Fidelity National Title

Does a Bankruptcy Discharge Erase All Debts?

MY CLIENT SAYS HE HAS RECEIVED HIS "DISCHARGE" IN BANKRUPTCY AND THAT THAT IT ERASED ALL OF HIS DEBTS. CAN HE SELL HIS HOME WITHOUT OBTAINING RELEASES FROM HIS TRUST DEEDS AND ANY TAX OR JUDGMENT LIENS?

A Bankruptcy Discharge found in Title 11 USC Sections 727, 1228 for a debtor in a bankruptcy proceeding releases a debtor from personal responsibility for those debts which qualify under the Bankruptcy Code.

- Orders of discharge can be revoked by a bankruptcy court within a year of the discharge being granted per Section 717 (a) (6).
- Orders of discharge affect only personal liability for liens. **A Bankruptcy Discharge Does Not Remove Recorded Liens from the Title to Property!**
- Orders of discharge do not apply to a variety of debts under Section 523 including:
    - Income tax due within 3 years prior to filling
    - Tax fraud
    - Debts not scheduled in the bankruptcy case
    - Alimony and support obligations
    - HOA fees or assessments
    - Fraud and criminal obligations and penalties
    - Education/ Student loan debt
    - Judgments from a DUI case

Fidelity National Title will investigate the bankruptcy case to determine it's status, including to confirm the order of discharge and it's applicability to certain liens. **A Full Reconveyance will be required to release all Trust Deeds of record against the property,** together with releases for non-dischargeable debts such as alimony and support obligations