

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

In re:

ROBERT TERRY THOMASON, JR.,

Debtor.

Case No. A03-00950-DMD
Chapter 7

**Filed On
12/7/05**

MEMORANDUM REGARDING OBJECTION TO PROOF OF CLAIM

Creditor Sara Hotchkiss claims an equitable lien on proceeds from the sale of a cabin in which she once held an interest. The debtor owes her \$19,250.00 from a property settlement obligation. To establish an equitable lien, Ms. Hotchkiss must prove a debt, a “thing” to which that obligation fastens that can be identified or is described with reasonable certainty, and an intent that the property serve as security for the payment of the debt or obligation. Additionally, because the lien is based on principals of equity, Ms. Hotchkiss must satisfy the court that she is entitled to a lien and has no adequate remedy at law.¹ Here there is no evidence that the cabin was to serve as security for payment of her obligation. Nor is there any showing that Ms. Hotchkiss had an inadequate remedy at law. Finally, Ms. Hotchkiss had no interest in her ex-husband’s share of the cabin real property arising out of the parties’ divorce decree. Under such circumstances, the trustee can avoid any unrecorded equitable interest claimed by Ms. Hotchkiss under the strong arm clause.²

¹51 AM JUR 2D LIENS, § 34.

²11 U.S.C. § 544(a)(3); *Chbat v. Tleel (In re Tleel)*, 876 F.2d 769 (9th Cir. 1989).

DATED: December 7, 2005.

BY THE COURT

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

Serve: W. Artus, Esq.
G. Oczkus, Esq.
K. Battley, Trustee
U.S. Trustee

12/7/05