

Attorney or Party Name, Address, Telephone & FAX Nos., State Bar No. & Email Address HABERBUSH & ASSOCIATES, LLP DAVID R. HABERBUSH, ESQ., SBN 107190 VANESSA M. HABERBUSH, ESQ., SBN 287044 LANE K. BOGARD, ESQ., SBN 306972 444 West Ocean Boulevard, Suite 1400 Long Beach, CA 90802 Telephone: (562) 435-3456 Facsimile: (562) 435-6335 E-Mail: lbogard@lbinsolvency.com ☐ Individual appearing without attorney ☒ Attorney for: Debtors	FOR COURT USE ONLY FILED & ENTERED MAY 08 2017 CLERK U.S. BANKRUPTCY COURT Central District of California BY tatum DEPUTY CLERK CHANGES MADE BY COURT
<u>NOT FOR PUBLICATION</u> UNITED STATES BANKRUPTCY COURT CENTRAL DISTRICT OF CALIFORNIA – LOS ANGELES DIVISION	
In re: MARTHA NERI and WILLIAMS NERI, Debtor(s).	CASE NO.: 2:17-bk-10442-RK CHAPTER: 7 ORDER ☐ GRANTING ☒ DENYING MOTION TO AVOID LIEN UNDER 11 U.S.C. § 522(f) (REAL PROPERTY) ☒ No hearing held ☐ Hearing held Date: N/A Time: N/A Courtroom: 1675 Place: 255 E. Temple Street Los Angeles, CA 90012
Creditor Holding Lien to be Avoided (name): DCFS Trust	

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.

This form is mandatory. It has been approved for use in the United States Bankruptcy Court for the Central District of California.

3. The real property to which this order applies is as follows:
- Street address (*specify*): 8058 Gallatin Rd, Downey CA 90240
 - Legal description (*specify*): Lot 61 of Tract No. 15404, in the City of Downey, County of Los Angeles, State of California, APN: 6361-001-006 ☒ See attached page
4. Recording information regarding lien to be avoided:
- Date of recordation of lien (*specify*): 07/17/2009.
 - Recorder's instrument number or map/book/page number (*specify*): Recorder's Instrument number 20091085493
5. ☐ Motion granted:
- ☒ The judicial lien sought to be avoided impairs an exemption to which Debtor would otherwise be entitled under 11 U.S.C. § 522(d)
 - ☐ The judicial lien is void and unenforceable:
 - ☐ In its entirety
 - ☐ In the following amount *only*: \$ _____. The balance of \$ _____ remains a valid and enforceable lien against the property.
 - 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
- ☐ Insufficient notice
 - ☐ Insufficient evidence of the exempt status of the property in question
 - ☐ Failure to comply with FRBP 7004(b)(3) or FRBP 7004(h).
 - ☐ Insufficient evidence of fair market value.
 - ☐ Motion is incomplete.
 - ☒ Other (*specify*): **Movant has failed to submit admissible and credible evidence establishing some of the unavaoided liens on the subject property, namely, the Chase liens secured by trust deeds. For evidence of these liens, Movant only relies upon assertions in a preliminary title report, inadmissible under Fed. R. Evid. 901 for lack of authentication, inadmissible under Fed. R. Evid. 802 as hearsay and inadmissible under Fed. R. Evid. 602 for lack of personal knowledge. Movant must provide admissible and competent evidence of the existence of these unavaoided liens, such as properly authenticated copies of the trust deeds with recordation data.**

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7. ☒ The court further orders as follows (*specify*): **The court grants leave to Debtors to file and serve an amended motion which corrects the deficiencies within 60 days of entry of this order.**

☐ See attached page

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Date: May 8, 2017



Robert Kwan
United States Bankruptcy Judge

PRELIMINARY REPORT

Pacific Coast Title Company
ORDER NO.: 94733429-33

LEGAL DESCRIPTION

EXHIBIT "A"

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:

LOT 61 OF TRACT NO. 15404 IN THE CITY OF DOWNEY, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AS SHOWN ON MAP FILED IN BOOK 334, PAGES 46 TO 48, INCLUSIVE OF MAPS IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

Assessor's Parcel Number: **6361-001-006**