STRIPPING OFF SECOND MORTGAGE LIENS IN CHAPTER 13 BANKRUPTCY

Thanks to our friend Doug Neway, Esquire, now the Standing Chapter 13 Trustee in the Jacksonville Division of the U.S. Bankruptcy, who about ten years ago took his case, In re: Tanner, to the 11th Circuit U.S. Court of Appeals. The ruling he won allowed for the stripping off of second mortgage liens on real property in the 11th Circuit (Florida, Georgia & Alabama) in Chapter 13 bankruptcy cases.

This is allowed in a Chapter 13 case where the current market value of the real property is less than the amount owed on the first mortgage. In today's real estate market it is fair to say that anyone who financed their home several years ago with 80/20 financing (80% 1st and 20% 2nd mortgage) has an unsecured second mortgage. Many Floridians do not realize that stripping off these second mortgages and HELOC loans is permissible in a Chapter 13 Bankruptcy Case. This type of debt adjustment is exactly why Chapter 13 can provide tremendous relief to homeowners in distress.

In my bankruptcy law practice, I meet many homeowners who can overcome problems with their first mortgage if they didn’t have to pay the second mortgage or their credit card debt. That is what Chapter 13 is all about; adjusting certain debts so other debts can be paid and homeowners can keep their homes.

To find out more about the benefits of lien stripping, stopping foreclosure and obtaining a loan modification and other relief available under Chapter 13 of the Bankruptcy code, contact Orlando Consumer Bankruptcy Attorney Richard Baker at www.legalquestion.com