

**NOTICE TO EB-5 INVESTORS IN THE POTALA TOWER
PROJECT AND REQUEST FOR RESPONSE**

Securities and Exchange Commission vs. Defendants Path America, LLC; Path America SnoCo LLC; Path America Farmer's Market, LP; Path America KingCo LLC; Path America Tower, LP; Path Tower Seattle, LP; Potala Tower Seattle, LLC; and Lobsang Dargey; and Relief Defendants Potala Shoreline, LLC; Potala Village Kirkland, LLC; Dargey Development, LLC; Dargey Enterprises, LLC; and Path Othello, LLC

UNITED STATES DISTRICT COURT – WESTERN DISTRICT OF WASHINGTON

CASE NO. 2:15-cv-01350-JLR

THIS NOTICE CONCERNS THE INTERESTS OF THOSE PEOPLE THAT INVESTED IN THE POTALA TOWER PROJECT THROUGH PATH AMERICA TOWER LP OR PATH TOWER SEATTLE LP. IF YOU INVESTED IN ONE OF THESE ENTITIES, YOU SHOULD CAREFULLY REVIEW THIS NOTICE, CONSULT AN ATTORNEY, AND PROVIDE A RESPONSE AS DESCRIBED BELOW.

THE COURT OVERSEEING THIS MATTER HAS GIVEN ITS PRELIMINARY APPROVAL OF A TRANSACTION THAT WILL AFFECT YOUR INVESTMENT. THE PROPOSED TRANSACTION IS DESCRIBED IN DETAIL IN THIS NOTICE. INVESTORS ARE REQUIRED TO CHOOSE WHETHER TO "OPT-IN" OR "OPT-OUT" WITH RESPECT TO THE PROPOSAL, AS DESCRIBED BELOW.

RESPONSES MUST BE RECEIVED BY AUGUST 24, 2016 BY DELIVERY OF THE ENCLOSED RESPONSE BY ONE OF THE FOLLOWING METHODS:

**MAIL: [INSERT ADDRESS]
FACSIMILE: [INSERT FAX NO.]
EMAIL: [INSERT EMAIL ADDRESS]**

INVESTORS WHO DO NOT RESPOND BY THE AUGUST 24, 2016 DEADLINE WILL BE AUTOMATICALLY DEEMED TO HAVE ELECTED TO APPROVE AND THEREFORE OPT IN TO THE COURT-APPROVED RESTRUCTURING DESCRIBED IN THIS NOTICE. IF YOU OPT-IN YOU ARE BOUND BY THE TRANSACTION AND IF YOU OPT-OUT YOU ARE BOUND BY THE TERMS DESCRIBED HERE FOR YOUR EXIT OR WITHDRAWAL, WHICH INCLUDES A REPAYMENT OF ONLY PART OF YOUR INVESTMENT. IN EITHER EVENT, WHETHER YOU OPT IN OR OPT OUT, THIS APPROVED DISCLOSURE AND ITS RELATED TRANSACTIONS HAVE CONSEQUENCES FOR YOU AND YOUR INVESTMENT.

THE PENDING ACTION AND APPOINTMENT OF A PERMANENT RECEIVER

This action was brought by the Securities and Exchange Commission ("SEC") on August 24, 2015 in the United States District Court for the Western District of Washington ("Court"), against defendants Path America, LLC; Path America SnoCo LLC; Path America Farmer's Market, LP; Path America KingCo LLC; Path America Tower, LP ("PATLP"); Path Tower Seattle, LP ("PTS LP"); Potala Tower Seattle, LLC ("Tower LLC"); and Lobsang Dargey (collectively, "Defendants"); and relief defendants Potala Shoreline, LLC; and Potala Village Kirkland, LLC, along with Dargey Development, LLC; Dargey Enterprises, LLC; and Path Othello, LLC who were later added as additional relief defendants ("Relief Defendants"). The

SEC alleges that Defendants violated U.S. securities laws in connection with raising funds from investors ("EB-5 Investors") who wanted to qualify under the Immigrant Investor Program ("EB-5 Program") through the regional center operated by defendant Path America KingCo LLC ("KingCo").

On October 22, 2015, the Court issued an order ("Appointment Order") appointing Michael A. Grassmueck (the "Receiver") as Court-appointed receiver for Path America, LLC; Path America SnoCo, LLC; Path America Farmer's Market, LP; KingCo; PATLP; PTSLP; Tower LLC; Potala Shoreline, LLC; and Potala Village Kirkland, LLC (collectively, the "Receivership Entities" or "Entities"). Pursuant to the terms of the Appointment Order, the Receiver took possession of the assets of Tower LLC, which assets include the real property and/or other assets relating to the mixed-use commercial development project located at 2116 Fourth Avenue, Seattle, Washington ("Tower Project").

STATUS OF PATH AMERICA KINGCO LLC'S REGIONAL CENTER DESIGNATION

EB-5 Investors invested in the Tower Project through either PATLP or PTSLP by depositing money in an escrow account. Once an EB-5 Investor's money was released from escrow to either PATLP or PTSLP, the EB-5 Investor became a limited partner in that entity. PATLP and PTSLP then transferred funds to Tower LLC. The Receiver asserts that such transfers were in the form of loans from PATLP and PTSLP to Tower LLC, even though written loan documents were not executed between the entities, and that EB-5 Investors are entitled to recover the funds they invested if and to the extent Tower LLC repays such loans to PATLP and PTSLP.

KingCo presently holds an 80% ownership interest in, and is the general partner of, both PATLP and PTSLP. KingCo was previously designated and authorized by U.S. Citizenship and Immigration Services ("USCIS") to act as a regional center under the EB-5 Program. However, on December 24, 2015, USCIS issued a Notice of Intent to Terminate to KingCo, providing notice of USCIS's intent to terminate KingCo's regional center designation. On March 23, 2016, USCIS issued a Notice of Termination ("NOT"), in which it determined that KingCo no longer served the purpose of promoting economic growth and terminated KingCo's participation in the EB-5 Program.

The Receiver, on behalf of KingCo, appealed the termination decision on April 21, 2016 (the "Appeal"). The Receiver submitted a supplemental brief to USCIS on June 9, 2016 in support of the Appeal, which includes information regarding the contemplated restructuring of the Tower Project as outlined herein (the "Approved Restructuring") in order to address USCIS' concerns regarding the continued financial and operational viability of the Tower Project going forward.

Although the Receiver has filed the Appeal and submitted briefing in support of the Appeal detailing the Court-Approved Restructuring, there is no assurance or guarantee the Appeal will be successful or that KingCo's regional center designation will be restored. The Receiver's immigration counsel believes it is more likely than not the Appeal will be denied, which would likely result in the denial or revocation of I-526 petitions and/or termination of conditional residence, but the Receiver and its counsel also believe that an Appeal was appropriate and might not result in such denial or revocation.

OUTLINE OF TERMS FOR THE APPROVED RESTRUCTURING

For purposes of providing a summary only, and subject to the terms of the Master Agreement dated as of June 23, 2016 ("Master Agreement") and related agreements, below are the general terms of the Approved Restructuring for the Tower Project. In the event any term outlined in this summary conflicts with the terms of the Master Agreement or any related agreements, the terms of the Master Agreement and related agreements govern.

Title to the Tower Project assets is presently held by Tower LLC. Dargey Holdings LLC ("Dargey Holdings") presently holds an 80% membership interest in Tower LLC, while the remaining 20% interest is held by Binjiang Tower Corp. ("Binjiang"). All membership interest held by Dargey Holdings will be redeemed by Tower LLC following the closing of the transaction.

Binjiang, or its affiliate, will contribute \$20 million in new capital to Tower LLC ("New Binjiang Investment Amount") in addition to its original \$30 million investment. PH LLC, an affiliate of the Molasky Group, or its affiliate ("Molasky"), will contribute \$10 million in new capital to Tower LLC ("Molasky Investment Amount"). Following the closing of the transaction, Binjiang will hold an 85% membership interest in Tower LLC and will be its managing member, and the remaining 15% membership interest in Tower LLC will be held by Molasky. Molasky will be appointed to implement and execute the remaining design and construction of the Tower Project in a manner substantially consistent with the Tower description that was in the original offering documents delivered to the EB-5 investors as approved by USCIS.

In addition to the new capital contribution, additional funding for the Tower Project in the amount of \$100 million will be obtained through a construction loan ("Construction Loan"). If additional funds are necessary for cost over-runs or to meet debt covenants, Molasky will be responsible for contributing the required additional capital through subordinated debt financing at a lending rate not greater than 4% per annum ("Molasky Financing").

Molasky will acquire 100% of the ownership of KingCo. Following the closing of the Approved Restructuring transaction, Molasky will be responsible for the continued prosecution of the Appeal.

The Approved Restructuring is contingent upon confirmation that at least 80% (the "Required EB-5 Threshold") of EB-5 investors "OPT-IN" to the transaction. If the Required EB-5 Threshold is not met, Binjiang and Molasky will not be obligated to proceed with the Approved Restructuring, although they will be allowed to do so, if they choose to waive the threshold requirement.

EB-5 INVESTORS MUST SUBMIT THE "EB-5 INVESTOR RESPONSE FORM" ATTACHED HERETO TO INDICATE THEIR INTENTION TO OPT-IN OR OPT-OUT OF THE APPROVED RESTRUCTURING ON OR BEFORE AUGUST 24, 2016, OR THEY WILL BE DEEMED TO HAVE RETURNED A CHOICE OF OPTING IN

If the Required EB-5 Threshold is met but not all EB-5 investors OPT-IN, those investors who choose to OPT-OUT will be paid 50% of their invested principal (or a total sum of \$250,000,

minus any funds they may have already received) from the Tower Project funds, and will by their withdrawal have released the claims against Released Parties as described in detail in Exhibit E hereto ("EB-5 Investor Release"). Notwithstanding this release, EB-5 Investors who OPT-OUT will retain only a claim in the receivership for the balance of their principal investment, which claim will be honored only if there are assets left in the estate, and only up to a proportional interest in whatever assets there are, after expenses. It is unlikely that the residual claim the EB-5 Investors will have against the Estate for the unpaid \$250,000 will be satisfied in full.

As to the effect on the Project of EB-5 Investors opting out, Binjiang will be responsible for procuring additional funds to provide to the Project (not to any EB-5 Investor) to replace the total amount disbursed to EB-5 Investors who have OPTED-OUT, including by way of additional financing, if necessary ("Binjiang Financing").

Investors who OPT-IN to the Approved Restructuring will remain invested in the Tower Project and will also provide a release of claims as described in detail in the EB-5 Investor Release.

In the case of both the EB-5 Investors who Opt-IN to stay invested in the Project, and the EB-5 Investors who OPT-OUT and obtain a partial repayment of their investment, the Release that will govern all the EB-5 Investors precludes action against the Tower, Binjiang, Receiver, Receivership Entities or Molasky, all as described in the Release, prohibits the EB-5 Investors from filing suit in any court in any country, and imposes liability on the EB-5 Investors if they ignore the Release and seek to file any action in any court.

Assuming the Required EB-5 Threshold is met, the existing loans from PATLP and PTSLP to Tower LLC, funded by EB-5 investments ("EB-5 Loans"), will be reaffirmed and documented by Tower LLC. The EB-5 Loans will be subordinate to the Construction Loan as well the Molasky Financing and Binjiang Financing.

For further details of these and other terms of the Approved Restructuring which may impact existing EB-5 investors, and details of the release of claims by investors, investors are encouraged to review the Master Agreement and related agreements, and the EB-5 Investor Release, copies of which are enclosed as follows:

- Exhibit A: Master Agreement dated as of June 23, 2016
- Exhibit B: Amended and Restated Limited Partnership Agreement of Path America Tower, LP dated as of June 23, 2016
- Exhibit C: Amended and Restated Limited Partnership Agreement of Path Tower Seattle, LP dated June 23, 2016
- Exhibit D: Amended and Restated Loan Agreements and Promissory Notes evidencing terms of loans owed by Tower LLC to PATLP and PTSLP.
- Exhibit E: EB-5 Investor Release

The Master Agreement and all other related documents are available on the Receiver's website at <http://www.grassmueckgroup.com/pathamerica-correspondence.php>.

PROPOSAL FOR INVESTORS TO OPT-IN OR OPT-OUT OF THE RESTRUCTURING

The Approved Restructuring requires approval from a sufficient number of investors to meet the Required EB-5 Threshold. Accordingly, investors are encouraged to review this Notice in detail and are further encouraged to consult counsel in connection with making a decision to either OPT-IN or OPT-OUT of the Approved Restructuring, prior to completing and submitting the EB-5 INVESTOR RESPONSE FORM enclosed herewith.

OPT-IN: If investors elect to OPT-IN, and if the Approved Restructuring transaction is closed, the investors agree to the Approved Restructuring, and further agree to release any and all claims they have or may have against the Receiver, the Receivership Entities, Tower LLC, Molasky, Binjiang, or their respective affiliates, as set forth in the EB-5 Investor Release. The investors will not be entitled to receive any funds from their investments unless and until a distribution is made pursuant to the terms of the Master Agreement and related agreements, and all invested funds will remain at-risk with no guarantee that any distribution will occur. The investors further agree that upon the closing of the Approved Restructuring transaction, any invested amounts remaining in escrow will be immediately released to PATLP or PTSLP, as applicable, for additional loans to Tower LLC. The investor understands that a final determination of the Appeal may not occur for some time, and the investor will not be able to choose to OPT-OUT later in the event the Appeal is denied or if the Investor decides for any reason to change its mind. There is no guarantee or prediction of successful citizenship associated with staying in the Project, and there is no guarantee of financial success regarding the EB-5 investment.

OPT-OUT: If the investor elects to OPT-OUT, and if the Approved Restructuring transaction is closed, the investor will be paid 50% of their invested principal (\$250,000, less any return of funds they may have already received) from the Tower Project funds, and will be required, as a condition of receiving such funds, to Release all claims as set forth in the EB-5 Investor Release. The investors further agree that upon the closing of the Approved Restructuring transaction, any invested amounts remaining in escrow will be immediately released to PATLP or PTSLP, as applicable, for additional loans to Tower LLC, and that an Opt-Out withdrawing investor will not receive escrow funds in addition to the \$250,000 figure recited herein.

IMPORTANT:

ANY INVESTORS WHO DO NOT AFFIRMATIVELY OPT-IN OR OPT-OUT BY RESPONDING TO THIS NOTICE ON OR BEFORE AUGUST 24, 2016 WILL BE DEEMED TO HAVE OPTED-IN TO THE APPROVED RESTRUCTURING AND WILL BE BOUND BY THAT TRANSACTION INCLUDING ITS RELEASE PROVISIONS.

EB-5 INVESTOR RESPONSE FORM

Securities and Exchange Commission vs. Defendants Path America, LLC; Path America SnoCo LLC; Path America Farmer's Market, LP; Path America KingCo LLC; Path America Tower, LP; Path Tower Seattle, LP; Potala Tower Seattle, LLC; and Lobsang Dargey; and Relief Defendants Potala Shoreline, LLC; Potala Village Kirkland, LLC; Dargey Development, LLC; Dargey Enterprises, LLC; and Path Othello, LLC

UNITED STATES DISTRICT COURT – WESTERN DISTRICT OF WASHINGTON

CASE NO. 2:15-cv-01350-JLR

- I ELECT TO OPT-IN** to the court-approved restructuring of the Potala Towers Project, agree that any funds I invested that remain in escrow may be released to the applicable limited partnership entity, and further agree to a release of claims as specified in the EB-5 Investor Release, pursuant to the Master Agreement and related agreements and release documents, copies of which have been made available to me.

- I ELECT TO OPT-OUT** of the court-approved restructuring of the Potala Towers Project, agree that any funds I invested that remain in escrow may be released to the applicable limited partnership entity, and further agree to a release of claims as specified in the EB-5 Investor Release, pursuant to the Master Agreement and related agreements and release documents, copies of which have been made available to me.

I FURTHER CONFIRM that I have sought or chosen not to seek legal counsel to provide independent advice regarding my choice, and that I have not relied on any oral statement or representation by the Released Parties, nor relied on any information from any Released party other than as recited in documents filed with the Court.

Dated: _____, 2016

Sign: _____

Print Name: _____

ESCROW NUMBER: _____