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<p>UNITED STATES BANKRUPTCY COURT CENTRAL DISTRICT OF CALIFORNIA - <u>LOS ANGELES</u> DIVISION</p>			
<p>In re:</p> <p>JAE DONG TAK</p> <p>Debtor(s).</p>		<p>CASE NO.: 2:15-bk-11056-RK</p> <p>CHAPTER: 7</p> <p>ORDER <input type="checkbox"/> GRANTING <input checked="" type="checkbox"/> DENYING MOTION TO AVOID LIEN UNDER 11 U.S.C. § 522(f) (REAL PROPERTY)</p> <p><input checked="" type="checkbox"/> No hearing held <input type="checkbox"/> Hearing held Date: Time: Courtroom: Place:</p>	
<p>Creditor Holding Lien to be Avoided (name): CARIBBEAN BLUES, INC.</p>			

The Motion was: ☐ Opposed ☒ Unopposed ☐ Settled by stipulation

Pursuant to 11 U.S.C. § 522(f), Debtor moved to avoid a judicial lien on real property claimed to be exempt. The court finds and orders as follows:

1. ☐ Notice of this Motion complied with LBR 9013-1(d).
2. ☒ Notice of this Motion complied with LBR 9013-1(o).
 - a. ☒ There was no opposition and request for hearing.
 - b. ☐ Hearing requested and held as indicated in the caption.

3. The real property to which this order applies is as follows:
- a. Street address (*specify*): 13507 Elgers Street, Cerritos, CA 90703
- b. Legal description (*specify*): ☒ See attached page
4. Recording information regarding lien to be avoided:
- a. Date of recordation of lien (*specify*): 07/23/2014.
- b. Recorder's instrument number or map/book/page number (*specify*): 20140763511
5. ☐ Motion granted:
- a. ☐ The judicial lien sought to be avoided impairs an exemption to which Debtor would otherwise be entitled under 11 U.S.C. § 522(d)
- b. ☐ The judicial lien is void and unenforceable:
- (1) ☐ In its entirety
- (2) ☐ In the following amount *only*: \$ _____. The balance of \$ _____ remains a valid and enforceable lien against the property.
6. ☒ Motion denied on the following grounds: ☐ with prejudice ☒ without prejudice
- a. ☐ Insufficient notice
- b. ☐ Insufficient evidence of the exempt status of the property in question
- c. ☐ Failure to comply with FRBP 7004(b)(3) or FRBP 7004(h).
- d. ☒ Insufficient evidence of fair market value.
- e. ☐ Motion is incomplete.
- f. ☒ Other (*specify*): The moving papers are deficient because Debtor has not submitted admissible and credible evidence of the valuation of the subject property (that is, the appraisal report without a declaration of the appraiser under penalty of perjury is not admissible testimony, Fed. R. Evid. 601, 602, 603 and 702 and 28 U.S.C. § 1746(2)). Debtor's conclusory valuation opinion itself is insufficient because debtor has not otherwise shown that his valuation opinion is based on a scientifically accepted method of valuation (i.e., sales comparable analysis). Fed. R. Evid. 601, 602 and 701; In re Meeks, 349 B.R. 19, 22 (Bankr. E.D. Cal. 2006), citing in 2 Russell, Bankruptcy Evidence Manual at 792-794 (2014-2015 ed.).
7. ☒ The court further orders as follows (*specify*): The court grants movant 60 days leave to supplement the motion with a declaration of the appraiser under penalty of perjury if movant is relying upon the appraisal report, file and serve the supplement to the motion, and file a declaration re non-opposition, if appropriate, within 60 days of the date of entry of this order.

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Date: June 9, 2015



Robert Kwan
United States Bankruptcy Judge