

The Memorandum Decision below is hereby signed, and the court notes that it is not intended for publication in West's Bankruptcy Reporter. Dated: December 31, 2007.



S. Martin Teel, Jr.
S. Martin Teel, Jr.
United States Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF COLUMBIA

In re)
)
JENNIFER C. PERRY,) Case No. 07-00429
) (Chapter 7)
Debtor.)

MEMORANDUM DECISION RE
MOTION TO AVOID LIEN OF NATIONSBANK OF DELAWARE, NA

The debtor seeks pursuant to 11 U.S.C. § 522(f)(1) to avoid the judgment lien of Nationsbank of Delaware, NA, against the property identified as 2711 6th Street, NE, Washington, DC 20017, which is real property constituting her residence, and which is exempt under D.C. Code § 15-501(a)(14). The judgment was recovered by Nationsbank of Delaware, NA, in the Superior Court of the District of Columbia. The court will deny the motion without prejudice to the debtor's renewing it against the current holder of the judgment and making proper service on that entity.

I

The debtor served her motion on Nationsbank of Delaware, NA, care of the law firm that represented it in the Superior Court. However, Nationsbank of Delaware, NA, is no longer in existence.

According to the FDIC website, Nationsbank of Delaware, N.A., has become:

FIA Card Services, National Association
1100 North King Street
Wilmington, Delaware **19801**

In addition, FIA Card Services, N.A., is, according to the FDIC website, an FDIC-insured bank. The website for the State of Delaware's Department of State's Office of the State Bank Commissioner

(<http://banking.delaware.gov/information/bnklst.shtml>) lists the following address for FIA Card Services, National Association:

1100 N. King Street
Wilmington, DE **19884**

Note the difference in the ZIP Code from that appearing on the FDIC website (and that the U.S. Postal Service's website also lists 19801 as the ZIP Code, but the debtor's attorney may wish to determine which is the correct ZIP Code for corporate officer purposes versus retail purposes). The State Bank Commissioner's website lists under "Name/Title" for the company:

Kenneth P. Lewis
Chairman, President & Chief Executive Officer

It then lists under "Telephone Number" for the company:

Telephone: (302) 456-8588
Toll Free: (800) 441-7048

II

The debtor should file her motion anew naming FIA Card Services, National Association as the entity now holding the

judgment lien awarded in favor of Nationsbank of Delaware, NA. Because FIA Card Services, N.A., is an FDIC-insured bank, service on FIA Card Services, N.A. must be made in accordance with Fed. R. Bankr. P. 7004(h). Rule 7004(h) provides that service "shall be made by certified mail addressed to an officer of the institution" with three exceptions. The first is that "the institution has appeared by its attorney, in which case the attorney shall be served by first class mail." Fed. R. Bankr. P. 7004(h)(1). Although the judgment lienor appeared by an attorney in the Superior Court, it has not appeared in this contested matter (or even in the bankruptcy case) through an attorney, and thus the exception in Rule 7004(h)(1) does not apply. The two other exceptions are also inapplicable.

III

It follows that the debtor's motion must be denied for having failed to name the entity that currently holds the judgment lien and for failing to make service under Rule 7004(h). An order follows.

[Signed and dated above.]

Copies to:

Debtor

Debtor's attorney

FIA Card Services, National Association
(Formerly Nationsbank of Delaware, NA)
c/o Wolpoff & Abramson
702 King Farm Blvd.
Rockville, MD 20850-5775