

1 Alan A. Meda (#009213)
2 BURCH & CRACCHIOLO, P.A.
3 702 East Osborn Road, Suite 200
4 Phoenix, Arizona 85014
5 Tel: 602.274.7611
6 ameda@bcattorneys.com

7 *Attorneys for Ara Macao Holdings, L.P.*

8 UNITED STATES BANKRUPTCY COURT

9 FOR THE DISTRICT OF ARIZONA

10 In re

11 ARA MACAO HOLDINGS, L.P.,

12 Debtor.

13 Chapter 11

14 Case No.: 3:18-bk-03615-PS

15 **MOTION TO AUTHORIZE RETURN OF
16 INTERESTS**

17 Ara Macao Holdings, L.P., Debtor and Debtor-in-Possession (“**Debtor**”), hereby files
18 this *Motion to Authorize Return of Interests* (the “**Return of Interests Motion**”). This Return of
19 Interests Motion relates to the interests of Ara Macao Development, LTD (now known as Ara
20 Development, Ltd., a Belize Chapter 250 company) (“**ADL**”) which were previously transferred
21 to Paul Goguen, the representative of Debtor to facilitate a loan from
22 Atlantic Bank Limited, a Belize Bank (“**ABL**”), and is supported by the record of this Bankruptcy
23 Case and by the following Memorandum of Points and Authorities.

24 **MEMORANDUM OF POINTS AND AUTHORITIES**

25 **I. JURISDICTION**

26 1. This case was initiated as an involuntary proceeding filed on April 6, 2018 (the
27 “**Petition Date**”) by KB Partners I, L.P., Christopher de Sibert, Daniel Dorgan, Gary Nitsche,
28 Richard Umbach and Edgewater Resources, LLC (“**Petitioning Creditors** under chapter 11 of
Title 11 of the United States Code (the “**Bankruptcy Code**”).

2. On or about May 8, 2018, the involuntary proceeding was converted to a voluntary

1 Chapter 11 proceeding [DE 18].

2 3. The Debtor continues to operate its business and manage its assets as a debtor in
3 possession in accordance with sections 1107 and 1108 of the Bankruptcy Code.

4 4. The Court has jurisdiction over the Bankruptcy Cases under 28 U.S.C. §§ 157 and
5 1334.

6 5. This matter presents a core proceeding under 28 U.S.C. § 157(b)(2).

7 6. No trustee or examiner has been appointed in the Bankruptcy Cases, nor has an
8 official committee of unsecured creditors been established.

9 **II. BACKGROUND**

10 7. Debtor is a limited partnership formed in Illinois in 2004.

11 8. The primary asset of Debtor includes an approximately 616 acre parcel of prime
12 developable resort property in Belize (the "**Property**"), which includes nearly one mile of
13 Caribbean beachfront. The Property (with title held in escrow) was fully paid for in 2007.

14 9. The Property is located near Francis Ford Coppola's landmark and luxurious
15 Turtle Inn in Belize.

16 10. Although the Property has not been fully developed, Debtor and its management
17 have been working on obtaining necessary approvals, securing funding, and attracting joint
18 venture partners including, without limitation, environmental clearance and approvals to
19 subdivide the Property from agencies of the Belizean government issued on March 23, 2017.

20 11. Debtor believes that the Property has substantial value based on a November 2015
21 appraisal valuing the Property at \$37,255,468 "as is" and \$61,000,000 improved.

22 12. There are currently approximately 90 limited partners in Debtor, with collective
23 investments totaling nearly \$9 million.

24 13. In 2016, ABL considered underwriting a US\$2.5 million loan for the purpose of
25 completing certain development, infrastructure construction, and administrative expenses
26 including land transfers and marketing activities associated with the development of the Property.

27 14. ADL was established in 2006 for the purpose of receiving certain Belize tax
28 waivers and other fiscal incentives associated with the construction and development of the

1 Property as well as to facilitate the financing and implementation of construction.

2 15. ADL was 99% owned by Debtor and 1% owned by ioVest Development, LLC
3 (ioVest”).

4 16. ABL would only make a loan to a Belizean company, in this case to ADL. In order
5 to facilitate the loan, ABL requested that Paul Goguen personally guaranty the loan and hold the
6 equity interests of ADL. Otherwise, ABL required that all 90 Limited Partners of Debtor must
7 individually provide personal guaranties, which would be contrary to the limited liability
8 provisions of Debtor’s limited partnership agreement. As such, the equity interests in ADL held
9 by Debtor (999 shares) and held by ioVest (1 share) were transferred to Paul Goguen. It was
10 always intended for the interests to be returned once the prospective loan was repaid.

11 17. Ultimately, ABL elected not to make the loan. The required transfers of the
12 interests in ADL, however, were inadvertently not returned.

13 **III. RELIEF REQUESTED**

14 18. Paul Goguen holds and continues to hold the interests of ADL for the benefit of
15 Debtor and ioVest.

16 19. In order to restore the proper ownership of the interests in ADL, Debtor requests
17 the authority of the Court for Paul Goguen to transfer all shares in ADL to Debtor and such that
18 Debtor will hold all outstanding shares (1,000) in ADL.

19 WHEREFORE, Debtor respectfully requests that the Court enter an order authorizing and
20 directing Paul Goguen to transfer the interests in ADL to Debtor such that Debtor will own all
21 outstanding shares (1,000) in ADL and granting such other and further relief it deems just and
22 proper.

23 DATED this 7th day of June 2018.

24 **BURCH & CRACCHIOLO, P.A.**

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26 By /s/ Alan A. Meda (#009213)
Alan A. Meda
27 *Attorneys for Ara Macao Holdings, L.P.*
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