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LAND USE COMMISSION
STATE OF HAWAII

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LAND USE COMMISSION
235 S BERETANIA ST 406
HONOLULU HI 96813

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6132250982-17-00611-AINA LE'A, INC.

PLEASE TAKE NOTICE: THE FOLLOWING DOCUMENTS BEGIN AFTER THIS PAGE

Notice of Hearing on Confirmation of Plan of Reorganization Dated as of December 27, 2018 [Dkt. #322]



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Attorneys for Debtor and Debtor-in-Possession
Aina Le'a, Inc.

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF HAWAII

In re

AINA LE'A, INC.,

Debtor and
Debtor-in-Possession.

Bk. No. 17-00611
(Chapter 11)

Hearing
Date: March 13, 2019
Time: 9:30 a.m.
Judge: Hon. Robert J. Faris

[Related to dkt. #312]

**NOTICE OF HEARING ON CONFIRMATION OF
PLAN OF REORGANIZATION DATED AS OF DECEMBER 27, 2018**

TO CREDITORS AND OTHER PARTIES IN INTEREST:

On June 22, 2017, AINA LE'A, INC., the debtor and debtor-in-possession ("Debtor"), filed a voluntary petition for relief under chapter 11 of the United States Code in the United States Bankruptcy Court for the District of Hawaii ("Court").

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U.S. Bankruptcy Court - Hawaii #17-00611 Dkt # 322 Filed 01/02/19 Page 1 of 7

provided as quickly as practicable upon request to Allison Ito, Esq. at aito@hibklaw.com, or at (808) 533-1877. Copies also are on file with the Clerk of the Bankruptcy Court for the District of Hawaii and may be reviewed during regular business hours at the Bankruptcy Court or online through the Bankruptcy Court's internet website at <http://www.hib.uscourts.gov>.

PLEASE TAKE NOTICE that a hearing on Confirmation of the Plan, will be held on **March 13, 2019 at 9:30 a.m.**, Hawaii standard time, in the Courtroom of the Honorable Robert J. Faris, United States Bankruptcy Judge for the District of Hawaii, which is located at 1132 Bishop Street, Honolulu, Hawaii 96813.

PLEASE TAKE FURTHER NOTICE that any claimant who wishes to vote on the Plan must return any Ballot to accept or reject the Plan so that they are actually received by Choi & Ito, Attorneys at Law, 700 Bishop Street, Suite 1107, Honolulu, Hawaii 96813, by no later than **February 13, 2019, at 4:00 p.m.**, Hawaii Standard Time (the "Deadline"). **ANY BALLOTS RECEIVED AFTER THAT DEADLINE WILL NOT BE COUNTED.** Claimants must return their Ballots to the address set forth above and in accordance with the instructions on the Ballots. If you think entitled to vote but have not received the Disclosure Statement or Ballot, please contact Allison Ito, Esq. at aito@hibklaw.com, or at (808) 533-1877.

PLEASE TAKE FURTHER NOTICE that any objection to the Plan must be filed with the Court on or before **February 27, 2019**. Only those objections that are timely filed, served, and otherwise comply with the requirements of this Notice may be considered by the Court. All objections to the Plan must be in writing, must state with particularity the legal and factual basis for the objection, and must include copies of all documents, exhibits and declarations that the objecting party intends to rely upon in opposing Confirmation.

PLEASE TAKE FURTHER NOTICE that the deadline to file and serve a motion for temporary allowance of a Claim for voting purposes pursuant to Federal Rules of Bankruptcy Procedure Rule 3018 is **February 20, 2019**.

PLEASE TAKE FURTHER NOTICE that any direct testimony in support of Confirmation of the Plan or in support of objections to confirmation of the Plan must be submitted via declaration. Any party wishing to cross examine a declarant at the Confirmation Hearing must notify counsel on or before **March 6, 2019** of the party's intent to cross examine the declarant in which case the declarant must be made available at the Confirmation Hearing.

On **December 27, 2018**, the Debtor filed a *Chapter 11 Plan of Reorganization of Aina Le'a, Inc.*, dated December 27, 2018 ("Plan").¹

On **January 2, 2019**, the Debtor filed a *First Amended Disclosure Statement for Debtor's Chapter 11 Plan of Reorganization of Aina Le'a, Inc.*, dated December 27, 2018 (the "Disclosure Statement").

On **January 2, 2019**, the Court entered its *Order Approving First Amended Disclosure Statement for Plan of Reorganization Dated December 27, 2018, and Balloting Procedures and Scheduling Deadlines*. By this order, the Court, among other things, approved the Disclosure Statement, which is intended to assist those entitled to vote on the Plan to decide whether to vote for or against the Plan.

Under the Bankruptcy Code, only classes of claims or interests that are "impaired" and that are not deemed as a matter of law to have rejected a plan of reorganization under section 1126 of the Bankruptcy Code are entitled to vote to accept or reject a plan. Any class that is "unimpaired" is not entitled to vote to accept or reject a plan of reorganization and is conclusively presumed to have accepted the plan. As set forth in section 1124 of the Bankruptcy Code, a class is "impaired" if the legal, equitable, or contractual rights attaching to the claims or interests of that class are modified or altered.

The Plan classifies the following Classes as the only Impaired classes and that are entitled to vote to accept or reject the Plan: Class 2A Secured Claims of Romspen; Class 2B Secured Claims of Bridge; Class 2C Secured Claims of Libo Zhang; Class 3A General Unsecured Claims; and Class 3B Other Unsecured Claims.

The Plan classifies the following Unimpaired Claims and Interests as not being entitled to vote on the Plan. Pursuant to section 1126(f) of the Bankruptcy Code, each Holder of a Claim or Interest in these Classes is conclusively presumed to have accepted the Plan in respect of such Claims, and thus is not entitled to vote to accept or reject the Plan: Class 1 Other Priority Unsecured Claims; Class 2D Other Secured Claims; and Class 4 Common Stock Interests. Holders of Other Interests in Class 5 will not receive or retain any property under the Plan, and are, therefore, deemed to reject the Plan and are not entitled to vote on the Plan.

The Debtor will not provide copies of the Plan or Disclosure Statement to Holders of Claims or Interests in Classes that are not entitled to vote on the Plan. If you wish to receive copies of the Plan or Disclosure Statement, they will be

¹ Capitalized terms not herein defined shall have the meaning set forth in the Plan.

PLEASE TAKE FURTHER NOTICE that if a party timely designates a witness for cross-examination, and that witness fails to appear at the Confirmation Hearing for cross-examination, the Court will strike and disregard that witness' written direct testimony. However, a party is not precluded from offering a statement of or testimony by an unavailable witness that is admissible under the Federal Rules of Evidence.

PLEASE TAKE FURTHER NOTICE that unless otherwise ordered, the Court will not receive any evidence, consider any evidentiary objections, or allow any cross-examination that is not timely presented or requested.

PLEASE TAKE FURTHER NOTICE that not later than **February 13, 2019**, any Person wishing to use an interpreter for the testimony of one or more witnesses must notify the courtroom deputy of such a request. The Person wishing to use the interpreter must verify that the individual has been certified as an interpreter by the Director of the Administrative Office of the United States Courts and indicate whether the selection of the interpreter is agreeable to all Persons. The requesting party's witness list must include the name of the interpreter and identify the Person whose testimony will be interpreted.

PLEASE TAKE FURTHER NOTICE that not later than **February 27, 2019**, any Person wishing to use the electronic presentation equipment in the courtroom shall so inform the courtroom deputy. Anyone using the equipment must familiarize themselves with the Court's equipment, test the compatibility of their presentations with the equipment, make alternative arrangements for their presentations in the event of incompatibility or system failure, and provide all other parties with a digital copy (in its native file format) of all materials to be presented.

Prior to commencement of the Confirmation Hearing, the following schedule shall apply:

- a. **January 4, 2019** - Last day for service of requests for answers to interrogatories, requests for production of documents and requests for admissions (collectively "Written Discovery Requests").
- b. **Earlier of (a) two weeks after service of Written Discovery Requests, or (b) January 18, 2019** - Deadline to respond to Written Discovery Requests and produce requested documents.

- c. **February 20, 2019** - The Debtor shall file and serve (i) a written confirmation brief, which brief must state with particularity the legal and factual basis for supporting Plan confirmation, (ii) one or more declarations, under penalty of perjury, containing all direct testimony that constitutes the Debtor's case in chief, including all documents, exhibits, written expert reports, and appropriate foundational evidence, that the Debtor intends to rely upon in support of confirmation, and (iii) lists of Debtor's witnesses and exhibits that the Debtor intends to use or introduce at the Confirmation Hearing.
- d. **February 27, 2019** - Any party in interest (each an "Objecting Party") desiring to object to the Plan shall file and serve (i) a written brief setting forth the Objecting Party's objection to confirmation of the Plan, which brief must state with particularity the legal and factual basis for the objection, (ii) one or more declarations, under penalty of perjury, containing all direct testimony that supports the Objecting Party's objections, including all documents, exhibits, written expert reports, and appropriate foundational evidence, that the Objecting Party intends to rely upon in opposing Plan confirmation, and (iii) lists of Objecting Party's witnesses and exhibits that it intends to use or introduce at the Confirmation Hearing.
- e. **March 6, 2019** - The Debtor shall file and serve (i) a reply brief; (ii) one or more declarations, under penalty of perjury, containing all rebuttal testimony that the Debtor intends to offer, including appropriate foundational evidence for all rebuttal exhibits the Debtor intends to offer; and (iii) final comprehensive lists of the Debtor's witnesses and exhibits.
- f. **March 6, 2019** - The Debtor and each Objecting Party shall file and serve a statement designating which, if any, of any identified witnesses that it desires to cross-examine. The Debtor and each Objecting Party shall also file and serve any evidentiary objections, stated as concisely as they would be if stated orally at trial.

- g. **March 9, 2019** - Deadline to take any depositions. To the extent reasonably practicable, depositions shall be noticed 14 days in advance.

PLEASE TAKE FURTHER NOTICE that all pleadings and exhibits must be served so that they are received by the applicable deadline and shall be served on opposing parties, as applicable, and on the following: (a) counsel for the Debtor; and (b) the Office of the U.S. Trustee at the following addresses:

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OFFICE OF THE UNITED STATES TRUSTEE
 1132 Bishop Street, Suite 602
 Honolulu, Hawaii 96813

PLEASE TAKE FURTHER NOTICE that **December 27, 2018, at 5:00 p.m. HST** ("Record Date"), will be the date on which the identity of the holder of a transferred Claim will be determined for the purpose of establishing an entitlement to receive copies of the Plan and Disclosure Statement and notice of the Confirmation Hearing. A transferee of a Claim against the Debtor will be entitled to receive a Solicitation Package and cast a Ballot on account of its transferred Claim only if all of the following have occurred prior to the Record Date: (i) all actions necessary to effect the transfer of such Claim pursuant to Bankruptcy Rule 3001(e); or (ii) such transferee has filed (Y) the documentation required by Bankruptcy Rule 3001(e) to evidence the transfer of such claim and (Z) a sworn statement of the transferor supporting the validity of the transfer of such Claim.

DATED: Honolulu, Hawaii, January 2, 2019.

/s/ Allison A. Ito
 CHUCK C. CHOI
 ALLISON A. ITO

 STEVE JAKUBOWSKI

 Attorneys for Debtor and
 Debtor-in-Possession

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