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

_____	)	Chapter 11
	)	
REPUBLIC METALS REFINING	)	Case No. 18-13359 (SHL)
CORPORATION, <i>et al.</i> ,	)	
	)	
Debtors.	)	(Jointly Administered)
_____	)	

**CUSTOMER STATEMENT OF CLAIMED OWNERSHIP INTEREST  
AND CLAIMS BY GENERAL REFINING AND SMELTING CORP.**

Pursuant to the Court's *Order Approving Uniform Procedures For Resolution Of Ownership Disputes*, entered in the above-captioned chapter 11 cases on January 11, 2019 (ECF No. 395) (the "Order"), General Refining and Smelting Corporation ("GRC"), by its undersigned attorneys, hereby submits its Statement of Claimed Ownership And Claims.

**I. Information Required By Order, Section 2(c)(i).**

***The customer:***

General Refining and Smelting Corp.  
59 Madison Ave.  
Hempstead, NY 11550  
Telephone: (866) 695-4806  
is identified in Debtors' records as customer no. 3669

***Counsel for the customer:***

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**II. Description of Assets in Which Customer Claims  
Ownership Interest (Order, Section 2(c)(ii)).**

GSR claims ownership of gold, silver, platinum and palladium delivered by GSR and received by Debtors<sup>1</sup>. The specific quantity of each material owned by GSR and held by Debtors is as follows:

<u>Metal</u>	<u>Pool Quantity</u>	<u>\$/oz.</u>	<u>Total Value</u>
Gold	33.443 oz.	\$1,295.00	\$43,308.69
Silver	34,773.93 oz.	\$15.75	\$542,208.71
Platinum	82.196 oz.	\$830.00	\$68,222.68
Palladium	270.459 oz.	270.459	\$351,596.70

**III. GSR's Claims Against Debtors (Order, Section 2(c)(iii)).**

In addition to its ownership claims related to its metal pool account, RMC also has a claim against the Debtors in the amount of \$159,559.70 for funds owed for metal sold by RMC to Debtors for which Debtors did not pay. RMC sold the metal to Debtors in a series of transactions that took place in September (September 12, 2018) and October (October 19, 22-26, and 29, 2018). This claim will be detailed in a separate proof of claim.

**IV. Summary of Legal Basis For Ownership Claims (Order, Section 2(c)(iv)).**

GSR submits that Debtors served as a bailee even for the metal in GSR's pool account metal. Under the contractual terms and conditions between GSR and Debtors, Debtors were always under a clear and unambiguous obligation to return metal, of like kind, to GSR until GSR sold it to them. GSR incorporates the arguments asserted by other customers regarding ownership of pool account metals, including, but not limited to, the legal argument asserted by

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<sup>1</sup> Except to the extent that a term is otherwise defined herein, defined terms shall have the definitions assigned to such terms in the Order Approving Uniform Procedures For Resolution Of Ownership Disputes entered on January 11, 2019 (ECF No. 395).

Cyber-Fox Trading, Inc. in its customer statement of ownership of pool account metal (ECF No. 441).

In addition to the foregoing, principles of equitable estoppel may apply to prevent the vesting of title in GSR's goods in Debtors. The doctrine of equitable estoppel has long been part of Florida common law jurisprudence and is appropriately applied when the particular facts in a case justify it. Steen v. Scott, 144 Fla. 702 (1940). As previously discussed, Debtors allowed, indeed encouraged, customers, including GSR, to continue to ship goods to Debtors entirely ignorant of the fact that Debtors were insolvent and had resolved to file bankruptcy. These circumstances may well result in application of the doctrine of equitable estoppel to prevent the vesting of title to the goods in Debtors.

**V. Governing Law.**

Florida.

**IV. Reservation of Rights**

GSR expressly reserves its right to supplement this statement, and assert any additional claims, based on information subsequently disclosed or discovered in these bankruptcy cases, including information pertaining to the scope and validity of the liens asserted by the Senior Lenders. Furthermore, GSR submits this statement with full reservation of its rights to reclamation under § 546(c) and to a priority administrative expense claim under § 503(b).

**[signature block on next page]**

Dated: New Haven, CT  
January 18, 2019

GENERAL REFINING AND SMELTING  
CORP.

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*Attorneys for General Refining and  
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**CERTIFICATE OF SERVICE**

I hereby certify that the foregoing was served by CM/ECF and/or mail on anyone unable to accept electronic filing. Notice of this filing will be sent by email to all parties by operation of the Court's electronic filing system or by mail to anyone unable to accept electronic filing as indicated on the Notice of Electronic Filing. Parties may access this filing through the Court's CM/ECF System.

*/s/ Robert M. Fleischer*

Robert M. Fleischer