

HEARING DATE AND TIME: July 2, 2019 at 11:00 a.m. (Eastern Time)
OBJECTION DEADLINE DATE AND TIME: June 25, 2019 by 4:00 p.m. (Eastern Time)

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Counsel for the Lessors

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

In re:

Chapter 11
Case No. 18-13359 (SHL)

MIAMI METALS I, INC., *et al.*,

(Jointly Administered)

Debtors¹.

**NOTICE OF HEARING ON LESSORS' MOTION FOR AUTHORITY
TO PAY SALES TAX**

PLEASE TAKE NOTICE that a hearing on the attached Lessors' Motion for Authority to Pay Sales Tax (the "Motion") will be held before the Honorable Sean H. Lane, United States

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), LLC, 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).

Bankruptcy Judge, in Room 701 of the United States Bankruptcy Court for the Southern District of New York, One Bowling Green, New York, NY 10004, on **July 2, 2019 at 11:00 a.m. (Eastern Time)**, or as soon thereafter as counsel may be heard.

PLEASE TAKE FURTHER NOTICE that any responses or objections to the Motion (the “**Objections**”) must be in writing, shall conform to the Federal Rules of Bankruptcy Procedure and the Local Bankruptcy Rules for the Southern District of New York, and shall be filed with the Bankruptcy Court by registered users of the Bankruptcy Court’s case filing system electronically in accordance with General Order M-399 (which can be found at <http://nysb.uscourts.gov>), with a courtesy copy delivered to the Chambers of the Honorable Sean H. Lane, United States Bankruptcy Court for the Southern District of New York, One Bowling Green, New York, NY 10004, and be served upon (a) undersigned Counsel for the Lessors, Bast Amron LLP, SunTrust International Center, One Southeast Third Avenue, Suite 1400, Miami, FL 33131 (Attn: Jeffrey P. Bast, Esq.); (b) the Debtors, c/o Miami Metals I, Inc. f/k/a Republic Metals Refining Corporation, (Attn: Scott Avila); (c) the attorneys for the Debtors, Akerman LLP, 2001 Ross Avenue, Suite 3600, Dallas, TX 75201 (Attn: John Mitchell, Esq.) and 98 Southeast Seventh Street, Suite 1100, Miami, FL 33133 (Attn: Andrea S. Hartley, Esq. and Katherine C. Fackler, Esq.); (d) the Office of the United States Trustee for the Southern District of New York, U.S. Federal Office Building, 201 Varick Street, Suite 1006, New York, New York 10014 (Attn: Shannon Scott, Esq.), and (e) all entities that requested notice in these chapter 11 cases under Fed. R. Bankr. P. 2002 so as to be received no later than **June 25, 2019 at 4:00 p.m. (Eastern Time)** (the “**Objection Deadline**”).

Dated: June 3, 2019

Respectfully submitted,

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By: /s/ Jeffrey P. Bast
Jeffrey P. Bast, Esq. (Admitted in New York)
Hayley G. Harrison, Esq. (Admitted Pro Hac Vice)

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**UNITED STATES BANKRUPTCY COURT
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In re:

Chapter 11
Case No. 18-13359 (SHL)

MIAMI METALS I, INC., *et al.*,

(Jointly Administered)

Debtors¹.

LESSORS' MOTION FOR AUTHORITY TO PAY SALES TAX

The Second Amended and Restated Rose Rubin Revocable Trust u/d/a 9/25/2013, the Amended and Restated Richard Rubin Revocable Trust u/d/a 12/8/2008, Republic Metals Warehouse, LLC, Richard Rubin Lindjay Investments, LLC, Jason Ross Rubin Enterprises, LLC,

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and RRLJ12, LLC (collectively, the “Lessors”), through their undersigned counsel, respectfully move this Honorable Court for an Order allowing the Lessors to pay the sales tax due under the Leases, as further defined, to the Florida Department of Revenue and in support thereof state as follows:

BACKGROUND

1. On November 2, 2018 (the “Petition Date”), the Debtors filed voluntary petitions for relief pursuant to chapter 11 of title 11 of the United States Code (the “Bankruptcy Code”), commencing the Bankruptcy Cases in the United States Bankruptcy Court for the Southern District of New York (the “Court”).

2. The Lessors are the owners of various parcels of non-residential real property from which the Debtors operate their refining business and/or store materials pursuant to various leases (each a “Lease” and collectively the “Leases”) some of which have not yet been assumed, assumed and assigned, or rejected by the Debtors.

3. On January 31, 2019, the Lessors filed a Motion to Compel Payment of Post-Petition Rent and Related Obligations Pursuant to 11 U.S. C. § 365(d)(3) [Docket No. 553] (as supplemented [Docket No. 798]), as the Interim Orders on Cash Collateral and approved Interim Budgets entered in this matter did not provide for the payment of rent. [Docket Nos. 277, 370, 373 and 538].

4. On March 29, 2019, the Court entered the Order regarding Motion to Compel Payment of Post-Petition Rent and Related Obligations, Pursuant to 11 U.S. C. § 365(d)(3) (the “March 29th Order”) [Docket No. 865]. The Court ordered the Debtors to transfer the accrued post-petition rent and related charges in the amount of \$322,170.49 to the trust account of Bast

Amron LLP (the “Rents Escrow”) and directed that the funds be held in escrow pending further order of the Court.

5. Additionally, the Court retained jurisdiction with respect to all matters arising from or relating to the implementation, interpretation, and enforcement of the March 29th Order.

6. Further, all interim cash collateral orders entered after the March 29th Order have required the Debtors to pay additional amounts due under the Leases, if any, to the Rents Escrow on the first business day of each month. [Docket Nos. 864 and 987] In compliance with those orders, the Debtors have deposited the supplemental rents for the months of March and April.

7. The amounts held in the Rents Escrow include the required sales taxes to be paid to the Florida Department of Revenue on account of the monthly rents. Specifically, the sales taxes currently held in the Rents Escrow and owed to the Florida Department of Revenue with respect to each property are as follows:

13000 NW 38th Ave. (Republic Metals Warehouse, LLC)	\$6,755.84
12900 NW 38th Ave. (Rubin Family Trusts)	\$2,475.20
13001 NW 38th Ave. (Richard Rubin-Lindjay Investments, LLC)	\$4,065.60
5295 NW 163rd St. (RRLJ12, LLC)	\$4,243.07
3863 NW 125th St. (Jason Ross Rubin Enterprises, LLC)	\$2,089.19
3859 NW 125th St. (Jason Ross Rubin Enterprises, LLC)	\$2,089.19
Total ²	\$21,718.09

8. Upon information and belief, the Debtors have reported to the Florida Department of Revenue the amount of sales taxes paid to the Lessors.

² By this Motion, the Lessors request continuing authority to pay all sales taxes collected in the Rents Escrow after the filing of this Motion. As of this date, the Lessors estimate additional sales taxes in the total amount of \$2,088.94 for May and June as follows: (i) \$692.16 per month for May and June for 13001 NW 38th Ave. (Richard Rubin-Lindjay Investments, LLC), (ii) \$352.31 for May for 3863 NW 125th St. (Jason Ross Rubin Enterprises, LLC) and (iii) \$352.31 for May for 3859 NW 125th St. (Jason Ross Rubin Enterprises, LLC).

9. Accordingly, the Lessors request the Court's authorization to remit the sales taxes to the Florida Department of Revenue from the Rents Escrow.

10. Undersigned counsel has requested from counsel for the Committee, the Secured Parties and the Debtors their consent to the remittance of the sales taxes, but as of the date of this Motion, the parties have not indicated their consent to the relief requested.

REQUESTED RELIEF

11. Accordingly, the Lessors respectfully request entry of an order authorizing the Lessors to pay the Florida Department of Revenue the sales tax collected by the Lessors under the Leases in the amount of \$21,718.09 from the Rents Escrow and further authorizing the payment of all additional sales taxes owing on account of all additional rent payments from the Debtors to the Rents Escrow.

WHEREFORE, The Second Amended and Restated Rose Rubin Revocable Trust u/d/a 9/25/2013, the Amended and Restated Richard Rubin Revocable Trust u/d/a 12/8/2008, Republic Metals Warehouse, LLC, Richard Rubin Lindjay Investments, LLC, Jason Ross Rubin Enterprises, LLC, and RRLJ12, LLC, respectfully request this Honorable Court enter and Order (i) granting the instant Motion, (ii) authorizing the Lessors to pay the sales taxes due under the Leases on account of all rents received and held in the Rents Escrow to the Florida Department of Revenue, and (iii) granting such other and further relief as this Court deems just and proper.

Dated: June 3, 2019

Respectfully submitted,

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By: /s/ Jeffrey P. Bast
Jeffrey P. Bast, Esq. (Admitted in New York)
Hayley G. Harrison, Esq. (Admitted Pro Hac Vice)

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been served electronically via the Court's CM/ECF, system where available, on this June 3, 2019, on the parties registered to receive electronic notification.

By: /s/ Jeffrey P. Bast
Jeffrey P. Bast, Esq.