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

In re

REPUBLIC METALS REFINING
CORPORATION, *et al.*,¹
Debtors.

Chapter 11

Case No.: 18-13359 (shl)
(Jointly Administered)

**RESPONSE OF ARGONAUT GOLD INC. TO
DEBTORS' OMNIBUS OBJECTION TO ALL RECLAMATION CLAIMS**

Argonaut Gold Inc. and its two subsidiaries, Compania Minera Pitalla, S.A. de C.V. and Minera Real del Oro S.A. de C.V. (collectively, "**Argonaut**"), by and through their undersigned attorneys, hereby submit their response pursuant to the terms of the Corrected Amended Order Approving Omnibus Objections Procedures for Resolutions of Reclamation Demands and Setting Preliminary Hearing [ECF No. 626] (the "**Order**"), and state as follows:

1. On November 20, 2018, Argonaut timely served a written demand for reclamation of goods pursuant to 11 U.S.C. § 546(c) and Section 2-702 of the Uniform Commercial Code

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 NW 38th Avenue, Miami, FL 33054 (4378), Republic Carbon Company, LLC, 5295 Northwest 163rd Street, Miami Gardens, FL 33014 (5833), Republic High Tech Metals, LLC, 13001 NW 38th Avenue, Miami, FL 33054 (6102), RMC Diamonds, LLC, 12900 NW 38th Avenue, Miami, FL 33054 (1507), RMC2, LLC, 12900 NW 38th Avenue, Miami, FL 33054 (4696), J & L Republic LLC, 12900 NW 38th Avenue, Miami, FL 33054 (7604); R & R Metals, LLC, 12900 NW 38th Avenue, Miami, FL 33054 (7848), 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) (the "**Debtors**").

upon the Debtors, asserting a reclamation claim of \$5,870,205.37 (the “**Argonaut Reclamation Demand**”). *See* Notice of Reclamation Demand [ECF No. 125], Ex. A.

2. Pursuant to Paragraph 2 of the Order, the Debtors filed an Omnibus Objection to All Reclamation Claims [ECF No. 640] (the “**Debtors’ Reclamation Objection**”). The Debtors objected to the Argonaut Reclamation Demand on two bases: (1) that the Debtors were “unable to identify/segregate” the claimed goods, and (2) the “Reclamation Demand is subordinate to Senior Lenders’ liens.” *See* Debtors’ Reclamation Objection, Ex. A at 2. The Debtors did not provide any other information.

3. On February 25, 2019, the Debtors filed the Declaration of Scott Avila in Support of Debtors’ Omnibus Objection to All Reclamation Claims [ECF No. 669] (the “**Declaration**”), which stated that the Debtors had developed a procedure for investigating reclamation claims and that based on this investigation, “[s]ome property was identified and segregated from the Debtors’ other assets, but much of the property described in the Reclamation Claims had been commingled, processed and/or sold before the Reclamation Claim Investigation Process occurred.” *See* Declaration at ¶¶ 5-7. Apparently, because the Debtors were unable to identify or segregate Argonaut’s claimed goods, the Debtors “determined that such [a]ssets have been commingled, processed, sold and/or are irretrievable.” *See* Declaration at ¶ 9.

4. In the Declaration, the Debtors also produced a log of the current results of the investigation process, which contained the same two bases for the Debtors’ objection to the Argonaut Reclamation Demand. Thus, the Debtors did not provide any additional information beyond what was contained in the Debtors’ Reclamation Objection.

5. Pursuant to Paragraph 2 of the Order, Argonaut designates its Customer Statement [ECF No. 471], as supplemented by its Omnibus Reply to Debtors’ and Senior Lenders’

Omnibus Responses to Customer Statements [ECF No. 787] (the “**Customer Reply**”), as its response to the Debtors’ Reclamation Objection.

6. Given the Debtors’ failure to provide sufficient explanation as to their objection to the Argonaut Reclamation Demand, Argonaut is unable to provide a separate response.

7. Argonaut reserves its rights to amend and supplement this response, including the right to raise additional and alternative legal theories, pending discovery pursuant to the Order Approving Uniform Procedures for Resolution of Ownership Disputes [ECF No. 395] (the “**Ownership Dispute Order**”), as amended [ECF No. 677]. As stated in Paragraph 3(b) of the Order, adjudication of the Argonaut Reclamation Demand will not be adjudicated in advance of Argonaut’s ownership claims that are governed by the Ownership Dispute Order.

8. Argonaut further reserves its rights to amend and supplement this response regarding the validity and seniority of the Senior Lenders’ asserted liens on property of the Debtors’ estates and on Argonaut’s metal, pending the outcome of any investigation conducted by the Official Committee of Unsecured Creditors and/or the conclusion of the Challenge Period (as defined in the Interim Cash Collateral Order, ECF No. 54, and as may be further defined in a final order authorizing the Debtors’ use of cash collateral) and adjudication of challenges, if any.

WHEREFORE, Argonaut Gold Inc. requests that the Debtors’ Reclamation Objection be denied.

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