

**UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF ALASKA**

In re:

WENDY LEE BIVINS,

Debtor.

Case No. A05-00309-DMD  
Chapter 7

**Filed On  
9/22/06**

**MEMORANDUM REGARDING LIEN AVOIDANCE**

The debtor filed for Chapter 7 bankruptcy relief on March 23, 2005. She listed her home in Palmer as an asset with a market value of \$83,500.00 and debt of \$87,812.86. Her value was based on the assessed value of the Matanuska-Susitna Borough for 2004. The Borough has increased its assessed value of the home in 2005 and 2006. The assessed value of the home in 2005 was \$96,600.00; in 2006 it was \$125,100.00. Ms. Bivins moved to avoid certain judicial liens under 11 U.S.C. § 522(f) on July 13, 2006. Michael Palmquist d/b/a Allied Communications has objected to the motion. Palmquist holds a judgment lien in the sum of \$1,570.96.

11 U.S.C. § 522(f)(2)(A) provides:

For the purposes of this subsection, a lien shall be considered to impair an exemption to the extent that the sum of—

- (i) the lien;
- (ii) all other liens on the property; and
- (iii) the amount of the exemption that the debtor could claim if there were no liens on the property;

exceeds the value that the debtor's interest in the property would have in the absence of any liens.

Here the lien amount of Mr. Palmquist is \$1,570.96 plus interest. The principal amount of other liens on the property was at least \$97,606.40. The debtor's prior schedules understated the debt due Farmer's Home Administration because she failed to include subsidies that are payable in the event of a sale of the home. The August 7, 2006 FHA payoff figures total \$97,606.40. The amount of the exemption that the debtor could claim if there were no liens on the property is \$15,000.00 under 11 U.S.C. § 522(d)(1). The liens and the exemption total \$114,177.36. The house was only worth \$83,500.00 when the case was filed. The petition date is the operative date for determining the value of the debtor's property.<sup>1</sup> The liens and the exemption exceed the value of the home by \$30,677.36. Mr. Palmquist's lien impairs the debtor's homestead exemption. His lien will be avoided.

DATED: September 21, 2006.

BY THE COURT

/s/ Donald MacDonald IV  
DONALD MacDONALD IV  
United States Bankruptcy Judge

Serve: J. Carney, Esq.  
P. Hefferan, Esq.  
W. Barstow, Trustee  
U. S. Trustee

9/22/06

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<sup>1</sup>*In re Salanoa*, 263 B.R. 120 (Bankr. S.D. Cal. 2001).