

**TESTIMONY
OF
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TRIPLE J ENTERPRISES, INC.
BEFORE THE
U.S. HOUSE OF REPRESENTATIVES
COMMITTEE ON NATURAL RESOURCES**

**Committee Hearing on H.R. 560
February 27, 2019**

Chairman Grijalva, Vice Chairman Sablan, Ranking Member Bishop, and distinguished members of the Committee, thank you for this opportunity to testify on H.R. 560, on the federal government's recent decision to exclude nationals of the Philippines from eligibility for H-2B visas, and on related matters of critical importance to the economy of the Commonwealth of the Northern Mariana Islands ("CNMI").

My name is Michael S. Sablan. I am a certified public accountant and currently serve as Vice President of Triple J Enterprises Inc. ("Triple J"), one of the larger businesses in the CNMI, Guam, and the greater Micronesia region. Founded by Robert H. Jones and his family some 30-plus years ago with a small automobile dealership, our company has grown and expanded over the years, paralleling the economic growth in the CNMI. Today, we are engaged in virtually every aspect of the local economy, from car dealerships to grocery wholesale, restaurant operations, property development and management, construction, hospitality and others. The Triple J group has consistently ranked among the top 5 businesses in the region in revenues. Group wide we have 861 employees; 280 of which work in our CNMI operations, all on Saipan where we operate 15 businesses.

I understand I have been invited to provide testimony before the Committee because I can bring a business point of view to the discussion. But I have also served for 8 years as Public Auditor for the CNMI Government, responsible for overseeing and enforcing the integrity, effectiveness and efficiency of all agencies in the government. So, I bring that perspective to bear, as well.

Triple J is a member of the Saipan Chamber of Commerce, the Northern Marianas Business Alliance Corporation, the Hotel Association of the Northern Mariana Islands, the CNMI Chapter of the Society of Human Resource Managers, and various other business and civic organizations. Though my testimony today primarily reflects Triple J's comments, I incorporate where appropriate my discussions with these organizations.

I am sure there are many in the federal government for whom the Pacific insular areas do seem a world away and inconsequential. With fifteen time zones and 30 travel hours

between our islands and Washington, D.C., we are a world away, literally. This explains to some extent why many of us in the insular areas often view the federal government as a distant force lacking a full understanding of the unique situations that make up our communities. In fact, some of the immigration decisions under review in this Committee confirm that view. But today we can feel less inconsequential or misunderstood, when our own Congressman now shares key responsibility for federal policy in the islands and can call a hearing to question these decisions and offer legislation to mitigate their impact on the insular areas.

We commend Delegate Gregorio Kilili Sablan for his initiative to call this hearing and his hard work trying to smooth over the unanticipated consequences of Public Law 110-229, which extended federal immigration to the CNMI in 2009. In 2014, his efforts led to extending the core provisions in the law for five years. In the last Congress, working with his colleagues in the House and Senate, Governor Ralph Torres, and our business leaders, he passed two separate bills into law that shore up the CNMI-only transitional worker program for another ten years. We in the CNMI are grateful for these efforts as we recognize it is not easy to pass immigration legislation – even in the best of times.

As you are aware, the CNMI has a small population of about 60,000 and, within this, a limited local labor force. Because of this small population and the isolated nature of our community from the mainland United States, we have historically relied on foreign workers to supplement the available local labor force in order to fill jobs in our public sector and in our largely tourism-based, service-oriented economy. Last year, the Government Accountability Office's report to Congress indicated 29,215 workers comprised the CNMI total labor force in 2016 with about an even 50% split between foreign and U.S. workers¹. Ten years prior, in 2006, U.S. workers represented about 25% of the total work force. This is an improvement in the ratio of U.S. workers to foreign workers. It is also an improvement in the number of U.S. workers employed which increased by nearly 2,000 over the ten-year period.

Our experience at Triple J shows slightly better results. Ten years ago, 70 percent of our employees in Saipan were foreign. We have reversed that worker mix. Today, of our 280 Saipan employees, 70 percent are U.S. workers. The remaining 30 percent are foreign workers, primarily nationals of the Philippines, who are difficult to replace with U.S. workers despite our best efforts to recruit from the U.S. mainland, the U.S. freely associated states in Micronesia, Puerto Rico, and Guam. These workers have unique skills, most of whom are so embedded in our businesses after decades of employment that they very difficult to replace.

Triple J has spent and will continue to spend considerable resources to recruit U.S. workers living in the CNMI and to try to attract those in the U.S. to move to our beautiful islands to fill the jobs needed in our businesses. We are aware of other businesses who have invested in similar efforts as well. Despite our best collective efforts over the years

¹ (In this testimony, I use the phrase "U.S. workers" to include U.S. citizens, U.S. permanent residents, and citizens of the Federated States of Micronesia, Palau and the Marshall Islands who have rights to live and work in the CNMI.)

and for reasons I will discuss later in this testimony, the unfortunate reality is that U.S. workers are difficult to recruit, hesitant to relocate due to a number of factors.

H.R. 560

Triple J strongly supports H.R. 560. We think this is well-crafted legislation that also has wide support of the CNMI government and business community as it provides long-term CNMI-only immigration status to certain groups of foreign nationals who have been contributing members of our labor force, our business community, and our greater community for many years.

The remoteness of the CNMI from the U.S. mainland presents complex and unique circumstances. Our small economy, distance and high cost of travel, availability of suitable housing options, time zone differences, limited population, limited infrastructure, and isolation present barriers to the recruitment and retention of U.S. workers. Medical and educational facilities are also limited, as are entertainment options and activities. Unlike in the U.S. mainland, the CNMI government and businesses seeking employees to fill critical jobs don't have the convenience of recruiting from neighboring cities and states.

While Triple J has been successful in transitioning to a largely U.S. worker labor force, there continues to remain certain positions in our businesses occupied by foreign workers with unique skills for which recruitment of U.S. workers has not met similar success. Our efforts have included aggressive recruitment locally, in Guam, across Micronesia, in the U.S. mainland and even as far as Puerto Rico. We are aware that the CNMI government and other businesses in the CNMI have invested in similar recruitment efforts, also with limited success. The difficulty in recruiting U.S. workers has historically required employers to rely on foreign workers from nearby Asia to fill jobs in our economy.

At Triple J, as at many other businesses across the CNMI, we have a number of long-term, dedicated, lawful foreign workers who have been with our company for decades. Many have dedicated their entire adult lives to living and working in the CNMI. Many have also started families and raised their children in our communities. Their human stories add richness and depth to the already compelling story of the devastating economic impact an insufficient labor force would have on our community and the people who call our islands homes. Many of these long-term workers have lived in our islands for 15, 20, 30, or even 40 years without recourse to obtain immigrant or alternative nonimmigrant status. They have worked many long hours laboring to help build critical public infrastructure, teach in our schools, provide care in our hospitals and clinics, and work in large and small businesses across our economy. They work on one year permits, never certain if their employment will continue to the next year.

One such individual, "FM", came to Saipan in 1979 to work as a skilled baker at the island's longest running family owned bakery. "FM" celebrates his 40th anniversary this year, in the same year that the bakery celebrates its 75th year of operation. He never

married or had a family of his own. He committed nearly his entire adult life working in the Saipan bakery. He has been a law-abiding, hard-working, dedicated worker, and his is a story shared by many others in our community. H.R. 560 will provide “FM” and many others like him certainty of continued employment in a skilled position difficult to fill by a U.S. worker. And it will provide his employer certainty and stability in knowing he will continue to contribute to the bakery’s continuing success.

Many of the CNMI’s long-term foreign contract workers (“CW”) with families living in the CNMI live in constant anxiety that their families will be uprooted or separated. Their children who were born in the CNMI know no other home. One such individual came to Saipan 14 years ago and works as an accountant for Triple J, “MO”. She and her husband, also a long-term CW worker, have a young son born on Saipan. By virtue of being born in the CNMI, “MO’s” son would be able to petition her and her husband for U.S. permanent residence when the son turns 21. But he is only 5 years old – that is 16 more years of waiting to see whether “MO’s” CW visa will be approved for renewal or not. Accounting requires years of formal education and training. Of the 9 accountants in Triple J’s 15 Saipan businesses, 3 are U.S. citizens and 2 are U.S. permanent residents who obtained their “green cards” through petitions from their CNMI-born U.S.-citizen children. The other 4 accountants are CW workers who have all worked in the CNMI for 10-plus years, including “MO”. While Triple J has had some success recruiting and retaining U.S. workers to fill accountant and other positions in our businesses, experience tells us the likelihood is not good that we’ll be able to recruit sufficient numbers of U.S. workers to replace the 4 foreign accountants and other skilled professionals in design graphics, construction engineering and supervision, restaurant management, refrigeration technical services, automobile and heavy equipment technical repairs, and others presently working in our businesses and who perform very critical functions in our operations. This uncertainty will be greatly alleviated if H.R. 560 is passed to allow long-term foreign workers who presently work for us, like “MO”, to continue to work in the CNMI.

Another long-term contract worker at Triple J, “NQ”, moved to Saipan when she was 12 years old with her parents who were both nonresident workers. Her father worked in a private construction company, her mother in the CNMI Public School System as a teacher and then later retired as a School Librarian. Except for a few years break to earn her college degree abroad, “NQ” has been with Triple J for nearly 20 years. She is presently the corporate office’s Executive Assistant and helps to manage our Human Resources function. Her mother and father both passed away several years ago and are buried on Saipan, in line with their dying wishes. “NQ” and her husband, also a CW worker, married a few years ago and now have two sons, the eldest being 5 years old. Despite all these roots deeply planted on Saipan, “NQ” waits every year to see whether her CW petition will be approved or denied. Long-term, dedicated and trained workers like “NQ” who have embedded their lives into our community and fill critical positions difficult to fill with qualified U.S. workers provide stability, certainty and strength to companies like Triple J. While we will continue to aggressively recruit, train and retain U.S. workers, we are burdened by the anxiety and uncertainty of not knowing if our efforts will be successful. And if Triple J, one of the larger businesses in the CNMI,

faces this dim likelihood, we are concerned the likelihood is even less in the smaller companies who don't have the same resources and internal infrastructure to aggressively recruit U.S. workers. Triple J strongly supports H.R. 560 as it will provide stability and certainty in our workforce.

H.R. 560 also provides permanent federal immigration status to certain other groups of foreign nationals living in the CNMI as of November 28, 2009, when Public Law 110-229, the Consolidated Natural Resource Act of 2008 ("CNRA"), was enacted. The CNRA did not provide U.S. immigration status to these nationals. However, the Secretary of Homeland Security chose to exercise parole authority for members of these groups and granted parole for up to two years and was renewable. A recent decision in December 2018 by the U.S. Citizenship and Immigration Services announced the termination of all CNMI parole programs and gave those previously covered until June 29, 2019, to leave or obtain alternative status. Triple J supports the CNMI-only permanent status provided in H.R. 560 for these individuals.

For reasons similar to those mentioned above for long-term foreign workers, Triple J also fully supports H.R. 560's intent to provide CNMI-only permanent resident status to individuals born in the CNMI between January 1, 1974 and January 9, 1978, CNMI Permanent Residents, and Immediate Relatives of U.S. citizens. These individuals have been a part of our community for many years. They are family to us; their presence and contributions over the years have enriched the social fabric and character of our communities.

In addition, Triple J fully supports providing CNMI-only permanent status for foreign national caregivers of critical or special needs individuals. These individuals provide critical support services for our elderly residents and those needing special care and attention. Recruiting U.S. workers to provide these services is very difficult, admittedly a situation not unique to the CNMI.

Triple J is also in full support of granting CNMI-only permanent status to foreign investors holding U.S. E-2C visas. Their presence and contributions have certainly helped to diversify our business landscape, provide employment opportunities for our people, and expand our tax revenue base. In fact, much of the CNMI's economic development and diversification is attributable to investments made by foreign investors who have chosen to invest in our community and who have made the CNMI their home for many years.

Exclusion of Philippine Nationals from H-2B Nonimmigrant Worker Programs

The federal government's recent determination to exclude nationals from the Philippines from eligibility for H-2B nonimmigrant worker visas presents a serious challenge for many businesses in the CNMI, including Triple J, that need skilled construction trade workers for new and ongoing projects. In addition to these projects, the major destruction of hundreds of homes, businesses and public facilities following the wrath of Super Typhoon Yutu in October 2018 will require a large number of additional

construction workers. Some estimates are 2,000 to 4,000 workers will be needed for the next 4 to 5 years, just for typhoon-related repairs and reconstruction.

Prior to the super typhoon in October, Triple J had several large projects under construction, in the final design phase, or awaiting permitting to begin. These included the construction of the 51-room Surfrider Hotel, the 48-unit Art Ridge Village Homes affordable housing project, the relocation of our Five Star food wholesaler and Truckload general merchandise retail operations, the construction of a second wholesale and retail location, the construction of a new and expanded Triple J Motors operation, and construction of an employee's housing facility. In addition, following the super typhoon's complete destruction of Truong's Restaurant, construction of a new restaurant has been added to our Saipan projects list. Presently Triple J has a construction crew of about 35 workers, all but 4 of whom are foreign workers from the Philippines. Our projects alone will require upwards of 150 additional construction workers to complete over the next 2 to 3 years. We are aware of numerous other construction projects in the CNMI, pre- and post-typhoon, that will require many hundreds more workers. We do not have an estimate on how many will be needed in the CNMI as a whole for these projects and will defer to the Governor and his agencies to provide the information.

Triple J appreciates the federal government's overstay and human trafficking concerns that prompted the removal of the Philippines from the list of countries eligible for the H-2B visas. As Triple J does, I am certain that Members of this Committee recognize the importance of preventing human trafficking and ensuring adherence to H-2B visa conditions. However, we understand these elements have not been a major problem in Guam where nearly all H-2B workers come from the Philippines nor in the CNMI where hiring H-2B workers started only in the last couple of years when the hiring of construction workers transitioned from the CW worker program. In contrast to the national overstay experience of 40% for H-2B visa holders from the Philippines, in Guam we understand the percentage of overstays is estimated to be 3% to 4%, according to the Guam Department of Labor.

An additional element that must be considered in the discussion of the loss of Philippine eligibility for the Nonimmigrant Worker Program is the specific impact of this decision on Guam and the CNMI. Unlike the mainland United States, which can draw from multiple sources of foreign workers, Guam and the CNMI have a long history of reliance on an almost exclusive use of the Philippines for foreign labor. This long history is based on the proximity of the Philippines to our location, the convenience of short flight travels, long established recruitment processes in the Philippines, similarity of culture and family ties between the Philippines and the Marianas. In addition, construction workers from the Philippines bring with them the advantage of English language skills and familiarity of construction methodologies, standards and safety protocols similar to those in the U.S. These elements have allowed Guam and the CNMI to establish a long-standing mutually beneficial relationship of the provision of required skilled labor to our small isolated markets. The elimination of this predominant labor supply would have a profound negative impact on our areas in contrast to the minimal impact upon the United States mainland.

Triple J and the CNMI business community urge Congress and this Committee to develop a creative legislative solution that would enable the CNMI and Guam to continue to recruit H-2B workers from the Philippines to meet its labor needs.

Importance of the Chinese Tourism Market

Finally, we have seen reports indicating the Chinese tourism market alone represents over 38 percent of the CNMI's overall tourism market and an estimated 33 percent of all economic activity. Given the magnitude of this particular market in our economy, there is no question our economic survival, the government's ability to raise sufficient revenues for the delivery of essential services, and the wellbeing of the CNMI community hinge critically on preserving this economic segment. Recent reports of questions raised by the Federal government regarding the propriety of the current use of discretionary parole authority to allow Chinese tourists to visit our islands is of serious concern to Triple J and the business community. These questions of propriety must be discussed and resolved. We respectfully urge this Committee, the CNMI government and the relevant Federal agencies to carefully examine the mechanisms presently used to provide Chinese tourists access to visit our islands. If the present mechanisms are not appropriate, it is crucial and urgent that the appropriate alternative mechanisms are explored, crafted, and implemented to avoid a devastating collapse of the CNMI economy and the far reaching adverse impact that would have on the community. Triple J and the business community stand ready to assist in any way

Mr. Chairman and distinguished Members of the Committee, we again commend the Committee's decision to examine the ability of the CNMI business community to secure a reliable access to adequate workforce, and the challenges it presents. I am confident that Members of the Committee share our goal of making the CNMI prosperous and self-sufficient.

Thank you again for the invitation to testify and provide comments and suggestions regarding H.R. 560 and related immigration and labor issues. Triple J and the CNMI business community remain committed to continuing discussion on these matters and look forward to working further with the Committee.