

☐ Individual appearing without attorney
☒ Attorney for: Edward M. Wolkowitz, Chapter 7 Trustee

CHAPTER: 7

UNITED STATES BANKRUPTCY COURT
CENTRAL DISTRICT OF CALIFORNIA - LOS ANGELES DIVISION

Debtor(s).

NOTICE OF SALE OF ESTATE PROPERTY

Location: Courtroom 1539, 255 East Temple Street, Los Angeles, California 90012

Type of Sale: ☒ Public ☐ Private

Last date to file objections: 12/27/2023

Description of property to be sold:

The Estates' right, title and interest in the claims and causes of action described in the putative consolidated class action brought against Visa, Inc., MasterCard, Inc. and certain other Defendants in the Litigation entitled *In re Payment Card Interchange Fee and Merchant Discount Antitrust Litigation* (Case No. 05-MD-1720 (MKB)(JO)) pending in the United States District Court for the Eastern District of New York (as more specifically described in the Assignment Agreement).

Terms and conditions of sale:

"As Is, Where Is, With All Faults" present condition, without representations or warranties of any kind or nature whatsoever whether express or implied.

See attached Exhibit 1. Assignment Agreement provided on request.

Proposed sale price: \$ 75,000.00

Overbid procedure (if any):

Sale is subject to overbids. See attached Exhibit 1 for information on submission of bids and proposed overbid procedures.

If property is to be sold free and clear of liens or other interests, list date, time and location of hearing:

Contact person for potential bidders (include name, address, telephone, fax and/or email address):

PHILIP A. GASTEIER
LEVENE, NEALE, BENDER, YOO & GOLUBCHIK L.L.P.
2818 La Cienega Avenue
Los Angeles, CA 90034
Telephone: (310) 229-1234
Facsimile: (310) 229-1244
E-mail: pag@lnbyg.com

Date: 11/20/2023

EXHIBIT "1"

PHILIP A. GASTEIER (SBN 130043)
JEFFREY S. KWONG (State Bar No. 288239)
LEVENE, NEALE, BENDER, YOO & GOLUBCHIK L.L.P.
2818 La Cienega Avenue
Los Angeles, California 90034
Telephone: (310) 229-1234
Facsimile: (310) 229-1244
Email: PAG@LNBYG.COM; JSK@LNBYG.COM
Attorneys for Edward M. Wolkowitz,
Chapter 7 Trustee

**UNITED STATES BANKRUPTCY COURT
CENTRAL DISTRICT OF CALIFORNIA
LOS ANGELES DIVISION**

In re:

PACIFIC THEATRES EXHIBITION
CORP., et al.,

Debtors and Debtors in
Possession.

☒ Affects all Debtors

☐ Affects Pacific Theatres Exhibition
Corporation only

☐ Affects Pacific Theatres Entertainment
Corporation

☐ Affects Pacific Cinemas Corporation
only

☐ Affects Glendale Americana Theatre,
LLC only

☐ Affects ArcLight Cinema Company only

☐ Affects ArcLight Visions, Inc. only

Chapter 7

Lead Case No.: 2:21-bk-15007-BB

Jointly administered with:
2:21-bk-15008-BB (Pacific Theatres
Entertainment Corporation)
2:21-bk-15009-BB (Pacific Cinemas
Corporation)
2:21-bk-15010-BB (Glendale Americana
Theatre, LLC)
2:21-bk-15011-BB (ArcLight Cinema
Company)
2:21-bk-15012-BB (ArcLight Visions, Inc.)

**NOTICE OF HEARING ON CHAPTER 7
TRUSTEE'S MOTION FOR ENTRY OF
AN ORDER: (A) APPROVING SALE OF
ESTATES' RIGHT, TITLE AND
INTEREST IN VISA/MASTERCARD
CLASS ACTION CLAIM, AND (B)
APPROVING OVERBID PROCEDURES**

DATE: January 10, 2024
TIME: 10:00 a.m.
PLACE: Courtroom "1539"
255 East Temple Street
Los Angeles, California 90012

1 **TO ALL PARTIES ENTITLED TO NOTICE:**

2 **PLEASE TAKE NOTICE** as follows:

3 Edward M. Wolkowitz, the duly appointed Chapter 7 Trustee (the “Trustee”) for the
4 bankruptcy estates (the “Estates”) of Pacific Theatres Exhibition Corp. (“Exhibition”), Pacific
5 Theatres Entertainment Corporation, ArcLight Cinema Company, Arclight Visions, Inc.,
6 Glendale Americana Theatre, LLC, and Pacific Cinemas Corporation, the debtors herein
7 (collectively, the “Debtors”), has filed a motion (the “Motion”) for entry of an order of the Court
8 pursuant to 11 U.S.C. § 363(b), authorizing the Trustee to sell the Estates’ right, title and
9 interest in the claims and causes of action described in the putative consolidated class action
10 brought against Visa, Inc., MasterCard, Inc. and certain other Defendants in the Litigation
11 entitled In re Payment Card Interchange Fee and Merchant Discount Antitrust Litigation (Case
12 No. 05-MD-1720 (MKB)(JO)) (the “Litigation”) pending in the United States District Court for
13 the Eastern District of New York (as more specifically described in the Assignment Agreement,
14 as defined below, the “Claim”), to Clearwater Recovery Partners LLP (the “Buyer”), pursuant to
15 the Assignment Agreement dated November 6, 2023 (the “Assignment Agreement”), a true and
16 correct copy of which is attached as **Exhibit “1”** to the Declaration of Edward M. Wolkowitz
17 annexed to the Motion, or on equivalent terms to a successful overbidder. The Motion also
18 requests approval of proposed overbid procedures, to govern presentation of higher bids and
19 conduct of an auction at the hearing in the event of a higher bid.

20 **(A) Date, Time, and Place of Hearing on the Proposed Sale:** January 10, 2024, at
21 10:00 a.m., in Courtroom 1539 of the United States Bankruptcy Court, located at 255 East
22 Temple Street, Los Angeles, California 90012. [Interested parties should check the Court’s
23 calendar for remote or other hearing instructions.]

24 **(B) Name and Address of Proposed Buyer:** Clearwater Recovery Partners LLP (the
25 “Buyer”)

26 2. **(C) Description of Property to Be Sold:** The Estates’ right, title and
27 interest in the claims and causes of action described in the putative consolidated class action
28 brought against Visa, Inc., MasterCard, Inc. and certain other Defendants in the Litigation

entitled In re Payment Card Interchange Fee and Merchant Discount Antitrust Litigation (Case No. 05-MD-1720 (MKB)(JO)) (the "Litigation") pending in the United States District Court for the Eastern District of New York (as more specifically described in the Assignment Agreement, the "Claim"). The nature and scope of the Claim proposed to be sold are described in detail in the Assignment Agreement. A description of the Litigation and a copy of the approved Settlement Agreement in the Litigation can be accessed at the Litigation website at: <https://www.paymentcardsettlement.com/en>. As there described, the "lawsuit is about claims that merchants paid excessive fees to accept Visa and Mastercard cards because Visa and Mastercard, individually, and together with their respective member banks, violated the antitrust laws. The settlement creates the following Rule 23(b)(3) Settlement Class: All persons, businesses, and other entities that have accepted any Visa-Branded Cards and/or Mastercard-Branded Cards in the United States at any time from January 1, 2004 to January 25, 2019, except [exclusions described therein]."

(D) Terms and Conditions of the Proposed Sale¹

a. **Purchase Price:** The Buyer shall purchase the Claim for the Purchase Price of \$75,000.00 (subject to overbid).

b. **Court Approval/Effective Date:** The Agreement is contingent on entry of an order of the Bankruptcy Court approving the Agreement, authorizing the sale of the Claim to Buyer, and authorizing the Trustee to take all actions necessary to close the sale in accord with its terms (herein, the "Approval Order"), and shall be effective as of the date of entry of the Approval Order or, if the Bankruptcy Court denies waiver of the stay of the Approval Order, the date of expiration of any stay of the Approval Order (as applicable, the "Effective Date").

c. **Closing:** Closing of the sale ("Closing") will be within two business

¹ A copy of the Motion, including the Assignment Agreement, can be obtained on request to counsel for the Trustee at pag@lnbyg.com. The summary of the principal terms of the proposed sale in this Notice is not intended to be a comprehensive recitation of the terms and conditions set forth in the Assignment Agreement. To the extent there is any conflict between the summary set forth herein and the Assignment Agreement, the Assignment Agreement shall control.

1 days after the Effective Date. The Purchase Price shall be payable at Closing. At
2 Closing, the Trustee will deliver to the Buyer a Limited Authorization to Obtain
3 Transactional Data, in the form attached as Exhibit A to the Assignment Agreement, and
4 a Notice of Transfer of Assignment of Rights, in the form attached as Exhibit B to the
5 Assignment Agreement.

6 d. **Sale Subject To Overbid At Auction:** The sale of the Claim shall
7 be subject to overbid, in accordance with the overbid procedures described below
8 or as otherwise approved by the Bankruptcy Court (the “Overbid Procedures”), at
9 an auction of the Claim (the “Auction”) to be conducted by the Trustee at the time
10 of the hearing on this Motion (“Sale Hearing”), or as otherwise directed by the
11 Court.

12 **ANY PARTY DESIRING INFORMATION ON THE CLAIM OR THE BID**
13 **PROCESS SHOULD CONTACT COUNSEL FOR THE TRUSTEE,**
14 **WHOSE NAME AND CONTACT INFORMATION APPEAR IN THE**
15 **UPPER LEFT CORNER OF THE FIRST PAGE OF THIS NOTICE.**

16 **(E) Overbid Procedures:**

17 a. **Overbid Requirements.** Any party interested in submitting an overbid for
18 either of the Licenses included in the License Rights (“Overbid”) must, not later than 72
19 hours before the Sale Hearing, *i.e.*, 10:00 a.m. January 8, 2024 (the “Overbid Deadline”),
20 deliver such Overbid in writing to counsel for the Trustee (Philip A. Gasteier, Esq.,
21 Levene, Neale, Bender, Yoo & Golubchik L.L.P., 2818 La Cienega Avenue, Los
22 Angeles, California 90034, Email: PAG@LNBYG.com, Facsimile: (310) 229-1244), in
23 accordance with the requirements set forth below:

24 i. The purchase price for the Claim in any Overbid must be in the
25 sum of at least \$80,000.00. Any Overbid must otherwise be on the same or better
26 terms and conditions as set forth in the Agreement.

27 ii. Each party submitting an Overbid must, by the Overbid Deadline:
28 (i) deliver an executed purchase or assignment agreement setting forth the terms

1 of the purchase, containing the same or better terms and conditions as set forth in
2 the Assignment Agreement, as determined by the Trustee in his sole discretion,
3 (ii) deliver to counsel for the Trustee proof of committed funds available to the
4 bidder sufficient to enable such bidder to consummate the purchase of the Claim,
5 which proof shall be in the form of proof of funds on deposit, a letter of credit, or
6 other form acceptable to the Trustee in the Trustee's sole discretion, and disclose
7 any relationship to the Debtor or the Trustee. In the event that (i) the bidder fails
8 to deliver an executed purchase or assignment agreement, (ii) the bidder fails to
9 timely provide proof of committed funds, or (iii) the Trustee determines, in his
10 sole discretion, that the proof of funds provided to Trustee by a bidder is
11 unacceptable, the Trustee may, at his sole discretion, disqualify such bidder from
12 participating in the Auction.

13 b. **Bidding At Auction.** If at least one qualified bidder who has submitted
14 an Overbid appears at the Auction, the Trustee shall designate what he determines, in his
15 reasonable judgment, to be the best and highest Overbid received for the Claim to be the
16 leading bid at the Auction. Thereafter, the Trustee shall solicit better and higher bids for
17 the Claim, in bidding increments of at least \$5,000, from the qualified bidders
18 participating in the Auction (including the Buyer, if it chooses to participate) until the
19 best and highest bid for the Claim has been determined by the Trustee. The qualified
20 bidder who submits the second best/highest bid for the Claim at the Auction shall be
21 designated as the backup bidder.

22 c. **Backup Bidder:** In the event that the Buyer or the successful overbidder
23 cannot timely complete the purchase of the Claim, the Trustee shall be authorized to
24 proceed with the sale of the Claim to the backup bidder (if one is designated at the
25 Auction) without further notice, hearing or order of the Court.

26 **(F) Consideration:** The proposed sale of the Claim to the Buyer is anticipated to result
27 in net sale proceeds of at least \$75,000.00, which will be available for distribution to creditors of
28 the Estate.

1 **(I) Tax Implications:** The Trustee does not believe there will be any negative tax
2 consequences for the Estate arising from the proposed sale of the License Rights.

3 **(J) Deadline for Objection:** Pursuant to Local Bankruptcy Rule 9013-1(f), any
4 interested party that wishes to oppose the relief requested in the motion must file not later than
5 14 days prior to the scheduled hearing date, and serve upon the Office of the United States
6 Trustee, located at 915 Wilshire Boulevard, Suite 1850, Los Angeles, California 90017, the
7 Trustee's counsel, located at the address indicated on the upper left corner of the first page of
8 this notice, "[a] complete written statement of all reasons in opposition thereto ..., declarations
9 and copies of all photographs and documentary evidence on which the responding party intends
10 to rely and any responding memorandum of points and authorities."

11 **PLEASE TAKE FURTHER NOTICE** that pursuant to Local Bankruptcy Rule 9013-
12 1(h), failure to file and serve a timely response may be deemed consent to the relief requested in
13 the Motion.

14 Dated: November 20, 2023

EDWARD M. WOLKOWITZ,
CHAPTER 7 TRUSTEE

15
16 By: /s/Philip A. Gasteier
PHILIP A. GASTEIER
JEFFREY KWONG
LEVENE, NEALE, BENDER, YOO
17 & GOLUBCHIK L.L.P.
18 Attorneys for Edward M. Wolkowitz,
19 Chapter 7 Trustee
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PROOF OF SERVICE OF DOCUMENT

I am over the age of 18 and not a party to this bankruptcy case or adversary proceeding. My business address is: 2818 La Cienega Avenue, Los Angeles, California 90034.

A true and correct copy of the foregoing document entitled **NOTICE OF SALE OF ESTATE PROPERTY** will be served or was served **(a)** on the judge in chambers in the form and manner required by LBR 5005-2(d); and **(b)** in the manner stated below:

1. TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF): Pursuant to controlling General Orders and LBR, the foregoing document will be served by the court via NEF and hyperlink to the document. On **November 20, 2023**, I checked the CM/ECF docket for this bankruptcy case or adversary proceeding and determined that the following persons are on the Electronic Mail Notice List to receive NEF transmission at the email addresses stated below:

- Kenechi R Agu kagu@kralelegal.com
- Ryan W Anderson randerson@gamlaw.com, llofredo@gamlaw.com
- Shaun J Bauman info@thela-lawyer.com
- Erin N Brady erin.brady@hoganlovells.com,
cindy.mitchell@hoganlovells.com;tracy.southwell@hoganlovells.com
- William S Brody wbrody@buchalter.com,
dbodkin@buchalter.com;IFS_filing@buchalter.com;smartin@buchalter.com
- Andrew Browning abrowning@intl.com
- Vincent V Frounjan vvf.law@gmail.com
- Philip A Gasteier pag@lnbyg.com
- David S Hagen davidhagenlaw@gmail.com
- Marsha A Houston mhouston@reedsmith.com, hvalencia@reedsmith.com
- Brian D Huben hubenb@ballardspahr.com, carolod@ballardspahr.com
- William W Huckins whuckins@allenmatkins.com,
clynch@allenmatkins.com;igold@allenmatkins.com
- Jeffrey Huron jhuron@dykema.com,
ebailon@dykema.com;slara@dykema.com;DocketLA@dykema.com
- Daniel King dking@theattorneygroup.com, r44432@notify.bestcase.com
- Jeffrey S Kwong jsk@lnbyg.com, jsk@ecf.inforuptcy.com
- Noreen A Madoyan Noreen.Madoyan@usdoj.gov
- James P Menton jmenton@robinskaplan.com, dvaughn@robinskaplan.com
- Kristen N Pate bk@bpretail.com
- William F Salle wfslaw@yahoo.com
- Jeffrey L Sumpter jsumpter1@cox.net
- John N Tedford jtedford@DanningGill.com,
danninggill@gmail.com;jtedford@ecf.courtdrive.com
- United States Trustee (LA) ustpregion16.la.ecf@usdoj.gov
- Abdul Wakil sal@sawlawgroup.com
- Edward M Wolkowitz (TR) emwtrustee@lnbyg.com, ecf.alert+Wolkowitz@titlexi.com

1 **2. SERVED BY UNITED STATES MAIL:** On **November 20, 2023**, I served the following persons and/or
2 entities at the last known addresses in this bankruptcy case or adversary proceeding by placing a true
3 and correct copy thereof in a sealed envelope in the United States mail, first class, postage prepaid, and
addressed as follows. Listing the judge here constitutes a declaration that mailing to the judge will be
completed no later than 24 hours after the document is filed.

4 Honorable Sheri Bluebond
United States Bankruptcy Court
5 255 E. Temple Street, Suite 1534 / Courtroom 1539
Los Angeles, CA 90012

6 ☐ Service List served by U.S. Mail attached

7 **3. SERVED BY PERSONAL DELIVERY, OVERNIGHT MAIL, FACSIMILE TRANSMISSION OR**
8 **EMAIL** (state method for each person or entity served): Pursuant to F.R.Civ.P. 5 and/or controlling LBR,
on **November 20, 2023**, I served the following persons and/or entities by personal delivery, overnight
9 mail service, or (for those who consented in writing to such service method), by facsimile transmission
and/or email as follows. Listing the judge here constitutes a declaration that personal delivery on, or
overnight mail to, the judge will be completed no later than 24 hours after the document is filed.

10 None.

11 I declare under penalty of perjury under the laws of the United States of America that the foregoing is
12 true and correct.

13 November 20, 2023

D. Woo

/s/ D. Woo

Date

Type Name

Signature