

**UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION**

IN RE:	§	
	§	CHAPTER 11
BULLIONDIRECT, INC.,	§	
	§	CASE NO. 15-10940-tmd
Debtor.	§	

**DEBTOR’S RESPONSE IN OPPOSITION TO MOTION BY THE OFFICIAL
COMMITTEE OF UNSECURED CREDITORS FOR CONVERSION TO CHAPTER 7**

Comes now BULLIONDIRECT, INC. (“BDI” or “Debtor”) and in response to the *Motion by the Official Committee of Unsecured Creditors for Conversion to Chapter 7* (Doc#123) (the “Motion to Convert”), would show the court the following: Each paragraph of this *Response* replies to the paragraph of the *Motion* bearing the same number.

1. It is difficult to imagine that any experienced lawyer would attempt to compare this case with notorious Ponzi-scheme¹ cases, like Madoff and Stanford. This case only superficially bears a resemblance to Stanford or Madoff Investment Securities – if most relevant differences are ignored. Madoff and Stanford were ostentatiously (and falsely) successful investment brokers who acquired very valuable residences and other highly visible real estate holdings, luxurious trappings of success, airplanes and every other form of “bling” that could be publicly flashed as signs of success. When the fraud was exposed, receivers and trustees, with enormous staffing available, had instant access to hundreds of millions of dollars with which to pursue investigations and litigation. In this case Bensimon, the chief restructuring officer (“CRO”) hired on the petition date, was confronted by less funding than he needed, no accounting staff with knowledge of the books, and records with cavernous holes in them. Unlike Madoff and Stanford, who ostentatiously wore their ill-gotten wealth on their bespoke sleeves, while the former head of BullionDirect appeared to have a modest home and a car with 200,000 miles on it. That McAllister may have been less “successful” than Madoff and Stanford, his conduct clearly

¹ The Committee has insisted from the beginning that the losses suffered by creditors was the result of a “Ponzi scheme”, notwithstanding that the pattern of conduct by former management does not appear to match with the legal definition of a Ponzi scheme. “A ‘Ponzi scheme’ is [a] fraudulent investment scheme in which money contributed by later investors generates artificially high dividends for the original investors, whose example attracts even larger investments.” *Official Comm. Of Unsecured Creditors v. R.F. Lafferty & Co.*, 267 F3d 340 (3rd Cir. 2001), citing Black’s Law Dictionary 1180 (7th Ed. 1999). The Committee expressed anger that the CRO had not found evidence to support their steadfast contention. The Committee does not appear to have found (or looked for) evidence that would have justified such a conclusion by the CRO.

created loss and pain, unfortunately affecting people who could ill afford the losses, while Madoff and Stanford kept their eyes and efforts on the wealthy. . This case is more about individuals purchasing a product rather than investors turning over their money to a party that then purports to invest those funds for them. The transactions for products to be acquired by the customers of BDI were for specific coins or other precious metals. Over the 15 years of its existence, BDI had some 45,000 customers and perhaps as many as a million individual transactions, a high percentage of which were for small amounts. Contrary to the Committee's assertions, the debtor does not appear to have ever prepared financial reports that were delivered to the customers, showing assets worth \$25 million, but BullionDirect did maintain customer service information pertaining to every customer on its website, which showed those customers (who had elected to have BDI keep their cash and coins in storage), the amount of those coins purchased and cash available, customer by customer. Customers believed that the customer records accurately indicated the precious metal stored in a vault, which was not the case. The last tax return filed for the year ended June 30, 2011, by BullionDirect for 2010 tax year revealed some \$30 million in net operating losses over the preceding 11 years. See Exhibit A. Additionally, see Exhibit A-1, a summary filed by Debtor for tax years 1999 through 2009.

2. This case has been administered in the same manner as most other chapter 11 cases in which the debtor had no current books and financial records and was without the enormous sums of money necessary for administrative costs. This debtor had not reconciled bank statements since September 30, 2011, and had not filed tax returns for any tax period after 2010. This debtor kept its partially-posted books in the "cloud" and stopped paying cloud storage facilities and other IT storage activity weeks before filing. This complication hindered the ability to retrieve much of the information of the debtor. All transactions between customers and BullionDirect were maintained in a complex website. Retrieving proper information, distinguishing among the thousands of transactions and generating reliable financial information from the website was the foremost priority. The intellectual property surrounding the web site and the attempt by BDI's subsidiary to acquire exclusivity to authentication software from Systech, were the only assets of potential value of the debtor. As expressed many times during this case, the BDI website had many internal control problems that need to be resolved before proper monetization of the website could occur. Considering that the only liquid assets BDI had by the time of filing were roughly \$170,000 and the inventory it held for its creditors in the IDS

vault. The inventory held for creditors approximated \$700,000. From the beginning of the case, the CRO has taken the position that the vault inventory was owned by the creditors². A Chapter 7 trustee may challenge that decision.

Debtor made it clear from the beginning, including its first meeting with Committee counsel and the following day at the First Meeting of Creditors, that all causes of action would be turned over to the Committee, once established. Notwithstanding the deep insolvency of BullionDirect during all of its 15 year existence, the CRO made it clear that he thought that there was enterprise value in a company that averaged \$70,000,000 in revenues over a 10-year period and which had 45,000 customers, 80% of whom had not become creditors in the Chapter 11. The CRO believed that the re-start costs could be produced from a secure-packaging transaction which Chad McAllister had been pursuing for several years (Involving Systech International, Nucleo Development Company, LLC, a subsidiary of the Debtor, and an Italian company with a global customer base, the identity of which was provided to the Committee along with periodic status briefings.). At the same time, the CRO sought to not only preserve litigation causes of action, but to repair the debtor's almost non-existent bookkeeping system so that both litigation and restructuring could be pursued. The Committee, once formed, appeared to be ambivalent and not particularly enthused about investigating or pursuing those causes of action. The allegations in its Motion to Convert were a surprise to the CRO, and probably to the attorney for the U.S. Trustee, whom the Committee admits never having contacted on the issues stated in the Motion to Convert. The budget filed clearly showed that most of the money in the estate would be used to re-construct the missing financial information, which would be crucial to both pursuit of litigation claims and to the potential restructuring of the debtor. Nonetheless, the CRO suggested a budget for professionals to insure that the Committee had some resources with which to proceed. Committee counsel declined both times. That the company was incurring enormous losses virtually every day that it was in business since 1999³ indicated major renovation of the business plan was necessary if the website was to be relaunched. The Committee's complaint that the CRO did not immediately initiate litigation is peculiar, not only because the causes of action were

² The Committee declined to participate in a process proposed by Debtor by which the Debtor, the U. S. Trustee's attorney and IDS would establish a procedure for determining the specific ownership of the vault contents, this despite the court's admonition at an early hearing to make the ownership determination a priority.

³ See Exhibit A-1. The business had managed to keep its doors open by relying on customers' mistaken belief that the records easily available to them at the website reflected that their purchases were safe and sound.

to be assigned to the Committee⁴, but because the Committee should have considered whether a complaint based on the debtor's petition-date books and records would have survived a motion for summary judgment or a motion to dismiss under Federal Rule 9⁵. Although it may be difficult to ever feel entirely comfortable about the accuracy of the BullionDirect books and records, the records are far more complete and reliable now than they were when the Chapter 11 began.

3. Acting on behalf of the debtor's subsidiary, Nucleo Development Company, LLC, after the debtor was in bankruptcy, the CRO was able to secure the exclusivity rights from Systech International at no cost to the estate. The negotiations, while glacially slow during the bankruptcy, did not cost the estate anything as Unique Strategies and the CRO agreed not to take any fees from the Debtor or its subsidiary until after this intellectual property could be monetized⁶. The Committee knew these were negotiations with overseas international companies, which often take time⁷. This transaction would have provided the funding necessary to restructure and restart the web-based precious metal business, this time with a workable business plan and full transparency for customers.

The CRO, after receiving a letter of intent, requested a meeting with the Creditors Committee members before beginning negotiations with Cheryl Huseman and Jack Murph, the mother and step-father, respectively, of Charles McAllister. The CRO would not be invited to discuss the possible negotiation strategies the Committee might support until almost a month later, at which time the Committee demanded that the CRO create a deal in days, and at which the Committee loudly proclaimed its antipathy toward any deal with Ms. Huseman, if it included a release for her. The CRO is not aware of any legal advice provided by Mr. McAllister's mother

⁴ The Creditors Committee is not without weapons. It has full access to Bankruptcy Rule 2004 to investigate claims and well-established legal authority which would have given them the right to actually pursue claims on behalf of the estate ("...a creditor, as a party in interest, has the right to seek authority to pursue causes of action on behalf of a debtor in possession. See *La. World Exposition v. Fed. Ins. Co.*, 858 F.2d 233, 247 (5th Cir. 1988) ("The law is well settled that in some circumstances, a creditors' committee has standing under Title 11, United States Code, section 1103(c)(5) and/or section 1109(b) to file suit on behalf of a debtor in possession or a trustee." *In the Matter of SI Restructuring Incorporated, Debtor*, 714 F.3d 860 (5th Cir. 2013). Except for McAllister, none of the Committee's targets indicated that the 5th Amendment would be invoked. Still, the Committee sat on its hands.

⁵ Bankruptcy Rule 7009, incorporating Federal Rule 9(b), *Bell Atlantic v. Twombly*, 127 S.Ct. 1955 (2007) and *Ashcroft v. Iqbal*, 129 S.Ct. 1937 (2009)

⁶ Nonetheless, the Committee, without explanation (to this day), accused the CRO and counsel of taking funds from Nucleo Development.

⁷ After signing an agreement with Systech International in September 2015, the Italian company that had been willing to purchase hundreds of thousands of the Systech product, after having significantly curtailed its operations during all of August, then balked at the last minute, citing a technical issue with the product. Those negotiations are stalled but not ended.

other than those pertaining to intellectual property⁸. The Creditors Committee has not provided the CRO with any information to the contrary, although most subsequent conversations included a dramatic Committee assertion that “she knew what he was doing and she helped him”. The CRO had requested a meeting with the Creditors Committee members to understand the issues that were important to the Committee to begin the negotiation with Ms. Cheryl Huseman and Jack Murph. The November 10, 2015, conference call with the Creditors Committee resulted in little information exchange due to the accusatory attitude of the Committee. Everyone was talking over each other, eliminating any possibility of a constructive discussion. Importantly, even if not ideal, a stalking horse bid from Cheryl Huseman and Jack Murph would provide a basis for further marketing to other interested companies in the same industry, an option that is unlikely to be pursued by a Chapter 7 trustee. The Committee appeared to be resistant to even allow such a proposal to reach the 5,000 creditors who would be affected, insisting the Committee be given veto power over any proposal from Huseman/Murph. The Committee’s commitment to “obtaining justice for the victims”, while not a standard expression in the world of commercial enterprise, certainly cannot be criticized, but it seems likely that most of the creditors would prefer to be repaid. It is doubtful that many of them just want a Chapter 11 participation ribbon. Even though the Committee sought to dissuade the CRO from even considering the Huseman/Murph offer, the CRO felt obligated to hear Huseman/Murph’s proposal. The proposal, which was sent to the Committee on November 24, 2015, is attached as Exhibit B. The Committee was invited to comment and further participate in negotiations. The Committee’s response is attached as Exhibit C, and appears to prevent any possible bidder from acquiring any stock or assets, a very peculiar sales pitch.⁹ The CRO believes that creditors should have an opportunity to vote on a plan which incorporates some form of the proposal. Let the creditors reject the plan, rather than allowing the Committee to suppress the creditors’ knowledge of the proposal.

4. The possibility of a reorganization that could provide funds to the creditors in the neighborhood of \$5 - 10 million over 7 years is still a strong possibility, but, realistically, only under a plan. The CRO has gained access to most of the cloud-based information and other data

⁸ She is a patent lawyer for Chevron.

⁹ After discussions with counsel for individual Committee members, counsel for Huseman/Murph has agreed to submit a modified proposal that eliminates D.I.P. financing in favor of a plan proposal that gives all of the creditors a better opportunity to a stalking horse based plan process. The modified proposal will be provided to the Committee as soon as it is received.

storage. To add to the degree of difficulty of the CRO's efforts to fill in the gaps in the debtor's poor record-keeping, he has had to accommodate investigations and document production by two federal agencies and multiple other states' attorneys-general. And even though Committee counsel once accused the CRO and his counsel of "paying themselves from subsidiaries", neither has received a penny from any source. The CRO has maintained all the hard drives and other information requested to assist authorities in conducting their investigations. The debtor and CRO have cooperated with all investigating agencies and have provided them the information requested or access to the information requested.

4 (sic) through 7. Bensimon does not disagree with the Committee's assertions.

8. Counsel for the debtor, in one of his first conversations with the newly-designated counsel for the Committee, suggested a budget for professionals in the case, so it is surprising to now read the Committee's assertions. As noted earlier, the reconstruction of the debtor's books and records was not an optional task, being equally necessary for restructuring of the debtor's business and pursuit of litigation claims. The CRO, more than once, has offered (at the first meeting with Committee's counsel and at the first meeting of creditors) to turn over all the litigation against former management to the committee, but, as previously noted, even if a debtor resists, a well-established protocol for granting a creditors committee authority to pursue claims already exists. The CRO remains open to Committee suggestions for funding litigation. It must be noted that the plan transactions could provide some avenues for funding. The CRO and counsel are not unwilling to discuss a plan that provides for payment of professional fees other than as required under 11 U.S.C. § 1129(a)(9).

9and 10. The CRO does not disagree with the Committee's general assertions.

11. All prior ten years' tax returns were done at the same time in August of 2010. The return for 2009, which was for the year ended June 30, 2010, showed a negative net worth in excess of \$16 million. See Exhibit A-1. By June 30, 2011, that negative net worth was in excess of \$32 million. See Exhibit A. That return was prepared in March of 2012.¹⁰

¹⁰ That return was filed by Julie Mayfield, at that time working as a consultant to BDI, along with Randy Russell, who is her current partner, who also served as a consultant to BDI and was CEO of Nucleo Development Company LLC, the wholly owned subsidiary of BDI that handled the intellectual property related to the web platform. When Committee counsel was first retained, he and debtor's counsel discussed taking the Rule 2004 exams of Russell and Mayfield. Committee's counsel later rejected taking the exams.

12. It is important to note that the “fraudulent statements” referenced by the Committee was the same information contained in the initial Schedule F which the CRO designated as “disputed” specifically because it was misleading, if not fraudulent. The Committee in its pleading faults the CRO for designating the information it has characterized as being fraudulent as “disputed”.

13. While it is apparent that McAllister sought the advice of various consultants and professionals in the course of his troubled-from-the-outset business, it is not apparent that everyone who came into contact with him was then immersed in whatever illegal or unethical course of action he may have been involved in. By most accounts, he was “the man in charge” and did not make it a habit to explain what he was doing to everyone he met. One thing he could not do after 2011 is provide up-to-date financials for the company, a defect that prevented him from approaching purchasers, merger partners or investors. Anyone seeking assurance of the propriety of his business model was, with few exceptions, left with little more than what they were told. The Committee, as the potential assignees of the causes of action, naturally prefers to characterize every potential defendant as equally culpable even though that rarely proves to be the case. The Committee appears to have studiously avoided subjecting its presumptions to comparison with provable facts by avoiding taking Rule 2004 exams or seeking control of estate litigation assets. See Fn. 10, above.

14. The CRO has never adopted or promoted the validity of the former management’s interpretation of the controversial Terms of Service Agreement. See Doc. 75, paragraph 3:

“The former BDI management has indicated a certain understanding of the meaning of the Terms of Service Agreement dated October 3, 2012, specifically Section 6.7. As noted, former management contended that purchasers through the www.bulliondirect.com website received title to the product purchased only if the buyer took possession of the product. If the buyer did not take possession, the purchased item would be stored in the vault on a *fungible* basis with the purchaser retaining an undivided interest in the stored contents of the vault. The term “fungible” appears to have been interpreted by former management to allow BDI to *use* those vault contents and to take orders for purchase of other product without actually acquiring the product necessary to complete the purported sale. The order became like a coupon for a certain product that BDI was obligated to acquire if the purchaser demanded possession. Former management’s interpretation of the Terms of Service Agreement was at least commercially unreasonable and, as many have alleged, possibly fraudulent.” Response of Martinec Winn & Vickers to *Limited Objection to Application for Employment of Attorneys* (Doc#48), filed August 17, 2015.

15. The CRO has no knowledge of what Cheryl Huseman knew of her son's business. These untested, unsupported allegations are intended to insulate the Committee from any criticism that might be directed at the Committee by creditors who will not have had the option to decide whether or not to vote on the Huseman/Murph proposal if the Committee has its way. The Committee has been aware of Ms. Huseman's role as an advisor to BullionDirect on patent matters and as a minority shareholder from the beginning, but has not (still has not) engaged in any effort to quantitatively or qualitatively assess Huseman's potential liability so that the creditors can measure the relative benefits of simply suing her versus having her serve as a stalking horse to fund a plan re-starting the business (with proper controls and transparency).

16. There are no published, reconciled or other financial statements of which the CRO is aware that show that there was sufficient funds that could have paid the IRA accounts¹¹. That is an assumption by Committee's counsel that the obligations listed in the June 30, 2011, return in the amount of \$41 million were subordinate to or partially subordinate to the IRA customers. The Committee's suggestion is bizarre on another count. The Committee has characterized the business of BullionDirect, with some validity, as using new customers' funds to pay old debt. So, by this pleading the Committee is complaining that BullionDirect did not use the fraudulently obtained funds in its possession to pay its earlier IRA customers. Really? There is no evidence that BDI's management wanted to file Chapter 11 in 2012. As noted in Doc. 57, Response of Martinec Winn & Vickers to *Limited Objection to Application for Employment of Attorneys* (Doc#48), filed August 17, 2015, Mr. McAllister did not appear to be interested in filing Chapter 11.

The Committee has never mentioned nor shared any information relating to the contents or transactional history of the "personal family trust". The Committee's information regarding the trust would presumably be important to the creditors voting on a plan. There is no evidence that BDI's management wanted to file Chapter 11 in 2012. As noted in Doc. 57, Response of Martinec Winn & Vickers to *Limited Objection to Application for Employment of Attorneys* (Doc#48), filed August 17, 2015, Mr. McAllister did not appear to be interested in filing Chapter 11.

¹¹ The Committee does not cite any authority for preferring IRA claimants over general claimants. To the contrary, there may be a \$2,775.00 priority in favor of creditors who made payments but did not receive goods. 11 U.S.C. § 507(a)(7).

17. Paragraph 17 is surprising when one considers the \$41 million in obligations due per the tax return of June 30, 2011. Perhaps perversely, that obligation has today been reduced to \$25 million.

18. The CRO, who was not hired by Debtor's counsel, did not authorize or in any way approve of McAllister's severance payment. Bensimon performed several weeks of due diligence before he agreed to serve as CRO. The primary motivation of the CRO was provided by his investigation of the viability of the Systech product and the probability that several hundred thousand dollars could be generated each year to fund a re-start of the website (with proper business plan, audit controls and transparency).

19. When the CRO took over, the information on the debtor's database was incomplete, was not current, and as the Committee itself argued a few paragraph's earlier, was fraudulent and misleading. This debtor's books and records bore no resemblance to the typical books and records which a debtor offers as a reliable basis for a list of claims. This debtor's records were a vital tool in keeping customers coming back. In addition, because of the debtor's dubious bookkeeping, many claimants did not appear on Schedule F because the transactions had not been booked. The CRO personally went through a large number of transactions, testing the accuracy of the records provided by the debtor. As noted repeatedly to the Committee (but apparently not believed), the CRO did not have an existing accounting staff on whom he could rely, so it is somewhat astounding to read the Committee's apparent insistence that the CRO was supposed to endorse the debtor's false or inaccurate schedules rather than dispute them. The Committee neglects to mention that a more detailed and accurate Schedule F was filed in September of 2015, reflecting a greater obligation than originally disclosed and without the "disputed" designation.

20. The CRO has contacted several potential investors and buyers within the industry, as well as a state agency tasked with implementing the Texas Depositor Act passed by the last legislature. However, every time the CRO talks to anyone, the pending "administrative insolvency", words often used by Committee counsel, seep into the conversation. It is the same term the Committee's attorney has used frequently and from the beginning. The continuous use of those words impedes negotiations.

21. The CRO attempted to talk to the Committee before beginning negotiation with Huseman/Murph, but could not get a meeting scheduled. When a telephone conference was finally scheduled, the Committee representatives were very hostile, and the call did not go well.

22. It is apparent that the Committee did not understand what the CRO was having to do to reconstruct the books and records of BullionDirect to comply with the document requests of multiple federal and state investigatory agencies and still find time to pursue the restructuring of the business as a restructuring agent, nor does the Committee appear to comprehend the labor demands of the forensic accounting it was requesting. The number of wires that come in and out of all the bank accounts is massive; a minimum of 5,000 – 10,000. Without accurate books and records the examiner would be required to examine both sides of every transfer, netting a fee of not less than \$10 per each wire transfer (without considering the cost of the report). The \$50,000 estimated by the Committee's attorney would not have covered what needed to be done to write a report of the kind the Committee described. The last obligation report details the sum of unfulfilled transactions by customer identification number. An examination of each customer account will detail each transaction unfulfilled by the debtor, thereby assisting any cause of action a litigator would want. The truth is any "thievery" would most likely occur in inventory rather than wire transfers, since there is no internal control over inventory and no reliable paper trail. This would only have been an ineffective use of the CRO's time, and it would have had the effect of precluding all other tasks by the CRO. Committee counsel indicated that he had found someone who would perform the task for \$50,000 but never approached the CRO regarding the retention of that individual. As previously noted, the CRO's reconstruction and completion of the Debtor's records was not only supportive of the Committee's litigation role, it was necessary. As also noted earlier, the Committee has had the ability to pursue the litigation on behalf of the estate. The CRO would not have objected to a motion under the case authority set forth above. The same is true of possible litigation claims against Randy Russell, a consultant to the debtor for several years and an officer of a subsidiary.

The debtor has had discussions with other entities that are interested in pursuing Mr. Randy Russell who was a consultant for the debtor in 2012 when he enlisted the debtor and other entities to invest in a company he created called NBFog.

The CRO has analyzed the transactions in the web site. That analysis not only detailed all obligations, but it listed every type that was not fulfilled. This would allow any authority to

review these specific transactions and determine their legality. Most of the information that was thought to be lost in the cloud or storage has also been retrieved.

23. The debtor is not administratively insolvent and would be less likely to become so if the Committee was more willing to talk to the CRO.

24. In the November call with the creditors the CRO was asked how much would it cost for Unique Strategies to complete the financial pro formas and other information for a disclosure statement and plan to be submitted. The CRO answered that "Unique Strategies Cost" to get to that point would be approximately \$35,000. Overall cost is usually related to the level of controversy injected into the process. In its rejection of the Huseman/Murph proposal, the Committee declared that plan costs would be \$300,000. That number obviously assumes that the Committee is unwilling to seek any compromise or accommodation with the CRO. The Committee has accused the CRO and counsel of being in the pocket of Charles McAllister and also made it clear that it plans to object to the fees of the CRO and counsel. The Committee's threats, refusal to engage in good faith negotiations, and the filing of this motion has effectively stalled CRO's efforts to formulate a plan, consensual or otherwise.

25. Debtor has invited the Committee's attorney to come to the Debtor's office many times to see what the CRO has done and how the Committee can use it. Committee's counsel has never visited the offices of the debtor.

26. The CRO has incurred all of its costs in accordance with the budget. The goal has always been to provide as accurate information as possible and to create an opportunity for the creditors to recover as much as possible. Fees have never been put ahead of service. Committee counsel knows the CRO could never meet the seven month bonus criterion if a plan were filed today. Excluding any potential hitches, the soonest a plan could be confirmed would be around three to four months from the time of filing of a disclosure statement and plan.

27. Any disclosure statement and reorganization plan would provide real world, history-based estimates in the plan. The plan would be based on the professional fees being paid at confirmation unless, as indicated by the CRO and counsel, a different arrangement is agreed to.

28. Of course, it would be truly great if the creditors of BullionDirect could share in the Madoff and Stanford recoveries. It would also be helpful if, like Madoff, Chad McAllister would just confess and disclose the location of hidden funds or other assets, if any. It would have also been wonderful if, like Madoff and Stanford, he had publicly bragged about Central Park

apartments, private islands, expensive cars, boats and airplanes and other forms of vast accumulated wealth.

29. Debtor does not disagree with the Committee's statement of law.

30. It is true that the CRO, in examining the history of BullionDirect, including the fact that it averaged revenues exceeding \$70,000,000 per year for the preceding 10 years and had approximately 45,000 customers, 80% of whom were not cheated, felt compelled to provide creditors with an opportunity other than litigation alone. After an unproductive attempt to get the Committee engaged in the negotiation with the potential buyers, the CRO has negotiated a term sheet with Huseman and Murph that incorporates the basic structure of a plan which contemplates solicitation of other possible bidders. See Exhibit B. The Committee has been invited to join the negotiation but has not thus far done so, apparently valuing the right to sue Ms. Huseman over any potential benefit to creditors that might arise from a plan.

31. The Committee's ability to identify legal theories, possible assets and predict outcomes of proposed litigation suggest that the Committee should have pursued the litigation options offered to the Committee by the CRO. The CRO, unlike the Committee, cannot project the outcome of litigation, but will not be surprised if the litigation yields some distribution to creditors. However, the CRO believes that creditors will receive the maximum repayment under a plan that seeks recovery through litigation, and which provides BullionDirect creditors with a profits participation in a re-started web-based sale platform.

32. There is a reason that prospective buyers of Chapter 11 assets wait patiently for conversion to Chapter 7. The Committee's speculation that a Chapter 7 trustee will be able to increase the distribution to creditors is frivolous and inconsistent with the experience of most long time bankruptcy practitioners. Unfortunately, the Committee's willingness to openly speculate about "administrative insolvency" has had a chilling effect on the CRO's efforts to convince potential purchasers or licensees of the debtor's intellectual property to come to the table.

33. Debtor does not dispute the Committee's assertion regarding adequacy of notice.

WHEREFORE, Debtor prays that the relief requested by Movant be denied and for such other relief as is just.

Respectfully submitted,

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By:



Joseph D. Martinec

State Bar No. 13137500

ATTORNEYS FOR DEBTOR

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing *Response* has been served via the Court's ECF Noticing System, by First Class Mail, postage prepaid, via e-mail or by facsimile transmission, if so indicated, to the creditors and parties in interest on the current Master Service List on the 4th day of December, 2015, and to the Website Claimants via Constant Contact.

BullionDirect, Inc.
c/o Dan Bensimon
7028 Cielo Azul Pass
Austin, TX 78732
Debtor

U. S. Trustee
903 San Jacinto Blvd., Ste. 230
Austin, TX 78701-2450

Jesse T. Moore
Dykema Cox Smith
111 Congress Ave., Ste. 1800
Austin, TX 78701
Attorneys for Official Committee of
Unsecured Creditors



Joseph D. Martinec

Form **1120**Department of the Treasury
Internal Revenue Service

U.S. Corporation Income Tax Return

For calendar year 2010 or tax year beginning Jul 1, 2010, ending Jun 30, 2011

See separate instructions.

OMB No. 1545-0123

2010

A Check if:

- 1 a Consolidated return (attach Form 851) ☒
- b Life/nonlife consolidated return ☐
- 2 Personal holding co (attach Sch PH) ☐
- 3 Personal service corp (see instr) ☐
- 4 Schedule M-3 attached ☐

Print
or
Type

Name

BullionDirect, Inc.

Number, street, and room or suite number. If a P.O. box, see instructions.

PO Box 1987

City or town

Austin

State ZIP code

TX 78767

B Employer identification number

76-0622534

C Date incorporated

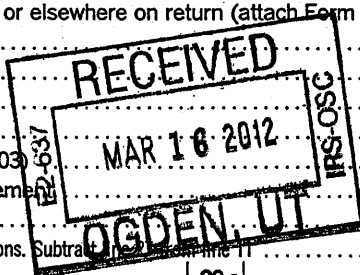
08/30/1999

D Total assets (see instructions)

\$ 9,979,666.

E Check if: (1) Initial return (2) Final return (3) Name change (4) Address change

1	Gross receipts or sales	10,069,013.	Less returns & allowances	22,358.	c Balance	1c	10,046,655.
2	Cost of goods sold (Schedule A, line 8)					2	1,196,332.
3	Gross profit. Subtract line 2 from line 1c					3	8,850,323.
4	Dividends (Schedule C, line 19)					4	
5	Interest					5	46,819.
6	Gross rents					6	
7	Gross royalties					7	
8	Capital gain net income (attach Schedule D (Form 1120))					8	
9	Net gain or (loss) from Form 4797, Part II, line 17 (attach Form 4797)					9	19,187.
10	Other income (see instructions — attach schedule) . See Other Income Statement					10	-19,936,085.
11	Total income. Add lines 3 through 10					11	-11,019,756.
12	Compensation of officers (Schedule E, line 4)					12	271,967.
13	Salaries and wages (less employment credits)					13	718,110.
14	Repairs and maintenance					14	7,620.
15	Bad debts					15	878,147.
16	Rents					16	175,694.
17	Taxes and licenses					17	98,812.
18	Interest					18	1,194.
19	Charitable contributions					19	
20	Depreciation from Form 4562 not claimed on Schedule A or elsewhere on return (attach Form 4562)					20	459,844.
21	Depletion					21	
22	Advertising					22	
23	Pension, profit-sharing, etc, plans					23	
24	Employee benefit programs					24	37,740.
25	Domestic production activities deduction (attach Form 8903)					25	
26	Other deductions (attach schedule) . See Other Deductions Statement					26	1,742,615.
27	Total deductions. Add lines 12 through 26					27	4,391,743.
28	Taxable income before net operating loss deduction and special deductions. Subtract line 27 from line 11					28	-15,411,499.
29	Less: a Net operating loss deduction (see instructions)	29a					
	b Special deductions (Schedule C, line 20)	29b				29c	
30	Taxable income. Subtract line 29c from line 28 (see instructions)					30	-15,411,499.
31	Total tax (Schedule J, line 10)					31	
32a	2009 overpayment credited to 2010	32a					
b	2010 estimated tax payments	32b					
c	2010 refund applied for on Form 4466	32c					
d	Tax deposited with Form 7004	d Bal				32d	
e	Credits: (1) Form 2439 (2) Form 4136					32e	0.
f	Refundable credits from Form 3800, line 19c, and Form 8827, line 8c	32f				32f	
g	Estimated tax penalty (see instructions). Check if Form 2220 is attached	32g				32g	0.
33	Amount owed. If line 32h is smaller than the total of lines 31 and 33, enter amount owed					33	
34	Overpayment. If line 32h is larger than the total of lines 31 and 33, enter amount overpaid					34	
35	Enter amount from line 35 you want: Credited to 2011 estimated tax					35	0.
36	Refunded					36	

**COPY**Sign
Here

Under penalties of perjury, I declare that I have examined this return, including accompanying schedules and statements, and to the best of my knowledge and belief, it is true, correct, and complete. Declaration of preparer (other than taxpayer) is based on all information of which preparer has any knowledge.

Signature of officer *Julie Mayfield*, PRES.

Date 3/15/2012

Title President

May the IRS discuss this return with the preparer shown below (see instructions)?

Yes No

Paid
Preparer
Use Only

Print/Type preparer's name

Julie Mayfield

Preparer's signature

Julie Mayfield

Date

3/15/12

Check ☐ if

self-employed

PTIN

P01269961

Firm's name

RUSSELL & MAYFIELD, LLC

Firm's EIN

27-3685356

Firm's address

4601 HUDSON BEND RD., SUITE 300

AUSTIN

TX 78734-2175

Phone no.

BAA For Paperwork Reduction Act Notice, see separate instructions.

CPCA0212 02/09/11

Form 1120 (2010)

TC 590-CC14
INPUT FOR SUBS

OK 59918

4423657303 APR 10 2012

Schedule A Cost of Goods Sold (see instructions)

1	Inventory at beginning of year	1	
2	Purchases	2	
3	Cost of labor	3	
4	Additional section 263A costs (attach schedule)	4	
5	Other costs (attach schedule) ... See Other Costs Statement	5	1,196,332.
6	Total. Add lines 1 through 5	6	1,196,332.
7	Inventory at end of year	7	
8	Cost of goods sold. Subtract line 7 from line 6. Enter here and on page 1, line 2	8	1,196,332.

9a Check all methods used for valuing closing inventory:

- (i) ☐ Cost
 (ii) ☐ Lower of cost or market
 (iii) ☐ Other (Specify method used and attach explanation.)

b Check if there was a writedown of subnormal goods

c Check if the LIFO inventory method was adopted this tax year for any goods (if checked, attach Form 970)

d If the LIFO inventory method was used for this tax year, enter percentage (or amounts) of closing inventory computed under LIFO

9d

e If property is produced or acquired for resale, do the rules of section 263A apply to the corporation? ☐ Yes ☐ No

f Was there any change in determining quantities, cost, or valuations between opening and closing inventory? If "Yes," attach explanation ☐ Yes ☐ No

Schedule C Dividends and Special Deductions (see instructions)

	(a) Dividends received	(b) Percentage	(c) Special deductions (a) x (b)
1 Dividends from less-than-20%-owned domestic corporations (other than debt-financed stock)		70	
2 Dividends from 20%-or-more-owned domestic corporations (other than debt-financed stock)		80	
3 Dividends on debt-financed stock of domestic and foreign corporations		see instructions	
4 Dividends on certain preferred stock of less-than-20%-owned public utilities		42	
5 Dividends on certain preferred stock of 20%-or-more-owned public utilities		48	
6 Dividends from less-than-20%-owned foreign corporations and certain FSCs		70	
7 Dividends from 20%-or-more-owned foreign corporations and certain FSCs		80	
8 Dividends from wholly owned foreign subsidiaries		100	
9 Total. Add lines 1 through 8. See instructions for limitation			
10 Dividends from domestic corporations received by a small business investment company operating under the Small Business Investment Act of 1958		100	
11 Dividends from affiliated group members		100	
12 Dividends from certain FSCs		100	
13 Dividends from foreign corporations not included on lines 3, 6, 7, 8, 11, or 12			
14 Income from controlled foreign corporations under subpart F (attach Form(s) 5471)			
15 Foreign dividend gross-up			
16 IC-DISC and former DISC dividends not included on lines 1, 2, or 3			
17 Other dividends			
18 Deduction for dividends paid on certain preferred stock of public utilities			
19 Total dividends. Add lines 1 through 17. Enter here and on page 1, line 4			
20 Total special deductions. Add lines 9, 10, 11, 12, and 18. Enter here and on page 1, line 29b			

Schedule E Compensation of Officers (see instructions for page 1, line 12)

Note: Complete Schedule E only if total receipts (line 1a plus lines 4 through 10 on page 1) are \$500,000 or more.

1	(a) Name of officer	(b) Social security number	(c) Percent of time devoted to business	Percent of corporation stock owned		(f) Amount of compensation
				(d) Common	(e) Preferred	
	Charles H. McAllister	466-67-1020	100.0 %	49.3 %	%	
			%	%	%	
			%	%	%	
			%	%	%	
			%	%	%	
2	Total compensation of officers					
3	Compensation of officers claimed on Schedule A and elsewhere on return					
4	Subtract line 3 from line 2. Enter the result here and on page 1, line 12					

Form 1120 (2010)

Schedule J Tax Computation (see instructions)

1 Check if the corporation is a member of a controlled group (attach Schedule O (Form 1120))		<input type="checkbox"/>	
2 Income tax. Check if a qualified personal service corporation (see instructions)		<input type="checkbox"/>	2
3 Alternative minimum tax (attach Form 4626)			3
4 Add lines 2 and 3			4
5a Foreign tax credit (attach Form 1118)	5a		
b Credit from Form 8834, line 29	5b		
c General business credit (attach Form 3800)	5c		
d Credit for prior year minimum tax (attach Form 8827)	5d		
e Bond credits from Form 8912	5e		
6 Total credits. Add lines 5a through 5e			6
7 Subtract line 6 from line 4			7
8 Personal holding company tax (attach Schedule PH (Form 1120))			8
9 Other taxes. <input type="checkbox"/> Form 4255 <input type="checkbox"/> Form 8611 <input type="checkbox"/> Form 8697 Check if from: <input type="checkbox"/> Form 8866 <input type="checkbox"/> Form 8902 <input type="checkbox"/> Other (att schedule)			9
10 Total tax. Add lines 7 through 9. Enter here and on page 1, line 31			10

Schedule K Other Information (see instructions)

1 Check accounting method a <input type="checkbox"/> Cash b <input type="checkbox"/> Accrual c <input checked="" type="checkbox"/> Other (specify) ▶ <u>Hybrid</u>		Yes	No
2 See the instructions and enter the:			
a Business activity code no. ▶ <u>421940</u>			
b Business activity ▶ <u>Online Sales</u>			
c Product or service ▶ <u>Precious Metals</u>			
3 Is the corporation a subsidiary in an affiliated group or a parent-subsidiary controlled group?			X
If 'Yes,' enter name and EIN of the parent corporation ▶			
4 At the end of the tax year:			
a Did any foreign or domestic corporation, partnership (including any entity treated as a partnership), trust, or tax-exempt organization own directly 20% or more, or own, directly or indirectly, 50% or more of the total voting power of all classes of the corporation's stock entitled to vote? If 'Yes,' complete Part I of Schedule G (Form 1120) (attach Schedule G)			X
b Did any individual or estate own, directly 20% or more, or own directly or indirectly, 50% or more of the total voting power of all classes of the corporation's stock entitled to vote? If 'Yes,' complete Part II of Schedule G (Form 1120) (attach Schedule G)			X
5 At the end of the tax year, did the corporation:			
a Own directly 20% or more, or own, directly or indirectly, 50% or more of the total voting power of all classes of stock entitled to vote of any foreign or domestic corporation not included on Form 851, Affiliations Schedule? For rules of constructive ownership, see instructions			X
If 'Yes,' complete (i) through (iv)			

(i) Name of Corporation	(ii) Employer Identification Number (if any)	(iii) Country of Incorporation	(iv) Percentage Owned in Voting Stock

Schedule K Continued

b Own directly an interest of 20% or more, or own, directly or indirectly, an interest of 50% or more in any foreign or domestic partnership (including an entity treated as a partnership) or in the beneficial interest of a trust? For rules of constructive ownership see instructions **X**
 If "Yes," complete (i) through (iv)

(i) Name of Entity	(ii) Employer Identification Number (if any)	(iii) Country of Incorporation	(iv) Maximum Percentage Owned in Profit, Loss, or Capital

6 During this tax year, did the corporation pay dividends (other than stock dividends and distributions in exchange for stock) in excess of the corporation's current and accumulated earnings and profits? (See sections 301 and 316.) **X**
 If "Yes," file **Form 5452**, Corporate Report of Nondividend Distributions.
 If this is a consolidated return, answer here for the parent corporation and on Form 851 for each subsidiary

7 At any time during the tax year, did one foreign person own, directly or indirectly, at least 25% of **(a)** the total voting power of all classes of the corporation's stock entitled to vote or **(b)** the total value of all classes of the corporation's stock? **X**
 For rules of attribution see section 318. If "Yes," enter:

(i) Percentage owned ▶ _____ and **(ii)** Owner's country ▶ _____

(c) The corporation may have to file **Form 5472**, Information Return of a 25% Foreign-Owned U.S. Corporation or a Foreign Corporation Engaged in a U.S. Trade or Business. Enter the number of Forms 5472 attached ▶ _____

8 Check this box if the corporation issued publicly offered debt instruments with original issue discount ☐
 If checked, the corporation may have to file **Form 8281**, Information Return for Publicly Offered Original Issue Discount Instruments.

9 Enter the amount of tax-exempt interest received or accrued during the tax year ▶ \$ _____

10 Enter the number of shareholders at the end of the tax year (if 100 or fewer) ▶ _____

11 If the corporation has an NOL for the tax year and is electing to forego the carryback period, check here ☒
 If the corporation is filing a consolidated return, the statement required by Regulations section 1.1502-21(b)(3) must be attached or the election will not be valid.

12 Enter the available NOL carryover from prior tax years (do not reduce it by any deduction on line 29a.) ▶ \$ _____ **17,044,673.**

13 Are the corporation's total receipts (line 1a plus lines 4 through 10 on page 1) for the tax year and its total assets at the end of the tax year less than \$250,000? **X**

If "Yes," the corporation is not required to complete Schedules L, M-1, and M-2 on page 5. Instead, enter the total amount of cash distributions and the book value property distributions (other than cash) made during the tax year. ▶ \$ _____ **0.**

14 Is the corporation required to file Schedule UTP (Form 1120), Uncertain Tax Position Statement (see instructions)? **X**
 If "Yes," complete and attach Schedule UTP.

Form 1120 (2010)

Schedule L Balance Sheets per Books		Beginning of tax year		End of tax year	
Assets		(a)	(b)	(c)	(d)
1	Cash		2,642,715.		7,310,437.
2a	Trade notes and accounts receivable	535,660.		250,000.	
b	Less allowance for bad debts		535,660.		250,000.
3	Inventories				
4	U.S. government obligations				
5	Tax-exempt securities (see instructions)				
6	Other current assets (attach schedule) .. Ln. 6. Stmt		370,317.		209,516.
7	Loans to shareholders		1,503,743.		0.
8	Mortgage and real estate loans				
9	Other investments (attach schedule) .. Ln. 9. Stmt		238,025.		517,469.
10a	Buildings and other depreciable assets	1,771,782.		2,689,709.	
b	Less accumulated depreciation	696,301.	1,075,481.	1,111,443.	1,578,266.
11a	Depletable assets				
b	Less accumulated depletion				
12	Land (net of any amortization)				
13a	Intangible assets (amortizable only)	171,038.		171,038.	
b	Less accumulated amortization	23,510.	147,528.	57,060.	113,978.
14	Other assets (attach schedule)		0.		
15	Total assets		6,513,469.		9,979,666.
Liabilities and Shareholders' Equity					
16	Accounts payable		1,675,027.		733,629.
17	Mortgages, notes, bonds payable in less than 1 year				
18	Other current liabilities (attach sch) .. Ln. 18. Stmt		111,090.		28,139.
19	Loans from shareholders				
20	Mortgages, notes, bonds payable in 1 year or more		21,238,367.		41,145,413.
21	Other liabilities (attach schedule)				
22	Capital stock: a Preferred stock				
b	Common stock	430,000.	430,000.	430,000.	430,000.
23	Additional paid-in capital				
24	Retained earnings — Approp (att sch)				
25	Retained earnings — Unappropriated		-16,941,015.		-32,357,515.
26	Adjmnt to shareholders' equity (att sch)				
27	Less cost of treasury stock				
28	Total liabilities and shareholders' equity		6,513,469.		9,979,666.

Schedule M-1				Reconciliation of Income (Loss) per Books With Income per Return	
Note: Schedule M-3 required instead of Schedule M-1 if total assets are \$10 million or more — see instructions					
1	Net income (loss) per books	-15,416,500.	7	Income recorded on books this year not included on this return (itemize):	
2	Federal income tax per books			Tax-exempt interest \$	
3	Excess of capital losses over capital gains	
4	Income subject to tax not recorded on books this year (itemize):			
5	Expenses recorded on books this year not deducted on this return (itemize):		8	Deductions on this return not charged against book income this year (itemize):	
a	Depreciation		a	Depreciation .. \$	
b	Charitable contributions . \$	100.	b	Charitable contribns \$	
c	Travel & entertainment .. \$	4,901.		
	5,001.		
6	Add lines 1 through 5	-15,411,499.	9	Add lines 7 and 8	
			10	Income (page 1, line 28) — line 6 less line 9	-15,411,499.

Schedule M-2 Analysis of Unappropriated Retained Earnings per Books (Line 25, Schedule L)					
1	Balance at beginning of year	-16,941,015.	5	Distributions	a Cash ...
2	Net income (loss) per books	-15,416,500.		b Stock	c Property ..
3	Other increases (itemize):		6	Other decreases (itemize):	
			7	Add lines 5 and 6	
4	Add lines 1, 2, and 3	-32,357,515.	8	Balance at end of year (line 4 less line 7)	-32,357,515.

► Attach to Form 1120, 1120-C, 1120-F, 1120-S, 1065, and 1065-B.

OMB No. 1545-XXXX

Name		Employer identification number
1	Inventory at beginning of year	1
2	Purchases	2
3	Cost of labor	3
4	Additional section 263A costs (attach schedule)	4
5	Other costs (attach schedule)	5
6	Total. Add lines 1 through 5	6 1196 332
7	Inventory at end of year	7
8	Cost of goods sold. Subtract line 7 from line 6. Enter here and on Form 1120, page 1, line 2 or the appropriate line of your tax return (see instructions)	8

9a Check all methods used for valuing closing inventory:

(i) ☐ Cost

(ii) ☐ Lower of cost or market

(iii) ☐ Other (Specify method used and attach explanation.) ►

b Check if there was a writedown of subnormal goods ► ☐

c Check if the LIFO inventory method was adopted this tax year for any goods (if checked, attach Form 970) ► ☐

d If the LIFO inventory method was used for this tax year, enter amount of closing inventory computed under LIFO 9d

e If property is produced or acquired for resale, do the rules of section 263A apply to the corporation? ☐ Yes ☐ No

f Was there any change in determining quantities, cost, or valuations between opening and closing inventory? If "Yes," attach explanation ☐ Yes ☐ No

Section references are to the Internal Revenue Code unless otherwise noted

General Instructions

Purpose of Form

Use Form 1125-A to calculate and deduct cost of goods sold for certain entities.

Who Must File

Complete and attach Form 1125-A to Form 1120, 1120-C, 1120-F, 1120-S, 1065, or 1065-B, if the applicable entity reports a deduction for cost of goods sold.

Inventories

Generally, inventories are required at the beginning and end of each tax year if the production, purchase, or sale of merchandise is an income-producing factor. See Regulations section 1.471-1. If inventories are required, you generally must use an accrual method of accounting for sales and purchases of inventory items.

Exception for certain taxpayers. If you are a qualifying taxpayer or a qualifying small business taxpayer (defined below), you can adopt or change your accounting method to account for inventoriable items in the same manner as materials and supplies that are not incidental.

Under this accounting method inventory costs for raw materials purchased for use in producing finished goods and merchandise purchased for resale are deductible in the year the finished goods or merchandise are sold (but not before the year you paid for the raw materials or merchandise, if you are also using the cash method).

If you account for inventoriable items in the same manner as materials and supplies that are not incidental, you can currently deduct expenditures for direct labor and all indirect costs that would otherwise be included in inventory costs.

Qualifying taxpayer. A qualifying taxpayer is a taxpayer that, (a) for each prior tax year ending after December 16, 1998, has average annual gross receipts of \$1 million or less for the 3 prior tax years and (b) its business is not a tax shelter (as defined in section 448(d)(3)). See Rev. Proc. 2001-10, 2001-2 I.R.B. 272.

Qualifying small business taxpayer. A qualifying small business taxpayer is a taxpayer that, (a) for each prior tax year ending on or after December 31, 2000, has average annual gross receipts of \$10 million or less for the 3 prior tax years, (b) whose principal business activity is not an ineligible activity, and (c) whose business is not a tax shelter (as defined in section 448(d)(3)). See Rev. Proc. 2002-28, 2002-18, I.R.B. 815.

Additional information. For additional guidance on this method of accounting, see Pub. 538, Accounting Periods and Methods. For guidance on adopting or changing to this method of accounting, see the Instructions for Form 3115.

Uniform capitalization rules. The uniform capitalization rules of section 263A generally require you to capitalize, or include in inventory, certain costs incurred in connection with the following.

- The production of real property and tangible personal property held in inventory or held for sale in the ordinary course of business.
- Real property or personal property (tangible and intangible) acquired for resale.
- The production of real property and tangible personal property by a corporation for use in its trade or business or in an activity engaged in for property.



CAUTION See Section 263A uniform capitalization rules in the instructions for your tax return before completing Form 1125-A. Also see Regulations sections 1.263A-1 through 1.263A-3. See Regulations section 1.263A-4 for rules for property produced in a farming business.

Form **851****Affiliations Schedule**

(Rev December 2010)

► **File with each consolidated income tax return.**

OMB No. 1545-0025

Department of the Treasury
Internal Revenue Service**For tax year ending Jun 30, 2011**

Name of common parent corporation

Employer identification number

BullionDirect, Inc.**76-0622534**

Number, street, and room or suite number. If a P.O. box, see instructions.

PO Box 1987

City or town

State

ZIP Code

Austin**TX****78767****Part I Overpayment Credits, Estimated Tax Payments, and Tax Deposits** (see instructions)

Corp No.	Name and address of corporation	Employer identification number	Portion of overpayment credits and estimated tax payments	Portion of tax deposited with Form 7004
1	Common parent corporation		0.	0.
	Subsidiary corporations:			
2	NBD Holdings, LLC PO Box 1987, Austin, TX 78676	27-4689023 ATP	0.	0.
3	The BDI Trust PO Box 1987, Austin, TX 78676	27-7121160 AFR	0.	0.
4				
5				
6				
7				
8				
9				
10				
Totals (Must equal amounts shown on the consolidated tax return)			0.	0.

Part II Principal Business Activity, Voting Stock Information, Etc (see instructions)

Corp No.	Principal business activity (PBA)	PBA Code Number	Did the subsidiary make any nondividend distributions?		Stock holdings at beginning of year			
			Yes	No	Number of shares	Percent of voting power	Percent of value	Owned by corporation number
	Common parent corporation:							
1	Online Sales	421940						
	Subsidiary corporations:							
2	NBD Holdings, LLC	523900		X	1,000	100.00 %	100.00 %	1
3	BDI Trust	523900		X	1,000	100.00 %	100.00 %	1
4						%	%	
5						%	%	
6						%	%	
7						%	%	
8						%	%	
9						%	%	
10						%	%	

BAA For Paperwork Reduction Act Notice, see instructions.

Form 851 (Rev 12-2010)

CPCA2312 02/07/11

Part III Changes in Stock Holdings During the Tax Year

Corp No.	Name of corporation	Shareholder of Corporation No.	Date of transaction	(a) Changes		(b) Shares held after changes described in column (a)	
				Number of shares acquired	Number of shares disposed of	Percent of voting power	Percent of value
						%	%
						%	%
						%	%
						%	%
						%	%
						%	%
						%	%
						%	%
						%	%

- (c) If any transaction listed above caused a transfer of a share of subsidiary stock (defined to include dispositions and deconsolidations), did the share's basis exceed its value at the time of the transfer? See instructions ☐ Yes ☐ No
- (d) Did any share of subsidiary stock become worthless within the meaning of section 165 (taking into account the provisions of Regulations section 1.1502-80(c)) during the taxable year? See instrs ☐ Yes ☐ No
- (e) If the equitable owners of any capital stock shown above were other than the holders of record, provide details of the changes.

- (f) If additional stock was issued, or if any stock was retired during the year, list the dates and amounts of these transactions.

Part IV Additional Stock Information (see instructions)

- 1 During the tax year, did the corporation have more than one class of stock outstanding? ☐ Yes ☒ No
 If 'Yes', enter the name of the corporation and list and describe each class of stock.

Corp No.	Name of corporation	Class of stock

- 2 During the tax year, was there any member of the consolidated group that reaffiliated within 60 months of disaffiliation? ... ☐ Yes ☒ No
 If 'Yes', enter the name of the corporation(s) and explain the circumstances.

Corp No.	Name of corporation	Explanation

- 3 During the tax year, was there any arrangement in existence by which one or more persons that were not members of the affiliated group could acquire any stock, or acquire any voting power without acquiring stock, in the corporation, other than a de minimis amount, from the corporation or another member of the affiliated group? ☐ Yes ☒ No
 If 'Yes', enter the name of the corporation and see the instructions for the percentages to enter in columns (a), (b), and (c).

Corp No.	Name of corporation	(a) Percent of value	(b) Percent of outstanding voting stock	(c) Percent of voting power
		%	%	%
		%	%	%
		%	%	%
		%	%	%
		%	%	%

Corp No.	(d) Provide a description of any arrangement.

BAA

Form 851 (Rev 12-2010)

of 43

OMB No. 1545-0172

Form **4562****Depreciation and Amortization**
(Including Information on Listed Property)Department of the Treasury
Internal Revenue Service (99)

▶ See separate instructions. ▶ Attach to your tax return.

2010Attachment
Sequence No. **67**

Name(s) shown on return

BullionDirect, Inc.

Identifying number

76-0622534

Business or activity to which this form relates

Form 1120 Line 20

Part I Election To Expense Certain Property Under Section 179

Note: If you have any listed property, complete Part V before you complete Part I.

1	Maximum amount (see instructions)	1	500,000.
2	Total cost of section 179 property placed in service (see instructions)	2	
3	Threshold cost of section 179 property before reduction in limitation (see instructions)	3	2,000,000.
4	Reduction in limitation. Subtract line 3 from line 2. If zero or less, enter -0-	4	
5	Dollar limitation for tax year. Subtract line 4 from line 1. If zero or less, enter -0-. If married filing separately, see instructions	5	
6	(a) Description of property	(b) Cost (business use only)	(c) Elected cost
7	Listed property. Enter the amount from line 29	7	
8	Total elected cost of section 179 property. Add amounts in column (c), lines 6 and 7	8	
9	Tentative deduction. Enter the smaller of line 5 or line 8	9	
10	Carryover of disallowed deduction from line 13 of your 2009 Form 4562	10	
11	Business income limitation. Enter the smaller of business income (not less than zero) or line 5 (see instrs)	11	
12	Section 179 expense deduction. Add lines 9 and 10, but do not enter more than line 11	12	
13	Carryover of disallowed deduction to 2011. Add lines 9 and 10, less line 12	13	

Note: Do not use Part II or Part III below for listed property. Instead, use Part V.

Part II Special Depreciation Allowance and Other Depreciation (Do not include listed property.) (See instructions.)

14	Special depreciation allowance for qualified property (other than listed property) placed in service during the tax year (see instructions)	14	44,038.
15	Property subject to section 168(f)(1) election	15	
16	Other depreciation (including ACRS)	16	380,678.

Part III MACRS Depreciation (Do not include listed property.) (See instructions.)**Section A**

17	MACRS deductions for assets placed in service in tax years beginning before 2010	17	24,603.
18	If you are electing to group any assets placed in service during the tax year into one or more general asset accounts, check here <input type="checkbox"/>		

Section B -- Assets Placed in Service During 2010 Tax Year Using the General Depreciation System

(a) Classification of property	(b) Month and year placed in service	(c) Basis for depreciation (business/investment use only — see instructions)	(d) Recovery period	(e) Convention	(f) Method	(g) Depreciation deduction
19a 3-year property						
b 5-year property		481.	5.0 yrs	HY	200 DB	96.
c 7-year property		4,823.	7.0 yrs	HY	200 DB	689.
d 10-year property						
e 15-year property						
f 20-year property						
g 25-year property			25 yrs		S/L	
h Residential rental property	06/11	830,000.	27.5 yrs	MM	S/L	1,258.
i Nonresidential real property			27.5 yrs	MM	S/L	
			39 yrs	MM	S/L	

Section C -- Assets Placed in Service During 2010 Tax Year Using the Alternative Depreciation System

20a Class life					S/L	
b 12-year			12 yrs		S/L	
c 40-year			40 yrs	MM	S/L	

Part IV Summary (See instructions.)

21	Listed property. Enter amount from line 28	21	8,482.
22	Total. Add amounts from line 12, lines 14 through 17, lines 19 and 20 in column (g), and line 21. Enter here and on the appropriate lines of your return. Partnerships and S corporations — see instructions	22	459,844.
23	For assets shown above and placed in service during the current year, enter the portion of the basis attributable to section 263A costs	23	

BAA For Paperwork Reduction Act Notice, see separate instructions.

FDIZ0812 10/29/10

Form 4562 (2010)

EXHIBIT A - Page 10 of 18

Part V Listed Property (Include automobiles, certain other vehicles, certain computers, and property used for entertainment, recreation, or amusement.)

Note: For any vehicle for which you are using the standard mileage rate or deducting lease expense, complete **only** 24a, 24b, columns (a) through (c) of Section A, all of Section B, and Section C if applicable.

Section A – Depreciation and Other Information (Caution: See the instructions for limits for passenger automobiles.)

24a Do you have evidence to support the business/investment use claimed? ☒ **Yes** ☐ **No** **24b** If 'Yes,' is the evidence written? ☒ **Yes** ☐ **No**

(a) Type of property (list vehicles first)	(b) Date placed in service	(c) Business/investment use percentage	(d) Cost or other basis	(e) Basis for depreciation (business/investment use only)	(f) Recovery period	(g) Method/Convention	(h) Depreciation deduction	(i) Elected section 179 cost
---	-------------------------------	---	----------------------------	--	------------------------	--------------------------	-------------------------------	---------------------------------

25 Special depreciation allowance for qualified listed property placed in service during the tax year and used more than 50% in a qualified business use (see instructions) **25**

26 Property used more than 50% in a qualified business use:

2009 Honda CRV	11/11/08	100.00	32,070.	32,070.	5.00	200 DB-HY	2,850.	
2008 Toyota Sequoia	06/30/09	100.00	35,000.	35,000.	5.00	200 DB-HY	3,990.	
2000 Toyota Land Cru	05/16/06	100.00	24,000.	24,000.	5.00	200 DB-HY	1,642.	

27 Property used 50% or less in a qualified business use:

28 Add amounts in column (h), lines 25 through 27. Enter here and on line 21, page 1 **28** 8,482.

29 Add amounts in column (i), line 26. Enter here and on line 7, page 1 **29**

Section B – Information on Use of Vehicles

Complete this section for vehicles used by a sole proprietor, partner, or other 'more than 5% owner,' or related person. If you provided vehicles to your employees, first answer the questions in Section C to see if you meet an exception to completing this section for those vehicles.

	(a) Vehicle 1	(b) Vehicle 2	(c) Vehicle 3	(d) Vehicle 4	(e) Vehicle 5	(f) Vehicle 6
30 Total business/investment miles driven during the year (do not include commuting miles)						
31 Total commuting miles driven during the year						
32 Total other personal (noncommuting) miles driven						
33 Total miles driven during the year. Add lines 30 through 32						
	Yes	No	Yes	No	Yes	No
34 Was the vehicle available for personal use during off-duty hours?						
35 Was the vehicle used primarily by a more than 5% owner or related person?						
36 Is another vehicle available for personal use?						

Section C – Questions for Employers Who Provide Vehicles for Use by Their Employees

Answer these questions to determine if you meet an exception to completing Section B for vehicles used by employees who are not more than 5% owners or related persons (see instructions).

	Yes	No
37 Do you maintain a written policy statement that prohibits all personal use of vehicles, including commuting, by your employees?		
38 Do you maintain a written policy statement that prohibits personal use of vehicles, except commuting, by your employees? See the instructions for vehicles used by corporate officers, directors, or 1% or more owners		
39 Do you treat all use of vehicles by employees as personal use?		
40 Do you provide more than five vehicles to your employees, obtain information from your employees about the use of the vehicles, and retain the information received?		
41 Do you meet the requirements concerning qualified automobile demonstration use? (See instructions.)		

Note: If your answer to 37, 38, 39, 40, or 41 is 'Yes,' do not complete Section B for the covered vehicles.

Part VI Amortization

(a) Description of costs	(b) Date amortization begins	(c) Amortizable amount	(d) Code section	(e) Amortization period or percentage	(f) Amortization for this year
-----------------------------	---------------------------------	---------------------------	---------------------	--	-----------------------------------

42 Amortization of costs that begins during your 2010 tax year (see instructions):

43 Amortization of costs that began before your 2010 tax year **43** 33,550.

44 **Total.** Add amounts in column (f). See the instructions for where to report **44** 33,550.

Form **4797**Department of the Treasury
Internal Revenue Service (99)

Sales of Business Property
(Also Involuntary Conversions and Recapture Amounts
Under Sections 179 and 280F(b)(2))
▶ Attach to your tax return. ▶ See separate instructions.

OMB No. 1545-0184

2010Attachment
Sequence No. **27**

Name(s) shown on return

Identifying number

BullionDirect, Inc.

76-0622534

1 Enter the gross proceeds from sales or exchanges reported to you for 2010 on Form(s) 1099-B or 1099-S (or substitute statement) that you are including on line 2, 10, or 20 (see instructions) **1**

Part I Sales or Exchanges of Property Used in a Trade or Business and Involuntary Conversions From Other Than Casualty or Theft – Most Property Held More Than 1 Year (see instructions)

2	(a) Description of property	(b) Date acquired (month, day, year)	(c) Date sold (month, day, year)	(d) Gross sales price	(e) Depreciation allowed or allowable since acquisition	(f) Cost or other basis, plus improvements and expense of sale	(g) Gain or (loss) Subtract (f) from the sum of (d) and (e)
	MacBookPro 15	09/09/08	08/31/10	400	1662	2415	-353

3 Gain, if any, from Form 4684, line 42**3****4** Section 1231 gain from installment sales from Form 6252, line 26 or 37**4****5** Section 1231 gain or (loss) from like-kind exchanges from Form 8824**5****6** Gain, if any, from line 32, from other than casualty or theft**6**

0.

7 Combine lines 2 through 6. Enter the gain or (loss) here and on the appropriate line as follows **7** **-353.**
Partnerships (except electing large partnerships) and S corporations. Report the gain or (loss) following the instructions for Form 1065, Schedule K, line 10, or Form 1120S, Schedule K, line 9. Skip lines 8, 9, 11, and 12 below.

Individuals, partners, S corporation shareholders, and all others. If line 7 is zero or a loss, enter the amount from line 7 on line 11 below and skip lines 8 and 9. If line 7 is a gain and you did not have any prior year section 1231 losses, or they were recaptured in an earlier year, enter the gain from line 7 as a long-term capital gain on the Schedule D filed with your return and skip lines 8, 9, 11, and 12 below.

8 Nonrecaptured net section 1231 losses from prior years (see instructions)**8**

9 Subtract line 8 from line 7. If zero or less, enter -0-. If line 9 is zero, enter the gain from line 7 on line 12 below. If line 9 is more than zero, enter the amount from line 8 on line 12 below and enter the gain from line 9 as a long-term capital gain on the Schedule D filed with your return (see instructions) **9**

Part II Ordinary Gains and Losses (see instructions)

10 Ordinary gains and losses not included on lines 11 through 16 (include property held 1 year or less):

11 Loss, if any, from line 7**11**

-353.

12 Gain, if any, from line 7 or amount from line 8, if applicable**12****13** Gain, if any, from line 31**13**

19,540.

14 Net gain or (loss) from Form 4684, lines 34 and 41a**14****15** Ordinary gain from installment sales from Form 6252, line 25 or 36**15****16** Ordinary gain or (loss) from like-kind exchanges from Form 8824**16****17** Combine lines 10 through 16**17**

19,187.

18 For all except individual returns, enter the amount from line 17 on the appropriate line of your return and skip lines a and b below. For individual returns, complete lines a and b below:

a If the loss on line 11 includes a loss from Form 4684, line 38, column (b)(ii), enter that part of the loss here. Enter the part of the loss from income-producing property on Schedule A (Form 1040), line 28, and the part of the loss from property used as an employee on Schedule A (Form 1040), line 23. Identify as from 'Form 4797, line 18a.' See instructions

18a

b Redetermine the gain or (loss) on line 17 excluding the loss, if any, on line 18a. Enter here and on Form 1040, line 14

18b**BAA For Paperwork Reduction Act Notice, see separate instructions.**Form **4797** (2010)

Form 4797 (2010) BullionDirect, Inc.

76-0622534

Page 2

Part III Gain From Disposition of Property Under Sections 1245, 1250, 1252, 1254, and 1255
(see instructions)

19(a) Description of section 1245, 1250, 1252, 1254, or 1255 property:		(b) Date acquired (mo, day, yr)	(c) Date sold (mo, day, yr)
A 2008 Toyota Sequoia		06/30/09	01/11/11
B 2000 Toyota Land Cruiser		05/16/06	03/31/11
C			
D			

These columns relate to the properties on lines 19A through 19D		Property A	Property B	Property C	Property D
20	Gross sales price (Note: See line 1 before completing.)	20	28,000.	7,500.	
21	Cost or other basis plus expense of sale	21	35,000.	24,000.	
22	Depreciation (or depletion) allowed or allowable	22	19,040.	24,000.	
23	Adjusted basis. Subtract line 22 from line 21	23	15,960.	0.	
24	Total gain. Subtract line 23 from line 20	24	12,040.	7,500.	
25 If section 1245 property:					
a	Depreciation allowed or allowable from line 22	25a	19,040.	24,000.	
b	Enter the smaller of line 24 or 25a	25b	12,040.	7,500.	
26 If section 1250 property: If straight line depreciation was used, enter -0- on line 26g, except for a corporation subject to section 291.					
a	Additional depreciation after 1975 (see instrs)	26a			
b	Applicable percentage multiplied by the smaller of line 24 or line 26a (see instructions)	26b			
c	Subtract line 26a from line 24. If residential rental property or line 24 is not more than line 26a, skip lines 26d and 26e	26c			
d	Additional depreciation after 1969 & before 1976	26d			
e	Enter the smaller of line 26c or 26d	26e			
f	Section 291 amount (corporations only)	26f			
g	Add lines 26b, 26e, and 26f	26g			
27 If section 1252 property: Skip this section if you did not dispose of farmland or if this form is being completed for a partnership (other than an electing large partnership).					
a	Soil, water, and land clearing expenses	27a			
b	Line 27a multiplied by applicable percentage (see instructions)	27b			
c	Enter the smaller of line 24 or 27b	27c			
28 If section 1254 property:					
a	Intangible drilling and development costs, expenditures for development of mines and other natural deposits, mining exploration costs, and depletion (see instructions)	28a			
b	Enter the smaller of line 24 or 28a	28b			
29 If section 1255 property:					
a	Applicable percentage of payments excluded from income under section 126 (see instructions)	29a			
b	Enter the smaller of line 24 or 29a (see instrs)	29b			

Summary of Part III Gains. Complete property columns A through D through line 29b before going to line 30.

30	Total gains for all properties. Add property columns A through D, line 24	30	19,540.
31	Add property columns A through D, lines 25b, 26g, 27c, 28b, and 29b. Enter here and on line 13	31	19,540.
32	Subtract line 31 from line 30. Enter the portion from casualty or theft on Form 4684, line 36. Enter the portion from other than casualty or theft on Form 4797, line 6	32	0.

Part IV Recapture Amounts Under Sections 179 and 280F(b)(2) When Business Use Drops to 50% or Less
(see instructions)

	(a) Section 179	(b) Section 280F(b)(2)
33 Section 179 expense deduction or depreciation allowable in prior years	33	
34 Recomputed depreciation (see instructions)	34	
35 Recapture amount. Subtract line 34 from line 33. See the instructions for where to report	35	

BAA

FDIZ1002 07/01/10

Form 4797 (2010)

EXHIBIT A - Page 13 of 18

Form 1120, Line 29a

Net Operating Loss Worksheet

2010

Name

BullionDirect, Inc.

Employer Identification Number

76-0622534

Two, three, four, or five year carryback, twenty year carryover

NOL Carryover Year	A Carryover	B Less Carrybacks/ Carryovers	C Adjusted Carryover
2009	1,842,747.		1,842,747.
2008	4,112,439.		4,112,439.
2007	3,102,490.		3,102,490.
2006	5,099,566.		5,099,566.
2005	3,845.		3,845.
2004	1,664,761.		1,664,761.
2003	634,748.		634,748.
2002			
2001	267,113.		267,113.
2000	316,964.		316,964.
1999			
1998			
1997			
Total new law	17,044,673.		17,044,673.

OLD LAW: Three year carryback, fifteen year carryover

NOL Carryover Year	A Carryover	B Less Carrybacks/ Carryovers	C Adjusted Carryover
2009			
2008			
2007			
2006			
2005			
2004			
2003			
2002			
2001			
2000			
1999			
1998			
1997			
1996			
1995			
Total old law			

BullionDirect, Inc.

76-0622534

Net Operating Loss Summary

NOL Carryover Year	A NOL Carryover Available	B Deduction Allowed in Current Year	C Adjustment Under Section 172(b)(2)	D Remaining Carryover 20 Years	E Remaining Carryover 15 Years
2009	1,842,747.			1,842,747.	0.
2008	4,112,439.			4,112,439.	0.
2007	3,102,490.			3,102,490.	0.
2006	5,099,566.			5,099,566.	0.
2005	3,845.			3,845.	0.
2004	1,664,761.			1,664,761.	0.
2003	634,748.			634,748.	0.
2002					
2001	267,113.			267,113.	0.
2000	316,964.			316,964.	0.
1999					
1998					
1997					
1996					
1995					
Totals	17,044,673.			17,044,673.	0.
Less: Carryover expiring due to 15-year limitation					
Add: Current year net operating loss					15,411,499.
Less: Carryback of current year net operating loss					
Net operating loss carryover to next year					32,456,172.

CPCW7601.SCR 10/11/10

Form 1120, Page 1, Line 10

Other Income Statement

Discounts	292.
Unrealized loss on Mark to Market	-19,936,377.
Total	-19,936,085.

Form 1120, Page 1, Line 26

Other Deductions Statement

Accounting	150,713.
Amortization	33,550.
Automobile and truck expense	5,151.
Computer services and supplies	58,764.
Credit and collection costs	78,156.
Dues and subscriptions	3,104.
Gifts	2,317.
Insurance	84,914.
Legal and professional	1,177,045.
Meals and entertainment (50%)	4,901.
Miscellaneous	3,752.
Office expense	11,268.
Parking fees and tolls	13,243.
Postage	616.
Security	9,019.
Telephone	7,291.
Training/continuing education	4,173.
Travel	29,090.
Utilities	579.
Communications	41,808.
Contract Help	2,520.
Document Management	1,521.
Hardware/Equipment purchase <\$1000	6,325.
Meetings & Seminars	4,927.
Moving	47.
Publications	316.
Recruiting	146.
Software Licenses	4,259.
Software Upgrades	1,530.
Storage	1,570.
Total	1,742,615.

Form 1120, Page 2, Schedule A, Line 5

Other Costs Statement

Online Advertising	490,971.
Credit Card Collection	166,826.
Freight & Shipping	448,380.
Other	90,155.
Total	1,196,332.

Form 1120, Page 5, Schedule L, Line 6
Ln 6 Stmt

Other Current Assets:	Beginning of tax year	End of tax year
Prepaid Inventory	271,825.	
Prepaid Expenses	81,462.	198,483.
Receivable for COBRA pmts	1,400.	0.
Travel Advance	448.	0.
Lease Deposits	15,182.	11,033.
Total	<u>370,317.</u>	<u>209,516.</u>

Form 1120, Page 5, Schedule L, Line 9
Ln 9 Stmt

Other Investments:	Beginning of tax year	End of tax year
NR - Investment	100,000.	190,000.
CD - Secured Lease	138,025.	103,469.
Interest in NBFog, Inc.		224,000.
Total	<u>238,025.</u>	<u>517,469.</u>

Form 1120, Page 5, Schedule L, Line 18
Ln 18 Stmt

Other Current Liabilities:	Beginning of tax year	End of tax year
Severance Payable	80,141.	0.
Payroll Tax Liabilities	30,744.	23,665.
Sales Tax Payable	205.	945.
Credit Card Payable		3,529.
Total	<u>111,090.</u>	<u>28,139.</u>

Supporting Statement of:

Form 1120, p3-5/Line 7(d)

Description	Amount
Shareholder Loan	514,627.
Accrued Interest on Shareholder Loan	77,860.
Allowance for Doubtful Account	-592,487.
Total	0.

[illegible]

of 13
Strasburger
ATTORNEYS AT LAW

Duane J. Brescia
(512) 499-3647
Direct fax (512) 536-5702
duane.brescia@strasburger.com

Board Certified in Business Bankruptcy Law
Texas Board of Legal Specialization

November 25, 2015

VIA EMAIL

Dan Bensimon, CRO
On behalf of BullionDirect, Inc.
UNIQUE STRATEGIES GROUP, INC.
7028 Cielo Azul Pass
Austin, Texas 78732
dbensimon@austin.rr.com

Joseph D. Martinec
MARTINEC, WINN, VICKERS & MCELROY, P.C.
919 Congress Avenue, Suite 200
Austin, Texas 78701
martinec@mwvmlaw.com

**Re: Case No. 15-10940-tmd, *In re BullionDirect, Inc.*, in the United States
Bankruptcy Court for the Western District of Texas, Austin Division**

Proposed Term Sheet for Restructuring and DIP Financing

Dear Mr. Bensimon and Mr. Martinec:

In accordance with our recent discussions, I am attaching for your review and consideration the proposed Term Sheet for Restructuring and DIP Financing for the Chapter 11 Debtor, BullionDirect, Inc. ("BDI"), along with the *pro formas* we have discussed. The intended DIP Lender and proposed purchaser of the assets of BDI through a plan of reorganization will be Newco, LLC or its designee ("Newco") an entity to be formed and owned solely by Cheryl L. Huseman and C. Jack Murph. As discussions and due diligence are ongoing, this Term Sheet is subject to further revision and shall not be considered a binding obligation upon Newco or its principals. No obligations shall exist unless and until set forth in definitive loan documents executed and delivered by Newco, as the DIP Lender, and approved by a final order of the above-referenced Bankruptcy Court, and then only to the extent expressly set forth therein.

I welcome the opportunity to further discuss the proposed Term Sheet with you, the Official Committee of Unsecured Creditors and any other creditors or interested parties.

Respectfully,

DUANE J. BRESCIA

cc: Cheryl L. Huseman
C. Jack Murph

Strasburger & Price, LLP

720 Brazos Street, Suite 1700, Austin, Texas 78701.3251 | 512.499.3600 tel | 512.499.3660 fax | www.strasburger.com

Austin | Collin County | Dallas | Houston | San Antonio | New York | Washington, D.C. | Mexico City | Strasburger & Price, SC

EXHIBIT B Page 1 of 9

BULLIONDIRECT, INC. ("BDI")

In the United States Bankruptcy Court
For the Western District of Texas
Austin Division
("Bankruptcy Court")

Case No. 15-10940-tmd

Summary of Proposed Restructuring and Proposed DIP Financing

November 25, 2105

PROPOSED RESTRUCTURING

<p>DIP Financing by Newco, LLC ("Newco")</p> <p>-100% owned by Cheryl L. Huseman ("Huseman") and C. Jack Murph ("Murph")</p>	<p>\$200,000 senior secured DIP financing ("DIP Facility"), at 12% interest per annum with a maturity date of 120 days from the date of approval of same by the Bankruptcy Court; to be used in accordance with a Budget [<i>TBD</i>] acceptable Newco; Permitted uses: operations, if any, as determined by CRO and costs and administrative fees to prosecute confirmation of Plan of Reorganization approved by Newco;</p> <p>Collateral: all assets of the estate and all assets of all subsidiaries and affiliates of BDI <i>except</i> excluded assets shall be personal property in vault; causes of action; Chapter 5 causes of action;</p> <p>Full Release granted to Cheryl L. Huseman and C. Jack Murph by BDI estate, subsidiaries and affiliates;</p> <p>Remaining terms and conditions of which are set forth in more detail below;</p>
<p>Plan of Reorganization ("Plan")</p>	<p>Newco will apply debt under DIP Facility at time of confirmation as purchase price for all assets of the estate <i>except</i> excluded assets; Asset Purchase Agreement to be provided as part of Plan with bidding procedure and bid protections acceptable to Newco; assets purchased shall be free and clear of all liens, claims or encumbrances except as authorized in the Plan;</p> <p>Newco will operate business under Revised Business Plan defined below;</p> <p>BDI creditors receive a net profit percentage of Newco until the earlier of (i) allowed BDI Creditors' claims are paid in full (ii)</p>

	<p>seven years from Effective Date of Plan or (iii) sale approved by Board of Directors of Newco;</p> <p>Final Plan and Order approving plan shall be in a form acceptable to Newco in its sole discretion;</p> <p>Existing equity cancelled;</p>
<i>Pro formas</i>	See attached <i>Exhibit A</i> , subject to revision;
Revised Business Plan	<p>-Revised customer terms and conditions – see <i>Exhibit B [TBD]</i>;</p> <p>-Newco does not store material for customers (third party storage only);</p> <p>-Funds for purchase price held in trust until fulfillment of transaction is complete;</p> <p>-commission rate changed to: 2% seller and 1% buyer;</p> <p>-additional storage, shipping and handling costs borne by buyer/seller;</p> <p>-strict financial controls and transparency to BOD;</p> <p>-additional terms as later determined by Newco;</p>
BDI Post-Confirmation Trust ("Trust")	<p>Created by the Plan; BDI Creditors are beneficiaries of Trust in order of priority proscribed by Bankruptcy Code and Plan; transferred assets shall consist of: (i) all causes of action held by BDI estate, (ii) all Chapter 5 causes of action, (iii) all contents in BDI directed vault (est. value approx. \$700,000) and (iv) notes receivable (value approx. \$130,000); Trustee of Trust will be approved by Court with consent of creditors and Newco;</p>
Newco Board of Directors	<p>BOD will consist of five (5) individuals: three (3) seats will be appointed by Huseman and Murph; one (1) seat will be the Trustee of the Trust; one (1) seat will be an independent director approved by Court; BOD will remain in place until earlier of (i) allowed BDI creditors' claims are paid in full; (ii) seven years after Effective Date of Plan or (iii) sale of Newco with approval of four (4) Directors; after which Huseman and Murph may appoint new BOD;</p>
Net Profit Participation of Newco	<p>Years 1 and 2: 80% Trust / 20% Newco equity;</p> <p>Year 3: 60% Trust / 40% Newco equity;</p> <p>Years 4-7: 50% Trust / 50%;</p>

Conditions to Confirmation	Plan and Order Confirming Plan acceptable to Newco; no known or anticipated impediments to regulatory approvals satisfactory to Newco; management and staff acceptable to Newco; additional conditions as are normal and customary for asset purchase of this kind;
----------------------------	---

PROPOSED DIP FINANCING

Borrower	BullionDirect, Inc.; Guarantors: all subsidiaries and affiliates of BullionDirect, Inc.
DIP Facility	\$200,000 in senior secured DIP financing to be funded as set forth herein; Collateral: all assets of the estate and all assets of all subsidiaries and affiliates of BDI (pledge of stock and direct security) <i>except</i> excluded assets shall be personal property in vault; causes of action; Chapter 5 causes of action;
DIP Lender	Newco, LLC or its designee;
Closing Date	The DIP Facility shall close on the first date (" Closing Date ") on which the conditions to effectiveness of the DIP Facility have been satisfied or waived by the DIP Lender;
Maturity Date	The date that is the earlier of: (i) 120 days after the Closing Date, (ii) Closing of a sale (" Sale ") of all or substantially all of the Borrowers' assets; (iii) acceleration and/or termination of the DIP Facility upon the occurrence of an event of default (" Event of Default ") described herein;
Advances	The DIP Facility shall be funded on a monthly basis not to exceed \$50,000 in any month subject to an acceptable Budget (DIP Lender may waive Budget limit or monthly limit in its sole discretion, but shall not be required to further waive any limit if so granted in any instance);
Amortization	The DIP Facility shall not amortize and shall be payable in full on the Maturity Date;
Interest Rate	12% per annum and shall be payable in full on the Maturity Date;

Use of Proceeds	The DIP Facility shall be used solely to pay operating expenses of the Borrower and subsidiaries or affiliates of the Borrower in accordance with a Budget to be approved by DIP Lender; Budget shall include expenses for allowed administrative expenses, including expenses of approved professionals;
Security and Administrative Priority	All obligations of the Borrower with respect to the DIP Facility will be: (i) secured by valid, perfected liens on all of the Borrower's assets, including priming lien (if necessary), pledge of stock and/or assets all subsidiaries and affiliates of the Borrower, and (b) entitled to super-priority administrative expense claim status over any and all administrative expenses, whether heretofore or hereinafter incurred, in each case subject only to the liens securing the DIP Facility;
Covenants	The loan documents will contain such affirmative and negative covenants by the Borrower as are usual and customary for financings of this kind or are otherwise reasonably deemed appropriate by the DIP Lender for this transaction, subject to customary carve outs, baskets and materiality thresholds to be agreed upon;
Events of Default	The DIP Facility and loan documents will include such Events of Default as are usual and customary for financings of this kind or are otherwise reasonably deemed appropriate by the DIP Lender for this transaction; specifically included as Events of Default shall be, but are not limited to: (i) conversion of the BDI bankruptcy case to a chapter 7 liquidation or the appointment of a similar custodian; and (ii) dismissal of Bankruptcy Case;
Other Terms and Conditions	The loan documents will contain such other terms and conditions as are usual and customary for financings of this kind or are otherwise reasonably deemed appropriate by the DIP Lender for this transaction, including provisions relating to indemnification of the DIP Lender;
Conditions to Closing	A closing of the DIP Facility shall be subject to standard closing conditions unless waived by the DIP Lender, including without limitation, the following conditions: -loan documents satisfactory to the DIP Lender, in its complete and sole discretion, shall have been negotiated and agreed; -All required approvals and consents have been received by the Borrower and Guarantors and any necessary notifications have been made; -Evidence satisfactory to the DIP Lender that the creditors of the Borrower have consented to the DIP Facility and the

	transactions contemplated thereby; -Approval by the Bankruptcy Court pursuant to an order ("DIP Order") in the form and substance satisfactory to the DIP Lender;
Expenses of the DIP Lender	The Borrower shall pay all reasonable documented costs and expenses of the DIP Lender (including fees and expenses of counsel to the DIP Lender) incurred in connection with the discussion, negotiation, preparation, execution, and delivery of any documents in connection with the DIP Facility, whether before or after the Closing Date and such costs and expenses will constitute obligations under the DIP Facility subject to the same payment and lien priorities as the loans made thereunder;
Governing Law	State of Texas;

The Proposed Terms have been prepared for discussion purposes only, and neither this document nor any course of dealing among the parties referenced herein shall give rise to any binding obligation of any nature whatsoever. The DIP Lender may discontinue discussions relating to the DIP Facility at any time, for any reason, or no reason, with or without notice. The DIP Lender has not yet completed due diligence activities with respect to the proposed DIP Facility. No obligation binding on the DIP Lender or its affiliates shall exist unless and until set forth in definitive loan documents executed and delivered by the DIP Lender and approved by the DIP Order, and then only to the extent expressly set forth therein.

					Low Proforma								
		1st Quarter	2nd Quarter	3rd Quarter	4th Quarter	Year 1 total	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	
Sales *		\$ 400,000	\$ 800,000	\$ 1,200,000	\$ 1,600,000	\$ 4,000,000	\$ 16,000,000	\$ 40,000,000	\$ 80,000,000	\$ 85,000,000	\$ 85,000,000	\$ 85,000,000	
Commissions		\$ 12,000	\$ 24,000	\$ 36,000	\$ 48,000	\$ 120,000	\$ 480,000	\$ 1,200,000	\$ 2,400,000	\$ 2,550,000	\$ 2,550,000	\$ 2,550,000	
Profits off fulfillment/ minimum		\$ 7,600	\$ 15,200	\$ 22,800	\$ 30,400	\$ 76,000	\$ 304,000	\$ 760,000	\$ 1,520,000	\$ 1,615,000	\$ 1,615,000	\$ 1,615,000	
		\$ 19,600	\$ 39,200	\$ 58,800	\$ 78,400	\$ 196,000	\$ 784,000	\$ 1,960,000	\$ 3,920,000	\$ 4,165,000	\$ 4,165,000	\$ 4,165,000	
Admin expenses		\$ 62,400	\$ 62,400	\$ 62,400	\$ 62,400	\$ 249,600	\$ 249,600	\$ 378,000	\$ 492,000	\$ 540,000	\$ 540,000	\$ 540,000	
Contingency Expense		\$ 4,368	\$ 4,368	\$ 4,368	\$ 4,368	\$ 17,472	\$ 17,472	\$ 26,460	\$ 34,440	\$ 37,800	\$ 37,800	\$ 37,800	
Marketing Exp								\$ 180,000	\$ 180,000	\$ 180,000	\$ 180,000	\$ 180,000	
Fulfillment expenses		\$ 1,600	\$ 3,200	\$ 4,800	\$ 6,400	\$ 16,000	\$ 64,000	\$ 160,000	\$ 320,000	\$ 340,000	\$ 340,000	\$ 340,000	
Total Expenses		\$ 68,368	\$ 69,968	\$ 71,568	\$ 73,168	\$ 283,072	\$ 331,072	\$ 744,460	\$ 1,026,440	\$ 1,097,800	\$ 1,097,800	\$ 1,097,800	
NOI Before taxes and bonuses and split		\$ (48,768)	\$ (30,768)	\$ (12,768)	\$ 5,232	\$ (87,072)	\$ 452,928	\$ 1,215,540	\$ 2,893,560	\$ 3,067,200	\$ 3,067,200	\$ 3,067,200	
% to Creditors' Trust						\$ -	\$ 362,342	\$ 729,324	\$ 1,446,780	\$ 1,533,600	\$ 1,533,600	\$ 1,533,600	\$ 7,139,246
NOI New co before taxes						\$ (87,072)	\$ 90,586	\$ 486,216	\$ 1,446,780	\$ 1,533,600	\$ 1,533,600	\$ 1,533,600	\$ 6,537,310
Assumed monthly admin per month		\$ 20,800	\$ 20,800	\$ 20,800	\$ 20,800		\$ 20,800	\$ 31,500	\$ 41,000	\$ 45,000	\$ 45,000	\$ 45,000	
* Average sales per year for last ten years of operation of BDI were 70,000,000													
Estimates do not include any payments for taxes including Franchise tax													

					Most likely Scenario								
		1st Quarter	2nd Quarter	3rd Quarter	4th Quarter	Year 1 total	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	
Sales		\$ 400,000	\$ 1,200,000	\$ 1,900,000	\$ 2,400,000	\$ 5,900,000	\$ 22,000,000	\$ 55,000,000	\$ 95,000,000	\$ 100,000,000	\$ 100,000,000	\$ 100,000,000	
Commissions		\$ 12,000	\$ 36,000	\$ 57,000	\$ 72,000	\$ 177,000	\$ 660,000	\$ 1,650,000	\$ 2,850,000	\$ 3,000,000	\$ 3,000,000	\$ 3,000,000	
Profits off fulfillment/ minimum		\$ 7,600	\$ 22,800	\$ 36,100	\$ 45,600	\$ 112,100	\$ 418,000	\$ 1,045,000	\$ 1,805,000	\$ 1,900,000	\$ 1,900,000	\$ 1,900,000	
		\$ 19,600	\$ 58,800	\$ 93,100	\$ 117,600	\$ 289,100	\$ 1,078,000	\$ 2,695,000	\$ 4,655,000	\$ 4,900,000	\$ 4,900,000	\$ 4,900,000	
Admin expenses		\$ 62,400	\$ 62,400	\$ 62,400	\$ 62,400	\$ 249,600	\$ 249,600	\$ 378,000	\$ 492,000	\$ 540,000	\$ 540,000	\$ 540,000	
Contingency Expense		\$ 4,368	\$ 4,368	\$ 4,368	\$ 4,368	\$ 17,472	\$ 17,472	\$ 26,460	\$ 34,440	\$ 37,800	\$ 37,800	\$ 37,800	
Marketing Exp								\$ 180,000	\$ 180,000	\$ 180,000	\$ 180,000	\$ 180,000	
Fulfillment expenses		\$ 1,600	\$ 4,800	\$ 7,600	\$ 9,600	\$ 23,600	\$ 88,000	\$ 220,000	\$ 380,000	\$ 400,000	\$ 400,000	\$ 400,000	
Total Expenses		\$ 68,368	\$ 71,568	\$ 74,368	\$ 76,368	\$ 290,672	\$ 355,072	\$ 804,460	\$ 1,086,440	\$ 1,157,800	\$ 1,157,800	\$ 1,157,800	
NOI Before taxes and bonuses and split		\$ (48,768)	\$ (12,768)	\$ 18,732	\$ 41,232	\$ (1,572)	\$ 722,928	\$ 1,890,540	\$ 3,568,560	\$ 3,742,200	\$ 3,742,200	\$ 3,742,200	
% to Creditors' Trust						\$ -	\$ 578,342	\$ 1,134,324	\$ 1,784,280	\$ 1,871,100	\$ 1,871,100	\$ 1,871,100	\$ 9,110,246
NOI New co before taxes						\$ (1,572)	\$ 144,586	\$ 756,216	\$ 1,784,280	\$ 1,871,100	\$ 1,871,100	\$ 1,871,100	\$ 8,296,810
Assumed monthly admin per month		\$ 20,800						\$ 31,500	\$ 41,000	\$ 45,000	\$ 45,000	\$ 45,000	
Average sales per year for last ten years of operation of BDI were 70,000,000.													
Estimates do not include any payments for taxes including Francise tax													

				Optimistic Scenario									
		1st Quarter	2nd Quarter	3rd Quarter	4th Quarter	Year 1 total	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	
Sales		\$ 400,000	\$ 1,200,000	\$ 2,400,000	\$ 4,800,000	\$ 8,800,000	\$ 30,000,000	\$ 70,000,000	\$ 100,000,000	\$ 130,000,000	\$ 130,000,000	\$ 130,000,000	
Commissions		\$ 12,000	\$ 36,000	\$ 72,000	\$ 144,000	\$ 264,000	\$ 900,000	\$ 2,100,000	\$ 3,000,000	\$ 3,900,000	\$ 3,900,000	\$ 3,900,000	
Profits off fulfillment/ minimum		\$ 7,600	\$ 22,800	\$ 45,600	\$ 91,200	\$ 167,200	\$ 570,000	\$ 1,330,000	\$ 1,900,000	\$ 2,470,000	\$ 2,470,000	\$ 2,470,000	
		\$ 19,600	\$ 58,800	\$ 117,600	\$ 235,200	\$ 431,200	\$ 1,470,000	\$ 3,430,000	\$ 4,900,000	\$ 6,370,000	\$ 6,370,000	\$ 6,370,000	
Admin expenses		\$ 62,400	\$ 62,400	\$ 62,400	\$ 62,400	\$ 249,600	\$ 249,600	\$ 378,000	\$ 492,000	\$ 540,000	\$ 540,000	\$ 540,000	
Contingency Expense		\$ 4,368	\$ 4,368	\$ 4,368	\$ 4,368	\$ 17,472	\$ 17,472	\$ 26,460	\$ 34,440	\$ 37,800	\$ 37,800	\$ 37,800	
Marketing Exp								\$ 180,000	\$ 180,000	\$ 180,000	\$ 180,000	\$ 180,000	
Fulfillment expenses		\$ 1,600	\$ 4,800	\$ 9,600	\$ 19,200	\$ 35,200	\$ 120,000	\$ 280,000	\$ 400,000	\$ 520,000	\$ 520,000	\$ 520,000	
Total Expenses		\$ 68,368	\$ 71,568	\$ 76,368	\$ 85,968	\$ 302,272	\$ 387,072	\$ 864,460	\$ 1,106,440	\$ 1,277,800	\$ 1,277,800	\$ 1,277,800	
NOI Before taxes and bonuses and split		\$ (48,768)	\$ (12,768)	\$ 41,232	\$ 149,232	\$ 128,928	\$ 1,082,928	\$ 2,565,540	\$ 3,793,560	\$ 5,092,200	\$ 5,092,200	\$ 5,092,200	
% to Creditors' Trust						\$ 103,142	\$ 866,342	\$ 1,539,324	\$ 1,896,780	\$ 2,546,100	\$ 2,546,100	\$ 2,546,100	\$ 12,043,889
NOI New co before taxes						\$ 25,786	\$ 216,586	\$ 1,026,216	\$ 1,896,780	\$ 2,546,100	\$ 2,546,100	\$ 2,546,100	\$ 10,803,667
Assumed monthly admin per month		\$ 20,800						\$ 31,500	\$ 41,000	\$ 45,000	\$ 45,000	\$ 45,000	
Average sales per year for last ten years of operation of BDI were 70,000,000.													
Estimates do not include any payments for taxes including Francise tax													

From: [Moore, Jesse](#)
To: [Joe Martinec](#)
Cc: [Hoeffner, James V. \(JHoeffner@gdhm.com\)](#); [Peter Ruggero \(peter@ruggerolaw.com\)](#); [wcalloway@sc.rr.com](#)
Subject: RE: BullionDirect - Huseman/Murph Offer
Date: Tuesday, December 01, 2015 12:15:46 PM

Hello Joe—Hope you had a good Thanksgiving. Thanks for this offer. The Committee proposes the following:

--Liquidation trust owns Newco/reorganized BDI and gets all assets, including causes of action, assets in the vault, and cash in the bank.

--Committee selects trustee for trust.

--Cheryl and Murph need to contribute the costs of confirming a plan. Looks to be at least \$300k, maybe a lot more. In exchange they can get releases, but not for causes of action relating to fraudulent transfer or conversion. If they didn't actually take anything from the company that shouldn't be a problem. They also need to make representations about personal net worth, other property interests, and availability of insurance. They could get repaid on a 50/50 basis with creditors from the profits of the restarted business.

We're going to need to reach this agreement quickly if it's going to work. The Committee doesn't want further delays. Happy to discuss. Thanks—Jesse

DYKEMA COX SMITH

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From: Joe Martinec [<mailto:martinec@mwvmlaw.com>]
Sent: Wednesday, November 25, 2015 2:42 PM
To: Moore, Jesse
Cc: Hoeffner, James V. (JHoeffner@gdhm.com); Peter Ruggero (peter@ruggerolaw.com); wcalloway@sc.rr.com
Subject: BullionDirect - Huseman/Murph Offer

From: Dan Bensimon [<mailto:dbensimon@austin.rr.com>]
Sent: Wednesday, November 25, 2015 2:25 PM
To: Joe Martinec
Cc: 'Beth Whatley'

Subject: Offer

Joe,

Please forward this to the Creditors Committee attorney and other known attorneys of the creditors. I believe this is a good offer that should be given serious consideration. I fully understand that some form of due diligence will have to be done by the Committee to assess the propriety of the proposed limited release. The release provision is a typical requirement by any party that provides DIP financing. I hope that we can discuss this fully with the Committee and other interested parties in this case, in a logical thoughtful manner.

As we discussed earlier:

1. We again invite the Committee's involvement in considering the proposal,
2. The incorporated business plan addresses the defects in the pre-bankruptcy business plan,
3. Releases are limited to Huseman and Murph, all other causes of action still would be assigned to Committee,
4. No one should assume that the proposal is an all-or-nothing proposition - individual items can be discussed for modification,
5. The contemplated plan arrangement under the proposal allows for solicitation of other, higher bids,
6. We are willing to approach every entity we can identify in the industry, including Committee referrals (we are already talking to 3), and
7. A Chapter 7 trustee will simply liquidate with no future upside for creditors.

We understand that the Committee is trying to consider the best interests of all of the creditors, but we think that depriving the general creditors of the opportunity to consider and vote on this Plan proposal is not in their best interest. Ask the Committee and their attorneys to give us dates as to when they will be available to discuss this offer.

Thanks!

Dan Bensimon
512-529-7600
dbensimon@austin.rr.com

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