

FILED  
Clerk  
District Court

JAN 21 2021

for the Northern Mariana Islands  
By \_\_\_\_\_  
(Deputy Clerk)

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN MARIANA ISLANDS**

EUGENE SCALIA,  
Secretary of Labor,  
United States Department of Labor,

Plaintiff,

vs.

IMPERIAL PACIFIC INTERNATIONAL  
HOLDINGS, LTD., and IMPERIAL PACIFIC  
INTERNATIONAL (CNMI), LLC, CUI LI  
JIE, an individual, and DONALD BROWNE,  
an individual,

Defendants.

Civil Case No. 1:19-cv-00007

**ORDER FINDING CIVIL CONTEMPT  
AND IMPOSING A STOP WORK ORDER**

Before the Court is Plaintiff United States Secretary of Labor Eugene Scalia’s (“Secretary Scalia”) Petition for Contempt and for an Order for Defendants to Show Cause re Contempt of Judgment filed on December 16, 2020. (Petition, ECF No. 9.) The Court issued an Order to Show Cause Against All Defendants mandating that they appear before the Court “to show cause why they should not be held in contempt for violating the Consent Judgment and why they should not be ordered to purge themselves of their contempt . . . .” (Order to Show Cause, ECF No. 13 at 2.) The matter was heard on Thursday, January 21, 2021 at 8:30 a.m. Plaintiff Secretary Scalia appeared through counsel U.S. Department of Labor Attorneys Charles Song and Boris Orlov; Defendant Imperial Pacific International (CNMI), LLC (“IPI CNMI”) was represented by Attorney Michael W. Dotts; Defendant Cui Li Jie (“Jie”), Chairperson and Executive Director of Imperial Pacific International Holdings, Ltd. (“IPI Holdings”) was represented by Attorney Juan T. Lizama; and Defendant Donald Browne

1 (“Browne”), former CEO of IPI CNMI, appeared *pro se*. Imperial Pacific International Holdings, Ltd.  
2 was not represented by counsel. Having ruled on Secretary Scalia’s Petition at the hearing, the Court  
3 issues this written order memorializing its decision.

4 Secretary Scalia petitions the Court to find that Defendants Imperial Pacific International  
5 Holdings, Ltd. and Imperial Pacific International (CNMI), LLC (collectively “IPI”) have not complied  
6 with the Consent Judgment issued on April 11, 2019 insofar as IPI has failed to meet payroll  
7 obligations, required employees to work without pay, failed to provide December 1 payments to the  
8 Secretary of Labor, and other requirements per the 2019 Consent Judgment. Additionally, Secretary  
9 Scalia originally requested that Jie and Browne be held in contempt individually “because they are  
10 responsible for the corporate conduct of the IPI entities in violating the Consent Judgment.” (Petition,  
11 ECF No. 9 at 6.) The following amounts were due as part of the 2019 Consent Judgment:

- 12
- 13 (1) \$1,580,000.00 in minimum wages and overtime compensation for services rendered in 2016  
and 2017;
  - 14 (2) \$1,580,000.00 in liquidated damages;
  - 15 (3) \$200,000.00 in civil money penalties; and
  - 16 (4) \$3,060,000.00 in a judgment owed to Secretary Scalia, to be paid in three installments of  
\$1,020,000.00 on December 1 of 2019, 2020, and 2021.<sup>1</sup>

17 According to Secretary Scalia, IPI failed to make either the December 1, 2019 or 2020  
18 payments.<sup>2</sup> (Petition, ECF No. 9 at 5.) Furthermore, Defendants have failed to pay in its entirety the  
19 \$1.58 million owed in back wages. Of the \$550,000.00 Defendants have paid to date, \$200,574.00  
20 have been allocated to the original \$1.58 million in back wages. Defendants additionally admitted that  
21 employees have not been compensated for at least four payrolls since October 9, 2020; a total of at

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22 <sup>1</sup> IPI paid \$300,000.00 to the Secretary of Labor on March 27, 2019. (Consent Judgment, ECF No. 2 at 4.)

23 <sup>2</sup> Secretary Scalia notes that Defendants did make a good faith payment of \$250,000.00 in May 2020. (Petition, ECF No.  
24 9 at 5.)

1 least \$788,022.54 in unpaid wages is owed to Defendants' employees for these payrolls. Secretary  
2 Scalia therefore requests the following relief:

- 3  
4 (1) \$1,379,426.00 in minimum wages and overtime compensation for services rendered in 2016  
5 and 2017 be paid immediately; and  
6 (2) \$788,022.54 in recent unpaid wages be paid immediately.

7 The Secretary petitions the Court to find Defendants in civil contempt and require Defendants to purge  
8 themselves of this contempt by immediately paying a total of \$2,167,448.54 and any other pending  
9 compensation for IPI employees.<sup>3</sup>

10 Courts have the inherent power to punish for contempt. *Bessette v. W.B. Conkey Co.*, 194 U.S.  
11 324, 327 (1904). “[I]ts existence is essential to the preservation of order in judicial proceedings, and  
12 to the enforcement of judgments, orders, and writs of the courts, and, consequently to the due  
13 administration of justice.” *Id.* Civil contempt “is a sanction to enforce compliance with an order of the  
14 court to compensate for losses or damages sustained by reason of noncompliance.” *McComb v.*  
15 *Jacksonville Paper Co.*, 336 U.S. 187, 191 (1949). The plaintiff has the burden of establishing civil  
16 contempt. *Eacomony, LLC v. Auivoria Prime, LLC*, 2020 WL 5110296 at \*2 (E.D. Cal. 2020). Four  
17 elements must be met: (1) the defendant(s) violated a court order, (2) beyond substantial compliance,  
18 (3) not based on a good faith and reasonable interpretation of the order, and (4) by clear and convincing  
19 evidence. *In re Dual-Deck Video Cassette Recorder Antitrust Litigation*, 10 F.3d 693, 695 (9th Cir.  
20 1993). Once the moving party has met its burden, “the burden then shifts to the contemnor to  
21 demonstrate that it was unable to comply.” *Distributors Assn. Warehousemen’s Pension Trust Fund*

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23 <sup>3</sup> At the January 21, 2021 hearing, counsel for IPI admitted that there are issues with pay periods 1, 2, and 3 in 2021.

1 v. *Foreign Trade Zone 3, Inc.*, 2009 WL 975786 at \*1 (N.D. Cal. 2009). Regarding individuals of a  
2 corporation, courts have construed its contempt power as extending to a corporation's employees,  
3 shareholders, officers, or agents—whether named in the contempt order or not. Am. Jur. 2d Contempt  
4 § 45. In general, to hold a non-party liable in contempt, the non-party must aid and abet the defendant  
5 or be legally identified with him. *N.L.R.B. v. Sequoia Dist. Council of Carpenters, AFL-CIO*, 568 F.2d  
6 628, 633 (9th Cir. 1977). Parties will be bound if they have notice. *Id.*; see Fed. R. Civ. P. 65(d)  
7 (binding parties' officers, agents, servants, employees, attorneys, and other persons who are in active  
8 concert or participation within any of the previously mentioned for injunctions).

9 Based on the undisputed evidence presented by Plaintiff, and on the admissions by Defendants  
10 IPI CNMI and Jie at the hearing, the Court finds Imperial Pacific International Holdings, Ltd.,  
11 Imperial Pacific International (CNMI), LLC, and IPI Chairperson and Executive Director Jie in CIVIL  
12 CONTEMPT OF COURT for the continuous violation of the 2019 Consent Judgment by failing to  
13 make the scheduled payments and by violating the Fair Labor Standards Act. As to Defendant Browne,  
14 Secretary Scalia concedes that it does not have sufficient evidence to show Browne had actual notice  
15 of the 2019 Consent Judgment and thereby withdraws the contempt petition as against Browne.  
16 Therefore, the Court discharged Defendant Browne from the civil contempt proceedings.  
17 **Accordingly, as civil contempt sanctions for the violations of the Consent Judgment, the Court**  
18 **ORDERS the following amounts be paid by Defendants IPI Holdings, IPI CNMI, and Jie:**

- 19 (1) \$788,022.54 and any other wages due to the current IPI employees as of the date of this Order  
20 due immediately; and  
21 (2) \$1,379,426.00 in wages and overtime compensation for services rendered in 2016 and 2017 is  
22 due by January 28, 2021.  
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1 IPI CNMI is further ORDERED to file a status report with the Court on the \$788,022.54 and other  
2 back wages no later than Friday, January 22, 2021 at 12:00 p.m. Non-compliance with payment may  
3 result in the issuance of writs.

4 **The Court further ORDERS that Defendants IPI CNMI and Jie immediately halt any**  
5 **and all work related to the construction and development of the IPI casino in Garapan, Saipan**  
6 **through Thursday, January 28, 2021.** This Stop-Work Order applies to all IPI employees in the  
7 CNMI except for job site security and administrative personnel processing payroll for IPI's employees.  
8 The Stop-Work Order may be lifted if payroll for IPI's current workers is met and the workers' housing  
9 has been restored to habitable conditions.<sup>4</sup> Non-compliance with this Stop-Work Order may result in  
10 the Court's issuance of warrants.

11 A status hearing will be held on **Thursday, January 28, 2021 at 8:30 a.m.** in the Third Floor  
12 Courtroom. Defendants IPI Holdings, IPI CNMI and Jie are ORDERED to appear at said hearing.

13 IT IS SO ORDERED.

14 DATED this 21st day of January, 2021.

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17 \_\_\_\_\_  
18 RAMONA V. MANGLONA  
19 Chief Judge  
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21 <sup>4</sup> During the January 21, 2021 hearing, counsel for the Secretary of Labor expressed humanitarian concerns of the living  
22 conditions for IPI's workers. The Secretary's counsel described the workers' housing as having no water and power for  
23 extensive periods and allege that IPI has retaliated against workers by threatening to withhold meals if they should stop  
24 working. The Court agrees with the Secretary that such conduct and living conditions are particularly concerning and  
admonishes that IPI and Jie take care to treat their workers humanely and respectfully.