

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE**

In re:	)	Chapter 11
IMH FINANCIAL CORPORATION,	)	Case No. 20-11858 (CSS)
Debtor. <sup>1</sup>	)	
	)	
	)	
	)	

**NOTICE OF (A) NON-VOTING STATUS AND (B) NOTICE OF (1) APPROVAL OF  
DISCLOSURE STATEMENT, (2) HEARING TO CONSIDER CONFIRMATION OF  
THE PLAN OF REORGANIZATION, AND (3) DEADLINE TO FILE OBJECTIONS TO  
CONFIRMATION OF THE PLAN**

**PLEASE TAKE NOTICE OF THE FOLLOWING:**

By order dated September 2, 2020 [D.I. 161] (the “**Disclosure Statement Order**”) the United States Bankruptcy Court for the District of Delaware (the “**Bankruptcy Court**”) approved the *Amended Disclosure Statement Dated September 2, 2020 for Chapter 11 Plan of IMH Financial Corporation* [D.I. 159] (as it may be amended, supplemented or modified from time to time, the “**Disclosure Statement**”), pursuant to Section 1125 of title 11 of the United States Code, (the “**Bankruptcy Code**”), with respect to the *Amended Chapter 11 Plan of IMH Financial Corporation* [D.I. 158] (as it may be amended, supplemented or modified from time to time, the “**Plan**”)<sup>2</sup> and the Debtor’s procedures for soliciting votes on the Plan.

In accordance with the terms of the Plan and the Bankruptcy Code, Administrative Expense Claims, Professional Claims, and DIP Claims (collectively, the “**Unclassified Claims**”) are unclassified and are not entitled to vote on the Plan. Holders of Claims in Class 1 (Secured Claims), Class 2 (Priority Claims), Class 3 (General Unsecured Claims) (collectively, the “**Unimpaired Classes**”), are Unimpaired by the Plan. As such, pursuant to Section 1126(f) of the Bankruptcy Code, the Unimpaired Classes are (i) deemed to have accepted the Plan, and (ii) not entitled to vote to accept or reject the Plan. You are receiving this notice because you are either a holder of an Unclassified Claim or a claim in one of the Unimpaired Classes and, therefore, not entitled to vote on the Plan.

A hearing to consider Confirmation of the Plan (the “**Confirmation Hearing**”) will be held on **October 13, 2020 at 12:00 p.m. (EST)** before The Honorable Christopher Sontchi, United States Bankruptcy Court, at 824 Market Street, 5<sup>th</sup> Floor, Courtroom No. #6, Wilmington, Delaware 19801. The Confirmation Hearing may be adjourned from time to time without further notice other than adjournments announced in open Court or in the filing of a notice or hearing

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<sup>1</sup> The Debtor in this chapter 11 case, along with the last four digits of the Debtor’s federal tax identification number, as applicable, is IMH Financial Corporation (7126). The location of the Debtor’s corporate headquarters is 7001 N. Scottsdale Rd., Scottsdale, Arizona 85253.

<sup>2</sup> Capitalized terms used but not otherwise defined herein shall have the meanings set forth in the Plan or the Disclosure Statement, as applicable.

agenda in the case and notice of such adjourned date(s) will be available on the electronic case filing docket. The Plan may be amended, supplemented or modified from time to time, if necessary, in accordance with the Bankruptcy Code, the Federal Rules of Bankruptcy Procedure, and other applicable law, before, during, or as a result of the Confirmation Hearing, without further notice to creditors or other parties in interest.

Objections, if any, to confirmation of the Plan must (i) be made in writing; (ii) state the name and address of the objecting party and the nature of the claim or interest of such party; (iii) state with particularity the legal and factual basis and nature of any Plan Objection; and (iv) be filed with the Bankruptcy Court, together with proof of service, and served so that they are received on or before **October 6, 2020 at 4:00 p.m. (EST)** (the “**Plan Objection Deadline**”) by the following parties: (i) IMH Financial Corporation, Attn: Jonathan Brohard, Executive Vice President and General Counsel, Tel: (480) 840-8400, e-mail: JBrohard@imhfc.com; (ii) counsel to the Debtor, Snell & Wilmer L.L.P., Attn: Christopher H. Bayley, Esq., Tel: (602) 382-6214, e-mail: cbayley@swlaw.com, (iii) Delaware counsel to the Debtor, Ashby & Geddes, Attn: William P. Bowden, Esq., Tel: (302) 654-1888, e-mail: WBowden@ashbygeddes.com; (iv) counsel to JPMorgan Chase Funding Inc., (a) Hahn & Hessen (Attn: Jeffrey L. Schwartz, Esq.; jschwartz@hahnhausen.com and Joshua I. Divack, Esq.; jdivack@hahnhausen.com); and (b) Landis Rath & Cobb LLP (Attn: Adam G. Landis, Esq.; landis@lrclaw.com and Richard S. Cobb, Esq.; cobb@lrclaw.com); (v) counsel to the Juniper Parties, Munger Tolles & Olson, Attn: C. David Lee, Esq., Tel: (213) 683-9285, e-mail: David.Lee@mto.com; and (vi) the Office of the United States Trustee for the District of Delaware, Attn: Benjamin Hackman, Esq.; Benjamin.A.Hackman@usdoj.gov. Objections not timely filed and served in the manner set forth in the Disclosure Statement Order shall not be considered and shall be deemed overruled.

The Disclosure Statement and the Plan are on file with the Clerk of the Bankruptcy Court and may be examined by any interested party at the Clerk’s office at any time during regular business hours or by (a) visiting the Debtor’s case website ([www.donlinrecano.com/imh](http://www.donlinrecano.com/imh)); (b) calling the Solicitation Agent at 1-877-534-8310; (c) email at [imhinfo@donlinrecano.com](mailto:imhinfo@donlinrecano.com) with a reference to “IMH Financial Corporation” in the subject line; or (d) sending a written request to the Solicitation Agent at (i) first-class mail addressed to Donlin, Recano & Company, Inc., Re: IMH Financial Corporation, P.O. Box 199043, Blythebourne Station, Brooklyn, NY 11219 or (ii) personal delivery or overnight courier to Donlin, Recano & Company, Inc., Re: IMH Financial Corporation, 6201 15<sup>th</sup> Avenue, Brooklyn, NY 11219. In addition, copies of the Plan and the Disclosure Statement may be obtained at or viewed for a fee on the Bankruptcy Court’s website (<http://www.deb.uscourts.gov>) by following the directions for accessing the ECF system on such website.

**Pursuant to Article VIII of the Plan, the Debtor seeks approval of the following release and injunction provisions:**

### **Releases by the Debtor<sup>3</sup>**

**Notwithstanding anything contained in this Plan to the contrary, pursuant to Section 1123(b) of the Bankruptcy Code, for good and valuable consideration, on and after**

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<sup>3</sup> “Debtor” means IMH Financial Corporation.

**the Plan Effective Date, each Released Party<sup>4</sup> is deemed released and discharged by the Debtor, the Reorganized Debtor,<sup>5</sup> and the Releasing Parties<sup>6</sup> from any and all Causes of Action, including any derivative claims, asserted on behalf of the Debtor, that the Debtor or the Reorganized Debtor would have been legally entitled to assert in their own right or on behalf of the Holder of any Claim against, or Interest in, the Debtor or other Entity, based on or relating to, or in any manner arising from, in whole or in part, the Debtor (including management, ownership, or operation thereof), the Debtor's in- or out-of-court restructuring efforts, intercompany transactions, the Bankruptcy Case, the formulation, preparation, dissemination, negotiation, or filing of the Restructuring Support Agreement, the Disclosure Statement, the Plan, the DIP Facility, the DIP Documents, the Exit Facility, the Exit Facility Documents, or any Restructuring, contract, instrument, release, or other Plan Transaction Document, agreement, or document created or entered into in connection with the Restructuring Support Agreement, the Disclosure Statement, or the Plan, the filing of the Bankruptcy Case, the pursuit of the DIP Facility, the pursuit of the Exit Facility, the pursuit of Confirmation, the pursuit of Consummation, the administration and implementation of the Plan, including the issuance or distribution of the New Common Stock pursuant to the Plan, or the distribution of property under the Plan or any other related agreement, or upon any other act or omission, transaction, agreement, event, or other occurrence taking place on or before the Plan Effective Date. Notwithstanding anything to the contrary in the foregoing, the releases set forth above do not release any post-Plan Effective Date obligations of any party or Entity under the Plan, or any document, instrument, or agreement (including those set forth in the Plan Supplement) executed to implement the Plan.**

<sup>4</sup> "Releasing Party" means, collectively, each of the following in their respective capacities as such: (a) the Debtor and the Reorganized Debtor; (b) the parties to the Restructuring Support Agreement; (c) the DIP Lender; (d) with respect to the Debtor, the Reorganized Debtor, and each of the foregoing Entities in clause (b), each of their current and former affiliates; (d) with respect to each of the foregoing Entities in clauses (a) through (c), such Entities' predecessors, successors and assigns, subsidiaries, affiliates, managed accounts or funds, and all of their respective current and former officers, managers, directors principals, direct and indirect shareholders, direct and indirect members, direct and indirect partners, employees, agents, advisory board members, financial advisors, attorneys, accountants, investment bankers, consultants, representatives, management companies, fund advisors, agents and other professionals, and such Persons' respective heirs, executors, estates, servants and nominees; and (e) Holders of a Claim or Interest; provided, however, that such Holder shall be neither a Releasing Party nor a Released Party if it: (i) is the Holder of an Interest in a Class that is entitled to vote and such holder (x) votes to accept or reject the Plan and (y) elects on its Ballot to opt out of the releases contained in Article VIII of the Plan; (ii) is the Holder of an Interest in a Class that is entitled to vote and such holder does not return a ballot accepting or rejecting the Plan; (iii) is the Holder of an Interest in a Class that is entitled to vote and such Class votes to reject the Plan; or (iv) is the Holder of a Claim that is Unimpaired under the Plan that timely files with the Bankruptcy Court on the docket of the Bankruptcy Case an objection to the releases contained in Article VIII of the Plan that is either (a) uncontested by the Debtor or (b) sustained by the Bankruptcy Court (a "Release Objection"); provided further, however, that the parties to the Restructuring Support Agreement shall not be entitled to opt out of the releases contained in Article VIII of the Plan.

<sup>5</sup> "Reorganized Debtor" means the Debtor, or any successor or assign thereto, by merger, consolidation, or otherwise, on or after the Plan Effective Date.

<sup>6</sup> "Released Party" means, collectively, each of the following in their respective capacities as such: (a) the Debtor and the Reorganized Debtor, and all of their (1) current financial advisors, attorneys, accounts, investment bankers, representatives, and other professionals, (2) current employees, consultants, affiliates, officers, managers, and directors, including any such Persons or Entities retained pursuant to section 363 of the Bankruptcy Code; (b) the parties to the Restructuring Support Agreement; (c) the DIP Lender; (d) with respect to the Debtor, the Reorganized Debtor, the Entities in clause (b), each of their current and former affiliates; and (e) with respect to each of the foregoing Entities in clauses (a) through (c), such Entities' predecessors, successors and assigns, subsidiaries, affiliates, managed accounts or funds, and all of their respective current and former officers, managers, directors, principals, direct and indirect shareholders, direct and indirect members, direct and indirect partners, direct and indirect equity holders, employees, agents, advisory board members, financial advisors, attorneys, accountants, investment bankers, consultants, representatives, management companies, fund advisors, agents and other professionals, and such Persons' respective heirs, executors, estates, servants and nominees; provided, however, that any Holder of a Claim or Interest that opts out of the releases in accordance with the provisions of Article VIII of Plan shall not be a "Released Party."

## Consensual Releases by Holders of Claims<sup>7</sup> and Interests<sup>8</sup>

As of the Effective Date, in exchange for good and valuable consideration, including the obligations of the Debtor under the Plan and the contributions of the Released Parties to facilitate and implement the Plan, to the fullest extent permissible under applicable law, as such law may be extended or integrated after the Plan Effective Date, each of the Releasing Parties shall be deemed to have conclusively, absolutely, unconditionally, irrevocably, and forever, released and discharged the Debtor, the Reorganized Debtor, and each Released Party from any and all Claims, Interests, obligations, rights, suits, damages, Causes of Action, remedies, and liabilities whatsoever, whether known or unknown, foreseen or unforeseen, existing or hereinafter arising, in law, equity, or otherwise, including but not limited to any derivative claims, asserted or assertable on behalf of the Debtor, its Estate, or the Reorganized Debtor, that such Entity would have been legally entitled to assert (whether individually or collectively), based on or relating to, or in any manner arising from, in whole or in part, the Debtor (including management, ownership, or operation thereof), the Debtor's in- or out-of-court restructuring efforts, intercompany transactions, the Bankruptcy Case, the formulation, preparation, dissemination, negotiation, or filing of the Restructuring Support Agreement, the DIP Facility, the DIP Documents, the Disclosure Statement, the Plan, the Exit Facility, the Exit Facility Documents, contract, instrument, release, or other Plan Transaction Document, agreement, or document created or entered into in connection with the Restructuring Support Agreement, the DIP Facility, the Disclosure Statement, or the Plan, the filing of the Bankruptcy Case, the pursuit of the DIP Facility, the pursuit of the Exit Facility, the pursuit of Confirmation, the pursuit of Consummation, the administration and implementation of the Plan, including the issuance or distribution of the New Common Stock pursuant to the Plan, or the distribution of property under the Plan or any other related agreement, or upon any other related act or omission, transaction, agreement, event, or other occurrence taking place on or before the Plan Effective Date provided, however, that the foregoing releases shall have no effect on the liability of any Person or Entity that results from any act or omission based on or arising out of gross negligence, fraud or willful misconduct. Notwithstanding anything contained herein to the contrary, the foregoing release shall not release any obligation of any Person or Entity under the Plan or any document, instrument or agreement executed to implement the Plan.

Entry of the Confirmation Order shall constitute the Bankruptcy Court's approval, pursuant to Section 1129 of the Bankruptcy Code, of the releases described in this Article VIII which includes by reference each of the related provisions and definitions contained in this Plan, and further, shall constitute the Bankruptcy Court's finding that each release described in this Article VIII is: (1) consensual; (2) in exchange for the good and valuable consideration provided by the Released Parties, (3) a good-faith settlement and compromise of such Claims; (4) in the best interests of the Debtor and all Holders of Claims and Interests; (5) fair, equitable, and reasonable; (6) given and made after due notice and opportunity for hearing; and (7) subject to the provisions of this Section VIII, a

<sup>7</sup> "Claim" means any "claim," as such term is defined in section 101(5) of the Bankruptcy Code, against the Debtor.

<sup>8</sup> "Interest" means the Common Stock, Preferred Stock, Warrants, and any limited liability company interest, equity security (as defined in section 101(16) of the Bankruptcy Code), equity, ownership, profit interest, unit, or share in the Debtor (including all options, warrants, rights, or other securities or agreements to obtain such an interest or share in the Debtor), whether or not arising under or in connection with any employment agreement and whether or not certificated, transferable, preferred, common, voting, or denominated "stock" or a similar security.

bar to any of the Releasing Parties or the Debtor or its Estate asserting any claim, Cause of Action, or liability related thereto, of any kind whatsoever, against any of the Released Parties or their property.

## Injunction

Except as otherwise expressly provided in the Plan or for obligations issued or required to be paid pursuant to the Plan or the Confirmation Order, all Entities who have held, hold, or may hold Claims or Interests that have been released, discharged, or are subject to exculpation are permanently enjoined, from and after the Plan Effective Date, from taking any of the following actions against, as applicable, the Debtor, the Reorganized Debtor, the Exculpated Parties,<sup>9</sup> or the Released Parties: (a) commencing or continuing in any manner any action or other proceeding of any kind on account of or in connection with or with respect to any such Claims or Interests; (b) enforcing, attaching, collecting, or recovering by any manner or means any judgment, award, decree, or order against such Entities on account of or in connection with or with respect to any such Claims or Interests; (c) creating, perfecting, or enforcing any encumbrance of any kind against such Entities or the property or the estates of such Entities on account of or in connection with or with respect to any such Claims or Interests; (d) asserting any right of setoff, subrogation, or recoupment of any kind against any obligation due from such Entities or against the property of such Entities on account of or in connection with or with respect to any such claims or interests unless such Holder has filed a motion requesting the right to perform such setoff on or before the Plan Effective Date, and notwithstanding an indication of a Claim or Interest or otherwise that such Holder asserts, has, or intends to preserve any right of setoff pursuant to applicable law or otherwise; and (e) commencing or continuing in any manner any action or other proceeding of any kind on account of or in connection with or with respect to any such Claims or Interests released or settled pursuant to the Plan.

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<sup>9</sup> “Exculpated Party” means, collectively, (a) the Debtor; (b) the Debtor’s Professionals; (c) official committees appointed in the Bankruptcy Case (if any) and each of their respective members and any Professional; and (d) with respect to each of the foregoing, such Entities’ current officers, managers, directors, , employees, agents, advisory board members, financial advisors, attorneys, accountants, investment bankers, consultants, and other professionals, and such persons’ respective heirs, executors, estates, servants and nominees.

Dated: Wilmington, Delaware  
September 2, 2020

**ASHBY & GEDDES P.A.**

By: /s/ William P. Bowden

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