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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, et al., ¹	: (Jointly Administered)
	:
Debtors.	:
	:
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**STATEMENT OF CLAIMED OWNERSHIP AND CLAIMS
OF BRILLIANT JEWELERS/MJJ INC. AND ANJAY CORP.**

TO THE HON. SEAN H. LANE,
UNITED STATES BANKRUPTCY JUDGE:

Brilliant Jewelers/MJJ Inc, and its affiliate Anjay Corp. (collectively, the “Customer”), by and through their undersigned counsel, as a customer, creditor and party in interest in the above-captioned chapter 11 cases, hereby submits this Statement of Claimed Ownership and Claims pursuant to Paragraph 2 of the Order Approving Uniform Procedures for Resolution of Ownership Disputes issued and entered on January 11, 2019 [Docket No. 395] (the “Procedures Order”), and in support thereof respectfully state as follows:

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, include: Republic Metals Refining Corporation, 15 West 47th Street, Suites 206 and 209, New York, -NY 10036 (3194), Republic Metals Corporation, 12900 N.W. 38th Avenue, Miami, FL 33054 (4378), and Republic Carbon Company, LLC, 5295 Northwest 163rd Street, Miami Gardens, FL 33014 (5833).

1. The name, address and telephone number of the Customer and its counsel in this matter are as follows:

Customer

Brilliant Jewelers/MJJ Inc. and Anjay Corp.
902 Broadway, 18th Floor
New York, NY 10010
Attn: Sam Schwartz
Tel: 212-353-2326

Counsel

Holland & Knight LLP
31 West 52nd Street, 11th Floor
New York, NY 10019
Attn: Arthur E. Rosenberg and Robert S. Bernstein
Tel: 212-513-3200

2. The Assets in which the Customer claims an ownership interest (the “Assets”), including quantity are as follows, and are further described by Lot and amount in ounces in Exhibits A and B annexed hereto and total 143.90 ounces of Gold with a value, at today’s spot prices, in excess of \$185,000. Exhibit A is a chart entitled “RMC open Settlements,” which sets out the amounts of Assets being requested hereby on a Lot Number and weight in ounces, identifying Gold by its chemical symbol “AU.”

3. A description of all claims that the Customer is aware of as of the date of the Customer Statement against the Debtors including claims arising under Sections 503(b)(9) and 502 of the Bankruptcy Code: provided that such description shall be non-binding and subject to modification and may be supplemented in connection with the Customer’s filing of a proof of claim or request for payment of administrative expenses: Customer has and always has had ownership of the Assets described in Paragraph 3 above and Exhibits A and B annexed thereto, as Republic Metals Corporation and its affiliates (collectively “Debtor”) were holding and continue to hold such Assets in a bailment.

4. Summary of the legal basis for Customer's ownership claim in the Assets: Customer and Debtor entered into an arrangement under which Customer delivered gold scrap and polishing sweeps (the "Raw Metal") to Debtor in the amounts described and set forth in High Grade Metal Reports or Low Grade Metal Reports (collectively, the "Metal Reports") that were generally delivered by the Debtor to the Customer, in return for Debtor assaying and then refining the Raw Metals into finished metal (the "Finished Metals"). The Debtor would then deliver the Finished Metals to Customer in the post-refined quantity and quality, net of a charge for the cost of Debtor's services on behalf of Customer. Customer always took delivery in Finished Metals, as permitted under the applicable Terms. As a result, at no time did Debtor ever take title to any of the Raw Metals or the Finished Metals, which remained property of Customer and were held by Debtor as a bailee for Customer's benefit under New York law. Debtor did not at any time purchase or otherwise take title to any of the Raw Metals or the Finished Metals from Customer, with the result that the Debtor cannot grant a security interest in such assets.

The bailment in question was created without a formal agreement when Customer delivered the Raw Metals to Debtor, which would then perform services on the Raw Metals for a fee, converting the Raw Metals into Finished Metals. Upon Customer's delivery of Raw Metals to Debtor, Debtor would issue a Metal Report to Customer, each of which would indicate the quantity (i.e., weight and moisture) and grade (i.e., assay) of the Raw Metals delivered and the Finished Metals owned by and owed to Customer. The information in the Metals Reports will cause them to be deemed to be documents of title, subjecting them to Article 7 of the New York Uniform Commercial Code (the "UCC"). The Metal Reports would then identify the Raw Metals and Finished Metals that are owned by Customer and being held by Debtor as Customer's

bailee under a bailment arrangement, and not as a purchase of Raw Metals for payment by Debtor, for which no bill of sale, sales agreement or similar agreement or title transfer document exists. New York law and Section 7-207 of the UCC provide that fungible goods (i.e., the metals in question here) that are held by a bailee (i.e., Debtor) will remain property of the bailor (i.e., Customer) even if they are commingled with other fungible goods, provided that is an “identifiable quantity of goods to which the claimant claims title,” which may be “either identified or . . . fungible portions of an identified mass.” We will provide the relevant cases and cites at a later date.

Accordingly, the Raw Metals that are delivered by Customer to Debtor, and identified and represented by one or more Metals Reports as documents of title governed by Article 7 of the UCC, represent a bailment of the Raw Metals by Customer to Debtor, and not sale of such metals. Neither the refining of the Raw Metals into Finished Metals, nor the commingling of the identified but fungible Finished Metals by Debtor, would terminate such bailment or Customer’s title to the metals. At all times after the creation of the bailment, Debtor held the metals for the benefit of the Customer, and was required to either provide such metals (or an equal amount of metals) back to the Customer, or provide the Customer with the proceeds of the sale of Customer’s assets. A chart summarizing the Assets being held by Debtor is annexed as Exhibit A hereto, copies of the applicable Metals Reports are annexed as Exhibit B hereto, and copies of all “Terms” of business between the parties are annexed as Exhibit C hereto.

5. Customer contends that the laws of the State of New York governs the dispute, as Customer is located in New York State and Debtor has a location in New York State (both in New York City), from each of the Customer and Debtor conducted business with each other. At no time were any of the transactions conducted in any State or jurisdiction other than

New York. Furthermore, neither the Metals Reports nor the Terms, nor Debtor's standard Terms and Conditions elect the laws of any particular jurisdiction to govern the relationship between Debtor and Customer.

6. We note Exhibits A, B and C hereto for additional information and materials relating to the foregoing.

7. Customer reserves all rights and remedies with respect to the foregoing or the subject of this Customer Statement, including, but not limited to, the right to amend and/or supplement this Customer Statement. Nothing herein should be construed as a waiver of Brilliant's right to file a motion for relief from stay or for turnover, or to file a complaint seeking a declaratory judgment that the Assets are not property of the Debtor's estates.

Dated: New York, New York
January 18, 2019

HOLLAND & KNIGHT LLP
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Anjay Corp.

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