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UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF SOUTH CAROLINA

FILED

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U.S. BANKRUPTCY COURT  
DIST. OF SOUTH CAROLINA

IN RE:

Nicholas Boone,

Debtor.

Nicholas Boone,

Plaintiff,

v.

Federal Deposit Insurance Corporation as  
receiver for Yankee Bank Savings and Loan,

Defendant.

C/A No. 88-03864-W

Adv. Pro. No. 97-80163-W

**ORDER**

Chapter 13

THIS MATTER came before the Court for trial upon the Plaintiff's complaint seeking, *inter alia*, to void the transfer of title to his residence by foreclosure deed to the Federal Deposit Insurance Corporation as receiver for Yankee Bank Savings and Loan ("FDIC") as being in violation of the automatic stay of 11 U.S.C. § 362. On the record, counsel for the Plaintiff and the Defendant stipulated that there was no dispute that the deed to the Plaintiff's residence was transferred by deed of the United States Marshal to the FDIC on February 3, 1989 and that the Plaintiff's Chapter 13 petition was filed on December 2, 1988 with notice of the petition being sent to the FDIC and that therefore the transfer of the title to the residence constituted a violation of 11 U.S.C. § 362 and is void *ab initio*. Counsel for both parties also agreed to submit a consent order that the deed was void *ab initio*. After inquiry from the Court as to the status of the consent order from counsel from the Defendant, the Court was advised that the Defendant, despite the agreement on the record, would not consent to such an order at this time. However, the Court finds that based upon the agreement on the record and the timing of the post-petition

*GU-1062-*

transfer of title to the Plaintiff's residence on February 3, 1989, the transfer is void *ab initio* and the title is restored as if the transfer by the Marshal's Deed had not occurred. Additionally, the FDIC is directed to take whatever steps necessary to comply in a timely manner with this Order. The remaining issues raised in the complaint including the wilful violation of the automatic stay shall be addressed by separate order.

**AND IT IS SO ORDERED.**

Columbia, South Carolina,  
June 2, 1998.

  
UNITED STATES BANKRUPTCY JUDGE



CERTIFICATE OF MAILING

The undersigned clerk (or deputy clerk) of the United States Bankruptcy Court for this district hereby certifies that a copy of the document on which this stamp appears was mailed on 6-3-98, to:

Hardin

Ashmore

4 to chambers

AOB

Deputy Clerk