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

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In re:	Chapter 11
	Case No. 18-13359 (SHL)
REPUBLIC METALS REFINING	
CORPORATION, <i>et al.</i> ,	(Jointly Administered)
Debtors.	
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**STATEMENT OF CLAIMED OWNERSHIP AND CLAIMS**

Bayside Metal Exchange (“Bayside”), by and through its undersigned counsel, as a creditor and party in interest in the above-captioned Chapter 11 cases, hereby submits this Statement of Claimed Ownership and Claims (the “Customer Statement”) in accordance with the Order Approving Uniform Procedures for Resolution of Ownership Disputes, dated January 11, 2019 [D.N. 395].

**BACKGROUND**

**i. Name, address and telephone number of the Customer and counsel for the Customer in this matter:**

Customer:  
Bayside Metal Exchange  
6701 Center Drive, Suite 840  
Los Angeles, CA 90045  
(424) 331-9500 ext. 101  
Attn: Eugene Fogel

Counsel:

Halperin Battaglia Benzija, LLP  
40 Wall Street, 37<sup>th</sup> Floor  
New York, NY 10005  
(212) 765-9100  
Attn: Donna H. Lieberman, Esq.

- ii. **A specific description of the Assets in which the Customer claims an ownership interest, including quantity:**

Row Labels	Sum of Quantity	Sum of Amount
Gold Bar 10-oz	5	\$ 61,720.00
Gold Bar 1-gram	275	\$ 11,978.04
Gold Bar 1-oz	330	\$ 402,039.50
Silver Bar 10-oz	980	\$ 145,610.00
Silver Bar 1-oz	18278	\$ 271,458.30
Silver Round 1-oz	47005	\$ 707,555.00
<b>Grand Total</b>	<b>66873</b>	<b>\$ 1,600,360.84</b>

- iii. **A description of all claims that the Customer is aware of as of the date of this Customer Statement against the Debtors including claims arising under Section 503(b)(9) and 502 of the Bankruptcy Code; provided that such description shall be non-binding and subject to modification any may be supplemented in connection with the Customer's filing of a proof of claim or request for payment of administrative expenses.**

See chart in subsection (ii) above for entirety of Bayside's asserted claim.

- iv. **A summary of the legal basis for the Customer's ownership claim:**

Bayside paid for \$1,600,360.84 in metals -- payment in full. In accordance with applicable law and the RMC Standard Terms and General Operating Conditions, title to the purchased goods transferred to Bayside upon payment. (See page 16, title section "Charges"). Because title has transferred to Bayside, Bayside asserts an ownership claim in the entirety of the metals for which it paid.

Under Florida law, a buyer in the ordinary course of business, has a special property interest in prepaid goods that have been "identified" to the party's contract -- *i.e.*, goods that have been "*shipped, marked or otherwise designated by the seller as goods to which the contract refers.*" Fla. Stat. Ann. § 672.501 (West) (emphasis added); *see also id.* § 671.201 (defining "buyer in ordinary course of

business). Even where delivery has not been completed, where the goods at issue have nevertheless been *identified* to the contract, a buyer in the ordinary course takes free of any security interest created by the seller. *See* Fla. Stat. Ann. §§ 679.307, 679.320, 672.401, 672.501; *Kit Car World, Inc. v. Skolnick*, 616 So.2d 1051 (Fla. Ct. App. 1993); *Matter of Polar Chips Int'l, Inc.*, 40 B.R. 586, 588-90 (Bankr. S.D. Fla. 1984) (outlining the buyer-in-ordinary-course doctrine); *Matter of Int'l Gold Bullion Exch., Inc.*, 53 B.R. 660, 664 (Bankr. S.D. Fla. 1985)) (making clear that “identification” of the gold at issue would have secured the buyer priority over the rights of a judgment creditor).

Bayside received UPS tracking numbers for \$740,131.80 of the \$1,600,360.84 in product, which Bayside believes, based on past conduct and practice, is indicative of segregation of purchased goods from general inventory.

RMC has acknowledged that at least \$138,804.79 in Bayside’s purchased goods was segregated from general inventory.

v. **The state or other governing law the Customer contends governs the dispute and the basis for same:**

The applicable RMC Standard Terms and General Operating Conditions specify Florida for jurisdiction in the context of arbitration and are silent on choice of law. Given that the purchased goods were located in Florida, Bayside believes Florida law is likely to apply, but does not waive its right to assert that New York or California law applies.

vi. **Any additional information deemed relevant by such Customer.**

Bayside reserves its right to amend and/or supplement this Customer Statement at any time and in any respect.

This Customer Statement should not be construed to be:

- a. a waiver or release of any and all rights of Bayside against any person, entity or property,
- b. a consent to the jurisdiction of the Bankruptcy Court with respect to any proceeding commenced or claims asserted in the case against or otherwise involving Bayside,
- c. a concession, admission or acknowledgment that Bayside is subject to personal jurisdiction in this or any other court,
- d. a waiver of any right of Bayside to move for withdrawal of the reference with respect to the subject matter of any of its claim, any objection or other

proceeding commenced with respect thereto, or any other proceeding commenced in this case against or involving Bayside,

- e. an election of remedy,
- f. a concession, admission or acknowledgment of liability by Bayside to any other party, or
- g. a waiver of the rights or entitlement of Bayside to have its title to and ownership in the product accorded any other status.

Bayside expressly reserves its right to a jury trial, if any, that exists with respect to its claim of ownership and any ancillary issues.

Dated: New York, New York  
January 17, 2019

HALPERIN BATTAGLIA BENZIJA, LLP,  
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