

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF OHIO

In re: ) Case No. 05-93394  
)  
DENISON D. WILLIAMSON, ) Chapter 7  
)  
Debtor. ) Judge Arthur I. Harris

ORDER GRANTING DEBTOR'S MOTION TO AVOID JUDICIAL LIEN

On February 24, 2006, debtor filed a motion to avoid the lien of Merchants Express Money Order Co. ("Merchants") (Docket #16). The motion indicated that Merchants had a judicial lien on the debtor's residence located at 3290 West 58th Street, Cleveland, Ohio. Debtor asked the Court to avoid the lien under 11 U.S.C. § 522(f)(1)(A) because the judicial lien impaired the debtor's exemption. In their opposition, Merchants did not dispute the lien impairment issue but instead argued that its lien should not be avoided because the underlying debt is nondischargeable. Merchants has filed an adversary complaint challenging the dischargeability of the debt underlying its judicial lien. The Court held a hearing on March 28, 2006, took the matter under advisement, and is now ready to rule.

Section 522(f)(2) explains how to calculate whether a lien impairs an exemption under section 522(f)(1)(A). *See In re Brinley*, 403 F.3d 415, 421-22 (6th Cir. 2005) (demonstrating the calculation). After making the section 522(f)(2) calculations, the Court finds that Merchants' judicial lien impairs the debtor's

exemption and is therefore avoidable under section 522(f)(1)(A). Merchants' argument that the underlying debt is nondischargeable is not relevant to the decision to avoid the judicial lien. "It is well settled that a debtor may avoid a judicial lien for a debt that is otherwise nondischargeable (*i.e.*, for a student loan or for fraud) to the extent it impairs an exemption." *In re Vizard*, 327 B.R. 515, 518 (Bankr. D. Mass. 2005); *see also In re Allen*, 217 B.R. 945, 948-49 (Bankr. M.D. Fla. 1998) (citing numerous cases finding that the avoidance of liens is unaffected by the nature of the debt).

Thus the debtor's motion to avoid the lien of Merchants Express Money Order Co. pursuant to section 522(f)(1)(A) is granted.

IT IS SO ORDERED.

/s/ Arthur I. Harris      4/12/2006  
Arthur I. Harris  
United States Bankruptcy Judge