

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

In re:)	Chapter 11
)	
MIAMI METALS I, INC., <i>et al.</i> ¹)	Case No. 18-13359 (shl)
)	
)	(Jointly Administered)
Debtors.)	
)	

**ORDER APPROVING (I) THE ADEQUACY OF THE SECOND AMENDED
DISCLOSURE STATEMENT; (II) SOLICITATION AND NOTICE PROCEDURES;
(III) FORMS OF BALLOTS AND NOTICES IN CONNECTION THEREWITH;
AND (IV) CERTAIN DATES WITH RESPECT THERETO**

Upon the motion (the "Motion")² [ECF No. 1297] of Miami Metals I, Inc., *et al.*, as debtors and debtors-in-possession (collectively the "Debtors") in the above-captioned Chapter 11 cases (the "Chapter 11 Cases"), for entry of an order pursuant to 105, 363, 1125, 1126, and 1128 of the Bankruptcy Code, Bankruptcy Rules 2002, 3016, 3017, 3018, 3020, and Local Rules 3017-1, 3018-1, and 3020-1 approving: (a) the *Amended Joint Amended Disclosure Statement for Amended Joint Chapter 11 Amended Plan of Liquidation of Debtors* [ECF No. 1409], as further amended on the record at the hearing on October 7, 2019 (the "Disclosure Statement Hearing") and filed under Notice as the *Second Amended Joint Disclosure Statement for Second Amended Joint Chapter 11 Plan of Liquidation of Debtors* at ECF No. 1482 (the "Amended Disclosure

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, include: Miami Metals I, Inc. (f/k/a Republic Metals Refining Corporation), 15 West 47th Street, Suites 206 and 209, New York, NY 10036 (3194); Miami Metals II, Inc. (f/k/a Republic Metals Corporation), 12900 NW 38th Avenue, Miami, FL 33054 (4378); Miami Metals III LLC (f/k/a Republic Carbon Company), 5295 Northwest 163rd Street, Miami Gardens, FL 33014 (5833); Miami Metals IV LLC (f/k/a J & L Republic LLC), 12900 NW 38th Avenue, Miami, FL 33054 (7604); Miami Metals V LLC (f/k/a R & R Metals, LLC), 12900 NW 38th Avenue, Miami, FL 33054 (7848); Miami Metals VI (f/k/a RMC Diamonds, LLC), 12900 NW 38th Avenue, Miami, FL 33054 (1507); Miami Metals VII (f/k/a RMC2, LLC), 12900 NW 38th Avenue, Miami, FL 33054 (4696); Miami Metals VIII (f/k/a Republic High Tech Metals, LLC), 13001 NW 38 Avenue, Miami, FL 33054 (6102), 12900 NW 38th Avenue, Miami, FL 33054 (1507); Republic Metals Trading (Shanghai) Co., Ltd., 276 Ningbo Road, Huangpu District, Shanghai, P.R. 200001 China (1639); and Republic Trans Mexico Metals, S.R.L., Francisco I. Madero No. 55 Piso 5, Local 409, Centro Joyero Edificio Central, Delegación Cuauhtémoc, Mexico DF 6000 (2942).

² All capitalized terms not defined herein shall have the definitions set forth in the Motion.

Statement"); (b) the Disclosure Statement Hearing Date and Disclosure Statement Hearing Notice; (c) the Disclosure Statement Objection Deadline and Disclosure Statement Objection Response Deadline; (d) the Voting Record Date, Solicitation Deadline, and Voting Deadline; (e) the manner and form of the Solicitation Packages and the materials contained therein; (f) the Plan Supplement Notice; (g) the Non-Voting Status Notices; (h) the form of notices to counterparties to Executory Contracts and Unexpired Leases that will be assumed or rejected pursuant to the Amended Plan; (i) the Solicitation and Voting Procedures; (j) the Plan Objection Deadline, Confirmation Hearing Date, and Confirmation Hearing Notice; and (k) the dates and deadlines related thereto, all as more fully described in the Motion; and the Court having jurisdiction to consider the Motion and the relief requested therein in accordance with 28 U.S.C. §§ 157 and 1334; and this proceeding being a core proceeding pursuant to 28 U.S.C. § 157(b)(2); and it appearing that notice of the Motion as set forth therein is sufficient under the circumstances, and that no other or further notice need be provided; and the Court having reviewed the Motion, the Objection of the United States Trustee (the "UST") [ECF No. 1452], the Omnibus Objection of Fundacion Rafael Donde, I.A.P. ("Donde") [ECF No. 1455], the Joint Omnibus Reply of Debtors, Senior Lenders, and Official Committee of Unsecured Creditors [ECF No. 1459], and Declaration of Scott Avila in Support of Amended Disclosure Statement for Amended Joint Chapter 11 Amended Plan of Liquidation [ECF No. 1462]; and the Court having heard the arguments of counsel for the Debtors, the Senior Lenders, the Committee, the UST, and Donde; and it further appearing that the relief requested in the Motion is in the best interests of the Debtors' estates, creditors, and other parties-in-interest; and the Disclosure Statement Hearing having been held on October 7, 2019; and for the reasons stated on the record and after due deliberation and cause appearing;

IT IS HEREBY ORDERED THAT:

1. The Motion is **GRANTED** as set forth herein.
2. The Objections filed by the UST and Donde are overruled to the extent set forth on the record during the Disclosure Statement Hearing, or are otherwise resolved.

I. Approval of the Amended Disclosure Statement.

3. The Amended Disclosure Statement is hereby approved as providing holders of Claims entitled to vote on the Amended Plan with adequate information to make an informed decision as to whether to vote to accept or reject the Amended Plan in accordance with section 1125(a)(1) of the Bankruptcy Code.

4. The Amended Disclosure Statement (including all applicable exhibits thereto) provides holders of Claims, holders of Interests, and other parties in interest with sufficient notice of the injunction, exculpation, and release provisions contained in Article 12 of the Amended Plan, in satisfaction of the requirements of Bankruptcy Rule 3016(c).

II. Approval of the Amended Disclosure Statement.

5. The Disclosure Statement Hearing Notice, filed by the Debtors and served upon parties in interest in these chapter 11 cases, constitutes adequate and sufficient notice of the hearings to consider approval of the Amended Disclosure Statement, the manner in which a copy of the Amended Disclosure Statement (and exhibits thereto, including the Amended Plan) could be obtained, and the time fixed for filing objections thereto, in satisfaction of the requirements of the applicable provisions of the Bankruptcy Code, the Bankruptcy Rules, and the Local Rules.

III. Approval of the Materials and Timeline for Soliciting Votes.

- A. Approval of Key Dates and Deadlines with Respect to the Amended Plan and Amended Disclosure Statement.**

6. The following dates are hereby established (subject to modification as necessary) with respect to the solicitation of votes to accept, and voting on, the Amended Plan:

- (a) **October 7, 2019** as the date for determining (i) which holders of Claims in the Voting Classes are entitled to vote to accept or reject the Amended Plan and receive Solicitation Packages in connection therewith and (ii) whether Claims have been properly assigned or transferred to an assignee pursuant to Bankruptcy Rule 3001(e) such that the assignee can vote as the holder of the respective Claim (the "Voting Record Date");
- (b) the Debtors shall distribute Solicitation Packages to holders of Claims entitled to vote on the Amended Plan by **October 14, 2019** (the "Solicitation Deadline");
- (c) **November 4, 2019, at 4:00 p.m.** prevailing Eastern Time as the date by which any holder of a claim seeking to challenge the allowance of its claim for voting purposes shall file a motion for an order temporarily allowing its claim in a different amount or classification for purposes of voting to accept or reject the Amended Plan ("Rule 3018 Motion");
- (d) **November 12, 2019, at 4:00 p.m.** prevailing Eastern Time as the date by which the Debtors (and, with respect to filing a response, any other party in interest) shall serve any responses to Rule 3018 Motions ("Rule 3018 Response Deadline"); and
- (e) all holders of Claims entitled to vote on the Amended Plan must complete, execute, and return their Ballots so that they are **actually received** by the Voting and Claims Agent pursuant to the Solicitation and Voting Procedures, on or before **November 19, 2019, at 5:00 p.m.** prevailing Eastern Time (the "Voting Deadline").

B. Approval of the Form of, and Distribution of, Solicitation Packages to Parties Entitled to Vote on the Amended Plan.

7. In addition to the Amended Disclosure Statement and exhibits thereto, the Solicitation Packages to be transmitted on or before the Solicitation Deadline to those holders of Claims in the Voting Classes entitled to vote on the Amended Plan as of the Voting Record Date, shall include the following, the form of each of which is hereby approved:

- (a) an appropriate form of Ballot attached hereto as Exhibits 2A, 2B, and 2C;³
- (b) the Cover Letter attached hereto as Exhibit 6; and
- (c) the Confirmation Hearing Notice attached hereto as Exhibit 7.

8. The Solicitation Packages provide the holders of Claims entitled to vote on the Amended Plan with adequate information to make informed decisions with respect to voting on the Amended Plan in accordance with Bankruptcy Rules 2002(b) and 3017(d), the Bankruptcy Code, and the Local Rules.

9. The Debtors shall distribute Solicitation Packages to all holders of Claims entitled to vote on the Amended Plan on or before the Solicitation Deadline. Such service shall satisfy the requirements of the Bankruptcy Code, the Bankruptcy Rules, and the Local Rules.

10. The Debtors are authorized, but not directed or required, to distribute the Amended Plan, the Amended Disclosure Statement, and this Order to holders of Claims entitled to vote on the Amended Plan in electronic format (*i.e.*, on a CD-ROM or flash drive). Only the Ballots as well as the Cover Letter and the Confirmation Hearing Notice will be provided in paper form. On or before the Solicitation Deadline, the Debtors (through their Voting and Claims Agent) shall provide complete Solicitation Packages (other than Ballots) to the U.S. Trustee and to all parties on the 2002 List as of the Voting Record Date.

11. Any party that receives the materials in electronic format but would prefer to receive materials in paper format may contact the Voting and Claims Agent and request paper copies of the corresponding materials previously received in electronic format (to be provided at the Debtors' expense).

³ The Debtors will use commercially reasonable efforts to ensure that any holder of a Claim who has filed duplicate Claims against the Debtors (whether against the same or multiple Debtors) that are classified under the Amended Plan in the same Voting Class, receives no more than one Solicitation Package (and, therefore, one Ballot) on account of such Claim and with respect to that Class.

12. The Voting and Claims Agent is authorized to assist the Debtors in: (a) distributing the Solicitation Package; (b) receiving, tabulating, and reporting on Ballots cast to accept or reject the Amended Plan by holders of Claims against the Debtors; (c) responding to inquiries from holders of Claims and Interests and other parties in interest relating to the Amended Disclosure Statement, the Amended Plan, the Ballots, the Solicitation Packages, and all other related documents and matters related thereto, including the procedures and requirements for voting to accept or reject the Amended Plan and for objecting to the Amended Plan; (d) soliciting votes on the Amended Plan; and (e) if necessary, contacting creditors regarding the Amended Plan.

13. The Voting and Claims Agent is also authorized to accept Ballots via electronic transmission. Ballots submitted via electronic means shall be deemed to contain an original signature.

C. Approval of the Confirmation Hearing Notice.

14. The Confirmation Hearing Notice, in the form attached hereto as **Exhibit 7** filed by the Debtors and served upon parties in interest in these chapter 11 cases on or before the Solicitation Deadline constitutes adequate and sufficient notice of the hearings to consider approval of the Amended Plan, the manner in which a copy of the Amended Plan could be obtained, and the time fixed for filing objections thereto, in satisfaction of the requirements of the applicable provisions of the Bankruptcy Code, the Bankruptcy Rules, and the Local Rules.

D. Approval of Notice of Filing of the Amended Plan Supplement.

15. The Debtors are authorized to send notice of the filing of the Amended Plan Supplement, which will be filed and served at least five (5) days prior to the Amended Plan Objection Deadline, substantially in the form attached hereto as **Exhibit 8**, on the date the Amended Plan Supplement is filed or as soon as reasonably practicable thereafter.

E. Approval of the Form of Notices to Non-Voting Classes.

16. Except to the extent the Debtors determine otherwise, the Debtors are not required to provide Solicitation Packages to holders of Claims or Interests in Non-Voting Classes, as such holders are not entitled to vote on the Amended Plan. Instead, on or before the Solicitation Deadline, the Voting and Claims Agent shall mail (first-class postage pre-paid) a Non-Voting Status Notice in lieu of Solicitation Packages, the form of each of which is hereby approved, to those parties, outlined below, who are not entitled to vote on the Amended Plan:

- (d) ***Not Impaired Claims—Conclusively Presumed to Accept.*** Holders of Claims in Classes 1 and 2 are not impaired under the Amended Plan and, therefore, are conclusively presumed to have accepted the Amended Plan. As such, holders of such Claims will receive a notice, substantially in the form attached to the Order as **Exhibit 3**, in lieu of a Solicitation Package.
- (e) ***Other Interests and Claims—Deemed to Reject.*** Holders of Interests and Claims in Classes 6, 7, and 8 are receiving no distribution under the Amended Plan and, therefore, are deemed to reject the Amended Plan and will receive a notice, substantially in the form attached to the Order as **Exhibit 4**, in lieu of a Solicitation Package.
- (f) ***Disputed Claims.*** Holders of Claims that are subject to a pending objection by the Debtors are not entitled to vote the disputed portion of their claim. As such, holders of such Claims will receive a notice, substantially in the form attached to the Order as **Exhibit 5**.
- (g) ***503(b)(9) Claims.*** Holders of Claims asserted pursuant to 11 U.S.C. § 503(b)(9) which have not been treated pursuant to an Order of the Bankruptcy Court or are not parties to an agreement with the Debtors to support confirmation of the Amended Plan will receive a notice regarding treatment of their 503(b)(9) Claims in substantially the form attached hereto as **Exhibit 11**.

17. The Debtors are not required to mail Solicitation Packages or other solicitation materials to: (a) holders of Claims that have already been paid in full during these chapter 11 cases or that are authorized to be paid in full in the ordinary course of business pursuant to an order previously entered by this Court; or (b) any party to whom the Disclosure Statement Hearing Notice was sent but was subsequently returned as undeliverable.

F. Approval of Notices to Contract and Lease Counterparties.

18. The Debtors are authorized to mail a notice of assumption or rejection of any Executory Contracts or Unexpired Leases (and any corresponding cure claims), in the forms attached hereto as **Exhibit 9** and **Exhibit 10** to the applicable counterparties to Executory Contracts and Unexpired Leases that will be assumed or rejected pursuant to the Amended Plan (as the case may be), within the time periods specified in the Amended Plan.

IV. Approval of the Solicitation and Voting Procedures.

19. The Debtors are authorized to solicit, receive, and tabulate votes to accept the Amended Plan in accordance with the Solicitation and Voting Procedures attached hereto as **Exhibit 1**, which are hereby approved in their entirety.

V. Approval of Procedures for Confirming the Amended Plan.

A. Approval of the Timeline for Filing Objections to the Amended Plan and Confirming the Amended Plan.

20. The following dates are hereby established (subject to modification as needed) with respect to filing objections to the Amended Plan and confirming the Amended Plan:

- (a) **November 19, 2019 at 4:00 p.m.** as the deadline by which objections to the Amended Plan must be filed with the Court and served so as to be actually received by the appropriate notice parties (the "**Amended Plan Objection Deadline**");
- (b) notwithstanding anything to the contrary in Local Rule 3018-1(a), **November 22, 2019** shall be the date by which the voting certification must be filed with the Court;
- (c) **December 3, 2019, at 4:00 p.m.** prevailing Eastern Time shall be the date by which responses to objections to the Amended Plan must be filed with the Court and served so as to be **actually received** by the appropriate notice parties (as identified below) (the "**Amended Plan Objection Response Deadline**");
- (d) **December 3, 2019, at 4:00 p.m.** prevailing Eastern Time shall be the date by which the Debtors shall file their brief in support of Confirmation; and

- (e) the Court shall consider Confirmation of the Amended Plan at the hearing to be held on **December 12, 2019** at 11:00 a.m. prevailing Eastern Time (the "Confirmation Hearing Date").

B. Approval of the Procedures for Filing Objections to the Amended Plan.

21. Objections to the Amended Plan will not be considered by the Court unless such objections are timely filed and properly served in accordance with this Order. Specifically, all objections to confirmation of the Amended Plan or requests for modifications to the Amended Plan, if any, **must**: (a) be in writing; (b) conform to the Bankruptcy Rules and the Local Rules; (c) state, with particularity, the legal and factual basis for the objection and, if practicable, a proposed modification to the Amended Plan (or related materials) that would resolve such objection; and (d) be filed with the Court (contemporaneously with a proof of service) and served upon the notice parties so as to be **actually received** on or before the **November 19, 2019 at 4:00 p.m.** prevailing Eastern Time by each of the notice parties identified in the Confirmation Hearing Notice.

VI. Miscellaneous.

22. The Debtors reserve the right to modify the Amended Plan in accordance with Section 15.1 thereof, including the right to withdraw the Amended Plan as to any or all Debtors at any time before the Confirmation Date.

23. Nothing in this Order shall be construed as a waiver of the right of the Debtors or any other party in interest, as applicable, to object to a proof of claim after the Voting Record Date.

24. All time periods set forth in this Order shall be calculated in accordance with Bankruptcy Rule 9006(a).

25. The contents of the Motion satisfy the requirements of Bankruptcy Rule 6003(b).

26. Notice of the Motion satisfies the requirements of Bankruptcy Rule 6004(a).

27. The Debtors are authorized to take all actions necessary to effectuate the relief granted pursuant to this Order in accordance with the Motion.

28. The Court retains jurisdiction with respect to all matters arising from or related to the interpretation or implementation of this Order.

Dated: New York, New York
October 11, 2019

/s/ Sean H. Lane
HONORABLE SEAN H. LANE
UNITED STATES BANKRUPTCY JUDGE