



Honorable Mike K. Nakagawa  
United States Bankruptcy Judge



Entered on Docket  
May 27, 2025

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF NEVADA

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In re: ) Case No.: 23-13680-MKN  
) Chapter 7  
HEATH ROBERT WILLS and PATRICIA )  
ANNE WILLS, )  
) Date: January 22, 2025  
Debtors. ) Time: 2:30 p.m.  
)

**ORDER ON DEBTOR'S MOTION TO AVOID JUDICIAL LIEN  
PURSUANT TO 11 U.S.C. § 522(f)<sup>1</sup>**

On January 22, 2025, a hearing was conducted on the “Debtors’ Motion to Avoid Judicial Lien Pursuant to 11 U.S.C. § 522(f).” Contemporaneously, a telephonic hearing was held on the “Debtor’s Motion to Reconsider, Alter, and/or Amend November 22, 2024, Order on Motion for Turnover of Real Property [ECF No. 599].” The appearances of counsel were noted on the record. After arguments were presented, both matters were taken under submission.

**BACKGROUND**

On August 29, 2023, Heath Robert Wills (“Heath”) and Patricia Anne Wills (“Patricia”) (jointly “Debtors”) voluntarily filed a joint Chapter 7 petition (“Petition”) along with their

<sup>1</sup> In this Order, all references to “ECF No.” are to the number assigned to the documents filed in the case as they appear on the docket maintained by the clerk of court. All references to “AECF No.” are to the documents filed in any Adversary Proceeding commenced during this case that are identified in this Order. All references to “Section” are to the provisions of the Bankruptcy Code, 11 U.S.C. §§ 101-1532. All references to “NRS” are to provisions of the Nevada Revised Statutes. All references to “Bankruptcy Rule” are to the Federal Rules of Bankruptcy Procedure.

schedules of assets and liabilities (“Schedules”), statement of financial affairs (“SOFA”), and other information. (ECF No. 1). The Chapter 7 case was commenced on the Debtors’ behalf by the Law Offices of Timothy P. Thomas (“Attorney Thomas”). The case was assigned for administration to Chapter 7 panel trustee Robert E. Atkinson (“Trustee”). On their property Schedule “A/B,” Debtors listed interests in separate parcels of residential real property located at 6033 Silvalde Lane, Las Vegas, Nevada 89135 (“6033 Silvalde Property”) and at 6009 Silvalde Lane, Las Vegas, Nevada 89135 (“6009 Silvalde Property”).<sup>2</sup> On their exemption Schedule “C,” Heath and Patricia claimed separate Nevada homestead exemptions of \$650,000<sup>3</sup> in each of the Silvalde Lane residences allegedly under Nevada law.<sup>4</sup> On their secured creditor Schedule “D,” Debtors listed Nevada State Bank (“NSB”) as having an undisputed claim in the amount of \$396,126 secured by the 6033 Silvalde Property. In Part 4 of their SOFA, Debtors disclosed, *inter alia*, a receivership proceeding in the Eighth Judicial District Court, Clark County, brought by Single Helix Investment Technology, LLC and other plaintiffs (“Single Helix Creditors”) against the Debtors and other defendants, denominated Case No. A-20-814263-B (“State Court Action”).

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<sup>2</sup> Debtors also listed on Schedule “A/B” another residential property located at 5716 Logan Heights Court, Las Vegas, Nevada 89135 (“Logan Heights Property”).

<sup>3</sup> The Nevada homestead exemption under NRS 115.010 is limited to \$605,000 of equity in a personal dwelling occupied by the claimant. NEV.REV.STAT. 115.010(2) (“The exemption...extends only to that amount of equity in the property held by the claimant which does not exceed \$605,000 in value...”). Under NRS 115.005, equity is determined by the fair market value of the dwelling less the value of any liens. NEV.REV.STAT. 115.005(1) (“‘Equity’ means the amount that is determined by subtracting from the fair market value of the property the value of any liens excepted from the homestead exemption pursuant to subsection 3 of NRS 115.010 or NRS 115.090.”).

<sup>4</sup> Debtors also claimed a Nevada “wildcard” exemption in the Logan Heights Property in the amount of \$19,000 allegedly under NRS 21.090(1)(z). The Nevada wildcard exemption under that provision is limited to \$10,000 in any property.

1 On August 29, 2023, a Notice of Chapter 7 Bankruptcy Case – No Proof of Claim  
 2 Deadline<sup>5</sup> (“Bankruptcy Notice”) was issued by the court, initially scheduling a meeting of  
 3 creditors for October 6, 2023, and a deadline of December 5, 2023, for interested parties to  
 4 object to the Debtors’ Chapter 7 discharge or to object to the discharge of a particular debt.  
 5 (ECF No. 7).<sup>6</sup>

6 On September 7, 2023, the Single Helix Creditors filed a motion for relief from stay and  
 7 supporting declaration seeking to proceed with their State Court Action for the sole purpose of  
 8 liquidating the amount of their claims (“Single Helix MRAS”).<sup>7</sup> (ECF Nos. 22 and 23). The  
 9 motion was noticed to be heard on October 11, 2023. (ECF No. 24).

10 On September 12, 2023, the Trustee filed a notice of non-opposition to the Single Helix  
 11 MRAS. (ECF No. 32).

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 14 <sup>5</sup> On September 8, 2023, the Trustee filed a notice of assets setting forth a deadline of  
 15 December 12, 2023, for creditors to file proofs of claim. (ECF No. 26).

16 <sup>6</sup> On November 20, 2023, a Stipulated/Agreed Order was entered granting an extension  
 17 of time to February 5, 2024, for which any creditors or parties in interest could file a motion to  
 18 dismiss the Chapter 7 proceeding or to file a complaint objecting to the Debtors’ discharge.  
 19 (ECF No. 132). On December 5, 2023, the Single Helix Creditors timely commenced Adversary  
 20 Proceeding No. 23-01156 against Heath Wills and Patricia Wills to determine dischargeability of  
 21 debts under Sections 523(a)(2) and 523(a)(6). (ECF No. 141). On April 26, 2024, the Single  
 22 Helix Creditors filed a motion for judgment on the pleadings which was noticed to be heard on  
 23 May 29, 2024. (AECF Nos. 22 and 23). On May 2, 2024, the motion was re-noticed to be heard  
 24 on June 27, 2024. (AECF No. 30). On July 8, 2024, an order was entered granting the motion  
 25 for judgment on the pleadings. (AECF Nos. 40 and 41). On July 16, 2024, Findings of Fact,  
 26 Conclusions of Law and Judgment were entered in favor of the Single Helix Creditors and  
 27 against Heath Wills and Patricia Wills. (AECF No. 44 and 46).

28 <sup>7</sup> In their motion, the Single Helix Creditors represented: “After conclusion of the prove-  
 up evidentiary hearing, Creditors will return to this Court with a judgment to lodge with the  
 Bankruptcy Court, in a proof of claim and for further proceedings under the supervision of the  
 Bankruptcy Court and pursuant to the Bankruptcy Code and Rules of Procedure.” Single Helix  
 MRAS at 9:10-13. “To be clear, there is no request at this time for any enforcement actions  
 against the Debtors, the Debtors estate, or any assets. Creditors intend to return to the  
 Bankruptcy Court upon liquidation of Creditors’ claim to a sum certain, for further proceedings  
 under this Courts supervision.” Id. at 10:6-9 (emphasis added).

1 On September 27, 2023, Debtors filed an opposition to the Single Helix MRAS. (ECF  
2 No. 47).

3 On October 4, 2023, the Single Helix Creditors filed a reply in support of their motion  
4 (“MRAS Reply”).<sup>8</sup> (ECF No. 49).

5 On October 17, 2023, an order was entered granting the Single Helix MRAS (“Single  
6 Helix RAS Order”). (ECF No. 67). That order specifically grants relief from stay so that the  
7 Single Helix Creditors “can proceed to an evidentiary hearing in the State Court Action starting  
8 on October 26, 2023, to liquidate their claim only, subject to further proceedings in this Court  
9 after a determination is made by the State Court at the evidentiary hearing.” Single Helix RAS  
10 Order at 2:18-20 (emphasis added).

11 On December 8, 2023, Debtors filed amended schedules. (ECF No. 148). On their  
12 amended Schedule “A/B,” Debtors again listed both the 6033 Silvalde Property and the 6009  
13 Silvalde Property. On their amended Schedule “C,” Debtors again claimed a homestead  
14 exemption under Nevada law in both residential properties.

15 On December 12, 2023, the meeting of creditors was concluded.<sup>9</sup> (ECF No. 151).

16 On January 9, 2024, the Trustee filed an objection to the Debtors’ claims of homestead  
17 exemptions in both the 6033 Silvalde Property as well as the 6009 Silvalde Property (“Trustee  
18 Homestead Objection”), along with the Declaration of Robert E. Atkinson.<sup>10</sup> (ECF Nos. 207 and  
19 208). The objection was noticed to be heard on February 14, 2024. (ECF No. 209). On the  
20 same date, a Certificate of Service was filed attesting that the exemption objection, supporting  
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22 <sup>8</sup> In support of their motion, the Single Helix Creditors reiterated: “Creditors only seek to  
23 liquidate their claims in State court to a sum certain and there is no ulterior motive. Once  
24 liquidated, Creditors will return to this Court for further proceedings, including non-  
25 dischargeability determinations and sharing in claim distribution proceedings.” MRAS Reply at  
2:15-17 (emphasis added). “Judge Williams will only be liquidating the claims to a sum certain,  
there will be no enforcement action taken in the State Court.” *Id.* at 4:12-13 (emphasis added).

26 <sup>9</sup> Under Bankruptcy Rule 4003(b)(1), any objections to the Debtors’ exemptions were  
27 due no later than 30 days after conclusion of the meeting of creditors. That deadline would have  
28 elapsed on or about January 11, 2024.

<sup>10</sup> No other party in interest or creditor filed an objection to the Debtors’ exemptions.

1 declaration and notice of hearing were electronically served on the Debtors' counsel. (ECF No.  
2 210).

3 On January 29, 2024, PennyMac Loan Services filed a separate motion for relief from  
4 stay as to the 6009 Silvalde Property ("PennyMac MRAS"). The motion was noticed to be heard  
5 on April 10, 2024. (ECF Nos. 268 and 340).

6 On February 6, 2024, Debtors filed a further amended Schedule "A/B" and an amended  
7 Schedule "C." (ECF No. 275). Debtors again listed both the 6033 Silvalde Property and 6009  
8 Silvalde Property and continued to claim a homestead in both residences.

9 On February 7, 2024, Debtors filed another amended Schedule "A/B" and an amended  
10 Schedule "C." (ECF No. 276). Both Silvalde Lane residences were listed, and both were  
11 claimed as exempt under the Nevada homestead statute.

12 On February 12, 2024, Debtors filed an opposition to the Trustee Homestead Objection.  
13 (ECF No. 287).

14 On February 22, 2024, an order was entered sustaining the Trustee Homestead Objection  
15 ("Homestead Objection Order"). (ECF Nos. 318 and 319). The order denied Debtors' attempt to  
16 claim both residences as their homestead, but set a status hearing for April 10, 2024, to provide  
17 time for the Debtors to select one of the residences as their homestead. In other words, Trustee  
18 no longer objects to a homestead claim under Nevada law so long as it is limited to either the  
19 6033 Silvalde Property or the 6009 Silvalde Property, and not both.

20 On March 18, 2024, Attorney Thomas filed a motion to withdraw as counsel for the  
21 Debtors ("Thomas Withdrawal Motion"). (ECF No. 358).

22 On March 22, 2024, the Trustee filed a motion for an order requiring the Debtors to  
23 turnover the 6033 Silvalde Property as well as the 6009 Silvalde Property ("First Turnover  
24 Motion"). (ECF No. 375). The First Turnover Motion was supported by a declaration from the  
25 Trustee. (ECF No. 376). The First Turnover Motion was noticed to be heard on shortened time  
26 on April 3, 2024. (ECF Nos. 383 and 384).

27 On March 26, 2024, a Certificate of Service was filed on behalf of the Trustee attesting  
28 that the First Turnover Motion and supporting documents were served by first class mail to

1 Heath at the 6033 Silvalde Property, Patricia at the 6009 Silvalde Property, and to Attorney  
2 Thomas at his law office address. (ECF No. 385). On the same date, a separate Certificate of  
3 Service was filed by the Trustee attesting that the order shortening time as well as the First  
4 Turnover Motion were served by first class mail to Heath at the 6033 Silvalde Property, Patricia  
5 at the 6009 Silvalde Property, and to Attorney Thomas at his law office address. (ECF No. 386).

6 On March 26, 2024, the Trustee filed opposition to the PennyMac MRAS. (ECF No.  
7 390). On the same date, Attorney Thomas filed an *ex parte* motion to shorten time to hear his  
8 withdrawal request, along with his supporting declaration.<sup>11</sup> (ECF Nos. 391 and 392).

9 On March 27, 2024, an order was entered allowing the Thomas Withdrawal Motion to be  
10 heard on April 10, 2024. (ECF No. 399).

11 On April 4, 2024, the Trustee Exemption Objection was finally resolved when the  
12 Trustee stipulated with the Debtors that the 6033 Silvalde Property would constitute the Debtors'  
13 homestead, and that the 6009 Silvalde Property would not be the subject of a homestead  
14 exemption ("Homestead Stipulation"). (ECF No. 415). Because the matter had been resolved,  
15 the stipulation further provided that the April 10, 2024, status hearing would be vacated.

16 On April 5, 2024, an order was entered granting the First Turnover Motion consistent  
17 with the Homestead Stipulation ("First Turnover Order"). (ECF No. 417). That order provided  
18 that the Debtors must vacate the 6009 Silvalde Property no later than April 10, 2024, that any  
19 personal property remaining on the premises be deemed abandoned, and that the First Turnover  
20 Motion was withdrawn without prejudice as to the 6033 Silvalde Property. On the same date, a  
21 Certificate of Service was filed by the Trustee attesting the notice of entry of the First Turnover  
22 Order was served by first class mail to Heath at the 6033 Silvalde Property, Patricia at the 6009  
23 Silvalde Property, and to Attorney Thomas at his law office address. (ECF No. 422).

24 On April 11, 2024, an order was entered denying the PennyMac MRAS. (ECF No. 428  
25 and 429).

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27 <sup>11</sup> In his declaration, Attorney Thomas attests, *inter alia*, that the Debtors "ceased to  
28 provide information or document in response to emails and communication attempt from the  
Thomas Firm since February 21, 2024." Thomas Declaration at ¶ 5.

1 On June 30, 2024, the Trustee filed a motion to sell the 6009 Silvalde Property free and  
 2 clear of liens (“6009 Sale Motion”), along with another Declaration of Robert E. Atkinson.  
 3 (ECF Nos. 494 and 496). The 6009 Sale Motion was noticed to be heard on July 10, 2024  
 4 pursuant to an order shortening time. (ECF Nos. 500 and 501).

5 On July 8, 2024, a limited response to the 6009 Sale Motion was filed on behalf of  
 6 Vistara Homeowner’s Association. (ECF No. 509).

7 On July 8, 2024, the Trustee filed a “Notice of Consent to Sale of Real Property”  
 8 indicating that Wells Fargo Bank, N.A. does not object to the 6009 Sale Motion. (ECF No. 510).

9 On July 12, 2024, an order was entered granting the 6009 Sale Motion. (ECF Nos. 513  
 10 and 514).

11 On August 1, 2024, the Trustee filed a report that a sale of the 6009 Silvalde Property had  
 12 been completed on July 30, 2024. (ECF No. 521).

13 On October 18, 2024, an order was entered granting the Thomas Withdrawal Motion.  
 14 (ECF No. 574).

15 On October 21, 2024, the Trustee filed a motion requiring the Debtors to turnover the  
 16 6033 Silvalde Property (“Second Turnover Motion”). (ECF No. 578). The motion was  
 17 supported by the declarations of the Trustee, Robert E. Atkinson (“Atkinson Turnover  
 18 Declaration”) as well as Ryan J. Works, one of counsel for the Single Helix Creditors (“Works  
 19 Declaration”).<sup>12</sup> (ECF Nos. 579 and 580). The Trustee maintained that the 6033 Silvalde  
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23 <sup>12</sup> Counsel for the Single Helix Creditors attests, *inter alia*, that on January 12, 2024, a  
 24 judgment was entered against Heath in the State Court Action in the total amount of  
 25 \$3,533,469.04 (“Single Helix Judgment”). See Works Declaration at ¶ 3. Counsel also attests  
 26 that “On August 30, 2024, the Nevada Judgment was recorded in the land records of Clark  
 27 County, Nevada as instrument no. 20240830-0000024.” *Id.* at ¶ 4 (emphasis added). Upon  
 28 recordation of the Single Helix Judgment, it became “a lien upon all real property of the  
judgment debtor not exempt from execution in that county, owned by the judgment debtor at the  
time.” NEV.REV.STAT. 17.150(2) (emphasis added). Under Nevada law, the Single Helix  
 Creditors therefore obtained a judicial lien (“Single Helix Judgment Lien”) against the Debtors’  
 real property in Clark County.



Property is subject to a scheduled secured claim by NSB in the amount of \$396,126<sup>13</sup> as well a post-petition judicial lien in favor of the Single Helix Creditors in the amount of \$3,533,469.04. Trustee also asserted that the estimated sale price for the 6033 Silvalde Property would be between \$978,000 and \$1,055,300.<sup>14</sup> Because the total amount of the asserted liens far exceeds the value of the 6033 Silvalde Property, the Trustee maintained that there is no equity in the real property to which the Debtors' homestead claim could attach. Thus, he sought to compel the Debtors to turnover the 6033 Silvalde Property so that he could sell the residence and use the agreed bankruptcy release fee to pay unsecured creditors.<sup>15</sup> The Second Turnover Motion was noticed to be heard on November 20, 2024. (ECF Nos. 582).

On November 22, 2024, an order was entered granting the Second Turnover Motion inasmuch as no opposition was filed by or on behalf of the Debtors and no one appeared at the hearing ("Second Turnover Order"). (ECF No. 599). The Second Turnover Order requires the

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<sup>13</sup> On their Schedule "D," the Debtors did not designate the NSB claim as contingent, unliquidated or disputed. If the case was filed under Chapter 11, NSB would not have been required to file a proof of claim pursuant to Bankruptcy Rule 3003(c)(2). Because the Debtors filed their case under Chapter 7, NSB apparently must file a proof of claim for its interest to be allowed. See FED.R.BANKR.P. 3002(a). Failure to file a proof of claim, however, does not render void the lien securing the creditor's claim. In this case, the claims register prepared by the court clerk does not reflect any proofs of claim filed by NSB in this Chapter 7 proceeding.

<sup>14</sup> See Atkinson Turnover Declaration at ¶ 3. This sale range is not based on an appraisal but on the Trustee's use of a range provided by Zillow. Unfortunately, Zillow estimates generally are not admissible to establish the fair market value of residential property. See Davis v. Ogletree (In re Ogletree), 2020 WL 6557434, at \*5 n.5 (B.A.P. 9<sup>th</sup> Cir. Nov. 4, 2020).

<sup>15</sup> Counsel for the Single Helix Creditors further attests that "The Trustee has reached a deal with the Single Helix Creditors whereby the Single Helix Creditors will subsequently remit 25% of the net proceeds it receives on a short sale to the Trustee, as a **bankruptcy release fee**, with such money to be unencumbered and nonexempt property of the state." See Works Declaration at ¶ 5 (emphasis added). See also Atkinson Turnover Declaration at ¶ 4. Absent the "deal" reached with the Trustee, the 6033 Silvalde Property would have to be sold for more than the \$396,126 amount owed to NSB plus the \$3,533,469.04 owed to the Single Helix Creditors before ever netting any funds that could be distributed to allowed unsecured claims. Even though the sale price would be short of the amount owed to the Single Helix Creditors, the "bankruptcy release fee" assured that the sale would result in funds available for distribution to creditors of the Chapter 7 estate. Without such an agreement, abandonment of the 6033 Silvalde Property under Section 554 otherwise might result.



1 Debtors to vacate the 6033 Silvalde Property and to remove all personal property no later than 14  
2 days after entry of the order. Similar to the First Turnover Order, the Second Turnover Order  
3 provided for any personal property remaining in the 6033 Silvalde Property after 14 days to be  
4 deemed abandoned, and providing Trustee authority to remove or otherwise dispose of the  
5 personal property.

6 On December 16, 2024, a Limited Notice of Appearance by Nevada Bankruptcy  
7 Attorneys LLC, through attorney Matthew Knepper (“Attorney Knepper”), was filed on behalf of  
8 Heath. (ECF No. 620).

9 On December 18, 2024, Heath filed a motion for order shortening time to hear a “Motion  
10 to Reconsider, Alter, and/or Amend November 22, 2024, Order on Motion for Turnover of Real  
11 Property [ECF No. 599]” along with an attached Declaration of Heath Robert Wills.<sup>16</sup> (ECF  
12 Nos. 621 and 622).

13 On December 18, 2024, Heath filed a Motion to Avoid Judicial Lien Pursuant to 11  
14 U.S.C. § 522(f) (“Lien Avoidance Motion”) along with an attached Declaration of Heath Robert  
15 Wills (“Heath Lien Avoidance Declaration”). (ECF No. 624). The motion seeks to avoid the  
16 judicial lien that apparently affixed to the 6033 Silvalde Property when the Single Helix  
17 Creditors recorded their judgment obtained in the State Court Action.<sup>17</sup> Heath maintains that  
18 recognition and enforcement of the judicial lien impairs the homestead that the Debtors have  
19 claimed under Nevada law. A request to have the Lien Avoidance Motion heard on shortened  
20 time also was filed. (ECF No. 625).

21 On December 19, 2025, orders were entered allowing both the anticipated motion to  
22 reconsider as well as the Lien Avoidance Motion to be heard on January 15, 2025. (ECF Nos.  
23 628 and 629).

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24 <sup>16</sup> The underlying reconsideration motion was not filed along with the request for order  
25 shortening time.

26 <sup>17</sup> Because the Single Helix Judgment was not recorded until August 30, 2024, relief  
27 under Section 522(f)(1) to avoid the resulting judicial lien could not have been sought prior to  
28 that date. Only after the Single Helix Judgment Lien arose did Trustee file the Second Turnover  
Motion premised on a valid judgment lien being held by the Single Helix Creditors.

On December 20, 2024, Heath filed his “Motion to Reconsider, Alter, and/or Amend November 22, 2024, Order on Motion for Turnover of Real Property [ECF No. 599]” (“Heath Reconsideration Motion”) to which is attached another Declaration of Heath Robert Wills (“Heath Reconsideration Declaration”).<sup>18</sup> (ECF No. 634).

On January 8, 2025, the Trustee filed his oppositions to both the Lien Avoidance Motion and the Heath Reconsideration Motion. (ECF Nos. 649 and 650). An “amended” opposition to the Heath Reconsideration Motion also was filed by the Trustee (“Trustee’s Reconsideration Opposition”). (ECF No. 651).<sup>19</sup>

On January 8, 2025, the Single Helix Creditors filed opposition to the Lien Avoidance Motion as well as a joinder to the Trustee’s Reconsideration Opposition. (ECF Nos. 652 and 653).

On January 13, 2025, Heath filed his reply briefs in support of both the Heath Reconsideration Motion and the Lien Avoidance Motion. (ECF Nos. 655 and 656).

On January 15, 2025, the scheduled hearings were continued to January 22, 2025. (ECF Nos. 663 and 664).

After arguments were presented on January 22, 2025, both the Lien Avoidance Motion as well as the Heath Reconsideration Motion were taken under submission.<sup>20</sup>

### DISCUSSION<sup>21</sup>

<sup>18</sup> Heath attests that he has resided in the 6033 Silvalde Property since December 14, 2017, and that on August 23, 2023, he recorded a Nevada homestead declaration with respect to the residence. See Heath Reconsideration Declaration at ¶¶ 5 and 6. He also acknowledges that the Single Helix Judgment was recorded on August 30, 2024, that would result in a judgment lien totaling \$3,533,469.04. Id. at ¶¶ 9 and 10.

<sup>19</sup> As is often the case, the “amended” document does not specify the difference from the original document, thereby requiring the reading audience to search for the amended language. It appears, however, that the amendment inserted a new ¶ 10 to Trustee’s argument and then renumbered the subsequent paragraphs.

<sup>20</sup> A separate order on the Heath Reconsideration Motion has been entered concurrently with the instant order.

<sup>21</sup> For reasons discussed below, the court incorporates by reference the Order on Debtor’s Motion to Reconsider, Alter, and/or Amend November 22, 2024, Order on Motion for Turnover

1 The Second Turnover Order was obtained by the Trustee on the premise that the 6033  
 2 Silvalde Property is encumbered by the Single Helix Judgment Lien securing a debt in the  
 3 adjudged amount of \$3,533,469.04. Combined with NSB's scheduled secured residential loan in  
 4 the apparent amount of \$396,126,<sup>22</sup> the total amount of liens against the 6033 Silvalde Property  
 5 is \$3,929,595.04. Because the total amount of the liens far exceeds the \$900,000 scheduled  
 6 value of the residence or the maximum sale price estimated by the Trustee, see discussion at 8 &  
 7 n.14, supra, the Trustee asserted that there is no equity in the 6033 Silvalde Property for which  
 8 the Nevada homestead could attach.<sup>23</sup> In other words, by requiring the Debtors to vacate a  
 9 residence in which they have no economic interest, the Trustee maintains that turnover of the  
 10 6033 Silvalde Property is appropriate under Section 542(a).<sup>24</sup>

11 By his Lien Avoidance Motion, Heath maintains that the Single Helix Judgment Lien  
 12 against his personal residence may be avoided under bankruptcy law. Section 522(f)(1)  
 13 expressly provides in pertinent part:

14 Notwithstanding any waiver of exemptions but subject to paragraph (3), the debtor  
 15 may avoid the fixing of a lien on an interest of the debtor in property to the extent  
 16 that such lien impairs an exemption to which the debtor would have been entitled  
 17 under subsection (b) of this section, if such lien is – (A) a judicial lien, other than a  
 18 judicial lien that secures a debt of a kind that is specified in section 523(a)(5)...

19 11 U.S.C. § 522(f)(1)(A) (emphasis added). To “impair” an exemption occurs:

20 \_\_\_\_\_  
 21 of Real Property [ECF No. 599], entered concurrently with the instant order (“Heath  
 22 Reconsideration Order”).

23 <sup>22</sup> Heath separately attests that the amount of NSB's claim against the 6033 Silvalde  
 24 Property was approximately \$396,126 on the petition date. See Heath Reconsideration  
 25 Declaration at ¶ 8; Heath Lien Avoidance Declaration at ¶ 8.

26 <sup>23</sup> From the outset, the effect of the Trustee's request would be to force the Debtors to  
 27 vacate their remaining personal residence. The Trustee's request was made after Attorney  
 28 Thomas was allowed to withdraw, and the pro se Debtors did not file an objection.

<sup>24</sup> “Except as provided in subsection (c) or (d) of this section, an entity...in possession,  
 custody, or control, during the case, of property that the trustee may use, sell, or lease under  
 section 363 of this title, or that the debtor may exempt under section 522 of this title, shall  
 deliver to the trustee, and account for, such property or the value of such property, unless such  
 property is of inconsequential value or benefit to the estate.” 11 U.S.C. § 542(a).

to the extent that the sum of – (i) the lien; (ii) all other liens on the property; and (iii) the amount of the exemption that the debtor could claim if there were no liens on the property...exceeds the value that the debtor's interest in the property would have in the absence of any liens.

11 U.S.C. § 522(f)(2)(A) (emphasis added).

As the Trustee is the only party in interest that objected to the Debtors' exemptions, the property claimed as exempt by the Debtors is exempt under Section 522(l), subject to the terms of the Homestead Stipulation. As a result of that stipulation, the Debtors in this Chapter 7 proceeding have a cognizable homestead in the 6033 Silvalde Property. Under Nevada law, that exemption protects up to \$605,000 of equity in the personal residence. Absent the Single Helix Judicial Lien, only the NSB secured claim of \$396,126,<sup>25</sup> and any remaining value in the 6033 Silvalde Property not exceeding the maximum allowable homestead is protected. Assuming the NSB scheduled claim correctly reflects the amount of the lien, that amount plus the maximum Nevada homestead is \$1,001,126. Adding the \$3,533,469.04 amount of the Single Helix Judicial Lien, the total of all liens plus the homestead comes to \$4,534,595.04. The subject judicial lien therefore impairs the homestead exemption under Section 522(f)(2)(A).

Under these circumstances, Section 522(f)(1) requires that the Single Helix Judicial Lien against the 6033 Silvalde Property be avoided "to the extent" that it impairs the \$605,000 homestead exemption. The only evidence of value of the subject property appears in Schedule "D," where the Debtors list the property's value at \$900,000. The Trustee suggests that the property would sell in a range between \$978,000 and \$1,055,300. See discussion at 8 & n.14, supra. Heath does not dispute that the value of the 6033 Silvalde Property is \$978,000. See Heath Reconsideration Declaration at ¶ 7; Heath Lien Avoidance Declaration at ¶ 7. The range suggested by the Trustee is both below and above the \$1,001,126 combined amount of the NSB loan and the homestead exemption. Under these circumstances, any amount of the Single Helix Judgment Lien in excess of \$1,001,126 would impair the Debtors' exemption in the 6033

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<sup>25</sup> As discussed in note 13, supra, it is not clear whether NSB filed a proof of claim as required by Bankruptcy Rule 3002(a) so as to even have an allowed claim. As the failure to do so does not render NSB's lien void, however, the consequence of NSB not having an allowed claim in this Chapter 7 proceeding is uncertain if NSB's lien remains.

1 Silvalde Property. Based on the evidence presented, the court concludes that the judgment lien  
2 should be avoided to the extent of the full amount of the allowed exemption, i.e., \$605,000.

3 The court also has separately concluded that the Heath Reconsideration Motion must be  
4 granted because the Single Helix RAS Order did not authorize the Single Helix Judgment to be  
5 recorded. Inasmuch as the judgment was recorded without authorization from the bankruptcy  
6 court, the prohibition under Section 362(a)(4) was violated, the Single Helix Judicial Lien is void  
7 as a matter of law, and it has no effect. See Heath Reconsideration Order at 16-17. As the  
8 subject lien is void for independent reasons, it may be unnecessary under Section 522(f)(1) to  
9 “avoid” a judicial lien that already is void. Unless the Single Helix Creditors have taken steps to  
10 release or otherwise expunge the judgment lien, however, entry of an order under Section 105(a)  
11 is necessary and appropriate to ensure that it does not impair the Debtors’ homestead exemption  
12 in the 6033 Silvalde Property.

13 **IT IS THEREFORE ORDERED** that the Debtors’ Motion to Avoid Judicial Lien  
14 Pursuant to 11 U.S.C. § 522(f), Docket No. 624, be, and the same hereby is, **GRANTED**.

15 **IT IS FURTHER ORDERED** that the judgment recorded in the land records of Clark  
16 County, Nevada, as instrument no. 20240830-0000024, arising from the civil action styled as  
17 Single Helix Investment Technology, LLC; Collins Capital, LLC; Susan Kaplan; Stephen Geller;  
18 and Martin Fabrikant, plaintiffs v. Assurity Healthcare, Inc.; Assurity Labs, Inc.; Heath Wills  
19 and Patricia Wills; James Sheldon; Bandar Enterprises, LLC; and Does I-X and Roe  
20 Corporations I-X, defendants, Case No. A-20-814263-B, in the District Court, Clark County,  
21 Nevada, be, and the same hereby is, **AVOIDED, VACATED AND EXPUNGED** as to  
22 defendants Heath Wills and Patricia Wills.

23 **IT IS FURTHER ORDERED** that a copy of the instant order may be recorded in the  
24 land records of Clark County, Nevada.

25  
26 Copies sent via CM/ECF ELECTRONIC FILING

27 Copies sent via BNC to:  
28

1 HEATH ROBERT WILLS  
2 PATRICIA ANNE WILLS  
3 6033 SILVALDE LANE  
4 LAS VEGAS, NV 89135

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