGREES 54 MINUTES 29 SECONDS W A DISTANCE OF 30.0 FEET TO THE POINT OF BEGINNING, SUBJECT TO ANY OTHER EASEMENTS OR RIGHT OF WAY OF RECORD.

PARCEL ID: 6037-02-00-0352

PROPERTY ADDRESS: 4491 STATE ROAD 11