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8 Counsel for Creditor, ioVest Development, LLC

9  
10 **IN THE UNITED STATES BANKRUPTCY COURT**  
11 **FOR THE DISTRICT OF ARIZONA**

12 In re:

13 ARA MACAO HOLDINGS, L.P.,  
14 Debtor.

Chapter 11 Proceedings

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

**IOVEST DEVELOPMENT, LLC'S  
RESPONSE TO 1) OFFICIAL  
COMMITTEE OF UNSECURED  
CREDITORS' OBJECTION TO  
CERTAIN SCHEDULED CLAIMS;  
AND 2) INTERIM CHAPTER 11  
TRUSTEE'S THIRD OMNIBUS  
OBJECTION TO CLAIMS**

15  
16 Creditor, ioVest Development, LLC ("ioVest"), by and through its undersigned  
17 counsel, hereby responds to the 1) *Official Committee of Unsecured Creditors'*  
18 *Objection to Certain Scheduled Claims* (the "Committee Objection") [Dkt. 183]; and 2)  
19 *Interim Chapter 11 Trustee's Third Omnibus Objections to Claims* (the "Trustee  
20 Objection) [Dkt. 189]. Since the filing of the original Chapter 11 Trustee's claim  
21 objection, the former trustee, Grant Lyon, has been replaced by the current trustee, Cary  
22 Forrester (hereafter collectively the "Parties"). The Parties have agreed that for purposes  
23 of this controversy, the Trustee's Objection, as well as the Committee Objection, shall  
24 be addressed in this single response.  
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1                   **I.     The Committee Objection**

2                   The Official Committee of Unsecured Creditors objected to the scheduled claim  
3 of ioVest stating that “(i) ioVest is an insider of the Debtor, (ii) ioVest has been  
4 dissolved, (iii) ioVest’s purported claim lacks merit and is unsupported by any  
5 documentation, and (iv) ioVests’ purported claim is eclipsed by the enormity of claims  
6 against it for, *inter alia*, taking unauthorized project management fees for its own benefit  
7 to the detriment of those creditors, fraud, and mismanagement.”  
8

9                   In response to the Committee Objection, ioVest responds: 1) it is not dissolved  
10 (see Illinois Secretary of State File Detail Report attached here to as Exhibit “A”), and 2)  
11 filed its Amended Proofs of Claim numbers 70 and 71, providing the documentation  
12 necessary to support its claims for deferred compensation in the amounts of  
13 \$2,490,433.00 and \$1,596,456.00 (see Amended Proofs of Claim Nos. 70 and 71 in the  
14 Claims Register). Furthermore, at this stage of this case, when there is an overarching  
15 question as to the value of the Debtor’s assets, it makes little sense to engage in costly  
16 claim litigation. IoVest believes the estate’s resources are better spent securing title to  
17 the real property and moving forward with a sale or restructuring of the Debtor.  
18 Additionally, despite the allegations of fraudulent activity and misconduct by ioVest,  
19 there has yet to date been a single judicial determination of wrongdoing by ioVest.  
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23                   **II.    The Trustee Objection**

24                   The Interim Chapter 11 Trustee, Grant Lyon, did not object to the validity of the  
25 amount or basis of ioVest’s scheduled claim, but objected to ioVest’s ability to vote in  
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1 any requested or conducted election of a trustee pursuant to 11 U.S.C. § 1104(b)(1),  
2 based on the fact that ioVest is an insider of the Debtor.

3 In response to the Trustee Objection, the election has already occurred and the  
4 trustee replaced. To the extent the Trustee's Objection relates to the amount and priority  
5 of the ioVest claim that will obviously need to be resolved through the presentation of  
6 evidence and witness testimony. Again, this is something that is not of an urgent nature  
7 and should await resolution as is typically done in a real estate Chapter 11 case, i.e. after  
8 a Section 363 sale or plan confirmation.  
9

10  
11 Wherefore, for the foregoing reasons, ioVest requests that any hearing to consider  
12 this matter be held in abeyance until there is greater clarity as to whether there shall be  
13 funds available for payment of these claims, if and when allowed.

14 RESPECTFULLY SUBMITTED this 3<sup>rd</sup> day of October, 2018.

15 **THE CROSS LAW FIRM, P.L.C.**

16 /s/ James Cross (#9063)

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18 1850 N. Central Ave., Suite 1150  
19 Phoenix, Arizona 85004  
Counsel for ioVest Development, LLC

20 Original filed and Copies of the foregoing  
21 served electronically via the Court's  
22 CM/ECF Notification System this 3<sup>rd</sup> day of  
October, 2018, on all parties that have  
appeared in the case.

23 Additionally, COPIES sent via e-mail transmission  
24 this 3<sup>rd</sup> day of October, 2018, to:

25 Christopher Pattock  
26 Renee Sandler Shamblin  
27 UNITED STATES TRUSTEE'S OFFICE  
Email: christopher.j.pattock@usdoj.gov  
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8  
9 /s/ Kara L. Stewart

# EXHIBIT "A"

OFFICE OF THE ILLINOIS SECRETARY OF STATE

JESSE WHITE  
SECRETARY OF STATE



## LLC FILE DETAIL REPORT

File Number	01184814		
Entity Name	IOVEST DEVELOPMENT, L.L.C.		
Status	ACTIVE	On	06/28/2018
Entity Type	LLC	Type of LLC	Domestic
File Date	05/13/2004	Jurisdiction	IL
Agent Name	CHARLES EDWARD BARUFFI	Agent Change Date	06/28/2018
Agent Street Address	7983 DADA DR.	Principal Office	191 LYNX DR SEDONA, AZ 86336
Agent City	GURNEE	Managers	<a href="#">View</a>
Agent Zip	60031	Duration	PERPETUAL
Annual Report Filing Date	06/28/2018	For Year	2018
Series Name	NOT AUTHORIZED TO ESTABLISH SERIES		

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