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<div><input type="checkbox"/> Individual appearing without attorney <input checked="" type="checkbox"/> Attorney for: Debtor/Movant</div>			
<div>NOT FOR PUBLICATION</div> <div>UNITED STATES BANKRUPTCY COURT CENTRAL DISTRICT OF CALIFORNIA – LOS ANGELES DIVISION</div>			
<div>In re: ASHKAN TABIBNIA</div> <div>Debtor(s).</div>		<div>CASE NO.: 2:16-bk-19790-RK CHAPTER: 7</div> <div>ORDER <input type="checkbox"/> GRANTING <input checked="" type="checkbox"/> DENYING MOTION TO AVOID LIEN UNDER 11 U.S.C. § 522(f) (REAL PROPERTY)</div> <div><input checked="" type="checkbox"/> No hearing held <input type="checkbox"/> Hearing held Date: Time: Courtroom: Place:</div>	
<div>Creditor Holding Lien to be Avoided (name): CACH, LLC</div>			

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*): 1277 S. Beverly Glen Boulevard, # 304, Los Angeles, California 90024
- b. Legal description (*specify*): APN # 4327-002-039 ☐ See attached page
4. Recording information regarding lien to be avoided:
- a. Date of recordation of lien (*specify*): 01/21/2015.
- b. Recorder's instrument number or map/book/page number (*specify*): 20150071322
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.
- c. Unless otherwise ordered, any claim(s) that were secured by the avoided lien(s) are to be treated as general unsecured claim(s) and are to be paid pro-rata with all other unsecured claims.
6. ☒ Motion denied on the following grounds: ☐ with prejudice ☒ without prejudice
- a. ☒ Insufficient notice. **See below.**
- 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). **Movant failed to properly serve all alleged lienholders with the motion, notice and supporting documents as required by Local Bankruptcy Rules 9013-1(o) and 4003-2(c)(1) and (2), and Federal Rules of Bankruptcy Procedure 9014 and 7004(b)(3). Because the proof of service attached to the Amended Motion is not signed, there is no admissible evidence that any parties were served with the motion, notice and supporting documents. See Federal Rule of Civil Procedure 4(l) (proof of service must be made by the server's affidavit). Further, as to Movant's attempted service of CACH, LLC, Bank of America, N.A. and Wells Fargo Bank N.A. (Movant did not attempt to serve every lienholder as required by Local Bankruptcy Rule 4003(c)(2)), none of the addresses listed by Movant on the proof of service are valid addresses according to the Secretary of State of Colorado where CACH, LLC is organized, or on Federal Deposit Insurance Corporation (FDIC)'s "BankFind" feature for the bank lienholders, available at <https://research.fdic.gov/bankfind>. Service on state court counsel for CACH, LLC, Bank of America, N.A. and Wells Fargo Bank N.A. is inadequate service of process without proof that state court counsel for each of these parties is authorized to accept service of process in this bankruptcy case. *In re Villar*, 317 B.R. 88, 92-95 (9th Cir. BAP 2004).**
- d. ☒ Insufficient evidence of fair market value. **The court does not give credence to valuation opinions of lay witnesses, such as Movant, unless there is a detailed explanation and analysis of how they arrived at their valuation of the subject property based on scientifically accepted valuation principles (i.e., sales comparable analysis) with supporting market data, not just their say-so. Federal Rule of Evidence 701; *In re Meeks*, 349 B.R. 19, 22 (Bankr. E.D. Cal. 2006); 2 Russell, Bankruptcy Evidence Manual, Section 701.2 at 845 (2015-2016). This court generally requires an appraisal by a licensed real property appraiser or a licensed real estate broker or agent in a**

declaration under penalty of perjury based on an appropriate sales comparable analysis to support a lien avoidance motion under 11 U.S.C. § 522(f).

- e. ☐ Motion is incomplete.
- f. ☒ Other (*specify*): **Movant has failed to submit admissible and credible evidence establishing the liens held by Chase Bank, Benji Rahmatollah, Glen Towers Association, Inc., Bank of America, N.A., and CACH, LLC, on the subject property as well as admissible and credible evidence of the amounts of their liens.**
7. ☒ The court further orders as follows (*specify*): **The court grants leave to Movant to file an amended motion to avoid lien which corrects these deficiencies within 60 days of entry of this order.**
- ☐ See attached page

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Date: December 19, 2016



Robert Kwan
United States Bankruptcy Judge