

1 Bruce Berline
2 LAW OFFICE OF BRUCE BERLINE, LLC
3 Security Title Building
4 Isa Drive, Capitol Hill
5 PO Box 5682 CHRB
6 Saipan, MP 96950
7 Tel.: (670) 233-3663
8 Fax: (670) 233-5262
9 Email: bberline@gmail.com

6 Aaron Halegua
7 AARON HALEGUA, PLLC
8 524 Broadway, 11th Floor
9 New York, New York 10012
10 Tel.: (646) 854-9061
11 Email: ah@aaronhalegua.com

10 John-Patrick M. Fritz
11 LEVENE, NEALE, BENDER, YOO & GOLUBCHIK L.L.P.
12 2818 La Cienega Ave.
13 Los Angeles, CA 90034
14 Tel: (310) 229-3395
15 Email: jpf@lnbyg.com

14 Attorneys for Joshua Gray

15 **IN THE UNITED STATES DISTRICT COURT**
16 **FOR THE NORTHERN MARIANA ISLANDS**
17 **BANKRUPTCY DIVISION**

18 In re

19 IMPERIAL PACIFIC INTERNATIONAL
20 (CNMI), LLC,

21 Debtor and
22 Debtor-in-Possession.

Case No. 1:24-bk-00002

DECLARATION OF DAVID WICKLINE
IN SUPPORT OF OPPOSITION BY
JUDGMENT CREDITOR JOSHUA GRAY
TO JOINT MOTION TO APPROVE THE
SALE OF DEBTOR’S ASSETS

Hearing Date: March 25, 2025
Hearing Time: 9:00 a.m.
Judge: Hon. Robert J. Faris



1 I, David Wickline, hereby declare and state, under penalty of perjury and the laws of the United
2 States, as follows:

3 1. I am over eighteen years of age and am fully competent to testify to the facts set forth in this
4 declaration.

5 2. I have been a representative for a Trust that was interested in purchasing the assets of Imperial
6 Pacific International (“IPI”) out of bankruptcy. I am a former Vice President of Goldman Sachs and
7 over the last 30 years have served as Sponsor or Managing Member of many resort developments in
8 the United States and Micronesia. The Trust intended to place a bid for substantially all the assets of
9 the Debtor in the auction that took place pursuant to these bankruptcy proceedings. However, I was
10 unable to obtain due diligence material for the Investment Banker and therefore the Trust did not bid.

11 3. I was sent a Nondisclosure Agreement (an “NDA”) by Intrepid Investment Bankers LLC
12 (“Intrepid”). Upon reviewing the NDA with my attorney, Michael Dotts, we had several concerns. We
13 both thought the provisions were more broad and severe than anything we had experienced in the past.
14 For instance, the NDA prohibited me or my representatives from disclosing to any person that non-
15 public, confidential, or propriety information about the Debtor was made available to me in connection
16 with the auction and any subsequent transaction. In investments like a casino development there is
17 generally a lead partner and strategic partners. I could not discuss the investment with any strategic
18 partners and what the due diligence material revealed without violating the NDA.
19

20 4. The NDA also prohibited me from sharing any non-public, confidential, or proprietary
21 information disclosed with other creditors of the Debtor who would be given the opportunity to vote
22 on any transaction, or even with this Court while it oversees the auction and any subsequent
23 transaction.
24

1 5. I have never been in a situation before when an NDA stood in the way of gaining access to
2 confidential information to prepare an offer. I had arranged for introductions to potential partners for
3 the venture including large casino operators in Las Vegas and one that was looking to expand into
4 Asia. However, I had not obtained the due diligence material from Intrepid so I could not go forward
5 with the meeting.

6 6. In about October, 2024, I emailed my concerns over the NDA to Intrepid and provided a
7 redlined version of the NDA in which I proposed some changes. (**Exhibit A**). However, Intrepid
8 summarily denied our request to modify the NDA.

9 7. Even when I asked to correct the misstatement that the Bankruptcy Court of Hawaii had
10 jurisdiction over the bankruptcy case (it should say the Bankruptcy Court of the Northern Mariana
11 Islands), Intrepid insisted that the jurisdiction had been moved to Hawaii court and refused to make
12 the change. The NDA was take-it or leave-it, as written.

13 8. Since I was never able to get access to the Data Room, I was unable to analyze the Debtor's
14 assets and unable to even formulate an initial bid or meet with potential strategic partners for the Trust.
15 This meant that I also was not even permitted to participate in the auction process, despite my potential
16 interest in purchasing the Debtor's assets.

17 9. Even today, I remain interested in bidding on the Debtor's assets. If provided access to the
18 Data Room, I might submit a bid on all or some of the Debtor's assets that would result in the estate
19 receiving a greater dollar amount than it will obtain from the current proposed sale on behalf of the
20 Trust.
21

22 10. Therefore, I believe the sale should be deemed defective and other bidders should be given an
23 opportunity to participate in an auction process.
24

1 11. I submit this declaration in support of the opposition of secured creditor Joshua Gray to the
2 Joint Motion of Debtor and Official Committee of General Unsecured Creditors for Order (I)
3 Approving the Sale of Substantially All of the Debtors Assets Free and Clear of All Liens, Claims,
4 And Encumbrances Pursuant To 11 U.S.C. § 363, Subject to Overbids; and (II) Authorizing the
5 Assumption and Assignment of Certain Executory Contracts and Cure Amounts Associated Therewith
6 (ECF No. 367 (the “Motion”)).

7 I declare under penalty of perjury that the foregoing is true and correct.

8 Executed in Sonoma, California, on this 10th day of March, 2025.

9
10 _____/s/_____
11 David Wickline

Exhibit A

October 28~~24~~, 2024

[Name]

[Title]

[Buyer Name]

[Address]

CONFIDENTIALITY AGREEMENT

Dear [Name]:

In connection with your possible interest in investing in or acquiring in a consensual transaction (a "Transaction") all or any portion of the assets, debt or equity securities of Imperial Pacific International (CNMI), LLC, (the "Company"), we are furnishing you with certain information (oral, written or otherwise) relating to the Company which is non-public, confidential or proprietary in nature. Such information furnished to you before, on or after the date of this letter agreement (this "Agreement") along with the Company's willingness to consider such a Transaction, as well as documents prepared by you or your directors, officers, managers, employees, affiliates and designees, equity holders, advisors, attorneys, accountants, consultants, agents or representatives (collectively, "Representatives") which contain or otherwise reflect such information, is hereinafter referred to as the "Information." The term "Information" shall not include such portions of the Information which: (i) were already in your possession prior to the time of disclosure to you by the Company or its Representatives; provided, that source of such Information is not prohibited from disclosing such Information to you by a legal, contractual or fiduciary obligation to the Company, (ii) are or become generally available to the public other than as a result of a breach of this Agreement by you or your Representatives, or (iii) become available to you on a non-confidential basis from a source other than the Company or its Representatives which is not prohibited from disclosing such information to you by a legal, contractual or fiduciary obligation to the Company. In consideration of us furnishing you with the Information, you agree for the benefit of the Company that:

1. The Information will be kept confidential and shall not be used by you other than in connection with evaluation or pursuit of the Transaction. Without the Company's prior written consent, you agree not to disclose the Information in any manner whatsoever, in whole or in part, to any person; provided, however, that you may disclose Information to your Representatives who need to know the Information for the purpose of evaluating the Transaction, ~~to other creditors of the Company who will be given the opportunity to vote on the Transaction, and the Federal Bankruptcy Court that will oversee the Transaction, and who are informed by you of the confidential nature of the Information and agree (in writing, if so requested by the Company) to act in accordance with the terms and conditions of this Agreement.~~ You shall be responsible for any breach of this Agreement by your Representatives as if such Representative had been substituted for "you" as a party and signatory to this Agreement.
- ~~2. Without the Company's prior written consent, you and your Representatives will not disclose to any person the fact that the Information has been made available, that discussions or negotiations are taking place or have taken place concerning a possible Transaction involving you and the Company or any of the terms, conditions or other facts with respect to any such possible Transaction, including the status thereof.~~
- ~~3.~~2. All inquiries and other communications are to be made directly to Intrepid Investment Bankers LLC ("Intrepid") or the employees or representatives of the Company specified in writing by Intrepid. Without Intrepid's prior written consent, you will not contact, directly or indirectly, any of the Company's current directors, officers, employees, shareholders, creditors, customers, suppliers, banks

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or lenders regarding the Information or your interest in the Company or any possible Transaction involving the Company; provided, however that you may contact such parties in the ordinary course of business regarding matters unrelated to the potential Transaction.

4.3. For a period of two (2) years from the date hereof, or the approval of the Transaction by the bankruptcy court, or the dismissal of the bankruptcy, whichever shall occur first, neither you nor your Representatives will, directly or indirectly, solicit for employment or hire any of the Company's employees; provided, however, that the foregoing provision will not prevent you or your Representative from soliciting or employing any such persons who: (a) contact you on his or her own initiative without any solicitation on your or your Representative's part; (b) respond to a general solicitation of employment through an advertisement not specifically targeted at the Company or its employees; or (c) have been terminated by the Company prior to commencement of employment discussions between you or your Representatives and such employees.

5.4. You understand that the Company has endeavored to include in the Information those materials which the Company believes to be reliable and relevant for the purpose of your evaluation, but you acknowledge that neither the Company nor its Representatives makes any representation or warranty either express or implied as to the accuracy or completeness of the Information, except as otherwise provided in a definitive agreement relating to a Transaction.

6.5. All copies of the Information, including documents or other materials prepared by you or your Representatives that include portions of or are derived from the Information, will be returned or destroyed upon request of the Company. Any Information that cannot be returned (such as oral Information) shall remain subject to the terms of this Agreement. Notwithstanding the foregoing, you and your Representatives shall be permitted to retain one copy of the Information as required to comply with bona fide internal document retention policies and automatic archival procedures; provided that any such retained Information shall only be accessed for compliance purposes and shall remain subject to the terms of this Agreement.

7.6. You represent that you are obtaining the Information and executing this Agreement for your own account for your own purposes and not for or on behalf of or in concert with any other party. However, it is understood that you may obtain financing and take on partners and that the Information may be provided to your lenders and prospective partners provided that the lenders and prospective partners agree to be bound by the terms of this Agreement.

8.7. In the event you or anyone to whom you transmit the Information pursuant to this Agreement becomes legally compelled to disclose any of the Information, you will provide the Company with prompt advance notice so that the Company may seek a protective order or other appropriate remedy and/or waive compliance with the provisions of this Agreement. You will furnish only that portion of the Information which you are advised by written opinion of counsel is legally required and will exercise your best efforts to obtain reliable assurance that confidential treatment will be accorded the Information.

9.8. The Company reserves the right to negotiate with one or more prospective investors or purchasers at any time and to enter into agreements with respect to transactions involving the Company without prior notice to you or any other party but subject to the restrictions that may be imposed by the bankruptcy court. The Company may terminate access for you or your Representatives to the Information at any time and for any reason or without any reason provided that the bankruptcy court approves the decision to terminate access.

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~~10.9.~~ You The parties agree that money damages may not be a sufficient remedy for any breach of this Agreement and that the Company-parties shall be entitled to seek injunctive relief, specific performance or other appropriate equitable remedies for any such breach. Any of such remedies shall not be deemed to be the exclusive remedy for any breach of this Agreement, but shall be in addition to all other remedies available to the Company-parties at law or in equity. In the event ~~the Company~~ a party brings an action to enforce the obligations hereunder, the non-prevailing party shall reimburse the prevailing party for all costs and expenses, including reasonable attorneys' fees, incurred by it in connection therewith.

~~11.10.~~ The terms, conditions and covenants of this Agreement are for the benefit of the Company and its Representatives, subject to the jurisdiction of the bankruptcy court. The parties acknowledge and agree that the Company's actual name shall be inserted into this Agreement following execution and that the Company shall be entitled to enforce all rights under this Agreement as if it had been originally named in this Agreement at the time of execution. No failure or delay by the Company or its respective Representatives in exercising any right hereunder or any partial exercise thereof shall operate as a waiver thereof or preclude any other or further exercise of any right hereunder.

~~12.11.~~ This Agreement shall be binding on your successors and permitted assigns. Without the Company's prior written consent, you may not assign this Agreement, and any attempt to do so will be void.

~~13.12.~~ This Agreement shall be governed by, and construed in accordance with, the laws of the Commonwealth of the Northern Mariana Islands that apply to contracts made and performed entirely within such Commonwealth. EACH OF THE PARTIES IRREVOCABLY WAIVES ALL RIGHT TO TRIAL BY JURY IN ANY ACTION, SUIT, OR OTHER PROCEEDING (WHETHER BASED ON CONTRACT, TORT, OR OTHERWISE) ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY OF THE TRANSACTIONS CONTEMPLATED BY THIS AGREEMENT OR THE ACTIONS OF THE PARTIES IN THE NEGOTIATION, ADMINISTRATION, PERFORMANCE, AND ENFORCEMENT HEREOF. You and the Company each expressly consent and submit to the exclusive jurisdiction of the United States Bankruptcy Court for the District of Hawaii-the Northern Mariana Islands (the "Bankruptcy Court") over any actions or proceedings relating to or arising out of the enforcement or interpretation of this Agreement, this engagement or the performance or non-performance of you hereunder and any party bringing such action, suite or other proceeding shall bring such action, suit or other proceeding in the Bankruptcy Court. If the Bankruptcy Court refuses or abstains from exercising jurisdiction over any such actions, suits or other proceedings, then the parties agree that venue shall be in any other federal court located within the Commonwealth of the Northern Mariana Islands having proper jurisdiction. If the Bankruptcy Court or Northern Mariana Islands Federal Court, does not have or retain jurisdiction over the foregoing claims and controversies, you and the Company, and any and all successors and assigns thereof, agree to exclusive jurisdictions in New York State court in the County of New York. Each party hereby irrevocably and unconditionally waives, to the fullest extent it may legally and effectively do so, (i) any objection that it may now or hereafter have to the laying of venue of any action, suit or other proceeding arising out of or relating to this Agreement with the Bankruptcy Court or with any other federal court located within the Commonwealth of the Northern Mariana Islands or, if neither retain jurisdiction, in New York State court in New York county, and (ii) the defense of an inconvenient forum to the maintenance of such action or proceeding in any such court.

Confidentiality Agreement

[Buyer Name]

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~~14.~~13. This Agreement shall terminate on the date that is two (2) years from the date hereof, the approval of the Transaction by the Bankruptcy Court, or the dismissal of the bankruptcy, whichever shall occur first.

~~15.~~14. This Agreement may be executed in two counterparts (and by PDF or facsimile copy), each of which shall be deemed to be an original, but all of which shall constitute the same agreement.

Sincerely,

By: _____

Name: _____

Its: _____

Accepted and agreed to as of the date first written above:

[Buyer Name]

By: _____

Name: _____

Its: _____