

FILED  
Clerk  
District Court

APR 02 2025

for the Northern Mariana Islands  
By af  
(Deputy Clerk)

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN MARIANA ISLANDS  
BANKRUPTCY DIVISION

IMPERIAL PACIFIC INTERNATIONAL  
(CNMI), LLC,

Debtor and  
Debtor-in-Possession.

Case 1:24-bk-00002

**ORDER AUTHORIZING DEBTOR TO  
EMPLOY KCL & PARTNERS AS SPECIAL  
LITIGATION COUNSEL; EXHIBIT A**

Hearing:

DATE: January 31, 2025

TIME: 9:00 a.m. CHST

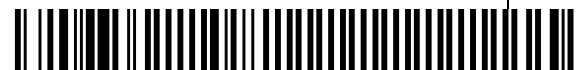
JUDGE: Hon. Robert J. Faris

[Related to ECF No. 347]

The *Application to Employ KCL & Partners as Special Litigation Counsel* (the “Application”),<sup>1</sup> filed by Imperial Pacific International (CNMI), LLC, debtor and debtor-in-possession (the “Debtor”) on January 17, 2025, came on for a hearing before the Honorable Robert J. Faris on January 31, 2025. Appearances are as noted on the record.

Having reviewed the Application and all papers filed in support thereof, and having heard the statements of counsel regarding the relief requested in the Application at the hearing, the Court finding that (a) it has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334, (b) this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2), and (c) notice of the hearing on the Application was sufficient, and good cause appearing therefor,

<sup>1</sup> Capitalized terms not herein defined shall have the meaning set forth in the Application.



**IT IS HEREBY ORDERED** that:

1. The Application is granted as set forth herein.
2. The Debtor is hereby authorized, pursuant to 11 U.S.C. § 327(a) and Rules 2014 and 6003 of the Federal Rules of Bankruptcy Procedure, to employ KCL & Partners as Special Litigation Counsel for the Debtor, effective as of January 1, 2025, on the terms set forth in the Application and the retainer agreement attached hereto as Exhibit A.
3. Notwithstanding anything to the contrary in the retainer agreement, KCL & Partners may not assert an administrative claim against the estate if a purchaser acquires the rights to the Litigation Proceeds (as defined in the retainer agreement).

**SO ORDERED.**



**/s/ Robert J. Faris**

**United States Bankruptcy Judge**

Dated: **04/01/2025**

# **EXHIBIT A**

THIS LITIGATION FUNDING AGREEMENT (the “**Agreement**”) is made on January \_\_, 2025 among Imperial Pacific International (CNMI), LLC, located at PO Box 504041, Saipan, MP 96950 (the “**Company**”); and Kangyi Software Limited, located at Unit 803, 8/F, Shanghai Industrial Investment Building, 48-62 Hennessy Road, Wan Chai, Hong Kong (the “**Investor**”) (collectively called the “**Parties**”). This Agreement is subject to Bankruptcy Court approval.

**WHEREAS**

- (A) On 10 January 2015, the Company commenced a legal action under HCA 75/2018 (the “**Litigation**”) against Chan Chi Hung (the “**Defendant**”). As stated in the Amended Statement of Claim dated 2 August 2022, the Company claimed against the Defendant for (a) the sum of US\$1,446,184.40; or (b) an order for payment by the Defendant to the Company of US\$1,500,000; and (c) interest (collectively called the “**Litigation Proceeds**”); and (d) any costs assessed against Defendant. Messrs. KCL & Partners (the “**Solicitors**”) act for the Company in the Litigation.
- (B) The pre-trial review of the Litigation is scheduled to be heard on 21 March 2025 (60 minutes reserved) and the trial of the Litigation is scheduled to be heard from 16 June 2025 to 25 June 2025 (8 days reserved).
- (C) Pursuant to the Order dated 21 June 2021 and 15 December 2023, the Company paid HK\$600,000 and HK\$1,200,000 into court on 11 June 2021 and 11 January 2024 respectively, for a total sum of HK\$1,800,000 (“**Security for Costs**”) in compliance with the order of Master Lai dated 9 June 2021 and the order of Master Connie Lee dated 15 December 2023.
- (D) The Solicitors instructed barrister Mr. Ronald Pang to attend the pre-trial review and the trial. It is estimated that the total legal costs for the pre-trial review and the trial (excluding expert fees estimated to be about HK \$120,000) will be between HK\$1,300,000 and HK\$2,100,000 (the “**Legal Costs**”).
- (E) The Company filed a voluntary petition on 19 April 2024 under Chapter 11 of the United States Bankruptcy Code in the United States District Court for the Commonwealth of the Northern Mariana Islands, Bankruptcy Division (the “**Bankruptcy Court**”) with the case number BK24 00002. Mr. Howyo Chi, who is the manager of the Company, is appointed as the administrator of the Company, being the debtor in possession for and on behalf of all creditors of the Company, (the “**Administrator**”) with a full authority to act for and on behalf of the Company in all matters, including entering into, signing and executing this Agreement for and on behalf of the Company, subject to Bankruptcy Court approval.
- (F) The Administrator and the Company have requested funding to prosecute the Litigation and the Investor is willing to provide funding in the sum of HK\$1,420,000 to the Company exclusively to finance the cost of litigation, including but not limited to Legal Costs (the “**Litigation Expenses**”). The total funding covers both the pre-trial review and the trial and any enforcement action.
- (G) The Parties agree that the funding provided by the Investor is of a speculative nature, and the Investor has the right to receive investment returns as stipulated in this Agreement.

**NOW THEREFORE, in consideration of the promises contained herein, and for other consideration, the Parties hereby agree to be bound as follows:**

**1. FUNDING**

- 1.1. Within ten (10) business days from the date of this Agreement is approved by the Bankruptcy Court, the Investor shall pay the Company HK\$1,420,000 (the “**Funding Amount**”) as Litigation Expenses, to be remitted to the Solicitors’ bank account (as referred to in clause 1.2 below (“**Solicitors Bank Account**”)) or deposited the cheque directly into the Solicitors Bank Account (or by such other payment method as the Solicitors may agree).
- 1.2. The details of the Solicitors Bank Account are as follows:

Bank: The Hong Kong and Shanghai Banking Corporation Ltd  
Account name: KCL & Partners  
Bank code: HSBCHKHHHKH  
Account number: 652-557489-001
- 1.3. The Company shall use the Funding Amount exclusively for Litigation Expenses, and any Funding Amount and remaining Funding Amount (if any) after the Agreement becomes effective shall not be recoverable until the final resolution as set forth in Clause 6.1.1 below is achieved.
- 1.4. Under no circumstances shall the Investor have any obligation to pay any sums awarded against the Company, including fees, costs or awards, nor shall the Investor be otherwise liable for any obligations of the Company to the Defendant in respect of the Litigation.
- 1.5. In consideration for the payment of the Funding Amount to the Company, the Company hereby agrees that the Investor shall be entitled to an additional sixty (60) percent interest in the net Litigation Proceeds (the “**Investment Returns**”) after the repayment of the Funding Amount. The sequential payments from the Litigation Proceeds shall be as follows: (i) the full Funding Amount shall be paid; (ii) any outstanding legal fees including the Legal Costs shall be paid; (iii), sixty (60) percent of the remaining net Litigation Proceeds shall be paid to the Investor as Investment Returns.
- 1.6. The Company agrees that if it prevails in the Litigation, the Investor shall have the right to receive its loan from the Security for Costs first as the repayment of the Funding Amount.

## **2. RECEIPT OF LITIGATION PROCEEDS**

- 2.1. Any and all Litigation Proceeds shall be deposited into a Solicitors’ client bank account (the “**Trust Account**”) which shall not be commingled with any other funds that are not Litigation Proceeds, and be disbursed in accordance with this Agreement.

## **3. APPLICATION OF LITIGATION PROCEEDS**

- 3.1. Subject to Bankruptcy Court approval, the Company shall, within forty-two (42) days from the date of receiving the Litigation Proceeds, issue written instructions to the Solicitors through the Administrator to make sequential payments from the Trust Account as follows: (i) the Funding Amount or the balance thereof; (ii) any amounts including the Legal Costs owed by the Company to the Solicitors; (iii) Investment Returns; (iv) any remaining Litigation Proceeds (if any) to be paid to the Company. If no Litigation Proceeds are obtained from the Litigation, the Investor may only make a claim against the Company's assets as an administrative creditor for the Funding Amount. In the event that the Funding Amount is not fully compensated, the Investor may also only make a claim against the Company as an administrative creditor.

## **4. SETTLEMENT**

- 4.1. Subject to Bankruptcy Court approval, the Company shall have the sole and exclusive right to settle the Litigation on whatever terms it deems acceptable, but must prioritize repaying the Funding Amount and any outstanding legal fees. The Company commits to paying the Investor no less than sixty (60) percent of the remaining settlement amount as the Investment Returns, after fully repaying the Funding Amount and legal fees including the Legal Costs.

## 5. ADDITIONAL COVENANTS OF THE COMPANY

- 6.1. At all times during the term of this Agreement, the Company shall:
- 6.1.1. remain a party to the Litigation until the resolution of Litigation which substantially concludes the Litigation with respect to the Company pursuant to (i) a final, non-appealable, legal and valid judgment of the court in Hong Kong, or (ii) a settlement agreement between the Company and the Defendant (the “**Final Resolution**”);
  - 6.1.2. promptly enforce any judgment obtained in order to receive the Litigation Proceeds and costs;
  - 6.1.3. keep the Investor fully and continually informed of all material developments with respect to the Litigation.
- 6.2. The Company’s representations and warranties to the Investor in this Agreement shall remain true, correct and complete at all times during the term of this Agreement.

## 6. REPRESENTATIONS AND WARRANTIES

- 7.1. The Investor represents, warrants and acknowledges to the Company, as of the date hereof, that:
- 7.1.1. It has full right, power and authority, and has taken all action necessary, to execute and deliver this Agreement, and to perform its obligations hereunder;
  - 7.1.2. This Agreement has been duly authorized, executed and delivered by it and constitutes its legal, valid and binding obligations, enforceable against it in accordance with its terms;
  - 7.1.3. The Investor has received and reviewed the documents referred to in the Schedule (the “**Documents**”) and has the right to request the Company to provide further documents (if necessary), and has obtained independent legal advice in connection with the Documents and this Agreement and, on the basis of that advice, is entering into this Agreement.
- 7.2. The Administrator for and on behalf of the Company must sign this Agreement within fourteen (14) days after the Investor’s execution of this Agreement and obtain approval from the United States Bankruptcy Court for the Commonwealth of the Northern Mariana Islands (the “**Federal Court**”) for this Agreement within 21 days after the Investor’s execution of this Agreement.

## 7. DURATION OF AGREEMENT

- 8.1. This Agreement commences on the date hereof and, absent Termination, continues in effect until:
- 8.1.1. Final Resolution; and
  - 8.1.2. The Administrator and/or the Company have complied with all of its obligations pursuant to this Agreement.

## 8. TERMINATION

- 9.1. This Agreement will expire and terminate upon:
- 9.1.1. Repayment of the Funding Amount and the Investment Returns to the Investor under this Agreement (if any); or
  - 9.1.2. Final Resolution but No Litigation Proceeds are obtained from the Litigation.

## 9. INDEMNIFICATION

10.1. The Company agrees to indemnify, defend, and hold harmless the Investor, its affiliates, and their respective officers, directors, employees, and agents from and against any and all losses, liabilities, claims, damages, costs, and expenses arising out of or in connection with:

10.1.1. Any breach of this Agreement by the Company;

10.1.2. Any misrepresentation made by the Company in connection with this Agreement;

10.2. The Investor agrees to indemnify, defend, and hold harmless the Administrator and the Company and its affiliates and their respective officers, directors, employees, and agents from and against any and all losses, liabilities, claims, damages, costs, and expenses arising out of or in connection with:

10.2.1. Any breach of this Agreement by the Investor;

10.2.2. Any misrepresentation made by the Investor in connection with this Agreement.

10.3. The indemnified party shall promptly notify the indemnifying party of any claim for which indemnity is sought. Failure to provide such notice shall not relieve the indemnifying party of its indemnification obligations, except to the extent that the indemnifying party is materially prejudiced by such failure.

#### **10. LITIGATION RISK ASSESSMENT**

11.1. The Solicitors represents the Company solely in the Litigation and has no legal responsibility or obligation to the Investor.

11.2. The Investor understands that the Company cannot guarantee or control the outcome of the Litigation.

11.3. After the Investor has sought and obtained independent legal advice, it is clearly understood that litigation inherently carries risks, including but not limited to the possibility that the Company may not be able to provide any evidence to the court (including witness failing to appear in court to testify), resulting in a judgment or ruling against the Company, and/or the Company receiving a judgment for the claims that is lower than the Litigation Proceeds, and/or obtaining a favorable judgment, but the Defendant is unable to pay any or all of Litigation Proceeds, or to satisfy or discharge the favorable judgment etc.

#### **11. THIRD PARTY**

12.1. A person who is not a party to this Agreement cannot enforce, or enjoy the benefit of, any term of this Agreement. Notwithstanding the previous sentence, the Parties expressly agree that the Solicitors are entitled to enforce and otherwise enjoy the benefit of this Agreement.

#### **12. GOVERNING LAW**

13.1. This Agreement shall be governed by and construed in accordance with the laws of the Commonwealth of the Northern Marianas Islands and US federal bankruptcy law. The Parties agree that the Bankruptcy Court will have exclusive jurisdiction to resolve any disputes arising from or related to this Agreement.

#### **13. GENERAL**

14.1. This Agreement shall constitute the entire agreement between the parties, and shall supersede all prior agreements, understandings and negotiations between the parties with respect to the subject matter hereof.

14.2. Neither party may assign or transfer any of its rights or obligations under this Agreement without the prior written consent of the other party, which shall not be unreasonably withheld.

14.3. This Agreement shall not be amended, and no term or provision of this Agreement may be waived, except in writing signed by a duly authorized representative of each party.

#### 14. NOTICE

15.1. Any notice, demand, or communication required or permitted to be given under this Agreement shall be in writing and shall be deemed to have been duly given if delivered personally, sent by registered or certified mail, return receipt requested, or sent by electronic mail (email) to the addresses set forth below:

To the Investor:

Manager of Kangyi Software Limited  
Address: Unit 803, 8/F, Shanghai Industrial  
Investment Building, 48-62  
Hennessy Road, Wan Chai, Hong  
Kong

Email address: [michaelma2023@aliyun.com](mailto:michaelma2023@aliyun.com)

To the Company:

Imperial Pacific International (CNMI), LLC  
Address: PO Box 504041, Saipan, MP 96950  
Email address: [Howyoding@gmail.com](mailto:Howyoding@gmail.com)  
And: [cchoi@hibklaw.com](mailto:cchoi@hibklaw.com)

15.2. Any notice shall be deemed effective upon receipt if delivered personally or by email, or seven (7) days after being sent by registered or certified mail.

15.3. Either party may change its address for notice purposes by giving written notice of such change to the other party in accordance with this clause.

#### 15. COUNTERPARTS

16.1. This Agreement may be signed in counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed as of the date first above written by their respective duly authorized representatives.

SIGNED by Howyo Chi, the )  
Administrator of the Company and the )  
Debtor in Possession for and on behalf of )  
all creditors of the Company, for and on )  
behalf of Imperial Pacific International )  
(CNMI), LLC )  
)

in the presence of:

SIGNED by )  
)  
)  
for and on behalf of Kangyi Software )  
Limited )  
)

in the presence of: